From: Semsar, Joseph (Federal) [JSemsar@doc.gov]
Sent: 8/7/2019 4:24:11 PM
To: Hull, Cordell (Federal) [CHull@doc.gov]; Dewhirst, David (Federal) [DDewhirst@doc.gov]
Subject: FW: Materials fro the 4pm meeting with KDK
Attachments: Agenda on Aug 8 2019.docx; Milestone Schedule - Aug 5 2019-v4.docx; DRAFT Ad Rec Performance Report Aug 5 2019 ver 6.pdf

Joe Semsar
b(6)

From: James B Treat (CENSUS/ADDC FED) <James.B.Treat@census.gov>
Sent: Wednesday, August 7, 2019 10:34 AM
To: Berrios, Nelly (Federal) <NBerrios@doc.gov>
Cc: Semsar, Joseph (Federal) <JSemsar@doc.gov>
Subject: Materials fro the 4pm meeting with KDK

Nelly

Attached are the two documents for the meeting with KDK at 4pm. They should be printed in color. Thanks for handling this.

- jim

James B. Treat
Assistant Director for Decennial Programs
U.S. Census Bureau

Office 301.763.3609 Room b(6)
james.b.treat@census.gov

census.gov
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From: Semsar, Joseph (Federal) <JSemsar@doc.gov>
Sent: Wednesday, August 7, 2019 10:24 AM
To: James B Treat (CENSUS/ADDC FED) <James.B.Treat@census.gov>
Cc: Berrios, Nelly (Federal) <NBerrios@doc.gov>
Subject: RE: 4pm meeting with KDK

+Nelly

Joe Semsar
b(6)

From: James B Treat (CENSUS/ADDC FED) <James.B.Treat@census.gov>
Sent: Wednesday, August 7, 2019 10:21 AM
To: Semsar, Joseph (Federal) <JSemsar@doc.gov>
Subject: 4pm meeting with KDK

Joe

For this afternoon's 4pm meeting KDK who should 5 send the handouts to? There are two which will need to printed in color and will be coming in the next hour.

thanks - jim

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Agenda
Status Update on Executive Order 13880
Thursday, August 8, 2019

1. Action Updates – Dr. Dillingham
2. Milestone Schedule – see schedule – Jim Treat
3. Update on file acquisitions – see performance charts – Jim Treat
4. Update on the Communication Plan – see Communication Plan – Ali Ahmad

Background materials:

Executive Order

Letters from Dr. Dillingham to IRS, DHS, State Department, HHS and SSA

Internal Census Bureau memorandum from John Abowd

From: Ali Mohammad Ahmad (CENSUS/ADCOM FED) [ali.m.ahmad@census.gov]
Sent: 9/10/2019 10:50:43 AM
To: Dewhirst, David (Federal) [DDewhirst@doc.gov]
CC: Semsar, Joseph (Federal) [JSemsar@doc.gov]
Subject: Fwd: 2019-09-13 Update-Abowd-Velkoff (Final).pptx
Attachments: 2019-09-13 Update-Abowd-Velkoff (Final).pptx; ATT00001.htm

Begin forwarded message:

From: ali.m.ahmad@census.gov
Date: September 10, 2019 at 10:43:08 AM EDT
To: JSemsar@doc.gov
Subject: 2019-09-13 Update-Abowd-Velkoff (Final).pptx

From: Steven Dillingham (CENSUS/DEPDIR FED) [steven.dillingham@census.gov]
Sent: 9/9/2019 9:59:42 AM
To: Semsar, Joseph (Federal) [JSemsar@doc.gov]; Dewhirst, David (Federal) [DDewhirst@doc.gov]
Subject: 2020 Census workplan draft talking points - deliberative, sensitive
Attachments: Talking Points re 2020 Census Data Products (r).docx

From: Dewhirst, David (Federal) b(6)
b(6)
Sent: 8/7/2019 4:16:12 PM
To: Hull, Cordell (Federal) [CHull@doc.gov]
Subject: Fwd: Read Ahead Material for 10 a.m. Thursday 8/8 meeting on Census Executive Order
Attachments: Agenda on Aug 8 2019.docx; Executive Order.pdf; CQAS-09661signed-Arndt-State.pdf; CQAS-09661signed-Brown-SSA.pdf; CQAS-09661signed-Hargan-HHS.pdf; CQAS-09661signed-Johnson-IRS.pdf; CQAS-09661signed-Rosenblum-DHS.pdf; 20190801-Abowd-to-Dillingham-updated (1).pdf; Briefing memo - Aug 8 2019 Meeting.docx

---

David Dewhirst
Deputy General Counsel for Litigation
U.S. Department of Commerce
ddewhirst@doc.gov
c. b(6)

*Sent from my iPad. Please excuse any typos.

From: James B Treat (CENSUS/ADDC FED) <James.B.Treat@census.gov>
Sent: Tuesday, August 6, 2019 4:57:59 PM
To: Semsar, Joseph (Federal) <JSemsar@doc.gov>; Barrow, Clark (Federal) <WBarrow@doc.gov>; Ahmad, Ali M <ali.m.ahmad@census.gov>; Berrios, Nelly (Federal) <NBerrios@doc.gov>; Goudarzi, Talat (Federal) <TGoudarzi@doc.gov>
Cc: Wyvill, Robin L <robin.l.wyvill@census.gov>; Jones, Christa D <christa.d.jones@census.gov>; Abowd, John M <john.maron.abowd@census.gov>; Lamas, Enrique <enrique.lamas@census.gov>; Dewhirst, David (Federal) <DDewhirst@doc.gov>; McGaan, Duncan (Federal) <DMcGaan@doc.gov>
Subject: Re: Read Ahead Material for 10 a.m. Thursday 8/8 meeting on Census Executive Order

Clark

From my notes the document Ali sent was the only read ahead. KDK asked for updates to b(5) - DP b(5) - DP which we are working on. We have a telephone meeting Wednesday afternoon to go over the two documents with her. We would then bring the two documents along with the communication plan to the Thursday meeting.

I have attached the meeting agenda, the Executive Order, the five agency letters from Director Dillingham, the internal memo (which Ali sent, but resending it) and the briefing paper/template document.

thanks - jim

James B. Treat
Assistant Director for Decennial Programs
U.S. Census Bureau

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james.b.treat@census.gov

census.gov
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From: Semsar, Joseph (Federal) <JSemsar@doc.gov>
Sent: Tuesday, August 6, 2019 3:46 PM
To: Barrow, Clark (Federal) <WBarrow@doc.gov>; Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov>; James B Treat (CENSUS/ADDC FED) <James.B.Treat@census.gov>; Berrios, Nelly (Federal) <NBerrios@doc.gov>; Goudarzi, Talat (Federal) <TGoudarzi@doc.gov>
Cc: Robin Wyvill (CENSUS/DEPDIR FED) <Robin.L.Wyvill@census.gov>; Christa D Jones (CENSUS/DEPDIR FED) <Christa.D.Jones@census.gov>; John Maron Abowd (CENSUS/ADRM FED) <john.maron.abowd@census.gov>; Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; Dewhirst, David (Federal) <DDewhirst@doc.gov>; McGaan, Duncan (Federal) <DMcGaan@doc.gov>
Subject: RE: Read Ahead Material for 10 a.m. Thursday 8/8 meeting on Census Executive Order

+Nelly and Tala

Joe Semsar
b(6)

From: Barrow, Clark (Federal) <WBarrow@doc.gov>
Sent: Tuesday, August 6, 2019 3:46 PM
To: Ahmad, Ali M <ali.m.ahmad@census.gov>; Treat, James B <james.b.treat@census.gov>
Cc: Wyvill, Robin L <robin.l.wyvill@census.gov>; Jones, Christa D <christa.d.jones@census.gov>; Abowd, John M <john.maron.abowd@census.gov>; Lamas, Enrique <enrique.lamas@census.gov>; Semsar, Joseph (Federal) <JSemsar@doc.gov>; Dewhirst, David (Federal) <DDewhirst@doc.gov>; McGaan, Duncan (Federal) <DMcGaan@doc.gov>
Subject: RE: Read Ahead Material for 10 a.m. Thursday 8/8 meeting on Census Executive Order

Hi Ali and James, the "Census Y&R" meeting is from 12 noon to 2 pm. The "Census Leadership Briefing" is from 2 pm to 3 pm. Both are on Thursday.

From: Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov>
Sent: Tuesday, August 6, 2019 3:43 PM
To: Treat, James B <james.b.treat@census.gov>; Barrow, Clark (Federal) <WBarrow@doc.gov>
Cc: Wyvill, Robin L <robin.l.wyvill@census.gov>; Jones, Christa D <christa.d.jones@census.gov>; Abowd, John M <john.maron.abowd@census.gov>; Lamas, Enrique <enrique.lamas@census.gov>; Semsar, Joseph (Federal) <JSemsar@doc.gov>; Dewhirst, David (Federal) <DDewhirst@doc.gov>; McGaan, Duncan (Federal) <DMcGaan@doc.gov>
Subject: Re: Read Ahead Material for 10 a.m. Thursday 8/8 meeting on Census Executive Order

2 p.m. is what I've heard. I don't have the invite yet but you should be on it when it goes out.

Ali Ahmad, Associate Director
Communications Directorate
U.S. Census Bureau
O: 301-763-8789 | M: b(6)
Ali.M.Ahmad@census.gov

census.gov | @uscensusbureau

From: James B Treat (CENSUS/ADDC FED) <James.B.Treat@census.gov>
Sent: Tuesday, August 6, 2019 3:39:16 PM
To: Barrow, Clark (Federal) <WBarrow@doc.gov>; Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov>
Cc: Robin Wyvill (CENSUS/DEPDIR FED) <Robin.L.Wyvill@census.gov>; Christa D Jones (CENSUS/DEPDIR FED) <Christa.D.Jones@census.gov>; John Maron Abowd (CENSUS/ADRM FED) <john.maron.abowd@census.gov>; Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; Semsar, Joseph (Federal) <JSemsar@doc.gov>; Dewhirst, David (Federal) <DDewhirst@doc.gov>; McGaan, Duncan (Federal) <DMcGaan@doc.gov>
Subject: Re: Read Ahead Material for 10 a.m. Thursday 8/8 meeting on Census Executive Order

Clark

What time is the meeting on Thursday and where will it be held?

thanks - jim

James B. Treat
Assistant Director for Decennial Programs
U.S. Census Bureau

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From: Barrow, Clark (Federal) <WBarrow@doc.gov>
Sent: Tuesday, August 6, 2019 3:17 PM
To: Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov>
Cc: Robin Wyvill (CENSUS/DEPDIR FED) <Robin.L.Wyvill@census.gov>; Christa D Jones (CENSUS/DEPDIR FED) <Christa.D.Jones@census.gov>; James B Treat (CENSUS/ADDC FED) <James.B.Treat@census.gov>; John Maron Abowd (CENSUS/ADRM FED) <john.maron.abowd@census.gov>; Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; Semsar, Joseph (Federal) <JSemsar@doc.gov>; Dewhirst, David (Federal) <DDewhirst@doc.gov>; McGaan, Duncan (Federal) <DMcGaan@doc.gov>
Subject: RE: Read Ahead Material for 10 a.m. Thursday 8/8 meeting on Census Executive Order

Following up. How are we doing on materials for this meeting? It's due today by COB today. Thanks.

From: Barrow, Clark (Federal)
Sent: Monday, August 5, 2019 11:12 AM
To: Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov>
Cc: Wyvill, Robin L <robin.l.wyvill@census.gov>; Jones, Christa D <christa.d.jones@census.gov>; Treat, James B <james.b.treat@census.gov>; Abowd, John M <john.maron.abowd@census.gov>; Lamas, Enrique

<enrique.lamas@census.gov>; Semsar, Joseph (Federal) <JSemsar@doc.gov>; Dewhirst, David (Federal) <DDewhirst@doc.gov>
Subject: RE: Read Ahead Material for 10 a.m. Thursday 8/8 meeting on Census Executive Order

Thanks Ali. Can you please use the attached template to draft your memo? Just add the content in your PDF and ignore the references to the remarks in the template. We also need a Word doc, not a PDF. Thanks.

From: Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov>
Sent: Monday, August 5, 2019 10:55 AM
To: Barrow, Clark (Federal) <WBarrow@doc.gov>
Cc: Wyvill, Robin L <robin.l.wyvill@census.gov>; Jones, Christa D <christa.d.jones@census.gov>; Treat, James B <james.b.treat@census.gov>; Abowd, John M <john.maron.abowd@census.gov>; Lamas, Enrique <enrique.lamas@census.gov>; Semsar, Joseph (Federal) <JSemsar@doc.gov>; Dewhirst, David (Federal) <DDewhirst@doc.gov>
Subject: Read Ahead Material for 10 a.m. Thursday 8/8 meeting on Census Executive Order

Thank you!

Ali Ahmad, Associate Director
Communications Directorate
U.S. Census Bureau
O: 301-763-8789 | M: **b(6)**
Ali.M.Ahmad@census.gov
census.gov | @uscensusbureau

Agenda
Status Update on Executive Order 13880
Thursday, August 8, 2019

1. Action Updates – Dr. Dillingham
2. Milestone Schedule – see schedule – Jim Treat
3. Update on file acquisitions – see performance charts – Jim Treat
4. Update on the Communication Plan – see Communication Plan – Ali Ahmad

Background materials:

Executive Order

Letters from Dr. Dillingham to IRS, DHS, State Department, HHS and SSA

Internal Census Bureau memorandum from John Abowd

EXECUTIVE ORDERS

Executive Order on Collecting Information about Citizenship Status in Connection with the Decennial Census

— IMMIGRATION

Issued on: July 11, 2019

★ ★ ★

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Purpose. In *Department of Commerce v. New York*, No. 18-966 (June 27, 2019), the Supreme Court held that the Department of Commerce (Department) may, as a general matter, lawfully include a question inquiring about citizenship status on the decennial census and, more specifically, declined to hold that the Secretary of Commerce's decision to include such a question on the 2020 decennial census was "substantively invalid." That ruling was not surprising, given that every decennial census from 1820 to 2000 (with the single exception of 1840) asked at least some respondents about their citizenship status or place of birth. In addition, the Census Bureau has inquired since 2005 about citizenship on the American Community Survey — a separate questionnaire sent annually to about 2.5 percent of households.

The Court determined, however, that the explanation the Department had provided for including such a question on the census was, in the circumstances of that case,

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insufficient to support the Department's decision. I disagree with the Court's ruling, because I believe that the Department's decision was fully supported by the rationale presented on the record before the Supreme Court.

The Court's ruling, however, has now made it impossible, as a practical matter, to include a citizenship question on the 2020 decennial census questionnaire. After examining every possible alternative, the Attorney General and the Secretary of Commerce have informed me that the logistics and timing for carrying out the census, combined with delays from continuing litigation, leave no practical mechanism for including the question on the 2020 decennial census.

Nevertheless, we shall ensure that accurate citizenship data is compiled in connection with the census by other means. To achieve that goal, I have determined that it is imperative that all executive departments and agencies (agencies) provide the Department the maximum assistance permissible, consistent with law, in determining the number of citizens and non-citizens in the country, including by providing any access that the Department may request to administrative records that may be useful in accomplishing that objective. When the Secretary of Commerce decided to include the citizenship question on the census, he determined that such a question, in combination with administrative records, would provide the most accurate and complete data. At that time, the Census Bureau had determined based on experience that administrative records to which it had access would enable it to determine citizenship status for approximately 90 percent of the population. At that point, the benefits of using administrative records were limited because the Department had not yet been able to access several additional important sets of records with critical information on citizenship. Under the Secretary of Commerce's decision memorandum directing the Census Bureau "to further enhance its administrative record data sets" and "to obtain as many additional Federal and state administrative records as possible," the Department has sought access to several such sets of records maintained by other agencies, but it remains in negotiations to secure access. The executive action I am

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taking today will ensure that the Department will have access to all available records in time for use in conjunction with the census.

Therefore, to eliminate delays and uncertainty, and to resolve any doubt about the duty of agencies to share data promptly with the Department, I am hereby ordering all agencies to share information requested by the Department to the maximum extent permissible under law.

Access to the additional data identified in section 3 of this order will ensure that administrative records provide more accurate and complete citizenship data than was previously available.

I am also ordering the establishment of an interagency working group to improve access to administrative records, with a goal of making available to the Department administrative records showing citizenship data for 100 percent of the population. And I am ordering the Secretary of Commerce to consider mechanisms for ensuring that the Department's existing data-gathering efforts expand the collection of citizenship data in the future.

Finally, I am directing the Department to strengthen its efforts, consistent with law, to obtain State administrative records concerning citizenship.

Ensuring that the Department has available the best data on citizenship that administrative records can provide, consistent with law, is important for multiple reasons, including the following.

First, data on the number of citizens and aliens in the country is needed to help us understand the effects of immigration on our country and to inform policymakers considering basic decisions about immigration policy. The Census Bureau has long maintained that citizenship data is one of the statistics that is "essential for agencies and policy makers setting and evaluating immigration policies and laws."

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Today, an accurate understanding of the number of citizens and the number of aliens in the country is central to any effort to reevaluate immigration policy. The United States has not fundamentally restructured its immigration system since 1965. I have explained many times that our outdated immigration laws no longer meet contemporary needs. My Administration is committed to modernizing immigration laws and policies, but the effort to undertake any fundamental reevaluation of immigration policy is hampered when we do not have the most complete data about the number of citizens and non-citizens in the country. If we are to undertake a genuine overhaul of our immigration laws and evaluate policies for encouraging the assimilation of immigrants, one of the basic informational building blocks we should know is how many non-citizens there are in the country.

Second, the lack of complete data on numbers of citizens and aliens hinders the Federal Government's ability to implement specific programs and to evaluate policy proposals for changes in those programs. For example, the lack of such data limits our ability to evaluate policies concerning certain public benefits programs. It remains the immigration policy of the United States, as embodied in statutes passed by the Congress, that "aliens within the Nation's borders [should] not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations" and that "the availability of public benefits [should] not constitute an incentive for immigration to the United States" (8 U.S.C. 1601(2)). The Congress has identified compelling Government interests in restricting public benefits "in order to assure that aliens be self-reliant in accordance with national immigration policy" and "to remove the incentive for illegal immigration provided by the availability of public benefits" (8 U.S.C. 1601(5), (6)).

Accordingly, aliens are restricted from eligibility for many public benefits. With limited exceptions, aliens are ineligible to receive supplemental security income or food stamps (8 U.S.C. 1612(a)). Aliens who are "qualified aliens" — that is, lawful permanent residents, persons granted asylum, and certain other legal immigrants — are, with limited exceptions, ineligible to receive benefits through Temporary

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Assistance for Needy Families, Medicaid, and State Children's Health Insurance Program for 5 years after entry into the United States (8 U.S.C. 1613(a)). Aliens who are not "qualified aliens," such as those unlawfully present, are generally ineligible for Federal benefits and for State and local benefits (8 U.S.C. 1611(a), 1621(a)).

The lack of accurate information about the total citizen population makes it difficult to plan for annual expenditures on certain benefits programs. And the lack of accurate and complete data concerning the alien population makes it extremely difficult to evaluate the potential effects of proposals to alter the eligibility rules for public benefits.

Third, data identifying citizens will help the Federal Government generate a more reliable count of the unauthorized alien population in the country. Data tabulating both the overall population and the citizen population could be combined with records of aliens lawfully present in the country to generate an estimate of the aggregate number of aliens unlawfully present in each State. Currently, the Department of Homeland Security generates an annual estimate of the number of illegal aliens residing in the United States, but its usefulness is limited by the deficiencies of the citizenship data collected through the American Community Survey alone, which includes substantial margins of error because it is distributed to such a small percentage of the population.

Academic researchers have also been unable to develop useful and reliable numbers of our illegal alien population using currently available data. A 2018 study by researchers at Yale University estimated that the illegal alien population totaled between 16.2 million and 29.5 million. Its modeling put the likely number at about double the conventional estimate. The fact is that we simply do not know how many citizens, non-citizens, and illegal aliens are living in the United States.

Accurate and complete data on the illegal alien population would be useful for the Federal Government in evaluating many policy proposals. When Members of Congress propose various forms of protected status for classes of unauthorized

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immigrants, for example, the full implications of such proposals can be properly evaluated only with accurate information about the overall number of unauthorized aliens potentially at issue. Similarly, such information is needed to inform debate about legislative proposals to enhance enforcement of immigration laws and effectuate duly issued removal orders.

The Federal Government's need for a more accurate count of illegal aliens in the country is only made more acute by the recent massive influx of illegal immigrants at our southern border. In Proclamation 9822 of November 9, 2018 (Addressing Mass Migration Through the Southern Border of the United States), I explained that our immigration and asylum system remains in crisis as a consequence of the mass migration of aliens across our southern border. As a result of our broken asylum laws, hundreds of thousands of aliens who entered the country illegally have been released into the interior of the United States pending the outcome of their removal proceedings. But because of the massive backlog of cases, hearing dates are sometimes set years in the future and the adjudication process often takes years to complete. Aliens not in custody routinely fail to appear in court and, even if they do appear, fail to comply with removal orders. There are more than 1 million illegal aliens who have been issued final removal orders from immigration judges and yet remain at-large in the United States.

Efforts to find solutions that address the immense number of unauthorized aliens living in our country should start with accurate information that allows us to understand the true scope of the problem.

Fourth, it may be open to States to design State and local legislative districts based on the population of voter-eligible citizens. In *Evenwel v. Abbott*, 136 S. Ct. 1120 (2016), the Supreme Court left open the question whether "States may draw districts to equalize voter-eligible population rather than total population." Some States, such as Texas, have argued that "jurisdictions may, consistent with the Equal Protection Clause, design districts using any population baseline — including total population and voter-eligible population — so long as the choice is rational and

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not invidiously discriminatory". Some courts, based on Supreme Court precedent, have agreed that State districting plans may exclude individuals who are ineligible to vote. Whether that approach is permissible will be resolved when a State actually proposes a districting plan based on the voter-eligible population. But because eligibility to vote depends in part on citizenship, States could more effectively exercise this option with a more accurate and complete count of the citizen population.

The Department has said that if the officers or public bodies having initial responsibility for the legislative districting in each State indicate a need for tabulations of citizenship data, the Census Bureau will make a design change to make such information available. I understand that some State officials are interested in such data for districting purposes. This order will assist the Department in securing the most accurate and complete citizenship data so that it can respond to such requests from the States.

To be clear, generating accurate data concerning the total number of citizens, non-citizens, and illegal aliens in the country has nothing to do with enforcing immigration laws against particular individuals. It is important, instead, for making broad policy determinations. Information obtained by the Department in connection with the census through requests for administrative records under 13 U.S.C. 6 shall be used solely to produce statistics and is subject to confidentiality protections under Title 13 of the United States Code. Information subject to confidentiality protections under Title 13 may not, and shall not, be used to bring immigration enforcement actions against particular individuals. Under my Administration, the data confidentiality protections in Title 13 shall be fully respected.

Sec. 2. Policy. It is the policy of the United States to develop complete and accurate data on the number of citizens, non-citizens, and illegal aliens in the country. Such data is necessary to understand the effects of immigration on the country, and to inform policymakers in setting and evaluating immigration policies

BC-DOC-0000000021

and laws, including evaluating proposals to address the current crisis in illegal immigration.

Sec. 3. Assistance to the Department of Commerce and Maximizing Citizenship Data. (a) All agencies shall promptly provide the Department the maximum assistance permissible, consistent with law, in determining the number of citizens, non-citizens, and illegal aliens in the country, including by providing any access that the Department may request to administrative records that may be useful in accomplishing that objective. In particular, the following agencies shall examine relevant legal authorities and, to the maximum extent consistent with law, provide access to the following records:

(i) Department of Homeland Security, United States Citizenship and Immigration Services – National-level file of Lawful Permanent Residents, Naturalizations;

(ii) Department of Homeland Security, Immigration and Customs Enforcement – F1 & M1 Nonimmigrant Visas;

(iii) Department of Homeland Security – National-level file of Customs and Border Arrival/Departure transaction data;

(iv) Department of Homeland Security and Department of State, Worldwide Refugee and Asylum Processing System – Refugee and Asylum visas;

(v) Department of State – National-level passport application data;

(vi) Social Security Administration – Master Beneficiary Records; and

(vii) Department of Health and Human Services – CMS Medicaid and CHIP Information System.

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(b) The Secretary of Commerce shall instruct the Director of the Census Bureau to establish an interagency working group to coordinate efforts, consistent with law, to maximize the availability of administrative records in connection with the census, with the goal of obtaining administrative records that can help establish citizenship status for 100 percent of the population. The Director of the Census Bureau shall chair the working group, and the head of each agency shall designate a representative to the working group upon request from the working group chair.

(c) To ensure that the Federal Government continues to collect the most accurate information available concerning citizenship going forward, the Secretary of Commerce shall consider initiating any administrative process necessary to include a citizenship question on the 2030 decennial census and to consider any regulatory changes necessary to ensure that citizenship data is collected in any other surveys and data-gathering efforts conducted by the Census Bureau, including the American Community Survey. The Secretary of Commerce shall also consider expanding the distribution of the American Community Survey, which currently reaches approximately 2.5 percent of households, to secure better citizenship data.

(d) The Department shall strengthen its efforts, consistent with law, to gain access to relevant State administrative records.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

BC-DOC-0000000023

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,
July 11, 2019.

BC-DOC-0000000024

UNITED STATES DEPARTMENT OF COMMERCE
Economics and Statistics Administration
U.S. Census Bureau
Office of the Director
Washington, DC 20233-0001

July 31, 2019

The Honorable Rachel M. Arndt
Deputy Assistant Secretary for Passport Services
Bureau of Consular Affairs, U.S. Department of State
CA/PPT
SA-17, Floor 4
Washington, DC 20522-1704

Dear Deputy Assistant Secretary Arndt:

I am writing to request your assistance as the U.S. Department of Commerce (the Department) and the Census Bureau prepare to execute a strategic implementation plan to comply with the requirements of the President's Executive Order 13880 of July 11, 2019 *Collecting Information About Citizenship Statius in Connection With the Decennial Census* (enclosed). As you may be aware, the Executive Order directs that "[a]ll agencies shall promptly provide the Department the maximum assistance permissible, consistent with the law, in determining the number of citizens, non-citizens, and illegal aliens in the country, including by providing any access that the Department may request to administrative records that may be useful in accomplishing that objective" [Sec 3. (a)]. To this end, I am reaching out to formalize a process to move forward with your assistance.

The Executive Order further directs that the Director of the Census Bureau "establish an interagency working group to coordinate efforts, consistent with law, to maximize the availability of administrative records in connection with the census, with the goal of obtaining administrative records that can help establish citizenship status for 100 percent of the population. The Director of the Census Bureau shall chair the working group, and the head of each agency shall designate a representative to the working group upon request from the working group chair" [Sec 3. (b)].

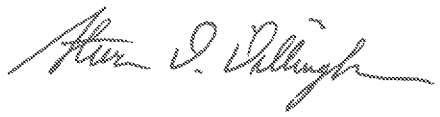
As the working group chair, I ask that you designate a representative from your Agency to serve on this important working group by Friday, August 9, 2019. My goal is to hold our first working group meeting later in August to assess the relevant data sources, review the guidelines that govern our information sharing agreements, and identify the next steps to fully comply with Section 3 of this Executive Order.

Please provide the designee's contact information to:

Mike Berning
Assistant Division Chief for Data Acquisition and Curation
Economic Reimbursable Surveys Division
Telephone: 301-763-2028
Email: michael.a.berning@census.gov

Thank you in advance for your cooperation. I look forward to working with you and your subject matter experts to successfully implement this Presidential order.

Sincerely,



Steven D. Dillingham
Director

Enclosure

UNITED STATES DEPARTMENT OF COMMERCE
Economics and Statistics Administration
U.S. Census Bureau
Office of the Director
Washington, DC 20233-0001

July 31, 2019

The Honorable Jason Brown
Associate Commissioner for
Office of Research, Evaluation, and Statistics
Social Security Administration
250 E., SW, Suite 8120
Washington, DC 20254

Dear Associate Commissioner Brown:

I am writing to request your assistance as the U.S. Department of Commerce (the Department) and the Census Bureau prepare to execute a strategic implementation plan to comply with the requirements of the President's Executive Order 13880 of July 11, 2019 *Collecting Information About Citizenship Statius in Connection With the Decennial Census* (enclosed). As you may be aware, the Executive Order directs that "[a]ll agencies shall promptly provide the Department the maximum assistance permissible, consistent with the law, in determining the number of citizens, non-citizens, and illegal aliens in the country, including by providing any access that the Department may request to administrative records that may be useful in accomplishing that objective" [Sec 3. (a)]. To this end, I am reaching out to formalize a process to move forward with your assistance.

The Executive Order further directs that the Director of the Census Bureau "establish an interagency working group to coordinate efforts, consistent with law, to maximize the availability of administrative records in connection with the census, with the goal of obtaining administrative records that can help establish citizenship status for 100 percent of the population. The Director of the Census Bureau shall chair the working group, and the head of each agency shall designate a representative to the working group upon request from the working group chair" [Sec 3. (b)].

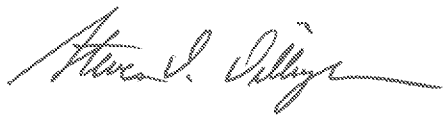
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Economic Reimbursable Surveys Division
Telephone: 301-763-2028
Email: michael.a.berning@census.gov

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Sincerely,



Steven D. Dillingham
Director

Enclosure

UNITED STATES DEPARTMENT OF COMMERCE
Economics and Statistics Administration
U.S. Census Bureau
Office of the Director
Washington, DC 20233-0001

July 31, 2019

The Honorable Eric Hargan
Deputy Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Room 614G
Washington, DC 20201

Dear Deputy Secretary Hargan:

I am writing to request your assistance as the U.S. Department of Commerce (the Department) and the Census Bureau prepare to execute a strategic implementation plan to comply with the requirements of the President's Executive Order 13880 of July 11, 2019 *Collecting Information About Citizenship Statius in Connection With the Decennial Census* (enclosed). As you may be aware, the Executive Order directs that "[a]ll agencies shall promptly provide the Department the maximum assistance permissible, consistent with the law, in determining the number of citizens, non-citizens, and illegal aliens in the country, including by providing any access that the Department may request to administrative records that may be useful in accomplishing that objective" [Sec 3. (a)]. To this end, I am reaching out to formalize a process to move forward with your assistance.

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Assistant Division Chief for Data Acquisition and Curation
Economic Reimbursable Surveys Division
Telephone: 301-763-2028
Email: michael.a.berning@census.gov

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Sincerely,



Steven D. Dillingham
Director

Enclosure

UNITED STATES DEPARTMENT OF COMMERCE
Economics and Statistics Administration
U.S. Census Bureau
Office of the Director
Washington, DC 20233-0001

July 31, 2019

The Honorable Barry W. Johnson
Director, Statistics of Income Division
Internal Revenue Service
77 K Street, NE
Washington, DC 20024

Dear Director Johnson:

I am writing to request your assistance as the U.S. Department of Commerce (the Department) and the Census Bureau prepare to execute a strategic implementation plan to comply with the requirements of the President's Executive Order 13880 of July 11, 2019 *Collecting Information About Citizenship Statius in Connection With the Decennial Census* (enclosed). As you may be aware, the Executive Order directs that "[a]ll agencies shall promptly provide the Department the maximum assistance permissible, consistent with the law, in determining the number of citizens, non-citizens, and illegal aliens in the country, including by providing any access that the Department may request to administrative records that may be useful in accomplishing that objective" [Sec 3. (a)]. To this end, I am reaching out to formalize a process to move forward with your assistance.

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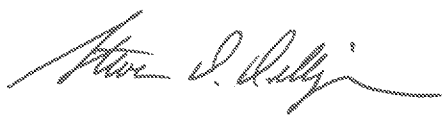
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Mike Berning
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Sincerely,



Steven D. Dillingham
Director

Enclosure

UNITED STATES DEPARTMENT OF COMMERCE
Economics and Statistics Administration
U.S. Census Bureau
Office of the Director
Washington, DC 20233-0001

July 31, 2019

The Honorable Marc Rosenblum
Deputy Assistant Secretary
DHS Office of Immigration Statistics
Office of Strategy, Policy, and Plans, Mail Stop 0445
2707 Martin Luther King Avenue, SE
Washington, DC 20528-0445

Dear Deputy Assistant Secretary Rosenblum:

I am writing to request your assistance as the U.S. Department of Commerce (the Department) and the Census Bureau prepare to execute a strategic implementation plan to comply with the requirements of the President's Executive Order 13880 of July 11, 2019 *Collecting Information About Citizenship Statius in Connection With the Decennial Census* (enclosed). As you may be aware, the Executive Order directs that "[a]ll agencies shall promptly provide the Department the maximum assistance permissible, consistent with the law, in determining the number of citizens, non-citizens, and illegal aliens in the country, including by providing any access that the Department may request to administrative records that may be useful in accomplishing that objective" [Sec 3. (a)]. To this end, I am reaching out to formalize a process to move forward with your assistance.

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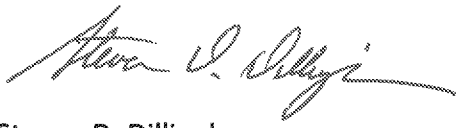
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Economic Reimbursable Surveys Division
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Email: michael.a.berning@census.gov

Thank you in advance for your cooperation. I look forward to working with you and your subject matter experts to successfully implement this Presidential order.

Sincerely,



Steven D. Dillingham
Director

Enclosure

Briefing Paper with Remarks Associated

August 6, 2019

BRIEFING MEMORANDUM FOR THE SECRETARY

FROM: James Treat, Assistant Director for Decennial Census Programs, 301.763.3609
EVENT: Meeting to discuss the status on Executive Order 13880
DATE: Thursday, August 8, 2019, from 2:00 PM-3:00 PM
PLACE: Department of Commerce, Secretary's Office/Conference Room

b(5) - DP

FULL LIST OF PARTICIPANTS

- Wilbur Ross, Secretary
- Karen Dunn Kelley, Deputy Secretary
- Steve Dillingham, Director of the Census Bureau
- Ron Jarmin, Deputy Director of the Census Bureau
- Ali Ahmad, Associate Director for Communications, Census Bureau
- John Abowd, Associate Director for Research and Methodology, Census Bureau
- Enrique Lamas, Senior Advisor to the Director, Census Bureau
- Steve Smith, Senior Advisor to the Director, Census Bureau
- James Treat, Assistant Director for Decennial Census Programs, Census Bureau
- Michael Berning, Assistant Division Chief for the Data Acquisition and Curation, Economic Reimbursable Surveys Division, Census Bureau

ATTACHMENT(S)

1. Agenda
2. Letter from Dr. Dillingham to IRS
3. Letter from Dr. Dillingham to DHS
4. Letter from Dr. Dillingham to State Department
5. Letter from Dr. Dillingham to HHS
6. Letter from Dr. Dillingham to SSA
7. Internal Census Bureau memorandum from John Abowd

From: Dewhirst, David (Federal) [DDewhirst@doc.gov]
Sent: 9/10/2019 6:04:34 PM
To: Semsar, Joseph (Federal) [JSemsar@doc.gov]
CC: O'Connor, Kasey (Federal) [KO'Connor@doc.gov]
Subject: FW: 2019-09-13 Update-Abowd-Velkoff (Final).pptx
Attachments: 2019-09-13 Update-Abowd-Velkoff (Final).pptx; ATT00001.htm

CUI/PRIV

Joe,

This should be discussed.

--
David Dewhirst
Deputy General Counsel
U.S. DEPARTMENT OF COMMERCE
ddewhirst@doc.gov
c. b(6)

From: "Ali Mohammad Ahmad (CENSUS/ADCOM FED)" <ali.m.ahmad@census.gov>
Date: Tuesday, September 10, 2019 at 10:52 AM
To: "Dewhirst, David (Federal)" <DDewhirst@doc.gov>
Cc: "Semsar, Joseph (Federal)" <JSemsar@doc.gov>
Subject: Fwd: 2019-09-13 Update-Abowd-Velkoff (Final).pptx

Begin forwarded message:

From: ali.m.ahmad@census.gov
Date: September 10, 2019 at 10:43:08 AM EDT
To: JSemsar@doc.gov
Subject: 2019-09-13 Update-Abowd-Velkoff (Final).pptx

From: Martin, Nicole (Federal) [NMartin1@doc.gov]
Sent: 7/8/2020 8:40:41 AM
To: Ziaya, David R [david.r.ziaya@census.gov]; Burris, Meghan (Federal) [MBurris@doc.gov]; Risko, Daniel (Federal) [DRisko@doc.gov]; Page, Benjamin J [benjamin.j.page@census.gov]; Stempowski, Deborah M [deborah.m.stempowski@census.gov]; Fontenot, Albert E [albert.e.fontenot@census.gov]; Ding, Michael (Federal) [MDing@doc.gov]; Olson, Timothy P [timothy.p.olson@census.gov]; Jarmin, Ron S [ron.s.jarmin@census.gov]; Ahmad, Ali M [ali.m.ahmad@census.gov]; Thieme, Michael T [michael.t.thieme@census.gov]; Sprung, Michael J [michael.j.sprung@census.gov]; Walsh, Michael (Federal) [MWalsh@doc.gov]; Paranzino, Anthony (Federal) [AParanzino@doc.gov]; Dillingham, Steven [steven.dillingham@census.gov]; Jones, Christa D [christa.d.jones@census.gov]; Christy, James T [james.t.christy@census.gov]; Cannon, Michael (Federal) [MCannon@doc.gov]; Treat, James B [james.b.treat@census.gov]; Preston, Robert (Federal) [RPreston@doc.gov]; Cogley, Nathaniel (Federal) [NCogley@doc.gov]; Davis, Caitlin (Federal) [CDavis4@doc.gov]; Lane, Jennifer (Federal) [JLane@doc.gov]; Goudarzi, Talat (Federal) [TGoudarzi@doc.gov]; Korzeniewski, Adam (Federal) [AKorzeniewski@doc.gov]; Lamas, Enrique [enrique.lamas@census.gov]; Taylor, Benjamin K [benjamin.k.taylor@census.gov]; Smith, Steven K [steven.k.smith@census.gov]; Blair, Robert (Federal) [RBlair@doc.gov]; Rockas, James (Federal) [JRockas@doc.gov]
CC: Boney, Virginia (Federal) [VBoney@doc.gov]; Olson, Stephanie (Federal) [SOlson@doc.gov]; Gilman, Thomas (Federal) [TGilman@doc.gov]; Preskenis, Kevin (Federal) [KPreskenis@doc.gov]; Becker Medina, Erika H [erika.h.becker.medina@census.gov]; Foti, Anthony (Federal) [AFoti@doc.gov]; Wyvill, Robin L [robin.l.wyvill@census.gov]; Langdon, David (Federal) [DLangdon@doc.gov]; Bingham, Vicki [Vicki.Bingham@bea.gov]
Subject: Senior Management Decennial Committee
Attachments: 5. 2020 Census DOC Exec Report Slides for 2020.07.06.pdf; 4. 2020 Census Phased Restart DOC Exec Report Slides for 2020.07.06.pdf; 3. 20-070252 dec memo Sec Controlled Conting. Memo 063020 Tables.pdf; 2.b. 2020 Census Secretary_Briefing_RedistrictingData_final 2020.07.06.pdf; 2.a. SMDC Differential Privacy Slides 2020.07.08.pdf; 0. Sr Management Agenda 2020.07.08.docx

Good morning,

Attached you will find materials provided for this mornings SMDC.

Please note, the absence of a document "1" is intentional.

Best,
Nicole

Nicole Martin
Office of the Deputy Secretary
U.S. Department of Commerce
NMartin1@doc.gov
Cell: b(6)

Status Reporting: 2020 Decennial Census

Periodic Reporting: Release for July 6, 2020

BC-DOC-0000000041

Periodic Performance Management Reports

Release for July 6, 2020

Status	Report Title	Summary	Slide Number
○	2020 Census: Recruiting Ranges Over Time		4
●	2020 Census: Applicant Status	Actions taken to achieve our recruiting target were successful. We have achieved our applicant goal.	5
●	2020 Census: Remote Alaska Production Progress & Cost	Enumerations have resumed in all remaining areas that were incomplete in mid-March when work was suspended. Lack of access to some villages due to COVID-19 quarantines has required moving the planned completion of the Remote Alaska operation to August 31, 2020.	6
●	2020 Census: Self-Response of Housing Units	Self-Response to the 2020 Census is tracking within the projected range. The projected Self-Response rate has been revised to account for re-planned operational timing and a sixth mailing prior to the August 11 start of Nonresponse Followup.	7
●	2020 Census: Self-Response of Housing Units – Zoomed in View		8
○	2020 Census: Self-Response of Housing Units by Response Mode	Internet response is exceeding expectations. The projected Self-Response rates by mode have been revised to account for re-planned operational timing and a sixth mailing prior to the August 11 start of Nonresponse Followup.	9
○	2020 Census: Self-Response of Housing Units by Response Mode – Zoomed in View		10
○	2020 Census: Self-Response of Housing Units by State		11

Legend: Not Applicable | Completed | On Track | Management Focus | Requires Attention

BC-DOC-0000000042

Periodic Performance Management Reports

Release for July 6, 2020

Status	Report Title	Summary	Slide Number
	2020 Census: Questionnaire Assistance Inbound Calls	Inbound call support continues. A return call option is available to callers who leave a message requesting this option.	12
	2020 Census: Partners & Participating Organizations	Progress to establish relationships with National and community organizations is ongoing. The number of partnering organizations at the national-level has grown to 997. The 2020 Census exposure at the local and community level continues; the number of active community partners is over 385,000. We have exceeded the 2010 Census numbers for both national and community partners.	13
	2020 Census: Integrated Communications Campaign Weekly Report Timeline	Steady progress continues on Integrated Communications Campaign efforts. The program is rapidly preparing new messages and delivery vehicles in light of the our current environment.	14
	2020 Census: Monthly FY 2020 Budget Execution Report	Fiscal Year 2020 budget execution is managing budget to address critical program needs.	15

Legend: Not Applicable | Completed | On Track | Management Focus | Requires Attention

BC-DOC-0000000043

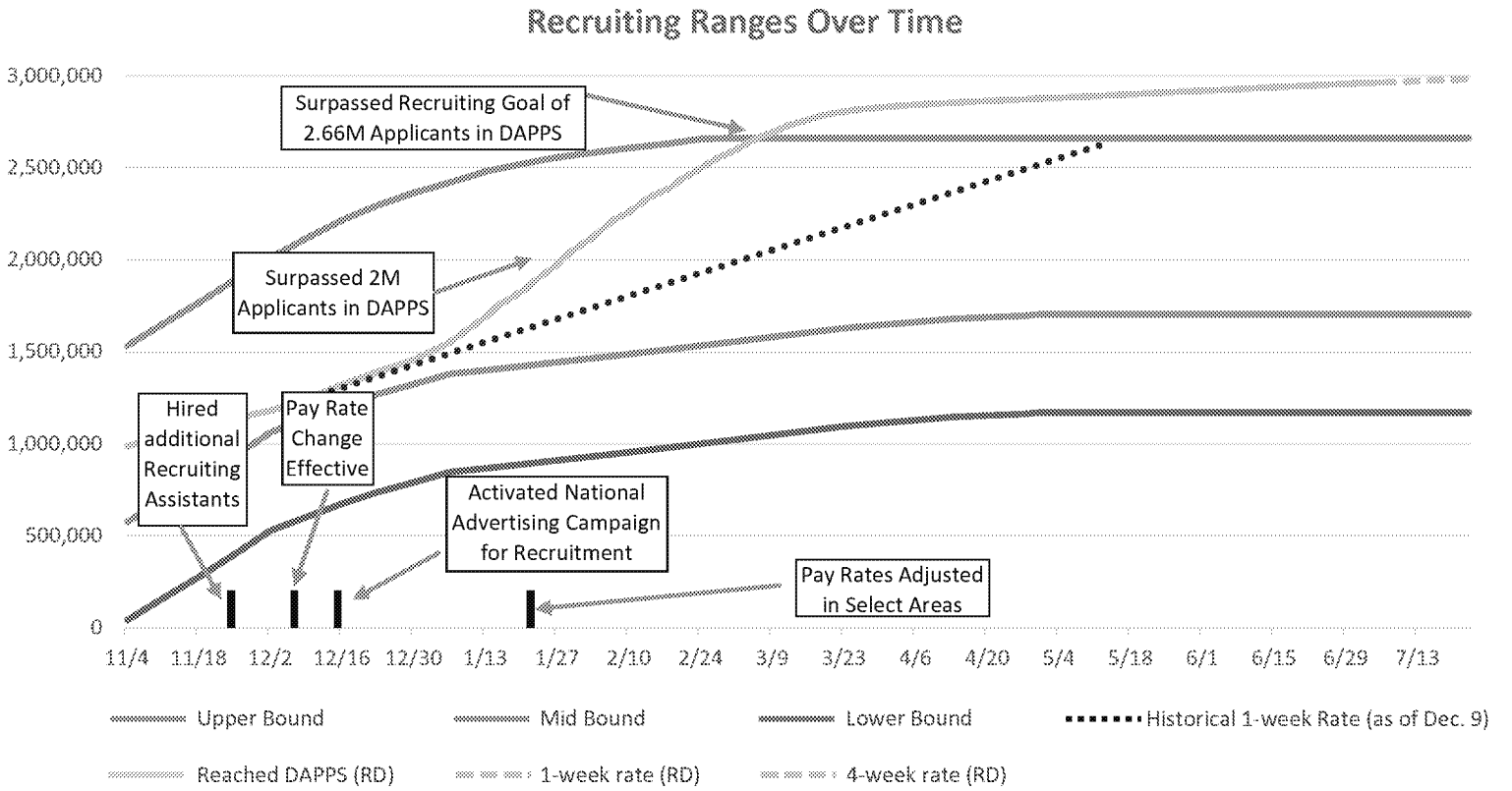
Periodic Performance Management Reports

2020 Census: Recruiting Ranges Over Time

Data current as of:
July 6, 2020

Completion Date:
August 15, 2020

Notes:



1-week averages
As of July 6:
Daily Rate: 1,132 reached DAPPS/day
As of June 29:
Daily Rate: 1,251 reached DAPPS/day
As of June 22:
Daily Rate: 1,315 reached DAPPS/day

Upper Bound:
55% Self Response Rate
1.55 Cases/HR (productivity)
20.5 Hours/Week (availability)
7 Week Operation
500,000 Hired

Mid:
60.5% Self Response Rate
1.55 Cases/HR (productivity)
20.5 Hours/Week (availability)
9 Week Operation
320,000 Hired

Lower Bound:
65.5% Self Response Rate
1.55 Cases/HR (productivity)
20.5 Hours/Week (availability)
9 Week Operation
220,000 Hired

Source: *2020 R&A/DAPPS Applicant Summary Report*

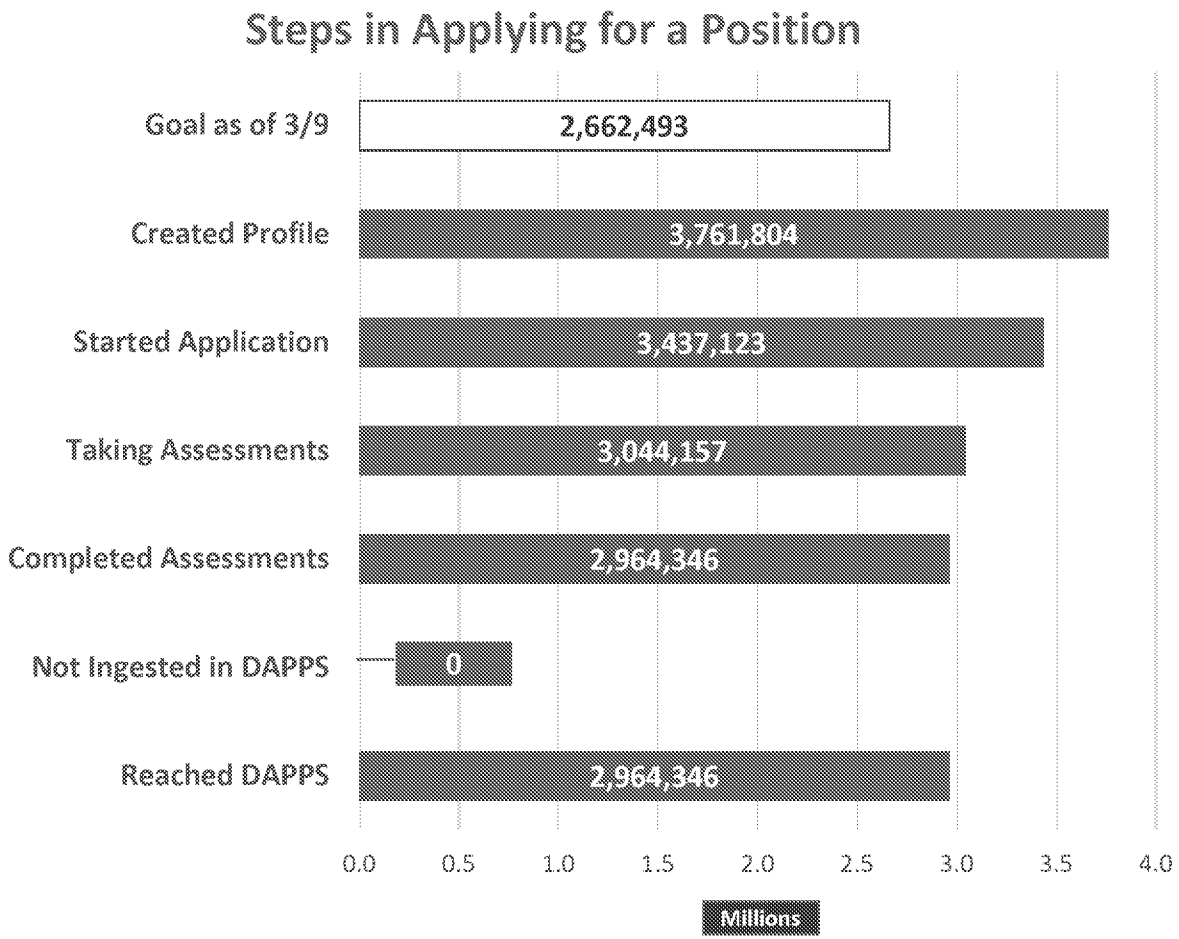
Periodic Performance Management Reports
2020 Census: Applicant Status

Status:
On Track

Data current as of:
July 6, 2020

Completion Date:
January 5, 2021

Notes:
- Actions taken to achieve our recruiting target were successful. We have achieved our applicant goal.
- We are communicating with our recruits, selectees, and on-board staff so that staff are ready to work as we recommence all field operations.



Source: *2020 R&A/DAPPS Applicant Summary Report*

BC-DOC-0000000045

Periodic Performance Management Reports

2020 Census: Remote Alaska Progress & Cost

Status:
On Track

Data current as of:
July 6, 2020

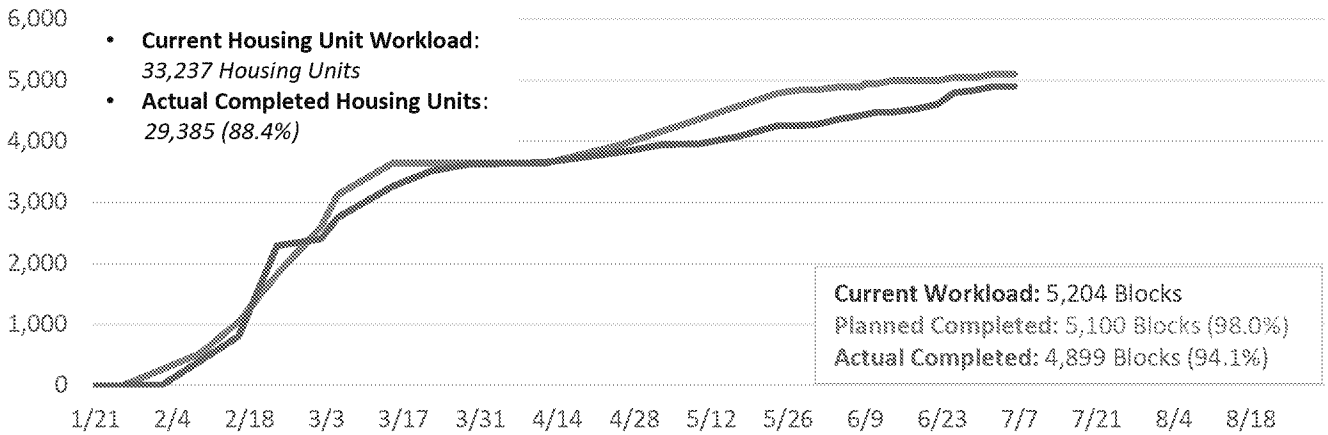
Start Date:
January 21, 2020

Completion Date:
August 31, 2020

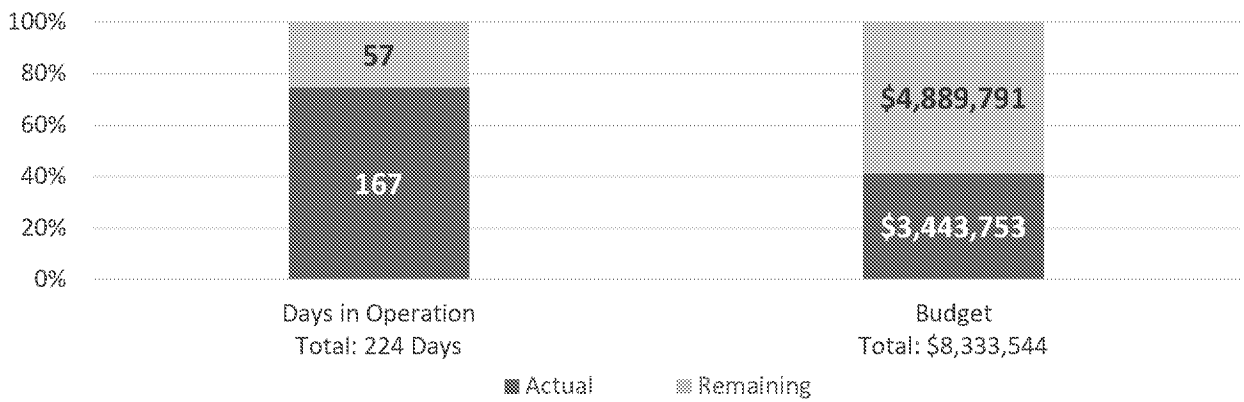
Notes:

- Lack of access to some villages due to COVID-19 quarantines has required moving the planned completion of the Remote Alaska operation to August 31, 2020.
- Enumerations have resumed in all remaining areas that were incomplete in mid-March when work was suspended.

Progress for Remote Alaska Production



Key Performance Indicators for Remote Alaska



Source: Unified Tracking System, Automated Tracking and Control

BC-DOC-0000000046

Periodic Performance Management Reports

2020 Census: Self-Response of Housing Units

Status:
On Track

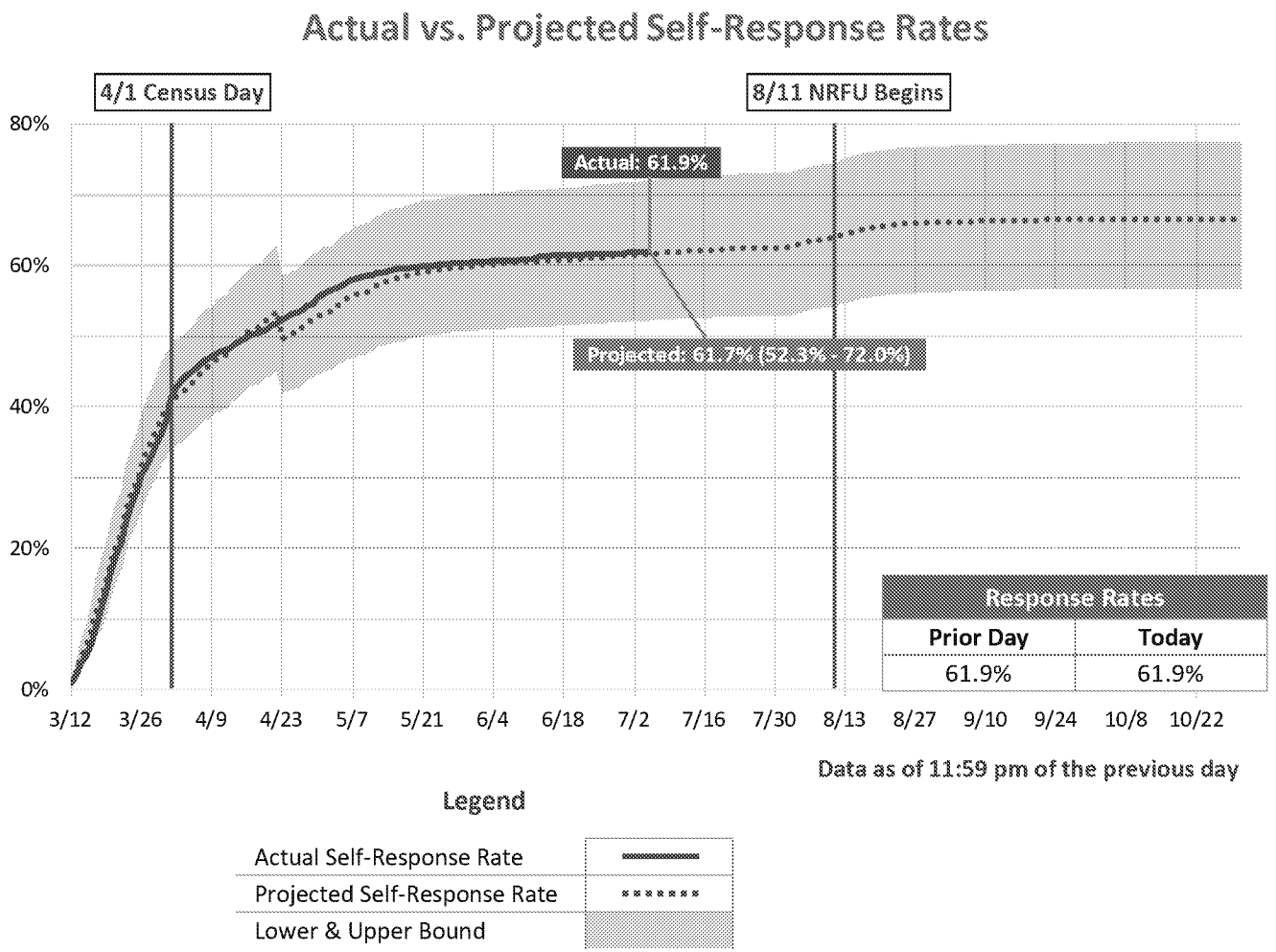
Data current as of:
July 6, 2020

Start Date:
March 12, 2020

Completion Date:
*October 31, 2020**

Notes:

- As of April 22, the projected Self-Response rate has been revised to account for re-planned operational timing and a sixth mailing prior to the August 11 start of Nonresponse Followup.
- Response rates reflect responses from Self-Response and Update Leave.
- * Internet, Paper, and Phone response options remain available throughout the data collection timeframe to offer maximum flexibility for respondents.



Source: Census Data Lake & Decennial Statistical Studies Division

BC-DOC-0000000047

Periodic Performance Management Reports

2020 Census: Self-Response of Housing Units –Zoomed in View

Status:
On Track

Data current as of:
July 6, 2020

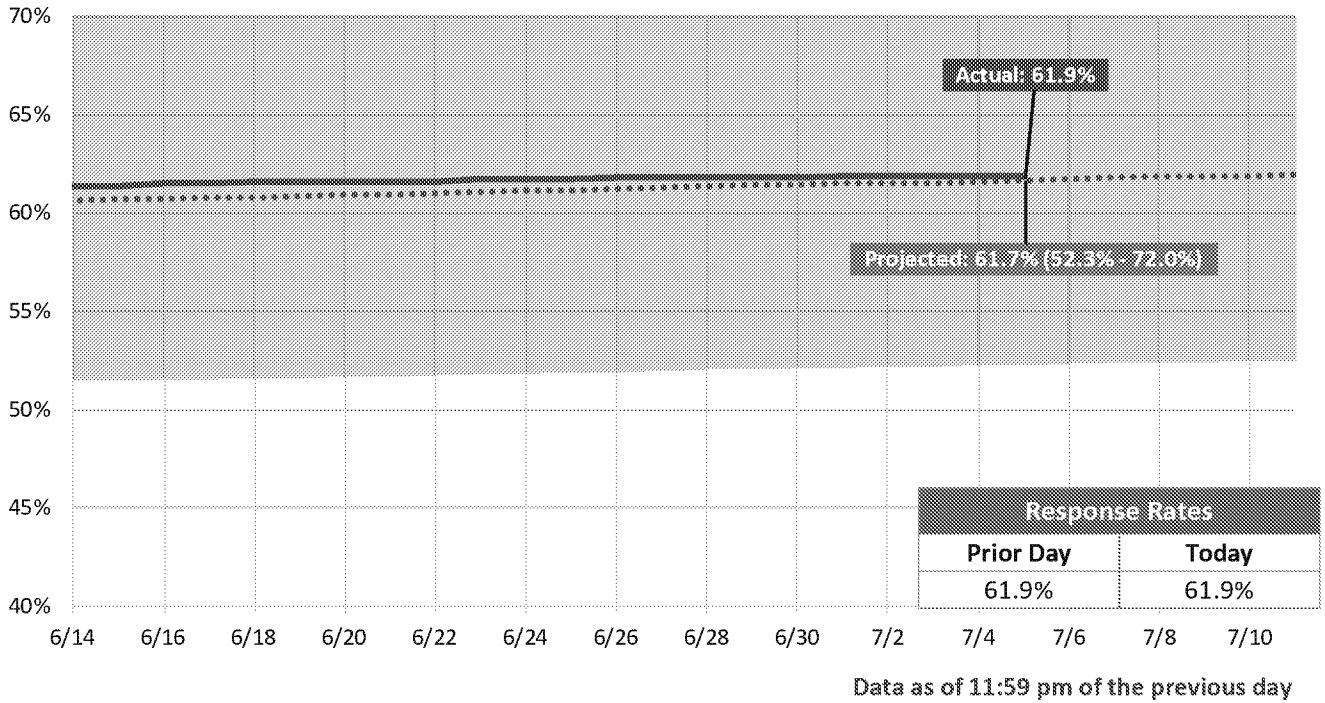
Start Date:
March 12, 2020

Completion Date:
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- Response rates reflect responses from Self-Response and Update Leave.
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Actual vs. Projected Self-Response Rates



Source: Census Data Lake & Decennial Statistical Studies Division

BC-DOC-0000000048

Periodic Performance Management Reports

2020 Census: Self-Response of Housing Units by Response Mode

Status:

◯ *Management Focus*

Data current as of:

July 6, 2020

Start Date:

March 12, 2020

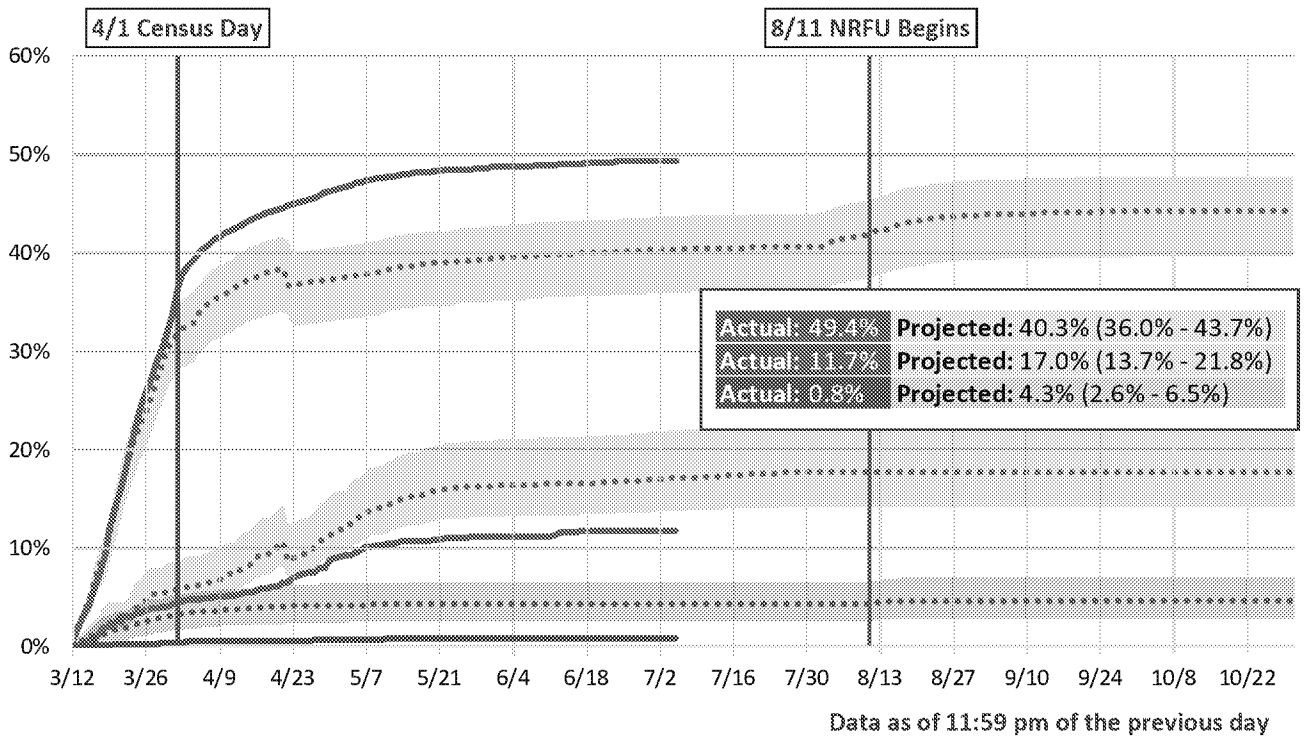
Completion Date:

*October 31, 2020**

Notes:

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- The paper counts include inbound mail.
- * Internet, Paper, and Phone response options remain available throughout the data collection timeframe to offer maximum flexibility for respondents.

Actual vs. Projected Self-Response Rates by Mode



Data as of 11:59 pm of the previous day

Legend

	Internet	Paper	Phone
Actual Self-Response Rate	———	———	———
Projected Self-Response Rate	*******	*******	*******
Lower & Upper Bound			

Source: Census Data Lake & Decennial Statistical Studies Division

BC-DOC-0000000049

Periodic Performance Management Reports

2020 Census: Self-Response of Housing Units by Response Mode – Zoomed In

Status:
◯ *Management Focus*

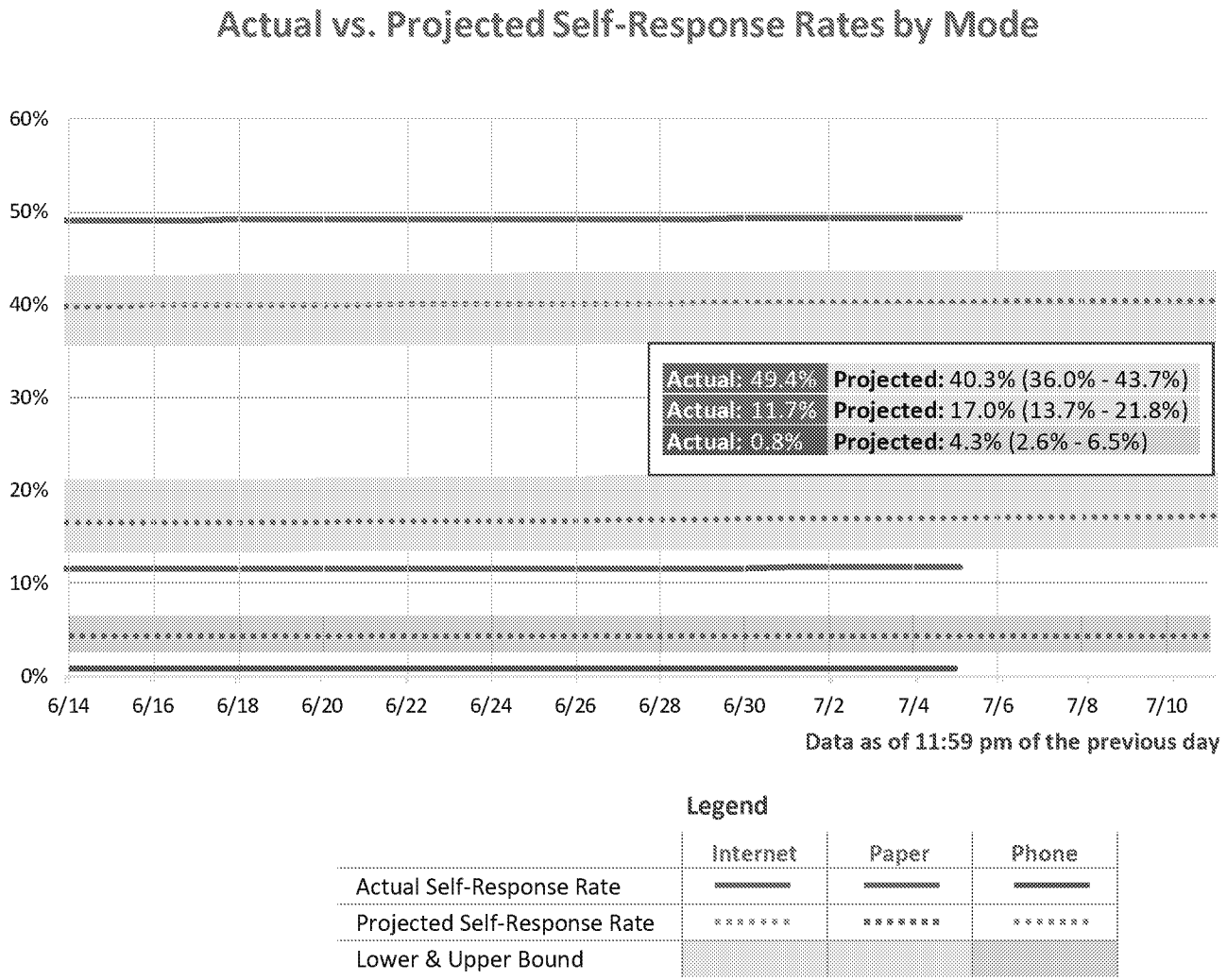
Data current as of:
July 6, 2020

Start Date:
March 12, 2020

Completion Date:
*October 31, 2020**

Notes:

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- The paper counts include inbound mail.
- * Internet, Paper, and Phone response options remain available throughout the data collection timeframe to offer maximum flexibility for respondents.



Source: Census Data Lake & Decennial Statistical Studies Division

Periodic Performance Management Reports

2020 Census: Self-Response of Housing Units by State

Source: *Decennial Statistical Studies Division*

Data Current as of: *July 6, 2020*

State	Actual	2010 Rate (start of NRFU)	2010 Rate (Final)
U.S. Total	**61.9%**	**63.5%**	**66.5%**
Minnesota	71.4%	71.6%	74.1%
Wisconsin	68.8%	71.2%	73.5%
Michigan	68.1%	65.4%	67.7%
Iowa	68.0%	71.0%	73.0%
Nebraska	68.0%	68.8%	71.1%
Washington	67.3%	63.7%	67.2%
Virginia	66.7%	66.2%	69.0%
Illinois	66.7%	67.7%	70.5%
Ohio	66.5%	66.2%	69.0%
Indiana	66.3%	67.0%	69.6%
Utah	66.3%	65.4%	68.6%
Maryland	65.8%	66.5%	69.5%
Kansas	65.6%	67.4%	70.0%
Idaho	65.4%	64.6%	67.1%
Connecticut	65.3%	66.3%	69.5%
Kentucky	65.3%	63.0%	65.7%
Colorado	65.2%	64.4%	67.2%
Pennsylvania	65.1%	67.8%	70.2%
Oregon	64.3%	63.9%	66.9%
Massachusetts	63.9%	65.6%	68.8%
New Jersey	63.9%	64.4%	67.6%
South Dakota	63.2%	65.0%	67.1%
California	63.1%	64.7%	68.2%
Missouri	62.0%	65.3%	67.5%
New Hampshire	61.8%	61.5%	64.4%
North Dakota	61.6%	66.8%	68.8%

State	Actual	2010 Rate (start of NRFU)	2010 Rate (Final)
Tennessee	61.4%	63.8%	67.1%
Nevada	61.1%	58.7%	61.4%
Rhode Island	59.8%	62.8%	65.7%
Delaware	59.7%	60.8%	64.1%
Alabama	59.6%	59.5%	62.5%
Florida	59.0%	59.6%	63.0%
Arizona	58.5%	58.5%	61.3%
Hawaii	58.1%	60.7%	64.1%
North Carolina	58.1%	62.1%	64.8%
District of Columbia	58.1%	62.2%	66.0%
Georgia	57.8%	59.5%	62.5%
New York	57.4%	61.3%	64.6%
Mississippi	56.9%	58.1%	61.3%
Texas	56.7%	60.3%	64.4%
Arkansas	56.6%	59.5%	62.3%
South Carolina	56.3%	62.2%	64.7%
Oklahoma	56.3%	58.9%	62.3%
Wyoming	56.1%	61.1%	63.4%
Louisiana	56.1%	57.9%	61.0%
Montana	55.6%	62.3%	64.6%
Vermont	55.3%	58.1%	60.3%
West Virginia	53.4%	56.8%	59.1%
Maine	53.4%	55.3%	57.4%
New Mexico	51.2%	56.9%	60.0%
Alaska	48.0%	51.6%	55.6%
Puerto Rico	23.4%	51.2%	53.8%

Data as of 11:59 pm of the previous day

BC-DOC-0000000051

Periodic Performance Management Reports
2020 Census: Questionnaire Assistance Inbound Calls

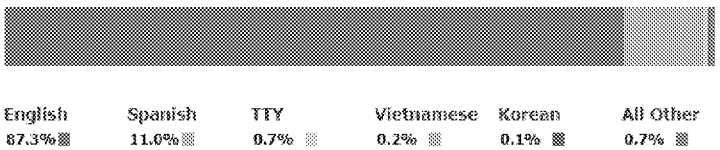
Status:
On Track

Data current as of:
July 4, 2020

Completion Date:
July 31, 2020
(pending contract MOD)

Notes:
To date, 13,957 callers have requested the callback option. These callbacks have resulted in 5,760 completed interviews and 3,648 callers being provided assistance.

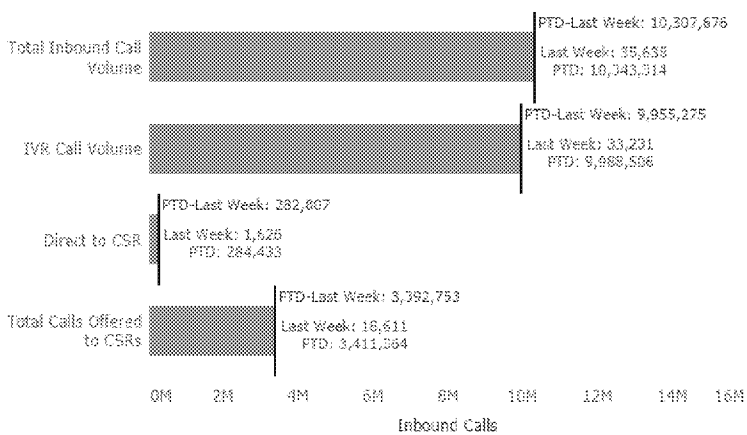
Total Inbound Call Volume % (PTD)



Key Performance Metrics (PTD)

	Planned	Actual
Total Inbound Call Volume	8,295,117	10,343,314
Deflection Rate	47.0%	67.3%
Service Level - 30 Seconds	80.0%	62.4%
Average Handle Time	9:43	9:18

Inbound Call Volume



Calls Offered to CSRs by Language

	6/21 - 6/27	6/28 - 7/4	PTD	PTD %
English	18,243	15,100	3,018,288	88.5%
English Puerto Rico	38	48	2,159	0.1%
Spanish	1,974	2,138	258,173	7.6%
Spanish Puerto Rico	634	844	25,443	0.7%
Chinese Mandarin	71	66	10,273	0.3%
Chinese Cantonese	70	88	8,811	0.3%
Vietnamese	34	32	12,653	0.4%
Korean	40	33	12,278	0.4%
Russian	74	52	6,446	0.2%
Arabic	18	18	3,923	0.1%
Tagalog	12	2	2,527	0.1%
Polish	6	7	2,338	0.1%
French	7	3	1,117	0.0%
Haitian Creole	15	16	2,431	0.1%
Portuguese	12	6	1,706	0.1%
Japanese	7	4	2,193	0.1%
TTY	59	42	36,454	1.1%
Group Quarters	176	112	4,151	0.1%
Total	**21,490**	**18,611**	**3,411,364**	**100.0%**

Source: *Daily Briefing Deck: Census Questionnaire Assistance*

Periodic Performance Management Reports
2020 Census: Partners & Participating Organizations

Status:
On Track

Data current as of:
July 2, 2020

Completion Date:
March 2020

Notes:
- 2010 Census: 256,000 regional partners and 856 national partnering organizations.
- We have exceeded the 2010 Census for both national and community partners.
- The National Partnership Program (NPP) met its 2020 Census goal the week of April 20 of securing 900 national participating organizations. NPP will continue to grow the number of national partners and engagements.

Participating Organizations by Sector

Sector	National	Community
Nonprofit	373	70,964
Business	127	86,072
Chamber of Commerce/Trade or Professional Association	109	10,456
Education	102	83,779
Government	88	71,019
Faith-Based Organizations	65	39,997
Media	46	8,158
Healthcare	44	14,601
Technology	32	344
International Governmental/ Consulate/ Embassy	11	353
Grand Total	997	385,143

Participating Organizations by Audiences Served*

Audiences Served	National	Community
Mass Appeal	423	226,676
Black/African American	91	17,266
Young Children	86	5,715
Asian	78	10,032
Hispanic/Latino	78	12,873
Rural	77	25,268
Native Hawaiian Pacific Islander	47	658
Veterans	41	3,223
Young and Mobile	40	7,339
LGBTQ	24	1,272
Individuals with Disabilities	24	3,167
Elderly	23	8,706
Persons Experiencing Homelessness and Highly Mobile	22	5,453
American Indian/ Alaskan Native	19	3,551
MENA	15	54

*Participating organizations that serve more than one audience are tallied against multiple audiences served as appropriate, so the sum total is greater than the grand total shown.

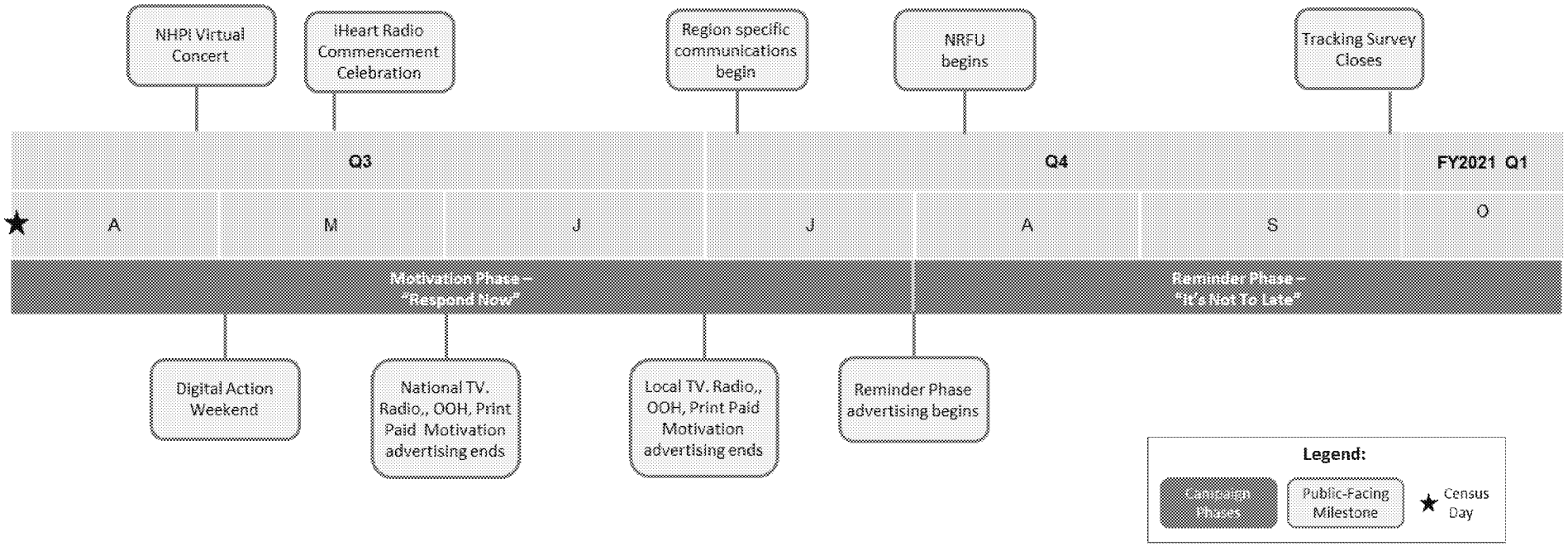
Completed Community Partnership Events: 397,282

Source: *Customer Relationship Management Database*

Periodic Performance Management Reports

2020 Census: Integrated Communications Campaign Weekly Report Timeline

Source: *Integrated Partnerships and Communication*
Data Current as of: *July 2, 2020*



Significant Accomplishments

- Essence Communications hosted the first of two virtual Essence Festival events, which include Census Bureau participation on 6/27.
- Field recruitment paid search ads began running on 6/31.
- Staff joined the Black Caucus of the American Library Association (BCALA) for "Counting Black Communities - Census 2020 & Libraries", a webinar to help participants strategize on how libraries can assist in increasing the response rate for HTC communities on 7/1 for a Census Solutions activity, and discussion.

BC-DOC-0000000054

Periodic Performance Management Reports

2020 Census: Monthly FY 2020 Budget Execution Report

Status: ● On Track Data current as of: May 31, 2020 Completion Date: September 30, 2020

Notes: The data are updated monthly following the financial close-out of the previous month, typically about five business days into the next month.

FY 2020 Actual Budget Execution for the 2020 Census Program - Commitments and Obligations through 5/31/2020

$ Amounts in Millions	IT	Non-IT	Total
Total Planned through May	$1,686.123	$4,298.556	$5,984.679
Available contingency and additional appropriations through May	$247.942	$1,432.008	$1,679.950
Planned Programmatic through May	$1,438.181	$2,866.548	$4,304.729
Total Actual Commitments and Obligations through May	$1,397.013	$1,936.113	$3,333.126
Unplanned commitments/obligations through May related to adjusted 2020 Census operations due to COVID-19 (risk-based contingency)	$98.268	$209.442	$307.710
Actual Programmatic Commitments and Obligations through May	$1,298.745	$1,726.671	$3,025.416
Total Plan Variance ($/%)	$289.110 (17.1%)	$2,362.444 (55.0%)	$2,651.553 (44.3%)
Remaining contingency and additional appropriations planned through May	$149.674	$1,222.566	$1,372.240
Delayed Field Operation Spending through May	$0	$1,188.572	$1,188.572
Non-Field Operational Programmatic Variance through May	$139.436	($48.694)	$90.741

High-Level Variance Explanations:

In light of the COVID-19 pandemic, the U.S. Census Bureau adjusted 2020 Census operations in order to protect the health and safety of the American public and Census Bureau employees, implement guidance from Federal, State, and local authorities regarding COVID-19, and ensure a complete and accurate count of all communities. These adjustments resulted in positive variances due to schedule adjustments, offset by additional obligations needed to support operational adjustments through the usage of planned contingency funding. The total variance for the resources planned to be available through May is $2.652 billion, or 44 percent. Below outlines the breakdown:

- The positive variance through May against the original plan in 2020 Census IT systems and operations is $289 million, or 17 percent. This variance consists of relatively minor timing adjustments in contract actions and other IT purchases to later months in the fiscal year, totaling $139 million. The remaining $150 million represents a portion of contingency funding originally planned in April that has not yet been obligated.
- The positive variance through May against the original plan in 2020 Census non-IT operations is $2.362 billion, or 55 percent. This variance consists of $1.189 billion delayed spending in the field operations as a result of schedule adjustments, and $1.223 billion representing a portion of contingency and additional appropriations originally planned in April that has not yet been obligated. This variance is partially offset by a -$49 million non-Field variance, primarily from a prior decision to increase funding above the original plan for the ICC contract to facilitate additional media purchases ahead of Census Day.
- While contingency contributes to the overall positive variance, this is a function of a budget decision last October to make all risk-based contingency available for peak operations. Decisions were made to use risk-based contingency funds to support $308 million in unplanned obligations or commitments through May as the result of the operational adjustments. The funds used to date include funding field staff salaries during to the suspension of field operations, IT purchases for additional devices and licenses, additional media purchases to encourage self response throughout the spring, and additional costs for the extension of the Fingerprint Contract and licenses as the result of the operational timing adjustments.

Source: *Commerce Business Systems; Decennial Budget Integration Tool*

BC-DOC-0000000055

Status Reporting: Phased Restart for the 2020 Decennial Census

Periodic Reporting: Release for July 6, 2020

BC-DOC-0000000056

Periodic Performance Management Reports

Report Title	Slide Number
2020 Census: Phased Restart Update Leave Status by State	3
2020 Census: Update Leave Progress & Cost	4
2020 Census: Update Leave – Status Update	5
2020 Census: Phased Restart of Paper Data Capture Centers Staffing Status	6
2020 Census: Phased Restart Fingerprinting Status	7
2020 Census: NRFU Tip Sheet	8
2020 Census: County- Level COVID-19 Risk Level Map – Gardiner, Maine Area Census Office	9
2020 Census: County- Level COVID-19 Risk Level Map – Beckley, West Virginia Area Census Office	10
2020 Census: County- Level COVID-19 Risk Level Map – Kansas City, Missouri Area Census Office	11
2020 Census: County- Level COVID-19 Risk Level Map – New Orleans, Louisiana Area Census Office	12
2020 Census: County- Level COVID-19 Risk Level Map – Oklahoma County, Oklahoma Area Census Office	13
2020 Census: County- Level COVID-19 Risk Level Map – Boise, Idaho Area Census Office	14
2020 Census: NRFU Soft Launch – Cycle 1 ACOs	15
2020 Census: NRFU Soft Launch – Cycle 2 ACOs	16-17

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Periodic Performance Management Reports

2020 Census: Phased Restart Update Leave Status by State

Source: *Unified Tracking System*
Data Current as of: *July 6, 2020*

Decisions to Restart work are informed by data available on the All Hazards Consortium site - "US State and Territory Actions in Response to COVID 19.

State	% Update Leave	HUs in UL Workload	% HUs Complete		Change
			Prior Week	Current Week	
U.S. Total	**4.5%**	**6,805,523**	**98.2%**	98.9%	0.7%
Alabama	3.2%	81,964	99.8%	100.0%	0.2%
Alaska	34.1%	110,022	97.6%	98.2%	0.6%
Arizona	6.6%	214,291	80.7%	85.9%	5.3%
Arkansas	5.0%	77,716	100.0%	100.0%	0.0%
California	2.3%	348,797	99.5%	99.7%	0.2%
Colorado	7.5%	195,895	99.19%	99.92%	0.78%
Connecticut	0.4%	5,868	100.0%	100.0%	0.0%
Florida	1.7%	171,871	98.7%	98.7%	0.0%
Georgia	2.3%	111,905	100.0%	100.0%	0.0%
Hawaii	10.8%	63,303	100.0%	100.0%	0.0%
Idaho	9.0%	70,780	99.9%	99.9%	0.0%
Illinois	0.8%	42,827	99.8%	100.0%	0.2%
Indiana	1.3%	39,142	100.0%	100.0%	0.0%
Iowa	0.9%	14,050	100.0%	100.0%	0.0%
Kansas	2.4%	32,178	100.0%	100.0%	0.0%
Kentucky	3.7%	78,593	100.0%	100.0%	0.0%
Louisiana	4.0%	91,447	100.0%	100.0%	0.0%
Maine	14.2%	111,689	100.0%	100.0%	0.0%
Massachusetts	2.2%	69,244	99.9%	99.9%	0.0%
Michigan	2.2%	106,770	99.40%	99.98%	0.58
Minnesota	3.4%	86,706	92.4%	97.8%	5.4%
Mississippi	3.7%	54,499	100.0%	100.0%	0.0%
Missouri	4.3%	131,018	100.0%	100.0%	0.0%
Montana	19.2%	112,978	93.6%	95.1%	1.4%

State	% Update Leave	HUs in UL Workload	% HUs Complete		Change
			Prior Week	Current Week	
Nebraska	3.5%	30,670	96.192%	99.997%	3.805%
Nevada	3.6%	47,778	98.7%	98.7%	0.0%
New Hampshire	9.9%	65,936	96.0%	100.0%	4.0%
New Jersey	1.1%	40,514	96.9%	100.0%	3.1%
New Mexico	19.2%	200,664	78.5%	87.7%	9.1%
New York	3.0%	270,545	99.19%	99.98%	0.79%
North Carolina	3.3%	164,775	99.8%	100.0%	0.2%
North Dakota	9.9%	40,051	98.6%	98.6%	0.0%
Ohio	0.6%	34,686	100.0%	100.0%	0.0%
Oklahoma	9.8%	187,921	100.0%	100.0%	0.0%
Oregon	1.4%	27,198	100.0%	100.0%	0.0%
Pennsylvania	3.3%	197,124	100.0%	100.0%	0.0%
Rhode Island	1.1%	5,657	100.0%	100.0%	0.0%
South Carolina	2.4%	61,375	100.0%	100.0%	0.0%
South Dakota	12.4%	51,715	92.7%	97.6%	5.0%
Tennessee	0.3%	9,010	100.0%	100.0%	0.0%
Texas	3.6%	441,668	99.9%	100.0%	0.1%
Utah	7.6%	90,972	97.6%	98.0%	0.4%
Vermont	17.2%	61,075	100.0%	100.0%	0.0%
Virginia	0.9%	34,615	100.0%	100.0%	0.0%
Washington	2.8%	92,093	99.8%	99.8%	0.0%
West Virginia	28.8%	289,189	100.0%	100.0%	0.0%
Wisconsin	3.3%	93,399	99.8%	100.0%	0.2%
Wyoming	22.9%	67,114	100.0%	100.0%	0.0%
Puerto Rico	100.0%	1,776,226	100.0%	100.0%	0.0%

Legend: All ACOs with UL Workload Have Restarted | All UL Workload Completed

BC-DOC-0000000058

Periodic Performance Management Reports

2020 Census: Update Leave Progress & Cost

Status:
On Track

Data current as of:
July 6, 2020

Start Date:
March 15, 2020

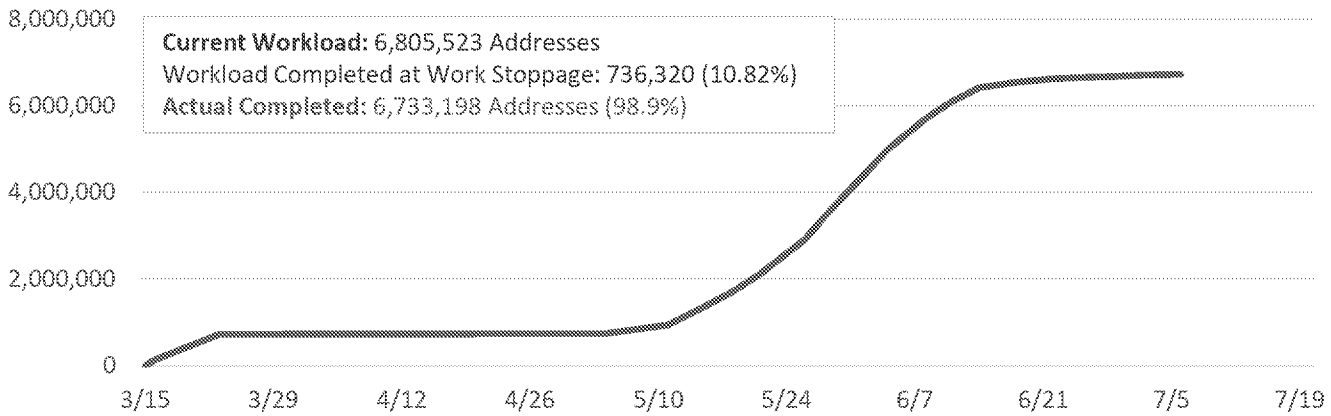
Completion Date:
July 20, 2020*

Notes:
* Addresses in the Update Leave workload that do not self-respond are included in the Nonresponse Followup operation.

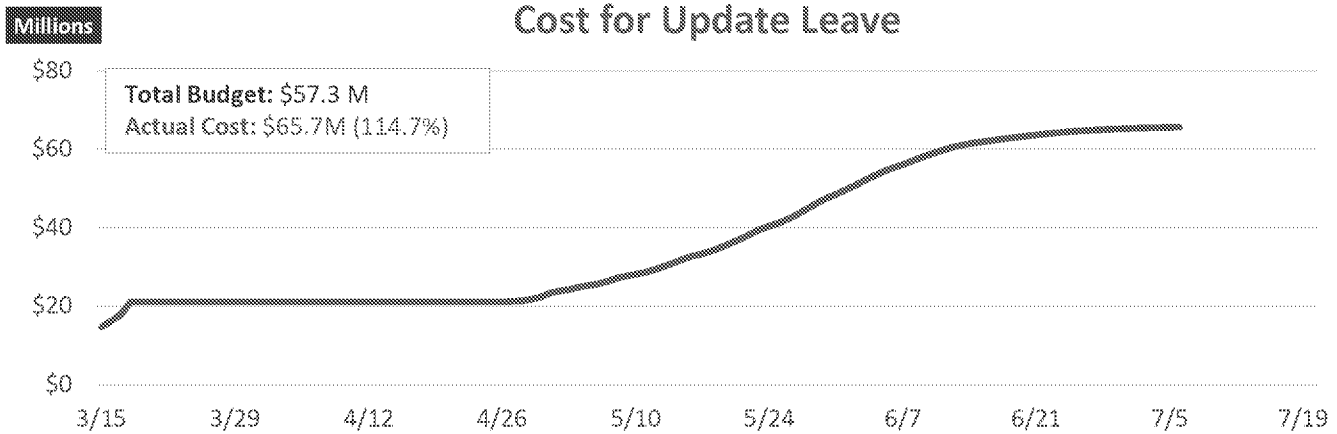
- **Current Block Workload:** *311,358 Blocks*
- **Actual Completed Blocks:** *304,593 Blocks (97.8%)*

Lister Productivity
- **Addresses per Hour:** *7.9*
- **Life Cycle Cost Model Estimate for Addresses per Hour:** *5.3*

Progress for Update Leave



Cost for Update Leave



Source: Unified Tracking System

BC-DOC-0000000059

Periodic Performance Management Reports

2020 Census: Update Leave – Status Update

Source: Unified Tracking System, *Census Data Lake, Decennial Statistical Studies Division*
Data Current as of: *July 6, 2020*

Operation:

The Update Leave (UL) operation is designed to occur in areas where the majority of housing units either do not have mail delivered to the physical location of the housing unit, or the mail delivery information for the housing unit cannot be verified. A Census Bureau employee will physically deliver a 2020 Census invitation to these housing units.

Workload:

- Update Leave Original Workload (does not change): 6,805,523
- Workload Completed March 18 (date field operations were suspended): 736,320
    - Percentage Completed at suspension: 10.82%
- Workload Completed as of July 6: 6,733,198
- Percentage Completed: 98.94%

Response Rates:

- UL Total Responses (as of March 18): 139,825
    - Internet: 12,478 (8.92%)
    - Paper: 127,189 (90.96%)
    - Phone: 158 (0.11%)
- UL Total Responses (as of July 6): 2,050,676
    - Internet: 1,058,408 (51.61%)
    - Paper: 959,485 (46.79%)
    - Phone: 32,783 (1.60%)

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Periodic Performance Management Reports

2020 Census: Phased Restart of Paper Data Capture Centers Staffing Status

Status:
On Track

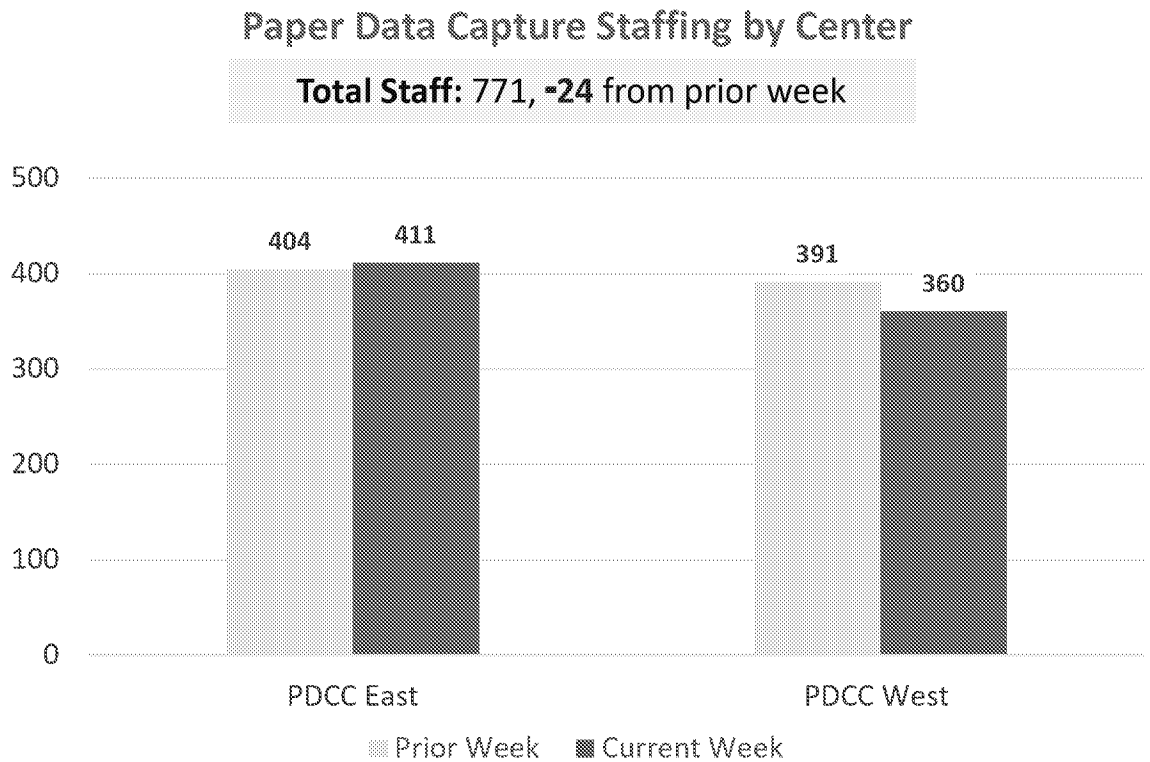
Data current as of:
July 1, 2020

Start Date:
January 21, 2020

Completion Date:
November 30, 2020

Notes:

- Staff in CDC-defined high risk groups have returned to work on the Indiana NPC campuses.
- Increased COVID-19 activity in Arizona is impacting PDCC West staffing.
- There are eight positive COVID-19 cases at PDCC-West; multiple staff are self-monitoring for 14 days.



Source: National Processing Center

BC-DOC-0000000061

Periodic Performance Management Reports
2020 Census: Phased Restart Fingerprinting Status

Status:
● *On Track*

Data current for the week of:
July 6, 2020

Start Date:
January 21, 2020

Completion Date:
October 31, 2020

Notes:

Overall Fingerprinting Status

Status	Prior Week	Change from Prior Week	Current Week
Total Number of Applicants that Reached DAPPS	2,956,419	+7,927	**2,964,346**
Total Number Selected	1,149,065	+29,667	**1,178,732**
Total Number Fingerprinted	753,749	+28,047	**781,796**
Total Pending Fingerprinting	395,316	+1,620	**396,936**
Total Remaining Applicant Pool	1,807,354	-21,740	**1,785,614**

Source: Unified Tracking System, Automated Tracking and Control

Periodic Performance Management Reports

2020 Census: NRFU Tip Sheet

Source: *Decennial Census Management Division*
Data Current as of: *July 2, 2020*

Cycle 1A NRFU Soft Launch

Beginning July 16, the Census Bureau will soft-launch sending approximately 11,000 Census Enumerators to follow up with households in communities covered by six area census offices—one in each census region. The six location are:

- Gardiner, ME (New York Region)
- Beckley, WV (Philadelphia Region)
- New Orleans, LA (Atlanta Region)
- Kansas City, MO (Chicago Region)
- Oklahoma County, OK (Dallas Region)
- Boise, ID (Los Angeles Region)

Key Dates

- 6/18: Census Field Supervisor (CFS) Training
- 7/7: Enumerator Training
- 7/16: Production

CFS/Enumerator Training and Deploy Goals by Office

- Selection and Fingerprint Goals have been achieved for both CFS and Enumerators.
- Plan to train approx. 470 CFSs and 12,000 Enumerators
- Plan to deploy approx. 420 CFSs and 10,600 Enumerators

ACO Name	Current Self-Response Rate (6/29)	NRFU CFS Goal to Train	NRFU CFS Goal to Deploy	NRFU Enums Goal to Train	NRFU Enums Goal to Deploy
Gardiner	53%	78	71	2,078	1,870
Beckley	53%	87	80	2,717	2,454
Kansas City	62%	110	99	2,529	2,225
New Orleans	56%	58	52	1,341	1,181
Oklahoma County	59%	73	66	1,740	1,532
Boise	65%	60	54	1,532	1,349
Totals		**466**	**422**	**11,937**	**10,611**

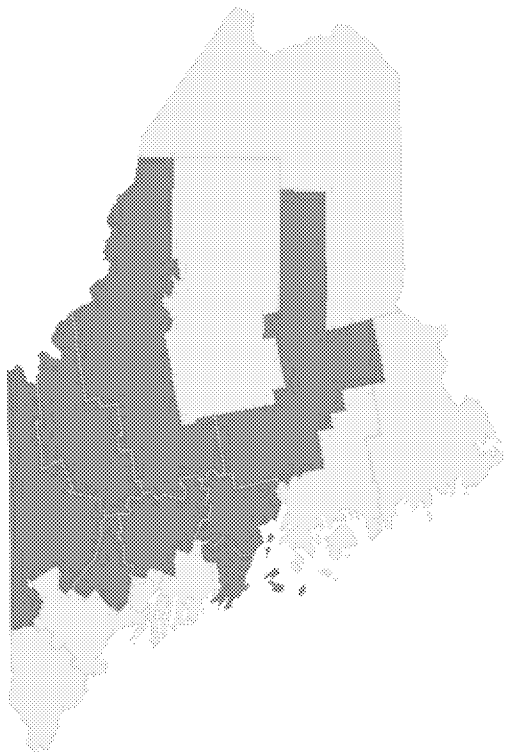
Periodic Performance Management Reports

2020 Census: County- Level COVID-19 Risk Level Map – Gardiner, Maine Area Census Office

Source: *Health and Human Services, USAFacts.org*
Data Current as of: *July 2, 2020*

Gardiner, Maine Area Census Office

RCC: New York RCC	
ACO: 2262	
Key Dates • 6/18: Census Field Supervisor (CFS) Training • 7/7: Enumerator Training • 7/16: Production	
Self-Response Rate:	53%
NRFU CFS Goal to Deploy:	71
NRFU Enumerator Goal to Deploy:	1,870



Note:
The United States Census Bureau Fusion Center is monitoring a number of sources that are showing concerning COVID-19 trends ***on the state level***.

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Periodic Performance Management Reports

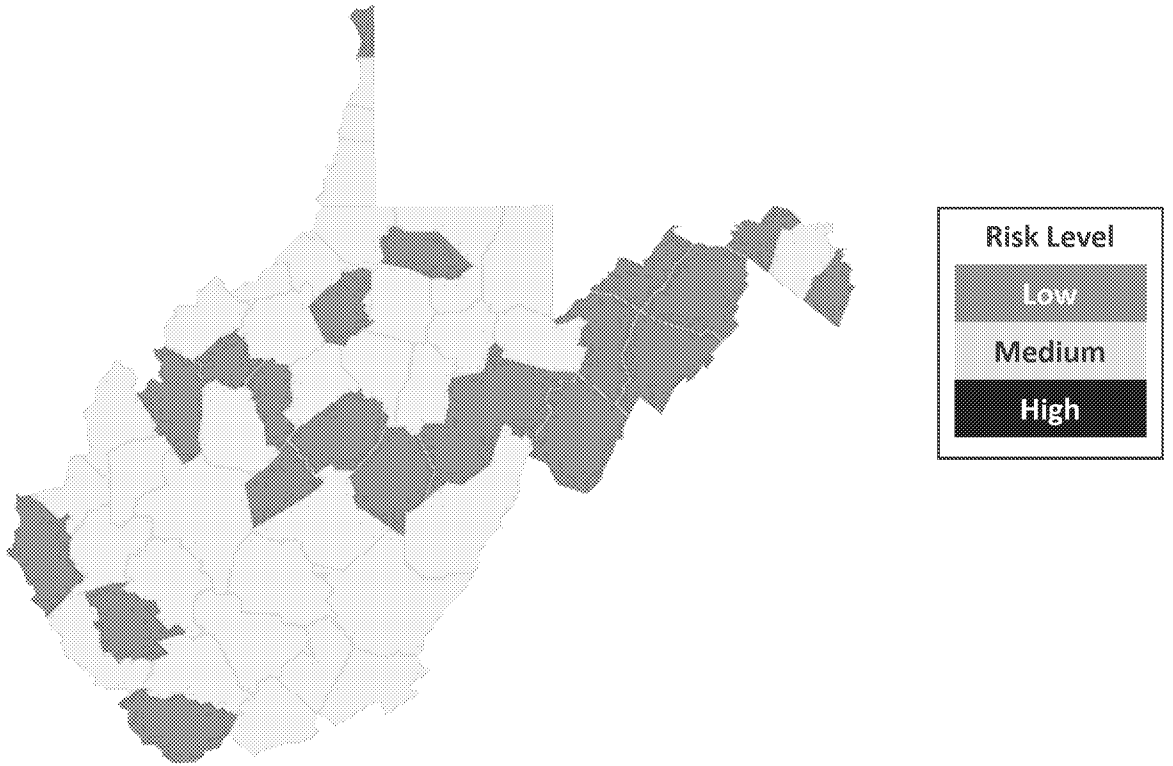
2020 Census: County- Level COVID-19 Risk Level Map – Beckley, West Virginia Area Census Office

Source: *Health and Human Services, USAFacts.org*
Data Current as of: *July 2, 2020*

Beckley, West Virginia Area Census Office

RCC: Philadelphia RCC
ACO: 2390
Key Dates • 6/18: Census Field Supervisor (CFS) Training • 7/7: Enumerator Training • 7/16: Production

Self-Response Rate:	53%
NRFU CFS Goal to Deploy:	80
NRFU Enumerator Goal to Deploy:	2,454



Note:
The United States Census Bureau Fusion Center is monitoring a number of sources that are showing concerning COVID-19 trends ***on the state level***.

Periodic Performance Management Reports

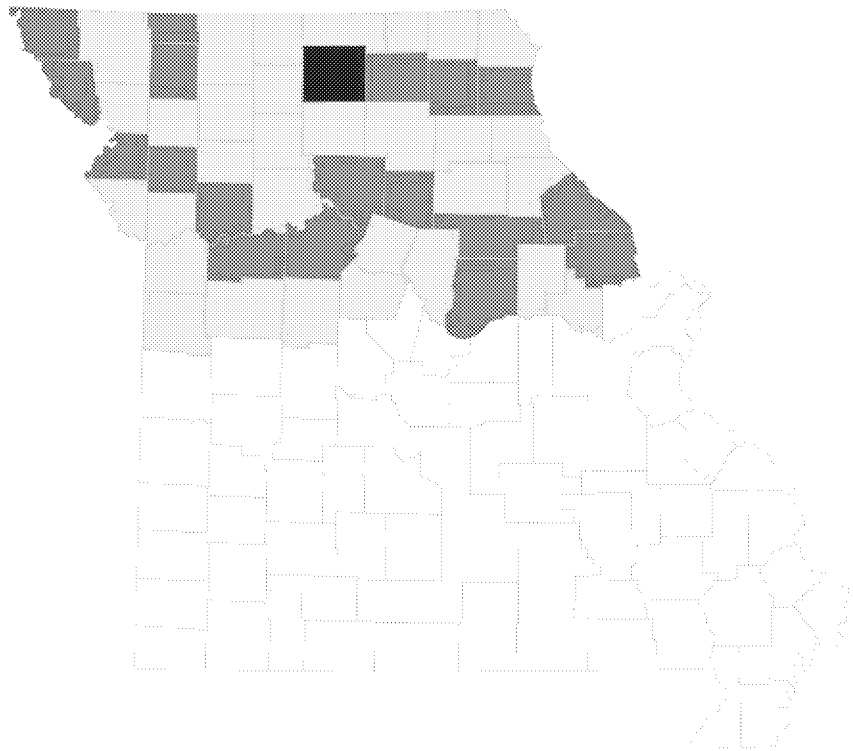
2020 Census: County- Level COVID-19 Risk Level Map – Kansas City, Missouri Area Census Office

Source: *Health and Human Services, USAFacts.org*
Data Current as of: *July 2, 2020*

Kansas City, Missouri Area Census Office

RCC: Chicago RCC
ACO: 2581
Key Dates • 6/18: Census Field Supervisor (CFS) Training • 7/7: Enumerator Training • 7/16: Production

Self-Response Rate:	62%
NRFU CFS Goal to Deploy:	99
NRFU Enumerator Goal to Deploy:	2,225



Note:
The United States Census Bureau Fusion Center is monitoring a number of sources that are showing concerning COVID-19 trends ***on the state level***.

BC-DOC-0000000066

Periodic Performance Management Reports

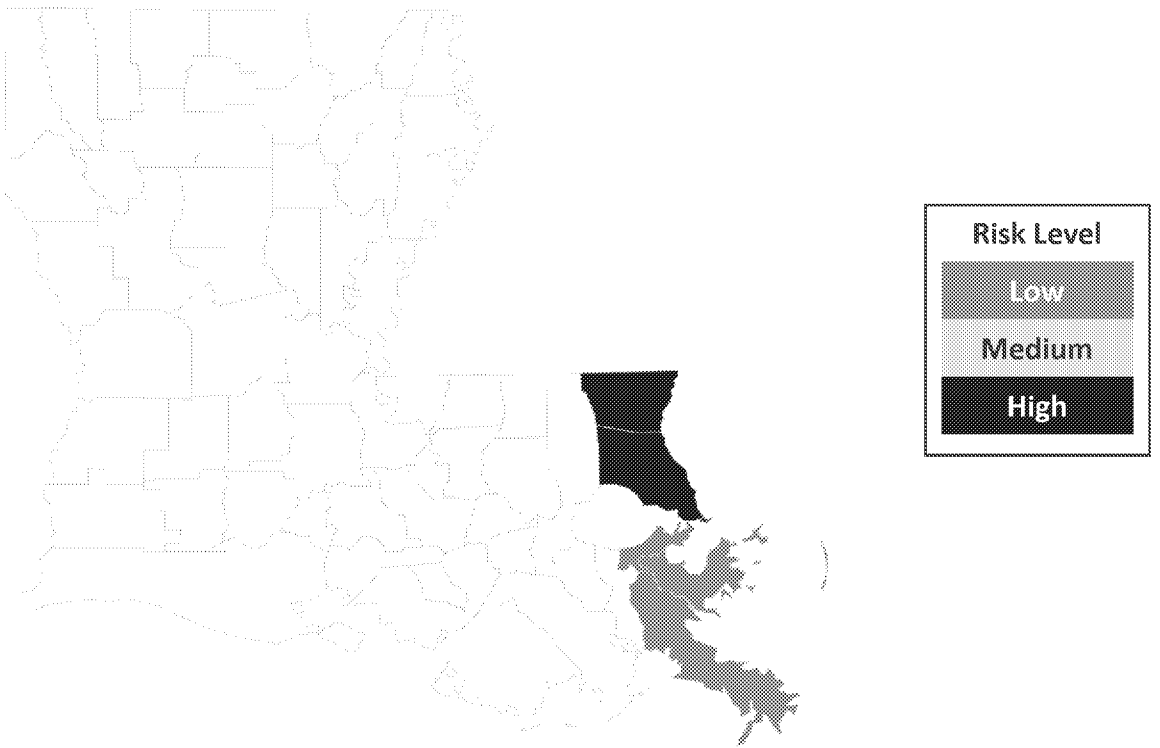
2020 Census: County- Level COVID-19 Risk Level Map – New Orleans, Louisiana Area Census Office

Source: *Health and Human Services, USAFacts.org*
Data Current as of: *July 2, 2020*

New Orleans, Louisiana Area Census Office

RCC: Atlanta RCC
ACO: 2990
Key Dates • 6/18: Census Field Supervisor (CFS) Training • 7/7: Enumerator Training • 7/16: Production

Self-Response Rate:	56%
NRFU CFS Goal to Deploy:	52
NRFU Enumerator Goal to Deploy:	1,181



Note:
The United States Census Bureau Fusion Center is monitoring a number of sources that are showing concerning COVID-19 trends ***on the state level***.

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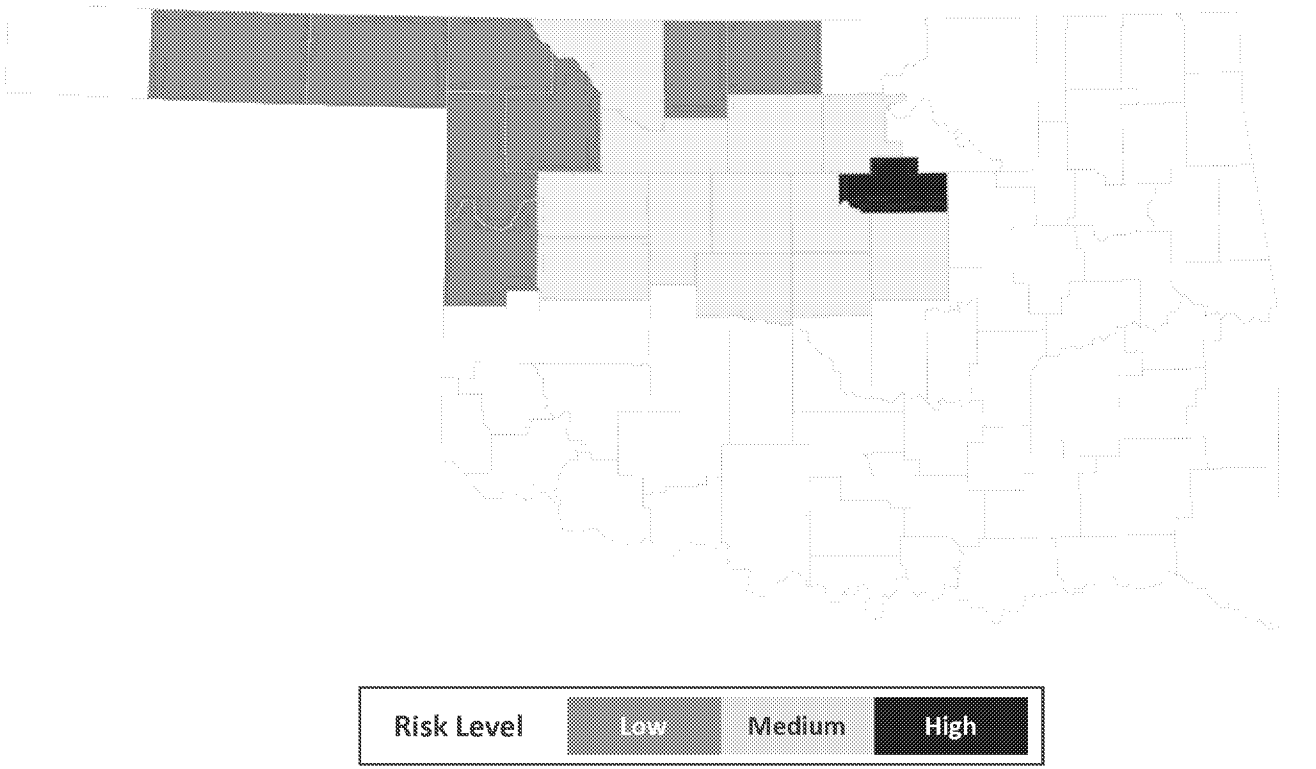
Periodic Performance Management Reports

2020 Census: County- Level COVID-19 Risk Level Map – Oklahoma County, Oklahoma Area Census Office

Source: *Health and Human Services, USAFacts.org*
Data Current as of: *July 2, 2020*

Oklahoma County, Oklahoma Area Census Office

RCC: Dallas RCC	
ACO: 3167	
Key Dates • 6/18: Census Field Supervisor (CFS) Training • 7/7: Enumerator Training • 7/16: Production	
Self-Response Rate:	59%
NRFU CFS Goal to Deploy:	66
NRFU Enumerator Goal to Deploy:	1,532



Note:
The United States Census Bureau Fusion Center is monitoring a number of sources that are showing concerning COVID-19 trends ***on the state level***.

Periodic Performance Management Reports

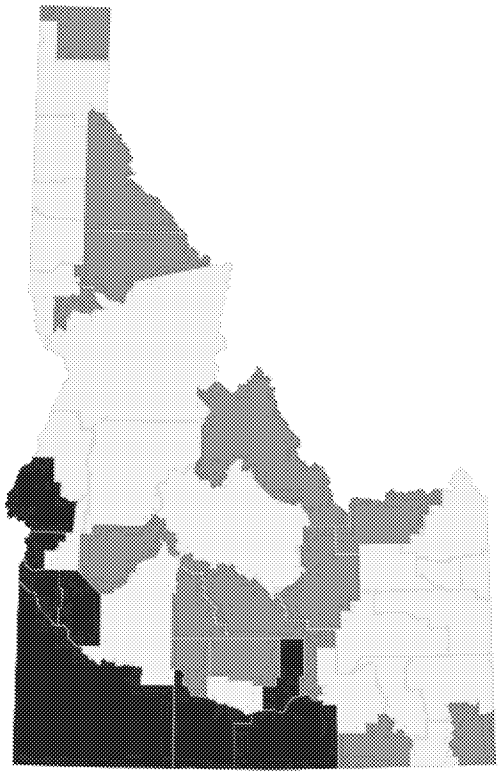
2020 Census: County- Level COVID-19 Risk Level Map – Boise, Idaho Area Census Office

Source: *Health and Human Services, USAFacts.org*
Data Current as of: *July 2, 2020*

Boise, Idaho Area Census Office

RCC: Los Angeles RCC
ACO: 3256
Key Dates • 6/18: Census Field Supervisor (CFS) Training • 7/7: Enumerator Training • 7/16: Production

Self-Response Rate:	65%
NRFU CFS Goal to Deploy:	54
NRFU Enumerator Goal to Deploy:	1,349



Note:
The United States Census Bureau Fusion Center is monitoring a number of sources that are showing concerning COVID-19 trends ***on the state level***.

Periodic Performance Management Reports

2020 Census: NRFU Soft Launch – Cycle 1 ACOs

Source: *Decennial Census Management Division*
Data Current as of: *July 2, 2020*

Cycle 1A ACOs

RCC	ACO #	City	State	CFS Training Start Date	Enumerator Training Start Date	Production Start
NY	2262	Gardiner	ME	June 18	July 7	July 16
PHI	2390	Beckley	WV	June 18	July 7	July 16
CHI	2581	Kansas City	MO	June 18	July 7	July 16
ATL	2990	New Orleans	LA	June 18	July 7	July 16
DAL	3167	Oklahoma County	OK	June 18	July 7	July 16
LA	3256	Boise	ID	June 18	July 7	July 16

Cycle 1B ACOs

RCC	ACO #	City	State	CFS Training Start Date	Enumerator Training Start Date	Production Start
NY	2254	Hartford	CT	June 25	July 14	July 23
PHI	2379	State College	PA	June 25	July 14	July 23
PHI	2382	Nashville	TN	June 25	July 14	July 23
CHI	2569	Evansville	IN	June 25	July 14	July 23
ATL	2988	Baton Rouge	LA	June 25	July 14	July 23
ATL	2901	Gulfport	MS	June 18	July 14	July 23
DAL	3159	Wichita	KS	June 25	July 14	July 23
LA	3297	Tacoma	WA	June 25	July 14	July 23

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Periodic Performance Management Reports

2020 Census: NRFU Soft Launch – Cycle 2 ACOs

Source: *Decennial Census Management Division*
Data Current as of: *July 2, 2020*

RCC	ACO #	City	State	CFS Training Start Date	Enumerator Training Start Date	Production Start
NY	2293	Guaynabo	PR	July 1	July 21	July 30
NY	2294	Caguas	PR	July 1	July 21	July 30
NY	2295	Mayaguez	PR	July 1	July 21	July 30
NY	2253	Danbury	CT	July 1	July 21	July 30
NY	2258	Quincy	MA	July 1	July 21	July 30
NY	2260	Waltham	MA	July 1	July 21	July 30
NY	2261	Worcester	MA	July 1	July 21	July 30
NY	2271	Trenton	NJ	July 1	July 21	July 30
NY	2276	Buffalo	NY	July 1	July 21	July 30
PHI	2359	Hanover	MD	July 1	July 21	July 30
PHI	2361	Hagerstown	MD	July 1	July 21	July 30
PHI	2362	Towson	MD	July 1	July 21	July 30
PHI	2364	Mansfield	OH	July 1	July 21	July 30
PHI	2372	Cranberry Township	PA	July 1	July 21	July 30
PHI	2373	Harrisburg	PA	July 1	July 21	July 30
PHI	2377	Pittsburgh	PA	July 1	July 21	July 30
PHI	2384	Crystal City	VA	July 1	July 21	July 30
DAL	3154	Aurora	CO	July 1	July 21	July 30
DAL	3155	Colorado North	CO	July 1	July 21	July 30
DAL	3157	Denver	CO	July 1	July 21	July 30
DAL	3158	Overland Park	KS	July 1	July 21	July 30
DAL	3162	Bismarck	ND	July 1	July 21	July 30

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Periodic Performance Management Reports

2020 Census: NRFU Soft Launch – Cycle 2 ACOs cont'd

Source: *Decennial Census Management Division*
Data Current as of: *July 2, 2020*

RCC	ACO #	City	State	CFS Training Start Date	Enumerator Training Start Date	Production Start
CHI	2559	Chicago Central	IL	July 1	July 21	July 30
CHI	2560	Chicago Far Southwest	IL	July 1	July 21	July 30
CHI	2561	Chicago South	IL	July 1	July 21	July 30
CHI	2562	Cook County NW	IL	July 1	July 21	July 30
CHI	2563	Cook County South	IL	July 1	July 21	July 30
CHI	2564	Dekalb	IL	July 1	July 21	July 30
CHI	2565	Oswego	IL	July 1	July 21	July 30
CHI	2566	Peoria	IL	July 1	July 21	July 30
CHI	2567	Skokie	IL	July 1	July 21	July 30
CHI	2571	Indianapolis	IN	July 1	July 21	July 30
CHI	2572	Lake County	IN	July 1	July 21	July 30
CHI	2585	Green Bay	WI	July 1	July 21	July 30
ATL	2910	Atlanta	GA	July 1	July 21	July 30
ATL	2982	Dekalb County	GA	July 1	July 21	July 30
LA	3255	Honolulu	HI	July 1	July 21	July 30
LA	3280	San Francisco	CA	July 1	July 21	July 30
LA	3282	San Mateo	CA	July 1	July 21	July 30
LA	3289	Sunnyvale	CA	July 1	July 21	July 30
LA	3293	Everett	WA	July 1	July 21	July 30
LA	3294	Olympia	WA	July 1	July 21	July 30
LA	3295	Seattle	WA	July 1	July 21	July 30

BC-DOC-0000000072

	COVID Related Expenses		Total Expenses (Approved + Potential)
	Approved through 6/26	Potential Addtl Costs	
Temp Worker Leave	**0**	**450**	**450**
Estimated Costs of 3 month operational delay	**500**	**367**	**867**
Additional Steps to motivate self response	*140*	*17*	*157*
Office staff extensions for 3 month delay	*34*	*306*	*340*
Contract extensions and IT infrastructure	*320*	*0*	*320*
Field Office Leases and Infrastructure	*6*	*44*	*50*
Addtl Enumerator Devices	**80**	**0**	**80**
COVID Pay for Temp Workers	**120**	**0**	**120**
Personal Protective Equipment for staff	**26**	**0**	**26**
Total Expenses	**726**	**817**	**1,543**

Contingency available on 3/14	
Risk Based Contingency	*1,325*
Secretarial Contingency	*705*
Total, Contingency available on 3/14	**2,030**
Actual COVID related expenses through 6/26	*-726*
Remaining Contingency on 6/26	**1,304**
Potential addtl COVID related expenses	*-817*
Remaining Contingency after all delay expenses	**487**

Public Law 94-171 Redistricting Data

Department of Commerce Briefing

James Whitehorne
Chief, Census Redistricting and Voting Rights Data Office

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United States Census 2020

Redistricting Data Program

Apportionment vs. Redistricting

		APPORTIONMENT	REDISTRICTING
Geography	Largest	State	State
	Smallest	State	Census Block
Who is counted		Resident Population + Federally Affiliated Count Overseas	Resident Population Only
What is reported		Total Population only	Race, ethnicity, and select housing characteristics
Disclosure Avoidance		None	Differentially Private (TopDown Algorithm)
Statutory Deadlines		December 31, 2020 (April 30, 2021)	April 1, 2021 (July 31, 2021)

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Census 2020

Redistricting Data Program

Public Law 94-171

Program Mission: Provide states an opportunity to identify the geographic areas for which specific tabulations of population are needed for legislative redistricting and to deliver high quality data for those areas in a timely manner

Identified "geographic areas desired":

- Census Tabulation Blocks
- Voting Districts (e.g. precincts, wards, etc.)
- Legislative and Congressional Districts

Requirements:

- Establish program criteria
- Identify required tabulations
- Conduct the program in a non-partisan manner
- Deliver the tabulations to the governor and the officers or public bodies having initial responsibility for the legislative apportionment or districting of each State no later than 1 year from Census Day (April 1, 2021)*

*request for statutory extension to July 31

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United States Census 2020

Redistricting Data Program

History 1975 to 1980

1975 – Passage of Public Law 94-171

- Passage of the Voting Rights Act in 1965 and the court defined requirement of "one person one vote" in the 1960s made States realize they did not have the data they needed to comply with these new requirements. They lobbied Congress for a remedy, which became P.L. 94-171.

1980 – First Census Redistricting Data Program

- States provided voting districts through a combination of existing programs
  - Direct Submission of Voting Districts
  - Enumeration Districts Program
  - Block Areas Program
    - Blocks only created for jurisdictions with 10,000 or more population
    - 5 states (GA, MS, NY, RI, VA) contracted with the Census Bureau for statewide block coverage
- Content
  - Total Population for (White; Black; Indian; Asian and Pacific Islander; Other; Spanish)

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United States Census 2020

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Redistricting Data Program

History 1990 to 2000

1990 – Redistricting Data Program

- First two phase geographic collection
  - Block Boundary Suggestion Project (first implementation)
    - First Census with nationwide block coverage, made possible by TIGER
  - Voting District Project and once a decade State Legislative District Collection
- Participation conducted with paper maps and colored pencils only
- Content
  - Total and Voting Age for (White; Black; American Indian, Eskimo, or Aleut; Asian or Pacific Islander; Other Race; Hispanic Origin)
  - Housing unit count

2000 – Redistricting Data Program

- Continuation of two phase geographic collections (Block Boundary Suggestion Project & Voting District Project with once a decade State Legislative District Collection)
- Participation
  - Primarily using paper maps and colored pencils
  - TIGER/Line Files provided to states
  - Polygon equivalency files allowed for submissions
- Content
  - Adjust for the OMB Directive 15 released in 1997
  - Total and Voting Age for (White; Black or African American; American Indian and Alaska Native; Asian; Native Hawaiian and Other Pacific Islander; Some other race; Hispanic or Latino)
  - Fully iterated races due to new capability to declare multiple races

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United States Census 2020

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Redistricting Data Program

History 2010 to 2020

2010 – Redistricting Data Program

- Combined Block Boundary Suggestion Project and Voting District Project into single program
- Start of continuous collection of State Legislative Districts
- First all digital program, digital submissions required
  - Custom proprietary GIS software developed and provided by Census
  - Digital exchange using shapefiles
- Content
  - Same tables as Census 2000
  - Addition of table for housing units by occupancy status

2020 – Redistricting Data Program

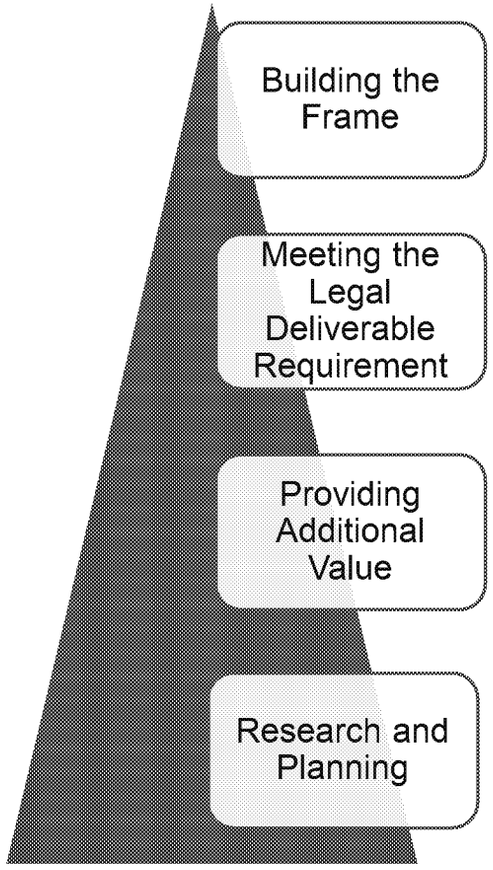
- Revert back to a two phase geographic collections (Block Boundary Suggestion Project & Voting District Project)
  - Suggestions for legal boundary updates (incorporated places; townships; counties; etc.) added to both programs
- All digital program, digital submissions required
  - Custom Open Source GIS software developed and provided by Census
  - Digital exchange using shapefiles
- Content
  - Announced and vetted through the Federal Register
  - Same tables as Census 2010
  - Addition of group quarters population by group quarters type

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United States Census 2020

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Redistricting Data Program

2020 Redistricting Data Program's 5 Phases



- Phase 1: Block Boundary Suggestion Project (BBSP)
- Phase 2: Voting District Project (VTD)
- Phase 3: Data Delivery
- Phase 4: Collection of Post-2020 Census Redistricting Plans
- Phase 5: Evaluation of the 2020 RDP and recommendations for the 2030 RDP

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Redistricting Data Program

P.L. 94-171 Redistricting Data Products Delivery Timing

Phase 3 – Prototype Data

Activity	Date
Prototype geographic support products	February 2019 (Complete)
Prototype P.L. 94-171 Redistricting Data	March 2019 (Complete)

Phase 3 – Official Data

Activity	Original Planned Dates	New Planned Date
Geographic support products	Nov. 20, 2020 – Feb. 1, 2021	Feb. 1, 2021 – March 31, 2021
P.L. 94-171 Redistricting Data	Feb. 18, 2021 – March 31, 2021	June 17, 2021 – July 31, 2021

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Redistricting Data Program

P.L. 94-171 Redistricting Data Geographic Products

2020 Census P.L. 94-171 Redistricting Data Geographic Products	
Product Type	Census Web Address
Shapefiles	https://www.census.gov/geographies/mapping-files/time-series/geo/tiger-line-file.html
Maps	https://www.census.gov/geographies/reference-maps.html
Block Assignment Files	https://www.census.gov/geographies/reference-files.html
Block to Block Relationship Files	https://www.census.gov/geographies/reference-files/time-series/geo/relationship-files.html

- Shapefiles – geographic information system geometry files
- Maps (PDF only) – County Block; State Legislative with Voting District; Tract; School District
- Block Assignment Files – tables identifying the blocks used to build different geographic entities
- Block to Block Relationship Files – Crosswalk of 2010 blocks to 2020 blocks

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Redistricting Data Program

P.L. 94-171 Redistricting Data Tabulation Product

2020 Census P.L. 94-171 Redistricting Data Tabulations
Table P1 – Race
Table P2 – Race for the Population 18 Years and Over
Table P3 – Hispanic or Latino, and not Hispanic or Latino by Race
Table P4 – Hispanic or Latino, and not Hispanic or Latino by Race for the Population 18 and Over
Table H1 – Occupancy Status (Housing)
New Table
Table P5 – Group Quarters Population by Group Quarters Type

- All tables produced at multiple geographies including census block
- Group Quarter types: Correctional Institutions for Adults, Juvenile Facilities, Nursing Facilities/Skilled Nursing, Other Institutional, College/University Student Housing, Military quarters, and other non-institutional
- Group quarters is total population only, no demographic breakdown

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Redistricting Data Program

P.L. 94-171 Redistricting Data Tabulation Product

Table P1 – Race
Universe: Total Population

Table P3 – Race for the Population 18 Years and Over
Universe: Total population 18 years and over

RACE [71]
Universe: Total population
Total:
Population of one race:
White alone
Black or African American alone
American Indian and Alaska Native alone
Asian alone
Native Hawaiian and Other Pacific Islander alone
Some Other Race alone
Two or More Races:
Population of two races:
White; Black or African American
White; American Indian and Alaska Native
White; Asian
White; Native Hawaiian and Other Pacific Islander
White; Some Other Race
Black or African American; American Indian and Alaska Native
Black or African American; Asian
Black or African American; Native Hawaiian and Other Pacific Islander
Black or African American; Some Other Race
American Indian and Alaska Native; Asian
American Indian and Alaska Native; Native Hawaiian and Other Pacific Islander
American Indian and Alaska Native; Some Other Race
Asian; Native Hawaiian and Other Pacific Islander
Asian; Some Other Race
Native Hawaiian and Other Pacific Islander; Some Other Race
[redacted]
Population of six races:
White; Black or African American; American Indian and Alaska Native; Asian; Native Hawaiian and Other Pacific Islander; Some Other Race

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Redistricting Data Program

P.L. 94-171 Redistricting Data Tabulation Product

Table P2 – Hispanic or Latino, and Not Hispanic or Latino by Race
Universe: Total population

Table P4 – Hispanic or Latino, and Not Hispanic or Latino by Race for the Population 18 Years and Over
Universe: Total population 18 years and over

HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE [73]
Universe: *Total population*
Total:
Hispanic or Latino
Not Hispanic or Latino:
Population of one race:
White alone
Black or African American alone
American Indian and Alaska Native alone
Asian alone
Native Hawaiian and Other Pacific Islander alone
Some Other Race alone
Two or More Races:
Population of two races:
White; Black or African American
White; American Indian and Alaska Native
White; Asian
White; Native Hawaiian and Other Pacific Islander
White; Some Other Race
Black or African American; American Indian and Alaska Native
Black or African American; Asian
Black or African American; Native Hawaiian and Other Pacific Islander
Black or African American; Some Other Race
American Indian and Alaska Native; Asian
American Indian and Alaska Native; Native Hawaiian and Other Pacific Islander
American Indian and Alaska Native; Some Other Race
Asian; Native Hawaiian and Other Pacific Islander
Asian; Some Other Race
Native Hawaiian and Other Pacific Islander; Some Other Race
Population of six races:
White; Black or African American; American Indian and Alaska Native; Asian; Native Hawaiian and Other Pacific Islander; Some Other Race

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Redistricting Data Program

P.L. 94-171 Redistricting Data Tabulation Product

Table H1 – Occupancy Status
Universe: Housing Units

- Total
  - Occupied
  - Vacant

Table P5 - Group Quarters Population by Group Quarters Type
Universe: Total Population in Group Quarters

- Total
  - Institutionalized population
    - Correctional facilities for adults
    - Juvenile facilities
    - Nursing facilities/Skilled-nursing facilities
    - Other institutional facilities
  - Noninstitutionalized population
    - College/University student housing
    - Military quarters
    - Other non-institutional facilities

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Redistricting Data Program

P.L. 94-171 Redistricting Data Tabulations Official Delivery Method

Official Recipients:

- Governors
- Legislative leadership
- Redistricting Commissions (if they exist and have commissioners named)

Method of delivery

- Physical media – DVD/Flash Drive
- Embargoed access to data.census.gov
  - Requires pre-registration
- Confirmation of data's receipt
  - Web monitoring + Phone Call
  - Mail Tracking + Phone Call

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Redistricting Data Program

P.L. 94-171 Redistricting Data Tabulations Public Delivery Method

- Public Release
  - Census Data Explorer – data.census.gov
    - Full Data Explorer functionality
    - Large data download
  - FTP
    - Expert users
    - Full P.L. 94-171 Redistricting Data Summary File
    - Relational tables
      - Geoheader + three data segments
        - Geoheader
        - File 01 (P1 & P2)
        - File 02 (P3, P4 & H1)
        - File 03 (P5)
      - All stored as pipe-delimited text files (including the geoheader)

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Thank You

James Whitehorne
Chief, Census Redistricting & Voting Rights Data Office
Email: rdo@census.gov
Phone: 1-301-763-4039
Web: www.census.gov/rdo

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BC-DOC-0000000089

Differential Privacy and the 2020 Decennial Census

Michael Hawes
Senior Advisor for Data Access and Privacy
Research and Methodology Directorate
U.S. Census Bureau

July 8, 2020

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United States Census 2020

Confidentiality of Census Data

Title 13, Section 9 of the U.S. Code prohibits the Census Bureau from releasing identifiable data "furnished by any particular establishment or individual."

Census Bureau employees are sworn for life to safeguard respondents' information.

Penalties for violating these protections can include fines of up to $250,000, and/or imprisonment for up to five years!

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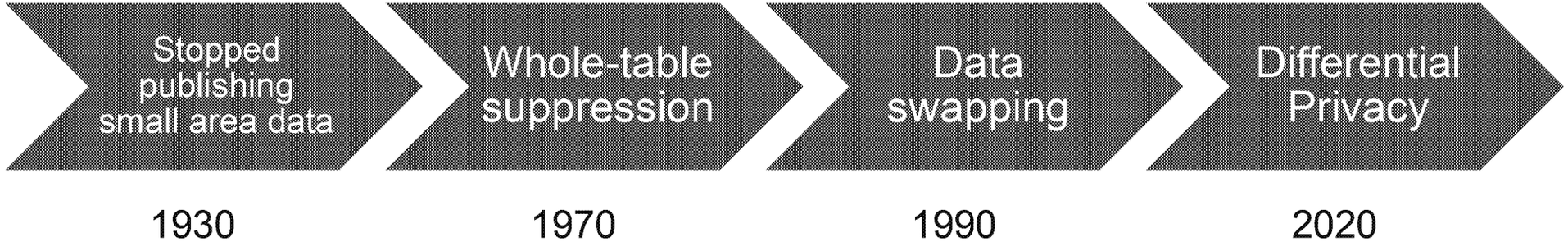
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The Census Bureau's Privacy Protections Over Time

Throughout its history, the Census Bureau has been at the forefront of the design and implementation of statistical methods to safeguard respondent data.

Over the decades, as we have increased the number and detail of the data products we release, so too have we improved the statistical techniques we use to protect those data.



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BC-DOC-0000000092

The Privacy Challenge

Every time you release any statistic calculated from a confidential data source you "leak" a small amount of private information.

If you release too many statistics, too accurately, you will eventually reveal the entire underlying confidential data source.



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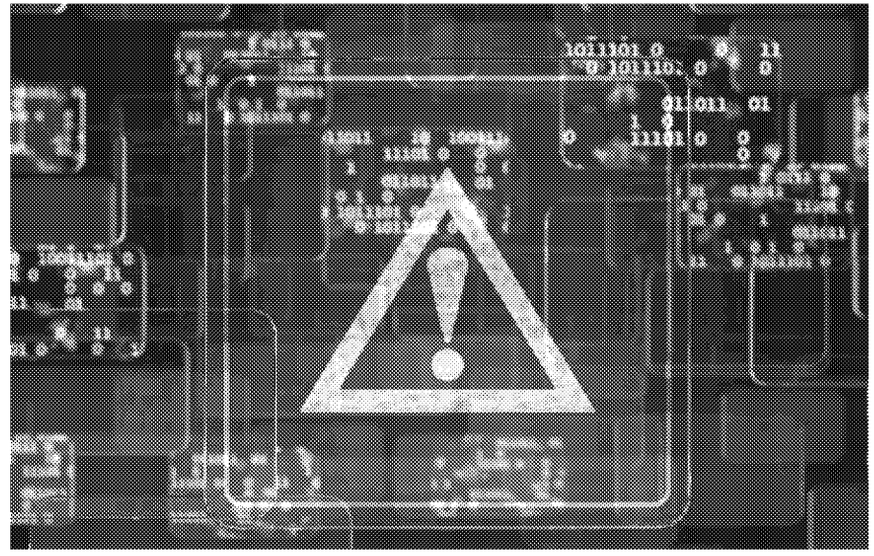
The Growing Privacy Threat

More Data and Faster Computers!

In today's digital age, there has been a proliferation of databases that could potentially be used to attempt to undermine the privacy protections of our statistical data products.

Similarly, today's computers are able to perform complex, large-scale calculations with increasing ease.

These parallel trends represent new threats to our ability to safeguard respondents' data.



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Reconstruction

The recreation of individual-level data from tabular or aggregate data.

If you release enough tables or statistics, eventually there will be a unique solution for what the underlying individual-level data were.

Computer algorithms can do this very easily.

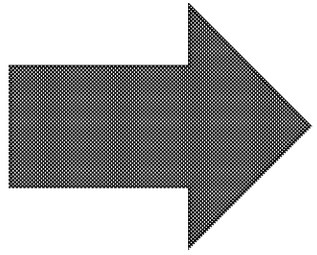
	4						2	
			7					4
1		7	8				5	
			9			3		8
5								
			6		8			
3						4		5
	8	5				1		9
		9		7	1			

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United States Census 2020

BC-DOC-0000000095

Reconstruction: An Example

	Count	Median Age	Mean Age
Total	7	30	38
Female	4	30	33.5
Male	3	30	44
Black	4	51	48.5
White	3	24	24
Married	4	51	54
Black Female	3	36	36.7



Age	Sex	Race	Relationship
66	Female	Black	Married
84	Male	Black	Married
30	Male	White	Married
36	Female	Black	Married
8	Female	Black	Single
18	Male	White	Single
24	Female	White	Single

This table can be expressed by 164 equations. Solving those equations takes 0.2 seconds on a 2013 MacBook Pro.

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United States Census 2020

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Re-identification

Linking public data to external data sources to re-identify specific individuals within the data.

Name	Age	Sex
Jane Smith	66	Female
Joe Public	84	Male
John Citizen	30	Male

External Data

+

Age	Sex	Race	Relationship
66	Female	Black	Married
84	Male	Black	Married
30	Male	White	Married

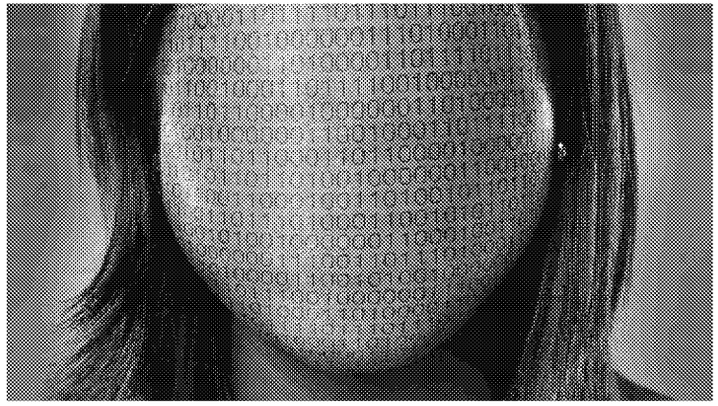
Confidential Data

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Reconstructing the 2010 Census

- The 2010 Census collected information on the age, sex, race, ethnicity, and relationship (to householder) status for ~309 Million individuals. (1.9 Billion confidential data points)
- The 2010 Census data products released over 150 billion statistics
- We conducted an internal experiment to see if we could reconstruct and re-identify the publicly-released 2010 Census records.



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BC-DOC-0000000098

Reconstructing the 2010 Census: What Did We Find?

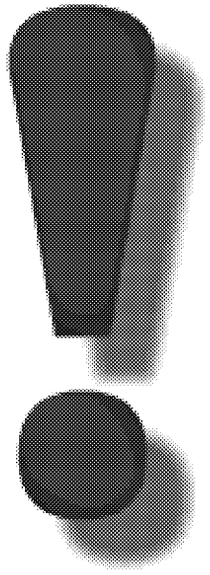
1. On the 309 million reconstructed records, census block and voting age (18+) were correctly reconstructed for all records and for all 6,207,027 inhabited blocks.
2. Block, sex, age (in years), race (OMB 63 categories), and ethnicity were reconstructed:
    1. Exactly for 46% of the population (142 million individuals)
    2. Within +/- one year for 71% of the population (219 million individuals)
3. Block, sex, and age were then linked to commercial data, which provided putative re-identification of 45% of the population (138 million individuals).
4. Name, block, sex, age, race, ethnicity were then compared to the confidential data, which yielded confirmed re-identifications for 38% of the putative re-identifications (52 million individuals).
5. For the confirmed re-identifications, race and ethnicity are learned correctly, though the attacker may still have uncertainty.

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The Census Bureau's Decision

To meet its continuing obligations to safeguard respondent information, the Census Bureau has committed to modernizing its approach to privacy protections, and will use differential privacy for the 2020 Census.



The Census Bureau has already successfully deployed differentially private solutions to protect other data products, including:

- **Post-Secondary Employment Outcomes (PSEO)**
- **Veteran Employment Outcomes (VEO)**
- **OnTheMap for Emergency Management**

BC-DOC-0000000100

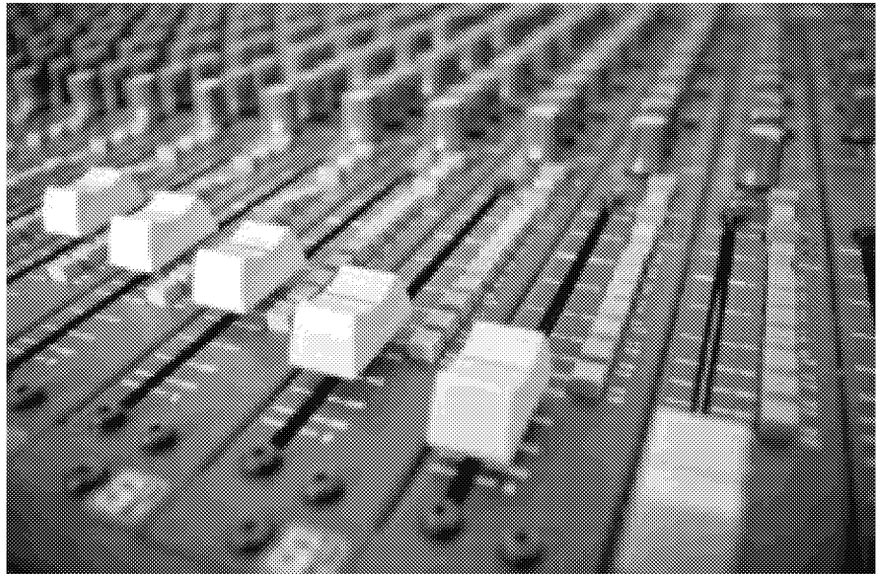
Differential Privacy

All statistical techniques to protect privacy impose a tradeoff between the degree of privacy protection and the resulting accuracy of the data.

- **Swap rates, noise injection parameters, cell suppression thresholds, etc. determine this tradeoff.**

Differential privacy offers a number of important advantages over traditional statistical techniques to protect privacy.

- **Provides quantitative assessment of privacy risk.**
- **Infinitely tunable – parameter "dials" can be set anywhere from perfect privacy to perfect accuracy.**
- **Privacy guarantee is mathematically provable and future-proof.**
- **The precise calibration of statistical noise enables optimal data accuracy for any given level of privacy protection.**



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BC-DOC-0000000101

Disclosure Avoidance System

The Disclosure Avoidance System (DAS) TopDown Algorithm (TDA) will use differential privacy to provide state-of-the-art control over the privacy/accuracy tradeoff for the 2020 Census Data Products.

- **The Census Bureau's Data Stewardship Executive Policymaking Committee (DSEP) will determine TDA parameters (i.e., privacy-loss budget, invariants, etc.) to find the optimal balance between Title 13 confidentiality requirements and data accuracy for priority uses of Census data (including redistricting).**

How the TDA works:

1. **The TDA ingests the complete Census Edited File microdata;**
2. **TDA performs a complete tabulation of the microdata and injects precisely calibrated statistical noise into each of the results (excluding state population totals used for apportionment);**
3. **Beginning at the national level, and moving down the geographic hierarchy, the TDA then reconciles these "noisy" tabulations to ensure internal and hierarchical consistency;**
4. **TDA then outputs privacy-protected microdata for the entire nation that feed into the Decennial tabulation systems that produce the PL94-171 redistricting data files and other 2020 Census data products.**

BC-DOC-0000000102

Current Initiatives
(DAS Development Sprint V)

Remediation of issues from Test Readiness Review (TRR)

- **DAS successfully completed the TRR process on 06/15/2020**

Preparation for Production Readiness Review

- **Scheduled for 10/15/2020**

System design improvements to mitigate post-processing (non-DP) error

- **The optimization stage of the TDA, that converts the noisy tabulations back into internally/hierarchically consistent microdata introduces additional error that can be addressed through improvements to the algorithm design.**
- **The DAS Team has identified a number of solutions for addressing these issues without impacting the privacy guarantee.**
- **Actively engaging with technical and data experts from our advisory committees and the Committee on National Statistics on this issue.**

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United States Census 2020

BC-DOC-0000000103

Upcoming Milestones

September 2020

- **DSEP will set final list of invariants for the 2020 Census (beyond apportionment totals, which are already invariant)**
- **The Census Bureau has already announced that state population counts and block-level unit counts (Group Quarters and Housing Units) will be reported as enumerated.**

March 2021

- **DSEP will set the final privacy-loss budget for the 2020 Census and its allocation across 2020 Census data products.**
- **This decision will be informed by extensive assessment of data accuracy for priority use cases of decennial data, feedback from our stakeholders, and our legal obligations under Title 13.**

June-July 2021

- **PL94-171 Redistricting Data files will be released.**
- **Additional data products, including the Demographic and Housing Characteristics files and Demographic Profiles will follow later in 2021.**

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United States Census 2020

BC-DOC-0000000104

Senior Management Agenda

Wednesday, July 8, 2020

1. Secretarial Conference Calls
   - Calls with low response rate cities
2. Differential Privacy
3. Contingency Funds Update
4. Phased Restart for the 2020 Census
5. 2020 Census Performance Reporting

From: Steven K Smith (CENSUS/DEPDIR FED) [steven.k.smith@census.gov]
Sent: 8/10/2020 5:24:52 PM
To: Lamas, Enrique [enrique.lamas@census.gov]; Dillingham, Steven [steven.dillingham@census.gov]; Jarmin, Ron S [ron.s.jarmin@census.gov]; Cogley, Nathaniel (Federal) [NCogley@doc.gov]
Subject: Re: Material for briefing Sec Ross
Attachments: 2020-08-10 One Pager on Options v3 ss.docx

A few suggestion for consideration in attached document in track changes.

From: Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>
Sent: Monday, August 10, 2020 3:18 PM
To: Steven Dillingham (CENSUS/DEPDIR FED) <steven.dillingham@census.gov>; Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>; Cogley, Nathaniel (Federal) <NCogley@doc.gov>; Steven K Smith (CENSUS/DEPDIR FED) <steven.k.smith@census.gov>
Subject: Material for briefing Sec Ross

The attached is based on the request from KDK for b(5) - DP to brief Secretary Ross on the status of b(5) - DP

b(5) - DP

Enrique Lamas
Senior Advisor
Director's Office
U.S. Census Bureau
Office: 301-763-3811

From: Ding, Michael (Federal) [MDing@doc.gov]
Sent: 4/16/2020 9:08:33 AM
To: Cogley, Nathaniel (Federal) [NCogley@doc.gov]
Subject: RE: Census Issue
Attachments: CVAP Latent Class Seminar 12-16-2019 corrected.pptx

Please find attached.

From: Cogley, Nathaniel (Federal) <NCogley@doc.gov>
Sent: Thursday, April 16, 2020 9:08 AM
To: Ding, Michael (Federal) <MDing@doc.gov>
Subject: RE: Census Issue

Thanks for this, Michael, and for connecting me to everyone.

I see this powerpoint is from January, and it is very interesting to see.

b(5) - DP

—Nathaniel

From: Ding, Michael (Federal) <MDing@doc.gov>
Sent: Thursday, April 16, 2020 8:52 AM
To: Cogley, Nathaniel (Federal) <NCogley@doc.gov>
Subject: RE: Census Issue

Nathaniel,

At the bottom of the Hill article, he states: "Since 1790, the U.S. has managed to complete its Census without assistance from the Mexican embassy. It should be able to do so again in 2020."

b(5) - DP

Thanks,

Michael

From: Gonzalez, Michael **b(6)** @heritage.org>
Sent: Wednesday, April 15, 2020 4:56 PM
To: Ding, Michael (Federal) <MDing@doc.gov>; von Spakovsky, Hans **b(6)** @heritage.org>; Howell, Mike **b(6)** @heritage.org>
Cc: Cogley, Nathaniel (Federal) <NCogley@doc.gov>
Subject: RE: Census Issue

Hi there,

Here are two pieces I recently published:

https://thehill.com/opinion/international/492017-mexicos-suspicious-interest-in-the-us-census

https://www.heritage.org/technology/commentary/census-tech-and-theresistance

chrs, Mike

Mike Gonzalez
Angeles T. Arredondo E Pluribus Unum Senior Fellow
Davis Institute for National Security and Foreign Policy
The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002
202-608-6115
heritage.org

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Cc: Cogley, Nathaniel (Federal) <NCogley@doc.gov>
Subject: RE: Census Issue

Hi Mike and Hans,

Sorry for the delayed response. I'd like to connect you with a new member of our team here at Commerce.

Nathaniel Cogley just started this week, and he'll be a good contact for you to have on this topic. Thanks in advance for sharing your valuable perspectives!

Regards,

Michael

Michael Ding
Strategic Advisor
Office of Policy and Strategic Planning
MDing@doc.gov
b(6)

From: Gonzalez, Michael b(6) @heritage.org>
Sent: Monday, March 30, 2020 3:45 PM
To: von Spakovsky, Hans b(6) @heritage.org>; Howell, Mike b(6) @heritage.org>; Ding, Michael (Federal) <MDing@doc.gov>
Subject: Re: Census Issue

b(6) cell

Mike Gonzalez
Angeles T. Arredondo E Pluribus Unum Senior Fellow
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214 Massachusetts Avenue, NE
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heritage.org

From: von Spakovsky, Hans b(6) @heritage.org>
Sent: Monday, March 30, 2020 3:44:40 PM
To: Howell, Mike b(6) @heritage.org>; mding@doc.gov <mding@doc.gov>
Cc: Gonzalez, Michael b(6) @heritage.org>
Subject: RE: Census Issue

My cell is b(6) or send me an email.

Hans von Spakovsky
Manager, Election Law Reform Initiative and Senior Legal Fellow
Institute for Constitutional Government
x6207

From: Howell, Mike b(6) @heritage.org>
Sent: Monday, March 30, 2020 3:43 PM
To: mding@doc.gov
Cc: von Spakovsky, Hans b(6) @heritage.org>; Gonzalez, Michael b(6) @heritage.org>
Subject: Census Issue

Mike G/Hans-

I wanted to connect you with my former colleague and good buddy Michael Ding. He is at Commerce and has census in his portfolio. He was hoping to connect with you guys before Wednesday. Appreciate any help you could give him. I'll let you all take it from here.

-Mike

Mike Howell
Senior Advisor, Executive Branch Relations
x1545

From: Ding, Michael (Federal) [MDing@doc.gov]
Sent: 4/16/2020 8:51:35 AM
To: Cogley, Nathaniel (Federal) [NCogley@doc.gov]
Subject: RE: Census Issue
Attachments: b(5) - DP

Nathaniel,

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b(5) - DP

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https://www.heritage.org/technology/commentary/census-tech-and-theresistance

chrs, Mike

Mike Gonzalez
Angeles T. Arredondo E Pluribus Unum Senior Fellow
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Michael Ding
Strategic Advisor
Office of Policy and Strategic Planning
MDing@doc.gov
b(6)

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Subject: Re: Census Issue

b(6) cell

Mike Gonzalez
Angeles T. Arredondo E Pluribus Unum Senior Fellow
Davis Institute for National Security and Foreign Policy
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Sent: Monday, March 30, 2020 3:44:40 PM
To: Howell, Mike b(6) @heritage.org>; mding@doc.gov <mding@doc.gov>
Cc: Gonzalez, Michael b(6) @heritage.org>
Subject: RE: Census Issue

My cell is b(6) or send me an email.

Hans von Spakovsky
Manager, Election Law Reform Initiative and Senior Legal Fellow
Institute for Constitutional Government

x6207

From: Howell, Mike [b(6)]@heritage.org>
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Subject: Census Issue

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-Mike

Mike Howell
Senior Advisor, Executive Branch Relations
x1545

From: McDermott, Ryan (Federal) [RMcDermott1@doc.gov]
Sent: 8/3/2020 10:22:04 AM
CC: Williams, Allaire (Federal) [AWilliams2@doc.gov]; Pepper, Samuel (Federal) [SPepper@doc.gov]; Stevens, Rose (Federal) [RStevens@doc.gov]; ExecSecBriefingBook [b(6)]@doc.gov]
Subject: RE: 08-03-2020 Briefing Book
Attachments: 8.3.20 Briefing Book.pdf; 5) OLIA ITA Briefing Memo for McCaul Call - Updated - IS and HK.docx

UPDATED PDF NOW INCLUDES:

Call with Congressman McCaul

Ryan McDermott
b(6)

From: McDermott, Ryan (Federal)
Sent: Sunday, August 2, 2020 11:22 PM
Cc: Williams, Allaire (Federal) <AWilliams2@doc.gov>; Pepper, Samuel (Federal) <SPepper@doc.gov>; Stevens, Rose (Federal) <RStevens@doc.gov>; ExecSecBriefingBook <b(6)@doc.gov>
Subject: 08-03-2020 Briefing Book

1) THE SCHEDULE OF SECRETARY WILBUR ROSS
2) PowerPoint Slides for Census Check-In with SWR
3) Call with Liz Truss, Secretary of State, UK
4) Call with Secretary Pompeo **FORTHCOMING**
5) Call with Matt Pottinger **FORTHCOMING**
6) Call with Congressman McCaul **FORTHCOMING**
7) Call-In – NAPA Panel
8) Call with Matt Murphy, CEO, Marvell Tech. **FORTHCOMING**
9) ITA Info Memo re: Initiation of Antidumping Duty (AD) and Countervailing Duty (CVD) Investigations of Imports of Certain Metal Lockers and Parts Thereof from China
10) ITA Info Memo re: Current State of the U.S. Travel and Tourism Industry

Ryan McDermott
b(6)

Briefing Book
Secretary
Wilbur L. Ross

For August 3, 2020

THE SCHEDULE OF SECRETARY WILBUR ROSS

As Prepared for August 3, 2020

8:00am-9:30am	**Census Check-In with SWR** Conference Line – Non-Secure
10:30am-10:45am	**Call with Liz Truss, Secretary of State, UK** Conference Line – Non-Secure
1:30pm-1:45pm	**Call with Secretary Pompeo** Calling Steven's Line
2:00pm-2:15pm	**Call with Matt Pottinger** Conference Line – Non-Secure
2:30pm-2:45pm	**Call with Congressman McCaul** Conference Line – Non-Secure
3:00pm-3:30pm	**Call-In – NAPA Panel** Conference Line – Non-Secure
4:30pm-4:45pm	**Call with Matt Murphy, CEO, Marvell Tech.** Conference Line – Non-Secure

Operational and Processing Options to Meet Statutory Date of December 31, 2020 for Apportionment

August 3, 2020

Pre-decisional - Internal Use Only - Not for Public Distribution

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United States Census 2020

Bottom Line Up Front

Objective: We have developed this plan in response to your request to provide an apportionment count by the statutory deadline of December 31, 2020.

- **Maximizing** staff and production hours for field data collection operations to conclude field data collection by September 30, 2020.
- **Compressing** and streamline backend processing to deliver apportionment counts by December 31, 2020.
- **Achieving** an acceptable level of accuracy and completeness, with a goal of resolving at least 99% of Housing Units in every state.

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BC-DOC-0000000120

Nonresponse Followup Operational Options

Early Start of Nonresponse Followup Operations
6 Cycle 1a Area Census Offices (ACOs) began operations on July 16
6 Cycle 1b ACOs began operations on July 23
35 Cycle 2 ACOs were scheduled to begin operations on July 30; however, we started operations earlier in some ACOs where staff was available: • 17 ACOs – Started July 26 – 29 • 18 ACOs – Starter July 30
39 Cycle 3 ACOs were scheduled to begin operations by August 3: • 15 ACOs – Started last week, July 31 • 24 ACOs – Started today, August 3
All remaining ACOs were scheduled to begin August 11, but will begin operations by August 9: • 53 ACOs – Will start August 3 – 7 • 109 ACOs (all remaining) – August 9 • These ACOs will have to deploy staff regardless of the COVID-19 risk in those areas to open on these dates.

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BC-DOC-0000000121

Increased Replacement Training for Enumerators

Replacement Training Options	Potential Efficiency Gain / Applicable Costs to Implement
Inviting More People to Training	Over selection rates will address higher-than-expected no-show rates of 35%, bringing us closer to our target initial staffing levels.
Continual Replacement Training	Expect to conduct replacement training for at least 135K Enumerators due to attrition. Just over 11,000 training additional sessions: $90m total training cost

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Bonuses for Increased Work

Pay Bonus Options	Potential Efficiency Gain / Applicable Costs to Implement
Implement Enumerator Pay bonus to boost work hours from 19 to 25 per week: • Propose $100 for exceeding 25 hours/week	Expect 250,000 to qualify: $25m/week Increases capacity by 1.5 million work hours per week, or 80,000 more “19 hour” enumerators per week
Implement Enumerator Pay bonus for working multiple 25 hour weeks: • Propose $500 for completing 3 weeks of production • Can be renewed	Expect 150,000 to qualify: $75m total cost
Implement CFS Pay bonus for working multiple weeks: • Propose $750 for completing 3 weeks of production (from established start date) • Would require ‘acceptable’ minimum of 32 hours per week • Can be renewed	Expect 15,000 CFSs to qualify: $11.5m total cost per week

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BC-DOC-0000000123

Outreach Methods to Expand Reach to Underperforming Areas

Options	Potential Efficiency Gain / Applicable Costs to Implement
Expand the use of NRFU Travel Teams: • Moving teams that have successfully completed their areas to areas requiring additional attention	Using experienced staff minimizes the need to train new staff – particularly in areas where new staff are not available.
Implement outbound phone calling to conduct interviews: • Use telephone numbers from ERD Contact Frame • Used by enumerators in ACOs that are finishing up to help out in other ACOs	Enables enumeration in high COVID-19 risk areas and provides additional data collection capability.

Adjustments to NRFU Contact Strategy

NRFU Adjustment Options	Potential Efficiency Gain / Applicable Costs to Implement
Close out self-reported vacants that are also Administrative Record (AdRec) vacant	Reduce workload by 140k cases
Reduce contact attempts for self-reported vacants from 6 to 1, if HU is confirmed vacant	Increase enumerator productivity
Reduce contact attempts for Re-Interview (RI) and Self-Response Quality Assurance (SRQA) cases from 6 to 3	Reduce attempts from 6 to 3 for 1.9 million cases, increase enumerator productivity
Eliminate Random RI, and depend on analytic sampling	Reduce NRFU workload by 800k cases – potential reduction in quality of enumerator work
Make “pop count only” sufficient earlier in the operation	Still being researched, TBD

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BC-DOC-0000000125

Implement Additional Administrative Record Options

Administrative Records Options	Potential Efficiency Gain / Applicable Costs to Implement
We are in consultation to revise our AdRec strategy to use IRS-only (no corroborating sources) for “pop count only” cases	Reduce attempts from 6 to 1 for estimated 3.8 million cases, contingent on IRS approval, increasing enumerator productivity
Close out cases with conflicting AdRec showing both vacant and delete	Reduce attempts from 6 to 1 for 1.9 million cases, increasing enumerator productivity

BC-DOC-0000000126

Overview of Backend Processing

Assumptions:

1. Highly compressed schedule for 2020 Census data processing and review of data products.
2. Post-processing must start by October 1, 2020.
3. Post-processing work activities are limited to those required to produce apportionment counts. Delivery of redistricting data products will be negatively impacted under this revised plan and we are determining full impacts.
4. All of these activities represent abbreviated processes or eliminated activities that will reduce accuracy.

BC-DOC-0000000127

Compressing Backend Processing

Adjusted Activity	Impact and Risks
Finalize Master Address File (MAF) updates from remaining field operations by 9/4/20 Address updates from continued field work after 9/4/20 will not be applied to the MAF	We do not anticipate that the resulting number of updates not included will be highly significant. However, increases risk of inaccuracy.
Eliminate the step that includes Decennial Statistical Studies Division (DSSD) review of the MAF extract	Risk of missing and therefore propagating errors, however the MAF is the most accurate ever.
Lock Geographic processing on 9/25/20 and deliver the final 2020 Census address universe by 10/14/20	Reduces a 35 day processing duration to 19 days.
Cancel Count Review Event 2, eliminating the need for late Group Quarters Enumeration (GQE) operations	State demographer review of GQ data will be cancelled. The Demographic and Decennial staffs will work together to develop the message and communicate it to the Federal State Cooperative for Population Estimates (FSCPE)/states. The risk is virtually certain vocal objections from the FSCPE State Demographers and the State Governors they serve.

BC-DOC-0000000128

Compressing Backend Processing - Continued

Adjusted Activity	Impact and Risks
Create a separate processing stream for the Enumeration of Transitory Locations (ETL) and Service Based Enumeration (SBE) operations that follows the Federally Affiliated Count Overseas (FACO) processing approach. This will enable adding ETL and SBE population counts state-by-state significantly later in the Census Unedited File (CUF) production process.	This file needs to be delivered to POP by the time the CUF – the basis for the apportionment delivery – review is scheduled to be complete, by December 18. Additionally, ETL permits the reporting of a Usual Home Elsewhere (UHE), which will not be able to be processed with this new approach. The CUF will have to be re-run prior to the processing of the Census Edited File (CEF) in order to add in the SBE/ETL population for the Public Law 94-171 Redistricting file. The Apportionment Team will need to change its processing plans and conduct testing to ensure the proper integration of ETL/SBE state counts.
Compress POP division and DSSD review and processing times	A compressed review period creates risk for serious errors not being discovered in the data – thereby significantly decreasing data quality. Additionally, serious errors discovered in the data may not be fixed – due to lack of time to research and understand the root cause or to re-run and re-review one or multiple state files.
Compress time for creating/verifying apportionment data and preparation of transmittal package for DOC	A compressed review period creates risk for errors being present in the data.

Implementation of the Presidential Memo

A team has been established and is tasked with deriving a process utilizing sound statistical methods and meeting tests of operational feasibility, to achieve the goals of directives from Secretary Ross regarding implementation of the Presidential Memo. To achieve this, the Census will:

- Build upon the work we have already done based on Executive Order 13880, "Collecting Information about Citizenship Status in Connection with the Decennial Census".
- Use all administrative records to the extent they are available. Using these records, in combination with other data already obtained regarding citizenship status, we will further refine the non-citizen category into legal, illegal, or unknown.
- Incorporating this work into the schedule to meet the current legal mandates.

BC-DOC-0000000130

Announcing the Replanned Operational Schedule

- **Announce:** Statement from Director Dillingham issued by Monday afternoon or as approval given with new schedule and re-plan outline.

- **Update Webpage:** We will update central schedule webpage with new dates. (current page reflects re-planning status)

- **Rollout:** We will follow a controlled rollout to give appropriate embargoed heads up to key Congressional offices, and then post and distribute the updated materials to Census Bureau staff, partners, intergovernmental stakeholders, and the media.

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BC-DOC-0000000131

Questions?

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United States Census 2020

July 31, 2020

BRIEFING MEMORANDUM FOR SECRETARY ROSS

THROUGH: Joseph Semsar, Deputy Under Secretary for International Trade, Performing the non-exclusive functions and duties of the Under Secretary for International Trade

FROM: Eli Corso-Phinney, United Kingdom Desk Officer, (202) 482-7941

RE: Call with Liz Truss, UK Secretary for International Trade On Monday, August 3, 2020, from 10:30 AM to 10:45 AM

b(5) - DP

PARTICIPANT BIOGRAPHY



ELIZABETH (LIZ) TRUSS
Secretary of State for International Trade, United Kingdom of Great Britain and Northern Ireland

Elizabeth Truss was appointed Secretary of State for International Trade on July 24, 2019. She was elected as the Conservative MP for southwest Norfolk in 2010. Truss studied philosophy, politics and economics at Merton College, Oxford, graduating in 1996.

Truss was previously a member of the Liberal Democrats party, switching to the Conservative Party in 1996. In 2012, she was appointed as Under-Secretary of State at the Department of Education, overseeing issues such as childcare, assessment, qualifications and curriculum reform. She was appointed as Secretary of State for Environment, Food and Rural Affairs during the 2014 cabinet reshuffle, and in this role she promoted growing British agriculture exports. She was appointed Secretary of State for Justice after Theresa May became PM in 2016, then Chief Secretary to the Treasury in 2017.

BACKGROUND

b(5) - DP

BC-DOC-0000000134

b(5) - DP

BC-DOC-0000000135

b(5) - DP

BC-DOC-0000000136

b(5) - DP

Attachments:

1. Meeting Participants

BC-DOC-0000000137

ATTACHMENT 1: Meeting Participants

UK Government

- Liz Truss, Secretary of State for International Trade

Commerce

- Wilbur L. Ross, Secretary
- David De Falco, Deputy Assistant Secretary for Europe
- Eli Corso-Phinney, United Kingdom Desk Officer

BC-DOC-0000000138

August 3, 2020

BRIEFING MEMORANDUM FOR SECRETARY ROSS

FROM: Harry Kumar
Associate Director for Legislative and Intergovernmental Affairs

Ian Steff
Assistant Secretary for Global Markets & Director General, U.S. & FCS

RE: Call with Representative Michael McCaul (R-TX) on Monday, August 3, 2020, from 2:30 PM to 2:45 PM

BACKGROUND

b(5) - DP

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ATTACHMENT 1: Participant Biography

PARTICIPANT BIOGRAPHY



Congressman Michael McCaul (R-TX-10)

Congressman Michael T. McCaul is currently serving his eighth term representing Texas' 10th District in the United States Congress. The 10th Congressional District of Texas stretches from the city of Austin to the Houston suburbs and includes Austin, Bastrop, Colorado, Fayette, Harris, Lee, Travis, Washington and Waller Counties.

At the start of the 116th Congress, Congressman McCaul became the Republican Leader of the Foreign Affairs Committee. This committee considers legislation that impacts the diplomatic community, which includes the Department of State, the Agency for International Development (USAID), the Peace Corps, the United Nations, and the enforcement of the Arms Export Control Act.

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August 1, 2020

BRIEFING MEMORANDUM FOR SECRETARY ROSS

FROM: Kevin O'Connell, Director, Office of Space Commerce, (202) 821-8401

RE: Call-In to NAPA Senior Panel on Monday, August 3, 2020, from 3 PM to 3:30 PM

b(5) - DP

Attachment 1: List of Participants

Tomorrow's call will include the NAPA Senior Panel, all recognized experts in space and other technology and management areas:

- Chairman Michael Dominguez
  - Former acting Secretary of the Air Force
  - Former Space Executive, Chief of Naval Operations
- Marty Faga
  - Former Director, National Reconnaissance Office
  - Former President and CEO of MITRE
- Professor Jane Fountain
  - Emeritus Chair at University of Massachusetts at Amherst
  - Expert on innovation in government IT systems and cross-agency collaboration
- Ambassador Patrick Kennedy
  - Former Under Secretary for Management, State Department
- Sean O'Keefe
  - Former NASA Administrator and DoD Comptroller

Tomorrow's call will also include Roger Kodat, the study director, and Karen Hardy, a former DOC senior executive who is now a NAPA Senior Advisor.

BC-DOC-0000000149

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b(5) - DP

b(5) - DP

Attachment 4: NAPA Senior Panel and Study Team

MICHAEL DOMINGUEZ, Chair

Director, Strategy, Forces and Resources Division, Institute for Defense Analyses. Former positions with the U.S. Department of Defense: Principal Deputy Under Secretary of Defense for Personnel and Readiness; Assistant Secretary of the Air Force for Manpower and Reserve Affairs, including service as Acting Secretary of the Air Force; Assistant Director for Space, Information Warfare, and Command and Control, Office of the Chief of Naval Operations. Former Research Project Director, Center for Naval Analyses; General Manager, Tech 2000 Inc.; Associate Director for Programming, Office of the Chief of Naval Operations; Director for Planning and Analytical Support, Office of the Assistant Secretary of Defense for Program Analysis and Evaluation; Executive Assistant to the Assistant Secretary of Defense for Program Analysis and Evaluation; Program Analyst, Office of the Secretary of Defense for Program Analysis and Evaluation; Military service in various assignments with the U.S. Army's Southern European Task Force.

JANE FOUNTAIN

Distinguished Professor of Political Science and Public Policy, Political Science & Public Policy, Department of Political Science & Center for Public Policy and Administration, University of Massachusetts-Amherst; Director, National Center for Digital Government, University of Massachusetts-Amherst. Former positions at John F. Kennedy School of Government, Harvard University: Professor; Associate Professor, Public Policy; Assistant Professor; Instructor. Former Research Associate, Wesleyan University.

MARTIN FAGA

Former position with the President's Foreign Intelligence Advisory Board; Former positions with The MITRE Corporation: President and Chief Executive Officer, Executive Vice President and Director, Department of Defense Federally Funded Research and Development Center; Senior Vice President and General Manager, Center for Integrated Intelligence Systems; Member, Technical Staff. Former Assistant Secretary of the Air Force for Space; Director, National Reconnaissance Office, U.S. Department of Defense; Professional Staff Member, House Permanent Select Committee on Intelligence, U.S House of Representatives.

PATRICK KENNEDY

Former Under Secretary for Management, U.S. Department of State; Deputy Director of National Intelligence for Management, Office of the Director for National Intelligence (ODNI); Chief of Staff, Transition Unit; Coalition Provisional Authority, Baghdad, Iraq; U.S. Representative for Management and Reform with the rank of Ambassador, United Nations. Former positions with U.S. Department of State: Coordinator for Reorganization of the U.S. Foreign Affairs agencies, Assistant Secretary of State for Management, Foreign Service Officer.

BC-DOC-0000000157

SEAN O'KEEFE

Howard G. and S. Louise Phanstiel Chair in Strategic Management and Leadership, Maxwell School of Citizenship and Public Affairs, Syracuse University; Distinguished Senior Advisor (Non-Resident), Center for Strategic & International Studies. Former Chairman and Chief Executive Officer, EADS North America; Vice President, General Electric Company; Chancellor, Louisiana State University; Administrator, National Aeronautics and Space Administration; Deputy Director, U.S. Office of Management and Budget; Louis A. Bantle Chair in Business and Government Policy, Maxwell School of Citizenship and Public Affairs, Syracuse University; Special Assistant to the Senior Vice President for Research, Dean of Graduate School, Professor of Business Administration, Pennsylvania State University; Secretary of the Navy; Comptroller and Chief Financial Officer, U.S. Department of Defense; Staff Director, Senate Defense Appropriations Subcommittee, U.S. Senate.

NAPA Study Team -- Staff Bios

ROGER KODAT, Senior Project Director
Mr. Kodat has led more than 15 projects, several focusing on long-term strategic visioning and planning. He brings 20 years of commercial and investment banking experience with JPMorganChase, and six years of senior level federal government experience at the Department of the Treasury. He was appointed by President George W. Bush in 2001 to serve as Deputy Assistant Secretary of Treasury, responsible for Federal Financial Policy. Some of his tasks at Treasury included: policy formulation for the 2006 Postal Accountability and Enhancement Act; rule-making and oversight of Federal loan and loan guarantee programs; and managing the Federal Financing Bank (a $32 billion bank at that time). Mr. Kodat holds a BS in Education from Northwestern University and both an MBA in Finance and MA in Political Science from Indiana University.

KAREN HARDY, Senior Advisor

Dr. Karen Hardy brings more than 30 years of federal experience from the NIH and Department of Commerce. She is the former Director of Risk Management and first Deputy Chief Risk Officer at the U.S. Department of Commerce where she led the Office of Program Evaluation and Risk Management. She spearheaded the Department's ERM initiative across 12 federal agencies with 47,000 employees and a budget of $7B. The initiative was recognized by the GAO as a federal Best Practice. Dr. Hardy is the former senior advisor working with the U.S. Controller at OMB in establishing government-wide risk policy. Her work and research have been recognized and credited for pioneering risk management literature across government. Dr. Hardy is an alumnus of the Federal Executive Institute and received 3 bronze medal awards for superior performance. She is a founding member of the Association for Federal Enterprise Risk Management. An accomplished speaker and award-winning author, Dr. Hardy has served as keynote at several events including at Harvard University and the United Nations Office of the Under-Secretary-General. Dr. Hardy holds a BA in Communication/Journalism from Hampton

BC-DOC-0000000158

University, an MBA, as well as a Doctor of Education in Human Resource Development and Leadership from Nova Southeastern University.

BC-DOC-0000000159

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b(5) - DP

b(5) - DP

b(5) - DP

b(5) - DP

b(5) - DP

July 31, 2020

INFORMATION MEMORANDUM FOR SECRETARY ROSS

THROUGH: Joseph Semsar
Deputy Under Secretary for International Trade,
Performing the non-exclusive functions and duties of the
Under Secretary for International Trade

FROM: Jeffrey I. Kessler
Assistant Secretary for Enforcement and Compliance
Cell: b(6)

RE: Initiation of Antidumping Duty (AD) and Countervailing Duty (CVD) Investigations of Imports of Certain Metal Lockers and Parts Thereof from China

On July 30, 2020, the Department of Commerce announced its decisions to initiate AD and CVD investigations of imports of certain metal lockers and parts thereof (metal lockers) from China. b(5) - DP

b(5) - DP

The petitions were filed by List Industries, Inc. (Deerfield Beach, FL), Lyon LLC (Montgomery, IL), Penco Products, Inc. (Greeneville, NC), and Tennsco LLC (Dickson, TN).

To date, the Department has not any received any congressional correspondence on these cases.

The petitioners estimated that the value of imports of metal lockers from China in 2018 was $64 million.

Including these petitions, a total of 100 AD and CVD petitions have been filed thus far in FY 2020. This is the highest number of new petitions we have ever received to this point in a fiscal year. By contrast, over the prior 5 fiscal years, the average number of petitions was 62 per full year.

BC-DOC-0000000168

July 31, 2020

INFORMATION MEMORANDUM FOR SECRETARY ROSS

THROUGH: Joseph Semsar, Deputy Under Secretary for International Trade,
Performing the non-exclusive functions and duties of the
Under Secretary for International Trade

Nazak Nikakhtar
Assistant Secretary for Industry and Analysis

FROM: Phil Lovas
Deputy Assistant Secretary for Travel & Tourism, Industry and Analysis
Office: (202) 482-0140

RE: Current State of the U.S. Travel and Tourism Industry

This memorandum serves as a follow-up to the May 27 memorandum on the status of travel and tourism in the United States. b(5) - DP

b(5) - DP

b(5) - DP

BC-DOC-0000000170

b(5) - DP

BC-DOC-0000000171

b(5) - DP

BC-DOC-0000000172

August 3, 2020

BRIEFING MEMORANDUM FOR SECRETARY ROSS

FROM: Harry Kumar
Associate Director for Legislative and Intergovernmental Affairs

Ian Steff
Assistant Secretary for Global Markets & Director General, U.S. & FCS

RE: Call with Representative Michael McCaul (R-TX) on Monday, August 3, 2020, from 2:30 PM to 2:45 PM

BACKGROUND

b(5) - DP

b(5) - DP

b(5) - DP

b(5) - DP

b(5) - DP

b(5) - DP

b(5) - DP

b(5) - DP

b(5) - DP

ATTACHMENT 1: Participant Biography

PARTICIPANT BIOGRAPHY



Congressman Michael McCaul (R-TX-10)

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Sent: 12/13/2019 5:24:16 PM
To: Olson, Stephanie (Federal) [SOlson@doc.gov]; Freitas, Jessica (Federal) [JFreitas@doc.gov]; Dewhirst, David (Federal) [DDewhirst@doc.gov]; DiGiacomo, Brian (Federal) [bDiGiaco@doc.gov]; Heller, Megan (Federal) [MHeller@doc.gov]; Craig, Russell (Federal) [rCraig2@doc.gov]; Ryan, Miles F III [miles.f.ryan.iii@census.gov]; Creech, Melissa L [melissa.l.creech@census.gov]; Bogomolny, Michael (Federal) [MBogomolny@doc.gov]; Sharma, Sapna (Federal) [SSharma@doc.gov]
Subject: RE: CUI/PRIV RE: proposed slides for CES Seminar
Attachments: attachment 1 CVAP discussion 12.13.19 + JF + SDO + MC.pptx

CUI/PRIV/FED ONLY

My comments / edits on top of Jessica's and Stephanie's.

Let me know if you have any questions about them.

Mike

Michael A. Cannon
Chief, General Litigation Division
Office of the Assistant General Counsel for Employment, Litigation, and Information
Office of the General Counsel
U.S. Department of Commerce
Telephone: (202) 482-5395
Cell: b(6)
Facsimile: (202) 482-5858
Email: mcannon@doc.gov

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Sent: Friday, December 13, 2019 4:42 PM
To: Freitas, Jessica (Federal) <JFreitas@doc.gov>; Cannon, Michael (Federal) <MCannon@doc.gov>; Dewhirst, David (Federal) <DDewhirst@doc.gov>; DiGiacomo, Brian (Federal) <bDiGiaco@doc.gov>; Heller, Megan (Federal) <MHeller@doc.gov>; Craig, Russell (Federal) <rCraig2@doc.gov>; Ryan, Miles F III <miles.f.ryan.iii@census.gov>; Creech, Melissa L <melissa.l.creech@census.gov>; Bogomolny, Michael (Federal) <MBogomolny@doc.gov>; Sharma, Sapna (Federal) <SSharma@doc.gov>
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CUI/PRIV
My comments, for David's review now. In particular, b(5) - DP/AC

Stephanie Olson
Senior Counsel to the General Counsel
D: 202.482.5981
M: b(6)

From: Freitas, Jessica (Federal) <JFreitas@doc.gov>
Sent: Friday, December 13, 2019 1:02 PM

To: Cannon, Michael (Federal) <MCannon@doc.gov>; Dewhirst, David (Federal) <DDewhirst@doc.gov>; DiGiacomo, Brian (Federal) <bDiGiaco@doc.gov>; Heller, Megan (Federal) <MHeller@doc.gov>; Olson, Stephanie (Federal) <SOlson@doc.gov>; Craig, Russell (Federal) <rCraig2@doc.gov>; Ryan, Miles F III <miles.f.ryan.iii@census.gov>; Creech, Melissa L <melissa.l.creech@census.gov>; Bogomolny, Michael (Federal) <MBogomolny@doc.gov>; Sharma, Sapna (Federal) <SSharma@doc.gov>
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My comments attached.

Best,
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From: Christa D Jones (CENSUS/DEPDIR FED) <Christa.D.Jones@census.gov>
Sent: Thursday, December 12, 2019 3:35 PM
To: Cannon, Michael (Federal) <MCannon@doc.gov>
Cc: Lamas, Enrique <enrique.lamas@census.gov>
Subject: proposed slides for CES Seminar

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Subject: Re: Joe Schafer's proposed slides

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To: Freitas, Jessica (Federal) [JFreitas@doc.gov]; Cannon, Michael (Federal) [MCannon@doc.gov]; Dewhirst, David (Federal) [DDewhirst@doc.gov]; DiGiacomo, Brian (Federal) [bDiGiaco@doc.gov]; Heller, Megan (Federal) [MHeller@doc.gov]; Craig, Russell (Federal) [rCraig2@doc.gov]; Ryan, Miles F III [miles.f.ryan.iii@census.gov]; Creech, Melissa L [melissa.l.creech@census.gov]; Bogomolny, Michael (Federal) [MBogomolny@doc.gov]; Sharma, Sapna (Federal) [SSharma@doc.gov]
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Subject: Re: Joe Schafer's proposed slides

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Sent: 12/12/2019 4:08:03 PM
To: Dewhirst, David (Federal) [DDewhirst@doc.gov]; DiGiacomo, Brian (Federal) [bDiGiaco@doc.gov]; Heller, Megan (Federal) [MHeller@doc.gov]; Freitas, Jessica (Federal) [JFreitas@doc.gov]; Olson, Stephanie (Federal) [SOlson@doc.gov]; Craig, Russell (Federal) [rCraig2@doc.gov]; Ryan, Miles F III [miles.f.ryan.iii@census.gov]; Creech, Melissa L [melissa.l.creech@census.gov]; Bogomolny, Michael (Federal) [MBogomolny@doc.gov]; Sharma, Sapna (Federal) [SSharma@doc.gov]
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Attachments: attachment 1.pptx

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Sent: Thursday, December 12, 2019 11:59 AM
To: Christa D Jones (CENSUS/DEPDIR FED) <Christa.D.Jones@census.gov>; Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov>
Cc: Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>
Subject: Re: Joe Schafer's proposed slides

From: Ron S Jarmin (CENSUS/DEPDIR FED) [Ron.S.Jarmin@census.gov]
Sent: 8/21/2020 9:54:12 AM
To: Kelley, Karen (Federal) [KKelley@doc.gov]; Dillingham, Steven [steven.dillingham@census.gov]; Smith, Steven K [steven.k.smith@census.gov]; Lamas, Enrique [enrique.lamas@census.gov]; Jones, Christa D [christa.d.jones@census.gov]; Fontenot, Albert E [albert.e.fontenot@census.gov]; Stempowski, Deborah M [deborah.m.stempowski@census.gov]; Velkoff, Victoria A [victoria.a.velkoff@census.gov]; Thieme, Michael T [michael.t.thieme@census.gov]; Cogley, Nathaniel [nathaniel.cogley@census.gov]; Korzeniewski, Adam (Federal) [AKorzeniewski@doc.gov]; Bishop, Deirdre D [deirdre.dalpiaz.bishop@census.gov]; LoPresti, Barbara M [barbara.m.lopresti@census.gov]
Subject: Re: Census Pre Brief
Attachments: b(5) - DP 20200820_Updated Overview Slide.pptx

Slides attached

Ron S Jarmin, PhD., Deputy Director
U.S. Census Bureau
o: 301-763-1858 | m: b(6)
census.gov | @uscensusbureau
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From: Kelley, Karen (Federal)
Sent: Thursday, August 20, 2020 1:25 PM
To: Kelley, Karen (Federal) <KKelley@doc.gov>; Steven Dillingham (CENSUS/DEPDIR FED) <steven.dillingham@census.gov>; Steven K Smith (CENSUS/DEPDIR FED) <steven.k.smith@census.gov>; Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>; Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; Christa D Jones (CENSUS/DEPDIR FED) <Christa.D.Jones@census.gov>; Albert E Fontenot (CENSUS/ADDC FED) <Albert.E.Fontenot@census.gov>; Deborah Stempowski (CENSUS/ADDC FED) <Deborah.M.Stempowski@census.gov>; Victoria Velkoff (CENSUS/ADDP FED) <Victoria.A.Velkoff@census.gov>; Michael T Thieme (CENSUS/ADDC FED) <Michael.T.Thieme@census.gov>; Nathaniel Cogley (CENSUS/DEPDIR FED) <nathaniel.cogley@census.gov>; Korzeniewski, Adam (Federal) <AKorzeniewski@doc.gov>; Deirdre Bishop (CENSUS/GEO FED) <Deirdre.Dalpiaz.Bishop@census.gov>; Barbara M LoPresti (CENSUS/DITD FED) <Barbara.M.LoPresti@census.gov>
Subject: Census Pre Brief
When: Friday, August 21, 2020 10:00 AM-11:30 AM.
Where: b(6)

From: Ali Mohammad Ahmad (CENSUS/ADCOM FED) [ali.m.ahmad@census.gov]
Sent: 9/2/2020 3:22:39 PM
To: Burris, Meghan (Federal) [MBurris@doc.gov]; Davis, Caitlin (Federal) [CDavis4@doc.gov]; Risko, Daniel (Federal) [DRisko@doc.gov]; Foti, Anthony (Federal) [AFoti@doc.gov]; Walsh, Michael (Federal) [MWalsh@doc.gov]; Ambrosini, Vanessa (Federal) [VAmbrosini@doc.gov]; Brebbia, Sean (Federal) [SBrebbia@doc.gov]
Subject: Fwd: internal docs being released by House Overisight
Attachments: Census Slide Deck Aug 3 2020.pdf; ATT00001.htm; 2020-09-02.CBM to House and Senate Leadership re Census.pdf; ATT00002.htm

Begin forwarded message:

From: "Michael C Cook (CENSUS/PIO FED)" <Michael.C.Cook@census.gov>
Date: September 2, 2020 at 3:21:05 PM EDT
To: ADCOM Issues Working Group List b(6) @census.gov>
Subject: Fw: internal docs being released by House Overisight

FYSA

Michael C. Cook Sr., Division Chief
Public Information Office
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From: Tierney Sneed <tierney@talkingpointsmemo.com>
Sent: Wednesday, September 2, 2020 3:01 PM
To: Michael C Cook (CENSUS/PIO FED) <Michael.C.Cook@census.gov>; CLMSO CS PIO (CENSUS/CLMSO) <clmso.cs.pio@census.gov>
Subject: internal docs being released by House Overisight

Hi there,
Attached are internal documents — slide show apparently presented to Sec. Ross in early August — the House Oversight Committee is releasing today. The embargo lifts at 3:15. Let me know if the Bureau wants to comment.

Thanks!

--
Tierney Sneed
Talking Points Memo
Cell: b(6)
@tierney_megan

Operational and Processing Options to Meet Statutory Date of December 31, 2020 for Apportionment

August 3, 2020

Pre-decisional - Internal Use Only - Not for Public Distribution

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BC-DOC-0000000199

Bottom Line Up Front

Objective: We have developed this plan in response to your request to provide an apportionment count by the statutory deadline of December 31, 2020.

- **Maximizing** staff and production hours for field data collection operations to conclude field data collection by September 30, 2020.
- **Compressing** and streamline backend processing to deliver apportionment counts by December 31, 2020.
- **Achieving** an acceptable level of accuracy and completeness, with a goal of resolving at least 99% of Housing Units in every state.

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BC-DOC-0000000200

Nonresponse Followup Operational Options

Early Start of Nonresponse Followup Operations

6 Cycle 1a Area Census Offices (ACOs) began operations on July 16

6 Cycle 1b ACOs began operations on July 23

35 Cycle 2 ACOs were scheduled to begin operations on July 30; however, we started operations earlier in some ACOs where staff was available:

- 17 ACOs – Started July 26 – 29
- 18 ACOs – Started July 30

39 Cycle 3 ACOs were scheduled to begin operations by August 3:

- 15 ACOs – Started last week, July 31
- 24 ACOs – Started today, August 3

All remaining ACOs were scheduled to begin August 11, but will begin operations by August 9:

- 53 ACOs – Will start August 3 – 7
- 109 ACOs (all remaining) – August 9
- These ACOs will have to deploy staff regardless of the COVID-19 risk in those areas to open on these dates.

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BC-DOC-0000000201

Increased Replacement Training for Enumerators

Replacement Training Options	Potential Efficiency Gain / Applicable Costs to Implement
Inviting More People to Training	Over selection rates will address higher-than-expected no-show rates of 35%, bringing us closer to our target initial staffing levels.
Continual Replacement Training	Expect to conduct replacement training for at least 135K Enumerators due to attrition. Just over 11,000 training additional sessions: $90m total training cost

BC-DOC-0000000202

Production Staff Awards for Increased Work Hours

Award Options Covers Weeks of August 9, August 16, August 23	Potential Efficiency Gain / Applicable Costs to Implement
Implement Awards to recognize increased work hours: • $50 for exceeding 15 hours/week • $50 for exceeding 25 hours/week ($100 total) ○ Must complete 0.75 cases/hour	Expect 340,000 to qualify: • $30m/week • Increases capacity by 1.5 million work hours per week, or 80,000 more "19 hour" enumerators per week
Implement Award for working multiple 25 hour weeks: • $500 for completing 3 weeks of production	Expect 150,000 to qualify: • $75m total cost • Lower operational impact as a result of reduced replacement training
Implement CFS Award for working multiple weeks: • $750 for completing 3 weeks of production • Would recognize those who work at least 32 hours per week	Expect 15,000 CFSs to qualify: • $11.5m total cost per week • Increased data quality due to more effective alert resolution • Improved operational support with experienced supervisor

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BC-DOC-0000000203

Outreach Methods to Expand Reach to Underperforming Areas

Options	Potential Efficiency Gain / Applicable Costs to Implement
Expand the use of NRFU Travel Teams: • Moving teams that have successfully completed their areas to areas requiring additional attention	Using experienced staff minimizes the need to train new staff – particularly in areas where new staff are not available.
Implement outbound phone calling to conduct interviews: • Use telephone numbers from ERD Contact Frame • Used by enumerators in ACOs that are finishing up to help out in other ACOs	Enables enumeration in high COVID-19 risk areas and provides additional data collection capability.

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BC-DOC-0000000204

Adjustments to NRFU Contact Strategy

NRFU Adjustment Options	Potential Efficiency Gain / Applicable Costs to Implement
Close out self-reported vacants that are also Administrative Record (AdRec) vacant	Reduce workload by 140k cases
Reduce contact attempts for self-reported vacants from 6 to 1, if HU is confirmed vacant	Increase enumerator productivity
Reduce contact attempts for Re-Interview (RI) and Self-Response Quality Assurance (SRQA) cases from 6 to 3	Reduce attempts from 6 to 3 for 1.9 million cases, increase enumerator productivity
Eliminate Random RI, and depend on analytic sampling	Reduce NRFU workload by 800k cases – potential reduction in quality of enumerator work
Make "pop count only" sufficient earlier in the operation	Still being researched, TBD

BC-DOC-0000000205

Implement Additional Administrative Record Options

Administrative Records Options	Potential Efficiency Gain / Applicable Costs to Implement
We are in consultation to revise our AdRec strategy to use IRS-only (no corroborating sources) for "pop count only" cases	Reduce attempts from 6 to 1 for estimated 3.8 million cases, contingent on IRS approval, increasing enumerator productivity
Close out cases with conflicting AdRec showing both vacant and delete	Reduce attempts from 6 to 1 for 1.9 million cases, increasing enumerator productivity

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BC-DOC-0000000206

Overview of Backend Processing

Assumptions:

1. Highly compressed schedule for 2020 Census data processing and review of data products.
2. Post-processing must start by October 1, 2020.
3. Post-processing work activities are limited to those required to produce apportionment counts. Delivery of redistricting data products will be negatively impacted under this revised plan and we are determining full impacts.
4. All of these activities represent abbreviated processes or eliminated activities that will reduce accuracy.

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BC-DOC-0000000207

Compressing Backend Processing

Adjusted Activity	Impact and Risks
Finalize Master Address File (MAF) updates from remaining field operations by 9/4/20	We do not anticipate that the resulting number of updates not included will be highly significant. However, increases risk of inaccuracy.
Address updates from continued field work after 9/4/20 will not be applied to the MAF	
Eliminate the step that includes Decennial Statistical Studies Division (DSSD) review of the MAF extract	Risk of missing and therefore propagating errors, however the MAF is the most accurate ever.
Lock Geographic processing on 9/25/20 and deliver the final 2020 Census address universe by 10/14/20	Reduces a 35 day processing duration to 19 days.
Cancel Count Review Event 2, eliminating the need for late Group Quarters Enumeration (GQE) operations	State demographer review of GQ data will be cancelled. The Demographic and Decennial staffs will work together to develop the message and communicate it to the Federal State Cooperative for Population Estimates (FSCPE)/states. The risk is virtually certain vocal objections from the FSCPE State Demographers and the State Governors they serve.

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BC-DOC-0000000208

Compressing Backend Processing - Continued

Adjusted Activity	Impact and Risks
Create a separate processing stream for the Enumeration of Transitory Locations (ETL) and Service Based Enumeration (SBE) operations that follows the Federally Affiliated Count Overseas (FACO) processing approach. This will enable adding ETL and SBE population counts state-by-state significantly later in the Census Unedited File (CUF) production process.	This file needs to be delivered to POP by the time the CUF – the basis for the apportionment delivery – review is scheduled to be complete, by December 18. Additionally, ETL permits the reporting of a Usual Home Elsewhere (UHE), which will not be able to be processed with this new approach. The CUF will have to be re-run prior to the processing of the Census Edited File (CEF) in order to add in the SBE/ETL population for the Public Law 94-171 Redistricting file. The Apportionment Team will need to change its processing plans and conduct testing to ensure the proper integration of ETL/SBE state counts.
Compress POP division and DSSD review and processing times	A compressed review period creates risk for serious errors not being discovered in the data – thereby significantly decreasing data quality. Additionally, serious errors discovered in the data may not be fixed – due to lack of time to research and understand the root cause or to re-run and re-review one or multiple state files.
Compress time for creating/verifying apportionment data and preparation of transmittal package for DOC	A compressed review period creates risk for errors being present in the data.

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BC-DOC-0000000209

Implementation of the Presidential Memo

A team has been established and is tasked with deriving a process utilizing sound statistical methods and meeting tests of operational feasibility, to achieve the goals of directives from Secretary Ross regarding implementation of the Presidential Memo. To achieve this, the Census will:

- Build upon the work we have already done based on Executive Order 13880, "Collecting Information about Citizenship Status in Connection with the Decennial Census".
- Use all administrative records to the extent they are available. Using these records, in combination with other data already obtained regarding citizenship status, we will further refine the non-citizen category.
- Incorporating this work into the schedule to meet the current legal mandates.

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BC-DOC-0000000210

Announcing the Replanned Operational Schedule

- **Announce:** Statement from Director Dillingham issued by Monday afternoon or as approval given with new schedule and re-plan outline.

- **Update Webpage:** We will update central schedule webpage with new dates. (current page reflects re-planning status)

- **Rollout:** We will follow a controlled rollout to give appropriate embargoed heads up to key Congressional offices, and then post and distribute the updated materials to Census Bureau staff, partners, intergovernmental stakeholders, and the media.

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BC-DOC-0000000211

Questions?

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BC-DOC-0000000212

CAROLYN B. MALONEY
CHAIRWOMAN

ONE HUNDRED SIXTEENTH CONGRESS

JAMES COMER
RANKING MINORITY MEMBER

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM
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September 2, 2020

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
1236 Longworth House Office Building
Washington, D.C. 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
2468 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Charles E. Schumer
Minority Leader
United States Senate
322 Hart Senate Office Building
Washington, D.C. 20510

Dear Speaker Pelosi, Minority Leader McCarthy, Majority Leader McConnell, and Minority Leader Schumer:

Five months ago, the Trump Administration asked Congress to pass urgent legislation to extend several key Census deadlines as a result of the coronavirus crisis. The House of Representatives passed the extensions in May, and several Senators introduced a stand-alone bill in June. However, the Senate has failed to act on any of these bills, and the Trump Administration has suddenly reversed its position—forcing the Census Bureau to drastically curtail operations and severely jeopardizing the 2020 Census.

The Committee on Oversight and Reform has now obtained an internal Census Bureau document warning that forcing the Census Bureau to complete its count under the current deadlines could severely degrade its accuracy and completeness. This document states that the dramatically truncated timeline could force the Census Bureau to limit or entirely remove key steps developed over the past decade to ensure the integrity of the Census.

Specifically, the document highlights the risks of the "[h]ighly compressed schedule" and warns that data products "will be negatively impacted under this revised plan." It cautions that "eliminated activities" will "reduce accuracy," that the schedule "creates risk for serious errors not being discovered in the data," and that such errors "may not be fixed—due to lack of time to research and understand the root cause or to re-run and re-review one or multiple state files." Although the document says, "we are determining full impacts," it warns starkly that canceling reviews by state officials will lead to "virtually certain vocal objections."

Committee staff also held briefings last week with three top Census Bureau officials who all agreed that providing more time would reduce the risk of an inaccurate or incomplete count.

The first official stated, "More time is always a good thing." The second official stated, "Anytime you have more time it reduces risk, and that would have reduced our risk." When the third official was asked whether he agreed with the first two officials that "ideally more time would be better both for data collection and data processing," he replied, "Absolutely."

Although the officials were hopeful about their ability to mitigate the risks of this truncated schedule, they made clear that they were forced to dramatically compress their operations because Congress has not extended the statutory deadlines.

Finally, the Committee received a new report issued just last week by the nonpartisan Government Accountability Office (GAO) also warning about risks with the compressed timing of the Census, including serious concerns regarding the "accuracy of data collected," the "completeness of data collected," and "data quality."

In light of this new internal document and the additional information we have obtained, it is more urgent than ever that the Senate act. Congress has a solemn responsibility under the Constitution to help ensure an accurate and complete count, and there is bipartisan support in the Senate for extending these deadlines.

An undercount in any state—as a result of the coronavirus crisis or other factors—reduces the amount of federal funding each state is entitled to receive under a host of federal programs, including Medicaid, the National School Lunch Program, the Supplemental Nutrition Assistance Program (SNAP), Head Start, foster care assistance, and the State Children's Health Insurance Program (CHIP). It also could diminish that state's representation in Congress. This is true regardless of whether that state is represented by Democrats or Republicans.

Background

On April 13, 2020, Commerce Secretary Wilbur Ross and Census Bureau Director Steven Dillingham issued a statement warning that Congress needed to pass urgent legislation to ensure the accuracy of the Census in the wake of the coronavirus crisis. They wrote:

> In light of the COVID-19 outbreak, the U.S. Census Bureau is adjusting 2020 Census Operations in order to … Ensure a complete and accurate count of all communities. … In order to ensure the completeness and accuracy of the 2020 Census, the Census Bureau is seeking statutory relief from Congress of 120 additional calendar days to deliver final apportionment counts.[1]

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[1] Census Bureau, *Press Release: U.S. Department of Commerce Secretary Wilbur Ross and U.S. Census Bureau Director Steven Dillingham Statement on 2020 Census Operational Adjustments Due to COVID-19* (Apr. 13, 2020) (online at www.census.gov/newsroom/press-releases/2020/statement-covid-19-2020.html).

That same day, Secretary Ross asked Congress to extend two specific statutory Census deadlines: the date to deliver apportionment data to the President, from December 31, 2020, to April 30, 2021; and the date to deliver redistricting data to the states, from March 30, 2021, to July 31, 2021. He also informed Congress that the Administration was extending its own internal deadline for field operations from July 21, 2020, to October 31, 2020.

At the time, top Census Bureau officials explained that extending the statutory deadlines was critical in light of the challenges caused by the coronavirus crisis:

- On May 26, 2020, Tim Olson, the Associate Director for Field Operations, said publicly: "You know, we have passed the point where we could even meet the current legislative requirement of December 31. We can't do that anymore. We've passed that for quite a while now."[2]

- On July 8, 2020, Al Fontenot, the Associate Director for Decennial Census Programs, stated of the December 31, 2020, statutory deadlines: "We really don't want to speculate on any legislative matters, but we brief Congress regularly and every Member's office and every Committee staffer with whom we speak shares the goal of a complete and accurate 2020 Census count, and understands our need for that—that date in time. We are past the window of being able to get those counts by those dates at this point."[3]

In response to the Administration's request, the House of Representatives passed extension provisions in H.R. 6800, the Heroes Act, on May 15, 2020. On May 27, 2020, I introduced H.R. 7034, the Fair and Accurate Census Act, as a standalone bill that extends and clarifies the statutory deadlines for the delivery of apportionment and redistricting data. On June 23, 2020, Senators Kamala Harris and Brian Schatz introduced S. 4048, the Fair and Accurate Census Act, S. 4048.

However, in late July, the Trump Administration abruptly reversed course. Instead of supporting legislation to extend the deadlines, it cut back operations to meet the existing statutory dates. On August 3, 2020, Director Dillingham announced that the Census Bureau would cut short field operations by a full month and data processing operations by 60 days.[4]

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[2] *The 2020 Census Could Be the Least Accurate Ever—And It's Ending a Month Early*, National Public Radio (Aug. 14, 2020) (online at www.npr.org/transcripts/901833534).

[3] Census Bureau, *Operational Press Briefing—2020 Census Update* (July 8, 2020) (online at www.census.gov/content/dam/Census/newsroom/press-kits/2020/news-briefing-program-transcript-july8.pdf).

[4] Census Bureau, *Press Release: Statement from U.S. Census Bureau Director Steven Dillingham: Delivering a Complete and Accurate 2020 Census Count* (Aug. 3, 2020) (online at www.census.gov/newsroom/press-releases/2020/delivering-complete-accurate-count.html).

On August 14, 2020, Secretary Ross wrote an op-ed titled, "The Census Bureau is Not Shortchanging the Count." Despite his previous warnings about the challenges caused by the coronavirus crisis—and his previous pleas for Congress to pass urgent legislation to extend the statutory deadlines—he claimed:

> The U.S. Census Bureau is well on its way to delivering a complete and accurate 2020 Census. I am proud to oversee this essential activity which is clearly outlined in the United States Constitution. Critics claim incorrectly that the Census Bureau is shortchanging the count. This is not an accurate depiction of the current state of the 2020 Census, which is on its way to delivering a successful count in every community across the nation. … Under this plan, the Census Bureau will meet or exceed the standard for data collection set in previous decennial censuses.[5]

Internal Census Bureau Document Obtained by Committee

The Committee has now obtained an internal Census Bureau analysis from August warning that forcing the Census Bureau to complete the 2020 Census without extending the statutory deadlines could significantly degrade its accuracy and completeness. Census Bureau leaders did not produce this document to the Committee, but the Committee obtained it from another source.[6]

This internal document appears to be a presentation for Secretary Ross on August 3, 2020—the same date the Administration announced that it was cutting short follow-up operations. It presents a plan to significantly curtail ongoing processes to comply with the Administration's reversal on extending the statutory deadlines. The document describes its objective as follows: "We have developed this plan in response to your request to provide an apportionment count by the statutory deadline of December 31, 2020."

In order to meet this goal, the document proposes a severely truncated data processing schedule of only 92 days. In comparison, the past three Decennial Censuses had much longer time periods to process data and deliver apportionment counts—and they were not being conducted during a global pandemic. The 1990 Census used 140 days, the 2000 Census used 185 days, and the 2010 Census used 147 days.

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[5] Wilbur Ross, *Commerce Secretary Ross: The Census Bureau is Not Shortchanging the Count*, Fox Business (Aug. 14, 2020) (online at www.foxbusiness.com/politics/commerce-secretary-ross-census-bureau-shortchanging-count).

[6] Census Bureau, *Operational and Processing Options to Meet Statutory Date of December 31, 2020 for Apportionment* (Aug 3, 2020) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Census%20Slide%20Deck%20Aug%203%202020.pdf).

The document warns that this drastically reduced timeline will force the Census Bureau to curtail or entirely remove key steps developed over the past decade to ensure the completeness and accuracy of the Census, including careful review by the Census Bureau's career statisticians and demographers to ensure that the data is accurate and complete. The document also warns that these shortcuts could result in objections from states across the country. The document has several key assumptions:

- "Highly compressed schedule for 2020 Census data processing and review of data products."
- "Delivery of redistricting data products will be negatively impacted under this revised plan and we are determining full impacts."
- "All of these activities represent abbreviated processes or eliminated activities that will reduce accuracy."

The document warns:

- "A compressed review period creates risk for serious errors not being discovered in the data—thereby significantly decreasing data quality."
- "Additionally, serious errors discovered in the data may not be fixed—due to lack of time to research and understand the root cause or to re-run and re-review one or multiple state files."
- Eliminating updates to the Master Address File after September 4, 2020, "increases risk of inaccuracy."
- Compressing the time to create and verify apportionment data and transmit it to the Department of Commerce "creates risk for errors being present in the data."
- Cancelling state demographers' reviews of the data product will lead to "virtually certain vocal objections" from states.

The document also identifies the need to slash key field operations for contacting households and verifying the accuracy of Census data. For example, the document proposes:

- Eliminating random re-interviews to verify the accuracy of administrative data and to "depend on analytic sampling," which could result in "potential reduction in quality of enumerator work."

- Using "pop count only"—a last-resort counting method when individuals are counted without attributable demographic data—"earlier in the operation."

- Using "IRS-only (no corroborating sources)" to count 3.8 million households despite the fact that IRS data for Census purposes is at least a year old because of the extended tax deadlines for 2019 as a result of the coronavirus crisis.

- Reducing "contact attempts" for "self-reported vacants from 6 to 1"; for "Self-Response Quality Assurance" to ensure that online responses are accurate "from 6 to 3"; and for re-interviews to check the quality of data.

As mentioned above, this document was not produced by Census Bureau leaders to the Committee. However, the Census Bureau released a similar document to the public on August 17, 2020, that appears to have omitted all of the warnings quoted above.[7]

Briefings with Census Bureau Officials

In addition to obtaining the internal Census Bureau document, the Committee held briefings on August 27 and 28 with three Census Bureau officials—Deputy Director Ron Jarmin, Associate Director for Decennial Programs Al Fontenot, and Associate Director for Field Operations Tim Olson.

The three officials expressed optimism regarding their ability to comply with the current schedule. However, all three officials agreed that providing the Census Bureau with more time would reduce the risk of an inaccurate or incomplete count, including by building in a buffer to address unscheduled challenges. They made clear that they were forced to dramatically truncate their plans because the statutory deadlines have not yet been extended, and they explained measures they have taken to try to mitigate the risks of this approach.

Extending Deadlines Will Reduce Risks

Below are excerpts from the briefings with the three Census Bureau officials. Unfortunately, Commerce Department officials intervened multiple times to prevent these officials from fully answering questions about the risks posed by the current schedule. Department officials blocked Deputy Director Jarmin from discussing specific operations the Census Bureau is being forced to run "concurrently rather than sequentially," and they blocked Mr. Fontenot from discussing the risks of cutting the data processing timeline by 60 days.

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[7] Census Bureau, *Review of 2020 Operational Plan Schedule* (Aug. 17, 2020) (online at www.census.gov/content/dam/Census/newsroom/press-kits/2020/2020-operational-plan-schedule-review.pdf).

Mr. Olson

A: You know, whether the schedule were October 31st or September 30th—and I'm being very transparent here—the staffing issue and the public issue are things we have to deal with regardless of the schedule deadline. It puts a little more stress with the September 30th. It means we've got to be successful in what we are doing to make sure we get to September 30th with the full count.

…

Q: Can you explain why the Bureau believed it would be helpful to have more time, in light of the coronavirus pandemic, to complete the Nonresponse Follow-Up Operations?

A: Well, in that prior request, that was built on using the traditional existing schedule built over a decade, and in that schedule, as you know, nonresponse, I think it was scheduled for roughly 11 weeks or so. I think of it broadly as a three-month data collection process for nonresponse follow-up. And given the pandemic and the shutdown of society, you know, we've put forward, basically restarting, in earnest, the field operations, and therefore the subsequent post-data collection process, you know, by approximately three months. Actually I think it was—yeah, it was three months, roughly a 90-day delay that would result in the search for that legislative relief. That was using our normal schedule that we have developed, and we have etched into our brain cells, and we live by every day.

…

Q: If there's more time to negotiate with Indian tribes to try to come up with protocols for how the Indian tribes could be counted, especially the ones that are suffering with coronavirus, would more time make the counts, in your view, a less stressed, more accurate count in the field?

A: I mean, you can argue if I had ten years I could get it pretty accurate, but then we would have lost some people due to death and so forth. The baseline would have changed substantially. But let me answer you as clearly as I can. More time is always a good thing. You know, going fast is challenging, for any of us, in anything we do.

…

A: I didn't mention it but this morning we are a little more than 9 points ahead of where we thought we would be in the nonresponse follow-up completion, a little more than 9 points, 9 whole percentage points. … We are in our 18th day of the operation, and we're basically 48 percent done. We have 34 days, 34 physical days remaining in the operation to get it done. And so barring any catastrophes that I think none of us want to have happen—nobody in their right mind wants to have catastrophes happen—you know, we can get done.

…

Q: And, you know, all the states that you mentioned, I've seen Democratic officials and Republican officials taking to media and to the airwaves and really stressing that they're concerned about an undercount. I know this is kind of obvious, but is it right that they're concerned about the undercount, because an undercount could affect these states' ability to receive the federal funding that they need for the next ten years?

A: Yeah. I don't want to be critical of our friends that are in these states, because they're our friends. I can be blunt. It's too early to cry undercount. It's too early. … I think the concerns everybody has is they want an accurate count. They absolutely want an accurate count. We want an accurate count at the Census Bureau. Whether it's 9/30 or 10/31, you know, we all want an accurate count. At this point, at this juncture, at this day, until Congress gives a—if Congress were to give a legislative relief, that's a different conversation. They haven't done that. So I have a mandate to get an accurate count by September 30th, and we're going to do everything under the sun to get there.

…

Q: But at which point—at what point will you know whether there is a risk of a serious undercount in states like Alabama and Texas and Louisiana and the Carolinas? Like, when will you know?

A: Well, I think, you know, we publicly put it on our website. We started last week, showing not only the self-response but also the portion of the total addresses that we've counted through the nonresponse process, and then, therefore, the total percentage of all housing units, addresses, at the state level. Every day we refresh that. So right now, anybody in the world, yourself and other people, can monitor that on a daily basis, and I sense you are, which is cool. … So, I think, when should people be concerned, you know? In my world, you know, if I've got a state that's in the 80 percent complete, and let's say it's the, you know, the middle of September, I'm sweating bullets. You know, at that point if I'm at 85 or 90, I'm fine. Probably 80 percent, that's a lot to overcome. Now you can bet that we'll be moving people around. We might be changing management teams. You know, we'll do all the things that we normally do when we're behind in an area.

…

Obviously, having a little more time is a great thing. You know, if we have areas that are messed up, it gives us a little wiggle room to un-mess them up. That's not a very elegant way to put it, but that's what I'm trying to say.

Mr. Fontenot

Q: And if you would have gotten the schedule extension, is it your belief that the operational—the operational schedule that would have allowed—would have

allowed for a more accurate Census?

A: Anytime you have more time it reduces risk, and that would have reduced our risk.

Q: Right. So having more time on the back end to process the data and having more time to do the field operations would help you reduce the risk of errors in the data that you deliver. Is that accurate?

A: That is accurate.

…

Q: However, during the time where you were creating a plan for the Secretary to meet the statutory deadline of December 31st, did that plan include any scale back or elimination of quality control mechanisms?

A: I would say it included modification of quality control procedures.

Q: Did that include any curtailment, scaling back, or elimination of any quality control mechanisms?

A: We scaled back random re-interview.

…

Q: Were there other operations besides the interviewing that were curtailed or eliminated under the revised plan? It's yes or no.

A: Data collecting operations? Is that the question?

Q: Whichever systems were curtailed or were eliminated under the operational plan.

A: There were some post-enumeration review activities that were modified.

…

Q: Were there any others?

A: We had a second review of recorders, a Census review with state demographers that we canceled the second review. We had done a first review … that was very thorough, gave us very effective responses from the state demographers. We canceled COR2, which is what we called it, because we ran out of time.

…

Q: How have the risks to a complete and accurate Census been increased by not having a statutory time waiver passed by Congress?

A: Not having a statutory time waiver required us to do—compress the activities into

a shorter time period.

Q: And has every risk that's been introduced been mitigated?

A: We believe so, yes.

…

The primary risk that was introduced was the time risk. We have less time to complete the operation. By having less time, if unplanned events occur, such as the hurricane, they increase—we have an increased risk of how we handle that within the time frame. See, there are other risks we pretty much mitigated with plans to make sure we get people on the ground, make sure those people are able to get good productivity and they're able to enumerate, that we have looked at all the processes and on a clean white sheet of paper the back end processes and said what do we need to do to accurately check this information and move through the process when we redesigned it. We hate to redesign something this close into the Census. This should have been redesigned in 2015.

…

Q: And, Mr. Fontenot, have any Census Bureau officials expressed concerns about the Bureau's ability to compile and deliver accurate data by December 31st?

A: At the beginning of the process, everyone expressed concerns about that. As we got into how we were going to do it and start to work the process and development, people became confident in our ability to accurately deliver the data as they reviewed the processes. When they didn't have a process except the prior process, everyone started, including me, saying, well, that's going to be impossible, which I've quoted publicly saying we're past the deadline for making those changes. With the systems and plan that was developed for the 2020 Census initially, that—it was a true statement. As we revised our internal plans, put in new checks, mitigated risks, we now are at the state where people have really assessed it and have a sense of confidence that we can deliver an accurate count.

…

Q. Okay. So you are—so you're confident that this will be done by September 30th?

A: Yes.

Q: Okay. And then—and also so do you believe that the remaining—that the data will then be recorded at the end of the year on schedule?

A: Yes, I do.

Deputy Director Jarmin

Q: What was the—what was the presentation or what were the materials that were brought to that—to that meeting at 8:00 a.m. on Monday [August 3, 2020]?

A: I think it summarized changes in field procedures. Well, not so much procedures but, you know, things that we would do to try to make sure that we had enough boots on the ground to get it done in the time that we had. You know, the folks that were responsible for back end processing crashed the schedule as much as they could and they came up with the date of September 30th that they would need us to get out of the field so that processing could begin. So it was, essentially, that kind of information that we—that we put together. It was—it was a test of what is a feasible critical path to get us to be able to meet the statutory deadline for the apportionment counts in the time that we have.

...

Q: Are there risks that have been introduced with changing some of the systems to run concurrently instead of sequentially?

A: To my understanding, the risks are generally from the compressed time, not from changes in any processes. We're essentially running the same things that we were planning to do. We're just doing them faster. I think the main risk that we're concerned about in data processing is if there are data issues that arise that we did not anticipate. Obviously, we don't have as much calendar time to address those issues and resolve them. And, you know, in every past Census I think some issue like that arose. Whether it takes too much time, you know, to meet the deadline or not, we don't know the answer to that question. We've done a lot of things to try to minimize the probability that we'll have those sorts of issues. But speaking from experience, those sorts of issues always do seem to arise.

...

Q: And so where we sit today, the—September 30th is the deadline to finalize collecting the data. Is that correct?

A: That's correct. That is to allow us the two and a half months that we need to process the data on the back end.

Q: Okay. And so do you think that that is a sufficient time to process the data?

A: You know, I think the analysis that our team has done and looked at how they can move things around and condense a few things I would say yes. I mean, that is—you know, that is their assessment and they are good professional people. You know, I, obviously, don't have, you know, firsthand detailed knowledge of all of the steps of processing the Decennial Census.

Q: Sure. And when you say that—when you say that, do you mean that that is—that time frame, that deadline, it's based on analytics?

A: Yeah. It's based on an assessment of the team knowing the steps that need to be done and how they can do them, and they've put it all—you know, we have a very elaborate, you know, master schedule of everything here that we use to guide our planning and our execution. And so I think that they have looked at things and come up with a way that we can meet the current statutory deadline.

...

Where we think that we have some risk is, you know, you got both the pandemic and the potential for other natural disasters that might, you know, complicate our ability to put those resources on the ground in the time remaining, and if those sorts of risks are realized I think we would—then we would be concerned. But I think if none of those are realized between now and September 30th, I think we're confident that we'll get every state up to completion.

...

Q: Yesterday, both Mr. Fontenot and Mr. Olson touched on this but I'm going to quote Mr. Olson because it's slightly more fun. He said more time would be better during the process. Do you agree with both of them that ideally more time would be better both for data collection and data processing?

A: Absolutely.

...

Q: And so GAO released a report yesterday that sort of talked about some of these delays and the risks that are involved and they said that the shortening of these time lines and also for data processing makes it—there's less time available for a variety of things and increases the risk. Can you talk about the risks that increase with less time?

A: So yeah, I think—I didn't read the whole report but I saw that it came out, and they sort of echoed not only their concern but our concern as well that, you know, one of the biggest risks to the Census is a late design change and, you know, we're talking about late design change here. And, you know, I think the risks that they—that they are probably referring to are the same ones that I've been mentioning here. They're the risks that something could preclude us from getting out of the field on time, and I will say if we don't get out of the field on time, I don't think there's much more we can do to crash the processing schedule. If we don't get out of the field on time, we're probably not going to make the deadline. So that's really the biggest risk.

During his briefing with Committee staff, Deputy Director Jarmin also explained how he and Director Dillingham were tasked to develop this expedited schedule, which appears to be

reflected in the new document obtained by the Committee. He stated that on July 29, 2020—the same day that the Oversight Committee held its hearing with Director Dillingham—Deputy Commerce Secretary Karen Dunn Kelley instructed them during a telephone conversation that Secretary Ross wanted them to create a new plan to deliver the apportionment count without any statutory extension. She asked for this plan in time for a meeting with Secretary Ross on August 3, 2020, the date of the document obtained by the Committee.

Specific States at Risk of Undercount

During their briefings with Committee staff, Census Bureau officials discussed the status of several states of concern, including Alabama, Arizona, Georgia, Texas, Mississippi, Florida, Montana, New Mexico, North Carolina, South Carolina, and Louisiana. As of August 31, 2020, many states remain well below the national response rate, and Census Bureau officials warned that states and tribal areas facing severe coronavirus outbreaks and the worst projected hurricane season in history could face additional challenges.

Mr. Olson

Q: Can you explain, you know, why you think we're seeing those low numbers in Georgia?

A: Well, let me expand it beyond Georgia—so North Carolina, South Carolina, Georgia, Florida, Mississippi, Alabama, Louisiana to some extent, and Texas. That whole swath of states, if you think about it as the Southeast going into, I guess, South Central. Add in Arizona. You know, proportionally, if you considered 70, 75 percent overall completion kind of the norm, they're below that. The factors for that, you know, the self-response, it is what it is. You know, we've got a starting point of self-response. They're still coming in. They're coming in every day. It just means we have more work to do in the non-response, the door-knocking phase. Those areas, obviously they're the same areas that are in the hurricane zone. And so I previously talked about, you know, what keeps me up at night. The hurricane forecast is certainly part of that, because we are dependent on completing by 9/30. You know, we're dependent on our ability to count all of those households 100 percent, and there's certainly risk in those areas.

...

Q: Can we talk a little bit about states that have enormous Tribal populations, because I know some Indian country is imposing pretty strict COVID restrictions, and that's causing, according to public reports, issues with enumerators getting on these reservations to enumerate. So I think that's in states like Montana, Oklahoma, maybe some parts of Utah, Arizona of course, New Mexico. Can you talk a little bit about the difficulties you're seeing of those reservations not being counted?

A: Well, it's not—from my world it's not an acceptable outcome that we don't count them, period. What we are doing—because you're absolutely right. In Indian Country, particularly Montana, Arizona, New Mexico, those are the three primary states where we have challenges, where specific Tribal governments, on their lands, on their reservations, have shut down to the public to come into their sovereign nation, to prevent, you know, a horrible outcome of coronavirus.

...

Q: What worries you the most about the 2020 Census? As you sit here today, what are you most concerned about?

A: Yeah. I mean, we've referenced it in and out of this conversation. The obvious is just doing the math on my side. As long as I can have the number, the hour effort goes in and the productivity standards that go in to collect the data, as long as I can achieve that, you know, we're good. We're good. But I talked about the risks. There are unknowns. The worst hurricane season forecast on record, you know, that we got briefed by National Weather Service I think six or eight weeks ago or so—those are unknowns. You know, is Hurricane Laura going to come up and down the Gulf Coast or the Atlantic Coast? Those are things out of my control, you know. ... That's my worry that—you know, that's the risk we face. That's the risk all of us face. Can we get to done if that kind of thing occurs, and it occurs more than once? And it doesn't matter how many bodies I send in, or how much money we try to spend, we may not get there by 9/30, just because of conditions out of everybody's control. That's what keeps me up at night.

Mr. Fontenot

Q: I've been reading articles from states like Montana and Utah that have enormous tribal populations that are also suffering from coronavirus outbreaks and, you know, there have been reports from these states, I think including Utah and Arizona and Montana, that state that enumerators aren't being allowed onto reservations because of the coronavirus in those states. Can you explain a little bit about the risks created by the—

A: Yeah, the challenges are bigger in Arizona and Nevada and some of those states than Montana and Utah because the biggest population that has been a challenge with COVID is the Navajo Nation. The Navajo Nation spans four states. But the primary part of the population is in Arizona and New Mexico, and we have had significant difficulties getting onto the reservation because of COVID quarantines put on by tribal government. Our partnership staff has been working very closely with them. We've been looking to hire members of those tribes to work within the reservations that may not have to go through the stand down quarantines to go in to help us get the count. I mean, that's—that is an issue when we do not have a

virus—the tribal negotiations, but it's a much more serious issue in 2020 with the coronavirus impact on the tribal nation areas being disproportionately high.

…

Q: I know that the news this morning discussed the landing of Hurricane Laura in the Gulf of Mexico and that some of those states that are being hit are ones where the Bureau is planning or had planned to continue operations with people on the ground during NRFU, and I just wanted to ask a few questions about how the Bureau is going to be adapting its operations to address some of those states. …

A: We see 34,000 unfinished cases that are being impacted in the state of Louisiana. The entire workload, we feel, will have some impact in the state of Louisiana, and a portion of west—of eastern Texas along the Louisiana border is being impacted. We've closed temporarily eight of our area Census offices in Texas and four in Louisiana at this point in time.

Dr. Jarmin

Q: What are you most worried about in general related to the success of the 2020 Census?

A: Well, I would say it's getting out of the field by September 30th, and so, you know, we had a big scare yesterday and we're still not out of—you know, not only is it not advisable to do a Census during a pandemic, it's not advisable to do a Census during hurricane season. And so we still have—you know, the rest of the data collection is still going to be during hurricane season and that could really be something that throws a wrench in the works for us. And so, you know, some sort of exogenous event like that or, you know, a big spike in COVID cases that makes people leery about participating either as—either as enumerators or as householders.

GAO Also Warns of Risks from Compressed Schedule

On August 27, 2020, Congress' investigative arm, the nonpartisan GAO, issued its own new report warning about the risks of an inaccurate Census with the current statutory deadlines. The report, titled "Recent Decision to Compress Census Timeframes Poses Additional Risks to an Accurate Count," stated:

> Delays to census data collection operations as a result of COVID-19, the resulting compressed time frames, and public health concerns may affect the quality of the data collected as part of the 2020 census in several ways.[8]

[8] Government Accountability Office, *Recent Decision to Compress Census Timeframes Poses Additional*

Specifically, GAO expressed concerns about the "accuracy of data collected," the "completeness of data collected," and "data quality." GAO warned that computer system and operational testing for data processing was 3.5 months "behind schedule" and that "there will be less time available to complete the remaining system integration testing and operational testing needed before the response processing operation begins."[9]

GAO also warned:

> The Bureau's August announcement that it intends to deliver the apportionment counts to the President by December 31, 2020, increases the risks associated with conducting the data processing operation … The decision to deliver apportionment data by December 31 despite delays to certain data collection operations means the Bureau will have less time to conduct its post data collection activities, which improve the completeness and accuracy of census data. These activities were designed to take 153 days, but will have to be completed in 92 days.[10]

Conclusion

For the past five months, experts at the Census Bureau have been requesting additional time to conduct and complete operations that have been delayed by the coronavirus crisis. As Mr. Olson explained to Committee staff last week:

> I was made aware that there was concurrence and support for those extended time periods within Commerce, and certainly OMB. And we know, from the record, that the House of Representatives … had actually passed legislation or a bill that would include that extension, and we were, I guess through the grapevine, I was told that there was support in the Senate for that. So we were moving ahead with, as I said, the hope, the hope that this extension would materialize.

To Mr. Olson's point, Republican Senator Steve Daines sent a letter to Senator McConnell and Senator Schumer on August 4, 2020, in support of these extensions, writing:

> Given the rural nature of Montana, and the additional challenges brought about by the ongoing COVID-19 pandemic, reverting the deadline back to September 30, 2020 will leave tens of thousands of Montanans uncounted and underrepresented at the federal level. Nearly half of the households in the state have yet to be counted.[11]

Risks to an Accurate Count (GAO-20-671R) (Aug. 27, 2020) (online at www.gao.gov/products/GAO-20-671R).

[9] *Id.*

[10] *Id.*

[11] Letter from Senator Steve Daines to Senate Majority Leader Mitch McConnell and Senate Minority Leader Charles E. Schumer (Aug. 4, 2020) (online at https://assets.documentcloud.org/documents/7016669/Aug-4-

Similarly, a week later, on August 11, 2020, a bipartisan group of 48 senators—including Senator Lisa Murkowski and Senator Dan Sullivan—sent a letter asking all four of you to pass these statutory extensions. They wrote:

> [W]e strongly urge you to extend the statutory deadlines for the delivery of apportionment data and redistricting files following the 2020 Census. … Extending the deadlines for the delivery of these files in the next COVID-19 relief package will ensure that the Census Bureau has adequate time to complete a full, fair, and accurate 2020 Census. It will also ensure that both the Congress and the states receive accurate data for apportionment and redistricting.[12]

The new information obtained by the Oversight Committee makes clear that Congress must act now to fulfill our responsibility under the Constitution to help ensure an accurate and complete count for the 2020 Census. If we do not, our constituents—both Democrats and Republicans—could be directly harmed.

For all of these reasons, the Committee asks the Senate to immediately consider and pass legislation to extend the statutory deadlines for the 2020 Census. If you have any questions, please contact Committee staff at (202) 225-5051.

Sincerely,

Carolyn B. Maloney
Chairwoman

cc: The Honorable James R. Comer, Ranking Member

2020-Letter-From-Sen-Steve-Daines-to.pdf).

[12] Letter from 48 Senators to House and Senate Leadership (Aug. 11, 2020) (online at www.schatz.senate.gov/imo/media/doc/FINAL%20Letter%20re.%20census%20deadline%20extensions%20in%20COVID-19%20pacakge,%208-11-20%20(1).pdf).

From: Martin, Nicole (Federal) [NMartin1@doc.gov]
Sent: 8/24/2020 12:13:10 PM
To: Jarmin, Ron S [ron.s.jarmin@census.gov]; Goudarzi, Talat (Federal) [TGoudarzi@doc.gov]; Battle, Karen [karen.battle@census.gov]; Schedule, Secretary's b(6) @doc.gov]; Meredith, Ethan (Federal) [EMeredith@doc.gov]; Overholt, Benjamin A [benjamin.a.overholt@census.gov]; Jones, Christa D [christa.d.jones@census.gov]; LoPresti, Barbara M [barbara.m.lopresti@census.gov]; Fontenot, Albert E [albert.e.fontenot@census.gov]; Paranzino, Anthony (Federal) [AParanzino@doc.gov]; Bishop, Deirdre D [deirdre.dalpiaz.bishop@census.gov]; Thieme, Michael T [michael.t.thieme@census.gov]; Barranca, Steven (Federal) [SBarranca1@doc.gov]; Lamas, Enrique [enrique.lamas@census.gov]; Cogley, Nathaniel [nathaniel.cogley@census.gov]; Velkoff, Victoria A [victoria.a.velkoff@census.gov]; Abowd, John M [john.maron.abowd@census.gov]; Dillingham, Steven [steven.dillingham@census.gov]; Walsh, Michael (Federal) [MWalsh@doc.gov]; Keller, Catherine (Federal) [CKeller@doc.gov]; Blair, Robert (Federal) [RBlair@doc.gov]
Subject: Small Group Briefing
Attachments: b(5) - DP ATT00001.htm; b(5) - DP ATT00002.htm

Hi all,

Attached are the PowerPoint's that will be referenced during today's call.

Best,
Nicole

Small Group Briefing
Scheduled: Monday, Aug 24, 2020 from 2:30 PM to 3:45 PM
Location: b(6)
Invitees: Jarmin, Ron S, Goudarzi, Talat (Federal), Battle, Karen, Schedule, Secretary's, Meredith, Ethan (Federal), Overholt, Benjamin A, Jones, Christa D, LoPresti, Barbara M, Fontenot, Albert E, Paranzino, Anthony (Federal), Bishop, Deirdre D, Thieme, Michael T, Barranca, Steven (Federal), Lamas, Enrique, Cogley, Nathaniel, Velkoff, Victoria A, Abowd, John M, Dillingham, Steven, Walsh, Michael (Federal), Keller, Catherine (Federal), Blair, Robert (Federal)

Nicole Martin
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Department of Commerce
NMartin1@doc.gov
Cell: b(6)

From: Martin, Nicole (Federal) [NMartin1@doc.gov]
Sent: 8/21/2020 10:11:39 AM
To: Dillingham, Steven [steven.dillingham@census.gov]; Smith, Steven K [steven.k.smith@census.gov]; Jarmin, Ron S [ron.s.jarmin@census.gov]; Lamas, Enrique [enrique.lamas@census.gov]; Jones, Christa D [christa.d.jones@census.gov]; Fontenot, Albert E [albert.e.fontenot@census.gov]; Stempowski, Deborah M [deborah.m.stempowski@census.gov]; Velkoff, Victoria A [victoria.a.velkoff@census.gov]; Thieme, Michael T [michael.t.thieme@census.gov]; Cogley, Nathaniel [nathaniel.cogley@census.gov]; Korzeniewski, Adam (Federal) [AKorzeniewski@doc.gov]; Bishop, Deirdre D [deirdre.dalpiaz.bishop@census.gov]; LoPresti, Barbara M [barbara.m.lopresti@census.gov]; Overholt, Benjamin A [benjamin.a.overholt@census.gov]; Abowd, John M [john.maron.abowd@census.gov]; Walsh, Michael (Federal) [MWalsh@doc.gov]
Subject: Census Pre Brief
Attachments: b(5) - DP Census 2020 Backend Processing DRAFT 2.6.pptx

All,

Attached are updated slides and additions for today's call.

Nicole

Nicole Martin
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From: Martin, Nicole (Federal) [NMartin1@doc.gov]
Sent: 8/21/2020 9:56:45 AM
To: Dillingham, Steven [steven.dillingham@census.gov]; Smith, Steven K [steven.k.smith@census.gov]; Jarmin, Ron S [ron.s.jarmin@census.gov]; Lamas, Enrique [enrique.lamas@census.gov]; Jones, Christa D [christa.d.jones@census.gov]; Fontenot, Albert E [albert.e.fontenot@census.gov]; Stempowski, Deborah M [deborah.m.stempowski@census.gov]; Velkoff, Victoria A [victoria.a.velkoff@census.gov]; Thieme, Michael T [michael.t.thieme@census.gov]; Cogley, Nathaniel [nathaniel.cogley@census.gov]; Korzeniewski, Adam (Federal) [AKorzeniewski@doc.gov]; Bishop, Deirdre D [deirdre.dalpiaz.bishop@census.gov]; LoPresti, Barbara M [barbara.m.lopresti@census.gov]; Overholt, Benjamin A [benjamin.a.overholt@census.gov]; Abowd, John M [john.maron.abowd@census.gov]; Walsh, Michael (Federal) [MWalsh@doc.gov]
Subject: Census Pre Brief
Attachments: b(5) - DP

Good morning everyone,

Attached are the two PowerPoints being reviewed during this morning's call.

Happy Friday,
Nicole

Nicole Martin
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From: Kelley, Karen (Federal) [KKelley@doc.gov]
Sent: 8/17/2020 10:33:04 AM
To: Dillingham, Steven [steven.dillingham@census.gov]; Cogley, Nathaniel [nathaniel.cogley@census.gov]; Meredith, Ethan (Federal) [EMeredith@doc.gov]; Olson, Stephanie (Federal) [SOlson@doc.gov]; Walsh, Michael (Federal) [MWalsh@doc.gov]; Keller, Catherine (Federal) [CKeller@doc.gov]; Jarmin, Ron S [ron.s.jarmin@census.gov]; Jones, Christa D [christa.d.jones@census.gov]; Velkoff, Victoria A [victoria.a.velkoff@census.gov]; Abowd, John M [john.maron.abowd@census.gov]; Lamas, Enrique [enrique.lamas@census.gov]
CC: Martin, Nicole (Federal) [NMartin1@doc.gov]

Subject: Census Pre-Brief
Attachments: b(5) - DP
Location: b(6)

Start: 8/17/2020 10:30:00 AM
End: 8/17/2020 11:30:00 AM
Show Time As: Tentative

Required Attendees: Dillingham, Steven; Cogley, Nathaniel; Meredith, Ethan (Federal); Olson, Stephanie (Federal); Walsh, Michael (Federal); Keller, Catherine (Federal); Jarmin, Ron S; Jones, Christa D; Velkoff, Victoria A; Abowd, John M; Lamas, Enrique
Optional Attendees: Martin, Nicole (Federal)

Dial-in: b(6)
Participant: b(6)

Leader b(6)

From: Martin, Nicole (Federal) [NMartin1@doc.gov]
Sent: 8/17/2020 12:58:50 PM
To: Dillingham, Steven [steven.dillingham@census.gov]; Cogley, Nathaniel [nathaniel.cogley@census.gov]; Meredith, Ethan (Federal) [EMeredith@doc.gov]; Olson, Stephanie (Federal) [SOlson@doc.gov]; Walsh, Michael (Federal) [MWalsh@doc.gov]; Keller, Catherine (Federal) [CKeller@doc.gov]; Jarmin, Ron S [ron.s.jarmin@census.gov]; Jones, Christa D [christa.d.jones@census.gov]; Velkoff, Victoria A [victoria.a.velkoff@census.gov]; Abowd, John M [john.maron.abowd@census.gov]; Lamas, Enrique [enrique.lamas@census.gov]; Paranzino, Anthony (Federal) [AParanzino@doc.gov]
CC: Goudarzi, Talat (Federal) [TGoudarzi@doc.gov]; Barranca, Steven (Federal) [SBarranca1@doc.gov]; Blair, Robert (Federal) [RBlair@doc.gov]
Subject: Small Group Briefing
Attachments: b(5) - DP

Hi all,

Please find the PowerPoint that will be referenced during today's call.

Best,
Nicole

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From: Barranca, Steven (Federal) [SBarranca1@doc.gov]
Sent: 8/17/2020 12:40:55 PM
To: b(6) @efaxsend.com
CC: Walsh, Michael (Federal) [MWalsh@doc.gov]
Subject: For 2:00pm Call Only
Attachments: b(5) - DP

From: Ali Mohammad Ahmad (CENSUS/ADCOM FED) [ali.m.ahmad@census.gov]
Sent: 8/11/2020 2:50:26 PM
To: Walsh, Michael (Federal) [MWalsh@doc.gov]; Risko, Daniel (Federal) [DRisko@doc.gov]; Burris, Meghan (Federal) [MBurris@doc.gov]; Ambrosini, Vanessa (Federal) [VAmbrosini@doc.gov]; Davis, Caitlin (Federal) [CDavis4@doc.gov]; Tucker, Caroline (Federal) [CTucker@doc.gov]; Foti, Anthony (Federal) [AFoti@doc.gov]; Brebbia, Sean (Federal) [SBrebbia@doc.gov]
CC: Stanley, Christopher J [christopher.j.stanley@census.gov]
Subject: Fw: NPR - 'Not Enough Time': Census Workers Fear Rushing Count Could Botch Results

b(5) - DP

Tomorrow a.m. we expect Financial Times to include a story about an supervisor who is claiming termination because he was concerned about the people who are being interviewed not wearing masks.

Ali Ahmad, Associate Director
Communications Directorate
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From: Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov>
Sent: Tuesday, August 11, 2020 2:46 PM
To: Steven Dillingham (CENSUS/DEPDIR FED) <steven.dillingham@census.gov>; Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>; Albert E Fontenot (CENSUS/ADDC FED) <Albert.E.Fontenot@census.gov>; Nathaniel Cogley (CENSUS/DEPDIR FED) <nathaniel.cogley@census.gov>; Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; Christa D Jones (CENSUS/DEPDIR FED) <Christa.D.Jones@census.gov>; Timothy P Olson (CENSUS/ADFO FED) <Timothy.P.Olson@census.gov>; James T Christy (CENSUS/LA FED) <James.T.Christy@census.gov>; Michael T Thieme (CENSUS/ADDC FED) <Michael.T.Thieme@census.gov>; Deborah Stempowski (CENSUS/ADDC FED) <Deborah.M.Stempowski@census.gov>
Subject: NPR - 'Not Enough Time': Census Workers Fear Rushing Count Could Botch Results

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'Not Enough Time': Census Workers Fear Rushing Count Could Botch Results
NPR – Hansi Lo Wang, August 11

With 50 days left to count every person living in the U.S., Census Bureau workers around the country are facing what many consider an increasingly impossible mission.

Already hampered by the coronavirus pandemic, a shortened schedule for counting has exacerbated lingering challenges in dealing with health risks, retaining workers and deploying new technology for the 2020 census, which is now wrapping up in the middle of a historic hurricane season.

"There's just not enough time to do all the work that needs to be done," one office operations supervisor tells NPR.

In the week since the Census Bureau announced that all counting efforts would end a month early on Sept. 30, NPR spoke with 13 current and former employees of the bureau — 11 of whom were interviewed on the condition of anonymity because they feared retaliation for speaking out.

Their perspectives underline the array of difficulties confronting the bureau as it attempts to finish tallying the country's residents, as required once a decade by the Constitution, in order to determine each state's share of seats in Congress and votes in the Electoral College for the next decade.

The task of reaching the estimated 4 in 10 households nationwide — or around 56 million addresses — that have not yet filled out a census form falls largely on the shoulders of the bureau's door knockers, also known as enumerators, and other temporary workers who support the operations based out of the country's 248 local census offices. In more than half of states and many local communities, census workers are trying to surmount self-response rates even lower than the national average of around 63% with fewer weeks in the field now that the Trump administration has shortened the schedule.

"It just doesn't seem logical to push this with all of these odds against us. You're looking at all this and you're just thinking, 'Are we working on the same team?' " says a census field supervisor in Florida, where growing outbreaks have dampened the bureau's efforts to ramp up operations. "It does not feel like we have the same mission in mind. We're trying to get a complete count. I'm not sure everyone on the team has the same mission."

Enumerators began fanning out nationwide this week, after starting door knocking in some parts of the country in mid-July. They are attempting to conduct a socially-distanced interview with each unresponsive household in up to six days in total. As a last resort, they may try to speak with their neighbors or building manager. The bureau has relied on these efforts to try to make sure people of color, immigrants and other historically undercounted groups, who are less likely to respond to the census on their own, are not underrepresented in census data.

The urgency to complete the count by Sept. 30, Census Bureau Director Steven Dillingham said in a statement last week, comes from a directive by Commerce Secretary Wilbur Ross, who oversees the bureau, stemming from pressure to produce the latest state population totals for reapportioning Congress to the president by Dec. 31 as required by federal law.

The scheduling change has stirred up confusion and chaos within many area census offices, which, for months, had planned to count through Oct. 31. That date came from a revised schedule that in April, Ross himself presented to Congress — and President Trump publicly supported — as a way to overcome pandemic-related delays.

Since then, however, only Democrats in Congress have introduced legislation that would extend legal census deadlines to allow for a longer counting timeline, while Republican leaders have signaled they're willing to cut counting short.

Census field supervisors tell NPR that the shortened counting period has made the door-knocking job — which can pay as low as $13.50 an hour in central West Virginia and as high as $30 an hour in California's Bay Area — less enticing for some job applicants.

"People are afraid. They don't want to get sick for a temporary job," says the census field supervisor in Florida.

As of Aug. 1, the bureau's payroll for the 2020 census includes more than 155,000 temporary workers — about a third of the half-million-strong workforce the bureau has said it needs to complete the count. While the bureau says that more

than 900,000 job applicants have accepted job offers, concerns about the pandemic have led to more no-shows and drop-outs during the training process.

For past counts, the bureau has relied on retirees to help fill its pool of workers, especially during periods of low unemployment. But the pandemic has now made many older adults, who are at higher risk of becoming severely ill, a mismatch for conducting in-person census interviews.

Stanley Grabia, 73, spent around 20 hours training to be a door knocker in Maryland before he decided to quit.

"The older people who are retired and don't really need the money are doing it because they believe in democracy and they believe in the census," says Grabia, a retired attorney with the Department of Veterans Affairs. He says he knew it was time to quit when he saw what he describes as "the absolute, total lack of any type of real protection for any of the employees."

In a joint statement released last week with the bureau, the Centers for Disease Control and Prevention said that participating in in-person interviews with the bureau's workers "should present a low risk of transmission of COVID-19."

The bureau says it provides field workers with cloth face coverings and hand sanitizer, in addition to training employees to maintain 6 feet of social distance, avoid entering homes and conduct interviews outside as much as possible. Its protocols, the bureau says, have been reviewed by career staff at both the Department of Health and Human Services and the CDC.

But it took months after the CDC began recommending mask-wearing in April for the bureau to publicly announce in a statement to NPR that all staffers who interact with the public are required to be masked while working. The bureau had previously said that workers will wear them "if masks are required in the area" where they're door knocking.

Still, some employees at the bureau's area census offices say they don't see a heavy emphasis on worker safety.

"The whole safety thing was way down below the priority to get the job done," a former enumerator, who recently quit after door knocking in the Midwest, tells NPR.

The former employee was disappointed that training did not include any extensive discussion about what to do when social distancing was not possible or when encountering someone not wearing a mask.

"It was really up to the census workers to figure it out," says the former enumerator, who did not wear the bureau-issued face covering because it did not fit and instead bought disposable masks to use while working.

Asked for its backup plan in case it cannot complete door-knocking efforts in an area due to COVID-19 or a hurricane, the bureau told NPR in a statement that it is "committed to a complete and accurate count by Sept. 30."

"As [area census offices] have hired and census takers have completed training we have been working to get census takers out into the field as quickly as possible," the bureau said.

In a statement to the House Oversight and Reform Committee last month, Dillingham, the bureau's director, said local offices are conducting "replacement trainings on an ongoing basis" to try to make sure there are enough door knockers. This week, the bureau said it's offering up to an $800 bonus to enumerators who put in more hours in August.

Still, many supervisors at area census offices tell NPR they are concerned offices are rushing newly hired temporary workers into the field.

"We're just sending bodies out regardless of whether they're ready or not," says a census field supervisor working in the Mid-Atlantic.

In the scramble to get up and running, some enumerators have been caught in technical delays.

Alex Goulder, a recently hired door knocker in Boulder, Colo., says he lost out on six potential workdays because he was unable to complete online training.

"It's very frustrating because I know that there's this hard deadline," Goulder says. "I know that there are a lot of people out there that need to be counted and that essentially every day that I don't work, there are people that will go uncounted."

Door knockers are also each equipped with an iPhone 8 to collect and upload census responses from the field. But figuring out how to unlock the phone with a passcode and navigate the pre-installed apps has been a steep learning curve for some enumerators, NPR has learned.

"We do not have enough time to hand-hold every single person," an office operations supervisor who specializes in IT tells NPR. "Most enumerators are retired. Sometimes this is their first smartphone. They're more used to flip phones."

The technology is just another challenge piled on top of the pandemic and the time crunch.

"This is what's making my stomach hurt. There's so much that isn't right about this," says a census field supervisor in California. "I know for the next 10 years, it won't be an accurate count. I don't know what we can do about it."

Many census workers say that while they can still carry their equipment and badges, they are dedicated to knocking on as many doors as they can to try to make sure that the census data are as complete as possible and that communities get their fair share in federal funding and political representation.

"One more is better than zero," says the census field supervisor working in the Mid-Atlantic. "I would take that any given day."

The timeline facing census workers may change if Congress does pass a law soon that extends deadlines. But last week, House Speaker Nancy Pelosi, D-Calif., signaled that discussions about the census have not gotten very far in negotiations with Republican leaders for the next coronavirus relief package.

This week, Sen. Jeanne Shaheen of New Hampshire, the top Democrat on the Senate appropriations subcommittee that funds the bureau, asked for the Commerce Department inspector general to investigate the decision to speed up the census schedule.

"I believe that this deviation in schedule is driven not by expert opinions of career Census Bureau employees but by external pressure from the White House and the Department of Commerce for perceived political gain," Shaheen wrote to Inspector General Peggy Gustafson.

The last-minute pivot has also raised concerns about the reliability of the count's results for Chris Mihm, managing director of the strategic issues team at the Government Accountability Office. The federal watchdog agency has kept the 2020 census on its list of "high risk" government projects since 2017.

Mihm says Census Bureau officials told the GAO that they were given "hours rather than days or weeks" to revise their plans to finish counting by the end of September.

"Each census has generally been an improvement in terms of the quality and completeness over the preceding census," Mihm adds. "We run a very real risk this time of backsliding."

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From: Ali Mohammad Ahmad (CENSUS/ADCOM FED) [ali.m.ahmad@census.gov]
Sent: 8/7/2020 11:41:53 AM
To: Walsh, Michael (Federal) [MWalsh@doc.gov]
Subject: Fw: Per Steve's email.
Attachments: DRAFT DELIBERATIVE Talking Points b(5) - DP and Draft Message.docx

Happy to talk but I've got a Hill call (fully cleared!) at 12 noon.

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From: Ali Mohammad Ahmad (CENSUS/ADCOM FED)
Sent: Thursday, August 6, 2020 6:15 PM
To: Risko, Daniel (Federal) <DRisko@doc.gov>
Subject: Per Steve's email.

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I'm the messenger on this and in no way an expert. If she has time to talk, she should call Dillingham. He's

b(5) - DP

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From: Risko, Daniel (Federal) [DRisko@doc.gov]
Sent: 8/3/2020 7:43:00 AM
To: Walsh, Michael (Federal) [MWalsh@doc.gov]
CC: Kelley, Karen (Federal) [KKelley@doc.gov]
Subject: operational and processing options to meet september 30 final.pdf
Attachments: operational and processing options to meet september 30 final.pdf; ATT00001.htm

Updated 7:42 AM.

Operational and Processing Options to Meet Statutory Date of December 31, 2020 for Apportionment

August 3, 2020

Pre-decisional - Internal Use Only - Not for Public Distribution

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Bottom Line Up Front

Objective: We have developed this plan in response to your request to provide an apportionment count by the statutory deadline of December 31, 2020.

- **Maximizing** staff and production hours for field data collection operations to conclude field data collection by September 30, 2020.
- **Compressing** and streamline backend processing to deliver apportionment counts by December 31, 2020.
- **Achieving** an acceptable level of accuracy and completeness, with a goal of resolving at least 99% of Housing Units in every state.

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BC-DOC-0000000260

Nonresponse Followup Operational Options

Early Start of Nonresponse Followup Operations
6 Cycle 1a Area Census Offices (ACOs) began operations on July 16
6 Cycle 1b ACOs began operations on July 23
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39 Cycle 3 ACOs were scheduled to begin operations by August 3: • 15 ACOs – Started last week, July 31 • 24 ACOs – Started today, August 3
All remaining ACOs were scheduled to begin August 11, but will begin operations by August 9: • 53 ACOs – Will start August 3 – 7 • 109 ACOs (all remaining) – August 9 • These ACOs will have to deploy staff regardless of the COVID-19 risk in those areas to open on these dates.

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BC-DOC-0000000261

Increased Replacement Training for Enumerators

Replacement Training Options	Potential Efficiency Gain / Applicable Costs to Implement
Inviting More People to Training	Over selection rates will address higher-than-expected no-show rates of 35%, bringing us closer to our target initial staffing levels.
Continual Replacement Training	Expect to conduct replacement training for at least 135K Enumerators due to attrition. Just over 11,000 training additional sessions: $90m total training cost

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BC-DOC-0000000262

Bonuses for Increased Work

Pay Bonus Options	Potential Efficiency Gain / Applicable Costs to Implement
Implement Enumerator Pay bonus to boost work hours from 19 to 25 per week: • Propose $100 for exceeding 25 hours/week	Expect 250,000 to qualify: $25m/week Increases capacity by 1.5 million work hours per week, or 80,000 more “19 hour” enumerators per week
Implement Enumerator Pay bonus for working multiple 25 hour weeks: • Propose $500 for completing 3 weeks of production • Can be renewed	Expect 150,000 to qualify: $75m total cost
Implement CFS Pay bonus for working multiple weeks: • Propose $750 for completing 3 weeks of production (from established start date) • Would require ‘acceptable’ minimum of 32 hours per week • Can be renewed	Expect 15,000 CFSs to qualify: $11.5m total cost per week

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United States Census 2020

BC-DOC-0000000263

Outreach Methods to Expand Reach to Underperforming Areas

Options	Potential Efficiency Gain / Applicable Costs to Implement
Expand the use of NRFU Travel Teams: • Moving teams that have successfully completed their areas to areas requiring additional attention	Using experienced staff minimizes the need to train new staff – particularly in areas where new staff are not available.
Implement outbound phone calling to conduct interviews: • Use telephone numbers from ERD Contact Frame • Used by enumerators in ACOs that are finishing up to help out in other ACOs	Enables enumeration in high COVID-19 risk areas and provides additional data collection capability.

Adjustments to NRFU Contact Strategy

NRFU Adjustment Options	Potential Efficiency Gain / Applicable Costs to Implement
Close out self-reported vacants that are also Administrative Record (AdRec) vacant	Reduce workload by 140k cases
Reduce contact attempts for self-reported vacants from 6 to 1, if HU is confirmed vacant	Increase enumerator productivity
Reduce contact attempts for Re-Interview (RI) and Self-Response Quality Assurance (SRQA) cases from 6 to 3	Reduce attempts from 6 to 3 for 1.9 million cases, increase enumerator productivity
Eliminate Random RI, and depend on analytic sampling	Reduce NRFU workload by 800k cases – potential reduction in quality of enumerator work
Make “pop count only” sufficient earlier in the operation	Still being researched, TBD

BC-DOC-0000000265

Implement Additional Administrative Record Options

Administrative Records Options	Potential Efficiency Gain / Applicable Costs to Implement
We are in consultation to revise our AdRec strategy to use IRS-only (no corroborating sources) for “pop count only” cases	Reduce attempts from 6 to 1 for estimated 3.8 million cases, contingent on IRS approval, increasing enumerator productivity
Close out cases with conflicting AdRec showing both vacant and delete	Reduce attempts from 6 to 1 for 1.9 million cases, increasing enumerator productivity

Overview of Backend Processing

Assumptions:

1. Highly compressed schedule for 2020 Census data processing and review of data products.
2. Post-processing must start by October 1, 2020.
3. Post-processing work activities are limited to those required to produce apportionment counts. Delivery of redistricting data products will be negatively impacted under this revised plan and we are determining full impacts.
4. All of these activities represent abbreviated processes or eliminated activities that will reduce accuracy.

BC-DOC-0000000267

Compressing Backend Processing

Adjusted Activity	Impact and Risks
Finalize Master Address File (MAF) updates from remaining field operations by 9/4/20 Address updates from continued field work after 9/4/20 will not be applied to the MAF	We do not anticipate that the resulting number of updates not included will be highly significant. However, increases risk of inaccuracy.
Eliminate the step that includes Decennial Statistical Studies Division (DSSD) review of the MAF extract	Risk of missing and therefore propagating errors, however the MAF is the most accurate ever.
Lock Geographic processing on 9/25/20 and deliver the final 2020 Census address universe by 10/14/20	Reduces a 35 day processing duration to 19 days.
Cancel Count Review Event 2, eliminating the need for late Group Quarters Enumeration (GQE) operations	State demographer review of GQ data will be cancelled. The Demographic and Decennial staffs will work together to develop the message and communicate it to the Federal State Cooperative for Population Estimates (FSCPE)/states. The risk is virtually certain vocal objections from the FSCPE State Demographers and the State Governors they serve.

BC-DOC-0000000268

Compressing Backend Processing - Continued

Adjusted Activity	Impact and Risks
Create a separate processing stream for the Enumeration of Transitory Locations (ETL) and Service Based Enumeration (SBE) operations that follows the Federally Affiliated Count Overseas (FACO) processing approach. This will enable adding ETL and SBE population counts state-by-state significantly later in the Census Unedited File (CUF) production process.	This file needs to be delivered to POP by the time the CUF – the basis for the apportionment delivery – review is scheduled to be complete, by December 18. Additionally, ETL permits the reporting of a Usual Home Elsewhere (UHE), which will not be able to be processed with this new approach. The CUF will have to be re-run prior to the processing of the Census Edited File (CEF) in order to add in the SBE/ETL population for the Public Law 94-171 Redistricting file. The Apportionment Team will need to change its processing plans and conduct testing to ensure the proper integration of ETL/SBE state counts.
Compress POP division and DSSD review and processing times	A compressed review period creates risk for serious errors not being discovered in the data – thereby significantly decreasing data quality. Additionally, serious errors discovered in the data may not be fixed – due to lack of time to research and understand the root cause or to re-run and re-review one or multiple state files.
Compress time for creating/verifying apportionment data and preparation of transmittal package for DOC	A compressed review period creates risk for errors being present in the data.

Implementation of the Presidential Memo

A team has been established and is tasked with deriving a process utilizing sound statistical methods and meeting tests of operational feasibility, to achieve the goals of directives from Secretary Ross regarding implementation of the Presidential Memo. To achieve this, the Census will:

- Build upon the work we have already done based on Executive Order 13880, "Collecting Information about Citizenship Status in Connection with the Decennial Census".
- Use all administrative records to the extent they are available. Using these records, in combination with other data already obtained regarding citizenship status, we will further refine the non-citizen category into legal, illegal, or unknown.
- Incorporating this work into the schedule to meet the current legal mandates.

BC-DOC-0000000270

Announcing the Replanned Operational Schedule

- **Announce:** Statement from Director Dillingham issued by Monday afternoon or as approval given with new schedule and re-plan outline.

- **Update Webpage:** We will update central schedule webpage with new dates. (current page reflects re-planning status)

- **Rollout:** We will follow a controlled rollout to give appropriate embargoed heads up to key Congressional offices, and then post and distribute the updated materials to Census Bureau staff, partners, intergovernmental stakeholders, and the media.

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BC-DOC-0000000271

Questions?

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United States Census 2020

BC-DOC-0000000272

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United States Department of Commerce
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drisko@doc.gov

From: Risko, Daniel (Federal) [DRisko@doc.gov]
Sent: 8/2/2020 5:03:26 PM
To: Walsh, Michael (Federal) [MWalsh@doc.gov]; Kelley, Karen (Federal) [KKelley@doc.gov]
Subject: Fwd: slides for 8AM
Attachments: Operational and Processing Options to meet September 30 Final.pdf; ATT00001.htm

Dan Risko
Chief of Staff
Office of the Deputy Secretary
United States Department of Commerce
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drisko@doc.gov

Begin forwarded message:

From: "Ron S Jarmin (CENSUS/DEPDIR FED)" <Ron.S.Jarmin@census.gov>
Date: August 2, 2020 at 4:18:02 PM EDT
To: "Risko, Daniel (Federal)" <DRisko@doc.gov>
Subject: slides for 8AM

Here you go.

Ron S Jarmin, PhD., Deputy Director
U.S. Census Bureau
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census.gov | @uscensusbureau
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Operational and Processing Options to Meet Statutory Date of December 31, 2020 for Apportionment

August 3, 2020

Pre-decisional - Internal Use Only - Not for Public Distribution

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BC-DOC-0000000276

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BC-DOC-0000000277

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BC-DOC-0000000278

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BC-DOC-0000000279

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BC-DOC-0000000281

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BC-DOC-0000000283

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BC-DOC-0000000284

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A team has been established and is tasked with deriving a process utilizing sound statistical methods and meeting tests of operational feasibility, to achieve the goals of directives from Secretary Ross regarding implementation of the Presidential Memo. To achieve this, the Census will:

- Build upon the work we have already done based on Executive Order 13880, "Collecting Information about Citizenship Status in Connection with the Decennial Census".
- Use all administrative records to the extent they are available. Using these records, in combination with other data already obtained regarding citizenship status, we will further refine the non-citizen category into legal, illegal, or unknown.
- Incorporating this work into the schedule to meet the current legal mandates.

BC-DOC-0000000286

Announcing the Replanned Operational Schedule

- **Announce:** Statement from Director Dillingham issued by Monday afternoon or as approval given with new schedule and re-plan outline.

- **Update Webpage:** We will update central schedule webpage with new dates. (current page reflects re-planning status)

- **Rollout:** We will follow a controlled rollout to give appropriate embargoed heads up to key Congressional offices, and then post and distribute the updated materials to Census Bureau staff, partners, intergovernmental stakeholders, and the media.

Shape your future START HERE >
United States Census 2020

BC-DOC-0000000287

Questions?

Shape your future START HERE >

United States Census 2020

From: Foti, Anthony (Federal) [AFoti@doc.gov]
Sent: 8/5/2020 12:43:43 PM
To: Brebbia, Sean (Federal) [SBrebbia@doc.gov]; Olson, Stephanie (Federal) [SOlson@doc.gov]; Walsh, Michael (Federal) [MWalsh@doc.gov]
Subject: Fwd: Chairman Serrano Letter to Secretary Ross RE: Census
Attachments: HPSCAN_20200805160236644.pdf; ATT00001.htm

FYI.

Anthony Foti
Performing the delegated duties of the
Assistant Secretary for Legislative and Intergovernmental Affairs
U.S. Department of Commerce
1401 Constitution Ave, NW
Washington, DC 20230
202-482-1148

Begin forwarded message:

From: "McCully, Shannon" <Shannon.McCully@mail.house.gov>
Date: August 5, 2020 at 12:20:31 PM EDT
To: "Foti, Anthony (Federal)" <AFoti@doc.gov>, "Phelps, Michael (Federal)" <MPhelps@doc.gov>
Cc: "Stanley, Christopher J" <christopher.j.stanley@census.gov>, "Page, Benjamin J" <benjamin.j.page@census.gov>, "Bonner, Robert" <Robert.Bonner@mail.house.gov>
Subject: Chairman Serrano Letter to Secretary Ross RE: Census

Good afternoon all,

Please see the attached correspondence from Chairman Serrano. A response is appreciated by August 11, 2020.

Thank you,
Shannon

Shannon McCully
Committee on Appropriations
202-604-7342

NITA M. LOWEY, NEW YORK, CHAIRWOMAN

MARCY KAPTUR, OHIO
PETER J. VISCLOSKY, INDIANA
JOSÉ E. SERRANO, NEW YORK
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ED CASE, HAWAII

Congress of the United States
House of Representatives
Committee on Appropriations
Washington, DC 20515–6015

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WILL HURD, TEXAS

SHALANDA YOUNG
CLERK AND STAFF DIRECTOR
(202) 225-2771

August 5, 2020

The Honorable Wilbur Ross
Secretary
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, D.C. 20230

Dear Secretary Ross:

I write to express my deepest concerns regarding the Department's conduct around the 2020 Decennial Census operation.

Since the beginning of the Trump Administration, there have been last minute, flagrant efforts to manipulate the 2020 Decennial Census data collection for partisan purposes. Following the Supreme Court's June 2019 decision to block the U.S. Census Bureau ("the Bureau") from asking individuals about citizenship status in the 2020 Census, efforts to sabotage the Bureau from delivering a fair and accurate count have continued. Regardless of these challenges, the Bureau remained on course until the arrival of the novel coronavirus in early 2020.

In April 2020, I participated in a bipartisan, bicameral call with the Administration, in which the Administration requested legislative action that would result in a four-month delay in the completion of the 2020 Decennial Census,[1] as the Bureau would need to delay its operations by three months in response to the coronavirus pandemic to ensure the health and safety of those conducting the enumeration as well as the public. Notably, on the advice of career Census officials, this revised schedule would ensure that the self-response and non-response follow-up ("NRFU") operations of the 2020 Census would continue until October 31, 2020. While

[1] Under 13 USC 141(b), the Secretary of Commerce is required to complete and report to the President within 9 months after the decennial census date (defined as the first day of April) the tabulation of the total population by State as required for apportionment of the Representatives in Congress among the several States. The legislation requested by the Administration extended that deadline for the 2020 Census to 13 months after the census date of April 1, 2020.

unprecedented, the House of Representatives took immediate action and included this request to shift the decennial statutory deadlines as part of the HEROES Act (H.R. 6800, Sec. 70201). Additionally, the HEROES Act included an additional $400 million to allow the Bureau to address any additional issues that may arise through the remainder of the 2020 Decennial Census operation.

Since that time, the Bureau conducted weekly calls with my Committee staff led by the Associate Director of Decennial Census Programs and the Associate Director of Field Operations, who have repeatedly indicated that the operation would need to continue until October 31, 2020 to ensure an accurate count. Further, they have communicated that it is simply no longer possible for the Bureau to finish its operations and report initial results by the December 31, 2020 deadline. However, since both the arrival of two new political appointees in mid-July and the issuance of the Presidential Memorandum on July 21, 2020, these calls have been abruptly canceled. Further, with less than one week remaining prior to the beginning of the NRFU operation, I am deeply troubled by the August 3, 2020, statement from Director Dillingham that the Bureau is being forced to shorten and expedite its operation and ignoring the recommendations and expertise of its senior career staff. These actions undermine the work of career employees and experts, and seem designed to limit congressional oversight of the 2020 Census.

To better understand where the 2020 Census now stands, I have a few questions I would like answers to before August 11, 2020:

1. As coronavirus cases continue to rise across the country, what has prompted the abrupt reversal of the Bureau's position on Decennial operational deadlines?
2. Assuming you receive legislative relief, would you be able to extend the operation to ensure an accurate count?
3. Why has the Director of the Census Bureau not been consulted prior to the issuance of Presidential directives relating to the Census?
4. Were any Bureau officials consulted prior to the issuance of the Presidential Memorandum on Excluding Illegal Aliens from the Apportionment Base Following the 2020 Census? If so, who?
5. Why was a recent, revised $1 billion supplemental appropriations request transmitted initially only to Senate Republicans?
6. What percentage of the population had been counted at the conclusion of the 2010 Decennial NRFU operation? What percentage was imputed into the final data product?
7. How many fewer households do you estimate will be enumerated as a result of ending NRFU operations on September 30th, compared to the earlier plan of ending NRFU on October 31st?
8. What is the timing of the post-enumeration survey to assess data quality?
9. How many temporary 2020 Census personnel are on board? What is the current attrition rate for these positions?
10. Have changes been made to the NRFU operation as a result of this proposed deadline change? If so, please detail those changes.
11. What performance measures will be assessed to distribute awards for maximum performance? How much funding in total is the Bureau assuming it will spend on these awards?

It is completely unacceptable that this Administration is yet again politicizing the Bureau's operation – one that was a decade in the making. These actions jeopardize our ability to ensure an accurate count and threaten the heart of our democracy. The Constitution is clear: we must count all persons.

Sincerely,

José E. Serrano
Chairman
Subcommittee on Commerce, Justice, Science, and Related Agencies

Cc: Dr. Steven Dillingham
Director, U.S. Census Bureau

From: Burris, Meghan (Federal) [MBurris@doc.gov]
Sent: 7/28/2020 9:30:04 AM
To: Wilbur Ross b(6)
CC: Walsh, Michael (Federal) [MWalsh@doc.gov]
Subject: NYT: New Census Worry: An Expedited Count Could Mean an Inaccurate One

Mr. Secretary,

Below is the story that ran in the New York Times. We pointed them to the language I shared with you over the weekend. b(5) - DP

b(5) - DP

New Census Worry: An Expedited Count Could Mean an Inaccurate One
The New York Times – Michael Wines, July 28

Stalled by the pandemic, the count is supposed to resume soon. But census experts are rattled by signs of a push from the White House to finish it early.

As the 2020 census struggles to find its footing amid the coronavirus outbreak and public reluctance to give the government personal data, officials have a new worry: The Trump administration and Senate Republicans appear to be signaling that they want the census finished well ahead of schedule, pandemic or not.

With almost 40 percent of the nation's households still uncounted, including the hardest-to-reach populations that are disproportionately poor, people of color and young, the Trump administration took the Census Bureau by surprise last week. It asked the Senate Appropriations Committee to set aside $448 million in the next coronavirus relief package for a "timely" completion of the census.

The request did not define what "timely" meant, and legislation released on Monday said only that the money would be used for nationwide census operations and data processing. But it comes as census workers and former officials say the White House and the Commerce Department, which oversees the Census Bureau, are asking how the bureau can compress its schedule to wrap up the count of households earlier than expected — perhaps by the end of September. The aim, they say, may be to speed up the delivery of key data for political reapportionment to the president by the end of December.

The administration has yet to announce a compressed schedule and may not find a way to do so. But the prospect already has alarmed an array of experts, who warned in recent days that an expedited census risks a deeply flawed count of the nation's population. The census is constitutionally required to count all residents of the country every 10 years.

"There's a lot of uncertainty, but one thing is absolutely sure: There will be egregious undercounts if the Census Bureau has to produce this data by December," said Robert Santos, the vice president of the Urban Institute and the incoming president of the American Statistical Association.

Some, including former Census Bureau directors, raised the prospect that the final totals could be so skewed that a future Congress might order the bureau to do further work on the 2020 population data, or even consider another census in five years, which federal law allows but which has never been conducted nationwide.

The numbers are enormously important. They are used to reapportion all 435 House seats and thousands of state and local districts, as well as divvy up trillions of dollars in federal grants and aid.

At issue is how fast, and how precisely, the Census Bureau will track down and count the 60 million households that have not filled out census forms.

Slightly more than six in 10 households have completed forms. The remainder are the very hardest to count. To reach them, the bureau has planned to deploy up to 500,000 census takers, each with an iPhone that can securely relay census data to the bureau's computers.

In 2010, census takers worked from May to August to count hard-to-find households. This spring, with the start of that count delayed by the pandemic, the bureau said it was pushing back the start of that work to August, ending on Oct. 31.

With White House approval, the bureau also asked Congress for a four-month extension — to April 2021 — of the Dec. 31 statutory deadline for delivering to the president the population totals required to reapportion the House of Representatives.

But that plan now appears to be in flux. Census Bureau workers have been asked whether that Oct. 31deadline for collecting data can be moved to September, giving them six or seven weeks to finish a count that was supposed to take 10 weeks.

At the same time, the administration's commitment to extending the delivery of reapportionment statistics beyond the statutory Dec. 31 deadline also appears in doubt.

In Congress, the House has approved the four-month delay. The Senate has not. Asked on Saturday whether Senator Mitch McConnell, the majority leader, still supports extending the deadline, a spokesman for the senator said in an email: "Don't think I'm going to be able to help you out on this."

The White House declined to address questions about its census plans. Responding to a reporter's questions, the Census Bureau issued a statement on Monday that neither confirmed nor denied an effort to hasten the completion of the count and the delivery of reapportionment figures.

"The Census Bureau is working toward the plan to complete field data collection by October 31," it said. It then added that its staff would "continue to evaluate and plan for all contingencies, including the impact of delivering statutorily required data products at the current legislative deadlines" — a reference to the Dec. 31 date to produce reapportionment figures.

In fact, top Census Bureau officials already have said that meeting that deadline is impossible.

"We have passed the point where we could even meet the current legislative requirement of December 31.We can't do that anymore," the census official leading field operations for the count, Tim Olson, told a Native American organization during a webinar in May.

And in a webinar this month for groups with a stake in census results, the associate director of the census, Albert E. Fontenot Jr. said, "we are past the window of being able to get those counts" by year's end.

The new concerns come atop a growing record of political interference in census decisions by the Trump administration.

The Supreme Court last year, in a 5-4 vote, rejected the administration's effort to add a citizenship question to the census that experts said would surely depress the count of immigrants and minorities, documented and otherwise.

On White House orders, the Census Bureau last month created two top-level positions and filled them with political appointees from outside, a remarkable move in an agency renowned for its nonpartisan culture.

Some critics say Mr. Trump's order last week to exclude undocumented immigrants from state-by-state population totals used for reapportionment totals explains the administration's apparent desire to speed up census work.

The order, which is already being challenged in court, is widely viewed as unconstitutional by legal scholars. But for the order to have any chance of succeeding, they say, the census totals used for reapportionment must be delivered to Mr. Trump while he is still in office — as he almost certainly will be on Dec. 31, but may well not be in April 2021.

"I think it's entirely about that," Thomas A. Saenz, the president of the Mexican American Legal Defense and Educational Fund, said on Monday. "He wants to exclude undocumented immigrants because he believes it will shift representation away from blue states to red states. In the end, it's entirely about trying to stem Latino political power."

Others say Mr. Trump's order, regardless of whether it is upheld, could have an impact on representation by making noncitizens worry that their answers on a census survey could be used against them.

"They clearly have an agenda for not counting undocumented immigrants in the apportionment count," said Vanita Gupta, the president of the Leadership Conference on Civil and Human Rights, a coalition of more than 200 advocacy groups. "I think the administration knows their order isn't going to be constitutional. Maybe through fear of it, they're trying to get to the same place."

Experts said a rush to wrap up the census would force the bureau into shortcuts that would make population totals significantly less accurate. Months of post-census analysis and accuracy checks also would be at risk were population totals required by December.

"It won't be finished unless they can quickly ramp up something, like using administrative records" instead of census takers to count households, said Kenneth Prewitt, a Columbia University public affairs professor who led the Census Bureau during the 2000 census. "Otherwise, you end up with a census that's 10 percent uncounted, or 12 percent."

Mr. Prewitt and John Thompson, a career Census Bureau official who directed the agency from 2013 to 2017, said the bureau also could be forced to expand its use of a statistical method called imputation, in which an algorithm makes an educated guess about who lives in a household by looking at who lives nearby.

Past censuses have relied on imputation for a tiny fraction of households — about 1 percent, in most cases — that could not be otherwise counted. But "it could get a lot bigger, maybe 10 or 15 percent in some areas of the country, if they have to cut it short," Mr. Thompson said.

If past censuses are any indication, the Census Bureau will state clearly where it believes inaccuracies lie, and how large they might be. After the count, the bureau conducts a massive accuracy check, called a post-enumeration survey, in which experts revisit a sample of households to see whether reported data was correct.

But while the bureau will say how inaccurate its numbers are, it will not, in all likelihood, say whether it believes they can be relied on.

"What it means to fail to have a census has never been tested," said Justin Levitt, an expert on the topic at Loyola Law School in Los Angeles. "How bad it has to be before it's not a census anymore is something we have yet to decide."

Should it come to that, he said, that judgment would probably be hashed out in Congress — and later in the courts.

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From: Ali Mohammad Ahmad (CENSUS/ADCOM FED) [ali.m.ahmad@census.gov]
Sent: 7/28/2020 2:30:18 PM
To: Foti, Anthony (Federal) [AFoti@doc.gov]
CC: Stanley, Christopher J [christopher.j.stanley@census.gov]; Olson, Stephanie (Federal) [SOlson@doc.gov]; Walsh, Michael (Federal) [MWalsh@doc.gov]; Cannon, Michael (Federal) [MCannon@doc.gov]; Kumar, Harry (Federal) [HKumar@doc.gov]; Brebbia, Sean (Federal) [SBrebbia@doc.gov]
Subject: Re: Dr. Dillingham Hearing Prep

Republicans Signal They're Willing To Cut Census Counting Short
NPR – Hansi Lo Wang, July 28

Republicans in Congress are signaling that the Census Bureau cannot take the extra time it has said it needs in order to count every person living in the U.S. amid the coronavirus pandemic — even if that risks leaving some residents out of the 2020 census.

Rushing to deliver new state population counts to the president by Dec. 31, and more detailed data to the states by March 31, 2021, as required by current federal law, could risk severe inaccuracies in the once-a-decade count, especially among people of color, immigrants, rural residents and other historically undercounted groups.

With less than 95 days until the Census Bureau plans to stop tallying the country's residents at the end of October, roughly four out of 10 households nationwide have yet to be included in the constitutionally mandated count that is used to redistribute congressional seats, Electoral College votes and federal funding among the states.

Democrats in both the Senate and the House of Representatives have introduced legislation that would grant four-month extensions to the legal deadlines, including the House Democrats' latest coronavirus relief bill, in response to requests in April by the Census Bureau and the Commerce Department, which oversees the bureau.

But in their latest proposal for coronavirus relief aid as released on Monday, congressional Republicans offer no extra time for the bureau, only $448 million more for field operations and data processing.

The White House press office did not respond to NPR's question about whether the White House supports the Census Bureau's request to extend the census deadlines by four months. The press office also did not respond to an inquiry about whether the White House had asked for additional funding for the bureau in the latest coronavirus relief package to conduct a "timely census," as reported by The New York Times last week.

A Trump administration official, who spoke on the condition of anonymity, did tell NPR that a "timely census" simply means that it's delivered within the statutory timeline.

Top Census Bureau officials, however, have already publicly declared that meeting current legal deadlines is no longer possible.

In response to a question by NPR at a press briefing on July 8, the bureau's associate director for the 2020 census, Al Fontenot, confirmed: "We are past the window of being able to get those counts by those dates at this point."

Fontenot's comments echoed earlier comments in May by Tim Olson, the associate director for field operations, who said that the bureau has "passed the point where we could even meet the current legislative requirement of Dec. 31."

Many census advocates are alarmed that Republicans have not yet proposed census deadline extensions — a request that Commerce Secretary Wilbur Ross, who was appointed by President Trump, first made to Congress himself in April during a phone call that included no Census Bureau officials.

The absence of a proposal in the GOP relief package suggests the Trump administration may have abandoned its own request for these extensions, says Terri Ann Lowenthal, a former staff director of the House oversight subcommittee for the census who now consults on census issues.

"If that is the case, then the administration is throwing the Census Bureau under the bus by forcing the agency to rush remaining census operations," Lowenthal says in an email. "Continued disruptions to the census plan will only diminish the likelihood of an accurate result."

The Commerce Department and the office of Senate Majority Leader Mitch McConnell, R-Ky., who announced the GOP's relief package on the Senate floor Monday, did not immediately respond to NPR's questions.

It is unclear whether the bureau has to cut short the extra three months the bureau has been relying on to send out door knockers to try to make sure historically undercounted groups are included in the census by Oct. 31 amid coronavirus outbreaks around the country.

In an updated statement posted on its website on Monday, the bureau said it's still "working toward the plan to complete field data collection" by the end of October.

The bureau's statement also noted that a new funding request made by the White House Office of Management and Budget would give it "schedule flexibility" for completing the count during the pandemic, including attempting to wrap up field data collection "as quickly, and safely as possible."

The bureau's chief spokesperson, Michael Cook, told NPR in April that it was the agency's "assessment" that continuing to count through the end of October means the bureau cannot meet the current legal reporting deadlines for census results.

Without extra time to process and prepare the census results to make up for the pandemic-induced delays, the bureau has limited options to try to address undercounts and incomplete information gathered about certain communities. That is especially true for areas where a higher number of homes may be difficult for the Census Bureau to reach without sending a door knocker multiple times.

"If there is a large undercount of segments of our population," explains Nancy Potok, a former deputy director at the Census Bureau who recently retired as the chief statistician of the U.S., "there is only so much that the Census Bureau can do to use accepted statistical methods to account for households that are clearly present and occupied but nothing is known directly about the occupants."

"The Census Bureau has been clear that it needs the additional time to complete a high quality census," Potok adds. "There is no reason not to extend the deadline unless you are trying to embed an undercount of certain groups of people in the census counts."

The continued lack of clarity in the census timeline will make it more difficult to try to ensure a complete census count, says Jeri Green, who advises the National Urban League on census issues and previously served at the bureau as a senior adviser for civic engagement.

"The uncertainty in deadlines demonstrates a lack of respect and appreciation for the hardworking rank-and-file Census employees who may have to tabulate the data in an unrealistic, compressed timeframe and for our outreach efforts as the National Urban League and other organizations implore communities of color to self-respond during an unknown time period," Green says in a statement.

If Trump loses the presidential election to former Vice President Joe Biden, sticking to the Dec. 31deadline would ensure that the census apportionment count is delivered to Trump while he is still in office.

That is the same count that Trump is seeking, with little authority, to change by excluding unauthorized immigrants, a move that is currently facing multiple lawsuits from challengers who are asking federal courts to declare it unconstitutional.

Since its April announcement, the bureau has been operating under modified plans for the 2020 census that include continuing to count unresponsive households three months past the original end date of July 31.

The final months of counting are focused in large part on historically undercounted groups, who are less likely to participate on their own.

On Monday, the bureau announced it's starting to send emails to try to boost census participation among more than 20 million households in areas with a self-response rate lower than 50%. Emails will be sent from 2020census@subscriptions.census.gov.

All of the uncertainty has forced many states to revisit state constitutions and seek court rulings to come up with alternative plans for redrawing voting districts after the 2020 census.

Lawmakers in New Jersey — one of two states, along with Virginia, that have state legislative elections set to take place next year — are mulling over a proposed amendment to the state's constitution that, if approved by voters, would delay the redrawing of voting maps, which would then not go into effect until 2023.

Earlier this month, the California Supreme Court released a ruling granting at least four-month extensions to deadlines for finalizing redistricting maps with provisions in case there is any "additional federal delay" given the "dynamic nature of the global pandemic."

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On Jul 28, 2020, at 2:03 PM, Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov> wrote:

Experts worry about errors if census schedule is sped up
The Associated Press – Mike Schneider, July 28

After asking for coronavirus-related deadline extensions in April, the Trump administration now appears to be abandoning that request by asking Congress for extra funding to wrap up the 2020 census "as quickly, and safely as possible" in a move that could help ensure the number-crunching for redrawing congressional districts takes place on President Donald Trump's watch.

Census Bureau officials had warned as recently as early July that it was already too late to have the numbers ready without an extension. And outside experts predicted Tuesday that speeding up the timetable would lead to an inaccurate head count that misses people in hard-to-count minority communities.

"It would be like giving an expectant mother in the early stages of pregnancy a lot of money to have the baby in 4.5 months," said John Thompson, a former Census Bureau director in the Obama administration.

The Census Bureau is in the middle of the 2020 census, and some of the bureau's 500,000 door-knockers started heading out this month to households that haven't yet answered the questionnaire.

With the new coronavirus disrupting census operations in April, the Trump administration asked Congress to extend the deadlines required for the U.S. Census Bureau to turn in the head count data used for redrawing congressional district and legislative districts. The Census Bureau also postponed finishing field operations for the 2020 census from the end of July to the end of October.

The Democratic-controlled House agreed to the extensions as part of coronavirus-relief legislation, but the Republican-controlled Senate has yet to do so. Senate Republicans on Monday instead proposed an additional $448 million in funding for the 2020 census in its coronavirus-relief bill.

"This funding would allow for additional hiring, staffing resources, and replenished contingency funding to provide schedule flexibility as the Census Bureau conducts its largest field operation, nonresponse followup," the Census Bureau said Monday on its website. "This flexibility is critical to helping the Census Bureau operate in the midst of unprecedented public health crisis, including trying to wrap up field data collection as quickly, and safely as possible, while ensuring a complete and accurate count. "

Historically, the Census Bureau is required to turn over numbers for apportionment, the process of divvying up congressional seats, by Dec. 31, and the numbers used for redrawing legislative districts by March 30. The deadline extensions would push back the apportionment deadline to April 30 and the redistricting deadline for state and local districts to July 31.

If the deadline extension for the apportionment numbers is granted by Congress, there's a chance the final months of the data-crunching would take place under a new administration if presumptive Democratic presidential nominee Joe Biden defeats Trump, a Republican, in the November election.

Wary of what they see as Trump's attempt to politicize the 2020 census, House Democrats say Senate Republicans should approve the request for deadline extensions.

"Otherwise, American taxpayers would be forced to pay for the most expensive and potentially least accurate census in our nation's history," said U.S. Rep. Carolyn Maloney, a Democrat from New York who chairs the House Committee on Oversight and Reform.

Trump issued a memorandum last week seeking to exclude people in the country illegally from being included during the process for redrawing congressional districts. Civil rights group have filed multiple lawsuits challenging the memorandum as unconstitutional and an attempt to limit the power of Latinos and immigrants of color.

"The timing of the executive memorandum issued last week coupled with what now appears to be abandonment of the request to push back the reporting deadlines clearly suggests that the White House wants to ensure that the president receives the numbers for apportionment while he is still in office. It's hard to draw any other conclusions," said Terri Ann Lowenthal, a census expert who worked on census issues as a congressional aide.

More than 62% of households had responded to the census as of Sunday, leaving about 55 million households that will require visits by census takers. The Census Bureau said Monday that it will start sending out emails to residents in neighborhoods with low response rates, encouraging them to fill out the questionnaire

Talking to reporters at the beginning of the month, Al Fontenot, the bureau's associate director for decennial programs, said the bureau was "past the window of being able to get those counts" by the end of the year.

Kenneth Prewitt, who served as a Census Bureau director in the Clinton administration, said an accelerated census in the middle of a pandemic "can only be explained politically."

"I believe the odds of being able to produce the census between now and the end of the year is extremely low. COVID is in charge. The Census Bureau is not in charge," Prewitt said. "To finish the census by the end of the year, COVID has got to go away, and it's not."

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On Jul 28, 2020, at 8:33 AM, Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov> wrote:

New Census Worry: An Expedited Count Could Mean an Inaccurate One
The New York Times – Michael Wines, July 28

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As the 2020 census struggles to find its footing amid the coronavirus outbreak and public reluctance to give the government personal data, officials have a new worry: The Trump administration and Senate Republicans appear to be signaling that they want the census finished well ahead of schedule, pandemic or not.

With almost 40 percent of the nation's households still uncounted, including the hardest-to-reach populations that are disproportionately poor, people of color and young, the Trump administration took the Census Bureau by surprise last week. It asked the Senate Appropriations Committee to set aside $448 million in the next coronavirus relief package for a "timely" completion of the census.

The request did not define what "timely" meant, and legislation released on Monday said only that the money would be used for nationwide census operations and data processing. But it comes as census workers and former officials say the White House and the Commerce Department, which oversees the Census Bureau, are asking how the bureau can compress its schedule to wrap up the count of households earlier than expected — perhaps by the end of September. The aim, they say, may be to speed up the delivery of key data for political reapportionment to the president by the end of December.

The administration has yet to announce a compressed schedule and may not find a way to do so. But the prospect already has alarmed an array of experts, who warned in recent days that an expedited census risks a deeply flawed count of the nation's population. The census is constitutionally required to count all residents of the country every 10 years.

"There's a lot of uncertainty, but one thing is absolutely sure: There will be egregious undercounts if the Census Bureau has to produce this data by December," said Robert Santos, the vice president of the Urban Institute and the incoming president of the American Statistical Association.

Some, including former Census Bureau directors, raised the prospect that the final totals could be so skewed that a future Congress might order the bureau to do further work on the 2020 population data, or even consider another census in five years, which federal law allows but which has never been conducted nationwide.

The numbers are enormously important. They are used to reapportion all 435 House seats and thousands of state and local districts, as well as divvy up trillions of dollars in federal grants and aid.

At issue is how fast, and how precisely, the Census Bureau will track down and count the 60 million households that have not filled out census forms.

Slightly more than six in 10 households have completed forms. The remainder are the very hardest to count. To reach them, the bureau has planned to deploy up to 500,000 census takers, each with an iPhone that can securely relay census data to the bureau's computers.

In 2010, census takers worked from May to August to count hard-to-find households. This spring, with the start of that count delayed by the pandemic, the bureau said it was pushing back the start of that work to August, ending on Oct. 31.

With White House approval, the bureau also asked Congress for a four-month extension — to April 2021 — of the Dec. 31 statutory deadline for delivering to the president the population totals required to reapportion the House of Representatives.

But that plan now appears to be in flux. Census Bureau workers have been asked whether that Oct. 31deadline for collecting data can be moved to September, giving them six or seven weeks to finish a count that was supposed to take 10 weeks.

At the same time, the administration's commitment to extending the delivery of reapportionment statistics beyond the statutory Dec. 31 deadline also appears in doubt.

In Congress, the House has approved the four-month delay. The Senate has not. Asked on Saturday whether Senator Mitch McConnell, the majority leader, still supports extending the deadline, a spokesman for the senator said in an email: "Don't think I'm going to be able to help you out on this."

The White House declined to address questions about its census plans. Responding to a reporter's questions, the Census Bureau issued a statement on Monday that neither confirmed nor denied an effort to hasten the completion of the count and the delivery of reapportionment figures.

"The Census Bureau is working toward the plan to complete field data collection by October 31," it said. It then added that its staff would "continue to evaluate and plan for all contingencies, including the impact of delivering statutorily required data products at the current legislative deadlines" — a reference to the Dec. 31 date to produce reapportionment figures.

In fact, top Census Bureau officials already have said that meeting that deadline is impossible.

"We have passed the point where we could even meet the current legislative requirement of December 31.We can't do that anymore," the census official leading field operations for the count, Tim Olson, told a Native American organization during a webinar in May.

And in a webinar this month for groups with a stake in census results, the associate director of the census, Albert E. Fontenot Jr. said, "we are past the window of being able to get those counts" by year's end.

The new concerns come atop a growing record of political interference in census decisions by the Trump administration.

The Supreme Court last year, in a 5-4 vote, rejected the administration's effort to add a citizenship question to the census that experts said would surely depress the count of immigrants and minorities, documented and otherwise.

On White House orders, the Census Bureau last month created two top-level positions and filled them with political appointees from outside, a remarkable move in an agency renowned for its nonpartisan culture.

Some critics say Mr. Trump's order last week to exclude undocumented immigrants from state-by-state population totals used for reapportionment totals explains the administration's apparent desire to speed up census work.

The order, which is already being challenged in court, is widely viewed as unconstitutional by legal scholars. But for the order to have any chance of succeeding, they say, the census totals used for reapportionment must be delivered to Mr. Trump while he is still in office — as he almost certainly will be on Dec. 31, but may well not be in April 2021.

"I think it's entirely about that," Thomas A. Saenz, the president of the Mexican American Legal Defense and Educational Fund, said on Monday. "He wants to exclude undocumented immigrants because he believes it will shift representation away from blue states to red states. In the end, it's entirely about trying to stem Latino political power."

Others say Mr. Trump's order, regardless of whether it is upheld, could have an impact on representation by making noncitizens worry that their answers on a census survey could be used against them.

"They clearly have an agenda for not counting undocumented immigrants in the apportionment count," said Vanita Gupta, the president of the Leadership Conference on Civil and Human Rights, a coalition of more than 200 advocacy groups. "I think the

administration knows their order isn't going to be constitutional. Maybe through fear of it, they're trying to get to the same place."

Experts said a rush to wrap up the census would force the bureau into shortcuts that would make population totals significantly less accurate. Months of post-census analysis and accuracy checks also would be at risk were population totals required by December.

"It won't be finished unless they can quickly ramp up something, like using administrative records" instead of census takers to count households, said Kenneth Prewitt, a Columbia University public affairs professor who led the Census Bureau during the 2000 census. "Otherwise, you end up with a census that's 10 percent uncounted, or 12 percent."

Mr. Prewitt and John Thompson, a career Census Bureau official who directed the agency from 2013 to 2017, said the bureau also could be forced to expand its use of a statistical method called imputation, in which an algorithm makes an educated guess about who lives in a household by looking at who lives nearby.

Past censuses have relied on imputation for a tiny fraction of households — about 1 percent, in most cases — that could not be otherwise counted. But "it could get a lot bigger, maybe 10 or 15 percent in some areas of the country, if they have to cut it short," Mr. Thompson said.

If past censuses are any indication, the Census Bureau will state clearly where it believes inaccuracies lie, and how large they might be. After the count, the bureau conducts a massive accuracy check, called a post-enumeration survey, in which experts revisit a sample of households to see whether reported data was correct.

But while the bureau will say how inaccurate its numbers are, it will not, in all likelihood, say whether it believes they can be relied on.

"What it means to fail to have a census has never been tested," said Justin Levitt, an expert on the topic at Loyola Law School in Los Angeles. "How bad it has to be before it's not a census anymore is something we have yet to decide."

Should it come to that, he said, that judgment would probably be hashed out in Congress — and later in the courts.

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On Jul 27, 2020, at 10:11 PM, Foti, Anthony (Federal) <AFoti@doc.gov> wrote:

Great job, Chris.

Anthony Foti
Performing the delegated duties of the
Assistant Secretary for Legislative and Intergovernmental Affairs
U.S. Department of Commerce
1401 Constitution Ave, NW
Washington, DC 20230
202-482-1148

On Jul 27, 2020, at 8:15 PM, Christopher J Stanley (CENSUS/OCIA FED) <christopher.j.stanley@census.gov> wrote:

Attached is the latest draft of the Q&A document that has been prepared for Director Dillingham. There are still some tweaks being made, but most of it is filled in.

From: Foti, Anthony (Federal)
Sent: Monday, July 27, 2020 6:32 PM
To: Foti, Anthony (Federal) <AFoti@doc.gov>; Olson, Stephanie (Federal) <SOlson@doc.gov>; Steven Dillingham (CENSUS/DEPDIR FED) <steven.dillingham@census.gov>; Walsh, Michael (Federal) <MWalsh@doc.gov>; Steven K Smith (CENSUS/DEPDIR FED) <steven.k.smith@census.gov>; Christopher J Stanley (CENSUS/OCIA FED) <christopher.j.stanley@census.gov>; Cannon, Michael (Federal) <MCannon@doc.gov>; Kumar, Harry (Federal) <HKumar@doc.gov>; Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov>; Brebbia, Sean (Federal) <SBrebbia@doc.gov>; Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>
Subject: Dr. Dillingham Hearing Prep
When: Tuesday, July 28, 2020 10:00 AM-4:00 PM.
Where: Secretary's Conference Room (conf # in notes)

Conference call: b(6)
Password: b(6)
<DRAFT July 2020 hearing Q & A revised.docx>

From: Ali Mohammad Ahmad (CENSUS/ADCOM FED) [ali.m.ahmad@census.gov]
Sent: 7/28/2020 4:00:29 PM
To: Foti, Anthony (Federal) [AFoti@doc.gov]
CC: Stanley, Christopher J [christopher.j.stanley@census.gov]; Olson, Stephanie (Federal) [SOlson@doc.gov]; Walsh, Michael (Federal) [MWalsh@doc.gov]; Cannon, Michael (Federal) [MCannon@doc.gov]; Kumar, Harry (Federal) [HKumar@doc.gov]; Brebbia, Sean (Federal) [SBrebbia@doc.gov]
Subject: Re: Barr Hearing Quote- pls read

Barr says Trump on good legal ground with census executive order on illegal immigrants
The Washington Times – Stephen Dinan, July 28

Attorney General William P. Barr defended the legality of President Trump's new executive order excluding illegal immigrants from apportionment of congressional seats after the 2020 census, saying Tuesday that Congress can define who gets counted and it has delegated that power to the Commerce Department.

Mr. Trump's order has proved deeply controversial, drawing myriad lawsuits arguing the Constitution requires "the whole number of persons in each state" be counted for purposes of doling out seats in the House of Representatives.

But Mr. Barr said the Justice Department believes it's up to Congress to define who counts as persons for that purpose.

"Our advice has been that Congress does have the power to define the word inhabitant," he told the House Judiciary Committee. "Congress has delegated that power to the Commerce secretary."

He said at the very least, it's an arguable position.

The Constitution refers to "persons in each state," which has been taken to mean "inhabitants" — which Mr. Barr says is a judgment call.

Lawsuits have been filed from California to New York arguing the president overstepped.

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On Jul 28, 2020, at 4:00 PM, Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov> wrote:

Bill Barr Faces Off With House Lawmakers – Live Blog
Talking Points Memo – Tierney Sneed, July 28

Barr defends Trump's new census policy excluding undocumented immigrants from the apportionment count.

Rep. Lou Correa (D-CA) brought up guidance the Department gave in a letter to a lawmaker in the late 1980s, while Barr was in a leadership role, concluding that the Constitution required that undocumented immigrants should be included in the count.

Barr says that the Department is now advising that Congress has the power to determine whether the meaning of the word "inhabitant," as it applies to apportionment, includes or excludes undocumented immigrants.

Barr says that the Department thinks that the Commerce Secretary has been delegated the congressional power to define that term.

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On Jul 28, 2020, at 2:30 PM, Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov> wrote:

Republicans Signal They're Willing To Cut Census Counting Short
NPR – Hansi Lo Wang, July 28

Republicans in Congress are signaling that the Census Bureau cannot take the extra time it has said it needs in order to count every person living in the U.S. amid the coronavirus pandemic — even if that risks leaving some residents out of the 2020 census.

Rushing to deliver new state population counts to the president by Dec. 31, and more detailed data to the states by March 31, 2021, as required by current federal law, could risk severe inaccuracies in the once-a-decade count, especially among people of color, immigrants, rural residents and other historically undercounted groups.

With less than 95 days until the Census Bureau plans to stop tallying the country's residents at the end of October, roughly four out of 10 households nationwide have yet to be included in the constitutionally mandated count that is used to redistribute congressional seats, Electoral College votes and federal funding among the states.

Democrats in both the Senate and the House of Representatives have introduced legislation that would grant four-month extensions to the legal deadlines, including the House Democrats' latest coronavirus relief bill, in response to requests in April by the Census Bureau and the Commerce Department, which oversees the bureau.

But in their latest proposal for coronavirus relief aid as released on Monday, congressional Republicans offer no extra time for the bureau, only $448 million more for field operations and data processing.

The White House press office did not respond to NPR's question about whether the White House supports the Census Bureau's request to extend the census deadlines by four months. The press office also did not respond to an inquiry about whether the White House had asked for additional funding for the bureau in the latest coronavirus relief package to conduct a "timely census," as reported by The New York Times last week.

A Trump administration official, who spoke on the condition of anonymity, did tell NPR that a "timely census" simply means that it's delivered within the statutory timeline.

Top Census Bureau officials, however, have already publicly declared that meeting current legal deadlines is no longer possible.

In response to a question by NPR at a press briefing on July 8, the bureau's associate director for the 2020 census, Al Fontenot, confirmed: "We are past the window of being able to get those counts by those dates at this point."

Fontenot's comments echoed earlier comments in May by Tim Olson, the associate director for field operations, who said that the bureau has "passed the point where we could even meet the current legislative requirement of Dec. 31."

Many census advocates are alarmed that Republicans have not yet proposed census deadline extensions — a request that Commerce Secretary Wilbur Ross, who was appointed by President Trump, first made to Congress himself in April during a phone call that included no Census Bureau officials.

The absence of a proposal in the GOP relief package suggests the Trump administration may have abandoned its own request for these extensions, says Terri Ann Lowenthal, a former staff director of the House oversight subcommittee for the census who now consults on census issues.

"If that is the case, then the administration is throwing the Census Bureau under the bus by forcing the agency to rush remaining census operations," Lowenthal says in an email. "Continued disruptions to the census plan will only diminish the likelihood of an accurate result."

The Commerce Department and the office of Senate Majority Leader Mitch McConnell, R-Ky., who announced the GOP's relief package on the Senate floor Monday, did not immediately respond to NPR's questions.

It is unclear whether the bureau has to cut short the extra three months the bureau has been relying on to send out door knockers to try to make sure historically undercounted groups are included in the census by Oct. 31 amid coronavirus outbreaks around the country.

In an updated statement posted on its website on Monday, the bureau said it's still "working toward the plan to complete field data collection" by the end of October.

The bureau's statement also noted that a new funding request made by the White House Office of Management and Budget would give it "schedule flexibility" for completing the count during the pandemic, including attempting to wrap up field data collection "as quickly, and safely as possible."

The bureau's chief spokesperson, Michael Cook, told NPR in April that it was the agency's "assessment" that continuing to count through the end of October means the bureau cannot meet the current legal reporting deadlines for census results.

Without extra time to process and prepare the census results to make up for the pandemic-induced delays, the bureau has limited options to try to address undercounts and incomplete information gathered about certain communities. That is especially true for areas where a higher number of homes may be difficult for the Census Bureau to reach without sending a door knocker multiple times.

"If there is a large undercount of segments of our population," explains Nancy Potok, a former deputy director at the Census Bureau who recently retired as the chief statistician of the U.S., "there is only so much that the Census Bureau can do to use accepted statistical methods to account for households that are clearly present and occupied but nothing is known directly about the occupants."

"The Census Bureau has been clear that it needs the additional time to complete a high quality census," Potok adds. "There is no reason not to extend the deadline unless you are trying to embed an undercount of certain groups of people in the census counts."

The continued lack of clarity in the census timeline will make it more difficult to try to ensure a complete census count, says Jeri Green, who advises the National Urban League on census issues and previously served at the bureau as a senior adviser for civic engagement.

"The uncertainty in deadlines demonstrates a lack of respect and appreciation for the hardworking rank-and-file Census employees who may have to tabulate the data in an unrealistic, compressed timeframe and for our outreach efforts as the National Urban League and other organizations implore communities of color to self-respond during an unknown time period," Green says in a statement.

If Trump loses the presidential election to former Vice President Joe Biden, sticking to the Dec. 31deadline would ensure that the census apportionment count is delivered to Trump while he is still in office.

That is the same count that Trump is seeking, with little authority, to change by excluding unauthorized immigrants, a move that is currently facing multiple lawsuits from challengers who are asking federal courts to declare it unconstitutional.

Since its April announcement, the bureau has been operating under modified plans for the 2020 census that include continuing to count unresponsive households three months past the original end date of July 31.

The final months of counting are focused in large part on historically undercounted groups, who are less likely to participate on their own.

On Monday, the bureau announced it's starting to send emails to try to boost census participation among more than 20 million households in areas with a self-response rate lower than 50%. Emails will be sent from 2020census@subscriptions.census.gov.

All of the uncertainty has forced many states to revisit state constitutions and seek court rulings to come up with alternative plans for redrawing voting districts after the 2020 census.

Lawmakers in New Jersey — one of two states, along with Virginia, that have state legislative elections set to take place next year — are mulling over a proposed amendment to the state's constitution that, if approved by voters, would delay the redrawing of voting maps, which would then not go into effect until 2023.

Earlier this month, the California Supreme Court released a ruling granting at least four-month extensions to deadlines for finalizing redistricting maps with provisions in case there is any "additional federal delay" given the "dynamic nature of the global pandemic."

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On Jul 28, 2020, at 2:03 PM, Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov> wrote:

Experts worry about errors if census schedule is sped up
The Associated Press – Mike Schneider, July 28

After asking for coronavirus-related deadline extensions in April, the Trump administration now appears to be abandoning that request by asking Congress for extra funding to wrap up the 2020 census "as quickly, and safely as possible" in a move that could help ensure the number-crunching for redrawing congressional districts takes place on President Donald Trump's watch.

Census Bureau officials had warned as recently as early July that it was already too late to have the numbers ready without an extension. And outside experts predicted Tuesday that speeding up the timetable would lead to an inaccurate head count that misses people in hard-to-count minority communities.

"It would be like giving an expectant mother in the early stages of pregnancy a lot of money to have the baby in 4.5 months," said John Thompson, a former Census Bureau director in the Obama administration.

The Census Bureau is in the middle of the 2020 census, and some of the bureau's 500,000 door-knockers started heading out this month to households that haven't yet answered the questionnaire.

With the new coronavirus disrupting census operations in April, the Trump administration asked Congress to extend the deadlines required for the U.S. Census Bureau to turn in the head count data used for redrawing congressional district and legislative districts. The Census Bureau also postponed finishing field operations for the 2020 census from the end of July to the end of October.

The Democratic-controlled House agreed to the extensions as part of coronavirus-relief legislation, but the Republican-controlled Senate has yet to do so. Senate Republicans on Monday instead proposed an additional $448 million in funding for the 2020 census in its coronavirus-relief bill.

"This funding would allow for additional hiring, staffing resources, and replenished contingency funding to provide schedule flexibility as the Census Bureau conducts its largest field operation, nonresponse followup," the Census Bureau said Monday on its website. "This flexibility is critical to helping the Census Bureau operate in the midst of unprecedented public health crisis, including trying to wrap up field data collection as quickly, and safely as possible, while ensuring a complete and accurate count. "

Historically, the Census Bureau is required to turn over numbers for apportionment, the process of divvying up congressional seats, by Dec. 31, and the numbers used for redrawing legislative districts by March 30. The deadline extensions would push back the apportionment deadline to April 30 and the redistricting deadline for state and local districts to July 31.

If the deadline extension for the apportionment numbers is granted by Congress, there's a chance the final months of the data-crunching would take place under a new administration if presumptive Democratic presidential nominee Joe Biden defeats Trump, a Republican, in the November election.

Wary of what they see as Trump's attempt to politicize the 2020 census, House Democrats say Senate Republicans should approve the request for deadline extensions.

"Otherwise, American taxpayers would be forced to pay for the most expensive and potentially least accurate census in our nation's history," said U.S. Rep. Carolyn Maloney, a Democrat from New York who chairs the House Committee on Oversight and Reform.

Trump issued a memorandum last week seeking to exclude people in the country illegally from being included during the process for redrawing congressional districts. Civil rights group have filed multiple lawsuits challenging the memorandum as unconstitutional and an attempt to limit the power of Latinos and immigrants of color.

"The timing of the executive memorandum issued last week coupled with what now appears to be abandonment of the request to push back the reporting deadlines clearly suggests that the White House wants to ensure that the president receives the numbers for apportionment while he is still in office. It's hard to draw any other conclusions," said Terri Ann Lowenthal, a census expert who worked on census issues as a congressional aide.

More than 62% of households had responded to the census as of Sunday, leaving about 55 million households that will require visits by census takers. The Census Bureau said Monday that it will start sending out emails to residents in neighborhoods with low response rates, encouraging them to fill out the questionnaire

Talking to reporters at the beginning of the month, Al Fontenot, the bureau's associate director for decennial programs, said the bureau was "past the window of being able to get those counts" by the end of the year.

Kenneth Prewitt, who served as a Census Bureau director in the Clinton administration, said an accelerated census in the middle of a pandemic "can only be explained politically."

"I believe the odds of being able to produce the census between now and the end of the year is extremely low. COVID is in charge. The Census Bureau is not in charge," Prewitt said. "To finish the census by the end of the year, COVID has got to go away, and it's not."

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On Jul 28, 2020, at 8:33 AM, Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov> wrote:

New Census Worry: An Expedited Count Could Mean an Inaccurate One
The New York Times – Michael Wines, July 28

Stalled by the pandemic, the count is supposed to resume soon. But census experts are rattled by signs of a push from the White House to finish it early.

As the 2020 census struggles to find its footing amid the coronavirus outbreak and public reluctance to give the government personal data, officials have a new worry: The Trump administration and Senate Republicans appear to be signaling that they want the census finished well ahead of schedule, pandemic or not.

With almost 40 percent of the nation's households still uncounted, including the hardest-to-reach populations that are disproportionately poor, people of color and young, the Trump administration took the Census Bureau by surprise last week. It asked the Senate Appropriations Committee to set aside $448 million in the next coronavirus relief package for a "timely" completion of the census.

The request did not define what "timely" meant, and legislation released on Monday said only that the money would be used for nationwide census operations and data processing. But it comes as census workers and former officials say the White House and the Commerce Department, which oversees the Census Bureau, are asking how the bureau can compress its schedule to wrap up the count of households earlier than expected — perhaps by the end of September. The aim, they say, may be to speed up the delivery of key data for political reapportionment to the president by the end of December.

The administration has yet to announce a compressed schedule and may not find a way to do so. But the prospect already has alarmed an array of experts, who warned in recent days that an expedited census risks a deeply flawed count of the nation's population. The census is constitutionally required to count all residents of the country every 10 years.

"There's a lot of uncertainty, but one thing is absolutely sure: There will be egregious undercounts if the Census Bureau has to produce this data by December," said Robert Santos, the vice president of the Urban Institute and the incoming president of the American Statistical Association.

Some, including former Census Bureau directors, raised the prospect that the final totals could be so skewed that a future Congress might order the bureau to do further work on the 2020 population data, or even consider another census in five years, which federal law allows but which has never been conducted nationwide.

The numbers are enormously important. They are used to reapportion all 435 House seats and thousands of state and local districts, as well as divvy up trillions of dollars in federal grants and aid.

At issue is how fast, and how precisely, the Census Bureau will track down and count the 60 million households that have not filled out census forms.

Slightly more than six in 10 households have completed forms. The remainder are the very hardest to count. To reach them, the bureau has planned to deploy up to 500,000 census takers, each with an iPhone that can securely relay census data to the bureau's computers.

In 2010, census takers worked from May to August to count hard-to-find households. This spring, with the start of that count delayed by the pandemic, the bureau said it was pushing back the start of that work to August, ending on Oct. 31.

With White House approval, the bureau also asked Congress for a four-month extension — to April 2021 — of the Dec. 31 statutory deadline for delivering to the president the population totals required to reapportion the House of Representatives.

But that plan now appears to be in flux. Census Bureau workers have been asked whether that Oct. 31deadline for collecting data can be moved to September, giving them six or seven weeks to finish a count that was supposed to take 10 weeks.

At the same time, the administration's commitment to extending the delivery of reapportionment statistics beyond the statutory Dec. 31 deadline also appears in doubt.

In Congress, the House has approved the four-month delay. The Senate has not. Asked on Saturday whether Senator Mitch McConnell, the majority leader, still supports extending the deadline, a spokesman for the senator said in an email: "Don't think I'm going to be able to help you out on this."

The White House declined to address questions about its census plans. Responding to a reporter's questions, the Census Bureau issued a statement on Monday that neither confirmed nor denied an effort to hasten the completion of the count and the delivery of reapportionment figures.

"The Census Bureau is working toward the plan to complete field data collection by October 31," it said. It then added that its staff would "continue to evaluate and plan for all contingencies, including the impact of delivering statutorily required data products at the current legislative deadlines" — a reference to the Dec. 31 date to produce reapportionment figures.

In fact, top Census Bureau officials already have said that meeting that deadline is impossible.

"We have passed the point where we could even meet the current legislative requirement of December 31.We can't do that anymore," the census official leading field operations for the count, Tim Olson, told a Native American organization during a webinar in May.

And in a webinar this month for groups with a stake in census results, the associate director of the census, Albert E. Fontenot Jr. said, "we are past the window of being able to get those counts" by year's end.

The new concerns come atop a growing record of political interference in census decisions by the Trump administration.

The Supreme Court last year, in a 5-4 vote, rejected the administration's effort to add a citizenship question to the census that experts said would surely depress the count of immigrants and minorities, documented and otherwise.

On White House orders, the Census Bureau last month created two top-level positions and filled them with political appointees from outside, a remarkable move in an agency renowned for its nonpartisan culture.

Some critics say Mr. Trump's order last week to exclude undocumented immigrants from state-by-state population totals used for reapportionment totals explains the administration's apparent desire to speed up census work.

The order, which is already being challenged in court, is widely viewed as unconstitutional by legal scholars. But for the order to have any chance of succeeding, they say, the census totals used for reapportionment must be delivered to Mr. Trump while he is still in office — as he almost certainly will be on Dec. 31, but may well not be in April 2021.

"I think it's entirely about that," Thomas A. Saenz, the president of the Mexican American Legal Defense and Educational Fund, said on Monday. "He wants to exclude undocumented immigrants because he believes it will shift representation away from blue states to red states. In the end, it's entirely about trying to stem Latino political power."

Others say Mr. Trump's order, regardless of whether it is upheld, could have an impact on representation by making noncitizens worry that their answers on a census survey could be used against them.

"They clearly have an agenda for not counting undocumented immigrants in the apportionment count," said Vanita Gupta, the president of the Leadership Conference on Civil and Human Rights, a coalition of more than 200 advocacy groups. "I think the administration knows their order isn't going to be constitutional. Maybe through fear of it, they're trying to get to the same place."

Experts said a rush to wrap up the census would force the bureau into shortcuts that would make population totals significantly less accurate. Months of post-census analysis and accuracy checks also would be at risk were population totals required by December.

"It won't be finished unless they can quickly ramp up something, like using administrative records" instead of census takers to count households, said Kenneth Prewitt, a Columbia University public affairs professor who led the Census Bureau during the 2000 census. "Otherwise, you end up with a census that's 10 percent uncounted, or 12 percent."

Mr. Prewitt and John Thompson, a career Census Bureau official who directed the agency from 2013 to 2017, said the bureau also could be forced to expand its use of a statistical method called imputation, in which an algorithm makes an educated guess about who lives in a household by looking at who lives nearby.

Past censuses have relied on imputation for a tiny fraction of households — about 1 percent, in most cases — that could not be otherwise counted. But "it could get a lot bigger, maybe 10 or 15 percent in some areas of the country, if they have to cut it short," Mr. Thompson said.

If past censuses are any indication, the Census Bureau will state clearly where it believes inaccuracies lie, and how large they might be. After the count, the bureau conducts a massive accuracy check, called a post-enumeration survey, in which experts revisit a sample of households to see whether reported data was correct.

But while the bureau will say how inaccurate its numbers are, it will not, in all likelihood, say whether it believes they can be relied on.

"What it means to fail to have a census has never been tested," said Justin Levitt, an expert on the topic at Loyola Law School in Los Angeles. "How bad it has to be before it's not a census anymore is something we have yet to decide."

Should it come to that, he said, that judgment would probably be hashed out in Congress — and later in the courts.

The information, and any attachments contained in this email may contain confidential and/or privileged information and is intended solely for the use of the intended named recipient(s). Any disclosure or dissemination in whatever form, by another other than the intended recipient is strictly prohibited. If you have received this transmission in error, please contact the sender and destroy this message and any attachments. Thank you.

On Jul 27, 2020, at 10:11 PM, Foti, Anthony (Federal) <AFoti@doc.gov> wrote:

Great job, Chris.

Anthony Foti
Performing the delegated duties of the
Assistant Secretary for Legislative and Intergovernmental Affairs
U.S. Department of Commerce
1401 Constitution Ave, NW
Washington, DC 20230
202-482-1148

On Jul 27, 2020, at 8:15 PM, Christopher J Stanley (CENSUS/OCIA FED) <christopher.j.stanley@census.gov> wrote:

Attached is the latest draft of the Q&A document that has been prepared for Director Dillingham. There are still some tweaks being made, but most of it is filled in.

From: Foti, Anthony (Federal)
Sent: Monday, July 27, 2020 6:32 PM
To: Foti, Anthony (Federal) <AFoti@doc.gov>; Olson, Stephanie (Federal) <SOlson@doc.gov>; Steven Dillingham (CENSUS/DEPDIR FED) <steven.dillingham@census.gov>; Walsh, Michael (Federal) <MWalsh@doc.gov>; Steven K Smith (CENSUS/DEPDIR FED) <steven.k.smith@census.gov>; Christopher J Stanley (CENSUS/OCIA FED) <christopher.j.stanley@census.gov>; Cannon, Michael (Federal) <MCannon@doc.gov>; Kumar, Harry (Federal) <HKumar@doc.gov>; Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov>; Brebbia, Sean (Federal) <SBrebbia@doc.gov>; Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>
Subject: Dr. Dillingham Hearing Prep
When: Tuesday, July 28, 2020 10:00 AM-4:00 PM.
Where: Secretary's Conference Room (conf # in notes)

Conference call: b(6)
Password: b(6)
<DRAFT July 2020 hearing Q & A revised.docx>

From: Burris, Meghan (Federal) [MBurris@doc.gov]
Sent: 7/24/2020 11:06:26 AM
To: Walsh, Michael (Federal) [MWalsh@doc.gov]
Subject: FW: PLEASE REVIEW- SWLR Email & Talking Points (draft and pre-decisions)
Attachments: DRAFT Talking Points including SWLR DRAFT Statement - SDD.docx

From: Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov>
Sent: Thursday, July 23, 2020 6:07 PM
To: Burris, Meghan (Federal) <MBurris@doc.gov>; Foti, Anthony (Federal) <AFoti@doc.gov>; Brebbia, Sean (Federal) <SBrebbia@doc.gov>
Cc: Risko, Daniel (Federal) <DRisko@doc.gov>
Subject: Re: PLEASE REVIEW- SWLR Email & Talking Points (draft and pre-decisions)

Sorry. Very minor edit from Director. Just to the talking point part, **b(5) - DP**

Ali Ahmad, Associate Director

Communications Directorate
U.S. Census Bureau
O: 301-763-8789| M: **b(6)**
Ali.M.Ahmad@census.gov
census.gov | @uscensusbureau

From: Ali Mohammad Ahmad (CENSUS/ADCOM FED)
Sent: Thursday, July 23, 2020 5:57 PM
To: Meghan Burris <MBurris@doc.gov>; Anthony Foti <afoti@doc.gov>; Sean Brebbia <sbrebbia@doc.gov>
Cc: Daniel Risko <DRisko@doc.gov>
Subject: PLEASE REVIEW- SWLR Email & Talking Points (draft and pre-decisions)

b(5) - DP

b(5) - DP Happy to talk tonight or in the morning.

From: Brebbia, Sean (Federal) [SBrebbia@doc.gov]
Sent: 9/30/2020 4:01:36 PM
To: Walsh, Michael (Federal) [MWalsh@doc.gov]
Subject: FW: Census Appointees Letters
Attachments: b(5) - DP/AC 2020-07-13.CBM Gomez Raskin Connolly Clarke to Ross-DOC re Cogley and Korzeniewski.pdf; b(5) - DP/AC b(5) - DP/AC 20-070946 Incoming.pdf

CUI//PRIV/ACP/DPP

Congress of the United States
Washington, DC 20515

July 13, 2020

The Honorable Wilbur L. Ross, Jr.
Secretary
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Secretary Ross:

We are writing to object to the Trump Administration's continued efforts to politicize the Census—this time by installing a record number of President Trump's political appointees at the upper echelons of the Census Bureau, which historically has been run by a cadre of career, non-partisan experts.

The Census is one of the most fundamental obligations of the federal government enshrined in the Constitution. For decades, the Census Bureau has been run by more than 4,000 career staff and has had no more than five political appointees.[1] However, on June 23, Census Bureau Director Steven Dillingham announced that the Administration had placed two more highly partisan political appointees into the upper management of the Census Bureau, bringing the total number of political appointees at the Census Bureau to six. The Census Bureau's press release stated that these new political appointees, Nathaniel Cogley and Adam Korzeniewski, were brought in to "help the Census Bureau achieve a complete and accurate 2020 Census, and

---

[1] For example, the Census Bureau had one political appointee during the Carter Administration, five political appointees during the Reagan Administration, four political appointees during the George H.W. Bush Administration, four political appointees during the Clinton Administration, three political appointees during the George W. Bush Administration, and four political appointees during the Obama Administration. *See* Committee on Post Office and Civil Service, *Policy and Supporting Positions,* 96th Cong. (Nov. 18, 1980) (online at https://babel.hathitrust.org/cgi/pt?id=pst.000055820981&view=1up&seq=1&q1=census); Senate Committee on Governmental Affairs, *Policy and Supporting Positions*, 98th Cong. (Dec. 31, 1984) (online at https://babel.hathitrust.org/cgi/pt?id=pst.000013586263&view=1up&seq=1&q1=census); Committee on Post Office and Civil Service, *Policy and Supporting Positions,* 100th Cong. (Nov. 9, 1988) (online at https://babel.hathitrust.org/cgi/pt?id=pst.000014268632&view=1up&seq=1&q1=census); Senate Committee on Governmental Affairs, *Policy and Supporting Positions,* 106th Cong. (Nov. 8, 2000) (online at www.govinfo.gov/app/details/GPO-PLUMBOOK-2000/context); Committee on Government Reform, *Policy and Supporting Positions,* 108th Cong. (Nov. 22, 2004) (online at www.govinfo.gov/content/pkg/GPO-PLUMBOOK-2004/pdf/GPO-PLUMBOOK-2004.pdf); Senate Committee on Homeland Security and Governmental Affairs, *Policy and Supporting Positions,* 110th Cong. (Nov. 12, 2008) (online at www.govinfo.gov/content/pkg/GPO-PLUMBOOK-2008/pdf/GPO-PLUMBOOK-2008.pdf); Committee on Oversight and Government Reform, *Policy and Supporting Positions,* 112th Cong. (Dec. 1, 2012) (online at www.govinfo.gov/content/pkg/GPO-PLUMBOOK-2012/pdf/GPO-PLUMBOOK-2012.pdf); and Senate Committee on Homeland Security and Governmental Affairs, *Policy and Supporting Positions,* 114th Cong. (Dec. 1, 2016) (online at www.govinfo.gov/content/pkg/GPO-PLUMBOOK-2016/pdf/GPO-PLUMBOOK-2016.pdf).

study future improvements" and that "it is imperative that we consider public, private, and not-for-profit sector needs for relevant and quality data."[2]

According to press reports, since their arrival at the Census Bureau, Mr. Koreniewski and Mr. Cogley have "repeatedly questioned the need for census operations that focus on accurately counting the nation's hardest-to-reach residents."[3]

The Trump Administration has failed to adequately set forth its motives for this action, identify the specific needs it is trying to address, explain why it needs more political appointees running the Census than previous Administrations, or justify why the American taxpayers should be forced to pay for these partisan appointees running what should be an ideologically neutral count of the people in our country.

Unfortunately, this is only the latest example of the Trump Administration's politicization of the Census. Your campaign to add a citizenship question to the Census was struck down by the Supreme Court as unlawful. The Court found that the rationale you offered for adding the citizenship question—and which was advanced in a letter from the Justice Department to the Census Bureau on December 12, 2017—was a "pretext" and "contrived."[4]

Experts at the Census Bureau warned that the citizenship question would depress the actual count and result in a less accurate enumeration. On January 19, 2018, only days after the Department of Justice made its baseless request to add the citizenship question, the Census Bureau's Chief Scientist, Dr. John Abowd, wrote to you that "adding a citizenship question to the 2020 census" is "very costly, harms the quality of the census count, and would use substantially less accurate citizenship status data than are available from administrative sources."[5]

In addition, the House of Representatives held you in contempt of Congress on July 17, 2020, as a result of your refusal to produce documents subpoenaed by the Oversight Committee regarding your efforts to unlawfully add the citizenship question. The House found that you and Attorney General William Barr "obstructed and delayed the Committee's investigation by defying lawful subpoenas for documents issued by Chairman Elijah E. Cummings and authorized by the Committee in a bipartisan vote." Your actions left the Committee no choice but to pursue contempt proceedings and seek enforcement of the subpoenas in order to uphold the House's duties under the Constitution.[6]

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[2] Census Bureau, *Statement from Census Bureau Director Dr. Steven Dillingham* (June 23, 2020) (online at www.census.gov/newsroom/press-releases/2020/statement-new-staff.html).

[3] *Census Bureau Adds Top-Level Political Posts, Raising Fears for 2020 Count*, New York Times (June 23, 2020) (online at www.nytimes.com/2020/06/23/us/census-bureau-cogley-korzeniewski.html).

[4] *Dept. of Commerce., v. New York*, 139 S. Ct. 2551 (2019).

[5] Memorandum from John Abowd, Chief Scientist, Census Bureau, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Jan. 19, 2018).

[6] *See* Committee on Oversight and Reform, *Resolution Recommending that the House of Representatives Find William P. Barr, Attorney General of the United States, and Wilbur L. Ross, Jr., Secretary of Commerce, In*

Despite your refusal to comply with the Committee's duly-authorized subpoena, the Committee was able to obtain information from other sources indicating that GOP strategist Thomas Hofeller played a crucial role in your effort to add the citizenship question, writing in a study leading up to the 2016 election that adding the citizenship question "would be advantageous to Republicans and Non-Hispanic Whites."[7]

Even more troubling, the two individuals appointed to the Census Bureau, Mr. Korzeniewski and Mr. Cogley, have engaged in highly partisan—and in some cases extremely questionable—activities that make them unsuitable for positions running the Census Bureau or executing the 2020 Census.

For example, last year Mr. Koreniewski was a paid political consultant for Joseph Saladino, a YouTube personality with a history of racist depictions of Black people and other extremely troubling activity.[8] As one recent news report explained:

> Joseph Saladino, better known as Joey Salads online, has been permanently suspended from Twitter. A Twitter spokesperson told the Daily Dot that "the account was permanently suspended for repeated violations of our platform manipulation and spam policy." Over the past few years, Saladino has transitioned from prank YouTube channel to a more political voice, responding to tweets from President Trump and other Republican influencers. …
>
> In 2016 Saladino released a series of videos showcasing faked pranks including getting attacked and robbed by fake "Bernie supporters."
>
> One of his most scandalous videos happened in 2016, when Saladino asked a group of young black men to come beat up a car covered in Trump stickers. He claimed in the video that this was unprovoked and that "the black community is very violent towards Trump and his supporters." Saladino later admitted that the whole thing was a hoax and that he "thought (he) could get away with it," according to the BBC.[9]

In addition, according to his personal website, Mr. Cogley is a political scientist most recently serving as the Head of the Department of Government, Legal Studies, & Philosophy at

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Contempt of Congress for Refusal to Comply with Subpoenas Duly Issued by the Committee on Oversight and Reform, 116th Cong. (2019) (H. Rept. 116-125); H. Res. 497.

[7] Thomas Hofeller, *The Use of Citizen Voting Age Population in Redistricting* (2015) (online at https://assets.documentcloud.org/documents/6111284/May-31-2019-Unredacted-Exhibits.pdf); *Deceased G.O.P. Strategist's Hard Drives Reveal New Details on the Census Citizenship Question,* New York Times (May 30, 2019) (online at www.nytimes.com/2019/05/30/us/census-citizenship-question-hofeller.html).

[8] Federal Election Commission, *Saladino For Congress* (online at https://docquery.fec.gov/cgi-bin/forms/C00704288/1358901/sb/ALL) (accessed on June 23, 2020).

[9] *Prankster Joey Salads Permanently Suspended from Twitter,* Newsweek (May 13, 2020) (online at www.newsweek.com/prankster-joey-salads-permanently-suspended-twitter-1503755).

Tarleton State University in Stephenville, Texas.[10] His recent publications include several op-eds in the *Washington Examiner* criticizing the House of Representatives' impeachment of President Trump,[11] and he has tweeted repeatedly about Democratic primaries.[12]

A successful Census depends on the Bureau's ability to conduct its activities in a professional, impartial, and non-partisan manner. For these reasons, past Administrations historically have limited the number of political appointees within the Bureau. Breaking with this precedent and installing more political appointees—particularly those with such starkly partisan backgrounds as Mr. Cogley and Mr. Korzeniewski—threatens the Bureau's responsibility to successfully execute a full, fair, and accurate 2020 Census.

For all of these reasons, we call on you to immediately withdraw these appointments, eliminate these partisan positions, and remove Mr. Cogley and Mr. Korzeniewski from the Census Bureau.

In the alternative, in order to assist the Committee in evaluating why you believe these new positions are necessary, why these responsibilities should be carried out by political appointees rather than civil servants, and why the American taxpayers should be forced to pay for their salaries, we ask that you produce the following documents by July 24, 2020:

1. Communications and documents referring or relating to the establishment of new political positions or new political appointments within the Census Bureau, including but not limited to communications among or between individuals at the Department of Commerce, the Census Bureau, the White House, and outside parties; and

2. Communications and documents referring or relating to the duties and responsibilities assigned to the new political appointees within the Census Bureau.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. In addition, the Committee has jurisdiction over "Population and demography

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[10] Dr. Nathaniel Terence Cogley, *About* (online at http://nathanielcogley.com/about.html).

[11] *See, e.g.,* Nathaniel Terence Cogley, *Op-Ed: To Justify Impeachment, Democrats are Spinning the Law on Impoundment*, Washington Examiner (Dec. 9, 2019) (online at www.washingtonexaminer.com/opinion/op-eds/to-justify-impeachment-democrats-are-spinning-the-law-on-impoundment); Nathaniel Terence Cogley, *Op-Ed: The 1974 Law that Makes This Impeachment Especially Dubious,* Washington Examiner (Nov. 21, 2019) (online at www.washingtonexaminer.com/opinion/op-eds/the-1974-law-that-makes-this-impeachment-especially-dubious); Nathaniel Cogley, Twitter (Jan. 16, 2020) (online at https://twitter.com/NathanielCogley/status/1217975800550633473).

[12] *See, e.g.*, Nathaniel Cogley, Twitter (Sept. 11, 2019) (online at https://twitter.com/NathanielCogley/status/1171994589118554112); Nathaniel Cogley, Twitter (Nov. 1, 2019) (online at https://twitter.com/NathanielCogley/status/1190403612142424065).

generally, including the Census."[13]

An attachment to this letter provides additional instructions for responding to the Committee's request. If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Sincerely,

Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform

Jimmy Gomez
Vice Chairman
Committee on Oversight and Reform

Jamie Raskin
Chairman
Subcommittee on Civil Right and
Civil Liberties

Gerald E. Connolly
Chairman
Subcommittee on Economic
and Consumer Policy

Yvette Clarke
Member of Congress

cc: The Honorable James R. Comer, Ranking Member
Committee on Oversight and Reform

The Honorable Chip Roy, Ranking Member
Subcommittee on Civil Rights and Civil Liberties

The Honorable Jody B. Hice, Ranking Member
Subcommittee on Government Operations

[13] House rule X, clause 1(n)(8).

United States Senate

July 28, 2020

The Honorable Wilbur L. Ross, Jr.
Secretary
U.S. Department of Commerce
101 Constitution Ave, NW
Washington, DC 20230

The Honorable Dr. Steven Dillingham
Director
U.S. Census Bureau
4600 Silver Hill Road
Washington, DC 20233

Dear Secretary Ross and Director Dillingham:

We write to raise concerns about two recent political appointments at the Census Bureau: Nathaniel Cogley as deputy director for policy and Adam Korzeniewski as a senior advisor to Mr. Cogley. We also require additional information from the Census Bureau given conflicting reports about the scope of these new roles and their specific duties in relation to the 2020 Census.

At a time when the 2020 Census operations have been delayed by the novel coronavirus (COVID-19) pandemic, impacting the production of sensitive political data sets for apportionment redistricting, the Census Bureau should not be further hindered by the appearance of political interference. At the same time, the Census Bureau is working to ensure a full, fair, and accurate 2020 Census, boosting efforts to increase self-response rates and modifying operations including non-response follow up and service-based enumeration. Even an appearance of political interference could impact the willingness to respond to the decennial census, depressing the count in hard-to-count communities across the country—such as immigrant, non-English speaking, Native American, and urban communities.

These concerns have been raised by a number of nonpartisan economic and statistical organizations that rely on the decennial census data sets as the cornerstone of not only social scientific analysis, but also public policy for the subsequent decade.[1] Both the appointments themselves, as well as their timing, call into question the purpose of these new positions and their role in shaping the Census Bureau's policies.

At address these concerns, we ask that you respond to the following:

1) Provide a detailed justification for the appointment of Mr. Cogley and Mr. Korzeniewski, including information about each of their job functions and duties.

2) Provide an explanation of the involvement of these two appointments in 2020 Census operations, including non-response follow up operations, the development and publication of decennial census data products, interactions with staff, and participation in meetings.

3) Provide an explanation of the involvement of these two appointments in the implementation of the president's memorandum regarding "Excluding Illegal Aliens from the Apportionment Base Following the 2020 Census."

[1] These include the American Statistical Association, Population Association of America, Association of Population Centers, American Economic Association, and Council of Professional Associations on Federal Statistics.

4) Provide an outline of what access either or both of these appointees individually will have to internal census controlled access systems and processes, and answer the following questions:
    a) Will Mr. Cogley and Mr. Korzeniewski be sworn Census Bureau employees with access to protected Title 13 data?
    b) Will Mr. Cogley and Mr. Korzeniewski participate in meetings of the Census Bureau's Operating Committee, the Data Stewardship Executive Committee, any of the Research Data Centers, the Working Group on the President's Executive Order on Citizenship Status, or the Working Group on Citizen Voting Age Population?
    c) Will Mr. Cogley and Mr. Korzeniewski have access to any preliminary work products of any of these committees or working groups?
    d) Will Mr. Cogley and Mr. Korzeniewski have access to the Decennial Census Unedited File or the Decennial Census Edited File?
    e) Will Mr. Cogley and Mr. Korzeniewski have access to any Title 26-protected material, Internal Revenue Service (IRS) data, or combined IRS/Census data?
    f) Will Mr. Cogley and Mr. Korzeniewski have access to any preliminary Administrative Record Data provided to the Census Bureau for use in compiling an estimate of non-citizens or to comply with Executive Order 13880?
    g) Will Mr. Cogley and Mr. Korzeniewski have access to the methodology used to provide either item imputation or household imputation for non-responses?

The Census Bureau has long been the gold standard among federal agencies for its apolitical work. And decennial census data have been the cornerstone of federal data used to apportion political representation, and direct over $1.5 trillion annually in federal funding for healthcare, education, roads and bridges, first responders, rural businesses, and other vital services. It is, therefore, essential that we achieve a full, fair, and accurate decennial census without the appearance of political interference.

Thank you for your attention to this matter, and we look forward to your written response.

Sincerely,

BRIAN SCHATZ
United States Senator

RON WYDEN
United States Senator

SHERROD BROWN
United States Senator

From: McDermott, Ryan (Federal)
To: Missouri Johnson, Marcellina (Federal); DOCExecSec
Subject: Fwd: Letter re. Census Bureau political appointees
Date: Tuesday, July 28, 2020 10:53:08 AM
Attachments: ATT00001.htm
ATT00002.htm
FINAL Letter to Ross and Dillingham re. Census Bureau political appointments, 7-28-20.pdf
ATT00003.htm

Begin forwarded message:

From: "Foti, Anthony (Federal)" <AFoti@doc.gov>
Date: July 28, 2020 at 10:36:15 AM EDT
To: "McDermott, Ryan (Federal)" <RMcDermott1@doc.gov>
Subject: Fwd: Letter re. Census Bureau political appointees

Incoming.

Anthony Foti
Performing the delegated duties of the
Assistant Secretary for Legislative and Intergovernmental Affairs
U.S. Department of Commerce
1401 Constitution Ave, NW
Washington, DC 20230
202-482-1148

Begin forwarded message:

From: "Ito, Trelaine (Schatz)" <Trelaine_Ito@schatz.senate.gov>
Date: July 28, 2020 at 10:10:26 AM EDT
To: "Foti, Anthony (Federal)" <AFoti@doc.gov>
Subject: Letter re. Census Bureau political appointees

Hi Anthony,

I wanted to flag this letter Senators Schatz, Wyden, and Brown are sending to Secretary Ross and Director Dillingham.

Please let me know if you have any questions.

Thank you,
Trelaine

Trelaine Ito, MS
Legislative Assistant, Office of U.S. Senator Brian Schatz (D-HI)
722 Hart Senate Office Building
Tel: (202) 224-3934, Fax: (202) 228-1153
Trelaine_Ito@schatz.senate.gov
www.schatz.senate.gov
Follow Senator Schatz on Twitter & Facebook

United States Senate

July 28, 2020

The Honorable Wilbur L. Ross, Jr.
Secretary
U.S. Department of Commerce
101 Constitution Ave, NW
Washington, DC 20230

The Honorable Dr. Steven Dillingham
Director
U.S. Census Bureau
4600 Silver Hill Road
Washington, DC 20233

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3) Provide an explanation of the involvement of these two appointments in the implementation of the president's memorandum regarding "Excluding Illegal Aliens from the Apportionment Base Following the 2020 Census."

[1] These include the American Statistical Association, Population Association of America, Association of Population Centers, American Economic Association, and Council of Professional Associations on Federal Statistics.

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    g) Will Mr. Cogley and Mr. Korzeniewski have access to the methodology used to provide either item imputation or household imputation for non-responses?

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Thank you for your attention to this matter, and we look forward to your written response.

Sincerely,

BRIAN SCHATZ
United States Senator

RON WYDEN
United States Senator

SHERROD BROWN
United States Senator

From: Ali Mohammad Ahmad (CENSUS/ADCOM FED) [ali.m.ahmad@census.gov]
Sent: 6/1/2020 10:26:58 AM
To: Walsh, Michael (Federal) [MWalsh@doc.gov]; Foti, Anthony (Federal) [AFoti@doc.gov]
Subject: Fwd: Census legislative proposal
Attachments: Census Legislative Text and Section-by-Section 04.18.20.pdf; ATT00001.htm

From: Ali Mohammad Ahmad (CENSUS/ADCOM FED) [ali.m.ahmad@census.gov]
Sent: 4/19/2020 4:35:10 PM
To: Walsh, Michael (Federal) [MWalsh@doc.gov]
Subject: Re: Updated. Deliberative and Pre-Decisional.
Attachments: All Attachment 4-19-20.pdf; Cover Page and All Attachment 4-19-20.pdf

One draft includes last version of cover page I sent you.

Ali Ahmad, Associate Director
Communications Directorate
U.S. Census Bureau
O: 301-763-8789| M: b(6)
Ali.M.Ahmad@census.gov
census.gov | @uscensusbureau

From: Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov>
Sent: Sunday, April 19, 2020 4:15 PM
To: Walsh, Michael (Federal) <MWalsh@doc.gov>
Subject: Re: Updated. Deliberative and Pre-Decisional.

With very minor edits

Ali Ahmad, Associate Director
Communications Directorate
U.S. Census Bureau
O: 301-763-8789| M: b(6)
Ali.M.Ahmad@census.gov
census.gov | @uscensusbureau

From: Walsh, Michael (Federal) <MWalsh@doc.gov>
Sent: Sunday, April 19, 2020 4:05 PM
To: Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov>
Subject: Re: Updated. Deliberative and Pre-Decisional.

DELIBERATIVE AND PREDECISIONAL

What do you think of this?

From: "Ali Mohammad Ahmad (CENSUS/ADCOM FED)" <ali.m.ahmad@census.gov>
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Attachment 1

CENTER FOR IMMIGRATION STUDIES DECEMBER 2019

The Impact of Legal and Illegal Immigration on the Apportionment of Seats in the U.S. House of Representatives in 2020

By Steven A Camarota and Karen Zeigler

Under current policy all persons — not just citizens — are included in the population count when apportioning seats to states in the U.S. House of Representatives and for votes in the Electoral College, which is based on House seats. Although we focus on the next census in 2020, the impact of immigration has been building for decades as the number of people settling in the country has increased dramatically. This report examines the cumulative impact of immigration, both legal and illegal, on the apportionment of House seats. Apportionment is a zero-sum system; by adding more population to some states rather than others, immigration will continue to significantly redistribute political power in Washington.

Among the findings:

- The presence of all immigrants (naturalized citizens, legal residents, and illegal aliens) and their U.S.-born minor children will redistribute 26 seats in the House in 2020.
- To put this number in perspective, changing the party of 21 members of the current Congress would flip the majority in the U.S. House.
- Ohio will have three fewer seats in 2020 than it otherwise would have had but for the presence of all immigrants and their minor children in other states. Michigan and Pennsylvania will have two fewer; and Alabama, Arkansas, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee, Utah, West Virginia, and Wisconsin will each have one fewer seat. California will have 11 more seats in 2020 than it otherwise would have; New York and Texas will have four more seats each; Florida will have three more seats; New Jersey will have two more seats; and Illinois and Massachusetts will each have one additional seat.
- Of the 26 seats that will be lost, 24 are from states that voted for Donald Trump in 2016. Of states that will gain House seats because of immigration, 19 seats will go to the solidly Democratic states of California, New York, New Jersey, Massachusetts, and Illinois. Texas is the only solidly Republican state that gains, while Florida is a swing state.
- Doing the same calculation, but counting only immigrants themselves (naturalized citizens, legal permanent residents, guestworkers, foreign students and illegal aliens), but not their U.S.-born minor children, will redistribute 18 seats in the House in 2020. Ohio will have two fewer seats than it otherwise would have had but for the presence of immigrants in other states. Alabama, Georgia, Idaho, Iowa, Indiana, Kentucky, Louisiana, Michigan, Minnesota, Missouri, North Carolina, Oklahoma, Pennsylvania, Tennessee, Utah, and West Virginia will each have one fewer seat. California will have seven more seats in 2020 than it otherwise would. New York and Florida will have three more each; Texas and New Jersey will have two more seats; and Illinois will have one more seat.

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- Looking at non-citizens and their U.S.-born minor children redistributes 10 seats, with Ohio, Michigan, Alabama, Idaho, Minnesota, Missouri, West Virginia, Tennessee, Pennsylvania, and Rhode Island each having one fewer seat. California will have four more seats than it otherwise would have; Texas will have three more seats; and New York, Florida, and New Jersey will have one additional seat each.

- Looking at only non-citizens (legal residents and illegal immigrants) redistributes eight seats, with Ohio, Michigan, Missouri, Minnesota, Alabama, Idaho, West Virginia, and Rhode Island each having one fewer seat in 2020 due to the presence of non-citizens in other states. California will have three additional seats; Texas will have two more seats; and Florida, New Jersey, and New York will each have one more seat.

- Illegal immigrants and their U.S.-born minor children will redistribute five seats in 2020, with Ohio, Michigan, Alabama, Minnesota, and West Virginia each losing one seat in 2020 that they otherwise would have had. California and Texas will each have two additional seats, and New York will have one additional seat.

- Illegal immigrants alone in the 2020 will redistribute three seats, with Ohio, Alabama, and Minnesota each having one fewer seat than they otherwise would have had, while California, New York, and Texas will have one additional seat.

Introduction

Article 1, Section 2 of the U.S. Constitution requires that a census be taken every 10 years for the purpose of apportioning seats in the House of Representatives. Each state is assigned the one seat it is required to receive, and the remaining 385 seats are allocated based on each state's share of the total U.S. population, excluding the District of Columbia. (Congress capped the number of House members at 435 in 1911.) Immigrants, referred to as the "foreign-born" by the Census Bureau, include naturalized citizens, as well as non-citizens such as green card holders, foreign students, and guestworkers. It also includes illegal immigrants counted in the decennial census. Immigrants also have U.S.-born children. The presence of all of these individuals has a significant impact on the distributions of seats in the House of Representatives and votes in the Electoral College. This report examines that redistribution.

We focus on 2020 and report how the number of seats in each state changes with and without including immigrants and/or their U.S.-born minor children. While there is an absolute consensus that all U.S. citizens should be counted and included in the apportionment population, opinions vary as to whether non-citizens in general or illegal immigrants in particular should be counted when apportioning seats. This report does not explore the question of which populations should or should not be included when seats are apportioned, nor do we take a position on whether the children of illegal immigrants should be automatically granted citizenship. This analysis simply informs the immigration debate by reporting the impact of immigration on the distribution of House seats.

Our findings indicate that, over time, immigration profoundly redistributes political power at the federal level by changing the apportionment of House seats and votes in the Electoral College. Immigration laws were changed significantly in 1965, spurring a new "Great Wave" of immigration as the number of immigrants grew roughly four-and-a-half fold between 1965 and 2019.[1] Of all immigrants living in the United States today, 97 percent arrived after 1965. In effect, this analysis measures the impact of post-1965 immigration on the distribution of political power in Washington.[2]

The methods section of this report explains in detail how we estimate the impact of immigration on apportionment. In sum, we first project the population of the 50 states for 2020. We then calculate the apportionment of House seats based on these populations for 2020. We then use this as a baseline to compare what the apportionment of house seats would be without immigrants, non-citizens, or other populations of interest. The difference represents the impact of immigration.

Findings

Impact of All Immigrants. The second column in Table 1 shows the likely distribution of seats in the House after the 2020 census, based on current trends. This is the baseline projection against which all other scenarios are compared. The other

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Table 1. Apportionment of House Seats after 2020 Census Assuming Different Populations Were Not Present

State	Projected Seats, 2020	Without Immigrants and Their U.S.-Born Minor Children	Without Immigrants (Legal and Illegal)	Without Non-Citizens and Their U.S.-Born Minor Children	Without Non-Citizens	Without Illegal Aliens and and Their U.S.-Born Minor Children	Without Illegal Aliens
Alabama	6	7	7	7	7	7	7
Alaska	1	1	1	1	1	1	1
Arizona	10	10	10	10	10	10	10
Arkansas	4	5	4	4	4	4	4
California	52	41	45	48	49	50	51
Colorado	8	8	8	8	8	8	8
Connecticut	5	5	5	5	5	5	5
Delaware	1	1	1	1	1	1	1
Florida	29	26	26	28	28	29	29
Georgia	14	15	15	14	14	14	14
Hawaii	2	2	2	2	2	2	2
Idaho	2	3	3	3	3	2	2
Illinois	17	16	16	17	17	17	17
Indiana	9	10	10	9	9	9	9
Iowa	4	5	5	4	4	4	4
Kansas	4	4	4	4	4	4	4
Kentucky	6	7	7	6	6	6	6
Louisiana	6	7	7	6	6	6	6
Maine	2	2	2	2	2	2	2
Maryland	8	8	8	8	8	8	8
Massachusetts	9	8	9	9	9	9	9
Michigan	13	15	14	14	14	14	13
Minnesota	7	8	8	8	8	8	8
Mississippi	4	5	4	4	4	4	4
Missouri	8	9	9	9	9	8	8
Montana	2	2	2	2	2	2	2
Nebraska	3	3	3	3	3	3	3
Nevada	4	4	4	4	4	4	4
New Hampshire	2	2	2	2	2	2	2
New Jersey	12	10	10	11	11	12	12
New Mexico	3	3	3	3	3	3	3
New York	26	22	23	25	25	25	25
North Carolina	14	15	15	14	14	14	14
North Dakota	1	1	1	1	1	1	1
Ohio	15	18	17	16	16	16	16
Oklahoma	5	6	6	5	5	5	5
Oregon	6	6	6	6	6	6	6
Pennsylvania	17	19	18	18	17	17	17
Rhode Island	1	2	1	2	2	1	1
South Carolina	7	8	7	7	7	7	7
South Dakota	1	1	1	1	1	1	1
Tennessee	9	10	10	10	9	9	9
Texas	39	35	37	36	37	37	38
Utah	4	5	5	4	4	4	4
Vermont	1	1	1	1	1	1	1
Virginia	11	11	11	11	11	11	11
Washington	10	10	10	10	10	10	10
West Virginia	2	3	3	3	3	3	2
Wisconsin	8	9	8	8	8	8	8
Wyoming	1	1	1	1	1	1	1

Based on populations shown in Table A1.

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Table 2. Impact of Immigration on 2020 Apportionment under Different Population Scenarios

State	Impact of Immigrants and Their U.S.-Born Minor Children	Impact of Immigrants Only	Impact of Non-Citizens and Their U.S.-Born Minor Children	Impact of Non-Citizens Only	Impact of Illegal Aliens and Their U.S.-Born Minor Children	Illegal Aliens Only
Ohio	-3	-2	-1	-1	-1	-1
Michigan	-2	-1	-1	-1	-1	0
Pennsylvania	-2	-1	-1	0	0	0
Alabama	-1	-1	-1	-1	-1	-1
Idaho	-1	-1	-1	-1	0	0
Minnesota	-1	-1	-1	-1	-1	-1
Missouri	-1	-1	-1	-1	0	0
Tennessee	-1	-1	-1	0	0	0
West Virginia	-1	-1	-1	-1	-1	0
Rhode Island	-1	0	-1	-1	0	0
Georgia	-1	-1	0	0	0	0
Indiana	-1	-1	0	0	0	0
Iowa	-1	-1	0	0	0	0
Kentucky	-1	-1	0	0	0	0
Louisiana	-1	-1	0	0	0	0
North Carolina	-1	-1	0	0	0	0
Oklahoma	-1	-1	0	0	0	0
Utah	-1	-1	0	0	0	0
Arkansas	-1	0	0	0	0	0
Mississippi	-1	0	0	0	0	0
South Carolina	-1	0	0	0	0	0
Wisconsin	-1	0	0	0	0	0
Massachusetts	1	0	0	0	0	0
Illinois	1	1	0	0	0	0
New Jersey	2	2	1	1	0	0
Florida	3	3	1	1	0	0
New York	4	3	1	1	1	1
Texas	4	2	3	2	2	1
California	11	7	4	3	2	1
Total Seats Affected	26	18	10	8	5	3

Based on populations shown in Table A1.

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columns in Table 1 show the distribution of seats under different population scenarios.[3] Table 2 uses Table 1 and compares changes in the distribution of seats caused by what is likely to happen in 2020 under each scenario. The 21 states that are unaffected in any of the scenarios are not shown in Table 2. The bottom of Table 2 shows the total number of seats that change hands under each scenario.

In 2020, there will be more than 61 million immigrants and their U.S.-born minor children in the United States, representing nearly one in five U.S. residents. In 2020, the average House seat will represent roughly 760,000 people. So it is not surprising that immigration redistributes seats. Of course it is not just the number of immigrants or the number of children that matter. In 2020, just four states (California, Texas, Florida, and New York) will have 53 percent of the nation's immigrants and their U.S.-born children under age 18. It is both the size of this population and its uneven distribution that causes the significant redistribution shown at the bottom of Table 2.

Table 2 shows that Ohio is the biggest loser from immigration, with three fewer seats due to the presence of immigrants and their U.S.-born children residing in other states. Michigan and Pennsylvania will have two fewer seats, while Alabama, Arkansas, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee, Utah, West Virginia, and Wisconsin will each lose one seat. California is the biggest winner, as it will gain 11 more congressional seats due to immigrants and their young children; New York and Texas will get four more seats each, while Florida will get three seats, New Jersey two seats, and Massachusetts and Illinois one seat each. Table 2 also shows that immigrants (legal and illegal) alone, not including their U.S.-born children, redistribute 18 seats. Ohio would have two fewer seats due to immigrants, while Alabama, Idaho, Michigan, Minnesota, Missouri, Pennsylvania, Tennessee, West Virginia, Georgia, Indiana, Iowa, Kentucky, Louisiana, North Carolina, Oklahoma, and Utah would lose one seat under this scenario. California would still be the big winner, followed by New York, Florida, Texas, New Jersey, and Illinois. Immigrants alone, not counting their U.S.-born minor children, have a very large impact on the apportionment of House seats.

The Impact of Non-Citizens and Illegal Immigrants. There will be nearly 30 million non-citizens and their U.S.-born minor children in the country in 2020. Non-citizens include green card holders (permanent residents), long-term temporary visa holders (mainly foreign students and guestworkers), and illegal immigrants. Together with their U.S.-born children, these non-citizens will redistribute 10 seats in 2020. California will have four more seats than it otherwise would but for non-citizens and their young children; Texas will have three additional seats; and New Jersey, Florida, and New York will each have one additional seat. Alabama, Idaho, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, Tennessee, West Virginia, and Rhode Island will each have one fewer seat as a result of non-citizens and their minor children. Non-citizens, not including their U.S-born minor children, will redistribute eight seats. The states that gain seats are the same, with Texas and California gaining one fewer than when the children are included. The losing states are also the same with the exception that neither Pennsylvania nor Tennessee will lose a seat.

Turning to illegal immigrants and their minor children, Table 2 shows that including them in the census redistributes five seats. California and Texas will each gain two seats as a result of including illegal immigrants and their young children, while New York will gain a seat. Alabama, Michigan, Ohio, Minnesota, and West Virginia each lose a seat because of illegal immigrants and their U.S.-born children in other states. If we look at only illegal immigrants, we find that including them in the count redistributes three seats in the House. California, Texas, and New York will each gain a seat; Alabama, Ohio, and Minnesota will each lose one.

Implications

High Immigration Causes Political Redistribution. If immigrants were evenly spread throughout the country, they would have no impact on the distribution of House seats. Historically, immigrants have always been concentrated in some areas, and that is still true today. Of course, immigrants do tend to become more dispersed over time, but it is a very gradual process. In 1990, the top six states of immigrant settlement accounted for 73 percent of the total foreign-born population, while in 2000 these same six states accounted for 69 percent of the total foreign-born population. In 2020, the top six states will account for 63 percent of all immigrants, but only 40 percent of the nation's total population. Although immigrants will almost certainly continue to move into new parts of the country, for decades to come there will continue to be states with very large

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immigrant populations, while other states have only a modest number. In 2020, there will still be 11 states with fewer than 100,000 immigrants, while five states will have more than two million.

The redistributive effects of immigration are not just a result of its concentration, but also partly depend on immigrants' share of the total population. A very large immigrant population, even if it becomes more dispersed, can still have a significant impact on the distribution of House seats and Electoral College votes. As long as the number of immigrants (legal and illegal) entering the country remains very high, immigration will continue to redistribute political power in Washington. (While not examined in this report, the same dynamic applies within states, in drawing districts for the state legislatures.)

Representing Non-Citizens in Congress. Although the political stakes for low-immigration states from continued high levels of immigration are clearly very significant, the related question of creating districts because of the presence of non-citizens is equally important to consider. While there is a consensus that naturalized citizens should be represented in Congress just like any other American, awarding congressional seats to states on the basis of their non-citizen populations raises important questions about political representation. This is especially true when one considers that these districts are created by taking representation away from states comprised of American citizens.

Consider the case of Ohio, the biggest loser from immigration-induced reapportionment. In 2020, there will be 292,000 non-citizens in Ohio, accounting for just 2 percent of the state's population; California will be home to nearly 4.8 million non-citizens, accounting for 12 percent of the state's population. Non-citizens cannot vote in federal elections, serve on juries, or work for the federal government in most cases. Many non-citizens, including foreign students, guestworkers, and illegal immigrants also may not make campaign contributions. Thus, it may seem odd that they are "represented" in Congress. This is especially true because the majority of non-citizens in the country are either illegal immigrants or temporary visitors such as foreign students or guestworkers.[4] While one can at least argue that legal permanent residents who have not naturalized are entitled to representation in Congress because they are future Americans, illegal aliens and temporary visitors can make no such claim.

Non-Citizens vs. "One Man, One Vote". There are a significant number of congressional districts in high immigration states where a larger share of voting-age people are non-citizens and, as a result, it takes relatively few votes to elect a member of Congress. Taking away representation from states composed almost entirely of U.S. citizens so that districts can be created where a large share of the population is made up of non-citizens can be seen as in conflict with the principle of "one man, one vote". In the 2018 election in the five congressional districts where the largest share of the voting-age population were not citizens, only 132,000 votes were cast on average. In the five districts with the smallest non-citizen shares, 232,000 votes were cast on average. If nothing else, it means it takes far fewer votes to win a House seat in a district where a large share of adults is made up of non-citizens. Allowing in a large number of legal immigrants and tolerating illegal immigration has created a situation in which the votes of American citizens living in low-immigration districts count much less than those of citizens is living in high-immigration districts.

While it's clear that American citizens in low-immigration states lose from mass immigration, the winners are not necessarily the non-citizens who cause the reapportionment, since they cannot vote or otherwise fully take part in the political process. Instead, it is citizens who live in the same districts with non-citizens whose political power is enhanced. Put simply, in a district in which a large share of the population cannot vote, those who do vote count more than citizens in districts where almost everyone is an American citizen. Put a different way, large non-citizen populations take voting power from some Americans and give it to other American citizens in high-immigration districts.

Conclusion

Given the large number of immigrants allowed into the country and their concentration in relatively few states, it is inevitable that immigration will exact a political cost from those states that receive relatively few immigrants. Because family relationships and existing cultural ties determine where immigrants live, movement into new areas will take many decades. Thus, immigrants will continue to be concentrated in only a few states, and this in turn will continue to shift political power in the House of Representatives and the Electoral College.

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It is important, then, when making decisions regarding immigration policy, to take into account not only the economic, fiscal, cultural, and demographic impacts of immigration, but also the political impact, part of which is the realignment of power in Congress away from states receiving relatively few immigrants. In addition to this realignment, careful consideration should also be given to the loss of representation suffered by citizens in low-immigration states. Trying to deal with this problem by excluding non-citizens, legal or illegal, would be challenging. Whether the Constitution requires non-citizens to be included in the apportionment population is an open question.

Encouraging legal immigrants who are not citizens to naturalize would help to alleviate at least some of the problem. Of course, increased naturalizations would have no impact on the problem created by the presence of illegal aliens or the large number of long-term temporary visitors in the country. In addition, as long as one million or more new legal permanent immigrants are allowed in annually, there will always be a significant number of legal immigrants who have not lived here long enough to naturalize or chose not to do so even when eligible. Absent a change in policy, the non-citizen population will remain large even if new legal permanent immigrants naturalize at higher rates in the future.

Since the amount of redistribution is a direct consequence of the level of immigration, a more moderate level of immigration would produce less immigration-based reapportionment. Given the apparent remoteness of the other effects of immigration on low-immigrant states, citizens of such states and their elected representatives need to be particularly sensitive to the political costs of immigration.

Methods

While the Constitution requires the reapportionment of seats in the House of Representatives after each decennial census, it is not clear on the exact method of apportionment. The Method of Equal Proportions has been used since the 1940 Census.[5] This analysis assumes it will again be the method used in 2020. The Census Bureau attempts to capture all U.S. residents in the census.

To estimate the impact of immigration on the 2020 census requires six steps. First, project the resident population of the 50 states for 2020, excluding the District of Columbia. Second, project the size and state distribution of the Federally Affiliated Overseas Population (FAOP) in 2020, which is included in the apportionment population. Third, add the FAOP to the projected resident population in each state and calculate the apportionment of seats in the U.S. House of Representatives based on the projections. Fourth, estimate the likely number of illegal immigrants, non-citizens, all immigrants (foreign-born), or other populations of interest that will be included in the apportionment population in 2020 by state. Fifth, remove the population of interest from the 2020 apportionment population and recalculate the distribution of House seats. Sixth, compare the distribution of House seats from step three to the distribution of seats with the population of interest removed to determine the impact. The sections that follow explain in detail how this is done.

Projected Resident Population in 2020. While the U.S. Census Bureau no longer projects state populations, it does estimate each state's population every year. The state population projections for 2020 used in this report simply take each state's population as estimated by the Census Bureau in recent years and project the state's population to 2020 using a linear model.[6] This is implemented by taking the Bureau's projections for each state from 2016 to 2018 (2018 is the most recent year available) and projecting the population to 2020.[7] The projection has to be controlled back to April 1, since this is the date of the census, while the Bureau's population estimates are for each state as of July 1.[8] The first column in Table A1 reports the projection of the resident population for April 1, 2020, in each state. The District of Columbia is excluded from the analysis as it is not part of the population used for apportioning House seats.

The Federally Affiliated Overseas Population. As already indicated, the apportionment population includes the resident population of each state and the Federally Affiliated Overseas Population (FAOP) of Americans: military personnel and their dependents, plus non-military federal employees and their dependents. The Census Bureau reports the number of military personnel overseas in its FactFinder data tool, but not the rest of the FAOP. The size of the FAOP is estimated for 2020 by taking the most recent estimate of military personnel overseas (236,475) from the Census Bureau's website as reported in FactFinder.[9] The number of military dependents is estimated using the same ratio of military personnel to dependents as was the case in the 2010 census.[10] This produces an estimate of 340,956 military dependents overseas, making for a total military and dependent population of 236,475 + 340,956 = 577,431.

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As for federal employees overseas, the most up-to-date figure from the Office of Personnel Management is 21,393.[11] Assuming the same ratio of federal employers overseas to dependents as in 2010 produces an estimated 35,833 federal employees and their dependents for 2020.[12] Adding the estimated number of military personnel and their families calculated above to the estimated number of federal employees and their dependents creates an overall estimated FAOP of 613,265. Subtracting out those in the District of Columbia leaves an FAOP of 611,573.[13] This FAOP can then be allocated across the states based on each state's share of the FAOP in the prior decennial census.[14] Adding the state FAOP to the projected state population creates a projected apportionment population for 2020 for every state shown in the third column of Table A1.

Populations of Interest. The overall state population projections discussed above use the three most recent years of population estimates from the Census Bureau projected forward. For the foreign-born population, their U.S.-born children, and the non-citizen population and their children, we use a similar approach. Based on the public-use data from the American Community Survey for the three most recent years of data, we use a linear model to project these populations forward to 2020 for each state.[15] Table A1 shows the projected foreign-born population in each state for 2020 using this approach. The table also shows the projected population of immigrants and their U.S.-born children and the non-citizen population and their children. We limit children to those with immigrant fathers. We then subtract these totals, depending on the population of interest from the total projected population (resident plus FAOP) and then recalculate the apportionment.

Likely Illegal Immigrants. There is no one definitive estimate of illegal immigrants. The Office of Immigration Statistics within the Department of Homeland Security estimates this population, but DHS has population estimates only for the 10 states with the largest illegal immigrant populations and their most recent estimates are only through January 2015.[16] Although the Pew Research Center estimates the number of illegal immigrants, we use the Center for Migration Studies' (CMS) estimates of illegal aliens for 2017, as they provide estimates for every state.[17] This analysis takes the CMS estimates at the state level and subtracts them from the projected apportionment populations generated above. For the U.S.-born children under age 18, we also use estimates provided by CMS. The apportionment of House seats absent illegal aliens and their U.S.-born minor children can then be compared to the apportionment of seats when the illegal population is included. The difference represents the impact of illegal immigration.

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Appendix

Table A1. Apportionment of House Seats after 2020 Census Assuming Different Populations Were Not Present

State	Resident Pop.	FAOP	Estimated Apportionment Pop.	Pop. w/o Immigrants and Their U.S.-Born Minor Children	Pop. w/o Immigrants	Pop. w/o Non-Citizens and Their U.S.-Born Minor Children	Pop. w/o Non-Citizens	Pop. w/o Illegal Immigrants and Their U.S.-Born Minor Children	Pop. w/o Illegal Immigrants
Alabama	4,907,710	13,674	4,921,385	4,649,548	4,750,733	4,765,381	4,821,901	4,821,764	4,860,155
Alaska	733,985	6,643	740,628	669,924	676,306	711,597	712,261	731,828	732,241
Arizona	7,366,341	12,167	7,378,508	5,938,614	6,405,422	6,684,303	6,863,860	7,019,884	7,145,488
Arkansas	3,034,606	6,065	3,040,672	2,806,890	2,885,766	2,881,633	2,941,244	2,961,626	2,990,640
California	39,866,894	51,785	39,918,680	25,722,649	29,357,697	33,187,227	35,151,130	36,708,615	37,732,101
Colorado	5,830,096	9,256	5,839,352	4,953,492	5,278,137	5,418,486	5,559,222	5,605,799	5,685,570
Connecticut	3,566,811	4,430	3,571,241	2,846,010	3,050,447	3,241,562	3,325,488	3,426,226	3,461,688
Delaware	982,510	1,731	984,241	869,724	890,652	914,076	932,683	945,134	959,887
Florida	21,889,053	58,509	21,947,562	16,320,665	17,229,720	19,484,510	19,977,749	21,025,473	21,239,179
Georgia	10,707,660	23,479	10,731,139	9,375,367	9,633,587	10,079,046	10,169,188	10,256,075	10,421,120
Hawaii	1,413,797	3,860	1,417,657	1,089,126	1,148,082	1,288,016	1,314,930	1,379,495	1,387,503
Idaho	1,816,688	3,481	1,820,169	1,643,374	1,705,960	1,727,699	1,761,529	1,774,281	1,792,638
Illinois	12,666,728	19,852	12,686,580	10,164,505	10,862,513	11,506,059	11,841,538	12,035,732	12,260,687
Indiana	6,742,252	10,459	6,752,711	6,345,471	6,390,525	6,524,769	6,540,980	6,610,092	6,660,487
Iowa	3,177,351	4,372	3,181,723	2,972,135	2,996,848	3,042,256	3,068,204	3,122,221	3,144,372
Kansas	2,911,485	6,291	2,917,776	2,613,601	2,715,738	2,736,965	2,798,871	2,822,286	2,854,809
Kentucky	4,494,990	6,611	4,501,601	4,238,230	4,310,253	4,333,637	4,387,077	4,445,763	4,460,786
Louisiana	4,644,594	12,112	4,656,707	4,342,393	4,453,531	4,457,575	4,532,302	4,583,145	4,601,550
Maine	1,344,617	2,772	1,347,390	1,299,184	1,303,438	1,317,725	1,325,760	1,344,510	1,345,378
Maryland	6,076,386	9,634	6,086,020	4,811,534	5,169,028	5,547,242	5,688,986	5,799,098	5,879,055
Massachusetts	6,968,480	7,068	6,975,548	5,257,472	5,708,669	6,204,375	6,394,516	6,763,270	6,804,669
Michigan	10,035,285	16,463	10,051,748	9,142,785	9,317,300	9,645,483	9,723,548	9,896,952	9,940,127
Minnesota	5,688,265	6,444	5,694,708	4,920,935	5,168,440	5,407,826	5,451,152	5,589,606	5,623,677
Mississippi	2,985,733	6,437	2,992,170	2,906,187	2,909,335	2,934,375	2,941,611	2,965,131	2,974,977
Missouri	6,161,390	13,266	6,174,655	5,789,395	5,911,139	5,995,746	6,044,517	6,103,404	6,126,979
Montana	1,081,569	2,942	1,084,511	1,057,559	1,060,741	1,076,824	1,076,123	1,079,908	1,080,804
Nebraska	1,949,687	3,226	1,952,913	1,724,141	1,810,485	1,833,636	1,877,147	1,889,454	1,913,708
Nevada	3,133,126	5,224	3,138,350	2,367,398	2,546,795	2,815,647	2,872,541	2,897,332	2,977,362
New Hampshire	1,368,900	2,927	1,371,826	1,255,034	1,277,807	1,323,924	1,340,865	1,357,841	1,360,006
New Jersey	8,937,282	9,181	8,946,463	6,031,167	6,876,435	7,858,705	8,157,272	8,385,535	8,528,745
New Mexico	2,097,499	4,761	2,102,261	1,818,842	1,901,112	1,953,857	1,986,116	2,025,108	2,053,489
New York	19,454,858	25,267	19,480,125	13,968,698	15,118,363	17,420,190	17,801,222	18,559,478	18,783,438
North Carolina	10,582,410	17,823	10,600,233	9,321,941	9,732,462	9,816,381	10,053,889	10,158,172	10,322,523
North Dakota	764,406	1,949	766,355	705,278	717,604	733,804	739,501	761,556	761,979
Ohio	11,737,712	18,819	11,756,530	11,057,672	11,145,938	11,455,167	11,464,874	11,639,057	11,673,830
Oklahoma	3,956,589	7,960	3,964,549	3,578,429	3,712,101	3,713,481	3,809,384	3,849,983	3,885,690
Oregon	4,279,453	10,313	4,289,766	3,658,379	3,825,390	3,911,476	4,033,209	4,135,734	4,197,754
Pennsylvania	12,826,024	19,133	12,845,158	11,704,945	11,873,050	12,274,524	12,390,983	12,616,901	12,674,462
Rhode Island	1,057,301	1,577	1,058,878	887,365	930,950	997,752	1,015,808	1,028,482	1,038,035
South Carolina	5,194,295	12,124	5,206,420	4,872,000	4,934,691	5,035,299	5,065,888	5,099,566	5,134,246
South Dakota	899,403	3,283	902,686	844,958	863,658	875,034	879,422	893,188	894,499
Tennessee	6,879,812	17,251	6,897,063	6,479,162	6,529,921	6,652,647	6,689,588	6,724,483	6,789,276
Texas	29,371,670	72,271	29,443,941	22,100,490	24,285,402	24,808,937	26,266,523	26,869,752	27,768,866
Utah	3,265,205	4,047	3,269,252	2,878,088	2,971,240	3,024,751	3,098,862	3,122,590	3,175,522
Vermont	628,473	2,704	631,177	581,038	591,619	613,128	614,646	626,773	627,781
Virginia	8,611,379	21,596	8,632,975	7,050,748	7,522,133	7,951,398	8,138,507	8,329,567	8,407,977
Washington	7,749,820	16,959	7,766,779	6,096,828	6,574,768	6,954,052	7,169,705	7,411,814	7,534,169
West Virginia	1,783,428	4,012	1,787,440	1,756,671	1,764,173	1,768,691	1,779,857	1,785,053	1,785,221
Wisconsin	5,848,698	6,614	5,855,312	5,536,666	5,565,836	5,657,257	5,710,649	5,754,940	5,790,621
Wyoming	571,310	2,749	574,059	547,705	559,109	559,134	563,658	565,344	568,806

Source: Projections for 2020 are primarily based on Census Bureau population estimates or the American Community Survey carried forward to 2020. Estimates for illegal aliens are based on estimates from the Center for Migration Studies. See methods section for more details.

BC-DOC-0000000349

End Notes

[1] The most recent data available from the Census Bureau is the 2019 Current Population Survey Annual Social and Economic Supplement, which shows 45.8 million legal and illegal immigrants in the country. The 1960 census showed 9.7 million immigrants and the 1970 census showed 9.6 million, so using either number shows a four-and-a-half fold increase.

[2] Figures are based on an analysis of the 2019 public-use file of the Current Population Survey Annual Social and Economic Supplement, which is the most recent data available.

[3] Table A1 in the appendix shows the populations used to create each scenario in Table 1.

[4] The government estimated in 2016 that there were 2.3 million long term temporary visitors in the country, including guest-workers, foreign students, cultural exchange visitors, and foreign diplomats. This number is relatively stable, though it tends to rise over time. The vast majority will be counted in the census, though there will be some undercount. The Center for Migration Studies estimates that there were 9.84 million illegal aliens in Census Bureau data in 2017 and, given the recent influx at the southern border, it seems certain the number will be at least this large in 2020. Given current trends, we project 21.8 million non-citizens in the 2020 census. So it is almost certain there will be more than 12 million non-citizens who are either illegal immigrants or long-term temporary visitors counted in the 2020 census, accounting for more than half of the total non-citizen population. See Bryan Baker, "Nonimmigrants Residing in the United States: Fiscal Year 2016", Office of Immigration Statistics, Department of Homeland Security, March 2018.

[5] The U.S. Census Bureau has a detailed explanation of how congressional apportionment works here.

[6] The Census Bureau's population estimates by state can be found here.

[7] We use ordinary least squares to linearly project the population based on the Bureau's estimates for 2016, 2017, and 2018 to create the resident population in 2020.

[8] This is implemented by taking the growth in the last year of the projection (2019 to 2020) and reducing it to reflect an April 1 date rather than the Census Bureau's control date of July 1.

[9] Table PEPMONTHN generated in American Factfinder at Census.gov, The military population can be calculated by subtracting the first column from the second column.

[10] The total size of the FAOP and its components — including military personnel and their dependents, and civilian employees and their dependents — in 2010 can be found in Table A7 of Karen Crook and Shirley Druetto, "2010 Census Federally Affiliated Overseas Count Operation Assessment", U.S. Census Bureau, March 12, 2012. The table shows 410,696 military personnel and 592,153 dependents or a ratio of 1.44183 to 1 in 2010.

[11] OPM employment figure for those overseas can be found here.

[12] "2010 Census Federally Affiliated Overseas Count Operation Assessment Report", 2010 Census Panning Memoranda Series No. 181 March 20, 2012. The table on p. 2 shows 23,686 overseas federal employees in 2010 and 15,988 dependents for a ratio of 1 to .6749. Multiplying the most recent figure from OPM of 21,393 by 1.6749 produces an estimate of 35,833 federal overseas employers and their dependents for 2020.

[13] *Ibid.* Table A1 shows the FAOP by state and the District of Columbia in 2010. In 2010, the District of Columbia's FAOP accounted for 0.00276 of the total FAOP at that time — 2,875 out of 1,042,523 FAOP residents. Assuming the same ratio for 2020 creates an estimated FAOP used for reapportionment of 611,573.

[14] *Ibid.* Table A1 shows the FAOP by state and the District of Columbia in 2010.

[15] The three most recent years of public-use ACS data currently available are 2016, 2017, and 2018. As is the case for total resident population, we use ordinary least squares to linearly project these populations.

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[16] Bryan Baker, "Population Estimates: Illegal Alien Population Residing in the United States: January 2015", Office of Immigration Statistics, Department of Homeland Security, December 2018.

[17] The Center for Migration Studies' most recent state level estimates can be found in Robert Warren, "US Undocumented Population Continued to Fall from 2016 to 2017 and Visa Overstays Significantly Exceeded Illegal Crossings for the Seventh Consecutive Year", Center for Migration Studies, February 2019. In an earlier report for CMS, Warren estimated that 92.5 percent of illegal immigrants are counted in Census Bureau data. See Robert Warren, "Democratizing Data about Unauthorized Residents in the United States: Estimates and Public-Use Data, 2010 to 2013", Journal on Migration and Human Security, Vol. 2 No. 4, 2014. In an email to the authors on April 27, 2018, Warren suggested assuming that 93 percent of illegal immigrants will be included in Census data, and this analysis uses that percentage for CMS state estimates for 2020.

BC-DOC-0000000351

Attachment 2

From: Mark Krikorian <b(6)@cis.org>
Date: Thursday, December 26, 2019 at 2:54 PM
To: Wilbur Ross b(6)
Subject: Immigration and reapportionment

Secretary Ross: Thanks for your call.

I'm afraid some people misunderstood our recent report on the long-term consequences of mass immigration on the apportionment of House seats and, thus, of electoral votes:

https://cis.org/Report/Impact-Legal-and-Illegal-Immigration-Apportionment-Seats-US-House-Representatives-2020

Our findings were about the *cumulative* effect of decades of mass immigration, based on the likely findings of the 2020 decennial census, not on the likely shift of seats next year. In other words, it's not that 26 House seats will shift next year (24 of them from states that voted Republican in the 2016 election), but rather that the results of next year's census will show that, were it not for years of high immigration (most of it legal), 26 House seats would be in different states, 24 of them having voted for President Trump in 2016. We were careful in describing our findings but did not anticipate the way they might be misunderstood, and should have been clearer about what the findings were *not*. Please accept my apologies for any difficulties this might have caused you or the Census Bureau.

As we tried to make clear, the moral of the story is not that immigrants shouldn't be counted in the census for purposes of apportionment. Instead, we see these findings as making the case for considering the *political* consequences of mass legal immigration, in addition to economic, social, and other effects. The Democrats are open about this -- when Barney Frank was still in Congress, he openly acknowledged that mass immigration (again, most of it legal) is a key part of Democrats' strategy to gain political power. Likewise, Eliseo Medina, an official in the SEIU and the Democratic Socialists of America, made the same point after Obama's election, saying that immigration "will solidify and expand the progressive coalition for the future."

Our big concern is that the administration's as-yet-unreleased immigration plan will set in stone the current legal immigraton level of 1 million-plus each year, and thus continue this shift of political power toward blue states.

Please don't hesitate to call me if you have any questions. -- MK

--

Mark Krikorian, Executive Director
Center for Immigration Studies

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Attachment 3

Wall Street Journal: Political power to continue shift to Southern states, data show

By Janet Adamy and Paul Overberg Wall Street Journal - Dec 30, 2019

WASHINGTON • New state population totals released Monday offer fresh signs that political power is poised to continue its shift from the North and Midwest to the South and Southwest in ways that could help states that have voted Republican in recent years.

The Census Bureau on Monday released state population estimates for the year ended July 1. Congressional seats and electoral votes are allocated to states based on a census conducted every 10 years. Because the 2019 estimates come less than a year before the next decennial census, they closely approximate which states will gain and lose as a result of the 2020 count that gets fully underway in the spring.

Based on Monday's figures, Texas is poised to gain two congressional seats, while Arizona, Colorado, Florida, Montana, North Carolina and Oregon are each expected to gain one.

Eight states are likely to lose one seat: Illinois, Michigan, Minnesota, New York, Pennsylvania, Rhode Island, West Virginia and California. It would be California's first such loss since it became a state in 1850.

The Census Bureau estimates that Colorado gained 729,000 residents — a roughly 15% population uptick — since the 2010 Census, according to the new figures, bringing the estimated population to 5.76 million.

What's less clear is who in the state will benefit from the gain in congressional representation. That will be determined in 2021 when the process of congressional redistricting takes place, after the official 2020 Census is complete.

Growth in the Denver metropolitan area has far outpaced the growth in other parts of the state. Greeley and Fort Collins have also outpaced the state's overall growth to a lesser extent. Those areas could all benefit from the addition of a new congressional seat. Boulder, Grand Junction and especially rural Colorado has made up a smaller portion of the state's population each year since 2010.

Kimball Brace, president of the bipartisan political consulting firm Election Data Services, said he expects the national changes will benefit the Republican Party. "The big states that are very much Democratic are in a loss situation," he said, citing California, Illinois and New York, while traditionally Republican states like Texas and Arizona are poised to gain power.

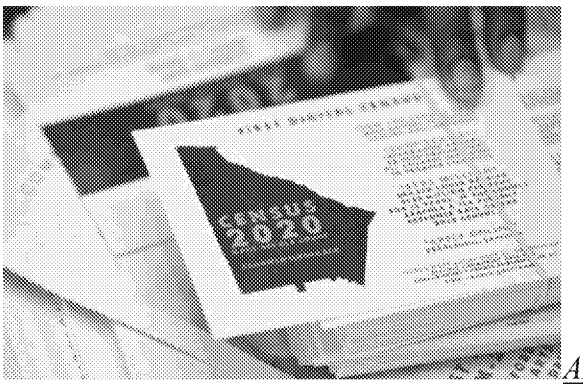
Democrats say in Texas and Arizona, the growth of the Latino populations and new residents from other states could eventually turn them blue. Democrats note how population movements in recent years have moved the partisan makeup of some states in their favor, including Virginia and Colorado.

The results of the 2020 Census will determine the new distribution of House seats and Electoral College votes by December 2020. The first elections likely to be impacted by the seat changes will be in 2021. Most states will redraw congressional and legislative districts in time for 2022 votes.

The final 2020 state population totals will be shaped by how accurate the census is, and additional population totals from overseas workers.

The exact shift of political power also will depend on who wins control of state legislatures in 2020 elections, since those officials will help redraw districts and legislative maps.

Breitbart- 2020 Census Bureau Data: Blue States Projected to Lose Congressional Power in 2022



AP Photo/John Amis

John Binder
30 Dec 2019161
2:50

A series of blue states are set to lose political power in 2020 for the 2022 midterm elections, newly released data from the Census Bureau suggests.

After years of projections that congressional reapportionment in 2020 would see red states lose political power to blue states that have been inundated with illegal and legal immigration over the last decade, analysis of Census Bureau data predicts that it is blue states that will, in fact, lose congressional seats.

Brookings Institute analysis released to *Axios* reveals that red or red-leaning swing states like Texas and Florida, for example, are set to gain two to three congressional seats each in the new year. Meanwhile, President Trump-supporting states such as Arizona, Montana, and North Carolina are all expected to gain at least one congressional seat each.

Projected change in congressional seats by state in 2020

STATE	SEATS GAINED OR LOST	2016 VOTE
Texas	+3	Trump
Florida	+2	Trump
Arizona	+1	Trump
Colorado	+1	Clinton
Montana	+1	Trump
North Carolina	+1	Trump
Oregon	+1	Clinton
Alabama	−1	Trump
California	−1	Clinton
Illinois	−1	Clinton
Michigan	−1	Trump
Minnesota	−1	Clinton
New York	−1	Clinton
Ohio	−1	Trump
Pennsylvania	−1	Trump
Rhode Island	−1	Clinton
West Virginia	−1	Trump

Data: Brookings analysis of U.S. Census data; Table: Naema Ahmed/Axios

Leading blue states like California are predicted to lose a congressional seat, along with blue states like Illinois, Minnesota, New York, and Rhode Island. Still, some Trump-supporting states — Alabama, Michigan, Ohio, Pennsylvania, and West Virginia — are expected to also lose a congressional seat.

The Census analysis is a break from years of research which projected the nation's illegal and legal immigration system, where about 1.5 million foreign nationals are admitted every year, has been helping not only deliver voters to Democrat politicians, but also provide residents to blue states to increase political dominance in Congress.

Most recently, the Center for Immigration Studies projected that new Census numbers would shift about 26 congressional seats from mostly blue states to red states in 2020. Under this analysis, California would gain 11 congressional seats, while New York would add four seats and New Jersey would add two seats — mostly all redistributed from red states with fewer foreign-born residents.

As Breitbart News has chronicled for years, the counting of only American citizens to divide up congressional districts and electoral college votes would shift power away from the affluent, metropolitan coastal cities of the U.S. and towards middle America.

The U.S. is on track to import about 15 million new foreign-born voters in the next two decades should current legal immigration levels continue. Those 15 million new foreign-born voters include about eight million who will arrive in the country through chain migration, whereby newly naturalized citizens can bring an unlimited number of foreign relatives to the country.

John Binder is a reporter for Breitbart News. Follow him on Twitter at @JxhnBinder.

Attachment 4

Sample of Key 2020 Census National & Community Partnerships

Government & Political	All 535 Members of Congress, Every State Governor, Intergovernmental Associations, Key Federal Agencies (Veterans Affairs, USDA, HHS, DOD, FTC, etc.) and more.
Business Leaders	Walmart, UPS, Wells Fargo, Kroger, Target, AT&T, Tyson Foods, Twitter, Apple, Google/YouTube, Microsoft, Facebook, Comcast, Nestle, Uber, Lyft, Yum Brands, Nielsen, Boeing, Capital One, Retail Industry Leaders Association, National Association of Realtors, National Association of Broadcasters, US Chamber Foundation, National Hispanic Corporate Council, National Black Chamber of Commerce, Asian Pacific American Chamber of Commerce, and more.
Rural	4-H, Future Farmers of America, National Sheriffs Association, The National Grange, ACA Connects, Appalachian Regional Commission (ARC), NASCAR, Association for Rural and Small Libraries, Council for Agricultural Science and Technology (CAST) , Delta Regional Authority , Farmer Veteran Coalition, American Association of Land Grant Universities, National Black Farmers Association, National Farmers Union, The Rural Coalition, Woodmen Life, Caterpillar, John Deere, Cargill, Farm Bureau, Cattlemen's, Dairymen's Cotton, Corn, Stock, Vegetable, Fruit, Wool Growers, and more.
Veterans	Veterans of Foreign Wars, American Legion, Wounded Warrior Project, Air Force Sergeants Association, American GI Forum, American Veterans, Disabled American Veterans, Senior Veterans Council, Student Veterans of America, Navy SEAL Foundation, Veterans Education Success, Fleet Reserve Association, National Veterans Foundation, National Coalition for Homeless Veterans, Iraq and Afghanistan Veterans of America, Jewish War Veterans of America, Marine Corps Association, Military Child Education Coalition, and more.
Faith & Charity	National Association of Evangelicals, National Baptist Convention, The Church of Jesus Christ of Latter-day Saints, Church of the Nazarene, Christian Festival Association, Catholic Charities, The Episcopal Church, The Salvation Army, Evangelical Lutheran Church in America, Knights of Columbus, AME Zion Church, National Council of Churches, National Latino Evangelical Coalition, Alliance of Baptists, Concerned Women for America, Coptic Orthodox Archdiocese of North America,, The Muslim-Jewish Advisory Council, American Jewish Committee, Goodwill Industries International, YMCA/YWCA, Boys & Girls Clubs of America, United Way, Volunteers of America- and thousands more.

United States™ Census Bureau

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Attachment 5

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Attachment 6

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Attachment 7

cjonline.com THE TOPEKA CAPITAL-JOURNAL

Opinion

Letter to the editor: Take 10 minutes to take Census survey

Posted Apr 4, 2020 at 12:30 PM

More than 50 million households, representing more than one-third of the nation, already have responded to the 2020 Census. The census happens once every 10 years, and your response affects allocation of Congressional seats and Federal funds to your community — for things like schools, hospitals, roads and emergency services.

Please respond to the Census today. It takes less than 10 minutes to fill out the form online at 2020census.gov, over the phone to the number on the form you received or on paper through mail.

As of April 2, only 43.3% of Kansas households have responded. We ask your help in making sure Kansas gets a complete and accurate count of all people residing in the State as of Census Day, April 1.

Your data are encrypted from the instant we receive your response, so it is well protected. Your responses are not shared with anyone else, including law enforcement. Census responses are protected by Federal law, punishable by up to 5 years in prison and a fine of $250,000.

BC-DOC-0000000375

NEED TO REACH ALABAMA DECISION-MAKERS?

Alabama Yellowhammer- A letter from U.S. Commerce Secretary Wilbur Ross to all Alabamians about 2020 Census

More than 50 million households, representing more than one-third of the nation, already have responded to the 2020 Census. The census happens once every 10 years, and your response affects allocation of congressional seats and federal funds to your community — for things like schools, hospitals, roads and emergency services.

Please respond to the census today. It takes less than 10 minutes to fill out the form online at 2020census.gov, over the phone to the number on the form you received or on paper through mail.

As of April 1, only 39.4% of Alabama households have responded. We ask your help in making sure Alabama gets a complete and accurate count of all people residing in the state as of Census Day, April 1.

Your data are encrypted from the instant we receive your response, so it is well protected. Your responses are not shared with anyone else, including law enforcement. Census responses are protected by federal law, punishable by up to five years in prison and a fine of $250,000.

Almost all households in Alabama have received multiple invitations to respond by phone and by mail. If you have not received a paper questionnaire yet and have not responded, it will be delivered starting April 8. Your state and nation thank you for taking action on behalf of your community by responding to the 2020 Census.

Wilbur L. Ross, Secretary, U.S. Department of Commerce

Attachment 8

2020 Census Operational Adjustments Due to COVID-19

The 2020 Census is underway and more households across America are responding every day. Online, phone, and mailed self-responses will continue throughout the data collection process. In light of the COVID-19 outbreak, the U.S. Census Bureau is adjusting 2020 Census operations in order to:

- Protect the health and safety of the American public and Census Bureau employees.
- Implement guidance from federal, state, and local authorities regarding COVID-19.
- Ensure a complete and accurate count of all communities.

Under the adjusted 2020 Census operational plan, field activities would resume after June 1, 2020, as area census offices begin returning to full staff capacity. **In-person activities, including enumeration, office work, and processing activities, will incorporate the most current guidance from authorities to ensure the health and safety of staff and the public**.

Activity/Operation	Original Schedule	NEW SCHEDULE
Self-Response Phase Online, phone, and mailed self-responses continue throughout the data collection process.	March 12–July 31	March 12–October 31
Group Quarters (e-Response and Paper Enumeration) Many group quarters have already begun responding through our e-response enumeration option.	April 2–June 5	April 2–September 3
Remote Alaska Early operation to reach parts of Alaska that may be difficult to reach later in the year and whose populations depart for other activities. The operation will be mostly completed on the original planned schedule, though some areas with year-round populations will be enumerated when it is safe to do so.	January 21–April 30	Tentatively January 21–June 19, but may need further review and coordination

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United States® Census 2020

D-FS-GP-EN-022 April 13, 2020

Activity/Operation	Original Schedule	NEW SCHEDULE
Field Offices at Peak Operations Managers and staff commence administrative, training, deployment, and support activities for peak data collection operations. This includes selecting and hiring field staff.	March 1	June 1
Update Leave—Stateside Census takers drop off invitations to respond and paper questionnaires at the front doors of 5 million households stateside while updating the addresses.	March 15–April 17	June 13 –July 9
Update Leave—Puerto Rico Update Leave Operation for the Commonwealth of Puerto Rico, approximately 1.7 million households, will be coordinated separately.	March 15–April 17	Needs further review and coordination with outside partners and stakeholders.
Update Enumerate Census takers interview about 2,000 households in remote parts of northern Maine and southeast Alaska.	March 16–April 30	June 14–July 29
Nonresponse Followup (NRFU) Census takers will interview households in person.	May 13–July 31	August 11–October 31
In-Person Group Quarters Enumeration Group quarters that remain a part of our in-person group quarters enumeration efforts will begin in July.	April 2–June 5	July 1– September 3
Service Based Enumeration We're working with service providers at soup kitchens, shelters, and regularly scheduled food vans to count the people they serve.	March 30–April 1	Needs further review and coordination with outside partners and stakeholders.
Mobile Questionnaire Assistance Census Bureau staff assists people with responding online at places people gather (events, grocery stores, etc.).	March 30–July 31	Needs further review and coordination with outside partners and stakeholders.

Activity/Operation	Original Schedule	NEW SCHEDULE
Count of People Experiencing Homelessness Outdoors Census takers count people under bridges, in parks, in all-night businesses, etc.	April 1	Needs further review and coordination with outside partners and stakeholders.
Enumeration of Transitory Locations Census takers count people staying at campgrounds, RV parks, marinas, and hotels if they do not usually live elsewhere.	April 9–May 4	Tentatively September 3–September 28, but may need further review and coordination.
Process Apportionment Counts After collection activities are complete, Census Bureau experts run and review output from programs to unduplicate responses, determine final housing unit status, populate any missing housing unit data on household size, and finalize the universe to be included in the apportionment count file.	July 31, 2020–December 31, 2020	October 31, 2020–April 30, 2021
Process Redistricting Data Census Bureau experts run and review programs to populate any missing demographic data for each household, run differential privacy programs to ensure confidentiality, and run tabulation programs for each state delivery.	January 1, 2021–March 30, 2021	May 1, 2021–July 31, 2021
Deliver Apportionment Counts to the President By law, the Census Bureau will deliver each state's population total, which determines its number of seats in the U.S. House of Representatives.	By December 31	Deliver by April 30, 2021
President Delivers Apportionment Counts to Congress	Within 7 days of start of legislative session or approximately 10–20 days after receipt.	Within 14 days of receipt.
Deliver Redistricting Counts to States By law, the Census Bureau will deliver the local counts each state needs to complete legislative redistricting.	By April 1, 2021	Deliver by July 31, 2021

Attachment 9

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Attachment 1

CENTER FOR IMMIGRATION STUDIES DECEMBER 2019

The Impact of Legal and Illegal Immigration on the Apportionment of Seats in the U.S. House of Representatives in 2020

By Steven A Camarota and Karen Zeigler

Under current policy all persons — not just citizens — are included in the population count when apportioning seats to states in the U.S. House of Representatives and for votes in the Electoral College, which is based on House seats. Although we focus on the next census in 2020, the impact of immigration has been building for decades as the number of people settling in the country has increased dramatically. This report examines the cumulative impact of immigration, both legal and illegal, on the apportionment of House seats. Apportionment is a zero-sum system; by adding more population to some states rather than others, immigration will continue to significantly redistribute political power in Washington.

Among the findings:

- The presence of all immigrants (naturalized citizens, legal residents, and illegal aliens) and their U.S.-born minor children will redistribute 26 seats in the House in 2020.
- To put this number in perspective, changing the party of 21 members of the current Congress would flip the majority in the U.S. House.
- Ohio will have three fewer seats in 2020 than it otherwise would have had but for the presence of all immigrants and their minor children in other states. Michigan and Pennsylvania will have two fewer; and Alabama, Arkansas, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee, Utah, West Virginia, and Wisconsin will each have one fewer seat. California will have 11 more seats in 2020 than it otherwise would have; New York and Texas will have four more seats each; Florida will have three more seats; New Jersey will have two more seats; and Illinois and Massachusetts will each have one additional seat.
- Of the 26 seats that will be lost, 24 are from states that voted for Donald Trump in 2016. Of states that will gain House seats because of immigration, 19 seats will go to the solidly Democratic states of California, New York, New Jersey, Massachusetts, and Illinois. Texas is the only solidly Republican state that gains, while Florida is a swing state.
- Doing the same calculation, but counting only immigrants themselves (naturalized citizens, legal permanent residents, guestworkers, foreign students and illegal aliens), but not their U.S.-born minor children, will redistribute 18 seats in the House in 2020. Ohio will have two fewer seats than it otherwise would have had but for the presence of immigrants in other states. Alabama, Georgia, Idaho, Iowa, Indiana, Kentucky, Louisiana, Michigan, Minnesota, Missouri, North Carolina, Oklahoma, Pennsylvania, Tennessee, Utah, and West Virginia will each have one fewer seat. California will have seven more seats in 2020 than it otherwise would. New York and Florida will have three more each; Texas and New Jersey will have two more seats; and Illinois will have one more seat.

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- Looking at non-citizens and their U.S.-born minor children redistributes 10 seats, with Ohio, Michigan, Alabama, Idaho, Minnesota, Missouri, West Virginia, Tennessee, Pennsylvania, and Rhode Island each having one fewer seat. California will have four more seats than it otherwise would have; Texas will have three more seats; and New York, Florida, and New Jersey will have one additional seat each.

- Looking at only non-citizens (legal residents and illegal immigrants) redistributes eight seats, with Ohio, Michigan, Missouri, Minnesota, Alabama, Idaho, West Virginia, and Rhode Island each having one fewer seat in 2020 due to the presence of non-citizens in other states. California will have three additional seats; Texas will have two more seats; and Florida, New Jersey, and New York will each have one more seat.

- Illegal immigrants and their U.S.-born minor children will redistribute five seats in 2020, with Ohio, Michigan, Alabama, Minnesota, and West Virginia each losing one seat in 2020 that they otherwise would have had. California and Texas will each have two additional seats, and New York will have one additional seat.

- Illegal immigrants alone in the 2020 will redistribute three seats, with Ohio, Alabama, and Minnesota each having one fewer seat than they otherwise would have had, while California, New York, and Texas will have one additional seat.

Introduction

Article 1, Section 2 of the U.S. Constitution requires that a census be taken every 10 years for the purpose of apportioning seats in the House of Representatives. Each state is assigned the one seat it is required to receive, and the remaining 385 seats are allocated based on each state's share of the total U.S. population, excluding the District of Columbia. (Congress capped the number of House members at 435 in 1911.) Immigrants, referred to as the "foreign-born" by the Census Bureau, include naturalized citizens, as well as non-citizens such as green card holders, foreign students, and guestworkers. It also includes illegal immigrants counted in the decennial census. Immigrants also have U.S.-born children. The presence of all of these individuals has a significant impact on the distributions of seats in the House of Representatives and votes in the Electoral College. This report examines that redistribution.

We focus on 2020 and report how the number of seats in each state changes with and without including immigrants and/or their U.S.-born minor children. While there is an absolute consensus that all U.S. citizens should be counted and included in the apportionment population, opinions vary as to whether non-citizens in general or illegal immigrants in particular should be counted when apportioning seats. This report does not explore the question of which populations should or should not be included when seats are apportioned, nor do we take a position on whether the children of illegal immigrants should be automatically granted citizenship. This analysis simply informs the immigration debate by reporting the impact of immigration on the distribution of House seats.

Our findings indicate that, over time, immigration profoundly redistributes political power at the federal level by changing the apportionment of House seats and votes in the Electoral College. Immigration laws were changed significantly in 1965, spurring a new "Great Wave" of immigration as the number of immigrants grew roughly four-and-a-half fold between 1965 and 2019.[1] Of all immigrants living in the United States today, 97 percent arrived after 1965. In effect, this analysis measures the impact of post-1965 immigration on the distribution of political power in Washington.[2]

The methods section of this report explains in detail how we estimate the impact of immigration on apportionment. In sum, we first project the population of the 50 states for 2020. We then calculate the apportionment of House seats based on these populations for 2020. We then use this as a baseline to compare what the apportionment of house seats would be without immigrants, non-citizens, or other populations of interest. The difference represents the impact of immigration.

Findings

Impact of All Immigrants. The second column in Table 1 shows the likely distribution of seats in the House after the 2020 census, based on current trends. This is the baseline projection against which all other scenarios are compared. The other

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Table 1. Apportionment of House Seats after 2020 Census Assuming Different Populations Were Not Present

State	Projected Seats, 2020	Without Immigrants and Their U.S.-Born Minor Children	Without Immigrants (Legal and Illegal)	Without Non-Citizens and Their U.S.-Born Minor Children	Without Non-Citizens	Without Illegal Aliens and and Their U.S.-Born Minor Children	Without Illegal Aliens
Alabama	6	7	7	7	7	7	7
Alaska	1	1	1	1	1	1	1
Arizona	10	10	10	10	10	10	10
Arkansas	4	5	4	4	4	4	4
California	52	41	45	48	49	50	51
Colorado	8	8	8	8	8	8	8
Connecticut	5	5	5	5	5	5	5
Delaware	1	1	1	1	1	1	1
Florida	29	26	26	28	28	29	29
Georgia	14	15	15	14	14	14	14
Hawaii	2	2	2	2	2	2	2
Idaho	2	3	3	3	3	2	2
Illinois	17	16	16	17	17	17	17
Indiana	9	10	10	9	9	9	9
Iowa	4	5	5	4	4	4	4
Kansas	4	4	4	4	4	4	4
Kentucky	6	7	7	6	6	6	6
Louisiana	6	7	7	6	6	6	6
Maine	2	2	2	2	2	2	2
Maryland	8	8	8	8	8	8	8
Massachusetts	9	8	9	9	9	9	9
Michigan	13	15	14	14	14	14	13
Minnesota	7	8	8	8	8	8	8
Mississippi	4	5	4	4	4	4	4
Missouri	8	9	9	9	9	8	8
Montana	2	2	2	2	2	2	2
Nebraska	3	3	3	3	3	3	3
Nevada	4	4	4	4	4	4	4
New Hampshire	2	2	2	2	2	2	2
New Jersey	12	10	10	11	11	12	12
New Mexico	3	3	3	3	3	3	3
New York	26	22	23	25	25	25	25
North Carolina	14	15	15	14	14	14	14
North Dakota	1	1	1	1	1	1	1
Ohio	15	18	17	16	16	16	16
Oklahoma	5	6	6	5	5	5	5
Oregon	6	6	6	6	6	6	6
Pennsylvania	17	19	18	18	17	17	17
Rhode Island	1	2	1	2	2	1	1
South Carolina	7	8	7	7	7	7	7
South Dakota	1	1	1	1	1	1	1
Tennessee	9	10	10	10	9	9	9
Texas	39	35	37	36	37	37	38
Utah	4	5	5	4	4	4	4
Vermont	1	1	1	1	1	1	1
Virginia	11	11	11	11	11	11	11
Washington	10	10	10	10	10	10	10
West Virginia	2	3	3	3	3	3	2
Wisconsin	8	9	8	8	8	8	8
Wyoming	1	1	1	1	1	1	1

Based on populations shown in Table A1.

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Table 2. Impact of Immigration on 2020 Apportionment under Different Population Scenarios

State	Impact of Immigrants and Their U.S.-Born Minor Children	Impact of Immigrants Only	Impact of Non-Citizens and Their U.S.-Born Minor Children	Impact of Non-Citizens Only	Impact of Illegal Aliens and Their U.S.-Born Minor Children	Illegal Aliens Only
Ohio	-3	-2	-1	-1	-1	-1
Michigan	-2	-1	-1	-1	-1	0
Pennsylvania	-2	-1	-1	0	0	0
Alabama	-1	-1	-1	-1	-1	-1
Idaho	-1	-1	-1	-1	0	0
Minnesota	-1	-1	-1	-1	-1	-1
Missouri	-1	-1	-1	-1	0	0
Tennessee	-1	-1	-1	0	0	0
West Virginia	-1	-1	-1	-1	-1	0
Rhode Island	-1	0	-1	-1	0	0
Georgia	-1	-1	0	0	0	0
Indiana	-1	-1	0	0	0	0
Iowa	-1	-1	0	0	0	0
Kentucky	-1	-1	0	0	0	0
Louisiana	-1	-1	0	0	0	0
North Carolina	-1	-1	0	0	0	0
Oklahoma	-1	-1	0	0	0	0
Utah	-1	-1	0	0	0	0
Arkansas	-1	0	0	0	0	0
Mississippi	-1	0	0	0	0	0
South Carolina	-1	0	0	0	0	0
Wisconsin	-1	0	0	0	0	0
Massachusetts	1	0	0	0	0	0
Illinois	1	1	0	0	0	0
New Jersey	2	2	1	1	0	0
Florida	3	3	1	1	0	0
New York	4	3	1	1	1	1
Texas	4	2	3	2	2	1
California	11	7	4	3	2	1
Total Seats Affected	26	18	10	8	5	3

Based on populations shown in Table A1.

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columns in Table 1 show the distribution of seats under different population scenarios.[3] Table 2 uses Table 1 and compares changes in the distribution of seats caused by what is likely to happen in 2020 under each scenario. The 21 states that are unaffected in any of the scenarios are not shown in Table 2. The bottom of Table 2 shows the total number of seats that change hands under each scenario.

In 2020, there will be more than 61 million immigrants and their U.S.-born minor children in the United States, representing nearly one in five U.S. residents. In 2020, the average House seat will represent roughly 760,000 people. So it is not surprising that immigration redistributes seats. Of course it is not just the number of immigrants or the number of children that matter. In 2020, just four states (California, Texas, Florida, and New York) will have 53 percent of the nation's immigrants and their U.S.-born children under age 18. It is both the size of this population and its uneven distribution that causes the significant redistribution shown at the bottom of Table 2.

Table 2 shows that Ohio is the biggest loser from immigration, with three fewer seats due to the presence of immigrants and their U.S.-born children residing in other states. Michigan and Pennsylvania will have two fewer seats, while Alabama, Arkansas, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee, Utah, West Virginia, and Wisconsin will each lose one seat. California is the biggest winner, as it will gain 11 more congressional seats due to immigrants and their young children; New York and Texas will get four more seats each, while Florida will get three seats, New Jersey two seats, and Massachusetts and Illinois one seat each. Table 2 also shows that immigrants (legal and illegal) alone, not including their U.S.-born children, redistribute 18 seats. Ohio would have two fewer seats due to immigrants, while Alabama, Idaho, Michigan, Minnesota, Missouri, Pennsylvania, Tennessee, West Virginia, Georgia, Indiana, Iowa, Kentucky, Louisiana, North Carolina, Oklahoma, and Utah would lose one seat under this scenario. California would still be the big winner, followed by New York, Florida, Texas, New Jersey, and Illinois. Immigrants alone, not counting their U.S.-born minor children, have a very large impact on the apportionment of House seats.

The Impact of Non-Citizens and Illegal Immigrants. There will be nearly 30 million non-citizens and their U.S.-born minor children in the country in 2020. Non-citizens include green card holders (permanent residents), long-term temporary visa holders (mainly foreign students and guestworkers), and illegal immigrants. Together with their U.S.-born children, these non-citizens will redistribute 10 seats in 2020. California will have four more seats than it otherwise would but for non-citizens and their young children; Texas will have three additional seats; and New Jersey, Florida, and New York will each have one additional seat. Alabama, Idaho, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, Tennessee, West Virginia, and Rhode Island will each have one fewer seat as a result of non-citizens and their minor children. Non-citizens, not including their U.S-born minor children, will redistribute eight seats. The states that gain seats are the same, with Texas and California gaining one fewer than when the children are included. The losing states are also the same with the exception that neither Pennsylvania nor Tennessee will lose a seat.

Turning to illegal immigrants and their minor children, Table 2 shows that including them in the census redistributes five seats. California and Texas will each gain two seats as a result of including illegal immigrants and their young children, while New York will gain a seat. Alabama, Michigan, Ohio, Minnesota, and West Virginia each lose a seat because of illegal immigrants and their U.S.-born children in other states. If we look at only illegal immigrants, we find that including them in the count redistributes three seats in the House. California, Texas, and New York will each gain a seat; Alabama, Ohio, and Minnesota will each lose one.

Implications

High Immigration Causes Political Redistribution. If immigrants were evenly spread throughout the country, they would have no impact on the distribution of House seats. Historically, immigrants have always been concentrated in some areas, and that is still true today. Of course, immigrants do tend to become more dispersed over time, but it is a very gradual process. In 1990, the top six states of immigrant settlement accounted for 73 percent of the total foreign-born population, while in 2000 these same six states accounted for 69 percent of the total foreign-born population. In 2020, the top six states will account for 63 percent of all immigrants, but only 40 percent of the nation's total population. Although immigrants will almost certainly continue to move into new parts of the country, for decades to come there will continue to be states with very large

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immigrant populations, while other states have only a modest number. In 2020, there will still be 11 states with fewer than 100,000 immigrants, while five states will have more than two million.

The redistributive effects of immigration are not just a result of its concentration, but also partly depend on immigrants' share of the total population. A very large immigrant population, even if it becomes more dispersed, can still have a significant impact on the distribution of House seats and Electoral College votes. As long as the number of immigrants (legal and illegal) entering the country remains very high, immigration will continue to redistribute political power in Washington. (While not examined in this report, the same dynamic applies within states, in drawing districts for the state legislatures.)

Representing Non-Citizens in Congress. Although the political stakes for low-immigration states from continued high levels of immigration are clearly very significant, the related question of creating districts because of the presence of non-citizens is equally important to consider. While there is a consensus that naturalized citizens should be represented in Congress just like any other American, awarding congressional seats to states on the basis of their non-citizen populations raises important questions about political representation. This is especially true when one considers that these districts are created by taking representation away from states comprised of American citizens.

Consider the case of Ohio, the biggest loser from immigration-induced reapportionment. In 2020, there will be 292,000 non-citizens in Ohio, accounting for just 2 percent of the state's population; California will be home to nearly 4.8 million non-citizens, accounting for 12 percent of the state's population. Non-citizens cannot vote in federal elections, serve on juries, or work for the federal government in most cases. Many non-citizens, including foreign students, guestworkers, and illegal immigrants also may not make campaign contributions. Thus, it may seem odd that they are "represented" in Congress. This is especially true because the majority of non-citizens in the country are either illegal immigrants or temporary visitors such as foreign students or guestworkers.[4] While one can at least argue that legal permanent residents who have not naturalized are entitled to representation in Congress because they are future Americans, illegal aliens and temporary visitors can make no such claim.

Non-Citizens vs. "One Man, One Vote". There are a significant number of congressional districts in high immigration states where a larger share of voting-age people are non-citizens and, as a result, it takes relatively few votes to elect a member of Congress. Taking away representation from states composed almost entirely of U.S. citizens so that districts can be created where a large share of the population is made up of non-citizens can be seen as in conflict with the principle of "one man, one vote". In the 2018 election in the five congressional districts where the largest share of the voting-age population were not citizens, only 132,000 votes were cast on average. In the five districts with the smallest non-citizen shares, 232,000 votes were cast on average. If nothing else, it means it takes far fewer votes to win a House seat in a district where a large share of adults is made up of non-citizens. Allowing in a large number of legal immigrants and tolerating illegal immigration has created a situation in which the votes of American citizens living in low-immigration districts count much less than those of citizens is living in high-immigration districts.

While it's clear that American citizens in low-immigration states lose from mass immigration, the winners are not necessarily the non-citizens who cause the reapportionment, since they cannot vote or otherwise fully take part in the political process. Instead, it is citizens who live in the same districts with non-citizens whose political power is enhanced. Put simply, in a district in which a large share of the population cannot vote, those who do vote count more than citizens in districts where almost everyone is an American citizen. Put a different way, large non-citizen populations take voting power from some Americans and give it to other American citizens in high-immigration districts.

Conclusion

Given the large number of immigrants allowed into the country and their concentration in relatively few states, it is inevitable that immigration will exact a political cost from those states that receive relatively few immigrants. Because family relationships and existing cultural ties determine where immigrants live, movement into new areas will take many decades. Thus, immigrants will continue to be concentrated in only a few states, and this in turn will continue to shift political power in the House of Representatives and the Electoral College.

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It is important, then, when making decisions regarding immigration policy, to take into account not only the economic, fiscal, cultural, and demographic impacts of immigration, but also the political impact, part of which is the realignment of power in Congress away from states receiving relatively few immigrants. In addition to this realignment, careful consideration should also be given to the loss of representation suffered by citizens in low-immigration states. Trying to deal with this problem by excluding non-citizens, legal or illegal, would be challenging. Whether the Constitution requires non-citizens to be included in the apportionment population is an open question.

Encouraging legal immigrants who are not citizens to naturalize would help to alleviate at least some of the problem. Of course, increased naturalizations would have no impact on the problem created by the presence of illegal aliens or the large number of long-term temporary visitors in the country. In addition, as long as one million or more new legal permanent immigrants are allowed in annually, there will always be a significant number of legal immigrants who have not lived here long enough to naturalize or chose not to do so even when eligible. Absent a change in policy, the non-citizen population will remain large even if new legal permanent immigrants naturalize at higher rates in the future.

Since the amount of redistribution is a direct consequence of the level of immigration, a more moderate level of immigration would produce less immigration-based reapportionment. Given the apparent remoteness of the other effects of immigration on low-immigrant states, citizens of such states and their elected representatives need to be particularly sensitive to the political costs of immigration.

Methods

While the Constitution requires the reapportionment of seats in the House of Representatives after each decennial census, it is not clear on the exact method of apportionment. The Method of Equal Proportions has been used since the 1940 Census.[5] This analysis assumes it will again be the method used in 2020. The Census Bureau attempts to capture all U.S. residents in the census.

To estimate the impact of immigration on the 2020 census requires six steps. First, project the resident population of the 50 states for 2020, excluding the District of Columbia. Second, project the size and state distribution of the Federally Affiliated Overseas Population (FAOP) in 2020, which is included in the apportionment population. Third, add the FAOP to the projected resident population in each state and calculate the apportionment of seats in the U.S. House of Representatives based on the projections. Fourth, estimate the likely number of illegal immigrants, non-citizens, all immigrants (foreign-born), or other populations of interest that will be included in the apportionment population in 2020 by state. Fifth, remove the population of interest from the 2020 apportionment population and recalculate the distribution of House seats. Sixth, compare the distribution of House seats from step three to the distribution of seats with the population of interest removed to determine the impact. The sections that follow explain in detail how this is done.

Projected Resident Population in 2020. While the U.S. Census Bureau no longer projects state populations, it does estimate each state's population every year. The state population projections for 2020 used in this report simply take each state's population as estimated by the Census Bureau in recent years and project the state's population to 2020 using a linear model.[6] This is implemented by taking the Bureau's projections for each state from 2016 to 2018 (2018 is the most recent year available) and projecting the population to 2020.[7] The projection has to be controlled back to April 1, since this is the date of the census, while the Bureau's population estimates are for each state as of July 1.[8] The first column in Table A1 reports the projection of the resident population for April 1, 2020, in each state. The District of Columbia is excluded from the analysis as it is not part of the population used for apportioning House seats.

The Federally Affiliated Overseas Population. As already indicated, the apportionment population includes the resident population of each state and the Federally Affiliated Overseas Population (FAOP) of Americans: military personnel and their dependents, plus non-military federal employees and their dependents. The Census Bureau reports the number of military personnel overseas in its FactFinder data tool, but not the rest of the FAOP. The size of the FAOP is estimated for 2020 by taking the most recent estimate of military personnel overseas (236,475) from the Census Bureau's website as reported in FactFinder.[9] The number of military dependents is estimated using the same ratio of military personnel to dependents as was the case in the 2010 census.[10] This produces an estimate of 340,956 military dependents overseas, making for a total military and dependent population of 236,475 + 340,956 = 577,431.

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As for federal employees overseas, the most up-to-date figure from the Office of Personnel Management is 21,393.[11] Assuming the same ratio of federal employers overseas to dependents as in 2010 produces an estimated 35,833 federal employees and their dependents for 2020.[12] Adding the estimated number of military personnel and their families calculated above to the estimated number of federal employees and their dependents creates an overall estimated FAOP of 613,265. Subtracting out those in the District of Columbia leaves an FAOP of 611,573.[13] This FAOP can then be allocated across the states based on each state's share of the FAOP in the prior decennial census.[14] Adding the state FAOP to the projected state population creates a projected apportionment population for 2020 for every state shown in the third column of Table A1.

Populations of Interest. The overall state population projections discussed above use the three most recent years of population estimates from the Census Bureau projected forward. For the foreign-born population, their U.S.-born children, and the non-citizen population and their children, we use a similar approach. Based on the public-use data from the American Community Survey for the three most recent years of data, we use a linear model to project these populations forward to 2020 for each state.[15] Table A1 shows the projected foreign-born population in each state for 2020 using this approach. The table also shows the projected population of immigrants and their U.S.-born children and the non-citizen population and their children. We limit children to those with immigrant fathers. We then subtract these totals, depending on the population of interest from the total projected population (resident plus FAOP) and then recalculate the apportionment.

Likely Illegal Immigrants. There is no one definitive estimate of illegal immigrants. The Office of Immigration Statistics within the Department of Homeland Security estimates this population, but DHS has population estimates only for the 10 states with the largest illegal immigrant populations and their most recent estimates are only through January 2015.[16] Although the Pew Research Center estimates the number of illegal immigrants, we use the Center for Migration Studies' (CMS) estimates of illegal aliens for 2017, as they provide estimates for every state.[17] This analysis takes the CMS estimates at the state level and subtracts them from the projected apportionment populations generated above. For the U.S.-born children under age 18, we also use estimates provided by CMS. The apportionment of House seats absent illegal aliens and their U.S.-born minor children can then be compared to the apportionment of seats when the illegal population is included. The difference represents the impact of illegal immigration.

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Appendix

Table A1. Apportionment of House Seats after 2020 Census Assuming Different Populations Were Not Present

State	Resident Pop.	FAOP	Estimated Apportionment Pop.	Pop. w/o Immigrants and Their U.S.-Born Minor Children	Pop. w/o Immigrants	Pop. w/o Non-Citizens and Their U.S.-Born Minor Children	Pop. w/o Non-Citizens	Pop. w/o Illegal Immigrants and Their U.S.-Born Minor Children	Pop. w/o Illegal Immigrants
Alabama	4,907,710	13,674	4,921,385	4,649,548	4,750,733	4,765,381	4,821,901	4,821,764	4,860,155
Alaska	733,985	6,643	740,628	669,924	676,306	711,597	712,261	731,828	732,241
Arizona	7,366,341	12,167	7,378,508	5,938,614	6,405,422	6,684,303	6,863,860	7,019,884	7,145,488
Arkansas	3,034,606	6,065	3,040,672	2,806,890	2,885,766	2,881,633	2,941,244	2,961,626	2,990,640
California	39,866,894	51,785	39,918,680	25,722,649	29,357,697	33,187,227	35,151,130	36,708,615	37,732,101
Colorado	5,830,096	9,256	5,839,352	4,953,492	5,278,137	5,418,486	5,559,222	5,605,799	5,685,570
Connecticut	3,566,811	4,430	3,571,241	2,846,010	3,050,447	3,241,562	3,325,488	3,426,226	3,461,688
Delaware	982,510	1,731	984,241	869,724	890,652	914,076	932,683	945,134	959,887
Florida	21,889,053	58,509	21,947,562	16,320,665	17,229,720	19,484,510	19,977,749	21,025,473	21,239,179
Georgia	10,707,660	23,479	10,731,139	9,375,367	9,633,587	10,079,046	10,169,188	10,256,075	10,421,120
Hawaii	1,413,797	3,860	1,417,657	1,089,126	1,148,082	1,288,016	1,314,930	1,379,495	1,387,503
Idaho	1,816,688	3,481	1,820,169	1,643,374	1,705,960	1,727,699	1,761,529	1,774,281	1,792,638
Illinois	12,666,728	19,852	12,686,580	10,164,505	10,862,513	11,506,059	11,841,538	12,035,732	12,260,687
Indiana	6,742,252	10,459	6,752,711	6,345,471	6,390,525	6,524,769	6,540,980	6,610,092	6,660,487
Iowa	3,177,351	4,372	3,181,723	2,972,135	2,996,848	3,042,256	3,068,204	3,122,221	3,144,372
Kansas	2,911,485	6,291	2,917,776	2,613,601	2,715,738	2,736,965	2,798,871	2,822,286	2,854,809
Kentucky	4,494,990	6,611	4,501,601	4,238,230	4,310,253	4,333,637	4,387,077	4,445,763	4,460,786
Louisiana	4,644,594	12,112	4,656,707	4,342,393	4,453,531	4,457,575	4,532,302	4,583,145	4,601,550
Maine	1,344,617	2,772	1,347,390	1,299,184	1,303,438	1,317,725	1,325,760	1,344,510	1,345,378
Maryland	6,076,386	9,634	6,086,020	4,811,534	5,169,028	5,547,242	5,688,986	5,799,098	5,879,055
Massachusetts	6,968,480	7,068	6,975,548	5,257,472	5,708,669	6,204,375	6,394,516	6,763,270	6,804,669
Michigan	10,035,285	16,463	10,051,748	9,142,785	9,317,300	9,645,483	9,723,548	9,896,952	9,940,127
Minnesota	5,688,265	6,444	5,694,708	4,920,935	5,168,440	5,407,826	5,451,152	5,589,606	5,623,677
Mississippi	2,985,733	6,437	2,992,170	2,906,187	2,909,335	2,934,375	2,941,611	2,965,131	2,974,977
Missouri	6,161,390	13,266	6,174,655	5,789,395	5,911,139	5,995,746	6,044,517	6,103,404	6,126,979
Montana	1,081,569	2,942	1,084,511	1,057,559	1,060,741	1,076,824	1,076,123	1,079,908	1,080,804
Nebraska	1,949,687	3,226	1,952,913	1,724,141	1,810,485	1,833,636	1,877,147	1,889,454	1,913,708
Nevada	3,133,126	5,224	3,138,350	2,367,398	2,546,795	2,815,647	2,872,541	2,897,332	2,977,362
New Hampshire	1,368,900	2,927	1,371,826	1,255,034	1,277,807	1,323,924	1,340,865	1,357,841	1,360,006
New Jersey	8,937,282	9,181	8,946,463	6,031,167	6,876,435	7,858,705	8,157,272	8,385,535	8,528,745
New Mexico	2,097,499	4,761	2,102,261	1,818,842	1,901,112	1,953,857	1,986,116	2,025,108	2,053,489
New York	19,454,858	25,267	19,480,125	13,968,698	15,118,363	17,420,190	17,801,222	18,559,478	18,783,438
North Carolina	10,582,410	17,823	10,600,233	9,321,941	9,732,462	9,816,381	10,053,889	10,158,172	10,322,523
North Dakota	764,406	1,949	766,355	705,278	717,604	733,804	739,501	761,556	761,979
Ohio	11,737,712	18,819	11,756,530	11,057,672	11,145,938	11,455,167	11,464,874	11,639,057	11,673,830
Oklahoma	3,956,589	7,960	3,964,549	3,578,429	3,712,101	3,713,481	3,809,384	3,849,983	3,885,690
Oregon	4,279,453	10,313	4,289,766	3,658,379	3,825,390	3,911,476	4,033,209	4,135,734	4,197,754
Pennsylvania	12,826,024	19,133	12,845,158	11,704,945	11,873,050	12,274,524	12,390,983	12,616,901	12,674,462
Rhode Island	1,057,301	1,577	1,058,878	887,365	930,950	997,752	1,015,808	1,028,482	1,038,035
South Carolina	5,194,295	12,124	5,206,420	4,872,000	4,934,691	5,035,299	5,065,888	5,099,566	5,134,246
South Dakota	899,403	3,283	902,686	844,958	863,658	875,034	879,422	893,188	894,499
Tennessee	6,879,812	17,251	6,897,063	6,479,162	6,529,921	6,652,647	6,689,588	6,724,483	6,789,276
Texas	29,371,670	72,271	29,443,941	22,100,490	24,285,402	24,808,937	26,266,523	26,869,752	27,768,866
Utah	3,265,205	4,047	3,269,252	2,878,088	2,971,240	3,024,751	3,098,862	3,122,590	3,175,522
Vermont	628,473	2,704	631,177	581,038	591,619	613,128	614,646	626,773	627,781
Virginia	8,611,379	21,596	8,632,975	7,050,748	7,522,133	7,951,398	8,138,507	8,329,567	8,407,977
Washington	7,749,820	16,959	7,766,779	6,096,828	6,574,768	6,954,052	7,169,705	7,411,814	7,534,169
West Virginia	1,783,428	4,012	1,787,440	1,756,671	1,764,173	1,768,691	1,779,857	1,785,053	1,785,221
Wisconsin	5,848,698	6,614	5,855,312	5,536,666	5,565,836	5,657,257	5,710,649	5,754,940	5,790,621
Wyoming	571,310	2,749	574,059	547,705	559,109	559,134	563,658	565,344	568,806

Source: Projections for 2020 are primarily based on Census Bureau population estimates or the American Community Survey carried forward to 2020. Estimates for illegal aliens are based on estimates from the Center for Migration Studies. See methods section for more details.

BC-DOC-0000000410

End Notes

[1] The most recent data available from the Census Bureau is the 2019 Current Population Survey Annual Social and Economic Supplement, which shows 45.8 million legal and illegal immigrants in the country. The 1960 census showed 9.7 million immigrants and the 1970 census showed 9.6 million, so using either number shows a four-and-a-half fold increase.

[2] Figures are based on an analysis of the 2019 public-use file of the Current Population Survey Annual Social and Economic Supplement, which is the most recent data available.

[3] Table A1 in the appendix shows the populations used to create each scenario in Table 1.

[4] The government estimated in 2016 that there were 2.3 million long term temporary visitors in the country, including guest-workers, foreign students, cultural exchange visitors, and foreign diplomats. This number is relatively stable, though it tends to rise over time. The vast majority will be counted in the census, though there will be some undercount. The Center for Migration Studies estimates that there were 9.84 million illegal aliens in Census Bureau data in 2017 and, given the recent influx at the southern border, it seems certain the number will be at least this large in 2020. Given current trends, we project 21.8 million non-citizens in the 2020 census. So it is almost certain there will be more than 12 million non-citizens who are either illegal immigrants or long-term temporary visitors counted in the 2020 census, accounting for more than half of the total non-citizen population. See Bryan Baker, "Nonimmigrants Residing in the United States: Fiscal Year 2016", Office of Immigration Statistics, Department of Homeland Security, March 2018.

[5] The U.S. Census Bureau has a detailed explanation of how congressional apportionment works here.

[6] The Census Bureau's population estimates by state can be found here.

[7] We use ordinary least squares to linearly project the population based on the Bureau's estimates for 2016, 2017, and 2018 to create the resident population in 2020.

[8] This is implemented by taking the growth in the last year of the projection (2019 to 2020) and reducing it to reflect an April 1 date rather than the Census Bureau's control date of July 1.

[9] Table PEPMONTHN generated in American Factfinder at Census.gov, The military population can be calculated by subtracting the first column from the second column.

[10] The total size of the FAOP and its components — including military personnel and their dependents, and civilian employees and their dependents — in 2010 can be found in Table A7 of Karen Crook and Shirley Druetto, "2010 Census Federally Affiliated Overseas Count Operation Assessment", U.S. Census Bureau, March 12, 2012. The table shows 410,696 military personnel and 592,153 dependents or a ratio of 1.44183 to 1 in 2010.

[11] OPM employment figure for those overseas can be found here.

[12] "2010 Census Federally Affiliated Overseas Count Operation Assessment Report", 2010 Census Panning Memoranda Series No. 181 March 20, 2012. The table on p. 2 shows 23,686 overseas federal employees in 2010 and 15,988 dependents for a ratio of 1 to .6749. Multiplying the most recent figure from OPM of 21,393 by 1.6749 produces an estimate of 35,833 federal overseas employers and their dependents for 2020.

[13] *Ibid.* Table A1 shows the FAOP by state and the District of Columbia in 2010. In 2010, the District of Columbia's FAOP accounted for 0.00276 of the total FAOP at that time — 2,875 out of 1,042,523 FAOP residents. Assuming the same ratio for 2020 creates an estimated FAOP used for reapportionment of 611,573.

[14] *Ibid.* Table A1 shows the FAOP by state and the District of Columbia in 2010.

[15] The three most recent years of public-use ACS data currently available are 2016, 2017, and 2018. As is the case for total resident population, we use ordinary least squares to linearly project these populations.

BC-DOC-0000000411

[16] Bryan Baker, "Population Estimates: Illegal Alien Population Residing in the United States: January 2015", Office of Immigration Statistics, Department of Homeland Security, December 2018.

[17] The Center for Migration Studies' most recent state level estimates can be found in Robert Warren, "US Undocumented Population Continued to Fall from 2016 to 2017 and Visa Overstays Significantly Exceeded Illegal Crossings for the Seventh Consecutive Year", Center for Migration Studies, February 2019. In an earlier report for CMS, Warren estimated that 92.5 percent of illegal immigrants are counted in Census Bureau data. See Robert Warren, "Democratizing Data about Unauthorized Residents in the United States: Estimates and Public-Use Data, 2010 to 2013", Journal on Migration and Human Security, Vol. 2 No. 4, 2014. In an email to the authors on April 27, 2018, Warren suggested assuming that 93 percent of illegal immigrants will be included in Census data, and this analysis uses that percentage for CMS state estimates for 2020.

BC-DOC-0000000412

Attachment 2

From: Mark Krikorian b(6) @cis.org>
Date: Thursday, December 26, 2019 at 2:54 PM
To: Wilbur Ross b(6)
Subject: Immigration and reapportionment

Secretary Ross: Thanks for your call.

I'm afraid some people misunderstood our recent report on the long-term consequences of mass immigration on the apportionment of House seats and, thus, of electoral votes:

https://cis.org/Report/Impact-Legal-and-Illegal-Immigration-Apportionment-Seats-US-House-Representatives-2020

Our findings were about the *cumulative* effect of decades of mass immigration, based on the likely findings of the 2020 decennial census, not on the likely shift of seats next year. In other words, it's not that 26 House seats will shift next year (24 of them from states that voted Republican in the 2016 election), but rather that the results of next year's census will show that, were it not for years of high immigration (most of it legal), 26 House seats would be in different states, 24 of them having voted for President Trump in 2016. We were careful in describing our findings but did not anticipate the way they might be misunderstood, and should have been clearer about what the findings were *not*. Please accept my apologies for any difficulties this might have caused you or the Census Bureau.

As we tried to make clear, the moral of the story is not that immigrants shouldn't be counted in the census for purposes of apportionment. Instead, we see these findings as making the case for considering the *political* consequences of mass legal immigration, in addition to economic, social, and other effects. The Democrats are open about this -- when Barney Frank was still in Congress, he openly acknowledged that mass immigration (again, most of it legal) is a key part of Democrats' strategy to gain political power. Likewise, Eliseo Medina, an official in the SEIU and the Democratic Socialists of America, made the same point after Obama's election, saying that immigration "will solidify and expand the progressive coalition for the future."

Our big concern is that the administration's as-yet-unreleased immigration plan will set in stone the current legal immigraton level of 1 million-plus each year, and thus continue this shift of political power toward blue states.

Please don't hesitate to call me if you have any questions. -- MK

--

Mark Krikorian, Executive Director
Center for Immigration Studies

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Attachment 3

Wall Street Journal: Political power to continue shift to Southern states, data show

By Janet Adamy and Paul Overberg Wall Street Journal - Dec 30, 2019

WASHINGTON • New state population totals released Monday offer fresh signs that political power is poised to continue its shift from the North and Midwest to the South and Southwest in ways that could help states that have voted Republican in recent years.

The Census Bureau on Monday released state population estimates for the year ended July 1. Congressional seats and electoral votes are allocated to states based on a census conducted every 10 years. Because the 2019 estimates come less than a year before the next decennial census, they closely approximate which states will gain and lose as a result of the 2020 count that gets fully underway in the spring.

Based on Monday's figures, Texas is poised to gain two congressional seats, while Arizona, Colorado, Florida, Montana, North Carolina and Oregon are each expected to gain one.

Eight states are likely to lose one seat: Illinois, Michigan, Minnesota, New York, Pennsylvania, Rhode Island, West Virginia and California. It would be California's first such loss since it became a state in 1850.

The Census Bureau estimates that Colorado gained 729,000 residents — a roughly 15% population uptick — since the 2010 Census, according to the new figures, bringing the estimated population to 5.76 million.

What's less clear is who in the state will benefit from the gain in congressional representation. That will be determined in 2021 when the process of congressional redistricting takes place, after the official 2020 Census is complete.

Growth in the Denver metropolitan area has far outpaced the growth in other parts of the state. Greeley and Fort Collins have also outpaced the state's overall growth to a lesser extent. Those areas could all benefit from the addition of a new congressional seat. Boulder, Grand Junction and especially rural Colorado has made up a smaller portion of the state's population each year since 2010.

Kimball Brace, president of the bipartisan political consulting firm Election Data Services, said he expects the national changes will benefit the Republican Party. "The big states that are very much Democratic are in a loss situation," he said, citing California, Illinois and New York, while traditionally Republican states like Texas and Arizona are poised to gain power.

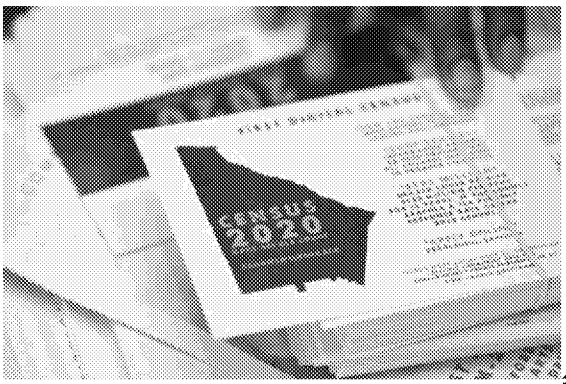
Democrats say in Texas and Arizona, the growth of the Latino populations and new residents from other states could eventually turn them blue. Democrats note how population movements in recent years have moved the partisan makeup of some states in their favor, including Virginia and Colorado.

The results of the 2020 Census will determine the new distribution of House seats and Electoral College votes by December 2020. The first elections likely to be impacted by the seat changes will be in 2021. Most states will redraw congressional and legislative districts in time for 2022 votes.

The final 2020 state population totals will be shaped by how accurate the census is, and additional population totals from overseas workers.

The exact shift of political power also will depend on who wins control of state legislatures in 2020 elections, since those officials will help redraw districts and legislative maps.

Breitbart- 2020 Census Bureau Data: Blue States Projected to Lose Congressional Power in 2022



AP Photo/John Amis

John Binder
30 Dec 2019161
2:50

A series of blue states are set to lose political power in 2020 for the 2022 midterm elections, newly released data from the Census Bureau suggests.

After years of projections that congressional reapportionment in 2020 would see red states lose political power to blue states that have been inundated with illegal and legal immigration over the last decade, analysis of Census Bureau data predicts that it is blue states that will, in fact, lose congressional seats.

Brookings Institute analysis released to *Axios* reveals that red or red-leaning swing states like Texas and Florida, for example, are set to gain two to three congressional seats each in the new year. Meanwhile, President Trump-supporting states such as Arizona, Montana, and North Carolina are all expected to gain at least one congressional seat each.

Projected change in congressional seats by state in 2020

STATE	SEATS GAINED OR LOST	2016 VOTE
Texas	+3	Trump
Florida	+2	Trump
Arizona	+1	Trump
Colorado	+1	Clinton
Montana	+1	Trump
North Carolina	+1	Trump
Oregon	+1	Clinton
Alabama	−1	Trump
California	−1	Clinton
Illinois	−1	Clinton
Michigan	−1	Trump
Minnesota	−1	Clinton
New York	−1	Clinton
Ohio	−1	Trump
Pennsylvania	−1	Trump
Rhode Island	−1	Clinton
West Virginia	−1	Trump

Data: Brookings analysis of U.S. Census data; Table: Naema Ahmed/Axios

Leading blue states like California are predicted to lose a congressional seat, along with blue states like Illinois, Minnesota, New York, and Rhode Island. Still, some Trump-supporting states — Alabama, Michigan, Ohio, Pennsylvania, and West Virginia — are expected to also lose a congressional seat.

The Census analysis is a break from years of research which projected the nation's illegal and legal immigration system, where about 1.5 million foreign nationals are admitted every year, has been helping not only deliver voters to Democrat politicians, but also provide residents to blue states to increase political dominance in Congress.

Most recently, the Center for Immigration Studies projected that new Census numbers would shift about 26 congressional seats from mostly blue states to red states in 2020. Under this analysis, California would gain 11 congressional seats, while New York would add four seats and New Jersey would add two seats — mostly all redistributed from red states with fewer foreign-born residents.

As Breitbart News has chronicled for years, the counting of only American citizens to divide up congressional districts and electoral college votes would shift power away from the affluent, metropolitan coastal cities of the U.S. and towards middle America.

The U.S. is on track to import about 15 million new foreign-born voters in the next two decades should current legal immigration levels continue. Those 15 million new foreign-born voters include about eight million who will arrive in the country through chain migration, whereby newly naturalized citizens can bring an unlimited number of foreign relatives to the country.

John Binder is a reporter for Breitbart News. Follow him on Twitter at @JxhnBinder.

Attachment 4

Sample of Key 2020 Census National & Community Partnerships

Government & Political	All 535 Members of Congress, Every State Governor, Intergovernmental Associations, Key Federal Agencies (Veterans Affairs, USDA, HHS, DOD, FTC, etc.) and more.
Business Leaders	Walmart, UPS, Wells Fargo, Kroger, Target, AT&T, Tyson Foods, Twitter, Apple, Google/YouTube, Microsoft, Facebook, Comcast, Nestle, Uber, Lyft, Yum Brands, Nielsen, Boeing, Capital One, Retail Industry Leaders Association, National Association of Realtors, National Association of Broadcasters, US Chamber Foundation, National Hispanic Corporate Council, National Black Chamber of Commerce, Asian Pacific American Chamber of Commerce, and more.
Rural	4-H, Future Farmers of America, National Sheriffs Association, The National Grange, ACA Connects, Appalachian Regional Commission (ARC), NASCAR, Association for Rural and Small Libraries, Council for Agricultural Science and Technology (CAST) , Delta Regional Authority , Farmer Veteran Coalition, American Association of Land Grant Universities, National Black Farmers Association, National Farmers Union, The Rural Coalition, Woodmen Life, Caterpillar, John Deere, Cargill, Farm Bureau, Cattlemen's, Dairymen's Cotton, Corn, Stock, Vegetable, Fruit, Wool Growers, and more.
Veterans	Veterans of Foreign Wars, American Legion, Wounded Warrior Project, Air Force Sergeants Association, American GI Forum, American Veterans, Disabled American Veterans, Senior Veterans Council, Student Veterans of America, Navy SEAL Foundation, Veterans Education Success, Fleet Reserve Association, National Veterans Foundation, National Coalition for Homeless Veterans, Iraq and Afghanistan Veterans of America, Jewish War Veterans of America, Marine Corps Association, Military Child Education Coalition, and more.
Faith & Charity	National Association of Evangelicals, National Baptist Convention, The Church of Jesus Christ of Latter-day Saints, Church of the Nazarene, Christian Festival Association, Catholic Charities, The Episcopal Church, The Salvation Army, Evangelical Lutheran Church in America, Knights of Columbus, AME Zion Church, National Council of Churches, National Latino Evangelical Coalition, Alliance of Baptists, Concerned Women for America, Coptic Orthodox Archdiocese of North America,, The Muslim-Jewish Advisory Council, American Jewish Committee, Goodwill Industries International, YMCA/YWCA, Boys & Girls Clubs of America, United Way, Volunteers of America- and thousands more.

United States™ Census Bureau

U.S. Department of Commerce
Economics and Statistics Administration
U.S. CENSUS BUREAU
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Attachment 5

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Attachment 6

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Attachment 7

cjonline.com THE TOPEKA CAPITAL-JOURNAL

Opinion

Letter to the editor: Take 10 minutes to take Census survey

Posted Apr 4, 2020 at 12:30 PM

More than 50 million households, representing more than one-third of the nation, already have responded to the 2020 Census. The census happens once every 10 years, and your response affects allocation of Congressional seats and Federal funds to your community — for things like schools, hospitals, roads and emergency services.

Please respond to the Census today. It takes less than 10 minutes to fill out the form online at 2020census.gov, over the phone to the number on the form you received or on paper through mail.

As of April 2, only 43.3% of Kansas households have responded. We ask your help in making sure Kansas gets a complete and accurate count of all people residing in the State as of Census Day, April 1.

Your data are encrypted from the instant we receive your response, so it is well protected. Your responses are not shared with anyone else, including law enforcement. Census responses are protected by Federal law, punishable by up to 5 years in prison and a fine of $250,000.

BC-DOC-0000000436

NEED TO REACH ALABAMA DECISION-MAKERS?

Alabama Yellowhammer- A letter from U.S. Commerce Secretary Wilbur Ross to all Alabamians about 2020 Census

More than 50 million households, representing more than one-third of the nation, already have responded to the 2020 Census. The census happens once every 10 years, and your response affects allocation of congressional seats and federal funds to your community — for things like schools, hospitals, roads and emergency services.

Please respond to the census today. It takes less than 10 minutes to fill out the form online at 2020census.gov, over the phone to the number on the form you received or on paper through mail.

As of April 1, only 39.4% of Alabama households have responded. We ask your help in making sure Alabama gets a complete and accurate count of all people residing in the state as of Census Day, April 1.

Your data are encrypted from the instant we receive your response, so it is well protected. Your responses are not shared with anyone else, including law enforcement. Census responses are protected by federal law, punishable by up to five years in prison and a fine of $250,000.

Almost all households in Alabama have received multiple invitations to respond by phone and by mail. If you have not received a paper questionnaire yet and have not responded, it will be delivered starting April 8. Your state and nation thank you for taking action on behalf of your community by responding to the 2020 Census.

Wilbur L. Ross, Secretary, U.S. Department of Commerce

Attachment 8

2020 Census Operational Adjustments Due to COVID-19

The 2020 Census is underway and more households across America are responding every day. Online, phone, and mailed self-responses will continue throughout the data collection process. In light of the COVID-19 outbreak, the U.S. Census Bureau is adjusting 2020 Census operations in order to:

- Protect the health and safety of the American public and Census Bureau employees.
- Implement guidance from federal, state, and local authorities regarding COVID-19.
- Ensure a complete and accurate count of all communities.

Under the adjusted 2020 Census operational plan, field activities would resume after June 1, 2020, as area census offices begin returning to full staff capacity. **In-person activities, including enumeration, office work, and processing activities, will incorporate the most current guidance from authorities to ensure the health and safety of staff and the public**.

Activity/Operation	Original Schedule	NEW SCHEDULE
Self-Response Phase Online, phone, and mailed self-responses continue throughout the data collection process.	March 12–July 31	March 12–October 31
Group Quarters (e-Response and Paper Enumeration) Many group quarters have already begun responding through our e-response enumeration option.	April 2–June 5	April 2–September 3
Remote Alaska Early operation to reach parts of Alaska that may be difficult to reach later in the year and whose populations depart for other activities. The operation will be mostly completed on the original planned schedule, though some areas with year-round populations will be enumerated when it is safe to do so.	January 21–April 30	Tentatively January 21–June 19, but may need further review and coordination

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United States® Census 2020

D-FS-GP-EN-022 April 13, 2020

Activity/Operation	Original Schedule	NEW SCHEDULE
Field Offices at Peak Operations Managers and staff commence administrative, training, deployment, and support activities for peak data collection operations. This includes selecting and hiring field staff.	March 1	June 1
Update Leave—Stateside Census takers drop off invitations to respond and paper questionnaires at the front doors of 5 million households stateside while updating the addresses.	March 15–April 17	June 13 –July 9
Update Leave—Puerto Rico Update Leave Operation for the Commonwealth of Puerto Rico, approximately 1.7 million households, will be coordinated separately.	March 15–April 17	Needs further review and coordination with outside partners and stakeholders.
Update Enumerate Census takers interview about 2,000 households in remote parts of northern Maine and southeast Alaska.	March 16–April 30	June 14–July 29
Nonresponse Followup (NRFU) Census takers will interview households in person.	May 13–July 31	August 11–October 31
In-Person Group Quarters Enumeration Group quarters that remain a part of our in-person group quarters enumeration efforts will begin in July.	April 2–June 5	July 1– September 3
Service Based Enumeration We're working with service providers at soup kitchens, shelters, and regularly scheduled food vans to count the people they serve.	March 30–April 1	Needs further review and coordination with outside partners and stakeholders.
Mobile Questionnaire Assistance Census Bureau staff assists people with responding online at places people gather (events, grocery stores, etc.).	March 30–July 31	Needs further review and coordination with outside partners and stakeholders.

Activity/Operation	Original Schedule	NEW SCHEDULE
Count of People Experiencing Homelessness Outdoors Census takers count people under bridges, in parks, in all-night businesses, etc.	April 1	Needs further review and coordination with outside partners and stakeholders.
Enumeration of Transitory Locations Census takers count people staying at campgrounds, RV parks, marinas, and hotels if they do not usually live elsewhere.	April 9–May 4	Tentatively September 3–September 28, but may need further review and coordination.
Process Apportionment Counts After collection activities are complete, Census Bureau experts run and review output from programs to unduplicate responses, determine final housing unit status, populate any missing housing unit data on household size, and finalize the universe to be included in the apportionment count file.	July 31, 2020–December 31, 2020	October 31, 2020–April 30, 2021
Process Redistricting Data Census Bureau experts run and review programs to populate any missing demographic data for each household, run differential privacy programs to ensure confidentiality, and run tabulation programs for each state delivery.	January 1, 2021–March 30, 2021	May 1, 2021–July 31, 2021
Deliver Apportionment Counts to the President By law, the Census Bureau will deliver each state's population total, which determines its number of seats in the U.S. House of Representatives.	By December 31	Deliver by April 30, 2021
President Delivers Apportionment Counts to Congress	Within 7 days of start of legislative session or approximately 10–20 days after receipt.	Within 14 days of receipt.
Deliver Redistricting Counts to States By law, the Census Bureau will deliver the local counts each state needs to complete legislative redistricting.	By April 1, 2021	Deliver by July 31, 2021

Attachment 9

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From: Ali Mohammad Ahmad (CENSUS/ADCOM FED) [ali.m.ahmad@census.gov]
Sent: 4/19/2020 4:15:18 PM
To: Walsh, Michael (Federal) [MWalsh@doc.gov]
Subject: Re: Updated. Deliberative and Pre-Decisional.
Attachments: Cover Page 4-19.docx

With very minor edits

Ali Ahmad, Associate Director
Communications Directorate
U.S. Census Bureau
O: 301-763-8789| M: b(6)
Ali.M.Ahmad@census.gov
census.gov | @uscensusbureau

From: Walsh, Michael (Federal) <MWalsh@doc.gov>
Sent: Sunday, April 19, 2020 4:05 PM
To: Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov>
Subject: Re: Updated. Deliberative and Pre-Decisional.

DELIBERATIVE AND PREDECISIONAL

What do you think of this?

From: "Ali Mohammad Ahmad (CENSUS/ADCOM FED)" <ali.m.ahmad@census.gov>
Date: Sunday, April 19, 2020 at 3:43 PM
To: Mike Walsh <MWalsh@doc.gov>
Subject: Updated. Deliberative and Pre-Decisional.

Ali Ahmad, Associate Director
Communications Directorate
U.S. Census Bureau
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Ali.M.Ahmad@census.gov
census.gov | @uscensusbureau

From: Ali Mohammad Ahmad (CENSUS/ADCOM FED) [ali.m.ahmad@census.gov]
Sent: 4/20/2020 9:37:16 AM
To: Walsh, Michael (Federal) [MWalsh@doc.gov]; Tucker, Caroline (Federal) [CTucker@doc.gov]
Subject: Draft Deliberative Pre-Decisional
Attachments: UPDATED 4-20-20 Cover Page and All Attachment 4-19-20.pdf; WSJBB Notes.pdf; WSJBB- Pages from Cover Page and All Attachment 4-19-20.pdf

Updated Cover Page and All Attachments is for binder

Other two PDFs are for side.

I am getting on road now.

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Wall Street Journal: Political power to continue shift to Southern states, data show

By Janet Adamy and Paul Overberg Wall Street Journal - Dec 30, 2019

WASHINGTON • New state population totals released Monday offer fresh signs that political power is poised to continue its shift from the North and Midwest to the South and Southwest in ways that could help states that have voted Republican in recent years.

The Census Bureau on Monday released state population estimates for the year ended July 1. Congressional seats and electoral votes are allocated to states based on a census conducted every 10 years. Because the 2019 estimates come less than a year before the next decennial census, they closely approximate which states will gain and lose as a result of the 2020 count that gets fully underway in the spring.

Based on Monday's figures, Texas is poised to gain two congressional seats, while Arizona, Colorado, Florida, Montana, North Carolina and Oregon are each expected to gain one.

Eight states are likely to lose one seat: Illinois, Michigan, Minnesota, New York, Pennsylvania, Rhode Island, West Virginia and California. It would be California's first such loss since it became a state in 1850.

The Census Bureau estimates that Colorado gained 729,000 residents — a roughly 15% population uptick — since the 2010 Census, according to the new figures, bringing the estimated population to 5.76 million.

What's less clear is who in the state will benefit from the gain in congressional representation. That will be determined in 2021 when the process of congressional redistricting takes place, after the official 2020 Census is complete.

Growth in the Denver metropolitan area has far outpaced the growth in other parts of the state. Greeley and Fort Collins have also outpaced the state's overall growth to a lesser extent. Those areas could all benefit from the addition of a new congressional seat. Boulder, Grand Junction and especially rural Colorado has made up a smaller portion of the state's population each year since 2010.

Kimball Brace, president of the bipartisan political consulting firm Election Data Services, said he expects the national changes will benefit the Republican Party. "The big states that are very much Democratic are in a loss situation," he said, citing California, Illinois and New York, while traditionally Republican states like Texas and Arizona are poised to gain power.

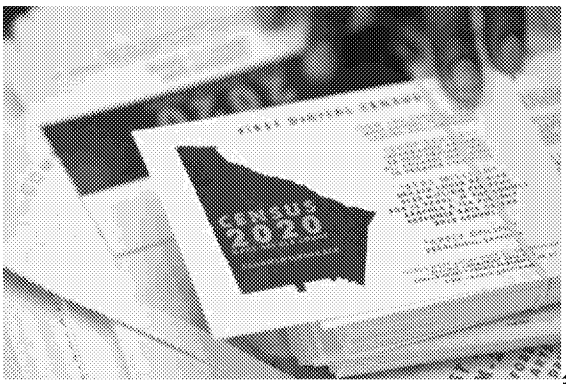
Democrats say in Texas and Arizona, the growth of the Latino populations and new residents from other states could eventually turn them blue. Democrats note how population movements in recent years have moved the partisan makeup of some states in their favor, including Virginia and Colorado.

The results of the 2020 Census will determine the new distribution of House seats and Electoral College votes by December 2020. The first elections likely to be impacted by the seat changes will be in 2021. Most states will redraw congressional and legislative districts in time for 2022 votes.

The final 2020 state population totals will be shaped by how accurate the census is, and additional population totals from overseas workers.

The exact shift of political power also will depend on who wins control of state legislatures in 2020 elections, since those officials will help redraw districts and legislative maps.

Breitbart- 2020 Census Bureau Data: Blue States Projected to Lose Congressional Power in 2022



AP Photo/John Amis

John Binder
30 Dec 2019161
2:50

A series of blue states are set to lose political power in 2020 for the 2022 midterm elections, newly released data from the Census Bureau suggests.

After years of projections that congressional reapportionment in 2020 would see red states lose political power to blue states that have been inundated with illegal and legal immigration over the last decade, analysis of Census Bureau data predicts that it is blue states that will, in fact, lose congressional seats.

Brookings Institute analysis released to *Axios* reveals that red or red-leaning swing states like Texas and Florida, for example, are set to gain two to three congressional seats each in the new year. Meanwhile, President Trump-supporting states such as Arizona, Montana, and North Carolina are all expected to gain at least one congressional seat each.

Projected change in congressional seats by state in 2020

STATE	SEATS GAINED OR LOST	2016 VOTE
Texas	+3	Trump
Florida	+2	Trump
Arizona	+1	Trump
Colorado	+1	Clinton
Montana	+1	Trump
North Carolina	+1	Trump
Oregon	+1	Clinton
Alabama	−1	Trump
California	−1	Clinton
Illinois	−1	Clinton
Michigan	−1	Trump
Minnesota	−1	Clinton
New York	−1	Clinton
Ohio	−1	Trump
Pennsylvania	−1	Trump
Rhode Island	−1	Clinton
West Virginia	−1	Trump

Data: Brookings analysis of U.S. Census data; Table: Naema Ahmed/Axios

Leading blue states like California are predicted to lose a congressional seat, along with blue states like Illinois, Minnesota, New York, and Rhode Island. Still, some Trump-supporting states — Alabama, Michigan, Ohio, Pennsylvania, and West Virginia — are expected to also lose a congressional seat.

The Census analysis is a break from years of research which projected the nation's illegal and legal immigration system, where about 1.5 million foreign nationals are admitted every year, has been helping not only deliver voters to Democrat politicians, but also provide residents to blue states to increase political dominance in Congress.

Most recently, the Center for Immigration Studies projected that new Census numbers would shift about 26 congressional seats from mostly blue states to red states in 2020. Under this analysis, California would gain 11 congressional seats, while New York would add four seats and New Jersey would add two seats — mostly all redistributed from red states with fewer foreign-born residents.

As Breitbart News has chronicled for years, the counting of only American citizens to divide up congressional districts and electoral college votes would shift power away from the affluent, metropolitan coastal cities of the U.S. and towards middle America.

The U.S. is on track to import about 15 million new foreign-born voters in the next two decades should current legal immigration levels continue. Those 15 million new foreign-born voters include about eight million who will arrive in the country through chain migration, whereby newly naturalized citizens can bring an unlimited number of foreign relatives to the country.

John Binder is a reporter for Breitbart News. Follow him on Twitter at @JxhnBinder.

From: Ron S Jarmin (CENSUS/DEPDIR FED) [Ron.S.Jarmin@census.gov]
Sent: 8/2/2020 9:53:06 AM
To: Ron S Jarmin (CENSUS/DEPDIR FED) [Ron.S.Jarmin@census.gov]
CC: Walsh, Michael (Federal) [MWalsh@doc.gov]

Subject: quick chat
Attachments: Operational and Processing Options to meet September 30 Final.pdf

Start: 8/2/2020 11:00:00 AM
End: 8/2/2020 11:30:00 AM
Show Time As: Busy

Recurrence: (none)

Join online meeting

Join by Phone

b(6) (Dial-in Number) English (United States)

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Operational and Processing Options to Meet Statutory Date of December 31, 2020 for Apportionment

August 3, 2020

Pre-decisional - Internal Use Only - Not for Public Distribution

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United States Census 2020

Bottom Line Up Front

Objective: We have developed this plan in response to your request to provide an apportionment count by December 31, 2020.

- **Maximizing** staff and production hours for field data collection operations to conclude field data collection by September 30, 2020.
- **Compress** and streamline backend processing to deliver apportionment counts by December 31, 2020.
- **Achieve** an acceptable level of accuracy, at least 99% of Housing Units in every state must be resolved.

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BC-DOC-0000000472

Nonresponse Followup Operational Options

Early Start of Nonresponse Followup Operations
6 Cycle 1a Area Census Offices (ACOs) began operations on July 16
6 Cycle 1b ACOs began operations on July 23
35 Cycle 2 ACOs were scheduled to begin operations on July 30; however, we started operations earlier in some ACOs where staff was available: • 17 ACOs – Started July 26 – 29 • 18 ACOs – Starter July 30
39 Cycle 3 ACOs were scheduled to begin operations by August 3: • 15 ACOs – Started last week, July 31 • 24 ACOs – Started today, August 3
All remaining ACOs, were scheduled to begin August 11, but we will begin operations by August 9: • 53 ACOs – Will start August 3 – 7 • 109 ACOs (all remaining) – August 9 • These ACOS will have deploy staff regardless of the COVID-19 risk in those areas to open on these dates.

There are currently 50 days in the production schedule for NRFU. Each additional day of production expands the capacity by 2%.

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United States Census 2020

BC-DOC-0000000473

Increased Replacement Training for Enumerators

Replacement Training Options	Potential Efficiency Gain / Applicable Costs to Implement
Inviting More People to Training	Over selection rates will address higher-than-expected no-show rates of 35%, bringing us closer to our target initial staffing levels.
Continual Replacement Training	Expect to conduct replacement training for at least 135K Enumerators due to attrition. Just over 11,000 training additional sessions: $90m total training cost

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BC-DOC-0000000474

Bonuses for Increased Work

Pay Bonus Options	Potential Efficiency Gain / Applicable Costs to Implement
Implement Enumerator Pay bonus to boost work hours from 19 to 25 per week: • Propose $100 for exceeding 25 hours/week	Expect 250,000 to qualify: $25m/week Increases capacity by 1.5 million work hours per week, or 80,000 more “19 hour” enumerators per week
Implement Enumerator Pay bonus for working multiple 25 hour weeks: • Propose $500 for completing 3 weeks of production • Can be renewed	Expect 150,000 to qualify: $75m total cost
Implement CFS Pay bonus for working multiple weeks: • Propose $750 for completing 3 weeks of production (from established start date) • Would require ‘acceptable’ minimum of 32 hours per week • Can be renewed	Expect 15,000 CFSs to qualify: $11.5m total cost per week

Outreach Methods to Expand Reach to Underperforming Areas

Options	Potential Efficiency Gain / Applicable Costs to Implement
Expand the use of NRFU Travel Teams: • Moving teams that have successfully completed their areas to areas requiring additional attention	Using experienced staff minimizes the need to train new staff – particularly in areas where new staff are not available.
Implement outbound phone calling to conduct interviews: • Use telephone numbers from ERD Contact Frame • Used by enumerators in ACOs that are finishing up to help out in other ACOs	Facilitates outreach into high COVID-19 risk areas and provides additional enumeration capability.

Adjustments to NRFU Contact Strategy

NRFU Adjustment Options	Potential Efficiency Gain / Applicable Costs to Implement
Close out self-reported vacants that are also Administrative Record (AdRec) vacant	Reduce workload by 140k cases
Reduce contact attempts for self-reported vacants from 6 to 1	Increase enumerator productivity
Reduce contact attempts for Re-Interview (RI) and Self-Response Quality Assurance (SRQA) cases from 6 to 3	Reduce attempts from 6 to 3 for 1.9 million cases, increase enumerator productivity
Eliminate Random RI, and depend only on analytic sampling	Reduce NRFU workload by 800k cases – potential reduction in quality of enumerator work
Make “pop count only” sufficient earlier in the operation	Still being researched, TBD

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BC-DOC-0000000477

Implement Additional Administrative Record Options

Administrative Records Options	Potential Efficiency Gain / Applicable Costs to Implement
We are in consultation to revise our AdRec strategy to use IRS-only (no corroborating sources) for “pop count only” cases	Reduce attempts from 6 to 1 for estimated 3.8 million cases, contingent on IRS approval, increasing enumerator productivity
Close out cases with conflicting AdRec showing both vacant and delete	Reduce attempts from 6 to 1 for 1.9 million cases, increasing enumerator productivity

BC-DOC-0000000478

Overview of Backend Processing

Assumptions:

1. Highly compressed schedule for 2020 Census data processing.
2. Post-processing must start by October 1, 2020.
3. Post-processing work activities are limited to those required to produce apportionment counts. Delivery of redistricting data products will be negatively impacted under this revised plan and we are determining full impacts.
4. All of these activities represent abbreviated processes or eliminated activities that will reduce the accuracy of the 2020 Census.

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BC-DOC-0000000479

Compressing Backend Processing

Adjusted Activity	Impact and Risks
Finalize Master Address File (MAF) updates from remaining field operations by 9/4/20 Address updates from continued field work will not be applied to the MAF	We do not anticipate that the resulting number of updates not included will be highly significant. However, increases risk of inaccuracy.
Eliminate the step that includes Decennial Statistical Studies Division (DSSD) review of the MAF extract	Risk of missing and therefore propagating errors, however the MAF is the most accurate ever.
Lock Geographic processing on 9/25/20 and deliver the final 2020 Census address universe by 10/14/20	Reduces a 35 day processing duration to 19 days.
Cancel Count Review Event 2, eliminating the need for late Group Quarters Enumeration (GQE) operations	State demographer review of GQ data will be cancelled. The Demographic and Decennial staffs will work together to develop the message and communicate it to the Federal State Cooperative for Population Estimates (FSCPE)/states. The risk is virtually certain vocal objections from the FSCPE State Demographers and the State Governors they serve.

BC-DOC-0000000480

Compressing Backend Processing - Continued

Adjusted Activity	Impact and Risks
Create a separate processing stream for the Enumeration of Transitory Locations (ETL) and Service Based Enumeration (SBE) operations that follows the Federally Affiliated Count Overseas (FACO) processing approach. This will enable adding ETL and SBE population counts state-by-state significantly later in the Census Unedited File (CUF) production process.	This file needs to be delivered to POP by the time the CUF – the basis for the apportionment delivery – review is scheduled to be complete, by December 18. Additionally, ETL permits the reporting of a Usual Home Elsewhere (UHE), which will not be able to be processed with this new approach. The CUF will have to be re-run prior to the processing of the Census Edited File (CEF) in order to add in the SBE/ETL population for the Public Law 94-171/Redistricting file. The Apportionment Team will need to change its processing plans and conduct testing to ensure the proper integration of ETL/SBE state counts.
Compress POP division and DSSD review and processing times	A compressed review period creates risk for serious errors not being discovered in the data – thereby significantly decreasing data quality. Additionally, serious errors discovered in the data may not be fixed – due to lack of time to research and understand the root cause or to re-run and re-review one or multiple state files.
Compress time for creating/verifying apportionment data and preparation of transmittal package for DOC	A compressed review period creates risk for errors being present in the data.

Questions?

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United States Census 2020

From: Walsh, Michael (Federal) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=967A7D8C864840C093A7DAC27BC66677-MICHAEL WAL]
Sent: 8/18/2020 2:54:46 PM
To: Wilbur Ross b(6)
CC: Barranca, Steven (Federal) [SBarranca1@doc.gov]
Subject: Fwd: ATTORNEY CLIENT / WORK PRODUCT / DELIBERATIVE PROCESS PRIVILEGED FW: Here's the National Urban League complaint
Attachments: US_DIS_CAND_5_20cv5799_COMPLAINT_for_Declaratory_and_Injunctive_Relief_Fi.pdf; ATT00001.htm

b(5) - DP/AC/WP

Sent from my iPhone

Begin forwarded message:

From: "Olson, Stephanie (Federal)" <SOlson@doc.gov>
Date: August 18, 2020 at 2:32:26 PM EDT
To: "Walsh, Michael (Federal)" <MWalsh@doc.gov>, "Keller, Catherine (Federal)" <CKeller@doc.gov>
Subject: ATTORNEY CLIENT / WORK PRODUCT / DELIBERATIVE PROCESS PRIVILEGED FW: Here's the National Urban League complaint

ATTORNEY CLIENT / WORK PRODUCT / DELIBERATIVE PROCESS PRIVILEGED

b(5) - DP/AC/WP

From: DiGiacomo, Brian (Federal)
Sent: Tuesday, August 18, 2020 2:08 PM
To: Kourkoumelis, Aristidis (Federal) <AKourkoumelis@doc.gov>; Olson, Stephanie (Federal) <SOlson@doc.gov>; Heller, Megan (Federal) <MHeller@doc.gov>; Cannon, Michael (Federal) <MCannon@doc.gov>; Sharma, Sapna (Federal) <SSharma@doc.gov>
Subject: Here's the National Urban League complaint

See attached.

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NATIONAL URBAN LEAGUE; LEAGUE OF WOMEN VOTERS; BLACK ALLIANCE FOR JUST IMMIGRATION; HARRIS COUNTY, TEXAS; KING COUNTY, WASHINGTON; CITY OF LOS ANGELES, CALIFORNIA; CITY OF SALINAS, CALIFORNIA; CITY OF SAN JOSE, CALIFORNIA; RODNEY ELLIS; and ADRIAN GARCIA,

Plaintiffs,

v.

WILBUR L. ROSS, JR., in his official capacity as Secretary of Commerce; U.S. DEPARTMENT OF COMMERCE; STEVEN DILLINGHAM, in his official capacity as Director of the U.S. Census Bureau; and U.S. CENSUS BUREAU,

Defendants.

CASE NO. 20-cv-5799

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. This lawsuit challenges the unconstitutional and illegal decision by Secretary of Commerce Wilbur Ross, and Census Bureau (the "Bureau") Director Steven Dillingham, to sacrifice the accuracy of the 2020 Census by forcing the Census Bureau to compress eight and a half months of vital data-collection and data-processing into four and a half months, against the judgment of the Bureau's staff and in the midst of a once-in-a-century pandemic.

2. The Census Bureau's staff spent most of the past decade developing a final operational plan for the 2020 Census that reflected the Bureau's understanding of the best methods for counting everyone once and in the right place (the "Final Operational Plan"). In April 2020, as the COVID-19 pandemic spread throughout the country, the Census Bureau revised its plan to account for both the difficulties of census-taking during a pandemic and the Bureau's constitutional and statutory obligation to achieve a fair and accurate count (the "COVID-19 Plan"). To achieve both ends, the Department of Commerce and the Census Bureau delayed the counting process, shifted the timeframe for conducting and completing its data-collection operation, and increased the time for conducting data-processing, while, crucially, preserving the same amount of time for each step of those operations.

3. On August 3, 2020, the Department of Commerce and the Census Bureau suddenly and without explanation reversed course and replaced the Bureau's COVID-19 Plan with a new one (the "Rush Plan"). The Bureau's Rush Plan requires the Bureau to complete eight and a half months of data-collection and data-processing in half the time. It ignores the multi-month delay in census data-collection that the COVID-19 pandemic caused. It compels a final date for delivering apportionment data to the President that Bureau officials have repeatedly asserted they cannot meet. And it threatens a massive undercount of the country's communities of color and the municipalities, cities, counties, and states where they live. Under these circumstances, the Bureau's new plan to rush the 2020 Census violates, among other things, the federal government's legal obligations to secure an accurate count and statutory prohibitions on arbitrary, capricious, and pretextual federal government action.

4. The federal government's attempt to rush the census count poses a grave threat to

all the vital functions that rely on census data, from reapportioning the United States House of Representatives and redrawing state and local electoral districts, to equitably distributing over $1.5 trillion annually in federal funds that support basic needs such as food, health care, and education. Undercounted cities, counties, and municipalities will lose representation in Congress and tens of millions of dollars in funding. And communities of color will lose core political power and vital services. In contrast to these dire stakes, the immediate solution to this problem is simple: set aside and enjoin implementation of the impossibly-shortened Rush Plan, which is based on an unexplained change of position, and allow the Census Bureau to implement the plan that it had designed to fulfill its constitutional duties during the pandemic.

5. The COVID-19 pandemic upended all 2020 Census field operations, many of which the Census Bureau designed to enumerate populations that it has long struggled to count, including racial and ethnic minorities, non-English speakers, and undocumented persons. Among the disrupted census operations was the largest, most time-consuming operation undertaken to count the country's hard-to-count communities—the "Non-Response Follow Up" operation. During Non-Response Follow Up, the Bureau sends its employees to knock on the doors of households that have not yet responded to the census and perform other vital data-collecting functions.

6. The Bureau's staff responded to the pandemic—and the impossibility of conducting house visits during widespread lockdowns—by making necessary adjustments to the timeline in the Final Operational Plan. This revised operational plan, the COVID-19 Plan issued on April 13, 2020, was intended to ensure that hard-to-count communities would be enumerated and the health and safety of Bureau employees and the public would be protected. This plan adjusted the deadlines of, but did not shorten the time for, critical operations. Under this plan—which experts and census stakeholders alike endorsed as a scientifically sound approach for minimizing the pandemic's potential damage to the accuracy of the count—the Bureau extended its data-collection deadlines to October 31, 2020 and its data-processing deadlines into the second quarter of 2021. Critically, the COVID-19 Plan delayed door-knocking by three months, pushing it from May–July 2020 to August–October 2020. But the COVID-19 Plan

acknowledged that the Bureau must spend the same amount of time—around eleven and a half weeks—on door-knocking, just as it had planned to do before the pandemic. The COVID-19 Plan also incorporated the same methods and techniques contemplated in the Final Operational Plan that the Bureau had spent years developing. Indeed, the only respect in which the COVID-19 Plan altered the amount of time devoted to operations set out in the Final Operational Plan was a requirement that the Bureau spend *more* time than originally planned *processing* the data it collected—that is, performing the necessary work to transform over 100 million individual census forms into high-quality, reliable, and legitimate data. This additional investment in data-processing reflected daunting new challenges the COVID-19 pandemic posed to an accurate count, including massive displacements of people that would introduce problems of duplicate responses, responses without unique census identifiers, and other complex data issues.

7. The Department of Commerce and the Census Bureau also recognized that the impact of COVID-19 had made it impossible to meet certain statutory deadlines for reporting census results to Congress. Commerce Secretary Wilbur Ross and Census Bureau Director Steven Dillingham announced that the Bureau was seeking relief from Congress to formally extend two statutory deadlines: first, the deadline for reporting the state-population totals used to calculate the congressional apportionment to the President, which Congress was asked to extend from December 31, 2020 to April 30, 2021; and, second, the deadline for reporting redistricting data to the states, which Congress was asked to extend from March 31, 2021, to July 31, 2021. Commenting on the statutory-deadline extensions, President Trump publicly stated on April 13, 2020, "I don't know that you even have to ask [Congress]. This is called an act of God. This is called a situation that has to be. They have to give in. I think 120 days isn't nearly enough." Hansi Lo Wang, *Trump Officials Ask to Delay Census Data for Voting Districts, House Seats*, NPR (Apr. 13, 2020), https://www.npr.org/2020/04/13/833546675/trump-officials-ask-to-delay-census-data-for-voting-districts-house-seats.

8. Recognizing that more time was necessary to complete an accurate census, and consistent with the President's statement, the Bureau proceeded immediately under its COVID-19 Plan. The Bureau delayed its door-knocking operation to late summer, with the declared

intention of completing it by October 31, 2020. And recognizing that a successful census is dependent on all levels of government working together, the Bureau publicized this plan to the public, as well as to government and non-profit partners involved in the years-long and multi-million-dollar public education campaign to ensure public trust and encourage public participation in the census.

9. Throughout the summer, Bureau officials repeatedly stated that the pandemic had rendered it impossible for the Bureau to complete a reasonably accurate count by December 31, 2020. But to comply with its constitutional obligations, the Bureau continued collecting data on the timelines set in the COVID-19 Plan, which itself extended the Bureau's data-processing timelines into 2021.

10. On August 3, 2020—in the face of a pandemic that has only grown worse and in disregard of the Census Bureau's constitutional and statutory duties to conduct an actual enumeration of the entire population—Secretary Ross and Director Dillingham abruptly abandoned the COVID-19 Plan. Without explanation, they announced the new Rush Plan for the 2020 Census, including shortening the Bureau's data-collection operation by one month to September 30, 2020, and requiring the Bureau to process and report the apportionment data to President Trump by December 31, 2020. The Rush Plan cuts a crucial four weeks from the data-collection operation. And it disregards the Bureau's own prior conclusions that such rushed processing renders it impossible to fulfil its constitutional obligation to ensure reasonable quality and accuracy of 2020 Census data.

11. Defendants' decision to abandon the COVID-19 Plan in favor of the Rush Plan does not satisfy the Supreme Court's clear command that any decision relating to the census bear a "reasonable relationship" to producing an accurate count. *See Wisconsin v. City of N.Y.*, 517 U.S. 1, 20 (1996). As demonstrated by Defendants' own prior statements, the challenged decision cannot be justified by any legitimate interest in conducting an accurate census, and in fact will introduce several inaccuracies in the count, chief among them major undercounts of communities of color.

12. The reason for this abrupt change of position is not apparent on the face of the

press release announcing the Rush Plan or any other subsequently issued statements or publications from the federal government. The Bureau has refused requests from Congress and at least one Plaintiff in this action to provide one.

13. The announcement of the Rush Plan did reference two developments that occurred between the adoption of the COVID-19 Plan and the announcement of the Bureau's intent to adopt the Rush Plan. But neither of these developments can justify Defendants' actions. First, the announcement refers to the Secretary of Commerce's direction to the Bureau to comply with the statutory deadline of December 31, 2020 for completing the apportionment count. But this statutory deadline cannot justify an unconstitutional decision to cut short crucial operations and fail to satisfy its constitutional obligation. A statutory deadline, particularly one that was set without a global pandemic in mind, cannot override the federal government's constitutional duty to accomplish an accurate census; there is "nothing sacred in the due date of the filing [of apportionment data], especially when the work of the Census Bureau . . . is incomplete." *Carey v. Klutznick*, 637 F. 2d 834, 837 (2d Cir. 1980). Moreover, the Bureau was cognizant of this deadline even as it designed and implemented the COVID-19 Plan, including delaying crucial field operations by several months. And Bureau officials have repeatedly made clear that because of the impediments introduced by COVID-19, together with the multi-month delay, it is *already* too late to satisfy these pre-COVID-19 deadlines.

14. Second, both the text of the Rush Plan announcement and the timing of the decision suggest that the federal government's motivation for the Rush Plan is to facilitate another illegal act: suppressing the political power of communities of color by excluding undocumented people from the final apportionment count. On July 21, 2020—just a few weeks earlier—President Trump issued a Presidential Order titled "Memorandum Excluding Illegal Aliens From the Apportionment Base Following the 2020 Census" (the "Apportionment Exclusion Order")—which expressly stated the President's determination to exclude undocumented people from the population count used for apportionment. To increase the chance that the President can fully effectuate the Apportionment Exclusion Order, he must receive the population totals while he is still in office, and he ordered the Secretary of Commerce to provide

him with 2020 decennial census information by December 31, 2020 to carry out his objective.

15. The President's Apportionment Exclusion Order (currently being challenged as unconstitutional and unlawful in a number of lawsuits filed in jurisdictions around the country, including in this District) represents only the most recent of Defendants' serial attempts to manipulate the 2020 Census to suppress the political power of communities of color. These attempts started with a campaign to introduce a historically unprecedented and untested citizenship question onto the 2020 Census questionnaire to advantage—in the words of a deceased Republican redistricting consultant—"Republicans and non-Hispanic whites." Michael Wines, *Deceased G.O.P. Strategist's Hard Drives Reveal New Details on the Census Citizenship Question*, N.Y. Times (May 30, 2019), https://www.nytimes.com/2019/05/30/us/census-citizenship-question-hofeller.html. Since the Supreme Court blocked the question, Defendants have looked for other means to achieve that same end, including collecting data on citizenship from administrative records and, now, cutting the census short.

16. Plaintiffs are local governments, civil rights and civic organizations, and individuals whose communities will almost certainly be inaccurately represented and underrepresented in the final census count if the administration succeeds in truncating census data-collection and data-processing.

17. Plaintiffs seek declaratory relief affirming that Defendants' actions violate the Enumeration Clause and the Administrative Procedure Act. Plaintiffs additionally seek to set aside and enjoin implementation of the illegal Rush Plan, thereby permitting the Bureau to implement the preexisting COVID-19 Plan it carefully designed to ensure a complete and accurate count. This relief will allow the Bureau to conduct the 2020 Census on the timeline it has repeatedly asserted is necessary to complete a full, fair, and accurate count.

18. Without such relief, Plaintiffs and the communities they represent will suffer irreparable harm for at least another decade, until the next census is conducted.

JURISDICTION AND VENUE

19. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1346(a), and 1361.

20. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(2) and (e)(1). Defendants are United States officers or agencies sued in their official capacities, a substantial part of the events or omissions giving rise to this action have occurred or will occur in this district, and one or more Plaintiffs reside in this district.

21. This Court may grant declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202.

22. The proper intradistrict assignment for this action is the San Jose Division, in light of the location of Plaintiffs City of San Jose and members of the League of Women Voters.

PARTIES

I. Plaintiffs

23. The National Urban League ("Urban League") is a civil-rights organization with over 90 affiliates serving 300 communities in 37 states and the District of Columbia. Founded in 1910, the National Urban League is headquartered in New York City. The mission of the National Urban League is to help African Americans and others in underserved communities achieve their highest human potential and secure economic self-reliance, parity, power, and civil rights.

24. For the 2020 Census, the Urban League has expended substantial resources developing programs designed to encourage self-response and cooperation with Census Bureau offices in historically undercounted communities. Specifically, the organization has engaged in efforts to educate the public about the census through various methods, including virtual town halls, production and distribution of toolkits, workshops for locally based get-out-the-count organizations, and publication and upkeep of a website, www.MakeBlackCount.org, to disseminate critical information about the census. The Urban League has also worked with Census Bureau regional offices to encourage enumerator recruitment, and the organization uses social media to encourage 2020 Census participation.

25. Plaintiff Black Alliance for Just Immigration ("BAJI") is a nonprofit organization organized and existing under the laws of California, with offices and members across the country, including in Oakland, California, Miami, Florida, Atlanta, Georgia, and New York City.

BAJI collaborates with African Americans and Black immigrants to organize and advocate for equal and just laws in their communities. BAJI campaigns to advance racial justice and provides partner organizations with varied assistance—particularly on immigration policy—and it spends significant resources educating its partner organizations, individuals, and other constituents through presentations, workshops, publications, technical assistance, and trainings. BAJI is a membership organization, and its members either pay dues or volunteer their time to support the organization. Members also actively participate in BAJI's self-governance and decision-making at the local level.

26. For the 2020 Census, BAJI has worked to ensure non-responsive households in Black and immigrant communities are counted. BAJI has hired additional staff dedicated to engaging local communities on the census, and has engaged in outreach using social media and mailers to bolster self-response. In addition, since the outbreak of the COVID-19 pandemic, BAJI staff regularly participate in webinars and virtual events to provide the public more information about the census, with a specific focus on encouraging participation in Black and immigrant communities.

27. The League of Women Voters is a nonprofit civic organization that encourages informed and active participation in government. Founded in 1920, the League of Women Voters is headquartered in Washington, D.C. The League of Women Voters has over 800 state and local affiliates, located in all 50 states and in 764 specific communities, including affiliates with members in San Francisco and Monterey County, California, Detroit, Michigan, Miami, Florida, Philadelphia, Pennsylvania, and New York City. The League of Women Voters seeks to empower voters and defend democracy. The League of Women Voters has over 65,000 members nationwide, and its members either pay dues or volunteer their time to support the organization.

28. The League of Women Voters has engaged in significant efforts to ensure historically undercounted communities are enumerated during the 2020 Non-Response Follow Up operation. Prior to the outbreak of COVID-19 in the United States, the League of Women Voters and its affiliates participated in public events across the country aimed at providing information about the census to undercounted communities. Since March of this year, the League

of Women Voters has shifted to a digital public-education campaign, encouraging education and participation through social media, email listservs, webinars, and blog posts. Affiliates in Kansas, South Carolina and Maine are also participating in state Complete Count Committees that seek to increase awareness of the 2020 Census, improve participation, and coordinate with Census Bureau officials.

29. Harris County, Texas is a political subdivision of the State of Texas. With over 4.7 million residents, Harris County is the third largest county in the United States. The county's population is over 43% Latino, 20% Black, over 7% Asian, and over 28% non-Hispanic White. During the 2010 Census, 65.1% of households in Harris County self-responded to the census. As of August 14, 2020, 58.3% of households in Harris County had self-responded to the 2020 Census. This response rate in Harris County was well below the national response rate on that date, 63.6%.

30. For the 2020 Census, officials in Harris County engaged in extensive efforts to encourage participation in the County. County officials formed a Complete Count Committee with city officials in Houston that engaged in public education about the census, and built partnerships with local Census Bureau officials to coordinate outreach efforts. In addition, in 2019, the County approved a budget of nearly $4 million dollars to conduct outreach during the 2020 Census. To that end, the County has contracted with vendors to conduct surveys about the opinions and attitudes of non-responsive populations and develop a digital advertising campaign on Facebook and Instagram to encourage 2020 Census participation. And the County receives substantial federal funding tied to census data.

31. King County is a political subdivision of the State of Washington. Over 2.2 million people live in King County, making it the most populous county in Washington. As of August 14, 2020, 26.1% of households in King County had not responded to the 2020 Census. The county has large populations of historically undercounted communities. For instance, according to the Department of Housing and Urban Development, King County had nearly 12,000 residents experiencing homelessness, the third highest total of any locale in the country. The Seattle metro area, which includes King County, is estimated to have 140,000

undocumented immigrant residents.

32. King County worked in partnership with local cities to provide $1.17 million to community-based organizations serving historically undercounted communities. Specifically, King County sought to fund organizations that work with communities that are Limited English Proficient. Through this funding, these organizations produced public education materials related to the 2020 Census, and developed campaigns to get-out-the-count. And King County, too, receives substantial federal funding tied to census data.

33. The City of Los Angeles, California is a municipal corporation organized and existing under the laws of the State of California, and is a charter city pursuant to Article XI of the California Constitution. The City is home to roughly 4 million people, and is located in the county recognized by the Census Bureau as the hardest to count in the nation. The city's population is a large contributor to the County's hard-to-count status as more than half of the City's residents live in census tracts that are hard to count. As of August 14, 2020, only 53.8% of the City's households had responded to the 2020 Census—well below the statewide average of 65.1% and even further below the City's own 2010 self-response rate of 68 percent.

34. As a result of its hard-to-count status, Los Angeles has engaged in years of planning and devoted significant resources to developing a strategy for an accurate count, tailored to the unique challenges of the City's population. To fund these efforts, the City has overseen distribution of roughly $2 million dollars to community-based organizations and the investment of almost $1.5 million of both City general fund and grant money in its own efforts. And the City of Los Angeles also receives substantial federal funding tied to census data.

35. The City of Salinas, California is a political subdivision of the State of California. Salinas is the most populous city in and the government seat of the County of Monterey. The city is home to more than 150,000 people, including 38.5% of the county's "hard-to-count" population. As of August 14, 2020, 57.2% of all households in Salinas have responded to the 2020 Census, which is 422nd out of all 482 California cities. The current response rate is 7.9 percentage points below California's statewide average for self-responses and more than 10 percentage points below Salinas's self-response rate from the 2010 Census.

36. Salinas has dedicated significant resources to funding and staffing its "Census Action Team," which is composed of city staff and representatives from the County of Monterey's "Complete Count Committee," as well as community-based organizations, school districts, and local businesses. The city's population is more than 75% Latino, and more than 1 in 5 households have limited English-language proficiency. As part of its outreach, the Salinas Census Action Team engages religious and community organizations, such as local food banks, to assist with enumeration efforts in the Latino community and all communities of color as these organizations are able to assist with trust and communication barriers that can make these groups hard to count. The City of Salinas also receives substantial federal funding tied to census data.

37. The City of San Jose is a political subdivision of the State of California. San Jose has over 1 million residents, making it the largest city in Northern California, and the tenth largest city in the United States. San Jose's population is 32% Latino, and 35% Asian, and nearly 40% of residents are foreign born. As of August 14, 2020, 28% of households in San Jose had not responded to the census. San Jose has large populations of historically undercounted communities. For instance, according to the Department of Housing and Urban Development, in 2019, San Jose had over 6,000 residents experiencing homeless. In addition, the San Jose metro area is estimated to have over 150,000 undocumented immigrant residents.

38. The City of San Jose has engaged in extensive public-education and get-out-the-count efforts during the 2020 Census. San Jose has formed a Complete Count Committee with Santa Clara County, and nearly 90 community-based organizations. The Committee focuses on raising awareness of the census in historically undercounted communities. San Jose also disseminates information about the census to the public through city departments and offices. San Jose also worked closely with the Census Bureau to recruit qualified bilingual enumerators. The City of San Jose receives substantial federal funding tied to census data.

39. Plaintiff Rodney Ellis is the Commissioner for Precinct One on the Harris County Commissioners Court. He is a resident and citizen of Harris County, where he is registered to vote and regularly exercises his right to vote. Commissioner Ellis regularly drives on roads and highways in Harris County.

40. Plaintiff Adrian Garcia is the Commissioner for Precinct Two on the Harris County Commissioners Court. He is a life-long resident and citizen of Harris County, where he is registered to vote and regularly exercises his right to vote. Commissioner Garcia also regularly drives on roads and highways in Harris County.

II. Defendants

41. Defendant Wilbur L. Ross is the Secretary of the U.S. Department of Commerce and is sued in his official capacity. Secretary Ross oversees the U.S. Department of Commerce and the Census Bureau. Congress has delegated the responsibility for carrying out the decennial census to the Secretary of Commerce. 13 U.S.C. § 141(a).

42. Defendant U.S. Department of Commerce is a cabinet agency within the Executive Branch responsible for administering the decennial census.

43. Defendant Steven Dillingham is the Director of the U.S. Census Bureau and is sued in his official capacity.

44. Defendant U.S. Census Bureau is an agency within the Department of Commerce responsible for planning and administering the decennial census. 13 U.S.C. § 2.

FACTUAL ALLEGATIONS

I. Defendants' Constitutional and Statutory Obligations.

45. Under the United States Constitution, the federal government must conduct an "actual Enumeration" of the population once every ten years. U.S. Const. art. I, § 2.

46. The population totals produced by the decennial enumeration are used to apportion congressional representatives to the various states. *Id.* Census figures are also used in state and local redistricting and in the distribution of federal funds to communities across the United States.

47. The Enumeration Clause requires that decisions relating to the census bear a "reasonable relationship" to the constitutional purpose of the enumeration. *Wisconsin*, 517 U.S. at 20.

48. Similarly, the Census Act imposes a mandatory duty on the Secretary of Commerce to "conduct a census that is accurate and that fairly accounts for the crucial

representational rights that depend on the census and the apportionment." *Dep't of Commerce v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

49. Consequently, the Secretary of Commerce and the Census Bureau are constitutionally obligated to make decisions in conducting the census that are reasonably related to achieving a fair and accurate calculation of the population of the United States.

II. The Census Bureau's Pre-COVID-19 Operational Plans for the 2020 Census.

50. For the 2020 Census, the Census Bureau spent the better part of a decade designing operations to fulfill its constitutional and statutory mandate, including: soliciting and incorporating feedback from seasoned experts, advisors, and community groups; testing various features of its data-collection and data-processing operations; and ensuring that its decisions for conducting the census reflected sound, scientifically based judgment.

51. To this end, the Bureau created an operational plan to guide its efforts, including its efforts to collect data from census respondents and to process that data into usable forms for constitutionally and statutorily mandated purposes, including reapportionment and redistricting.

52. On December 31, 2018, the Bureau promulgated the final version of its operational plan, which the Bureau called "Version 4.0" (hereinafter referred to as the "Final Operational Plan"). *See* U.S. Census Bureau, Final Operational Plan (Dec. 2018), https://www2.census.gov/programs-surveys/decennial/2020/program-management/planning-docs/2020-oper-plan4.pdf. In the Final Operational Plan, the Census Bureau stated that its goal for the 2020 Census is to "count everyone once, only once, and in the right place."

53. Under the Paperwork Reduction Act, the Office of Management and Budget must review and approve the plans for any federal survey, including the decennial census, to ensure that those surveys meet government standards, minimize respondent burden, and maximize the utility of the collected information. 44 U.S.C. § 3504(c).

54. The Office of Management and Budget formally reviewed and approved the Census Bureau's pre-COVID-19 plans for the decennial census, including the Final Operational Plan.

55. The Final Operational Plan includes over 200 pages of detailed and transparent

conclusions for achieving the 2020 Census's objective of an accurate count.

56. The Final Operational Plan reflects the conclusions of various experts including survey methodologists, statisticians, demographers, geographers, linguists, and mathematicians.

57. The Final Operational Plan states that it "reflects and supports evidence-based decision-making" about the operations necessary to gather and process census responses from every household in the country.

58. The Final Operational Plan states that it was "informed through research, testing, and analysis conducted from 2012 through 2018."

59. The Bureau conducted at least fifteen tests between 2012 and December 31, 2018, when it published its Final Operational Plan.

60. Career Bureau staff developed the Final Operational Plan following substantial consultation with outside experts and census stakeholders, including members of the Census Scientific Advisory Committee and the National Advisory Committee.

61. The Census Bureau also produced a series of "detailed operational plans," which supplement the Final Operational Plan, and provide more parameters for the individual operations that, together, comprise the 2020 Census.

62. The detailed operational plans likewise reflect the conclusions of various subject-matter experts regarding how to complete an accurate count.

63. The Bureau's Final Operational Plan contains several major categories of operations. Two of those categories are particularly important for purposes of this lawsuit: data-collection and data-processing.

64. "Data-collection" refers to operations through which the Bureau obtains information from and about all the people living in the United States.

65. "Data-processing" refers to operations through which the Bureau fills in any gaps in the personal information that it collects from people, transforms the resulting data into usable forms, checks those results for accuracy and other aspects of data quality, and publishes those results, among other things.

66. The Bureau must thoroughly, fully, and correctly perform both categories of

operations—collection and processing—to achieve its stated goal of counting everyone once, only once, and in the right place.

A. Census Data Collection

67. During the census, the Bureau attempts both to determine the number of people in the country and their characteristics, such as their race and ethnicity.

68. Although the Census Bureau planned to deploy many methods during the 2020 Census to collect counts and characteristics from households around the country, the Bureau contemplated, in both the Final Operational Plan, and in the supplemental detailed operational plans, that three methods would account for the overwhelming majority of census responses: the "Self-Response" method; the "Update Leave" method; and the "Non-Response Follow Up" method. *See* U.S. Census Bureau, *2020 Census Detailed Operational Plan for: 18. Non-Response Follow Up Operation* (July 15, 2019), https://www2.census.gov/programs-surveys/decennial/2020/program-management/planning-docs/NRFU-detailed-operational-plan_v20.pdf.

69. The Self-Response method was the "primary methodology for the 2020 Census." Under this method, heads of households would provide their 2020 Census responses directly to the Census Bureau by mailing back a paper census form, filling out a digital form on the Bureau's online census portal, or calling into telephone hotlines to provide their responses to Bureau employees operating those hotlines.

70. The Update Leave method was the methodology for reaching housing units that could not receive physical mail or did not have verifiable mailing addresses. Under this method, Bureau employees would travel throughout both rural and urban areas, leaving invitations to participate and paper census questionnaires at these housing units, so that the people living in those locations could respond themselves.

71. The Self-Response method and the Update Leave method are crucial for obtaining accurate information about the number of people in the country and their characteristics, because data people report about themselves and the members of their housing units is the highest quality data that the census collects.

72. But for the tens of millions of households that do not report their personal data through the Self-Response or Update Leave method, the Bureau's next-best source of personal data is data it collects directly from people through the Non-Response Follow Up method.

73. As part of the Non-Response Follow Up method, the Bureau sends its employee enumerators directly to housing units so that they can attempt to speak with a person occupying each unit and obtain information about everyone who should be counted in that unit.

74. The Bureau requires enumerators to record their responses for each household through iPhones that the Bureau specifically contracted and customized for this purpose. The enumerators' iPhones include software designed to lead enumerators consistently and reliably to solicit information from people at their doors. The enumerators' iPhones also include software to ensure that any data collected from housing units remains confidential as it is being transmitted to the Bureau. The limited supply of these customized iPhones places a limit on the number of enumerators that the Bureau can deploy in the field.

75. The Bureau's Detailed Operational Plan for Non-Response Follow Up, which supplements the Final Operational Plan, sets out a specific protocol for conducting Non-Response Follow Up.

76. Under the Detailed Operational Plan, each housing unit assigned for a visit from an enumerator was eligible for up to six "contact days." A "contact day" could include more than one attempted contact per day.

77. The Bureau concluded it could pursue less than six contact days only under certain scenarios.

78. One scenario that would allow the Bureau to pursue fewer than six contact days was the existence of high-quality administrative records for the housing unit. The Census Bureau has collected data from federal administrative agencies, such as the Social Security Administration, the Internal Revenue Service, and the Department of Housing and Urban Renewal, among others, as well as data from states, which it uses to provide information about the count and characteristics of non-responsive households.

79. If the Bureau had located administrative data from federal and/or state

administrative records and concluded that those records contained accurate demographic data for the occupants of a housing unit, the Bureau's enumerators would attempt only one contact with that unit. If—during that contact attempt—the enumerator did not succeed in finding a live person at the unit, then the Bureau would use the information in the administrative records to fill in the census responses for that unit during the data-processing phase of the 2020 Census.

80. A second scenario that would allow the Bureau to pursue less than six contact days would arise if the Bureau identified a proxy—a person such as a neighbor or landlord that the enumerator could ask for information about the occupants of the housing unit in question. After a third failed contact attempt, a unit would become eligible for being counted through proxy.

81. Proxies can produce many types of data. For instance, proxies are useful for helping the Bureau identify whether a housing unit is vacant—and thus should be marked "vacant" in the Master Address File that the Bureau uses to keep track of the overwhelming majority of housing units that it must enumerate—or non-existent—and thus should be deleted from the Master Address File. For the 2020 Census, the Bureau is planning to use administrative records, such as the United States Postal Service's directory of non-deliverable addresses, to identify vacant housing, but proxies are generally more accurate for this purpose. Finally, proxies provide vital data for other operations that the Bureau undertakes during its data-processing phase, described further below.

82. If the Bureau is unable to enumerate a household after six contact days, in most cases, it will resort to less accurate methods for determining the count and characteristics of the household during its data-processing phase, described below.

83. The Bureau performs several other vital operations in addition to door-knocking during the Non-Response Follow Up period, including a series of operations to ensure the quality of the data that it collects in the field.

84. During the Non-Response Follow Up process, the Bureau: follows up with people who self-responded to the census online but did not enter their unique census identification number to ensure that they are counted in the right place (a process known as "Field

Verification"); and corrects information reported erroneously or omitted from previously submitted census forms (a process known as "Coverage Improvement").

85. In addition, the Bureau re-collects census responses in select instances to ensure that the original submissions were accurate (a process known as "Self-Response Quality Assurance"). This operation protects against enumerators falsifying the information that they provide to the Bureau. Specifically, the Bureau conducts quality control reinterviews of a sample of households. This component is designed to deter and detect cases where enumerators have provided false information about the housing units they are assigned to canvass.

86. Quality control reinterviews are part of a broader set of protocols that the Bureau has developed to guard against factors that endanger the accuracy of the count. Non-Response Follow Up is thus important not only for collecting information, but also for ensuring that the information that is collected is accurate. These two components—gathering data and ensuring its accuracy—must both occur for the Bureau to get a fair and accurate count.

87. The Bureau anticipated that approximately 60% of housing units nationally would respond to the 2020 Census through Self-Response and Update Leave, potentially making up to 40% of housing units targets for Non-Response Follow Up.

88. A Non-Response Follow Up universe of 40% of the housing units in the country would have been the largest follow up universe on a percentage basis since at least 1970.

89. The Census Bureau did not anticipate that the Non-Response Follow Up universe in 2020 would mirror the demographic makeup of the nation's population as a whole.

90. Instead, the Census Bureau anticipated that the Non-Response Follow Up universe in 2020 would contain a disproportionate number of people who belong to communities that the Bureau calls "hard-to-count."

91. The Final Operational Plan describes hard-to-count populations as including, but not limited to, the following populations: young children; highly mobile persons; racial and ethnic minorities; non-English speakers; low-income persons; persons experiencing homelessness; undocumented immigrants; persons who have distrust in the government; lesbian, gay, bisexual, transgender, and questioning/queer (LGBTQ) persons; persons with mental and

physical disabilities; and persons who do not live in traditional housing.

92. Historically, these populations have had low self-response rates and have, thus, made up disproportionate shares of households that must receive contact days during Non-Response Follow Up.

93. Consequently, the Final Operational Plan acknowledges, "[t]he NRFU Operation is entirely about hard-to-count populations."

94. The Final Operational Plan also acknowledges that hard-to-count populations may require more outreach than the Non-Response Follow Up method would normally provide, and the Bureau designed its Final Operational Plan accordingly.

95. The Final Operational Plan states that "[w]hile most cases receive a maximum of six attempts, cases in hard-to-count areas may receive more than six attempts to achieve a consistent response rate for all geographic areas."

96. Accurate data about the size, location, and characteristics of communities of color is necessary to equitably distribute political power through congressional reapportionment and redistricting at the state and local levels, enforce civil-rights laws that affect basic needs like housing and employment, and conduct effective research, including on pressing issues like public health.

B. Census Data-Processing

97. After collection activities are complete, the Census Bureau must process the data.

98. Census data-processing cannot begin until census data-collection concludes.

99. Census data is unusable for its intended purposes until it has been processed.

100. The Census Bureau's data-processing operations transform tens of millions of census responses into usable products, including the population totals used to reapportion seats in the U.S. House of Representatives and to create electoral districts.

101. The Bureau uses its data-processing operations to, among other things, ensure that data received from different data-collection methods are all in a single format allowing them to be processed together.

102. The Bureau uses its data-processing operations to "unduplicate responses"—

meaning to resolve conflicts of information among multiple forms attributable to the same housing unit.

103. The Bureau uses its data-processing operations to determine the final status of a housing unit—such as vacant or inhabited—and determine the total number of people that should be attributed to any apparently inhabited unit that was not counted through Self-Response, Update Leave, or Non-Response Follow Up.

104. The Bureau also uses its data-processing operations to ensure that Bureau data products accurately report respondents' characteristics, such as age, race, and ethnicity.

105. The Bureau uses administrative records and statistical imputation during the data-processing phase to fill in both missing people and their characteristics. But administrative records—especially low-quality administrative records—and statistical imputation are generally less accurate than self-response data.

106. For many households, administrative data provides only low quality information, replete with inaccuracies and incomplete information. This is especially the case for particular communities that are underrepresented in administrative records, including communities of color, immigrants, and low-income families. Use of this low-quality data to fill in missing information for non-responsive households produces less accurate information.

107. Imputation involves the Bureau using information from surrounding responsive households to infer the count and characteristics of a non-responsive household. Imputation thus assumes the existence of other data points gathered through other data-collection methods—such as self-response, proxies, and administrative records—and generates more accurate results when it can be triangulated against those data points. The processes that the Bureau uses to collect and process self-response data, proxy data, and administrative records are thus critical and inextricably linked to the Bureau's ability to impute data accurately.

108. At various phases of the Bureau's data-processing operations, Census Bureau personnel must review the quality of files in-process before those files can be sent to the subsequent steps in the data-processing operation. These reviews include personnel with subject-matter expertise from several different divisions of the Bureau.

109. The Bureau's data-processing operations help ensure that people are not missed, that other people are not counted multiple times, and that people's characteristics are accurately reported. These processes help eliminate or reduce undercounts, among other kinds of data-quality issues.

C. The Final Operational Plan's Original Timeline for the 2020 Census

110. The Bureau's Final Operational Plan called for data-collection to run from January 21, 2020, to July 31, 2020, for a total of more than six months.

111. In that window, the Self Response method was scheduled to run from March 12, 2020 to July 31, 2020, and the Update Leave method was scheduled for March 15, 2020 to April 17, 2020.

112. The Bureau also scheduled several special operations to occur early in its census taking process. The Service-Based Enumeration, which counts people experiencing homelessness, was scheduled for March 30, 2020 to April 1, 2020, and Group Quarters Enumeration, which counts people living in group housing such as nursing homes, was scheduled from April 2, 2020 to June 5, 2020.

113. The Bureau scheduled the Non-Response Follow Up method to run from May 13, 2020 to July 31, 2020, for a total of approximately eleven and a half weeks.

114. The Bureau scheduled up to five months—from July 31, 2020 to December 31, 2020—to process census data for the congressional reapportionment report.

115. The Bureau also scheduled an additional three months—from January 1, 2021 to March 30, 2021—to process census data for redistricting.

116. The Bureau's timelines for implementing the Final Operational Plan reflect the Bureau's scientifically informed understanding of the time necessary to complete its operations and generate an accurate count.

III. The Census Bureau's COVID-19 Plan.

A. COVID-19 Disrupts the 2020 Census

117. On January 21, 2020, the Bureau began 2020 Census data-collection in remote Alaska.

118. On March 10, 2020, the Bureau began to accept self-responses on its website.

119. Shortly thereafter, many parts of the nation rapidly began to shut down due to the COVID-19 pandemic.

120. The Census Bureau quickly concluded that it could not continue to engage in operations safely. On March 18, 2020, the Bureau announced that it would suspend all field operations for two weeks in order to "help protect the health and safety of the American public." Press Release, U.S. Census Bureau, *U.S. Census Bureau Director Steven Dillingham on Operational Updates* (Mar. 18, 2020), https://www.census.gov/newsroom/press-releases/2020/operational-update.html.

121. On March 28, 2020, the Bureau announced yet another two-week suspension until April 15, 2020, as the coronavirus pandemic made it impossible to engage in operations.

122. The suspension disrupted several field operations, including Update/Leave method, the Service Based Enumeration counting people experiencing homelessness, and the Group Quarters Enumeration counting people living in group housing.

123. In addition, the Bureau halted all hiring and training of the hundreds of thousands of enumerators it needs to conduct Non-Response Follow Up. This included halting any and all background checks and fingerprinting of enumerators that were conditionally hired at that time.

124. The Bureau also decreased office staff at regional centers responsible for processing mail-in self-response forms and at the Bureau's call centers.

B. Changes to the Final Operational Plan in the COVID-19 Plan

125. On April 13, 2020, the Bureau issued an adjustment to its Final Operational Plan to account for the long-term impact of the COVID-19 pandemic. The new plan included a shifted timeline for data-collection and data-processing operations that corresponded with the delays in operations that the pandemic has caused (the "COVID-19 Plan").

126. Adjustments to plans approved by the Office of Management and Budget under the Paperwork Reduction Act must be re-submitted for approval. 44 U.S.C. § 3507(h)(3). The Census Bureau submitted the COVID-19 Plan to the Office of Management and Budget on April 30, 2020. The changes were approved on May 11, 2020.

127. The COVID-19 Plan was designed to "[e]nsure a complete and accurate count of all communities," "[p]rotect the health and safety of the American public and Census Bureau employees," and "[i]mplement guidance from federal, state, and local authorities regarding COVID-19." Press Release, U.S. Census Bureau, *2020 Census Operational Adjustments Due to COVID-19 Fact Sheet* (Apr. 27, 2020).

128. The COVID-19 Plan reflected the conclusions of various experts for how best to proceed with completing an accurate count during the current pandemic. These experts include survey methodologists, statisticians, demographers, geographers, linguists, and mathematicians.

129. Under the COVID-19 Plan, the Bureau suspended 2020 Census field operations for several months, including those operations that were designed to ensure a full count of traditionally undercounted communities.

130. The COVID-19 Plan provided that the Bureau would start the nationwide Non-Response Follow Up operation on August 11, 2020, and continue the door-knocking process through October 31, 2020.

131. Thus, the COVID-19 Plan delayed the start of most door-knocking by three months while maintaining the same amount of time spent undertaking the process—approximately eleven and a half weeks—as the Final Operational Plan had required.

132. Under the COVID-19 Plan, the Bureau also delayed the start of other operations that enumerate traditionally undercounted populations, including the enumeration of the country's homeless population, which the Bureau shifted from March 30, 2020 to September 22, 2020.

133. And the COVID-19 Plan permitted households to submit self-response data to the Bureau until October 31, 2020, extending the deadline under which private persons were able to submit their responses to be counted by more than one month.

134. The Bureau also granted itself one additional month to process data under its COVID-19 Plan, extending the data-processing leg of its operations to nine months given the pandemic. Under this plan, the Bureau would have up to six months to process the data for the apportionment count (between October 31, 2020 and April 30, 2021) and three months to process

the data for redistricting (between April 30, 2021 and July 31, 2021).

135. The Bureau's timelines for implementing the COVID-19 Plan reflect a scientifically informed understanding of the time necessary to appropriately and fully complete its operations and generate an accurate count.

C. Expert and Stakeholder Response to the COVID-19 Plan

136. The Census Bureau solicited feedback on the COVID-19 Plan from relevant area experts and interested stakeholders, including state and local governments and national and community-based non-profit partners.

137. For instance, four former Census Bureau Directors—who served under both Democratic and Republican administrations—issued a statement saying that they had "discussed these operational and schedule adjustments with senior career leadership at the Census Bureau." Press Release, Vincent Barabba et al., *Statement by Former U.S. Census Bureau Directors* (Apr. 14, 2020), https://www.documentcloud.org/documents/6838166-Statement-by-Former-Census-Bureau-Directors-04.html.

138. These four former Census Bureau Directors further asserted: "Based on (1) our extensive experience in planning, executing, and often adjusting operations of previous decennial censuses, and (2) our firm conclusion that the extension of the field operations reflect careful analysis by the technical, scientific, and operational staff at the Census Bureau, we support the decision and urge Congress to act in concert with it." Press Release, Vincent Barabba et al., *Statement by Former U.S. Census Bureau Directors* (Apr. 14, 2020), https://www.documentcloud.org/documents/6838166-Statement-by-Former-Census-Bureau-Directors-04.html.

139. Prominent civil-rights groups endorsed the COVID-19 Plan. Vanita Gupta, President and CEO of The Leadership Conference on Civil and Human Rights and The Leadership Conference Education Fund, stated that her organization "support[ed] the Census Bureau's updated timeline." Press Release, Leadership Conference Education Fund, *Census Timeline Must Protect Health, Ensure Fair Count* (Apr. 13, 2020), https://civilrights.org/edfund/2020/04/13/census-timeline-must-protect-health-ensure-fair-count/.

D. Implementation of the COVID-19 Plan

140. When announcing the COVID-19 Plan, Secretary Ross and Director Dillingham issued a statement indicating that the Bureau requested that Congress extend by 120 days the December 31, 2020 statutory deadline for reporting the state-population totals to the President for purposes of calculating the state apportionments, and extend by 120 days the March 30, 2021 statutory deadline for delivering redistricting data to the states.

141. That same day, President Trump suggested this request was unnecessary, stating:

142. "I don't know that you even have to ask them. This is called an act of God. This is called a situation that has to be. They have to give in. I think 120 days isn't nearly enough." Hansi Lo Wang, *Trump Officials Ask to Delay Census Data for Voting Districts, House Seats*, NPR (Apr. 13, 2020), https://www.npr.org/2020/04/13/833546675/trump-officials-ask-to-delay-census-data-for-voting-districts-house-seats.

143. Indeed, the Census Bureau did not wait for Congress to act before beginning implementation of the COVID-19 Plan. And the Bureau continued implementation of the COVID-19 Plan for over three months through the end of July 2020.

144. For instance, the Census Bureau field operations remained suspended through May 2020.

145. The Bureau only began re-opening a few limited operations, such as the Update Leave method, on a phased basis through mid-June 2020, over two months after the operation was originally planned to occur in the Final Operational Plan.

146. The Bureau did not undertake any Non-Response Follow Up operations in most of the country between May 13, 2020 and July 31, 2020, the timeframe originally set out in the Final Operational Plan.

147. Instead, while the Bureau "soft-launched" door-knocking in select regions of the country in mid-July 2020, the COVID-19 Plan did not call for door-knocking across the country until August 11, 2020, at the earliest.

148. The Bureau ultimately opened six area census offices for Non-Response Follow Up on July 16, 2020, six more on July 23, 2020, thirty-five on July 30, 2020, and forty additional

offices on August 6, 2020.

149. The remaining 161 stateside offices remained unopened until August 9, 2020, including offices in many states and localities with relatively low response rates such as the entire southeastern United States, Texas, New Mexico, Arizona, and Southern California.

150. All along the Bureau continually communicated to the public, and to important local partners, including local governments and national and community based non-profit organizations, that self-responses would be accepted until October 31, 2020, and that Non-Response Follow Up would continue until at least that date.

151. Census partners, stakeholders, and state and local governments relied on the new deadlines set forth in the COVID-19 Plan to redirect their outreach efforts.

152. For example, Plaintiffs Urban League and BAJI, publicized the October 31, 2020 deadline, letting their constituents, members and local organizations know that households had until that time to self-respond. Urban League representatives informed coalition partners participating in the Black Census Roundtable of the new deadlines, and spoke of the deadlines on webinars and other public events. Officials at BAJI publicized the deadlines at public events, including webinars in July 2020, and as part of the organization's social media campaign.

153. Similarly, officials in City of Los Angeles, Harris County, King County, City of San Jose, and City of Salinas, publicized the new deadline while conducting 2020 Census outreach efforts.

154. These public education efforts were significant because they were directed at the general public and at local non-profits that do not primarily work on census issues. The latter often rely on information about the census provided by Plaintiff national non-profits and local governments when communicating with their constituents. Plaintiffs, by disseminating the October 31, 2020 deadline for nearly three months to the public, were largely successful in spreading the understanding that communities had until at least that time to complete the count.

155. For example, the City of Los Angeles announced this date on its own social media platforms and in a social media toolkit that it developed for partner organizations. Los Angeles is deeply concerned that residents have already received information about the October 31, 2020

self-response date and, as a result, will fail to respond before the newly shortened deadline, especially given the Bureau's own minimal efforts at explanation and outreach around the new deadline.

156. Finally, the level of self-response during the 2020 Census, and the ongoing COVID-19 pandemic, provided further evidence for the necessity of continued implementation of the COVID-19 Plan.

157. Under its Final Operational Plan, for example, the Census Bureau had planned to spend eleven and a half weeks canvassing a Non-Response Follow Up universe comprised of 39.5% of households nationally.

158. As of August 9, 2020, the first date of nationwide Non-Response Follow Up, the national self-response rate was 63.2%, meaning that nearly 37% of households nationwide had not yet responded to the census.

159. Several cities with large percentages of traditionally undercounted populations, have even lower response rates. For instance, as of August 14, 2020, the response rate in the City of Detroit was 48.9%, Miami was 49.9%, Philadelphia was 52.3%, Los Angeles was 53.8%, Houston was 54.4%, and New York City was 55.6%.

160. The United States had 24,156 new coronavirus cases on April 13, 2020, the day the Bureau announced its COVID-19 Plan. On August 3, 2020, the United States had approximately 50,000 new coronavirus cases.

161. With COVID-19 limiting the willingness of people to apply for enumerator positions, the areas where the Bureau can safely send enumerators to knock on doors, and the willingness of the public to interact with enumerators, the Non-Response Follow Up operation continues to face far more complications than the Final Operational Plan anticipated.

162. Given these conditions of low response rates and increased coronavirus spread, the Bureau can reasonably expect that it will need to engage in a Non-Response Follow Up operation at least as comprehensive and time-consuming as the operation laid out in the Final Operational Plan.

163. Due to significant delays in operations resulting from the implementation of the

COVID-19 Plan, the Bureau itself has recognized that it would be impossible to produce fair and accurate apportionment numbers to the President by December 31, 2020.

164. On May 27, 2020, Tim Olson, head of field operations for the 2020 Census, stated during a May 26, 2020 webinar organized by the National Congress of American Indians that, "[w]e have passed the point where we could even meet the current legislative requirement of December 31st. We can't do that anymore." Nat'l Conf. of Am. Indians, *2020 Census Webinar: American Indian/Alaska Native*, YouTube (May 26, 2020), https://www.youtube.com/watch?v=F6IyJMtDDgY&feature=youtu.be&t=4689.

165. On July 8, 2020, Al Fontenot, Jr., Associate Director for Decennial Census Programs and a top Census Bureau official, affirmed that the Bureau is "past the window of being able to get" accurate counts to the President by December 31, 2020. U.S. Census Bureau, *Operational Press Briefing – 2020 Census Update* at 21 (July 8, 2020), https://www.census.gov/content/dam/Census/newsroom/press-kits/2020/news-briefing-program-transcript-july8.pdf.

IV. The Census Bureau's New Rush Plan.

A. The Announcement of the Rush Plan

166. On August 3, 2020, at the behest of the Secretary of Commerce, Director Dillingham abruptly and without explanation abandoned the COVID-19 Plan and announced the Rush Plan.

167. The Rush Plan drastically shortens the timelines for multiple operations set out in the COVID-19 Plan.

168. The Rush Plan took the form of a short press release on the Census Bureau's website. The press release included a statement from Director Dillingham, which did not provide an explanation for Defendants' decision to suddenly abandon the COVID-19 Plan that the Bureau had adopted and implemented for approximately three and a half months. Nor did it provide any specifics as to why the Bureau no longer believed the timelines called for in the COVID-19 Plan were necessary to ensure an accurate count.

169. The statement noted that the Bureau was taking this action at the direction of the

Secretary of Commerce. But the Secretary made no statement explaining his reason for giving this directive.

170. The Director's statement was largely silent on specific adjustments the Bureau would need to make in order to reengineer its field operations to meet its new, artificially compressed schedule. The statement included proposals for enumerator "awards" and maximizing enumerators' phone and tablet usage, but it did not provide any details about adjustments to the detailed operations provided in the Final Operational Plan.

171. The only adjustments announced under the Rush Plan were severely truncated timelines for conducting data-collection and data-processing operations.

172. Under the Rush Plan, data-collection is now set to end on September 30, 2020, one month earlier than contemplated in the Bureau's COVID-19 Plan.

173. While the Bureau's pre-COVID-19 Final Operational Plan provided 79 days for the nationwide door-knocking stage of the census, and the COVID-19 Plan provided 81 days, the Rush Plan provides just 52 days of nationwide door-knocking.

174. The Rush Plan also cuts post-collection data processing for the apportionment report from up to 6 months as provided in the COVID-19 Plan, and up to 5 months as originally provided in the Final Operational Plan, to less than 3 months.

175. The Rush Plan also shortened the time under which households can self-respond, providing that self-responses delivered after September 30, 2020—which previously would have been timely under the October 31, 2020 deadline—will no longer be counted.

176. While the Rush Plan requires the Bureau to accelerate its operations to complete the 2020 Census by the same deadline contemplated in the Final Operational Plan, it ignores the multiple-month pause in operations, beginning in mid-March 2020, caused by the initial outbreak of COVID-19 in the United States.

177. The decision to rescind the COVID-19 Plan and adopt the Rush Plan was announced without consultation with important stakeholders.

178. As noted above, as late as July 8, 2020, senior Bureau officials were still confirming that it was impossible to complete an accurate count by December 31, 2020.

179. In addition, until July 30, 2020, just four days before the Bureau announced its decision to abandon the COVID-19 Plan, the Bureau was informing respondents on its website that it would engage in Non-Response Follow-Up until October 31, 2020 and that non-responsive households would have until that date to self-respond. Those references were deleted from the website on or about July 31, 2020 and were replaced with the shortened timeframe after the August 3, 2020 announcement.

180. An official at the Government Accountability Office confirmed that Bureau officials told his office that they were given "hours rather than days or weeks" to adjust their plans to finish counting by September 2020. Hansi Lo Wang, *'Not Enough Time': Census Workers Fear Rushing Count Could Botch Results*, NPR (Aug. 11, 2020), https://www.npr.org/2020/08/11/901202892/not-enough-time-census-workers-fear-rushing-count-could-botch-results.

181. While the Census Bureau's decisions, even during the COVID-19 emergency, have often involved consultations with scientific advisory committees, the Committee on National Statistics in the National Academies of Science, other external experts and local government officials, and the thousands of organizations partnering with the Bureau to conduct crucial outreach to historically undercounted communities, no such consultation was made before the Bureau announced its abandonment of the COVID-19 Plan.

182. Census stakeholders immediately denounced the Rush Plan, including stakeholders who had endorsed the COVID-19 Plan.

183. The same four former Census Bureau Directors who endorsed the COVID-19 Plan issued a statement saying that "our expert opinion is that failing to extend the deadlines to April 30, 2021 will result in seriously incomplete enumerations in many areas across our country." Press Release, Former Census Bureau Directors, *On the Importance of Extending the 2020 Census Statutory Deadlines to Achieve a Fair and Accurate Enumeration of the United States* (Aug. 4, 2020), https://www.documentcloud.org/documents/7013550-Aug-4-2020-Statement-By-Former-U-S-Census-Bureau.html.

184. These four former Census Bureau Directors further asserted: "The Census Bureau

will not be able to carry out the NRFU fully and will be forced to take steps such as fewer in-person visits and rely instead on the use of administrative records or statistical techniques on a much larger scale tha[n] in previous census. The end result will be under-representation of those persons that NRFU was expected to reach and, at even greater rates for traditionally hard-to-count populations and over-representation of all other populations with potentially extreme differential undercounts." Press Release, Former Census Bureau Directors, *On the Importance of Extending the 2020 Census Statutory Deadlines to Achieve a Fair and Accurate Enumeration of the United States* (Aug. 4, 2020), https://www.documentcloud.org/documents/7013550-Aug-4-2020-Statement-By-Former-U-S-Census-Bureau.html.

185. The President of the American Statistical Association, the world's largest professional organization of statisticians, issued a statement saying "[t]here is no scientific rationale to curtail the data-collection period for this constitutionally mandated activity, and the premature cessation of census enumeration will produce flawed counts." Letter from Rob Santos, President of the American Statistical Association, to Mitch McConnell, U.S. Senate Majority Leader (Apr. 5, 2020), https://www.amstat.org/asa/files/pdfs/POL-CensusSenateAugust.pdf.

186. Nearly 450 nonpartisan philanthropic organizations who "rely on accurate census data to help identify community needs and to prioritize grantmaking" issued a letter to Secretary Ross and Director Dillingham urging the Bureau to revert to its COVID-19 Plan. Letter from U.S. Philanthropy Leaders to Wilbur Ross, Secretary of the U.S. Dep't of Commerce (Aug. 5, 2020), https://funderscommittee.org/wp-content/uploads/2020/08/Letter-Philanthropic-Leaders-on-Census-Being-Cut-Short-8-5.pdf.

187. Prominent civil-rights groups condemned the Rush Plan. Vanita Gupta, President and CEO of The Leadership Conference on Civil and Human Rights and The Leadership Conference Education Fund, stated that "[c]urtailing operations is an obvious ploy to guarantee the Census Bureau won't be able to finish counting millions of people—especially those hit hardest by the pandemic." Press Release, Leadership Conference on Civil and Human Rights, *Trump Plans to Sabotage 2020 Census by Cutting Short Operations* (July 31, 2020),

https://civilrights.org/2020/07/31/trump-plans-to-sabotage-2020-census-by-cutting-short-operations/.

188. And the Census Bureau's own field workers have confirmed the impossibility of this new timeline, explaining that the Rush Plan means that it will not be an accurate count for the next 10 years.

B. The Rush Plan Fails to Appropriately Account for Key Factors Affecting the 2020 Census

189. The Rush Plan fails to account for several important factors that affect the 2020 Census Non-Response Follow Up operation.

190. *First*, the Rush Plan does not adequately account for the large number of households in the Non-Response Follow Up universe.

191. Under the Rush Plan, the Census Bureau must attempt to count approximately the same number of households during Non-Response Follow Up as it anticipated counting in its pre-COVID-19 Final Operational Plan, but the Bureau will have four weeks less than provided in that plan to complete the operation. In other words, the Bureau must now try to complete the same amount of work in just 65% of the time it had originally scheduled to complete that work.

192. Over 37% of households nationwide are non-responsive, and several states have even higher percentages of households in the Non-Response Follow Up universe, including New Mexico (46.1%), South Carolina (42.4%), Texas (41.3%), and Georgia (40.8%).

193. While soft-launches of Non-Response Follow Up began in select locations in mid-July 2020, the operation did not begin in any of these states, with large amounts of non-responsive households, until August 9, 2020.

194. Within states, and in particular cities and localities, there are even higher Non-Response Follow Up workloads. For instance, in Plaintiff Harris County, enumerators must still visit over 41% of households. In the City of Los Angeles, over 46% of households remain to be enumerated. The self-response rate in Los Angeles is approximately 14 percentage points below the final self-response rate the City attained during the 2010 Census. Counting in these jurisdictions also did not begin until August 9, 2020.

195. Moreover, given the time constraints placed by the Rush Plan, counting will need to be conducted while these jurisdictions, in many places, struggle to control a surge in COVID-19 cases.

196. While the Bureau announced on August 11, 2020 that it is now "training census takers to follow up with households by phone" in light of the pandemic, that change in Non-Response Follow Up operations was not anticipated in the Final Operational Plan. Press Release, U.S. Census Bureau, *Door-to-Door Visits Begin Nationwide for 2020 Census* (Aug. 11, 2020), https://www.census.gov/newsroom/press-releases/2020/door-to-door-visits-begin-nationwide.html.

197. Given the traditionally low response rates for phone surveys in the wireless era, following up by phone is unlikely to materially increase response rates.

198. A recent Census Bureau survey running in parallel with the 2020 Census demonstrates the difficulty in obtaining responses via phone or email. This spring, the Bureau began conducting a "Household Pulse Survey" to measure household experiences under the COVID-19 pandemic. This survey solicited participation through emails and text messages. Over the first twelve weeks of this survey, response rates were meager, ranging from 1.3% to 3.8%.

199. *Second*, the Rush Plan does not account for the staffing challenges that the Bureau is currently experiencing, many of which are directly related to the ongoing pandemic.

200. As demonstrated in the soft-launch of Non-Response Follow Up in select locales, the Bureau is already experiencing staffing shortages and retention problems with enumerators.

201. In the midst of the ongoing pandemic, prospective enumerators, many of whom are elderly and at high risk of contracting a severe COVID-19 related illness, are less willing to engage in the required door-to-door canvassing.

202. Indeed, Tim Olson, head of field operations for the 2020 Census, stated at a July 8, 2020 press briefing that "[a]bout a third of our [enumerator] applicants [are] older persons considered high risk of the virus." U.S. Census Bureau, *Operational Press Briefing – 2020 Census Update* at 21 (July 8, 2020), https://www.census.gov/content/dam/Census/newsroom/press-kits/2020/news-briefing-program-transcript-july8.pdf.

203. And Deborah Stempowski, the Census Bureau's Assistant Director for Decennial Programs, noted the Bureau's difficulty retaining enumerators in early August 2020, confirming that potential enumerators were "a little hesitant because of the COVID environment." Mike Schneider, *Census Bureau Drop-Outs Complicate Door-Knocking Efforts*, Associated Press (Aug. 8, 2020), https://www.usnews.com/news/us/articles/2020-08-08/census-bureau-drop-outs-complicate-door-knocking-efforts.

204. In testimony before Congress on July 28, 2020, Director Dillingham confirmed that the Bureau believed that "the pandemic is estimated to increase the number of no shows to training sessions, as well as the number of employees who complete training but decline to show up for work." *Id.*

205. According to reports from census-operations staff working in the field, these predictions have come to pass. One census field supervisor working in the mid-Atlantic noted that, given the new rushed timeline and lack of sufficient staff, "[w]e're just sending bodies out regardless of whether they're ready or not." Hansi Lo Wang, *'Not Enough Time': Census Workers Fear Rushing Count Could Botch Results*, NPR (Aug. 11, 2020), https://www.npr.org/2020/08/11/901202892/not-enough-time-census-workers-fear-rushing-count-could-botch-results.

206. In addition to enumerator low-count and hesitancy, another source of staffing issues involves delays in processing background checks on enumerator applicants and in enumerator onboarding.

207. A June 2020 GAO report on the 2020 Census delays COVID-19 has caused, and the risks the pandemic has exacerbated, noted that the Bureau "will have to quickly hire and onboard sufficient staff to conduct its operations" to reach adequate staffing levels. U.S. Gov't Accountability Office, *COVID-19 Presents Delays and Risks to Census Count* (June 2020), https://www.gao.gov/assets/710/707456.pdf.

208. That same report also noted that, once potential enumerators accept a job offer from the Bureau, the new hires "must wait a minimum of 60 days before they can begin training, a time period during which they must complete fingerprinting and a background check." *Id.*

209. Reports from recently hired enumerators confirm that the Bureau is facing these

technical challenges as well, under the compressed timeline. One recent hire in Boulder, Colorado noted that he lost six potential days of door-knocking because he was unable to complete the Bureau's online training module.

210. Thus, under the Rush Plan, the Bureau will not be able to hire and train sufficient enumerators.

211. Even if it were possible for the Bureau to hire all of the enumerators it will need, the Bureau would also need time and funding to obtain additional equipment for any additional enumerators it hires beyond its initial estimates of equipment. For example, the Bureau would need more of the iPhones discussed above that the Bureau specifically contracted and customized for 2020 Census enumerators.

212. With fewer enumerators in the field, in addition to training and equipment issues, the Bureau cannot ensure that non-responsive households receive the requisite number of visits, as contemplated in the Final Operational Plan.

213. While the Bureau had a $2 billion contingency fund prior to the existence of the COVID-19 pandemic, it has already used $1.5 billion of that fund addressing pandemic-related issues. The remaining $500 million will be needed to further respond to the pandemic, and, in any event, is nowhere near the $1 billion that the administration claims that the Bureau would need to conduct adequate Non-Response Follow Up operations under the Rush Plan.

214. Thus, instead of providing additional enumerators, the Bureau's Rush Plan will likely result in a smaller number of enumerators shouldering larger-than-planned workloads. Increasing workloads for enumerators over a short period of time can result in errors and inaccuracies in counting but it cannot make up for the time lost to the Rush Plan.

215. *Third*, the Rush Plan fails to account for factors relevant to efficient enumeration, such as the time when enumerators visit households.

216. For instance, under the Final Operational Plan, enumerators visit households at specific times of day and on specific days of the week, depending on when residents are likely to answer.

217. Under the Rush Plan, enumerators will be under pressure to complete their work

in a tightly constrained timeframe. As a result, ensuring that non-responsive households receive the requisite number of enumerator visits at the most opportune times for enumeration may become exceedingly difficult, if not impossible. Instead, the Rush Plan increases the likelihood that households will either receive visits at less opportune times, or simply receive fewer visits altogether.

218. *Fourth*, the Rush Plan fails to account for the additional crucial operations that enumerators must conduct, as contemplated in the Bureau's final plans for the 2020 Census. Apart from visiting households upwards of six times, enumerators also engage in a host of additional quality control activities.

219. As noted above, enumerators are expected to visit the households of persons that self-responded to the census online but did not enter the unique identifier provided on census mailers. This "non-ID processing" is necessary to verify the address information provided by respondents. While this process only requires a single visit to a household, it nevertheless must be completed in the compressed timeline provided for under the Rush Plan.

220. Similarly, the Bureau must conduct quality control reinterviews of a sample of households during Non-Response Follow Up. This operation is designed to deter and detect enumerator falsification. Detecting such falsifications will be especially important under the Rush Plan where individual enumerators must shoulder a heavier workload. The use of enumerators to conduct these reinterviews will, under the Rush Plan, place additional strain on the Bureau's already stretched labor resources.

221. Cutting any one of these functions will cause errors and inaccuracies to affect the final 2020 Census data. By reversing the COVID-19 Plan and shortening the timeframe for conducting Non-Response Follow Up by a month, the Bureau will likely need to make cuts to one or more of these operations.

222. By reducing the amount of time and resources necessary to perform the kinds of quality-control measures that the Bureau originally planned for Non-Response Follow Up, the Rush Plan actively dismantles processes that the Bureau has specifically developed over the course of time as checks against falsified census responses. The Rush Plan thus threatens census

accuracy not only by reducing the Bureau's time to *collect* data, but also by reducing the Bureau's time to ensure that the data it has collected has been collected *properly* and *truthfully*.

223. *Fifth*, the Rush Plan fails to account for the other field operations enumerators will need to conduct at the same time as they attempt to speed through door-knocking operations.

224. Under the Final Operational Plan, the Bureau planned to finish specialized operations for counting people experiencing homelessness, and people living in group housing in April 2020, before engaging in nationwide door-knocking. After suspending operations due to COVID-19, the Bureau moved these operations to September 2020, well-before the October 31, 2020 deadline the Bureau set for completing the Non-Response Follow Up operation.

225. The new Rush Plan requires the Bureau to conduct these specialized operations at the same time as it is scrambling to complete Non-Response Follow Up. This will further stretch the Bureau's limited resources and increase the likelihood of missing information.

C. The Rush Plan Also Fails to Appropriately Account for Factors that Will Affect Post-Collection Data Processing

226. The Rush Plan fails to account for the additional strain on data-processing operations resulting from the consequences of the COVID-19 pandemic.

227. Following the outbreak of COVID-19 in the United States in mid-March 2020, colleges and universities across the country closed, and students moved out of campus and off-campus housing. Similarly, many residents of cities, especially those living in COVID-19 hotspots, moved to locations where the virus was less prevalent. In a recent study, three percent of people surveyed reported that they had moved permanently or temporarily as a result of the pandemic.

228. This significant movement of people coincided with Census Day, April 1, 2020, and will lead to confusion about what residence should be listed on responses.

229. It is likely that the Bureau will receive an increased amount of duplicate responses, which will, in turn, require more time and Bureau resources to review and correct.

230. The Rush Plan also fails to account for the Bureau's inability to timely obtain and process all the administrative-records data crucial for completing an accurate count.

231. The Bureau relies principally on Title 26 data—that is, tax returns that individuals file with the Internal Revenue Service ("IRS")—for the administrative records it uses to fill in missing people and their characteristics.

232. Because this year's tax filing deadline was July 15, 2020, and the IRS generally requires three months to transfer Title 26 data to the Census Bureau, the Bureau will not possess all the Title 26 data it is planning to use until mid-October 2020, at the earliest. Once the Bureau has possession of that Title 26 data, it will have to undertake a time-consuming round of additional review and processing, further delaying its ability to use the data for its planned purposes. These delays will compel the data-processing phase of 2020 Census operations to proceed more slowly than the Rush Plan contemplates or would allow.

233. Ultimately, the solution to alleviate each of these problems was articulated in the COVID-19 Plan: provide the Bureau's limited number of enumerators with additional time to conduct the data-collection operations necessary to ensure a complete and accurate census, and provide Bureau staff with additional time to conduct the data-processing operations necessary to ensuring the same. The Rush Plan fails to address these issues or explain why the Bureau's prior conclusions were incorrect..

D. The Rush Plan Does Not Account for Federal Statistical Guidelines

234. In replacing the COVID-19 Plan with the Rush Plan, Defendants departed from federal government statistical standards that promote the accuracy of information collected and disseminated by the agencies.

235. The Bureau's failure to follow these standards further emphasizes its inability to conduct an adequate count in the time and under the conditions that the Rush Plan provides.

236. Under the Paperwork Reduction Act, the Office of Management and Budget is responsible for coordinating the federal statistical system, including the development and implementation of "Governmentwide policies, principles, standards, and guidelines" "concerning [] statistical collection procedures and methods." 44 U.S.C. § 3504(e)(3) (A).

237. The Office of Management and Budget is responsible for issuing guidelines that provide "procedural guidance to Federal agencies for ensuring and maximizing the quality,

objectivity, utility and integrity of information (including statistical information) disseminated by Federal agencies." Consolidated Appropriations Act, FY 2001, Pub. L. No. 106-554, § 515, 114 Stat. 2763 (2000).

238. One such guideline issued by the Office of Management and Budget provides specific standards to agencies like the Census Bureau, in ensuring the quality and utility of federal statistical surveys, such as the decennial census. Office of Mgmt. & Budget, Standards and Guidelines for Statistical Surveys § 2 (2006).

239. Under these standards, agencies are required to develop "realistic timetable[s]" for surveys. *Id.* § 1.2.

240. The Bureau failed to take this basic requirement into account when it decided to implement the Rush Plan. The Rush Plan compresses the timeline for counting operations despite evidence of staffing shortages and heavier workload. The Plan attempts to accomplish a task—speedy delivery of results by December 31, 2020—that the Bureau has already deemed "impossible."

241. The standards also require agencies, including the Census Bureau, to "[e]ncourage respondents to participate to maximize response rates and improve data quality." Office of Mgmt. & Budget, Standards and Guidelines for Statistical Surveys § 2.3.2. This standard requires that the Census Bureau "[e]nsure that the data collection period is of adequate and reasonable length."

242. Again, the Rush Plan does not account for this standard. The Final Operational Plan and the COVID-19 Plan provided for over eleven weeks of Non-Response Follow Up, and up to five and six months, respectively, of post-collection data processing for the apportionment report. The Rush Plan, on the other hand, cuts the time allotted for counting by four weeks, without explaining how it will encourage more efficiency in collecting responses than the plan it reversed.

243. The standards also require the Bureau to plan for "an adequate number of contact attempts" to the respondent and to establish protocols for minimizing enumerator falsification, including "reinterviewing respondents." Office of Mgmt. & Budget, Standards and Guidelines

for Statistical Surveys, Directive No. 2, § 2.3.3.

244. With the Rush Plan significantly cutting the time available to conduct Non-Response Follow Up, it is expected that the Bureau will need to cut particular Non-Response Follow Up processes. This includes reducing the number of housing unit visits it earlier deemed necessary to enumerate a non-responsive household, or cutting back on enumerator reinterviews. Either decision will conflict with the Bureau's obligation to abide by federal statistical standards.

E. The Rush Plan Will Produce Low Quality and Inaccurate Data

245. Ultimately, Defendants' decision to rush completion of the 2020 Census will produce a significantly less accurate census than the COVID-19 Plan.

246. By cutting down the time allotted for door-knocking, the Rush Plan will result in fewer contact days by enumerators to non-responsive households, and less data collected by enumerators about those households.

247. The concerns about inaccuracy resulting from shortening time for Non-Response Follow Up are real and verified. A GAO review of the 2010 Non-Response Follow Up operation determined that local census offices with "higher percentages" of "less complete house-hold data" were more likely to have completed their Non-Response Follow Up in 53 days or less as compared to those offices that took a longer period of time. U.S. Gov't Accountability Office, *2010 Census: Data Collection Operations Were Generally Completed as Planned, but Long-Standing Challenges Suggest Need for Fundamental Reforms* (Dec. 2010), https://www.gao.gov/new.items/d11193.pdf.

248. As noted above, after the Bureau exhausts attempts to enumerate households through methods that render more accurate results, such as self-response and enumerator interviews, the Bureau turns to less accurate sources of data and statistical methods as a last resort to fill in missing information.

249. By curtailing Non-Response Follow Up, the Rush Plan will force the Bureau to resort to less accurate methods of data collection, well before the exhaustion of more accurate methods. Consequently, the Rush Plan will lead to the production of lower-quality information.

250. For instance, under the Final Operational Plan, the Bureau would not consider

low-quality administrative data before conducting the requisite number of contact days for a particular type of housing unit. By reducing the number of enumerator contact days, the Rush Plan will lead to reliance on these types of lower-quality data sources prior to exhausting the more accurate methods contemplated in the Final Operational Plan. Consequently, the Rush Plan will lead to more inaccuracies in the data.

251. Based upon past practices, the Bureau may also use whole-count imputation to calculate missing household data but to an extent and in ways not used previously. Imputation involves the Bureau using information from surrounding responsive households to infer the count and characteristics of a non-responsive household.

252. In previous censuses, the Bureau imputed upwards of 2.0% of households left over after exhausting its Non-Response Follow Up efforts. Under the time constraints of the Rush Plan, the Bureau will need to turn to imputation before exhausting its in-person enumeration efforts. One former Census Bureau Director estimates that, under the Rush Plan, the Bureau may end up imputing up to 10% of households.

253. Since data produced through the Bureau's current imputation methods are less accurate than data collected from enumerator interviews, Defendants' decision to rush completion of the 2020 Census will result in significantly less accurate total-population data than would have been produced under the COVID-19 Plan. This decline in accuracy will affect both the census's calculations of the total number of people living in the country and the census's recording of the characteristics of those people, and such inaccurate data will not meet the constitutional minimum for conducting the decennial enumeration or satisfy the "strong constitutional interest in accuracy" of the Census. *Utah v. Evans*, 536 U.S. 452, 478 (2002).

254. The Rush Plan will likely exacerbate the quality problems associated with imputation by compromising the Bureau's ability to collect the other kinds of data—such as self-responses, proxies, and administrative records—that it requires to impute most accurately. As noted above, imputation does not occur in isolation from the Bureau's other data sources, but in concert with them. With less data drawn from these other sources and less accurate data drawn from these other sources, the quality of the Bureau's imputation will decline.

255. The Rush Plan will also disrupt the post-collection data processing operations, described above. As noted by Secretary Ross and Director Dillingham in mid-April 2020, following Non-Response Follow Up the Bureau engages in "lengthy, thorough and scientifically rigorous" data processing, which is essential to ensuring an accurate census.

256. In announcing the new plan to rush the completion of the 2020 Census, Director Dillingham stated that the Bureau would "streamline" these operations in order to meet the December 31, 2020 deadline.

257. While the Director has not specified what this "streamlining" means for post-collection operations, the bottom line is that the Bureau cannot fully engage in the operations as contemplated in its Final Operational Plan on the shortened timeframe. As a result, the Bureau will have to cut or reduce its efforts to review and process collected data to ensure accuracy.

F. The New "Rush" Plan Will Create Confusion that Plaintiffs Will Be Forced to Spend Time and Money Counteracting

258. The new plan to rush completion of the 2020 Census also creates additional confusion about census operations at a critical moment in the census-taking process.

259. The Census Bureau's abrupt change will require groups and local governments engaging in Get Out the Count campaigns, including Plaintiff localities and Plaintiff organizations, to expend resources to correct confusion about the last date for counting in the 2020 Census.

260. As noted above, Plaintiff organizations and localities engaged in extensive public information campaigns that publicized the October 31, 2020 deadline.

261. The Rush Plan requires Plaintiffs to expend additional resources in order to update existing public materials, distribute new materials, and engage in more public-facing efforts to educate the public, their constituents, their members and/or constituents, and local organizations that the self-response period for the census ends on September 30, 2020.

262. For instance, in Harris County, officials ordered a mailing to constituents informing them that they had until October 31, 2020 to respond to the census. That order occurred before the August 3, 2020 decision to implement the Rush Plan. In light of the new

plan, the officials were forced to order stickers to cover the reference to October 31, 2020 on the mailer and to dedicate office staff to spend time affixing those stickers and updating the mailer. Similarly, Plaintiffs the City of Los Angeles, BAJI, and Urban League must update advertisements on social media to correct previous communications that referenced the October 31, 2020 deadline.

263. Apart from correcting misinterpretations arising from earlier statements Plaintiffs made in reliance on the Bureau's COVID-19 Plan, Plaintiffs must now also engage in more, unanticipated outreach to educate the public about the Census Bureau's Rush Plan decision. With one month less of counting, there is now increased urgency for non-responsive households to self-respond. As a result, Plaintiffs are developing new plans to reach more households and encourage more census participation.

G. The New "Rush" Plan Will Lead to Undercounting of Minorities

264. The new plan to rush completion of the 2020 Census will exacerbate undercounting of Black, Latino, and Native American communities.

265. As noted above, Non-Response Follow Up, is specifically designed to ensure that traditionally hard-to-count communities, including Black, Latino, and Native American communities are fully counted. By cutting Non-Response Follow Up short, the administration is disrupting the operation most essential to ensuring an accurate count for these communities.

266. For the 2020 Census, Black, Latino and Native American populations make up a disproportionate share of the population in tracts with the lowest self-response rates in the United States. For instance, as of July 23, 2020, one in five residents living in census tracts with the lowest self-response rates was Black, and one in four was Hispanic, far larger proportions than Black and Hispanic shares of the general population.

267. Consequently, Black, Latino, and Native American households will make up a disproportionate share of the Non-Response Follow Up universe.

268. Given the challenges of the shortened Non-Response Follow Up timeline, Black, Latino, and Native American households have a high likelihood of being missed, or inaccurately enumerated through administrative records and imputation. As noted above, these alternative

methods for enumeration will result in lower quality data for these groups.

269. The problem, however, is even more serious because it replicates and exacerbates problems the Census Bureau has found in prior censuses and has striven to correct in subsequent censuses. Data from previous censuses shows that Black, Latino, and Native Americans have historically been undercounted. Over-reliance on alternative methods of data to enumerate a disproportionate share of the population in these groups will further exacerbate potential undercounting in these groups during the 2020 Census.

270. Accurate data about the size, location, and characteristics of communities of color is necessary to equitably distribute political power through congressional reapportionment and redistricting at the state and local levels, enforce civil-rights laws that affect basic needs like housing and employment, and conduct effective research, including on pressing issues like public health.

271. Truncating Non-Response Follow Up will exacerbate undercounts of communities of color in at least two ways: first, by missing members of those communities entirely; or, second, by recording their characteristics incorrectly, such that the census results will not register them as members of communities of color. In either instance, data regarding communities of color will be inaccurate. This inaccuracy then deprives communities of color of federal funding, all the material support that flows from federal funding, the protections of the law, and political power at the federal, state, and local levels.

H. The New Rush Plan Has No Legitimate Justification

272. In announcing the Rush Plan, Defendants provided no express justification. Defendants stated in passing, however, that reporting of apportionment data to the President by December 31, 2020 is required by statute.

273. But there is "nothing sacred in the due date of the filing [of apportionment data], especially when the work of the Census Bureau . . . is incomplete." *Carey v. Klutznick*, 637 F. 2d 834, 837 (2d Cir. 1980).

274. The Supreme Court thus determined that the government can and should substitute apportionment counts that have already been filed and certified with "newer, more

accurate version[s]." *Utah v. Evans*, 536 U.S. 452, 462 (2002).

275. Defendants have also recognized that, in the event of a conflict between the two, the constitutional requirement of a fair and accurate enumeration, rather than the statutory deadline, is the controlling legal requirement. With the COVID-19 pandemic threatening the health and safety of communities across the country, Defendants adjusted 2020 Census operations in the COVID-19 Plan, shifting the timeline by several months. Defendants did not wait for Congress to act to implement this plan, recognizing that the Plan was necessary to protect enumerators and respondents, and to ensure an accurate count.

276. Because of those delays, as the Bureau itself recognized, it was no longer possible for Defendants to produce data by December 31, 2020 that fulfilled their constitutional and statutory mandate. Specifically, the Bureau could not simultaneously pursue an accurate 2020 Census, and speed through completion of census-taking in order to report numbers to the President by the end of the year.

277. Several senior officials charged with actually conducting the 2020 Census confirmed the impossibility of this task throughout the summer, including approximately four weeks before Defendants' abruptly announced their decision to adopt the Rush Plan.

278. The statutory deadline at issue is not mandated by the Constitution. Taking the modest additional time necessary to ensure an accurate census, should not prevent a timely reapportionment, as elections for congressional seats impacted by reapportionment will not occur until 2022.

279. Ultimately, Defendants cannot sacrifice their mandatory *constitutional* obligation to make decisions reasonably related to producing an accurate count in order to comply with a pro forma *statutory* deadline. Congress clearly could not, for instance, satisfy its constitutional obligations by providing the Census Bureau with a single week in which to conduct the census. Strictly adhering to the December 31, 2020 deadline, as applied in extraordinary circumstances of the ongoing pandemic, would be equally unconstitutional.

I. Implementation of the Apportionment Exclusion Order

280. Defendants have not yet sought to justify their motivation for adopting the Rush

Plan, and it cannot be justified on the basis of artificial statutory deadlines. Instead, the timing of the abandonment suggests that the decision was influenced by a desire to implement the President's Executive Memorandum excluding undocumented immigrants from the apportionment count, thereby undercutting the contribution of communities of color to the calculations for equal representation for purposes of congressional apportionment (the "Apportionment Exclusion Order").

281. In late June 2020, the White House took the unprecedented step of adding two political appointees to Census Bureau staff with unspecified job duties. Neither appointee had an expertise in statistics, and both had a demonstrated history of partisan activity. These unusual appointees had previously engaged with the Census Bureau on questions about changing operations and methodology.

282. In mid-July 2020, White House officials reportedly asked congressional appropriators to include $1 billion in the next coronavirus stimulus bill for the purpose of completing the 2020 Census by the December 31, 2020 deadline.

283. This abrupt change in policy coincided with and was motivated by the President's July 21, 2020 issuance of the unconstitutional Apportionment Exclusion Order declaring that it is the policy of the United States to remove undocumented persons from the apportionment count, and requiring the Secretary of Commerce to produce estimates of the number of undocumented persons in the United States when reporting total population counts to the President. As noted, the Apportionment Exclusion Order is currently being challenged as unconstitutional and unlawful in a number of lawsuits filed in jurisdictions around the country, including in this District.

284. Shortening the census timeline increases the likelihood that, regardless of the outcome of the November 2020 election, this President will have the opportunity to implement his Apportionment Exclusion Order. Delaying reporting until spring—as the COVID-19 Plan issued by the Census Bureau and Department of Commerce previously did—leaves open the possibility that the President will no longer be in office when data is provided, and thus will be unable to effectuate the Apportionment Exclusion Order.

285. Defendants did not justify their sudden, unexplained reversal of position with any evidence that Bureau officials had been wrong in stating, repeatedly, that it would be impossible to produce accurate counts by December 31, 2020. There is also no evidence that the decision to cut short counting operations was driven by the scientifically based judgment of Bureau personnel or external experts.

286. To the extent that Defendants' are motivated by a desire to implement the President's Apportionment Exclusion Order, that motivation is improper. It bears no reasonable relationship to the achievement of a fair and accurate census, and, under the circumstances currently facing the count, implementing the Apportionment Exclusion Order will undermine that goal.

287. Moreover, that Memorandum is just the latest attempt by the President and Secretary Ross to manipulate the census along racial and ethnic lines. Beginning in 2017, Secretary Ross attempted to add an untested citizenship question to the 2020 Census, claiming that the question was necessary to better enforce the Voting Rights Act. In reality, the administration was seeking block-level citizenship data so states could draw district lines in a manner that would disadvantage Black and Latino communities.

288. Defendant Ross's decision was litigated, and enjoined by three district courts. One of those cases ultimately ended up before the Supreme Court. There the Court found that Defendant Ross's stated Voting Rights Act rationale to support the addition of a citizenship question to the 2020 Census was "contrived" and vacated Defendant Ross's decision. *Dep't of Commerce v. New York*, 139 S. Ct. 2551, 2575-76 (2019).

289. On July 5, 2019, following the Supreme Court's decision, President Trump confirmed the real rationale—and fully justified the Supreme Court's holding that the administration's rationale for this census decision was pretextual—when he stated that the administration sought a citizenship question, not to enforce the Voting Rights Act, but rather "for districting" and "for appropriations." Remarks by President Trump Before Marine One Departure (July 5, 2019), https://www.whitehouse.gov/briefings-statements/remarks-president-trump-marine-one-departure-51/.

290. Indeed, further evidence that Defendants' actions were pretextual arose from files of a prominent redistricting strategist, Thomas Hofeller. In 2015, Hofeller prepared a study titled "The Use of Citizen Voting Age Population in Redistricting." In the study, Hofeller recommended adding a citizenship question to the census so that states could use citizen voting-age population rather than total population to redistrict. This change in the redistricting base, in Hofeller's words, would be advantageous to "Non-Hispanic Whites" and would undercut the political power of Hispanics.

291. It was later revealed that Hofeller was involved in drafting portions of the memorandum from the Department of Justice to Defendant Commerce seeking addition of a citizenship question on the 2020 Census, including sections relating to the pretextual reason for requesting the question. *See* Ex. 8 to NYIC Pls.' Mot. for Sanctions at 124-31, *New York v. U.S. Dep't of Commerce*, No. 1:18-cv-2921-JMF (S.D.N.Y. July 16, 2019), ECF No. 635-1; Defs.' Opp. to Letter Mot. to Compel at 3, *New York v. U.S. Dep't of Commerce*, No. 1:18-cv-2921-JMF (S.D.N.Y. Oct. 30, 2018), ECF No. 451.

292. Shortly after the Supreme Court's decision, President Trump issued an executive order, demanding executive agencies provide the Census Bureau with administrative records sufficient to allow the Bureau to determine "the number of citizens and noncitizens in the country." Exec. Order No. 13,880, § 1, 84 Fed. Reg. 33,821, 33,821 (July 16, 2019). The Executive Order explicitly states that the reason this data is necessary is to design "legislative districts based on the population of voter-eligible citizens," instead of total population. *Id.* at 33,823-84.

293. In light of that history, the Apportionment Exclusion Order, and the near-contemporaneous decision to cut counting operations short represent yet another attempt by the administration to manipulate the 2020 Census and potentially undercut the political power of communities of color. Defendants cannot rely on this memorandum as justification to support their decision to undermine the accuracy of the census.

V. Harm to Plaintiffs.

294. Plaintiffs and Plaintiff non-profits' members and/or constituents reside in locales

that will suffer harm as a result of Defendants' decision because that decision is very likely to cause these locales to be more disproportionately undercounted in the 2020 Census than they otherwise would have been.

295. On August 9, 2020, at the beginning of the Non-Response Follow Up operation, Plaintiff City of Los Angeles, had a response rate of just 53.1%, which was significantly lower than the 64.5% statewide response rate in California on that same date.

296. The Urban League, League of Women Voters, and BAJI have affiliates, constituents, and members in major cities across the United States. This includes cities where response rates were lower than their corresponding statewide response rates on the first day of Non-Response Follow Up including San Francisco (61.4%) and Monterey (60.5%) as compared to California (64.5%), Miami (49.6%) as compared to Florida (60.1%), Philadelphia (52%) as compared to Pennsylvania (65.5%), Detroit (48.7%) as compared to Michigan (68.9%), and New York City (54.9%) as compared to New York State (58.9%).

297. Plaintiffs Ellis and Garcia are residents of Houston, Texas. The response rate in Houston at the beginning of Non-Response Follow Up was 54%, which was lower than the statewide response rate for Texas on that date, 58.2%.

298. As noted above, Defendants' decision will result in fewer enumerations through Non-Response Follow Up, increased reliance on low-quality administrative data, and increased imputation. Consequently, Defendants' decision will result in cities' with higher rates of non-response (1) having less accurate data; and (2) experiencing higher rates of undercounting.

299. Because these cities have a higher proportion of households in the Non-Response Follow Up universe than their corresponding states, these cities have a substantially higher likelihood of being undercounted because of Defendants' decision than surrounding communities in their states. These disproportionate undercounts will cause Plaintiffs to suffer both fiscal and representational harm.

A. Funding Harms

300. The Rush Plan will result in loss of federal funding for Plaintiffs Harris County, City of Salinas, and the City of Los Angeles and the communities where members of Plaintiff

non-profits reside, including Miami, Detroit, Philadelphia and New York.

301. Over 130 programs and 675 billion dollars are allocated to states and localities on the basis of census-derived information. This includes funding to states for federal transportation planning purposes, education, and healthcare.

302. Many important federal programs, including Title I Grants under the Every Student Succeeds Act, require states to distribute funds to localities on the basis of census-derived information.

303. State Education Agencies must allocate Title I Grants, at least in part, on the number of children aged 5-17 living in poverty in a local education agency's jurisdiction.

304. Given that members of Plaintiff non-profits reside in cities that are likely to be more undercounted under the Rush Plan relative to surrounding communities in their states, including San Francisco, Miami, Detroit, Philadelphia, and New York City, Defendants' decision will likely deprive the communities where these members reside of Title I Grant funding they would have otherwise received. Similarly, Defendants' decision places Plaintiffs Ellis and Garcia's community at higher risk of deprivation of Title I Grant funding.

305. Several additional federal programs require states to use census-derived information to distribute funds directly to cities and counties, based on their share of a relevant population. For instance, the Low Income Home Energy Assistance Program, the Workforce Innovation and Opportunity Act program, and the Community Services Block Grant Program, all require states to distribute funds to cities and counties, at least in part, on the proportion of a state's low-income residents living in those cities and counties. This data is derived from information collected during the decennial census.

306. Both Harris County and the City of Los Angeles receive funds under these programs. Consequently, disproportionate undercounting of Harris County and the City of Los Angeles, as compared to their states, is likely to result in loss of funds under these and similar programs.

307. Several federal funding programs provide funding directly to cities and counties based on census-derived information. For instance, the Community Development Block Grant

program, and the Emergency Solutions Grant, allocate funding to cities and counties based, at least in part, on their share of the overall population count relative to other metropolitan areas.

308. Of cities with over 500,000 people, the City of Los Angeles had the fourth lowest response rate in the country, just behind Detroit and Philadelphia. Consequently, Los Angeles will likely lose Community Development Block Grant funds because of Defendants' decision.

309. Similarly, members of Plaintiff non-profits live in major metropolitan areas with some of the lowest response rates in the country, such as Miami, Detroit and Philadelphia. Defendants' decision will likely deprive these members' communities of funding under the Community Development Block Grant program.

310. Finally, the allocation of federal transportation including the Surface Transportation Block Grant Program, and the Metropolitan and Statewide Nonmetropolitan Transportation Planning Programs are based on the population of urbanized areas in a state compared to those of other states, as determined by the decennial census.

311. Plaintiffs Ellis and Garcia regularly drive on highways and roads in Texas. Disproportionate undercounting of urbanized areas in Texas during the 2020 Census will result in reduced transportation funding for Texas under federal transportation programs.

B. Representational Harm

312. Defendants' decision will also likely result in representational harm to individual Plaintiffs and to the members of Plaintiff organizations.

313. Plaintiffs Ellis and Garcia reside in Houston, Texas. In terms of self-response rates, Texas ranks 39th in the United States. Approximately four million Texas households are in the Non-Response Follow Up universe, which is more households than any state other than California.

314. Consequently, Defendants' decision will not only cause a substantial undercount in Texas, but that undercount will likely be disproportionate as compared to other states. Texas will likely be deprived of its fair share of representation in the next congressional apportionment.

315. As a result, Defendants' decision is likely to result in reduction of voting power and representation for Plaintiffs Ellis and Garcia, because it will likely cause the loss of a seat in

Texas, and will result in fewer Representatives spread out over the state of Texas.

316. As for Plaintiff City of Los Angeles, at least one study has predicted that, were California to lose a congressional seat because of the final census count, that seat is very likely to come from a district that includes portions of South Los Angeles, thus reducing the city's representational delegation.

317. Defendants' decision will also cause Plaintiff Ellis and members of Plaintiff non-profits to experience a loss of intrastate voting power.

318. By causing disproportionate undercounting of communities in Houston, Detroit, Philadelphia, and Miami, as compared to their corresponding states, Defendants' decision will result in drawing of district lines that do not accurately represent the population of the state, and disadvantage Plaintiffs Ellis and Garcia, and members of Plaintiff organizations that live in undercounted communities.

C. Inaccurate Data

319. Plaintiff local governments will suffer harm from the adverse impact Defendants' decision will have the accuracy of population counts produced by the Census Bureau. Plaintiff local governments often rely on accurate information collected by the Census Bureau for crucial public planning purposes, including planning for how to respond to emergencies.

320. For example, local governments often rely on a Social Vulnerability Index to identify communities that are at high risk during a particular emergency. Government officials rely on this index to determine where to allocate resources before and during emergencies. A Social Vulnerability Index use census data to identify specific populations that may be vulnerable to a particular emergency, including data relating to age, housing density, income status, and race and ethnicity. Inaccurate census data would make disaster planning and emergency response more difficult, and could disrupt important public programs.

321. In Harris County, officials used the Center for Disease Control's Social Vulnerability Index to inform decisions about proper distribution of COVID-19 Relief Funds. The funds were allocated to provide relief to Harris County residents most impacted by the global pandemic. That Social Vulnerability Index, which was based on census data, was used to

identify census tracts with the most vulnerable residents, and applications from residents from those tracts were prioritized and given higher chances of acceptance for funds. Without accurate census data, Harris County would struggle to ensure that crucial relief funds were reaching the communities most in need of them.

322. Similarly, King County relies on accurate census data to inform its public-policy decision making. For instance, the county uses census data to plan public-transit service, and to ensure priority populations have transit access, and to site public health clinics.

323. The low-quality data and undercounting that Defendants' decision will cause will also harm Plaintiffs. For instance, undercounting of Black, Latino, Native American, and immigrant communities will negatively affect the Urban League, League of Women Voters and BAJI by undermining these organizations' core missions of promoting equal and just laws and empowering vulnerable communities through building coalitions and initiating campaigns with African Americans and Black immigrants, and fostering racial, economic, and social equality for the communities they serve.

D. Expending Additional Resources

324. Plaintiff organizations, the Urban League, the League of Women Voters, and BAJI, and Plaintiff local governments, City of San Jose, Harris County, King County, City of Salinas, and City of Los Angeles will need to expend additional resources and divert resources from planned programs and projects in order to address the adverse consequences of Defendants' decision to abandon the COVID-19 Plan, and implement the Rush Plan.

325. Plaintiffs' planned efforts to ensure the effective enumeration of historically undercounted communities were based on the understanding that the Census Bureau would implement the Non-Response Follow Up operation contemplated in the Final Operational Plan and adjusted in the COVID-19 Plan.

326. The abrupt reversal of the COVID-19 Plan, and the implementation of curtailed Non-Response Follow Up in the Bureau's Rush Plan will adversely affect Plaintiffs' plans.

327. Plaintiff organizations and local governments will likely need to adjust plans, and divert resources from other planned activities and programs in order to ensure the communities

they serve are adequately counted. Specifically, Plaintiffs will need to recruit and train staff to engage in increased and expanded outreach to potential non-responsive households in order to make up for fewer enumerator visits, or to other aspects of the Non-Response Follow Up program, such as the reinterview process.

328. For instance, Plaintiff BAJI is planning significant adjustments to its 2020 Census outreach plans in light of Defendants' decision, that include diversion of resources from other sources, and significant expenditures. In order to engage in effective outreach, BAJI needs organizing staff dedicated to civic engagement. With Non-Response Follow Up occurring from August 11, 2020 through October 31, 2020, BAJI anticipated that it could spread its staffing resources over that timeframe to ensure it was meeting its goals within the organization's budget. However, on a shorter timeframe, BAJI needs additional staff on a shorter timeframe, which will require adjusting the organization's budget and priorities for the next several months.

329. The adjustment is also challenging for BAJI as the organization caters to immigrant communities with a variety of language needs. Increasing staffing on a short timeframe poses significant challenges for the organization, because it must locate staff that can communicate with the particular community that the organization is targeting for outreach efforts.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF
Violation of the Enumeration Clause, and Fourteenth Amendment
(U.S. Const. art. I, § 2; U.S. Const. amend. XIV, § 2)

330. Plaintiffs incorporate by reference the allegations set forth in the preceding paragraphs.

331. Under the Enumeration Clause of the U.S. Constitution, Congress, and, by delegation, the Secretary of Commerce, must conduct an "actual Enumeration" of the population. This clause requires that decisions relating to census-taking "bear a reasonable relationship to the accomplishment of an actual enumeration of the population." *Wisconsin v. City of N.Y.*, 517 U.S. 1, 20 (1996).

332. The COVID-19 pandemic severely disrupted the 2020 Census, resulting in

months of suspended operations and significant delays in crucial counting processes. Moreover, the public-health crisis continues to impact census operations, as the Bureau struggles to retain enumerators and engage in door-knocking in communities experiencing surges of the virus.

333. To navigate this emergency, the Bureau took necessary action to adjust its operational timelines in the COVID-19 Plan while seeking to maintain the operations and processes included in the Final Operational Plan that had been designed to help ensure a complete and accurate count.

334. Abruptly and without explanation, on August 3, 2020, Defendants abandoned the COVID-19 Plan and implemented the Rush Plan. The Rush Plan does not "bear a reasonable relationship to the accomplishment of an actual enumeration of the population." After delaying all operations for months, the Bureau and its staff repeatedly recognized that it was impossible to produce counts consistent with their duties to ensure a full, fair, and accurate count by December 31, 2020. Indeed, current conditions demonstrate that it is infeasible to obtain a fair and accurate count by the end of the year. Nevertheless, the Defendants abandoned their constitutionally mandated pursuit of fair and accurate data, in favor of the speed of the Rush Plan, and the inaccurate data it will produce.

335. Under these circumstances, the decision to curtail crucial 2020 Census operations violates the Enumeration Clause of the United States Constitution.

336. These constitutional violations have caused, are causing, and will continue to cause harm to Plaintiffs as alleged above, and there is a substantial likelihood that the requested relief will redress this harm.

SECOND CLAIM FOR RELIEF
Violation of Administrative Procedure Act—Arbitrary and Capricious
(5 U.S.C. § 706(2)(A))

337. Plaintiffs incorporate by reference the allegations set forth in the preceding paragraphs.

338. The APA, 5 U.S.C. § 706(2), provides that a court shall hold unlawful and set aside agency action found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. The Rush Plan is final agency action because it marks the consummation

of the agency's decision-making process, and it is one by which rights or obligations have been determined, or from which legal consequences will flow. *Bennett v. Spear,* 520 U.S. 154, 177-78 (1997).

339. In determining whether an action violates the APA, courts consider whether the agency examined relevant data and articulated a satisfactory explanation for its decision, including formulating a rational connection between the facts found and the choice made. *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). Where an agency wishes to depart from an earlier decision, it must acknowledge that change and any reliance interests its previous actions engendered. *See Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 105-06 (2015).

340. The Bureau spent several years developing its Final Operational Plan for the 2020 Census. That plan carefully determined the required length of each operation, including the appropriate length for data-collection and data-processing. It also included details about the implementation of the various operations.

341. The COVID-19 pandemic disrupted census operations, and the Bureau responded by adjusting its operations in its COVID-19 Plan. That plan involved retaining the details and the length of time of various operations laid out in the Final Operational Plan, but shifting the timeline for counting several months into the future to account for both the necessity of those operations and the public-health emergency.

342. The Bureau began implementing the plan, and critical operations were suspended and delayed through the summer. Bureau officials publicly and expressly recognized that it was no longer possible to comply with the December 31, 2020 deadline if the Bureau intended to fulfill its constitutional and statutory obligation of producing reasonably accurate population counts.

343. Without explanation and without citing any evidence, Defendants suddenly changed their position and issued a new plan with shortened timelines. Among other things, that change conclusively changed the legal rights and obligations of private households, who now have substantially less time to respond if they wish to be counted in the 2020 Census. Defendants

have provided no evidence to support rescinding the COVID-19 Plan, have failed to acknowledge or explain their departure from their previous conclusions as to the length of time necessary for an accurate census, and have cited no evidence that they could obtain accurate counts on the shortened timeframe. Defendants' unexplained and unjustifiable reversal is precisely the sort of arbitrary and capricious agency action that the Administrative Procedure Act forbids.

344. Defendants' decision also fails to account for several factors relevant to the decision, including the multiple-month long suspension in operations and delay of crucial census operations, the staffing shortages facing the Bureau, the meticulously designed and tested technical requirements for effective enumeration included in the Bureau's Final Operational Plan, and the various quality-control measures the Bureau must engage in to ensure that its reported data is accurate.

345. Consequently, Defendants' action is arbitrary and capricious.

346. This unlawful action has caused, is causing, and will continue to cause harm to Plaintiffs as alleged above, and there is a substantial likelihood that the requested relief will redress this harm.

THIRD CLAIM FOR RELIEF
Violation of Administrative Procedure Act—Pretext
(5 U.S.C. § 706)

347. Plaintiffs incorporate by reference the allegations set forth in the preceding paragraphs.

348. Under the Administrative Procedure Act, agencies are required to disclose the "genuine justification[] for important decisions." *Dep't of Commerce*, 139 S. Ct. at 2569, 2575-76. Courts will not accept "contrived reasons" provided by agencies as that would defeat the purpose of judicial review. *Id.* at 2576. Moreover, agencies cannot simply avoid providing reasoning for their decision-making altogether.

349. Defendants have decided to cut crucial operations in order to produce 2020 Census population results to the President by December 31, 2020. In announcing that decision, Defendants provided no legitimate justification for abandoning the COVID-19 Plan and

implementing the Rush Plan.

350. Any attempt by the Defendants to rely on the reporting deadline provided under the Census Act as justification for their decision is mere pretext. 13 U.S.C § 141(b).

351. For months, Defendants implemented the COVID-19 Plan, the timeline for which necessarily assumed the statutory deadlines could not defeat the constitutional duty to conduct an accurate enumeration, as applied to the extraordinary circumstances at hand. Defendants made significant adjustments, including months-long delays of census operations, on the assumption that the Bureau could and would conduct a full and robust count through the end of October 31, 2020. Since mid-April 2020, Defendants have expressly and publicly recognized that the Bureau could not provide a complete and accurate count by December 31, 2020. And President Trump maintained that the statutory deadlines need not be followed.

352. Defendants' reversal of position on the 2020 Census timeline appears driven by Defendants' efforts to ensure implementation of the President's unconstitutional Apportionment Exclusion Order, which attempts to exclude undocumented persons from the apportionment count and continues a long-running pattern of racially discriminatory and improperly politically motivated conduct of the 2020 Census.

353. In light of these considerations, Defendants' purported justification is pretextual and, thus, arbitrary and capricious under the Administrative Procedure Act.

354. Defendants' unlawful action has caused, is causing, and will continue to cause harm to Plaintiffs as alleged above, and there is a substantial likelihood that the requested relief will redress this harm.

PRAYER FOR RELIEF

355. Plaintiffs respectfully request that this Court:

356. Declare that Defendants' promulgation of the Rush Plan, and corresponding revocation of the COVID-19 Plan is unconstitutional under the Enumeration Clause, and unlawful under the Administrative Procedure Act.

357. Vacate the Rush Plan, thereby reinstating the COVID-19 Plan.

358. Enjoin Defendants from implementing the Rush Plan or otherwise unlawfully

interfering with the COVID-19 Plan.

359. Award Plaintiffs costs, expenses, and reasonable attorneys' fees.

360. Award any other relief the Court deems just and proper.

Dated: August 18, 2020

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ATTESTATION

I, Sadik Huseny, am the ECF user whose user ID and password authorized the filing of this document. Under Civil L.R. 5-1(i)(3), I attest that all signatories to this document have concurred in this filing.

Dated: August 18, 2020

LATHAM & WATKINS LLP

By: */s/ Sadik Huseny*
Sadik Huseny

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
NATIONAL URBAN LEAGUE; BLACK ALLIANCE FOR JUST IMMIGRATION; LEAGUE OF WOMEN VOTERS; HARRIS COUNTY, TEXAS; KING COUNTY, WASHINGTON; CITY OF LOS ANGELES, CALIFORNIA; CITY OF SALINAS, CALIFORNIA; and CITY OF SAN JOSE, CALIFORNIA; RODNEY ELLIS, and ADRIAN GARCIA

(b) County of Residence of First Listed Plaintiff New York City, NY
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Steven M. Bauer / Sadik Huseny
Latham & Watkins LLP
505 Montgomery Street, Suite 2000,
San Francisco, CA 94111-6538

DEFENDANTS
WILBUR L. ROSS, JR., in his official capacity as Secretary of Commerce; U.S. DEPARTMENT OF COMMERCE, U.S. CENSUS BUREAU, and STEVEN DILLINGHAM, in his official capacity as Director of the U.S. Census Bureau

County of Residence of First Listed Defendant Washington County, D.C.
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment Of Veteran's Benefits
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury -Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury – Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities–Employment
- ☐ 446 Amer. w/Disabilities–Other
- ☐ 448 Education

PRISONER PETITIONS

HABEAS CORPUS
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

OTHER
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee–Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC § 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC § 158
- ☐ 423 Withdrawal 28 USC § 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent—Abbreviated New Drug Application
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS–Third Party 26 USC § 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC § 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced & Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 485 Telephone Consumer Protection Act
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☒ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation–Transfer ☐ 8 Multidistrict Litigation–Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
Administrative Procedure Act, 5 U.S.C. 701 et seq.

Brief description of cause:
Action to set aside unlawful agency action as arbitrary, capricious, and not in accordance with law, and declare Defendants' actions unconstitutional.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, Fed. R. Civ. P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S), IF ANY *(See instructions):*

JUDGE Judge Lucy H. Koh DOCKET NUMBER 5:20-cv-05167-LHK; 5:20-cv-05169-LHK

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) ☐ **SAN FRANCISCO/OAKLAND** ☒ **SAN JOSE** ☐ **EUREKA-MCKINLEYVILLE**

DATE 08/18/2020 **SIGNATURE OF ATTORNEY OF RECORD** /s/ Sadik Huseny

From: Walsh, Michael (Federal) [MWalsh@doc.gov]
Sent: 8/3/2020 6:53:27 AM
To: b(6)
Subject: Revised census deck
Attachments: Operational and Processing Options to meet September 30 Final.pdf

Operational and Processing Options to Meet Statutory Date of December 31, 2020 for Apportionment

August 3, 2020

Pre-decisional - Internal Use Only - Not for Public Distribution

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Bottom Line Up Front

Objective: We have developed this plan in response to your request to provide an apportionment count by the statutory deadline of December 31, 2020.

- **Maximizing** staff and production hours for field data collection operations to conclude field data collection by September 30, 2020.
- **Compressing** and streamline backend processing to deliver apportionment counts by December 31, 2020.
- **Achieving** an acceptable level of accuracy and completeness, with a goal of resolving at least 99% of Housing Units in every state.

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Nonresponse Followup Operational Options

Early Start of Nonresponse Followup Operations
6 Cycle 1a Area Census Offices (ACOs) began operations on July 16
6 Cycle 1b ACOs began operations on July 23
35 Cycle 2 ACOs were scheduled to begin operations on July 30; however, we started operations earlier in some ACOs where staff was available: • 17 ACOs – Started July 26 – 29 • 18 ACOs – Starter July 30
39 Cycle 3 ACOs were scheduled to begin operations by August 3: • 15 ACOs – Started last week, July 31 • 24 ACOs – Started today, August 3
All remaining ACOs were scheduled to begin August 11, but will begin operations by August 9: • 53 ACOs – Will start August 3 – 7 • 109 ACOs (all remaining) – August 9 • These ACOs will have to deploy staff regardless of the COVID-19 risk in those areas to open on these dates.

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Increased Replacement Training for Enumerators

Replacement Training Options	Potential Efficiency Gain / Applicable Costs to Implement
Inviting More People to Training	Over selection rates will address higher-than-expected no-show rates of 35%, bringing us closer to our target initial staffing levels.
Continual Replacement Training	Expect to conduct replacement training for at least 135K Enumerators due to attrition. Just over 11,000 training additional sessions: $90m total training cost

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Bonuses for Increased Work

Pay Bonus Options	Potential Efficiency Gain / Applicable Costs to Implement
Implement Enumerator Pay bonus to boost work hours from 19 to 25 per week: • Propose $100 for exceeding 25 hours/week	Expect 250,000 to qualify: $25m/week Increases capacity by 1.5 million work hours per week, or 80,000 more “19 hour” enumerators per week
Implement Enumerator Pay bonus for working multiple 25 hour weeks: • Propose $500 for completing 3 weeks of production • Can be renewed	Expect 150,000 to qualify: $75m total cost
Implement CFS Pay bonus for working multiple weeks: • Propose $750 for completing 3 weeks of production (from established start date) • Would require ‘acceptable’ minimum of 32 hours per week • Can be renewed	Expect 15,000 CFSs to qualify: $11.5m total cost per week

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Outreach Methods to Expand Reach to Underperforming Areas

Options	Potential Efficiency Gain / Applicable Costs to Implement
Expand the use of NRFU Travel Teams: • Moving teams that have successfully completed their areas to areas requiring additional attention	Using experienced staff minimizes the need to train new staff – particularly in areas where new staff are not available.
Implement outbound phone calling to conduct interviews: • Use telephone numbers from ERD Contact Frame • Used by enumerators in ACOs that are finishing up to help out in other ACOs	Enables enumeration in high COVID-19 risk areas and provides additional data collection capability.

Adjustments to NRFU Contact Strategy

NRFU Adjustment Options	Potential Efficiency Gain / Applicable Costs to Implement
Close out self-reported vacants that are also Administrative Record (AdRec) vacant	Reduce workload by 140k cases
Reduce contact attempts for self-reported vacants from 6 to 1, if HU is confirmed vacant	Increase enumerator productivity
Reduce contact attempts for Re-Interview (RI) and Self-Response Quality Assurance (SRQA) cases from 6 to 3	Reduce attempts from 6 to 3 for 1.9 million cases, increase enumerator productivity
Eliminate Random RI, and depend on analytic sampling	Reduce NRFU workload by 800k cases – potential reduction in quality of enumerator work
Make “pop count only” sufficient earlier in the operation	Still being researched, TBD

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Implement Additional Administrative Record Options

Administrative Records Options	Potential Efficiency Gain / Applicable Costs to Implement
We are in consultation to revise our AdRec strategy to use IRS-only (no corroborating sources) for “pop count only” cases	Reduce attempts from 6 to 1 for estimated 3.8 million cases, contingent on IRS approval, increasing enumerator productivity
Close out cases with conflicting AdRec showing both vacant and delete	Reduce attempts from 6 to 1 for 1.9 million cases, increasing enumerator productivity

BC-DOC-0000000555

Overview of Backend Processing

Assumptions:

1. Highly compressed schedule for 2020 Census data processing and review of data products.
2. Post-processing must start by October 1, 2020.
3. Post-processing work activities are limited to those required to produce apportionment counts. Delivery of redistricting data products will be negatively impacted under this revised plan and we are determining full impacts.
4. All of these activities represent abbreviated processes or eliminated activities that will reduce accuracy.

BC-DOC-0000000556

Compressing Backend Processing

Adjusted Activity	Impact and Risks
Finalize Master Address File (MAF) updates from remaining field operations by 9/4/20 Address updates from continued field work after 9/4/20 will not be applied to the MAF	We do not anticipate that the resulting number of updates not included will be highly significant. However, increases risk of inaccuracy.
Eliminate the step that includes Decennial Statistical Studies Division (DSSD) review of the MAF extract	Risk of missing and therefore propagating errors, however the MAF is the most accurate ever.
Lock Geographic processing on 9/25/20 and deliver the final 2020 Census address universe by 10/14/20	Reduces a 35 day processing duration to 19 days.
Cancel Count Review Event 2, eliminating the need for late Group Quarters Enumeration (GQE) operations	State demographer review of GQ data will be cancelled. The Demographic and Decennial staffs will work together to develop the message and communicate it to the Federal State Cooperative for Population Estimates (FSCPE)/states. The risk is virtually certain vocal objections from the FSCPE State Demographers and the State Governors they serve.

BC-DOC-0000000557

Compressing Backend Processing - Continued

Adjusted Activity	Impact and Risks
Create a separate processing stream for the Enumeration of Transitory Locations (ETL) and Service Based Enumeration (SBE) operations that follows the Federally Affiliated Count Overseas (FACO) processing approach. This will enable adding ETL and SBE population counts state-by-state significantly later in the Census Unedited File (CUF) production process.	This file needs to be delivered to POP by the time the CUF – the basis for the apportionment delivery – review is scheduled to be complete, by December 18. Additionally, ETL permits the reporting of a Usual Home Elsewhere (UHE), which will not be able to be processed with this new approach. The CUF will have to be re-run prior to the processing of the Census Edited File (CEF) in order to add in the SBE/ETL population for the Public Law 94-171 Redistricting file. The Apportionment Team will need to change its processing plans and conduct testing to ensure the proper integration of ETL/SBE state counts.
Compress POP division and DSSD review and processing times	A compressed review period creates risk for serious errors not being discovered in the data – thereby significantly decreasing data quality. Additionally, serious errors discovered in the data may not be fixed – due to lack of time to research and understand the root cause or to re-run and re-review one or multiple state files.
Compress time for creating/verifying apportionment data and preparation of transmittal package for DOC	A compressed review period creates risk for errors being present in the data.

BC-DOC-0000000558

Implementation of the Presidential Memo

A team has been established and is tasked with deriving a process utilizing sound statistical methods and meeting tests of operational feasibility, to achieve the goals of directives from Secretary Ross regarding implementation of the Presidential Memo. To achieve this, the Census will:

- Build upon the work we have already done based on Executive Order 13880, "Collecting Information about Citizenship Status in Connection with the Decennial Census".
- Use all administrative records to the extent they are available. Using these records, in combination with other data already obtained regarding citizenship status, we will further refine the non-citizen category into legal, illegal, or unknown.
- Incorporating this work into the schedule to meet the current legal mandates.

BC-DOC-0000000559

Announcing the Replanned Operational Schedule

- **Announce:** Statement from Director Dillingham issued by Monday afternoon or as approval given with new schedule and re-plan outline.

- **Update Webpage:** We will update central schedule webpage with new dates. (current page reflects re-planning status)

- **Rollout:** We will follow a controlled rollout to give appropriate embargoed heads up to key Congressional offices, and then post and distribute the updated materials to Census Bureau staff, partners, intergovernmental stakeholders, and the media.

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Questions?

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UNITED STATES DISTRICT COURT
DISTRICT OF DISTRICT OF COLUMBIA

COMMON CAUSE, CITY OF ATLANTA, CITY OF PATERSON, PARTNERSHIP FOR THE ADVANCEMENT OF NEW AMERICANS, ROBERTO AGUIRRE, SHEILA AGUIRRE, PAULA AGUIRRE, ANDREA M. ALEXANDER, DEBRA DE OLIVEIRA, SARA PAVON, JONATHAN ALLAN REISS, and MYRNA YOUNG,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as President of the United States,

UNITED STATES DEPARTMENT OF COMMERCE,

WILBUR L. ROSS, JR., in his official capacity as Secretary of Commerce,

CHERYL L. JOHNSON, in her official capacity as the Clerk of the United States House of Representatives,

Defendants.

Case No. _____

COMPLAINT

INTRODUCTION

1. This is a complaint for declaratory judgment and injunctive relief against implementation of the Memorandum issued by President Donald J. Trump on July 21, 2020, titled "Excluding Illegal Aliens From the Apportionment Base Following the 2020 Census" (the "Memorandum"), on the grounds that the Memorandum violates Article I, § 2 of the U.S. Constitution as amended by § 2 of the Fourteenth Amendment; the Equal Protection guarantees of the Fifth and Fourteenth Amendments; and 2 U.S.C. § 2a(a) and 13 U.S.C. § 141.

2. The Memorandum purports to break with almost 250 years of past practice by excluding undocumented immigrants when calculating the number of seats to which each State is entitled in the House of Representatives. This new policy flouts the Constitution's plain language, which states that "[r]epresentatives shall be apportioned among the several states according to their respective numbers, counting ***the whole number of persons in each state***," excluding only "Indians not taxed." U.S. Const., amend. XIV, § 2 (emphasis added). It also flies in the face of the statutory scheme governing apportionment, which requires the President to include "the ***whole number of persons in each State***" in the apportionment base—again, excluding only "Indians not taxed." 2 U.S.C. § 2a(a) (emphasis added).

3. Since the founding, the three branches of government have agreed that "the whole number of persons in each state" includes non-citizens, whether documented or undocumented. Now, for the first time in our nation's history, the President has purported to declare the opposite. As the Department of Justice observed in 1980, such a change would be "a radical revision of the constitutionally mandated system for allocation of Representatives to the States of the Union and an equally radical revision of the historic mission of the decennial census."

4. President Trump's Memorandum is not an isolated event. Rather, it is the culmination of a concerted effort, stretching back at least five years, to shift the apportionment base from *total* population to *citizen* population—a strategy intended, in the words of its chief architect, to enhance the political power of "Republicans and non-Hispanic whites" at the expense of people of color, chiefly Latinos. The Memorandum is, in this respect, consistent with the Administration's attempt to add a citizenship question to the 2020 census—a ploy that the U.S. Supreme Court rejected as pretextual and unlawful. The Administration's latest effort should meet the same end.

BC-DOC-0000000564

5. Plaintiffs bring this action for declaratory and injunctive relief under 42 U.S.C. § 1983 and 28 U.S.C. § 2201(a) to halt Defendants' violations of the Constitution and laws of the United States and to protect the right of all of this country's inhabitants to the equal protection of its laws.

JURISDICTION AND VENUE

6. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331, because this action arises under the Constitution and laws of the United States, and relief is authorized under 42 U.S.C. § 1983 and 28 U.S.C. § 2201(a).

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e)(1) because Defendants are United States agencies or officers acting in their official capacities or under color of legal authority, and Defendants reside in this District, or a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this District, or one or more Plaintiffs resides in this District.

8. This Court has personal jurisdiction over Defendants because Defendants are located within this District and Defendants' actions and omissions giving rise to Plaintiffs' claims occurred in this District.

PARTIES

9. Plaintiff Common Cause is a nonprofit organization organized and existing under the laws of the District of Columbia, with its principal place of business in the District of Columbia. Common Cause is a nonpartisan democracy organization with over 1.2 million members, 22 state offices, and a presence in all 50 states. It has members in all 50 states and in every congressional district. Since its founding by John Gardner fifty years ago, Common Cause

BC-DOC-0000000565

has been dedicated to making government at all levels more representative, open, and responsive to the interests of ordinary people. It sues herein on behalf of its members.

10. Plaintiff City of Atlanta is the capital and most populous city in the State of Georgia, with a population of over half a million people. People of color constitute the majority of its population. It has a notably large population of immigrants, including Latino immigrants, as well as immigrants from East and South Asia, Africa, and the Caribbean.

11. Plaintiff City of Paterson is the county seat of Passaic County, New Jersey, with a population of approximately 150,000 people. It has a notably large population of immigrants, including Latino immigrants, as well as immigrants from Bangladesh, India, South Asia, and the Arab and Muslim world.

12. Plaintiff Partnership for the Advancement of New Americans (PANA) is a 501(c)(3) nonprofit based in San Diego, California with over 400 members. PANA is dedicated to advancing the full economic, social, and civic inclusion of refugees. It advocates for public policy solutions that will ensure local governments invest in the long-term economic self-sufficiency of newcomers and refugee families, including effective resettlement strategies and equitable allocation of federal resources. PANA provides support to communities directly affected by unjust immigration policies, including nationals from Iran, Libya, Somalia, Sudan, Syria and Yemen who have resettled and continue to seek refuge in the San Diego region. In addition to its public policy advocacy, PANA engages more than 40,000 former refugee, African immigrant, Muslim, and Southeast Asian voters in elections throughout the San Diego region to ensure the fair representation of these historically underrepresented communities. It sues herein both on its own behalf and on behalf of its members.

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13. Plaintiff Roberto Aguirre is a naturalized U.S. citizen and a resident of Queens, New York City, New York. He is of Latino ethnicity and Ecuadorean national origin. He is a registered voter and regularly exercises his right to vote.

14. Plaintiff Sheila Aguirre is a natural-born U.S. citizen and a resident of Queens, New York City, New York. She is of Latina ethnicity and Ecuadorean heritage. She is a registered voter and regularly exercises her right to vote.

15. Plaintiff Paula Aguirre is a natural-born U.S. citizen and a resident of Queens, New York City, New York. She is of Latina ethnicity and Ecuadorean heritage. She is a registered voter and regularly exercises her right to vote.

16. Plaintiff Andrea M. Alexander is a natural-born citizen and a resident of Brooklyn, New York City, New York. Her racial identity is Black. She is a registered voter and regularly exercises her right to vote.

17. Plaintiff Debra de Oliveira is a naturalized U.S. citizen and a resident of Margate, Florida. Her racial identity is Black and her national origin is Guyanese. She is a registered voter and regularly exercises her right to vote.

18. Plaintiff Sara Pavon is a naturalized U.S. citizen and a resident of Queens, New York City, New York. She is of Latina ethnicity and Ecuadorean national origin. She is a registered voter and regularly exercises her right to vote.

19. Plaintiff Jonathan Allan Reiss is a naturalized U.S. citizen and a resident of Manhattan, New York City, New York. He is of Caucasian ethnicity and Canadian national origin. He is a registered voter and regularly exercises his right to vote.

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20. Plaintiff Myrna Young is a naturalized U.S. citizen and a resident of Fort Myers, Florida. Her racial identity is Black and her national origin is Guyanese. She is a registered voter and regularly exercises her right to vote.

21. Defendant Donald J. Trump is the current President of the United States of America. He is sued herein in his official capacity. Pursuant to statute, the President is responsible for transmitting the results of the decennial census, and the resulting congressional apportionment figures, to Congress.

22. Defendant United States Department of Commerce is a cabinet agency within the executive branch of the United States Government, and is an agency within the meaning of 5 U.S.C. § 552(f). Pursuant to statute, the Commerce Department is responsible for, among other things, implementing and administering the decennial census and transmitting the resulting tabulations to the President for further transmittal to Congress.

23. Defendant Wilbur L. Ross, Jr., is the Secretary of Commerce of the United States and a member of the President's Cabinet. He is responsible for conducting the decennial census and oversees the Census Bureau. He is sued herein in his official capacity.

24. Defendant Cheryl L. Johnson is the Clerk of the United States House of Representatives. Pursuant to statute, she is responsible for "send[ing] to the executive of each State a certificate of the number of Representatives to which such State is entitled" following a decennial reapportionment. 2 U.S.C. § 2a(b). She is sued herein in her official capacity.

FACTUAL ALLEGATIONS

A. Statutory Law Requires the President to Include All Persons in the Congressional Apportionment Base, Irrespective of Citizenship or Immigration Status

25. From the founding, the federal Constitution has required a decennial census (that is, an "actual Enumeration") to determine the apportionment of members of the U.S. House of

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Representatives among the States. The Constitution tasks Congress with passing legislation to "direct" the "manner" in which the census shall occur, subject to the requirements set forth in the Constitution itself. *See* U.S. Const., art. I, § 2, cl. 3; *Franklin v. Massachusetts*, 505 U.S. 788, 791 (1992).

26. By statute, Congress has assigned the responsibility of conducting the census to the Secretary of Commerce, and empowered the Secretary of Commerce to delegate authority for establishing procedures to conduct the census to the Census Bureau. 13 U.S.C. §§ 2, 4, 141; *Franklin*, 505 U.S. at 792.

27. To that end, the Census Bureau sends a questionnaire to every household in the United States, to which every resident in the United States (documented or otherwise) is legally required to respond. 13 U.S.C. § 221. The Census Bureau then counts responses from every household to determine the population count in the various states.

28. The Census Bureau's rules state that its enumeration procedures "are guided by the constitutional and statutory mandates to count ***all residents*** of the several states," including "[c]itizens of foreign countries living in the United States."[1]

29. Within nine months of the census date (in this case, by January 1, 2021), the Secretary of Commerce is required by statute to report to the President "the tabulation of ***total population*** by States . . . as required for the apportionment of Representatives in Congress among the several States." 13 U.S.C. § 141(b) (emphasis added).

30. Thereafter, the President is required by statute to transmit to Congress two sets of numbers. First, the President must provide "a statement showing the ***whole number of persons***

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[1] U.S. Census Bureau, *Residence Criteria and Residence Situations for the 2020 Census of the United States* at 1-2 (emphasis added), *available at* https://www.census.gov/content/dam/Census/programs-surveys/decennial/2020-census/2020-Census-Residence-Criteria.pdf (last accessed July 22, 2020).

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in each State, excluding Indians not taxed, as ascertained under the . . . decennial census of the population." 2 U.S.C. § 2a(a) (emphasis added).

31. Second, based on the census count of the "whole number of persons in each State," the President must specify "the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions, no State to receive less than one Member." *Id.*

32. "Each State" shall thereupon "be entitled" to the number of representatives "shown in" the President's statement to Congress, "until the taking effect of a reapportionment under this section or subsequent statute." 2 U.S.C. § 2a(b). It is "the duty of the Clerk of the House of Representatives, within fifteen calendar days after the receipt of [the President's] statement, to send to the executive of each State a certificate of the number of Representatives to which such State is entitled . . . ." *Id.*; *see Franklin*, 505 U.S. at 792.

33. The governing statute does not authorize the Secretary of Commerce to transmit to the President a number ***other than*** "the whole number of persons in each State," as determined by the census. Nor does it vest the President with discretion to base the apportionment calculation that he or she transmits to Congress on something ***other than*** "the whole number of persons in each State."

34. Indeed, in enacting this statute, members of Congress noted repeatedly that the President's role in calculating apportionment figures is ministerial—*i.e.*, that the statute directs the President "to report 'upon a problem in mathematics . . . for which rigid specifications are provided by Congress itself, and to which there can be but one mathematical answer.'" *Franklin*, 505 U.S. at 799 (quoting S. Rep. No. 2, 71st Cong., 1st Sess. at 4-5 (1929)); *see also* S. Rep. No. 2, 71st Cong., 1st Sess. at 4 (1929) (stating that the President shall report "apportionment tables"

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to Congress "pursuant to a purely ministerial and mathematical formula"); 71 Cong. Rec. 1858 (1929) (statement of Sen. Vandenberg) (stating that the "function served by the President [under this statute] is as purely and completely a ministerial function as any function on earth could be").

35. The Supreme Court, too, has recognized that "the President ***exercises no discretion*** in calculating the numbers of Representatives," and that his or her role in the apportionment calculation is therefore "***admittedly ministerial***." *Franklin*, 505 U.S. at 799 (emphasis added).

36. The Executive Branch has similarly conceded the exclusively ministerial nature of the President's role in translating the census data to an apportionment determination. *See* Reply Br. for the Federal Appellants at 24, *Franklin v. Massachusetts*, No. 91-1502 (U.S. Apr. 20, 1992), 1992 U.S. S. Ct. Briefs LEXIS 390 ("[I]t is true that the method [prescribed by 2 U.S.C. § 2a] calls for application of a set mathematical formula to the state population totals produced by the census"); Transcript of Oral Argument at 12-13, *Franklin v. Massachusetts*, No. 91-1502 (U.S. Apr. 21, 1992) (argument of Deputy Solicitor General Roberts) ("The law directs [the President] to apply, of course, a particular mathematical formula to the population figures he receives [from the Secretary of Commerce] . . . It would be unlawful [for the President] . . . just to say, 'these are the figures, they are right, but I am going to submit a different statement.'").

B. The Constitution Requires the President to Include All Persons in the Congressional Apportionment Base, Irrespective of Citizenship or Immigration Status

37. From the founding of our nation, all three branches of government have agreed that, independent of statutory law, the Constitution itself requires that the census count ***all*** "persons" residing in each State, irrespective of citizenship or immigration status, and that ***all*** such "persons" be included in the congressional apportionment base.

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38. As originally ratified, Article I, Section 2 of the Constitution provided that "Representatives . . . shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to ***the whole number of free persons***, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other Persons [*i.e.*, slaves]" (emphasis added). This infamous "Three-Fifths Compromise" did not exclude free non-citizens, who as a matter of plain meaning are "persons," from the apportionment base.

39. The Fourteenth Amendment was ratified following the Civil War. That amendment eliminated the "three-fifths" clause, but otherwise "retained total population as the congressional apportionment base." *Evenwel v. Abbott*, 136 S. Ct. 1120, 1128 (2016). Specifically, Section 2 of the Fourteenth Amendment provides that "Representatives shall be apportioned among the several states according to their respective numbers, counting ***the whole number of persons in each state***, excluding Indians not taxed" (emphasis added).

40. During the debates over the Fourteenth Amendment, Congress considered revising the apportionment formula to exclude persons ineligible to vote—a category which, Congress expressly recognized, included the "unnaturalized foreign-born." Cong. Globe, 39th Cong., 1st Sess., 1256 (1866) (remarks of Sen. Wilson). This proposal was soundly rejected, on the ground that "non-voting classes"—including unnaturalized immigrants—"have as vital an interest in the legislation of the country as those who actually deposit the ballot." *Evenwel*, 136 S. Ct. at 1128 (quoting Cong. Globe, 39th Cong., 1st Sess., 141 (1866) (remarks of Rep. Blaine)).

41. On several occasions since the Fourteenth Amendment's passage, Congress has considered measures to exclude "aliens," including undocumented immigrants, from the census count and/or apportionment base. "[I]t appears to have been generally accepted that such a result

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would require a constitutional amendment." *Fed. For Am. Immigration Reform (FAIR) v. Klutznick*, 486 F. Supp. 564, 576-77 (D.D.C.) (three-judge court), *appeal dismissed*, 447 U.S. 916 (1980).

42. In 1929, for example, the Senate Legislative Counsel concluded that, absent such an amendment, "statutory exclusion of aliens from the apportionment base would be unconstitutional." *Id.* (citing 71 Cong. Rec. 1821 (1929)).

43. Again in 1940, Congress considered whether "aliens who are in this country in violation of law have the right to be counted and represented." *Id.* (quoting 86 Cong. Rec. 4372 (1940)). Representative Celler of New York explained:

> The Constitution says that all persons shall be counted. I cannot quarrel with the founding fathers. They said that all should be counted. We count the convicts who are just as dangerous and just as bad as the Communists or as the Nazis, ***as those aliens here illegally***, and I would not come here and have the temerity to say that the convicts shall be excluded, if the founding fathers say they shall be included. The only way we can exclude them would be to pass a constitutional amendment.

Id. (emphasis added). On this basis, Congress rejected a proposal to exclude "aliens" from the apportionment base. *See id.*

44. The Executive Branch, too, has repeatedly recognized—under Presidents of both parties—that the Constitution requires that congressional apportionment take place on the basis of total population, irrespective of citizenship or immigration status.

45. For example, in 1980, under President Jimmy Carter, private plaintiffs filed a lawsuit in this District seeking to exclude "illegal aliens" from the census and the congressional apportionment base. *Klutznick*, 486 F. Supp. at 565. Opposing the suit, the U.S. Department of Justice ("DOJ") told this Court that the plaintiffs "s[ought] a radical revision of the constitutionally mandated system for allocation of Representatives to the States of the Union and

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an equally radical revision of the historic mission of the decennial census." Federal Defendants' Post-Argument Mem. at 1, *FAIR v. Klutznick*, No. 79-3269 (D.D.C. filed Feb. 15, 1980).

46. "[F]or 200 years," the DOJ told this Court, "the decennial census has counted all residents of the states irrespective of their citizenship or immigration status," and those counts had been employed in apportionment. *Id.* Given "the clear and unequivocal language of Section 2 of the Fourteenth Amendment," the DOJ urged, the "radical revision" that the plaintiffs sought could come only from "a constitutional amendment." *Id.* What is more, the DOJ explained, such a revision would be "patently unfair" to residents of communities in which undocumented immigrants live, as undocumented immigrants "demand[] precisely the same level of the services from the municipalities and states in which [they] reside as do all other citizens." *Id.* at 12.

47. In 1988, under President Ronald Reagan, the Director of the Office of Management and Budget sought the views of the DOJ on yet another proposal to exclude "illegal aliens" from congressional apportionment base. The DOJ concluded that the proposed legislation was "unconstitutional." Letter from Thomas M. Boyd, Acting Assistant Attorney General, dated June 29, 1988, at 5.[2] In the DOJ's view, it was "clear" that, under the Fourteenth Amendment, "all persons, ***including aliens residing in this country***, [must] be included" in the congressional apportionment base. *Id.* at 2 (emphasis added). In fact, the DOJ noted, the Reconstruction Congress "rejected arguments that representation should be based on people with permanent ties to the country" and "consciously chose to include aliens." *Id.* at 2-3.

48. In its 1988 opinion, the DOJ went on to explain that, for apportionment purposes, the Fourteenth Amendment makes no distinction between "aliens" who are and are not lawfully

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[2] *Included in* 1990 Census Procedures and Demographic Impact on the State of Michigan: Hearing Before the Committee on Post Office and Civil Service, House of Representatives, One Hundredth Congress, Second Session, June 24, 1988 at 240 (United States: U.S. Government Printing Office 1988).

present in the United States. Furthermore, DOJ explained, in analyzing the Fourteenth Amendment, "the Supreme Court . . . has read the word 'person' to include illegal aliens." *Id.* at 3-4 (citing *Plyler v. Doe*, 457 U.S. 202, 210 (1982)).

49. In 1989, under President George H. W. Bush, the DOJ issued a similar opinion. Once again, a Senator had "requested the views of the Department of Justice concerning the constitutionality of proposed legislation excluding illegal or deportable aliens from the decennial census count." Letter from Carol T. Crawford, Assistant Attorney General, dated Sept. 22, 1989, at 1, 135 Cong. Rec. S12235 (1989). The DOJ responded that "section two of the Fourteenth Amendment which provides for 'counting the whole number of persons in each state' and the original Apportionment and Census Clauses of Article I section two of the Constitution ***require that inhabitants of States who are illegal aliens be included*** in the census count." *Id.* (emphasis added). At that time, current Attorney General William Barr was the head of DOJ's Office of Legal Counsel. In that position, he would be expected to have reviewed and approved the DOJ opinion.

50. In 2015, under President Barack Obama, the DOJ once again took the position—this time in briefing to the Supreme Court—that Article I, § 2 and the Fourteenth Amendment "were purposely drafted to refer to 'persons,' rather than to voters, and to include people who could not vote"—specifically including "aliens." Brief for the United States as *Amicus Curiae*, *Evenwel v. Abbott*, No. 14-940, at 18 (quoting Cong. Globe, 39th Cong., 1st Sess. 141, 359), 2015 U.S. S. Ct. Briefs LEXIS 3387. In the DOJ's words, this is because "the federal government act[s] in the name of (and thereby represent[s]) all people, whether they [are] voters or not, and whether they [are] citizens or not." *Id.* at 19.

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51. The judiciary, too, has long echoed this consensus. For over fifty years, the U.S. Supreme Court has found it "abundantly clear . . . that in allocating Congressmen the number assigned to each state should be determined solely by the number of the State's inhabitants." *Wesberry v. Sanders*, 376 U.S. 1, 13 (1964).

52. Just four years ago, the Supreme Court unanimously reaffirmed that the Constitution "select[s] . . . total population as the basis for allocating congressional seats, . . . ***whether or not [individuals] qualify as voters***." *Evenwel*, 136 S. Ct. at 1129. Because immigration was at the center of the controversy in *Evenwel*,[3] it is beyond question that the Supreme Court had non-citizen immigrants in mind when it made this declaration.

53. Lower courts, too, have determined that "illegal aliens . . . are clearly 'persons'" for purposes of congressional apportionment, and that "the population base for purposes of apportionment" must therefore "include[] all persons, ***including aliens both lawfully and unlawfully within our borders***." *Klutznick*, 486 F. Supp. at 576 (emphasis added).

54. To Plaintiffs' knowledge, no court has ever held otherwise.

C. In Violation of Statute and the Constitution, The President Has Purported to Exclude Undocumented Immigrants from Congressional Apportionment

55. On July 21, 2020, without any advance notice to the public, the President issued a proclamation titled "Memorandum on Excluding Illegal Aliens from the Apportionment Base Following the 2020 Census" (the "Memorandum").[4] Breaking with almost 250 years of

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[3] *See, e.g.*, Brief of Eagle Forum as *Amicus Curiae* for Appellants, *Evenwel v. Abbott*, No. 14-940, at 2, 2015 U.S. S. Ct. Briefs LEXIS 2687 (complaining of the "influx of non-citizens in[to] urban areas"); Brief of Immigration Reform Law Institute as *Amicus Curiae* for Appellants, *Evenwel v. Abbott*, No. 14-940, at 1, 2015 U.S. S. Ct. Briefs LEXIS 2724 (complaining of the "harms . . . posed by mass migration to the United States, both lawful and unlawful").

[4] *Available at* https://www.whitehouse.gov/presidential-actions/memorandum-excluding-illegal-aliens-apportionment-base-following-2020-census/ (last accessed July 23, 2020).

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precedent, the Memorandum declares that it is now "the policy of the United States to exclude from the [congressional] apportionment base aliens who are not in a lawful immigration status under the Immigration and Nationality Act, as amended (8 U.S.C. 1101 *et seq.*), to the maximum extent feasible . . . ." Memorandum § 2.

56. To implement that purported "policy," the Memorandum states that, when the President "transmits . . . to the Congress" his report "regarding the 'whole number of persons in each State'" and the consequent "number of Representatives to be apportioned to each State," he will unilaterally "exclude . . . aliens who are not in a lawful immigration status" from the figures that he transmits. *Id.* §§ 1, 2. The Memorandum further asserts that these manipulated figures created at the President's direction, and not the actual "whole number of persons in each State," as provided in the governing statute, shall then "'settle[] the apportionment' of Representatives among the States." *Id.* § 1.

57. To enable the President to prepare this manipulated apportionment, the Memorandum orders the Secretary of Commerce to "take all appropriate action . . . to provide information permitting the President . . . to carry out the policy set forth in . . . this memorandum." *Id.* § 3. Presumably, this includes providing the President with "data on the number of citizens, non-citizens, and illegal aliens in the country," which the President had earlier commanded the Department of Commerce to collect to permit the President to accomplish this purpose. *Id.* § 1 (citing Executive Order 13880, July 11, 2019).

58. The Memorandum makes no serious attempt to square the President's new "policy" with the governing statutory and constitutional provisions described above or with over two centuries of contrary practice. Instead, the Memorandum purports to justify this "policy" based on the President's own view that "[e]xcluding . . . illegal aliens from the apportionment

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base is more consonant with the principles of representative democracy underpinning our system of Government." *Id.* § 2. The Memorandum also relies on the unexceptional premise that transient ***visitors*** to a State are not included in census numbers to argue that ***inhabitants*** of a state can be excluded based on their immigration status.

59. The President is not free to substitute his own personal judgment for those that have already been made by the Congress that enacted 2 U.S.C. § 2a and by the framers and ratifiers of Article I, § 2 and the Fourteenth Amendment. As explained above, the President's duty in preparing and transmitting the apportionment calculations to Congress is purely ministerial. There is no room under the statutory scheme for his exercise of judgment concerning what is most "consonant with the principles of representative democracy." And even if the statutory scheme permitted the President to exercise such judgment, he would of course be restrained by the Constitution's clear command.

D. The Memorandum is the Latest in a Series of Unlawful Attempts to Manipulate Apportionment to Deprive Minorities of Political Power

60. The Memorandum is not the first time that this Administration has sought to manipulate the census and apportionment process to deprive immigrants and racial and ethnic minorities of political power. To the contrary, it is the latest in an interconnected series of unlawful actions that this Administration has taken for that purpose.

61. The planning for these actions predated the start of this Administration. In August 2015, the now-deceased Republican redistricting guru Thomas B. Hofeller prepared a secret study for a major Republican donor titled "The Use of Citizen Voting Age Population in

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Redistricting" (the "Hofeller Study").[5] According to the New York Times, Hofeller had already "achieved near-mythic status in the Republican party as the Michelangelo of gerrymandering, the architect of partisan political maps that cemented the party's dominance across the country."[6] The Hofeller Study fortuitously came to light only after he died and his estranged daughter made his personal storage devices available to Plaintiff Common Cause.

62. In his study, Hofeller concluded that "[a] switch to the use of citizen voting age population as the redistricting population base"—in lieu of total population, as presently used—"would be ***advantageous to Republicans and non-Hispanic whites***" and would dilute the political power of Hispanics. Hofeller Study at 9 (emphasis added). The problem, Hofeller explained, was that insufficient information was available to accurately determine the States' citizen voting-age population for purposes of reapportionment. Without "add[ing] a citizenship question to the 2020 Decennial Census form," he concluded, such a switch would be "functionally unworkable." *Id.* at 4.

63. Notably, the Hofeller Study addressed only the possibility of changing the population base for *state*-level redistricting. This is because Hofeller knew that the Constitution and federal law expressly require use of total population as an apportionment base at the *federal* level. Even in his most ambitious private scheming, Hofeller did not imagine that the apportionment base for the U.S. Congress could be changed.

64. When Defendant Trump was elected to the presidency in 2016, Hofeller "urg[ed] [his] transition team to tack the [citizenship] question onto the census." The transition staffer

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[5] *Available at* https://www.commoncause.org/wp-content/uploads/2019/05/2015-Hofeller-Study.pdf (last accessed July 23, 2020).

[6] Michael Wines, *Deceased G.O.P. Strategist's Hard Drives Reveal New Details on the Census Citizenship Question*, New York Times, May 30, 2019, *available at* https://www.nytimes.com/2019/05/30/us/census-citizenship-question-hofeller.html (last accessed July 23, 2020).

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with whom Hofeller spoke then discussed the issue with Defendant Ross and his advisors several times in the early days of the Administration. Soon thereafter, Hofeller ghostwrote "the key portion of a draft Justice Department letter" that claimed—falsely, and with no small amount of irony—that "the [citizenship] question was needed to enforce the 1965 Voting Rights Act," a statute intended to protect the political power of racial and ethnic minorities.[7]

65. The rest is already well-known. *See generally Dep't of Commerce v. New York*, 139 S. Ct. 2551 (2019). In March 2018, Defendant Ross, in his capacity as Secretary of Commerce, announced his intent "to reinstate a question about citizenship on the 2020 decennial census questionnaire." *Id.* at 2562. Ross "stated that he was acting at the request of the [DOJ], which sought improved data about citizen voting-age population for purposes of enforcing the Voting Rights Act . . . ." *Id.*

66. Of course, this rationale was pretextual. The real reason for Ross's decision was that stated by Hofeller in his 2015 study: to provide the data necessary to enable the change in apportionment base from total population to citizen voting-age population, and thereby maximize the political power of "Republicans and non-Hispanic whites."

67. Shortly after Ross announced his decision, two groups of plaintiffs filed suit to block the citizenship question. After a bench trial, a federal district court in New York ruled (among other things) "that the Secretary's action was arbitrary and capricious" and "based on a pretextual rationale." *Id.* at 2564. The Supreme Court granted certiorari before judgment and affirmed, agreeing with the district court that "the Secretary's decision must be set aside because it rested on a pretextual basis." *Id.* at 2573.

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[7] Wines, *Deceased G.O.P. Strategist's Hard Drives Reveal New Details on the Census Citizenship Question*, *supra*.

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68. In particular, the Supreme Court found that "the [Voting Rights Act] played an insignificant role in the decisionmaking process." *Id.* at 2574. Instead, "the Secretary was determined to reinstate a citizenship question from the time he entered office; instructed his staff to make it happen; waited while Commerce officials explored whether another agency would request census-based citizenship data; subsequently contacted the Attorney General himself to ask if DOJ would make the request; and adopted the Voting Rights Act rationale late in the process" as a "distraction" from his true, invidious motive. *Id.* at 2575-76.

69. On July 5, 2019, just days after the Supreme Court rendered its decision, President Trump admitted what the true reason for the citizenship question had always been. At a press conference, he was asked: "What's the reason . . . for trying to get a citizenship question on the census?" Contrary to what the Administration had maintained in the census litigation, the President answered: "Congress. You need it for Congress, for districting."[8]

70. With the citizenship question now quashed, however, the Administration sought another way to implement their goal of changing the apportionment base to shift political power to "Republicans and non-Hispanic whites." Thus, on July 11, 2019—six days after his press-conference remarks—the President issued Executive Order 13880, titled "Collecting Information About Citizenship Status in Connection with the Decennial Census." 84 Fed. Reg. 33821.

71. In that Executive Order, the President recognized that it was now "impossible . . . to include a citizenship question on the 2020 decennial census questionnaire." *Id.* Instead, as a backup plan, the President "determined that it is imperative that all executive departments and agencies . . . provide the [Commerce] Department the maximum assistance permissible . . . in

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[8] Remarks by President Trump Before Marine One Departure, July 5, 2019, *available at* https://www.whitehouse.gov/briefings-statements/remarks-president-trump-marine-one-departure-51/ (last accessed July 23, 2020).

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determining the number of citizens and non-citizens in the country, including by providing any access that the Department may request to administrative records that may be useful in accomplishing that objective." *Id.* To that end, the President "order[ed] all agencies to share information requested by the [Commerce] Department." *Id.* at 33822. He also "direct[ed] the Department to strengthen its efforts . . . to obtain State administrative records concerning citizenship." *Id.*

72. For the first time, the President specifically called out the importance of "generat[ing] an estimate of the aggregate number of aliens ***unlawfully*** present in each State." *Id.* at 33823 (emphasis added). In addition, the President once again openly acknowledged the true reason why, from the outset, his Administration had been so intently set on collecting citizenship data: not improving enforcement of the Voting Rights Act, but rather, enabling Hofeller's plan to "design . . . legislative districts based on the population of voter-eligible citizens," rather than total population. *Id.* at 33823-24.

73. There is a clear through-line running through all of the above actions and decisions: from Hofeller's original 2015 plan to change the basis of apportionment, which required new citizenship data; to Ross's decision—at Hofeller's urging—to place a citizenship question on the census, while giving a pretextual reason to mask his true motive; to the President's Executive Order instructing the Commerce Department to collect citizenship data through alternate means; to the President's recent Memorandum purporting to unilaterally shift the basis of congressional apportionment. All of these actions are part of an unconstitutional concerted effort to shift political power away from racial and ethnic minorities, chiefly Latinos, to "Republicans and non-Hispanic whites."

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E. Plaintiffs' Injuries as a Result of the Challenged Conduct

74. The unlawful conduct alleged herein has caused, is causing, and unless enjoined, will cause Plaintiffs to suffer various injuries in fact.

75. As recognized in the Hofeller Study, removing undocumented immigrants from the apportionment base "alienat[es] Latino voters" and other voters of color, who "perceive [such] a switch . . . as an attempt to diminish their voting strength." Hofeller Study at 4. In addition to inflicting alienation, it does, in fact, diminish the voting strength of these groups. *See id.* at 6-7.

76. As alleged above, many of the individual Plaintiffs are voters of color, as are many members of the organizational Plaintiffs and many residents of the city Plaintiffs. These include Latinos, African-Americans, Asian-Americans, and voters of other racial and ethnic backgrounds. These voters have suffered dignitary harm as a result of Defendants' challenged actions. They are also certain to suffer diminished voting strength if those actions are not enjoined.

77. Removing undocumented immigrants from the apportionment base also dilutes the votes and diminishes the representational rights of ***citizens***—of all races and ethnicities—who live in jurisdictions with an above-average number of undocumented immigrants. *See* Hofeller Study at 6. As the Department of Justice has previously argued, "[i]t would be patently unfair to penalize" these citizens "by depriving them of fair representation in Congress" and diluting their voting strength merely because "a certain number of members of their community are . . . in the class of potentially deportable aliens." Federal Defendants' Post-Argument Mem. at 12, *FAIR v. Klutznick*, No. 79-3269 (D.D.C. filed Feb. 15, 1980).

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78. Many of the individual Plaintiffs, many members of the organizational Plaintiffs, and many residents of the city Plaintiffs live in areas with an above-average number of undocumented immigrants. These persons are certain to suffer vote dilution and diminished representational rights if Defendants' challenged actions are not enjoined.

79. The President has already acknowledged as much. The Memorandum expressly notes that one state—California—has "more than 2.2 million illegal aliens" and that the exclusion of those undocumented immigrants from the apportionment base could cost California "two or three . . . congressional seats." Memorandum § 2. Plaintiffs Common Cause and PANA have members residing in California whose votes would be diluted and who would lose representation under the Memorandum's apportionment regime.

80. By the same token, the State of New York had approximately 725,000 undocumented immigrants in 2016, a number that has likely increased since then.[9] If implemented, the Memorandum's apportionment regime would likely result in the loss of one of New York's congressional seats, as each seat in New York presently corresponds to approximately 719,000 people.[10] As alleged above, a number of the individual Plaintiffs reside in New York, as do many members of Plaintiff Common Cause. Their votes would be diluted, and they would lose representation, under the Memorandum's apportionment regime.

81. Similarly, the State of Georgia has approximately 400,000 undocumented immigrants—enough to potentially cost the State one congressional seat if they were not

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[9] American Immigration Council, *Fact Sheet: Immigrants in New York*, https://www.americanimmigrationcouncil.org/research/immigrants-in-new-york (last accessed July 23, 2020).

[10] *2012 – 2020 Federal Representation by People per House Seat, Senate Seat, and Electors*, The Green Papers, https://www.thegreenpapers.com/Census10/FedRep.phtml (last accessed July 23, 2020).

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counted.[11] Plaintiff City of Atlanta is located in Georgia, as are many members of Plaintiff Common Cause. The votes of their residents and members would be diluted, and they would lose representation, under the Memorandum's apportionment regime.

82. In addition, as the Department of Justice has recognized, removing undocumented immigrants from the apportionment base "require[s]" residents of areas with an above-average number of undocumented immigrants—including residents who are U.S. citizens—"to assume a greater burden of the cost of state and municipal services" merely because the President has now "determined that a certain percentage of the residents of their community do not exist for purposes of allocation of federal census-based fiscal assistance." Federal Defendants' Post-Argument Mem. at 12, *FAIR v. Klutznick*, No. 79-3269 (D.D.C. filed Feb. 15, 1980).

83. Again, many of the individual Plaintiffs, many members of the organizational Plaintiffs, and many residents of the city Plaintiffs live in areas with an above-average number of undocumented immigrants. These persons are certain to suffer fiscal burdens, including increased costs of state and municipal services, if the challenged actions are not enjoined.

84. These increased costs would be felt especially acutely by the city Plaintiffs, which must necessarily provide municipal services to citizens, documented immigrants, and undocumented immigrants on an equal basis. *See, e.g.*, *Holt Civic Club v. Tuscaloosa*, 439 U.S. 60, 74 (1978) (noting that "police, fire, and health protection" are "basic municipal services" whose delivery to all residents is a "city's responsibility"); *Plyler*, 457 U.S. 202 (holding that the right to a free public education extends to minor undocumented immigrants).

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[11] American Immigration Council, *Fact Sheet: Immigrants in Georgia*, https://www.americanimmigrationcouncil.org/research/immigrants-in-georgia (last accessed July 23, 2020).

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85. For example, the State of Georgia reportedly has the seventh-largest number of undocumented immigrants in the United States, many of them concentrated in the city of Atlanta. If undocumented immigrants were removed from the apportionment base, Plaintiff City of Atlanta would have to continue to provide these municipal services to those residents without receiving federal resources and representation commensurate with their numbers.

86. Plaintiff PANA, moreover, would suffer certain harm to its organizational mission if the challenged actions are not enjoined. Again, PANA's mission centers around providing support to immigrant communities, including foreign nationals who have resettled and continue to seek refuge in the San Diego region. Because the San Diego region has a higher-than-average number of undocumented immigrants, removing undocumented immigrants from the apportionment base would reduce the federal resettlement resources directed to that region—resources on which PANA depends to carry out its mission.

87. Importantly, whatever figures the President transmits to Congress in January 2021, the issuance of the Memorandum is ***already*** inflicting irreparable injury on Plaintiffs. The census count is ongoing and is not expected to conclude until the end of October.[12] At this moment, the Memorandum is causing fear and confusion among the immigrant population and reducing the likelihood that immigrants (both documented and undocumented) will respond to the census survey.[13] Unless Defendants' actions are declared unlawful and void now, before the

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[12] *Important Dates*, United States Census 2020, https://2020census.gov/en/important-dates.html (last accessed July 23, 2020).

[13] *See, e.g.*, *Exclusion of undocumented immigrants from the Census is unconstitutional*, El Sol Latino, July 22, 2020, https://elsolnewsmedia.com/jim-kenney-exclusion/ (last accessed July 23, 2020) (reporting statement of the mayor of Philadelphia that the Memorandum "appears targeted to suppress census participation and create fear and confusion among undocumented immigrant communities"); Kendall Ashman, *President's memo to exclude undocumented immigrants from 2020 census apportionment count*, ABC 40/29 News, July 22, 2020, https://www.4029tv.com/article/presidents-memo-to-exclude-undocumented-immigrants-from-2020-census-apportionment-count/33397647# (last accessed July 23,

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conclusion of the count, the results of the census—and the consequent impact on congressional apportionment—will be irretrievably altered. It will be too late to remedy these harms in January 2021, when President is scheduled to transmit the results of the count to Congress.

COUNT I
Violation of U.S. Const., Art. I, § 2, cl. 3 and U.S. Const., amend. XIV, § 2

88. Plaintiffs incorporate by reference and reallege all allegations set forth in the preceding paragraphs.

89. As set forth above, Art. I, § 2, cl. 3, as modified by Section 2 of the Fourteenth Amendment, provides that "Representatives shall be apportioned among the several states according to their respective numbers, counting ***the whole number of persons in each state***, excluding Indians not taxed." U.S. Const., amend. XIV, § 2.

90. Since the Founding, all three branches of the federal government have consistently agreed that "the whole number of persons in each state" includes non-citizens, irrespective of their immigration status—and, consequently, that non-citizens must be counted in the census and included in the basis for congressional apportionment.

2020) (reporting view of Arkansas immigrant organization that "the president's memo will potentially scare immigrant communities from taking part" in the census count); Alexandra Watts, *Charlotte Reacts to Trump's Proposed Census Changes*, WFAE, July 22, 2020 https://www.wfae.org/post/charlotte-reacts-trumps-proposed-census-changes-0#stream/0 (last accessed July 23, 2020) (reporting that "[m]embers of North Carolina's Latino community say those who are in the country illegally will be even more fearful of filling out the 2020 census after President Trump released [the Memorandum]"); *Trump excluding those in US illegally from reapportionment*, Adirondack Daily Enterprise, July 22, 2020, https://www.adirondackdailyenterprise.com/news/politics/2020/07/trump-excluding-those-in-us-illegally-from-reapportionment/ (last accessed July 23, 2020) (reporting that the Memorandum has "dr[awn] fury and backlash from critics who alleged that it was intended to discourage participation in the [census] survey, not only by people living in the country illegally but also by citizens who fear that participating would expose noncitizen family members to repercussions"); Micah Danney, *SPLC calls Trump census memo unlawful and unconstitutional*, Alabama Reporter, July 22, 2020, https://www.alreporter.com/2020/07/22/splc-calls-trump-census-memo-unlawful-and-unconstitutional/ (last accessed July 23, 2020) (reporting statement of the Southern Poverty Law Center that "the memo will cause widespread confusion and deter people from participating in the census").

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91. By purporting to exclude undocumented immigrants from the basis for congressional apportionment, the President has violated Art. I, § 2, cl. 3 of the U.S. Constitution and Section 2 of the Fourteenth Amendment to the U.S. Constitution.

92. These violations have caused, are causing, and unless Defendants are enjoined, will continue to cause Plaintiffs to suffer injury-in-fact as alleged above.

COUNT II
Violation of Equal Protection Clause – Vote Dilution and Representational Injury

93. Plaintiffs incorporate by reference and reallege all allegations set forth in the preceding paragraphs.

94. The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, made applicable to the federal government via the Due Process Clause of the Fifth Amendment, provides that the government may not "deny to any person within its jurisdiction the equal protection of the laws." U.S. Const., amend. XIV, § 1, cl. 2.

95. In particular, the Equal Protection clause prohibits the government from taking action in the apportionment process that dilutes or debases the weight of a voter's vote based on the happenstance of where that voter lives. *See Reynolds v. Sims*, 377 U.S. 533 (1964); *Wesberry v. Sanders*, 376 U.S. 1 (1964).

96. By purporting to exclude undocumented immigrants from the congressional apportionment base, Defendants have unlawfully diluted Plaintiffs' votes (or the votes of their members and/or residents) by requiring them to live and vote in congressional districts with a population that is higher than an equal proportion of persons as determined by the census and as required by the Constitution. Similarly, Defendants have caused Plaintiffs (or their members and/or residents) to suffer representational injury by forcing them to compete for their

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Representative's limited attention and resources with an artificially high number of fellow-constituents.

97. These violations have caused, are causing, and unless Defendants are enjoined, will continue to cause Plaintiffs to suffer injury-in-fact as alleged above.

COUNT III
Violation of Equal Protection Clause – Invidious Discrimination

98. Plaintiffs incorporate by reference and reallege all allegations set forth in the preceding paragraphs.

99. The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, made applicable to the federal government via the Due Process Clause of the Fifth Amendment, provides that the government may not "deny to any person within its jurisdiction the equal protection of the laws." U.S. Const., amend. XIV, § 1, cl. 2.

100. In particular, the Equal Protection Clause prohibits the government from taking adverse action against any person on the basis of race, ethnicity, or national origin. *See Flowers v. Mississippi*, 139 S. Ct. 2228 (2019). This prohibition extends to the apportionment process, and encompasses not only "explicit racial classifications, but also . . . laws neutral on their face but 'unexplainable on grounds other than race.'" *Miller v. Johnson*, 515 U.S. 900, 905 (1995).

101. As alleged above, the President's Memorandum is the culmination of a years-long effort to transfer political power *en masse* from voters of color—chiefly, but not exclusively, Latino voters—to "Republicans and non-Hispanic whites." In other words, the Memorandum, and the policy changes embodied therein, was motivated by intentional invidious discrimination on the basis of race, ethnicity, and/or national origin.

102. These violations have caused, are causing, and unless Defendants are enjoined, will continue to cause Plaintiffs to suffer injury-in-fact as alleged above.

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COUNT IV
Violation of 2 U.S.C. § 2a and 13 U.S.C. § 141

103. Plaintiffs incorporate by reference and reallege all allegations set forth in the preceding paragraphs.

104. As set forth above, 13 U.S.C. § 141(b) requires the Secretary of Commerce to transmit to the President "the tabulation of ***total population*** by States . . . as required for the apportionment of Representatives in Congress."

105. Thereafter, 2 U.S.C. § 2a(a) requires the President to transmit to Congress "a statement showing the ***whole number of persons*** in each State . . . as ascertained under the . . . decennial census" and "the number of Representatives to which each State would be entitled" applying the so-called "method of equal proportions" to ***that*** "whole number of persons."

106. These statutes do not authorize the Secretary of Commerce to transmit to the President any number ***other*** than the "total population by States." Nor do they authorize the President to transmit to Congress, or to calculate apportionment based on, any number ***other*** than the "whole number of persons in each State . . . as ascertained under the . . . decennial census."

107. The President's statutory role in this calculating the apportionment figures is purely ministerial and neither calls for, nor permits, the President's exercise of discretion with regard to the proper apportionment basis or the proper underlying theory of democratic representation.

108. By purporting to require the Secretary of Commerce to transmit to the President population figures concerning or adjusted to exclude undocumented immigrants, and by purporting to exclude undocumented immigrants in the apportionment of congressional representatives, the President has violated 2 U.S.C. § 2a(a) and has commanded the Secretary of Commerce to violate 13 U.S.C. § 141(b).

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109. These violations have caused, are causing, and unless Defendants are enjoined, will continue to cause Plaintiffs to suffer injury-in-fact as alleged above.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for injunctive and declaratory relief as requested above under 42 U.S.C. § 1983 and 28 U.S.C. § 2201(a), and more specifically pray for:

A. A declaration that the Memorandum, and the other actions challenged herein, are unauthorized by and contrary to the Constitution and laws of the United States, and therefore are null, void, and without force;

B. A preliminary injunction and permanent injunction halting and restraining Defendants' violations of the U.S. Constitution and laws of the United States alleged herein, by ordering, among other things:

1. That Defendant Ross, Defendant U.S. Department of Commerce, and their employees and agents (a) not transmit to the President any data regarding citizenship or immigration status; (b) not transmit to the President any census-related data or calculation other than the whole number of persons residing in each State, excluding Indians not taxed; and (c) provide no support or assistance of any kind to the President in carrying out his stated intent to exclude persons from his enumeration and apportionment determinations on the basis of citizenship or immigration status;

2. That Defendant Trump include all of the inhabitants of each State, excluding Indians not taxed, without respect to such inhabitants' citizenship or immigration status, in the enumeration and apportionment calculations that he prepares and transmits to Congress; and

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3. That Defendant Johnson neither certify nor transmit to the States any purported apportionment determination by the President that excludes persons from the apportionment base on the basis of their citizenship or immigration status.

C. An award of Plaintiffs' reasonable fees, costs, and expenses, including attorney's fees, pursuant to 28 U.S.C. § 2412; and

D. Such other and further relief as the Court may deem just and proper.

DATED: July 23, 2020

/s/ *Daniel S. Ruzumna*

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Attached is the complete package with the slides and all backup (also faxing to DC).