From: Walsh, Michael (Federal) [MWalsh@doc.gov]
Sent: 4/19/2020 4:05:59 PM
To: Ahmad, Ali M [ali.m.ahmad@census.gov]
Subject: Re: Updated. Deliberative and Pre-Decisional.
Attachments: Cover Page.docx

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
O: 301-763-8789| M: b(6)
Ali.M.Ahmad@census.gov
census.gov | @uscensusbureau

From: Ron S Jarmin (CENSUS/DEPDIR FED) [Ron.S.Jarmin@census.gov]
Sent: 8/2/2020 9:52:54 AM
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: Tentative

Recurrence: (none)

Join online meeting

Join by Phone

b(6) Dial-in Number) English (United States)

Find a local number

Conference ID: b(6)

Forgot your dial-in PIN? | Help

ONLINE MEETING SECURITY: Please be advised that anyone who obtains a copy of a Skype for Business online meeting invitation can join the online meeting as an "unauthenticated guest." This may include people outside of CENSUS that were not invited by the meeting organizer. It is the responsibility of the meeting presenter to ensure that any unauthenticated guests waiting in the "Lobby" are verified before they are allowed into the online meeting. CENSUS staff can click the "Help" link above for more details on how to join a skype online meeting.

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 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-0000000600

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-0000000601

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-0000000602

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-0000000603

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-0000000605

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.
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-0000000607

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.

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-0000000609

Questions?

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United States Census 2020

From: Ron S Jarmin (CENSUS/DEPDIR FED) [Ron.S.Jarmin@census.gov]
Sent: 4/20/2020 11:59:19 AM
To: Ahmad, Ali M [ali.m.ahmad@census.gov]; Walsh, Michael (Federal) [MWalsh@doc.gov]; Kelley, Karen (Federal) [KKelley@doc.gov]
CC: Fontenot, Albert E [albert.e.fontenot@census.gov]; Christy, James T [james.t.christy@census.gov]; Lamas, Enrique [enrique.lamas@census.gov]
Subject: Backgroiund
Attachments: Post Data Collecxtion Narravtive-1.docx; Copy of Post Processing Calculator.xlsx

Here's some background on post-collection processing. Key is the sequential nature of the these activities and the unique skills and training of those doing them. Al, Jamey, Enrique and I are standing by.

Ron S Jarmin, PhD., Deputy Director
U.S. Census Bureau
o: 301-763-1858 | m: b(6)
census.gov | @uscensusbureau
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Post Data Collection Operations Activities
Working Draft: April 16, 2020

A. Completion of the field data collection operation
    a. Produce the address update files

B. Incorporate address updates from the field data collection operations into MAF/TIGER
    a. Receive, process and apply address and spatial updates to MAF/TIGER
    b. Assign a geocode to each address enumerated in the 2020 Census, which involves associating each address to a state, county, tract, block group and block
    c. Verify the address and spatial updates
    d. Incorporate into the MAF/TIGER

C. Produce the Final Collection Geography MAF/TIGER Benchmark
    a. Run address and geography quality checks
    b. Establish location (geocoding) of all addresses
    c. Create the MAF/TIGER snapshot with final collection geography

D. Produce the Final Collection Address Data Products from MAF/TIGER
    a. Create and verify the MAF/TIGER extracts with final collection geography
    b. Deliver the MAF/TIGER extract to Decennial Response File 1 processing

E. Produce the Decennial Response File 1 (DRF1)
    a. Reconciling housing and group quarter status
    b. Reconciling GQ population counts
    c. Reconciling MAFIDS
    d. Determining residence coding (UHE)
    e. identifying unique data defined persons within a HU
    f. Unduplication of people from eREsponse Group Quarters
    g. Unduplication of non-ID responses
    h. Verify Fail file from SMaRCS (Nonresponse Followup reinterview)
    i. Standardize response data across modes
    j. Determine final demographic variables from response data
    k. Standardize demographic data for person matching
    l. Link continuation forms
    m. Reconcile GQ population
    n. Adjudicate household population
    o. Perform Service Based Enumeration unduplication
    p. Review and verify the DRF1

F. Produce the Decennial Response File 2 (DRF2)
    a. Ingest and verify Self Response Quality Assurance (SRQA) results data from CDL
    b. Ingest and verify PSA across housing unit matching data
    c. Ingest and Verify PSA across GQ matching data
    d. Process SRQA results
    e. PSA selects the data, if any, from the Decennial Response File (DRF) to represent a housing unit and/or group quarters
    f. Secure Domestic Violence Shelters (DVS)
    g. Review and verify the DRF2

G. Produce the Census Unedited File (CUF)
    a. Determine housing unit status from PSA and including Administrative records housing unit file from CDL and USPS undeliverable as addressed (UAA)
    b. Determine the preliminary CUF Universe (PCUF)
    c. Set the PCUF outcome variables for GQ's
    d. Determine status of occupied, vacant, deleted or unresolved housing units
    e. Append Hispanic origin and race write-in codes
    f. Define and create Input variables for Imputation
    g. Incorporate administrative records data
    h. Identify addresses requiring count imputation and assign parameters
    i. Impute housing unit status and population count with nearest neighbor hot deck and assign household size
    j. Review and verify the CUF

H. Produce the Apportionment Counts
    a. Receive and ingest the Federally Affiliated Count Overseas (FACO) File
    b. Verify and resolve issues the counts in the FACO File and resolve issues
    c. Receive and ingest the MAF ID State Change (MISC) File
    d. Verify the MISC File and resolve issues
    a. Receive and ingest the CUF
    b. Verify the counts in the CUF and resolve issues
    c. Calculate Apportionment Counts – multiple independent calculations
    d. Compare results across independent calculations
    e. Resolve any issues found during verification and re-verify
    f. Create and verify tables for Apportionment Transmittal Package
    g. Deliver transmittal tables to Population Division Chief
    h. Deliver final cleared apportionment tables to CQAS/PIO/GEO
    i. Create and verify apportionment maps
    j. Assembles the apportionment transmittal package and coordinates review within BOC
    k. Produce pre-approved ancillary materials, such as press release statement, press conference presentation, talking points, and internal briefing book
    l. Verify contents of ancillary materials
    m. BOC Director Delivers the apportionment transmittal package to the Secretary of Commerce
    n. Secretary of Commerce delivers the Apportionment Counts to the President
    o. Press conference and public release of the Apportionment Counts

I. Produce the Census Edited File (CEF)
   a. Ingest CUF data
   b. Merge in administrative records data
   c. Perform pre-edits on HU and GQ demographic data
   d. Perform substitution
   e. Perform household edit and formulation
   f. Perform recodes for specified data, including several race and Hispanic origin data recodes
   g. Perform tenure edit and allocation as well as vacancy status edit/allocation
   h. Create housing and person file recodes
   i. Create the CEF
   j. Review and verify the CEF

J. Produce the Microdata Detail File (MDF)
   a. Create and verify an United States person level file
   b. Create and verify a Puerto Rico person level file
   c. Create and verify an United States household level file
   d. Create and verify a Puerto Rico household level file
   e. Transfer the person and household level files to the tabulation system

K. Produce the P.L. 94-171 Data Products

   a. Ingest and verify the MDF
   b. Add variable recodes
   c. Ingest and verify the final tabulation geography
   d. Provide geographic data to CEDSCI
   e. Produce the P.L. 94-171 data products/tables and metadata
   f. Upload the P.L. 94-171 data products into CEDSCI and the internal published location
   g. CEDSCI ingests data files and metadata for review (early review system)
   h. Deliver the Aggregate Display and New Dataset XML files to CEDSCI for the API
   i. Produce the P.L. 94-171 Data Products (Begin weekly iteration[1] of activities to support the five Tiers[2])
      i. CEDSCI ingest data files and metadata for review (final review system)
      ii. Add weekly Tier of data to the API
      iii. Create DVDs and Flash Drives for distribution to the States
         1. Convert data to disc format
         2. Generate master production disc and flash drive
         3. Scan masters for viruses or other compromised code
         4. Review and test disc and flash drive masters
         5. Produce discs and flash drives for delivery

---

[1] After the data are initially tabulated, a series of activities begin that are needed to ensure high quality data products are being released. These releases are constrained in part due to physical limitations required by data and physical product review. In addition, in order to meet our obligation to deliver the data to our legally required recipients prior to publishing data for the public we can only perform Thursday public releases each week.

[2] The states are grouped into weekly buckets called Tiers. These Tiers are organized by urgency of the State's deadlines for redistricting and by the ability of the Bureau to perform the necessary production and review prior to releasing the data. (Tier 1 = 8 states/605 counties: Tier 2 = 10 states/ 663 counties: Tier 3 = 13 states/668 counties: Tier 4 = 13 states/667 counties: Tier 5 = 8 states/618 counties)

iv. Review and verify the data products
    1. Conduct ongoing review of MDF for data reasonableness of tabulated data for counts and demographic and housing characteristics
    2. Ensure consistency between internally tabulated data and data products
    3. Ensure consistency within tables (such as table rows summing to totals correctly) and across tables (counts of characteristics/populations are consistent for the same geography across tables)
    4. Verify data product headers, row and column labels, indenting, universe statements, and notes
    5. Verify tabulations for each geographic summary level.
v. Release P.L. 94-171 data products to the States
    1. Mail discs and flash drives on Tuesdays with next day target delivery
    2. Push weekly Tier of states into the CEDSCI embargo environment on Wednesdays
vi. Confirm receipt of P.L. 94-171 data products in the States on Wednesdays
    1. Contact official recipients to ensure data was received
    2. Notify CEDSCI to begin push to release weekly Tier of states to the public
vii. Release P.L. 94-171 data products to the public on Thursday

Activity	Duration		Start	Finish	New Start	New Finish
Geographic Data Processing	35		8/6/2020	9/10/2020	10/31/2020	12/5/2020
DRF1 - Post Data Collection Integration & Creation of 52 files	34		9/10/2020	10/14/2020	12/5/2020	1/8/2021
DRF2 - PSA and validation of 52 files	21		10/14/2020	11/4/2020	1/8/2021	1/29/2021
CUF Creation	26		11/4/2020	11/30/2020	1/29/2021	2/24/2021
CUF Validation & Counts	31	Apportionment Delivery	11/30/2020	12/31/2020	2/24/2021	3/27/2021
CEF Creation	25		12/31/2020	1/25/2021	3/27/2021	4/21/2021
Microdata Detail File (MDF) Creation	16		1/25/2021	2/10/2021	4/21/2021	5/7/2021
TabMDF	20		1/25/2021	2/14/2021	4/21/2021	5/11/2021
PL 94-171 File	45	Redistricting Delivery	2/14/2021	3/31/2021	5/11/2021	6/25/2021

From: Foti, Anthony (Federal) [AFoti@doc.gov]
Sent: 4/19/2020 11:51:40 AM
To: Walsh, Michael (Federal) [MWalsh@doc.gov]
Subject: Fwd: Census Legislative Text
Attachments: Census Legislative Text and Section-by-Section 04.18.20.pdf; ATT00001.htm

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
b(6)

Begin forwarded message:

From: "Benjamin J Page (CENSUS/CFO FED)" <benjamin.j.page@census.gov>
Date: April 18, 2020 at 8:37:36 PM EDT
To: Allen Cutler <Allen_Cutler@appro.senate.gov>, Blaise Sheridan <Blaise_Sheridan@appro.senate.gov>, Shannon McCully <Shannon.McCully@mail.house.gov>, Stephanie Gadbois <Stephanie.Gadbois@mail.house.gov>
Cc: "Stanley, Christopher J" <christopher.j.stanley@census.gov>, "Ahmad, Ali M" <ali.m.ahmad@census.gov>, "Foti, Anthony (Federal)" <AFoti@doc.gov>
Subject: Census Legislative Text

All,

Please find attached legislative language and sectional analysis to push the statutory deadlines for decennial census results. This document was also transmitted to HOGR and HSGAC staff this evening.

Please let us know if you have any questions.

Ben

Draft Legislative Text

Notwithstanding the timetables provided in sections 141(b) and (c) of title 13, United States Code, and section 2a(a) of title 2, United States Code, for the 2020 decennial census of the population –

(a) the tabulation of total population by States required by section 141(a) of title 13, United States Code, for the apportionment of Representatives in Congress among the several States shall be completed within 13 months after the census date of April 1, 2020 and reported by the Secretary to the President of the United States;

(b) the President shall transmit to the Congress a statement showing the whole number of persons in each State, and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives, as required by section 2a(a) of title 2, United States Code, within 14 days after receipt of the tabulation reported by the Secretary; and

(c) the tabulations of populations required by section 141(c) of title 13, United States Code, shall be completed by the Secretary as expeditiously as possible after the census date of April 1, 2020, and reported to the Governor of the State involved and to the officers or public bodies having responsibility for legislative apportionment or districting of such State, except that such tabulations of population of each State requesting a tabulation plan, and basic tabulations of population of each other State, shall, in any event, be completed, reported, and transmitted to each respective State within 16 months after the census date of April 1, 2020.

Section-by-Section

The draft legislation would, only for the 2020 Census, extend the statutory deadlines to deliver certain census data, including apportionment data.

Subsection (a): Under current law (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 draft legislation would extend that deadline for the 2020 Census to 13 months after the census date of April 1, 2020.

Subsection (b): Under current law (2 USC 2a(a)), on the first day or within one week thereafter, of the first regular session of Congress after the decennial census is conducted, the President is required to transmit to the Congress a statement showing the whole number of persons in each State and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives. The draft legislation would amend that deadline for the 2020 Census to require the President to transmit the statement to Congress within 14 days after receipt of the tabulation reported by the Secretary (as required under section 13 USC 141(b), with the extended deadline as set out above in Subsection (a)).

Subsection (c): Under current law (13 USC 141(c)), the Secretary of Commerce is required to complete, report, and transmit to State Governors and other State officials and public bodies certaintabulations of state populations within one year of the census date. The draft legislation would extend that deadline to require the Secretary to complete, report, and transmit the tabulations to each State within 16 months after the census date of April 1, 2020.

Ben Page, Chief Financial Officer
U.S. Census Bureau
O: 301-763-4700 | M: b(6)
census.gov | @uscensusbureau

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From: Foti, Anthony (Federal) [AFoti@doc.gov]
Sent: 4/19/2020 11:51:15 AM
To: Walsh, Michael (Federal) [MWalsh@doc.gov]
Subject: Fwd: Census legislative proposal
Attachments: Census Legislative Text and Section-by-Section 04.18.20.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
b(6)

Begin forwarded message:

From: "Christopher J Stanley (CENSUS/OCIA FED)" <christopher.j.stanley@census.gov>
Date: April 18, 2020 at 8:31:44 PM EDT
To: "Bailey, Patrick (HSGAC)" <Patrick_Bailey@hsgac.senate.gov>, Dan Spino <daniel_spino@hsgac.senate.gov>, Annika Christensen <annika_christensen@hsgac.senate.gov>, "Anderson, Tori" <Tori.Anderson@mail.house.gov>, "Johnson, Ellen" <Ellen.Johnson@mail.house.gov>, Russ Anello <russell.anello@mail.house.gov>, "Phoenix, Candyce" <Candyce.Phoenix@mail.house.gov>
Cc: "Ahmad, Ali M" <ali.m.ahmad@census.gov>, "Foti, Anthony (Federal)" <AFoti@doc.gov>, "Page, Benjamin J" <benjamin.j.page@census.gov>
Subject: Census legislative proposal

Attached is the proposed legislative language, along with a section-by-section summary. Please let us know if you have any questions, and thank you for your support of the 2020 Census.

Chris Stanley, Chief
Office of Congressional and Intergovernmental Affairs
U.S. Census Bureau
O: 301-763-4276 | M: b(6)
census.gov | @uscensusbureau

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Draft Legislative Text

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(c) the tabulations of populations required by section 141(c) of title 13, United States Code, shall be completed by the Secretary as expeditiously as possible after the census date of April 1, 2020, and reported to the Governor of the State involved and to the officers or public bodies having responsibility for legislative apportionment or districting of such State, except that such tabulations of population of each State requesting a tabulation plan, and basic tabulations of population of each other State, shall, in any event, be completed, reported, and transmitted to each respective State within 16 months after the census date of April 1, 2020.

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Subsection (c): Under current law (13 USC 141(c)), the Secretary of Commerce is required to complete, report, and transmit to State Governors and other State officials and public bodies certaintabulations of state populations within one year of the census date. The draft legislation would extend that deadline to require the Secretary to complete, report, and transmit the tabulations to each State within 16 months after the census date of April 1, 2020.

From: Ali Mohammad Ahmad (CENSUS/ADCOM FED) [ali.m.ahmad@census.gov]
Sent: 4/19/2020 11:25:41 AM
To: Walsh, Michael (Federal) [MWalsh@doc.gov]
Subject: Census legislative proposal- language & section by section sent to Hill
Attachments: Census Legislative Text and Section-by-Section 04.18.20.pdf

Draft Legislative Text

Notwithstanding the timetables provided in sections 141(b) and (c) of title 13, United States Code, and section 2a(a) of title 2, United States Code, for the 2020 decennial census of the population –

(a) the tabulation of total population by States required by section 141(a) of title 13, United States Code, for the apportionment of Representatives in Congress among the several States shall be completed within 13 months after the census date of April 1, 2020 and reported by the Secretary to the President of the United States;

(b) the President shall transmit to the Congress a statement showing the whole number of persons in each State, and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives, as required by section 2a(a) of title 2, United States Code, within 14 days after receipt of the tabulation reported by the Secretary; and

(c) the tabulations of populations required by section 141(c) of title 13, United States Code, shall be completed by the Secretary as expeditiously as possible after the census date of April 1, 2020, and reported to the Governor of the State involved and to the officers or public bodies having responsibility for legislative apportionment or districting of such State, except that such tabulations of population of each State requesting a tabulation plan, and basic tabulations of population of each other State, shall, in any event, be completed, reported, and transmitted to each respective State within 16 months after the census date of April 1, 2020.

Section-by-Section

The draft legislation would, only for the 2020 Census, extend the statutory deadlines to deliver certain census data, including apportionment data.

Subsection (a): Under current law (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 draft legislation would extend that deadline for the 2020 Census to 13 months after the census date of April 1, 2020.

Subsection (b): Under current law (2 USC 2a(a)), on the first day or within one week thereafter, of the first regular session of Congress after the decennial census is conducted, the President is required to transmit to the Congress a statement showing the whole number of persons in each State and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives. The draft legislation would amend that deadline for the 2020 Census to require the President to transmit the statement to Congress within 14 days after receipt of the tabulation reported by the Secretary (as required under section 13 USC 141(b), with the extended deadline as set out above in Subsection (a)).

Subsection (c): Under current law (13 USC 141(c)), the Secretary of Commerce is required to complete, report, and transmit to State Governors and other State officials and public bodies certaintabulations of state populations within one year of the census date. The draft legislation would extend that deadline to require the Secretary to complete, report, and transmit the tabulations to each State within 16 months after the census date of April 1, 2020.

From: Tucker, Caroline (Federal) [CTucker@doc.gov]
Sent: 4/13/2020 6:35:28 PM
To: Gorey, Lauren (Federal) [LGorey@doc.gov]; Davis, Caitlin (Federal) [CDavis4@doc.gov]; Paranzino, Anthony (Federal) [AParanzino@doc.gov]; Risko, Daniel (Federal) [DRisko@doc.gov]; Walsh, Michael (Federal) [MWalsh@doc.gov]; Cook, Michael C [michael.c.cook@census.gov]; Ahmad, Ali M [ali.m.ahmad@census.gov]; Quinley, Kevin [kevin.quinley@census.gov]; Stanley, Christopher J [christopher.j.stanley@census.gov]
Subject: AP: Lawmaker: Trump officials want delay in census due to virus

Lawmaker: Trump officials want delay in census due to virus

By Mike Schneider | April 13, 2020 5:45PM

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The Trump administration wants to delay deadlines for the 2020 census because of the coronavirus outbreak, a move that if approved would push back timetables for releasing data used to draw congressional and legislative districts, the chair of the House oversight committee said Monday.

U.S. Rep. Carolyn Maloney said administration officials were requesting all field operations be postponed until June 1 and that the deadline for wrapping up the nation's head count be pushed back until Oct. 31.

Field operations for the 2020 census have been suspended since mid-March and were set to resume this week. The deadline for finishing the head count also had been pushed back from the end of July to mid-August because of the pandemic.

Maloney, a Democrat from New York, said in a statement that the administration also is seeking to delay the deadline for delivering state population counts used for apportionment — the process of carving up congressional districts — from the end of this year to the end of next April.

The administration also is seeking to push back the deadline for giving states data for redistricting from next March to next July, the statement added.

Both deadlines are established by federal law and would require congressional approval.

The White House arranged a call on Monday with congressional leaders about the requested changes, but no one from the Census Bureau was on the call. The House Committee on Oversight and Reform will carefully examine the request, Maloney said.

"The director of the Census Bureau was not even on today's call, and the administration has refused for weeks to allow him to brief members of our committee, despite repeated requests," Maloney said. "If the Administration is trying to avoid the perception of politicizing the census, preventing the Census director from briefing the committee and then excluding him from a call organized by the White House are not encouraging moves."

The Census Bureau confirmed the delays were being sought. It said in a statement that the goal of the delays would be to ensure a complete and accurate count.

When field operations start in June, workers will be given personal protective equipment and guidelines for social distancing, the bureau said in a statement.

"In-person activities, including all interaction with the public, enumeration, office work and processing activities, will incorporate the most current guidance to promote the health and safety of staff and the public," the statement said.

The 2020 census started in January in remote villages of Alaska, but most U.S. residents didn't get to start filling out the questionnaire until last month, when the 2020 census website went live and people started getting notifications in the

mail that they could respond. About a week later, cities and states around the country started issuing stay-at-home orders because of the virus.

The Census Bureau is hoping a majority of people respond online, by telephone or through the mail. Census takers will be sent out later this year to knock on the doors of homes where residents haven't yet responded.

The 2020 census will help determine how many congressional seats and Electoral College votes each state gets, as well as the distribution of $1.5 trillion in federal spending.

From: Tucker, Caroline (Federal)
Sent: Monday, April 13, 2020 6:33 PM
To: Gorey, Lauren <LGorey@doc.gov>; Davis, Caitlin <CDavis4@doc.gov>; Paranzino, Anthony <AParanzino@doc.gov>; Risko, Daniel <DRisko@doc.gov>; Walsh, Michael (Federal) <MWalsh@doc.gov>; Cook, Michael C <michael.c.cook@census.gov>; Ahmad, Ali M <ali.m.ahmad@census.gov>; Quinley, Kevin <kevin.quinley@census.gov>; Stanley, Christopher J <christopher.j.stanley@census.gov>
Subject: WSJ: Census Extends 2020 Count

Census Extends 2020 Count
U.S. Census Bureau to ask Congress for extra 120 days to deliver apportionment figures
By Janet Adamy & Paul Overberg | April 13, 2020 5:57 PM
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The U.S. Census Bureau said Monday it will further delay this year's decennial count and ask Congress for an extra 120 days to deliver final apportionment figures as the coronavirus pandemic impedes its field work.

The count that got under way in the middle of March was originally scheduled to end July 31. By law the bureau has to send state population totals to the president by Dec. 31.

Social-distancing restrictions forced the bureau to delay field operations, such as hand delivery of millions of invitations and hiring of certain temporary workers, starting in late March. The bureau had already stretched its completion date into the middle of August.

On Monday, it took those delays a step further. The bureau said it plans to extend the window for Americans to respond until Oct. 31, and will seek congressional approval to deliver the population totals to the president by April 30, 2021. Redistricting data would be delivered to the states no later than July 31, 2021.

Rep. Carolyn B. Maloney, the New York Democrat who chairs the House Committee on Oversight and Reform, said the committee will carefully examine the administration's request but that it needs information the administration has been unwilling to provide. She said the administration was preventing Census Bureau Director Steven Dillingham from briefing members of her committee.

The Commerce Department didn't immediately comment on her assertion.

Census results will determine which states gain and lose congressional seats and electoral votes after fall elections, and are used to distribute at least $675 billion annually in government funding. Experts said the delay puts the 2020 census in uncharted territory.

"Congress should do the deep dive necessary to determine whether the proposed extension of all major counting operations puts historically undercounted populations at even greater risk of inaccurate results," said Terri Ann Lowenthal, a private consultant on census issues in Stamford, Conn. "Then it can decide if delaying the reporting deadlines for the transfer of political power is the best option."

As of Sunday, 48.1% of more than 140 million households that had been invited to self-respond had done so. The bureau expected 60.5% would do so by the end of July.

Most Americans received their invitation to respond in mid-March, but some are still waiting for theirs. Census workers were pulled off the streets just as they began delivering census forms in person to more than 9 million homes. Many of the homes are in rural or tribal areas and don't receive mail at home.

The bureau also had just begun training hundreds of thousands of workers who will be needed this summer to visit tens of millions of households that haven't responded to the census.

The bureau said it hoped to restart field operations by June 1.

From: Tucker, Caroline (Federal)
Sent: Monday, April 13, 2020 6:31 PM
To: Gorey, Lauren <LGorey@doc.gov>; Davis, Caitlin <CDavis4@doc.gov>; Paranzino, Anthony <AParanzino@doc.gov>; Risko, Daniel <DRisko@doc.gov>; Walsh, Michael (Federal) <MWalsh@doc.gov>; Cook, Michael C <michael.c.cook@census.gov>; Ahmad, Ali M <ali.m.ahmad@census.gov>; Quinley, Kevin <kevin.quinley@census.gov>; Stanley, Christopher J <christopher.j.stanley@census.gov>
Subject: New York Times: Knocked Off Track by Coronavirus, Census Announces Delay in 2020 Count

Knocked Off Track by Coronavirus, Census Announces Delay in 2020 Count
The Census Bureau said it would extend the deadlines for collecting census data and would ask Congress for a delay in providing final counts used for congressional redistricting.
By Michael Wines | April 13, 2020 5:59 PM
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WASHINGTON — Conceding that its effort to count the nation's population has been hamstrung by the coronavirus pandemic, the Census Bureau said on Monday it would ask Congress for a four-month delay in delivering the census data used to reapportion the House of Representatives and political districts nationwide.

In a news release, the bureau said the new April deadline would mean that state legislatures would get final population figures for drawing new maps as late as July 31, 2021. Delivery of that data normally is completed by the end of March.

The bureau also said it would extend the deadline for collecting census data, now Aug. 15, to Oct. 31, and would begin reopening its field offices — which have been shuttered since mid-March — sometime after June 1.

Democrats who oversee census operations in the House Oversight and Reform Committee reacted cautiously to the news, which they said was relayed early Monday to a handful of members of Congress in a telephone call with officials from the White House and the Commerce Department. The director of the census, Steven Dillingham, apparently did not participate in the call.

"The oversight committee will carefully examine the administration's request, but we need more information than the administration has been willing to provide," the committee's chairwoman, Representative Carolyn B. Maloney of New York, said in a statement.

"If the administration is trying to avoid the perception of politicizing the census, preventing the census director from briefing the committee and then excluding him from a call organized by the White House are not encouraging moves."

The 2020 head count has been mired in controversy since 2017, when the administration tried to amend the census questionnaire to count the number of noncitizens, which was widely seen as an effort to give Republicans a political edge in next year's redistricting. Many experts also have expressed fears that the administration's harsh anti-immigrant policies and rhetoric would deter minorities from filling out census forms, leading to an undercount that also would work to Republicans' benefit.

Census officials have said that response to the census — the first to be conducted largely over the internet — had been meeting expectations. But the bureau already had been forced once to extend the shutdown of field operations that it first announced in March. Efforts to count millions of households in specialized segments of the population — homeless people and those without fixed addresses, such as Native Americans on reservations — have been in limbo, awaiting the bureau's decision when it would be safe to begin or resume them.

From: Tucker, Caroline (Federal)
Sent: Monday, April 13, 2020 6:27 PM
To: Gorey, Lauren <LGorey@doc.gov>; Davis, Caitlin <CDavis4@doc.gov>; Paranzino, Anthony <AParanzino@doc.gov>; Risko, Daniel <DRisko@doc.gov>; Walsh, Michael (Federal) <MWalsh@doc.gov>; Cook, Michael C <michael.c.cook@census.gov>; Ahmad, Ali M <ali.m.ahmad@census.gov>; Quinley, Kevin <kevin.quinley@census.gov>; Stanley, Christopher J <christopher.j.stanley@census.gov>
Subject: Bloomberg: Census Count Delayed by Three Months Because of Coronavirus

Census Count Delayed by Three Months Because of Coronavirus
By Erik Wasson | April 13, 2020 5:21 PM
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The once-per-decade U.S. census will be delayed by at least three months, the Commerce Department told Congress on Monday, as the coronavirus pandemic hinders in-person data collection from households.

Commerce Secretary Wilbur Ross announced field operations will be delayed until June 1, and that in turn would delay completion of the count until Oct. 31. He asked Congress Monday to grant his department a 120-day extension of statutory deadlines as a result of the outbreak. A leading House Democrat said Congress will consider the request.

The 2020 Census will be used to determine the apportionment of seats in the U.S. House of Representatives and the distribution of federal tax revenue to the states. The Census said in a statement that under its plan, apportionment counts would be finished by April 30, 2021, instead of Dec. 31 and redistricting data would be delivered to the states by July 31, 2021, instead of March 31, 2021.

"The Oversight Committee will carefully examine the administration's request, but we need more information that the administration has been unwilling to provide," House Oversight Chairwoman Carolyn Maloney, a New York Democrat, said in a statement. "The Constitution charges Congress with determining how the Census is conducted, so we need the administration to cooperate with our requests so we can make informed decisions on behalf of the American people."

The Census Bureau temporarily suspended field data collection activities in March because of the outbreak and said Monday that 70 million households, some 48% of the total, have already responded to the questionnaire.

This year's count was already the subject of a pitched battle over Ross's attempt to add a citizenship question to the form. Democrats said the Trump administration was attempting to intimidate undocumented immigrants into failing to respond to the census, which could lead to an undercount. The attempt was abandoned in the wake of court challenges.

From: Tucker, Caroline (Federal)
Sent: Monday, April 13, 2020 6:25 PM
To: Gorey, Lauren <LGorey@doc.gov>; Davis, Caitlin <CDavis4@doc.gov>; Paranzino, Anthony <AParanzino@doc.gov>; Risko, Daniel <DRisko@doc.gov>; Walsh, Michael (Federal) <MWalsh@doc.gov>; Cook, Michael C <michael.c.cook@census.gov>; Ahmad, Ali M <ali.m.ahmad@census.gov>; Quinley, Kevin <kevin.quinley@census.gov>; Stanley, Christopher J <christopher.j.stanley@census.gov>
Subject: Reuters: U.S. Census will ramp up count June 1, results delayed four months due to coronavirus

U.S. Census will ramp up count June 1, results delayed four months due to coronavirus
By Diane Bartz | April 13, 2020 6:02 PM
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The Census Bureau, which stopped some of its work last month because of the new coronavirus, said on Monday that it planned to ramp up again beginning on June 1 but would need more time to complete the count.

The Census Bureau, which is under the Commerce Department and counts all Americans every 10 years, suspended field collection in March but is planning to re-start on June 1, according to a statement from Commerce Secretary Wilbur Ross and Bureau Director Steven Dillingham.

The bureau also said that it would ask Congress for permission to delay its work by 120 days. This would mean that it would complete data collection by Oct. 31 and release state populations by April 30, 2021. Redistricting data would be given to states by July 31, 2021. The survey determines how the state legislatures draw voting districts during the next round of redistricting and guides the federal government in allocating $1.5 trillion a year in aid.

"In-person activities, including all interaction with the public, enumeration, office work and processing activities, will incorporate the most current guidance to promote the health and safety of staff and the public," the statement said.

The bureau also said that 70 million households have responded, or about 48%.

From: Tucker, Caroline (Federal)
Sent: Monday, April 13, 2020 6:22 PM
To: Gorey, Lauren <LGorey@doc.gov>; Davis, Caitlin <CDavis4@doc.gov>; Paranzino, Anthony <AParanzino@doc.gov>; Risko, Daniel <DRisko@doc.gov>; Walsh, Michael (Federal) <MWalsh@doc.gov>; Cook, Michael C <michael.c.cook@census.gov>; 'Ali Mohammad Ahmad (CENSUS/ADCOM FED)' <ali.m.ahmad@census.gov>; Quinley, Kevin <kevin.quinley@census.gov>; Stanley, Christopher J <christopher.j.stanley@census.gov>
Subject: The Hill: Trump wants Congress to delay Census deadlines amid pandemic

Trump wants Congress to delay Census deadlines amid pandemic
By Olivia Beavers | April 13, 2020 5:52 PM
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The Trump administration is asking Congress to push back statutory deadlines for the 2020 Census amid the coronavirus outbreak.

Rep. Carolyn Maloney (D-N.Y.), chairwoman of the House Oversight and Reform Committee, said Commerce Secretary Wilbur Ross told her in a phone call Monday that he wants Congress to pass legislation to delay by four months the deadline for providing the decennial count to the president, pushing it from Dec. 31 to April 30.

"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," the Commerce Department said in an announcement Monday.

The agency, which oversees the Census Bureau, is also asking Congress to delay the March 31 deadline for providing redistricting data to the states, with a new deadline of July 31.

If Congress agrees, Ross would need to notify states that may require their own legislation for postponement, according to Maloney's office.

The Census attempts to count every person living in the U.S. and its territories through questionnaires in order to provide key data to lawmakers, school districts and others about how many people live in certain areas. The count is mandated under the Constitution and helps to determine where federal funding for roads, schools, fire departments and more. It also determines the number of seats each state will have in the House.

The announcement comes after the Commerce Department said it has received responses from more than 70 million households, or 48 percent of all U.S. households.

Maloney, who emphasized that she is committed to a complete and accurate Census count, said her committee "will carefully" consider the deadline request. But she added that lawmakers "need more information that the Administration has been unwilling to provide."

In particular, she took issue with the White House arranging the Ross call without participation from any Census officials, including the director. She added that the Trump administration has declined repeated requests for him to brief members of the panel since they first asked for one on March 23.

"If the Administration is trying to avoid the perception of politicizing the Census, preventing the Census Director from briefing the Committee and then excluding him from a call organized by the White House are not encouraging moves," Maloney said in a statement. "The Constitution charges Congress with determining how the Census is conducted, so we need the Administration to cooperate with our requests so we can make informed decisions on behalf of the American people."

She said Monday's call included administration officials like Ross, Director of the White House Office of Legislative Affairs Eric Ueland, Deputy Director of the Office of Management and Budget Russ Vought and senior adviser to the White House Chief of Staff John Fleming.

From: Tucker, Caroline (Federal)
Sent: Monday, April 13, 2020 6:19 PM
To: Gorey, Lauren <LGorey@doc.gov>; Davis, Caitlin <CDavis4@doc.gov>; Paranzino, Anthony <AParanzino@doc.gov>; Risko, Daniel <DRisko@doc.gov>; Walsh, Michael (Federal) <MWalsh@doc.gov>; Cook, Michael C <michael.c.cook@census.gov>; Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov>; Quinley, Kevin <kevin.quinley@census.gov>; Stanley, Christopher J <christopher.j.stanley@census.gov>
Subject: Politico: Trump admin requests delays in census deadlines

Trump admin requests delays in census deadlines
The coronavirus has made it difficult to conduct the decennial count.
By Matthew Choi | April 13, 2020 5:29 PM
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The Trump administration is moving to delay some deadlines for the 2020 census due to coronavirus, including delivering data to states for congressional redistricting.

The Census Bureau is requesting Congress allow a 120-day delay on some data-reporting deadlines, according to a joint statement Monday by Commerce Secretary Wilbur Ross and Census Bureau Director Steven Dillingham. The delay would accommodate social distancing guidelines for workers to prevent the spread of the disease.

The bureau had already canceled field work in March as numerous states across the country ordered people to stay in their homes.

The lag in counting could lead to a delay in data necessary for forming congressional districts, the bureau argued. In response, the Trump administration requested to delay the deadline to deliver apportionment counts to President Donald Trump from December to April of next year.

Rep. Carolyn B. Maloney, chairwoman of the House Oversight Committee, said Monday that the committee would consider the request, but that the Trump administration was stonewalling in providing information vital in assessing the move.

Dillingham was not on the call to the committee requesting the deadline changes, Maloney (D-N.Y.) said in a statement. The committee has repeatedly requested a briefing with Dillingham but has not been able to secure one, Maloney said.

"If the Administration is trying to avoid the perception of politicizing the Census, preventing the Census Director from briefing the Committee and then excluding him from a call organized by the White House are not encouraging moves," Maloney said in the release.

This year's census has already been fraught with partisan drama after Ross pushed for a question asking respondents' citizenship. Critics argued that doing could discourage undocumented immigrants from responding, leading to under-representation in Congress. The Supreme Court deemed the citizenship question illegal last summer.

Over 70 million people, or 48 percent of American households, have already responded to the census, according to Ross' and Dillingham's statement.

Caroline Tucker
Office of Public Affairs | U.S. Department of Commerce
CTucker@doc.gov
b(6)

From: Rafiekian, Christine (Federal) [CRafiekian@doc.gov]
Sent: 2/24/2020 9:21:53 AM
To: Jarmin, Ron S [ron.s.jarmin@census.gov]; Lamas, Enrique [enrique.lamas@census.gov]; Moesle, Albert (Federal) [AMoesle@doc.gov]; Fontenot, Albert E [albert.e.fontenot@census.gov]; Reist, Burton H [burton.h.reist@census.gov]; Christy, James T [james.t.christy@census.gov]; Smith, Kevin B [kevin.b.smith@census.gov]; Comstock, Earl (Federal) [EComstock@doc.gov]; Jones, Christa D [christa.d.jones@census.gov]; Walsh, Michael (Federal) [MWalsh@doc.gov]; Olson, Timothy P [timothy.p.olson@census.gov]; Cannon, Michael (Federal) [MCannon@doc.gov]; Treat, James B [james.b.treat@census.gov]; Thieme, Michael T [michael.t.thieme@census.gov]; Stanley, Christopher J [christopher.j.stanley@census.gov]; Adkins, Byron (Federal) [BAdkins@doc.gov]; Phelps, Michael (Federal) [MPhelps@doc.gov]; Mason, Jacque (Federal) [JMason1@doc.gov]; Gilman, Thomas (Federal) [TGilman@doc.gov]; Whiteley, Everett G [everett.g.whiteley@census.gov]; Moyer, Brian [Brian.Moyer@bea.gov]; Barnes, Johnny G [johnny.g.barnes@census.gov]; Creech, Melissa L [melissa.l.creech@census.gov]; Smith, Steven K [steven.k.smith@census.gov]; Preskenis, Kevin (Federal) [KPreskenis@doc.gov]; Styles, Kathleen M [kathleen.m.styles@census.gov]; Stempowski, Deborah M [deborah.m.stempowski@census.gov]; Kalluri, Phani-Kumar A [phani-kumar.atri.kalluri@census.gov]; Taylor, Benjamin K [benjamin.k.taylor@census.gov]; Preston, Robert (Federal) [RPreston@doc.gov]; Shea, Molly A [molly.a.shea@census.gov]; Ziaya, David R [david.r.ziaya@census.gov]; Cano, Luis J [luis.j.cano@census.gov]; Quinley, Kevin [kevin.quinley@census.gov]; Mendes, Andre (Federal) [AMendes@doc.gov]; Lane, Jennifer (Federal) [JLane@doc.gov]; Davis, Caitlin (Federal) [CDavis4@doc.gov]; Gorey, Lauren (Federal) [LGorey@doc.gov]; Coggins, Wynn (Federal) [WCoggins@doc.gov]; Sprung, Michael J [michael.j.sprung@census.gov]; Surrey-Marsden, Claire (Commissioned) [Claire.Surrey-Marsden@noaa.gov]
CC: Berkowitz, Barry (Federal) [BBerkowitz@doc.gov]; Daley, Mark (Federal) [MDaley@doc.gov]; Sweet, Jon (Federal) [JSweet@doc.gov]; Didiuk, Lauren (Federal) [LDidiuk@doc.gov]; Langdon, David (Federal) [DLangdon@doc.gov]; Dillingham, Steven [steven.dillingham@census.gov]; Ahmad, Ali M [ali.m.ahmad@census.gov]; Bingham, Vicki [Vicki.Bingham@bea.gov]; Kluttz, Lawson (Federal) [LKluttz@doc.gov]; Foti, Anthony (Federal) [AFoti@doc.gov]; Wyvill, Robin L [robin.l.wyvill@census.gov]; Becker Medina, Erika H [erika.h.becker.medina@census.gov]; Page, Benjamin J [benjamin.j.page@census.gov]; Olson, Stephanie (Federal) [SOlson@doc.gov]
Subject: Senior Management Decennial Committee/ Meeting Materials
Attachments: 0. Sr Management Agenda 2020.02.24.docx; 3._2020 Decennial Census FYs20-21 APG Action Plan FY20Q1 approved 2020.01.09_2020.02.24.pdf; 4.a_DRAFT DOC Exec Report Slides for February 24 2020 ver 1_2020.02.24.pdf; 4.b_DRAFT DOC Exec Report Slides for EO 13880 for February 24 2020 ver 1_202.02.24.pdf; 4.c_2020 Systems Readiness Chart 20.02.18_2020.02.24.pdf; 5.a_DRAFT Notional DOC Exec Slides for Feb 24 2020 ver 1 (4)_2020.02.24.pdf; 5.b_DRAFT Notional Daily DOC Exec Slides for Feb 24 2020 ver 1_2020.02.24.pdf; SIS Update 2-21-20-FINAL.pdf

Good morning,

As you may have seen from the calendar invitation, today's Senior Management Decennial meeting will be held at Census HQ in Suitland. For your reference, I am sharing the meeting materials attached here. For those who will be attending in person, paper copies will be provided.

For those who will be dialing-in, the conference call information is as follows:

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

With my very best regards,
Christine

Christine Rafiekian
Office of the Deputy Secretary
U.S. Department of Commerce
crafiekian@doc.gov

Cell: b(6)

Senior Management Agenda

Monday, February 24, 2020

1. Overview of the Fusion Center (prep for Sec. Ross March visit) (15 min.)
2. Statistics in Schools Update (15 min.)
3. Agency Priority Goal Action Plan Review (5 min.)
4. 2020 Census Program and Systems Update (15 min.)
5. Notional Deck and Daily Packet Review (for Sec. Ross) (10 min.)
6. Discussion (time permitting)

Agency Priority Goal Action Plan

Conduct a Complete and Accurate 2020 Decennial Census

Goal Leader:

Albert E. Fontenot, Jr., Associate Director for Decennial Census Programs, Commerce and General Government

Performance.gov

Fiscal Year 2020, Quarter 1

BC-DOC-0000000639

Overview

Goal Statement

- The U.S. Census Bureau will conduct a complete and accurate 2020 Decennial Census U.S. population count by executing for optimal self-response with a nationwide target of 60.5% in 2020, delivering apportionment counts to the President by December 31, 2020, and releasing counts for redistricting by April 1, 2021.

Challenge

- Planning for the Decennial Census requires balancing funding constraints and data accuracy against an official schedule fixed by statute. Recruiting and hiring of needed staff in an increasingly competitive environment with reduced levels of unemployment in the labor market is a challenge.

Opportunity

- The Census Bureau is implementing four key innovation areas while putting security controls in place to protect the confidentiality of data. The innovations will:
  - Eliminate the need to physically canvass every census block.
  - Enable people to respond via multiple modes (internet, phone, and mail).
  - Improve the efficiency and effectiveness of the 2020 Census by utilizing federal and state information, and information from third parties.
  - Reduce staffing, infrastructure, and brick and mortar footprint through the increased use of technology compared to previous paper methods.

BC-DOC-0000000640

Opportunity (continued)

The four innovation areas for the 2020 Census are:

1. Reengineering Address Canvassing
    - Adding new addresses to the Census Bureau's address frame using geographic information systems and aerial imagery instead of sending Census Bureau employees to walk and physically check 11 million census blocks.
2. Optimizing Self-Response
    - Encouraging the population to respond to the 2020 Census using the internet, reducing the need for more expensive paper data capture.
3. Utilizing Administrative Records and Third-Party Data
    - Reduce costs by using data the public has already provided to the government and data available from commercial sources to reduce visits to units that do not self respond.
4. Reengineering Field Operations
    - Using sophisticated operational control systems to deploy Census Bureau employees to nonresponding housing units and to track daily progress.

BC-DOC-0000000641

Summary of Progress – FY 20 Q1

- The Decennial Census Program remains on track to achieve a complete and accurate 2020 Census. (All below information is as of December 26, 2019.)
  - Across the nation, local governments, tribal governments and community groups continue to form 2020 Census Complete Count Committees. A total of 8,279 local complete count committees have formed:
    - 5,208 by local governments
    - 2,867 by community groups
    - 204 by tribal governments
  - The 2020 Census Community Partnerships and Engagement Program is on track with more than 145,000 active partners.
  - The National Partnership Program is on track with more than 500 national participating organizations.

- Challenges included:
  - Recruiting and hiring needed staff in an increasingly competitive environment with historically low levels of unemployment in the labor market.

BC-DOC-0000000642

Department Leadership

DOC 2020 Oversight Committee

Monthly meeting to address major operational and budgetary issues that require Secretarial attention. These include, but are not limited to, changes to the Life Cycle Cost Estimate, developments related to major contracts and IT systems, regular reports on the Program Budget, interactions with Congress and Oversight, including the Office of Inspector General and the Government Accountability Office, and Program Management Reports on the scope, schedule, and risks for the program.

Chair: DOC Secretary

Members include the following from DOC: Deputy Secretary, Chief Financial Officer, Chief of Staff, Office of Acquisition Management, General Counsel, Consultants, Chief Information Officer, Deputy Chief of Staff, Under Secretary for Economic Affairs, Office of Policy and Strategic Planning, and Deputy for Program Management; and from Census: Census Management Team.

DOC 2020 Senior Management

Weekly meeting covering the same areas as the Oversight Committee, but with a closer focus on the day-to-day operations of the Program.

Chair: DOC Deputy Secretary

Members include many of the listed on DOC 2020 Oversight Committee and includes the following from Census: Census Director, Deputy Director, Deputy Chief of Staff, Chief Information Officer, Chief Financial Officer, Associate Director for Decennial Census Programs, Associate Director for Communications, Chief of Procurement, Assistant Director for Decennial Census Programs for Systems and Contracts, Assistant Director for Decennial Census Programs for Operations and Schedule Management, and consultants.

BC-DOC-0000000643

Bureau Leadership

2020 Census Integration Group

The Census Integration Group (CIG) replaces the previous Portfolio Management Governing Board and act as a key venue for decision making.

Chair: Associate Director, Decennial Census Programs

- Assistant Directors, Decennial Census Programs
- Decennial Division Chiefs
- Decennial Assistant Division Chiefs
- National Processing Center Representation
- Information Technology Application Development and Services Representation
- Field Division Representation
- Population Division Representation
- Center for Adaptive Design Chief
- Integrated Project Teams Representation
- Communications Directorate Representation
- Research and Methodology Directorate Representation

2020 Census Executive Steering Committee

The 2020 Census Executive Steering Committee (ESC) provides enterprise-level governance of the 2020 Census. The 2020 Census ESC provides decision-making support to the Census Bureau Director and Deputy Director on 2020 Census program policies and initiatives.

Chair: Director, Census Bureau

- Deputy Director and Chief Operating Officer
- Chief Financial Officer
- Chief Administrative Officer
- Associate Director, Decennial Census Programs
- Associate Director, Research and Methodology
- Associate Director, Field Operations
- Associate Director, Information Technology and Chief Information Officer
- Associate Director, Economic Programs
- Associate Director, Communications
- Associate Director, Demographic Programs

BC-DOC-0000000644

Goal Structure & Strategies

The 2020 Census is ramping up in FY2020 for peak operations and ramping down in FY2021 with dissemination.

The following are internal targets:

- Complete In-Field Address Canvassing
- Deploy systems for FY2020 operations
- Launch the integrated communications campaign
- Maximize self-response data collection through three different modes: internet, phone, and mail
- Conduct Nonresponse Followup (NRFU)
- Release apportionment counts to the President of the United States
- Release PL 94-171 data to the states for redistricting
- Release census data products for use by the public

BC-DOC-0000000645

Goal Structure & Strategies (continued)

External Factors that can impact the achievement of the internal annual targets

1. Public perception of ability to safeguard response data

IF a substantial segment of the public is not convinced that the Census Bureau can safeguard their response data against data breaches and unauthorized use, THEN response rates may be lower than projected, leading to an increase in cases for follow-up and cost increases.

Mitigation Strategies include the following:

- Develop and implement a strategy to build and maintain the public's confidence in the Census Bureau's ability to keep their data safe.
- Follow the IT security-related mitigation strategies of 2020 Census Risk Cybersecurity Incidents.
- Continually monitor the public's confidence in data security in order to gauge their probable acceptance of the Census Bureau's methods for enumeration.

2. Cybersecurity incidents

IF a cybersecurity incident occurs to the systems supporting the 2020 Census, THEN additional technological efforts may be required to repair or replace the systems affected in order to maintain secure services and data.

Mitigation Strategies include the following:

- Monitor system development efforts to ensure the proper Census Bureau IT security guidelines are followed during the system development phase.
- Research other Census Bureau programs, other government agencies, other countries, and the private sector to understand how they effectively mitigate cybersecurity incidents.
- Audit systems and check logs to help in detecting and tracing an outside infiltration.
- Perform threat and vulnerability analysis through testing and during production.
- Prepare for rapid response to address any detected cybersecurity incidents.
- Leverage data stewardship and information safeguarding policies and procedures of Census Bureau programs, other government agencies, other countries, and the private sector to understand how to mitigate cybersecurity incidents.

BC-DOC-0000000646

Goal Structure & Strategies (continued)

Conduct a complete and accurate 2020 Census of the U.S. population and housing

Complete the In-Field Address Canvassing data collection

The Census Bureau needs the address and physical location of each living quarter in the United States to conduct the census. During Address Canvassing, the Census Bureau verifies that its master address list and maps are accurate so the tabulation for all housing units, group quarters, and transitory locations is correct. A complete and accurate address list is the cornerstone of a successful census.

The Census Bureau has determined that while there will be a full canvassing of the nation, a full In-Field Address Canvassing of the nation is no longer necessary.

During In-Field Address Canvassing, field staff compare what they see on the ground to the existing census address list and either verify or correct the address and location information, adding addresses to the list as necessary.

Milestone Summary				
Key Milestone	**Milestone Due Date**	**Milestone Status**	**Change from last quarter**	**Comments**
Complete In-Field Address Canvassing data collection	FY20Q1	Met		

BC-DOC-0000000647

Goal Structure & Strategies (continued)

Conduct a complete and accurate 2020 Census of the U.S. population and housing (continued)

Deploy systems for FY 2020 operations

Systems Engineering and Integration (SEI) is an IT operation that manages the delivery of a System of Systems that meets the 2020 Census Program business and capability requirements. The SEI Operation provides oversight and structure around the deployment of systems as well as operations and maintenance processes.

Milestone Summary				
Key Milestone	**Milestone Due Date**	**Milestone Status**	**Change from last quarter**	**Comments**
Approve Operational Readiness Review (ORR) for Forms Printing and Distribution.	FY20Q1	Met		
Approve ORR for Self-response. Approve ORR for Group Quarters Enumeration/Service Based Enumeration(SBE)/Enumeration at Transitory Locations (ETL). Approve ORR for Update Enumerate/Update Leave. Approve ORR for Remote Alaska. Approve ORR for NRFU. (D10.0)	FY20Q2			
Approve ORR for Response File Creation. (D12.2)	FY20Q4			

BC-DOC-0000000648

Goal Structure & Strategies (continued)

Key milestones to conduct self-response data collection

Maximize self-response data collection through three modes: internet, phone, and mail

Self-response reduces the need to conduct expensive in-person follow-up for the enumeration. It is anticipated that online self-response will be the primary mode of data collection.

Milestone Summary

Key Milestone	Milestone Due Date	Milestone Status	Change from last quarter	Comments
Start: Conduct training for Census Questionnaire Assistance (CQA) Call Center staff (CSRs and supervisors)	FY20Q1	Met		
Complete: Training for CQA Call Center staff (CSRs and supervisors) Start: CQA Inbound Operation Start: Self-response mailings Start: Internet Self-Response (ISR) data collection Start: Paper data capture	FY20Q2			
Start: CQA Outbound Operation Complete: Self-response mailings	FY20Q3			
Complete: CQA Outbound Operation Complete: CQA Inbound Operation Complete: ISR data collection Complete: Paper data capture Complete: Group Quarters Data Collection	FY20Q4			

Goal Structure & Strategies (continued)

Key milestones to conduct self-response data collection

Launch the integrated communications campaign

The integrated communications campaign involves communication and contact strategies that encourage the use of the Internet as the primary response mode through a sequence of invitations and postcard mailings. In addition, Census Bureau enumerators will leave materials to encourage self-response.

Milestone Summary				
Key Milestone	**Milestone Due Date**	**Milestone Status**	**Change from last quarter**	**Comments**
Deliver final version of Media Plan 2.0	FY20Q1	Met		
Deploy 2020 Census.gov release 3	FY20Q2			
Deliver Broadcast and Audio Tour Report	FY20Q3			
Post Buy Analyses Report and Presentation of Media Buys	FY20Q4			

BC-DOC-0000000650

Goal Structure & Strategies (continued)

Conduct a complete and accurate 2020 Decennial Census U.S. population count (continued)

Conduct Nonresponse Followup (NRFU) data collection

Nonresponse Followup (NRFU) Operation determines or resolves housing unit status for addresses included in the NRFU workload such as those addresses that have not self-responded. The operation also enumerates housing units that are determined to have a housing status of occupied.

Milestone Summary				
Key Milestone	**Milestone Due Date**	**Milestone Status**	**Change from last quarter**	**Comments**
Complete: Finalize NRFU enumerator training materials	FY20Q1	Met		
Start: Conduct Census Field Supervisor (CFS) Training for Early NRFU	FY20Q2			
Complete: Conduct Census Field Supervisor (CFS) Training for Early NRFU Start: Conduct NRFU	FY20Q3			
Complete: Conduct NRFU	FY20Q4			

BC-DOC-0000000651

Goal Structure & Strategies (continued)

Release data products on schedule

Deliver apportionment counts to the President of the United States

Deliver apportionment counts to the President by December 31, 2020.

Milestone Summary

Key Milestone	Milestone Due Date	Milestone Status	Change from last quarter	Comments
Complete: Deliver Apportionment Counts to President The Director of the Census Bureau delivers to the Secretary of Commerce, who then delivers to the President by December 31, 2020	FY21Q1			

BC-DOC-0000000652

Goal Structure & Strategies (continued)

Release data products on schedule

Release PL 94-171 data to the states for redistricting

Public Law 94-171, enacted by Congress in December 1975, requires the Census Bureau to provide the states with the small area census data necessary for legislative redistricting. The law also requires that the Census Bureau deliver these data no later than one year from Census day.

Milestone Summary				
Key Milestone	**Milestone Due Date**	**Milestone Status**	**Change from last quarter**	**Comments**
Complete: Perform Privacy Protection and create the Microdata Detail File (MDF)	FY21Q2			
Complete: Deliver P.L. 94-171 Geographic Products to States "Successfully deliver all geographic support products (shapefiles, maps, equivalency files, block-to-block relationship files) to all states, the District of Columbia, and Puerto Rico by February 1st of 2021"	FY21Q2			
Complete: Confirm Receipt of P.L. 94-171 Data Products from States "Successfully deliver and confirm receipt of the official P.L. 94-171 Redistricting Data Summary Files in each state, the District of Columbia, and Puerto Rico by both the majority and minority parties currently holding office in the legislature as well as by any established redistricting commissions."	FY21Q2			

BC-DOC-0000000653

Goal Structure & Strategies (continued)

Release data products on schedule

Release census data products for use by the public

Tabulate and disseminate selected 2020 Census data products for the 50 states, D.C., Puerto Rico, and the four US Island Areas. These data are used by policymakers, researchers, academia, businesses, government and nongovernmental organizations, journalists, and the general public to learn more about their communities.

Milestone Summary				
Key Milestone	**Milestone Due Date**	**Milestone Status**	**Change from last quarter**	**Comments**
Produce and Release Demographic and Housing Characteristics (DHC)	FY21Q4			
Produce and Release Demographic Profiles	FY21Q4			
Produce and Release Population and Housing Counts - Island Area Census	FY21Q4			

BC-DOC-0000000654

Data Accuracy and Reliability

The 2020 Census program tracks milestone data with the 2020 Decennial Census Integrated Master Schedule. Publication dates are validated against dates of posting on the 2020 Decennial Census website. The Census Bureau Office of Information Security (OIS) reviews the cybersecurity reporting for compliance with the National Institute of Standards and Technology (NIST) Risk Framework, and Federal Information Security Management Act (FISMA) requirements. Plans of Action and Milestones for the Authorization to Operate are reported to the Department of Commerce Chief Information Officer. Where necessary, observation of documents or related materials will verify data recorded in the Integrated Master Schedule.

All evaluation results and program reports are thoroughly reviewed and approved by the Associate Director for Decennial Census Programs and reported up through the governance structure described earlier. The evaluation results are indexed and fact-checked to ensure accuracy.

BC-DOC-0000000655

Additional Information

Contributing Programs

Organizations:

- The Department of Health and Human Services, Department of Housing and Urban Development, Department of Interior, Department of Justice, Department of Homeland Security, Department of State, United States Postal Service, Internal Revenue Service, Office of Personnel Management, Social Security Administration, and the Selective Service System provide key administrative records.
- The National Geospatial-Intelligence Agency provides current, high-resolution imagery at no cost for Interactive Review during In-Office Address Canvassing.
- The National Academy of Sciences; Census Scientific Advisory Committee; and the National Advisory Committee on Racial, Ethnic, and Other Populations contribute to the planning, implementation, and evaluation of Decennial Census Programs.

BC-DOC-0000000656

Additional Information

Contributing Programs (continued)

Program Activities:

- Demographic Programs Directorate: Provides relevant and accurate information on the size, distribution, and characteristics of the nation's population and housing. Also oversees the planning, collection, processing, and distribution of population and housing data obtained from the 2020 Census.
- Research and Methodology Directorate: Performs research into innovative methods and products, and establishes and refines methodologies in support of collaborative research and methodologies supporting the 2020 Census. Assures that the Census Bureau can effectively disseminate the maximum amount of high-quality data about the nation's people, while fully meeting the Census Bureau's legal and ethical obligation to protect the confidentiality of respondents and the information they provide.
- Field Directorate: Primary area responsible for coordinating and implementing 2020 Census data collection activities. Manages the recruiting, hiring, training, and production activities of the 300,000+ field staff needed to implement the 2020 Census. Manages field operations out of six Regional Census Centers and 248 Area Census Offices. At the National Processing Center, handles the logistics for materials supporting the 2020 Census Field operations and manages the paper data capture of all paper returns in two data capture centers.
- Communications Directorate: Provides extensive communications support to the 2020 Census products and documentation, the public, and stakeholders.

BC-DOC-0000000657

Additional Information

Contributing Programs (continued)

Regulations:

- Article I, Section 2 of the U.S. Constitution mandates that a census be conducted and used to re-apportion representatives in Congress among the states every 10 years.
- The Census Bureau is bound by Title 13 of the United States Code. These laws provide authority for our agency work, and strong protections for the information collected from individuals and businesses.
- The Census Bureau is authorized to acquire or purchase records from states and third party entities under Title 13, United States Code (U.S.C.), Section 6. The Privacy Act of 1974 explicitly permits federal agencies to disclose personally identifiable information to the Census Bureau if for statistical uses under Title 13, United States Code. Additionally, the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) and other federal confidentially statutes permit agencies to share data with the Census Bureau under strict, secure conditions. State laws often mirror these federal statutes.
- The Internal Revenue Service (IRS) proposes and implements regulations concerning the use of IRS administrative records.

BC-DOC-0000000658

Additional Information

Contributing Programs (continued)

Policies:

- The Data Stewardship Executive Policy Committee (DSEP) serves as the Census Bureau's focal point for policy issues related to respondent privacy, security, data confidentiality, data management, record linkage, and administrative data. The DSEP membership includes the Deputy Director and all Associate Directors.
- The Census Bureau Co-Chair 2020 Policy Group advises on 2020 Census activities that are impacted by policy.

Other Federal Activities:

- The Office of Management and Budget provides race and ethnicity guidance and reviews the progress of the 2020 Census.

BC-DOC-0000000659

Additional Information

Stakeholder / Congressional Consultations

For effective communications with external and internal stakeholders, such as the National Academy of Sciences, Department of Commerce Office of Inspector General, and the Government Accountability Office. The Census Bureau conducts semi-annual meetings with the Census Scientific Advisory Committee and the National Advisory Committee on Racial, Ethnic, and Other Populations. The Census Scientific Advisory Committee addresses emerging census challenges including adaptive design, cyber infrastructure, demographic, economic and statistical research, technical and operational priorities. The National Advisory Committee (NAC) considers topics such as hard to reach populations, race and ethnicity, language, aging populations, American Indian and Alaska Native tribal considerations, new immigrant populations, populations affected by natural disasters, highly mobile and migrant populations, complex households, rural populations, and population segments with limited access to technology. The Committee also advises on data privacy and confidentiality, among other issues.

The Census Bureau meets quarterly with representatives from congressional appropriation committees in order to brief them on the progress of the 2020 Census. Census staff meet upon request with representatives of oversight committees. Feedback from congressional stakeholders is considered in the design of the 2020 Census and operational planning.

We work with partners in addition to internal and external stakeholders. Partners educate people about the importance of the census, motivate them to return their questionnaires, and encourage cooperation with enumerators. Census has maintained many of the 2010 relationships for 2020. In order to optimize self-response, the Census Bureau builds relationships with state, local, and tribal governments; non-governmental organizations at the national and local level; national companies; and schools. The objectives are to:

- Increase self-response.
- Use trusted voices to make census messages relevant at the local level.
- Increase awareness among the general public.
- Increase partnership engagement at the local level through new or improved programs.

BC-DOC-0000000660



Statistics in Schools

Campaign Status Update

February 24, 2020

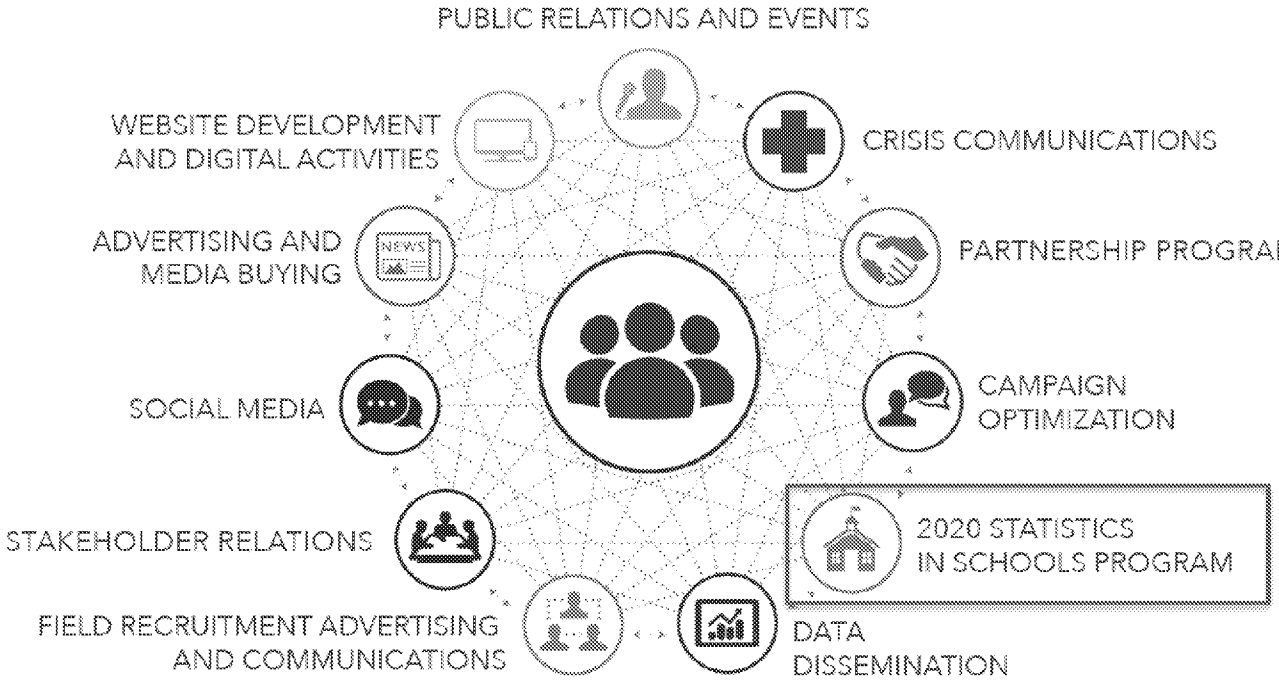
STATISTICS IN SCHOOLS

CENSUS.GOV/SCHOOLS

Shape your future
START HERE >

United States Census 2020

SIS supports a broader integrated campaign



BC-DOC-0000000667

2020 SIS Program Goals

- **2020 Census:** Promote the voluntary program and free materials such as take-home flyers and homework assignments to encourage teachers to integrate the decennial count into classroom lessons and encourage at-home discussion with adults.

- **SIS Week**: Drive visitors to Census Bureau web properties and promote the downloading and use of SIS activities and videos in participating schools.

- **Evergreen**: Expand the list of administrators and teachers who have opted-in to the Census Bureau's owned SIS email list to drive repeat visits throughout the decade.*

***Note:** *Census is prohibited from directly emailing teachers who have not signed up for SIS email updates)*

BC-DOC-0000000668

Target Audiences

TEACHERS



Objective: Drive awareness and use of SIS free, teacher-developed classroom activities, participation in SIS Week, and promotion of the 2020 Census.

Tactics: Tactics: Association outreach, paid digital, email and social media promotion, trade media and podcast tours, conferences and events.

ADMINISTRATORS



Objective: Drive awareness and promotion of SIS program and materials, promotion of the 2020 Census, and the importance of a complete count to education funding and resources.

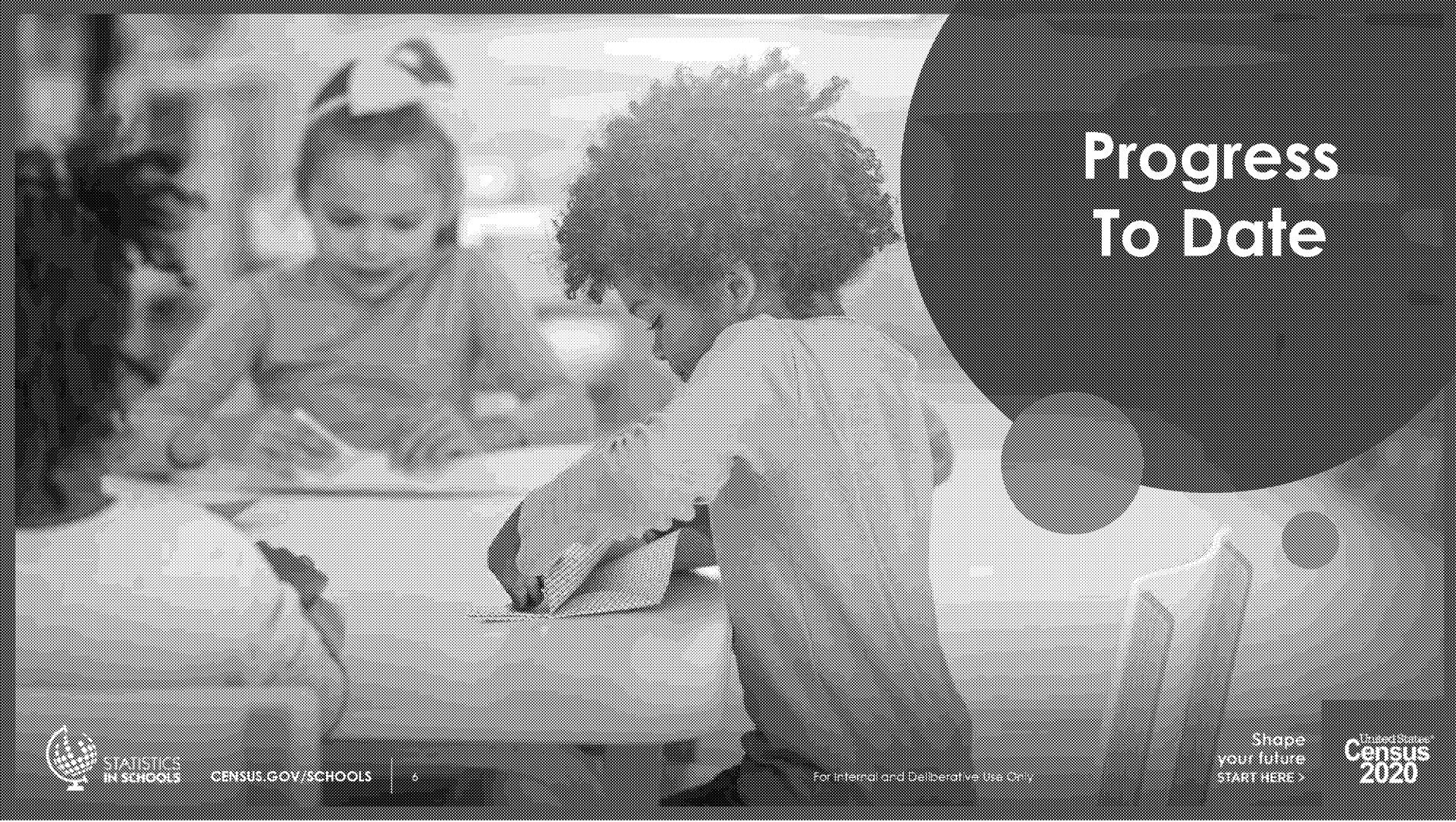
Tactics: Direct mail, school-level outreach, digital media, partnerships, and trade publication outreach.

BC-DOC-0000000669

SIS Update

- **Progress To Date**: Key foundational elements developed to support outreach, engagement, and drive to 2020 count, including:
  - *Superintendent and principal mailings, partner outreach, conference presentations, classroom activities and map development, social media content, national launch event, media pitching, web development, and video and PSA development.*
- **60 Day Surge (mid-Feb through mid-April)**: Intensive outreach and engagement to drive awareness of, and participation in, the 2020 Census.
  - **Ground:** *Direct teacher/administrator and SCCC outreach and engagement with **54,644 schools** (~48% of all schools) and all **52 SCCCs**, with an emphasis on HTC schools and communities.*
  - **Virtual**: *Expansive nationwide digital engagement campaign via paid media with over **75M+ impressions, 5.2M+ emails, and 4M+ eNewsletters**.*
  - **Earned**: *Aggressive partner and media outreach including partner events, SIS Week, podcast tour, national op-eds, and national & local media pitching.*

BC-DOC-0000000670



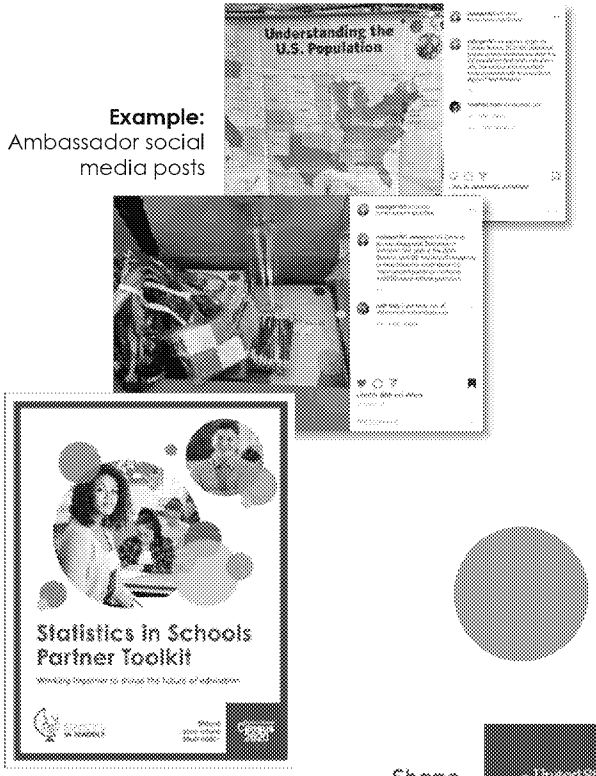
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BC-DOC-0000000671

Administrator & Teacher Engagement To Date

- Mailed over **14,500 SIS Superintendent Kits** (October 2019) to every school district stateside.
- Mailed over **117,000 Principal Kits** (January 2020) with maps, booklets, and flyers to every school stateside *(<1% returned to date, confirmed delivery of 95+%. Working with USPS to identify status of remainder.).*
    - Puerto Rico superintendent and principal kits are being mailed together to central location due to displacement associated with recent earthquakes – (1,465 schools) - target delivery date of 2/25.
- **47,402 schools** and **47 SCCCs** contacted to date by partnership specialists to promote SIS and SIS Week.
- Email outreach to **7,393 CCCs**
- Direct outreach to teachers through Census emails as well as sponsored 3rd party emails that reach large audiences.
- Training and engaging over 123 SIS Ambassadors (volunteer teacher influencers) across 41 states and territories.

Example:
Ambassador social media posts



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BC-DOC-0000000672

SIS Commitment Examples by Region

Atlanta – In Mississippi, the State Superintendent has agreed to go to every school district to conduct a Census Awareness meeting.

Chicago – The Chicago Region has conducted 488 SIS meetings, which garnered 1,434 SIS commitments to date.

Los Angeles - Of the initial target schools (8,112), 5,000 schools have been contacted (61%) and 5,784 SIS events have been entered. California is investing $40 million in education outreach during "Census Week" (March 30th to April 4th). To avoid confusion, Census Partnership staff will conduct SIS Week activities during the same time period that CA conducts "Census Week".

Dallas/Denver - To date 659 target schools in Colorado have committed to partner and implement SIS initiatives. Only 15 target schools remain and those are being visited within the next week. The Houston Children's Museum will be featuring SIS during Census week from March March 26-April 2. This has already been piloted as the museum has dedicated "2020" as this year's overall theme.

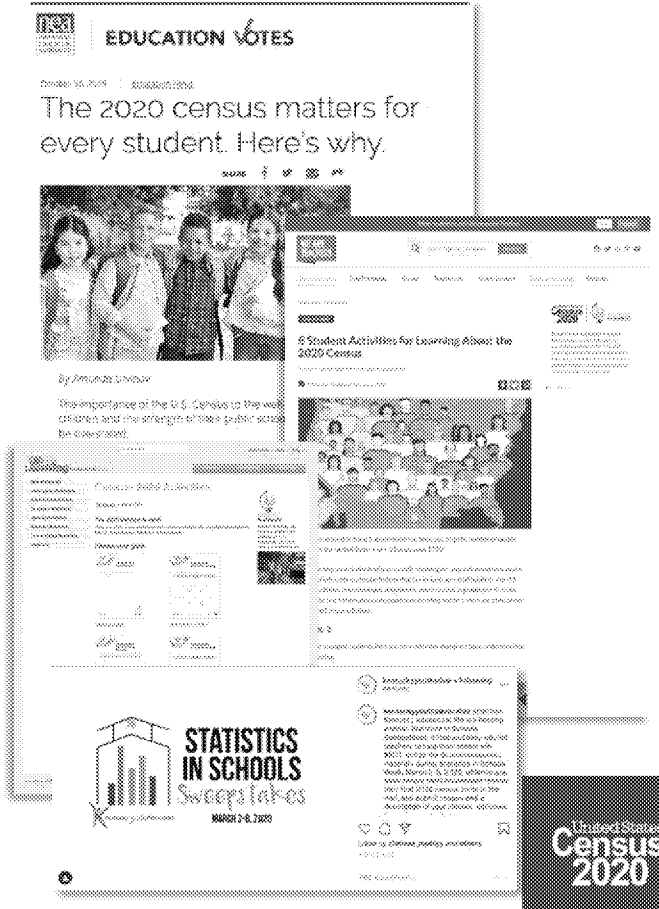
New York – The New York Region had nearly completed outreach to all 6,079 initial target schools and is expanding it's reach beyond the initial target set.

Philadelphia - The Philadelphia Region has acquired 4,667 SIS-specific commitments from 3,178 organizations and has recorded a total of 1,393 SIS-specific events. In Tennessee, Head Start and pre-K directors have been invited to the Tennessee 2020 Census Outreach Summit and will continue to urge pre-k programs to utilize SIS resources and send home the pre-k take home flyer.

BC-DOC-0000000673

Outreach and Amplification Examples

- Created toolkits with editorial calendar and shareable content to drive outreach and promotion and disseminated to partner organizations and ambassadors.
- Presented and exhibited at 25+ national education conferences and 20+ webinars hosted or planned for key stakeholders.
- *National Association of Secondary School Principals will be* hosting an SIS-focused podcast in April with Census leaders.
- *National Council for Geography Education* and *National Council for the Social Studies* have dedicated an entire issue of their magazines to U.S. Census Bureau content and promotion of the 2020 Census.
- *National Science Foundation's* "Let's Make it Count" partnership effort engages students directly in a competition to use Census Bureau data in storytelling.
- *Kentucky Youth Advocate's* Statistics in Schools Sweepstakes (September 2019, March 2020)

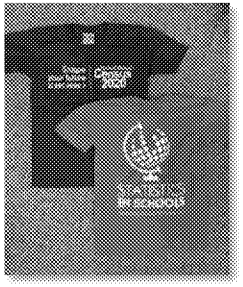


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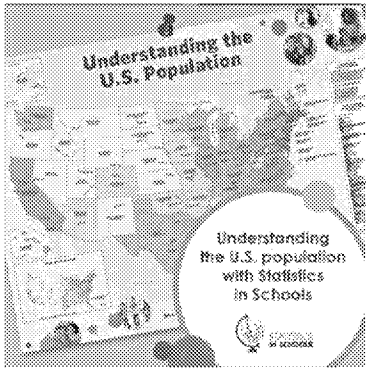
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Promotional Materials and Items

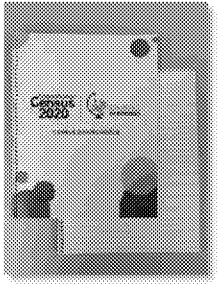
- **Activity books** (900k printed) to be distributed through partner specialists in support of SIS Week and beyond.
- **Take-home flyers** in 13 languages. used for partner outreach, earned media pitching, download, and print by request.
- **Printed activities** (67) and **maps** (10) for mailing and digital download.
- **Young Child FAQs and Fact Sheets** (English & Spanish) (50,000 printed)
- **Promotional items** (over 1 million) including stickers, bibs, lanyards, highlighters, notebooks, mugs, T-shirts, water bottles, pencils, and slide rules.
- SIS Song, PSAs and promotional videos



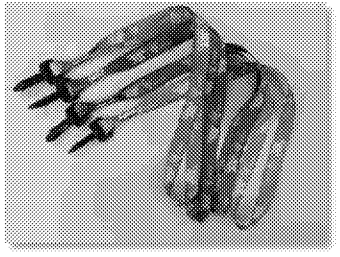




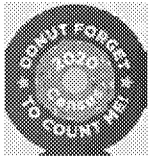








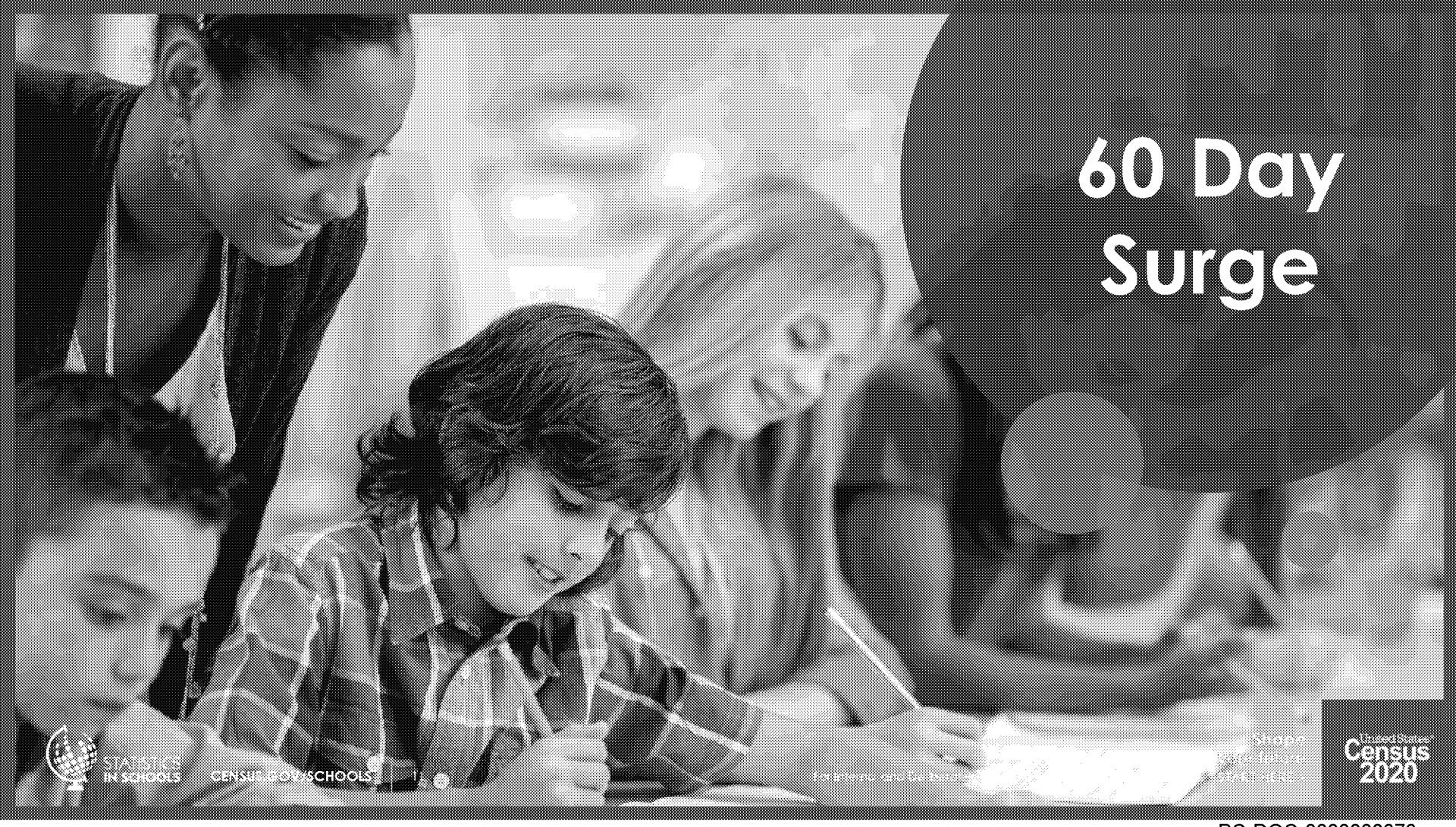




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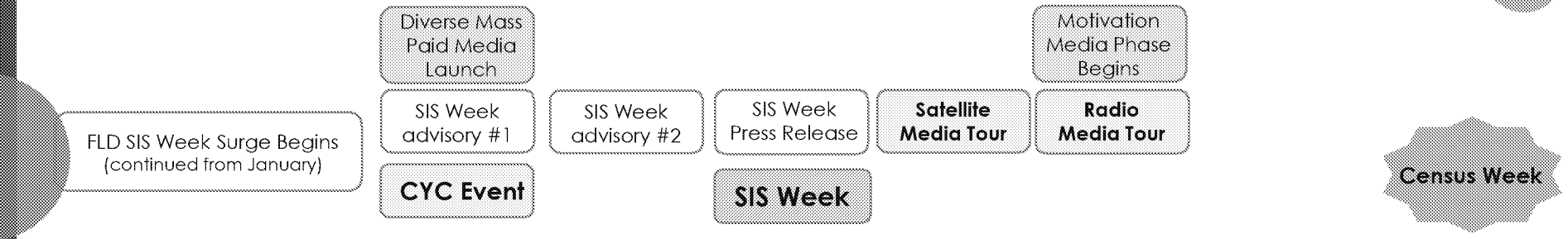
Shape your future START HERE > United States Census 2020

BC-DOC-0000000675



BC-DOC-0000000676

Surge: Next 60 Days



DIGITAL: 75M+ impressions, 5.2M+ emails, 4M+ eNewsletters

PARTNER: 1,294 Partner Specialists engaging 54,500+ schools

EARNED : SIS Week, podcast tour, national op-eds, national & local pitching

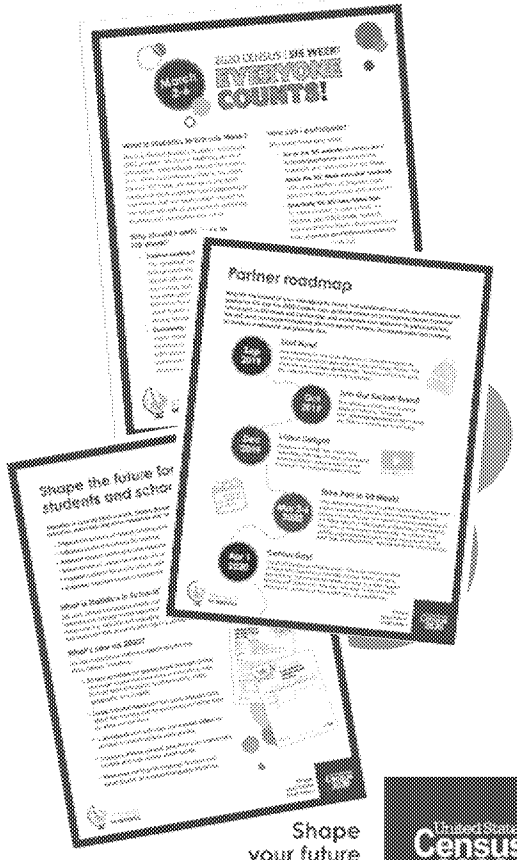
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Surge: FLD & Partner Specialists

Census partnership specialists will promote SIS and SIS Week through direct outreach to SCCCs and schools, with an emphasis on HTC communities.

- **January and February:** Direct outreach to **54,500+ schools** to promote SIS Week using partner toolkit.
  - **~48% of of all schools**, prioritized for lowest response communities with high % free/reduced lunch and high % minority students.
- **SIS Week** – Support at least one local school event during SIS Week and document activity (photo, video, etc.) to amplify via social and other channels (**2,000+ in-person events**).
- Congressional office coordination for local events
- Direct outreach to CCC education leads
- Local NextDoor community posts (**115,000+ neighborhoods,** prioritized for HTC communities) to remind parents to look for letter (and provide digital link) coming home at end of SIS Week.



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BC-DOC-0000000678

Surge: Digital Engagement

Most media running in next 60 days

See slides 28-34

See slides 35-37

Vendor	Impressions	Emails	eNews
EdSurge	705,000		176,000
K5 Learning	28,370,000	370,000	
MDR	1,000,000	100,000	550,000
The Educator Network	3,520,000	400,000	
Education Week	438,000	1,000	292,000
Chalkbeat	1,000,000	75,000	
National Council of Teachers of Math	630,000		72,000
National Education Association	410,000	1,000	3,046,000
DistrictWON	288,000	-	
Scholastic	4,500,000	2,750,000	
Subtotal - Sponsored Content	**40,861,000**	**3,697,000**	**4,136,000**
Search (Google, Bing)	6,000,000		
Social (Facebook, Instagram, Pinterest)	28,000,000		
Media Pending Planning/Approval	20,000,000		
Census direct emails		4,500,000	
Total	**94,861,000**	**8,197,000**	**4,136,000**

Total Projected Impressions: 100M+

- **Significant increase in outlets and reach from 2010**
- Sponsored content placed on leading education-related properties (see chart)

Sponsored content includes:

- Articles
- Social media amplification
- Newsletters
- Emails
- Marquee & banner ads
- Quizzes
- School-owned social media account posts

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Surge: Media & Events

- **Counting Young Children Event** (Cleveland, 2/22)
- **Congressional outreach** - focus on SIS Week and Census Week
- **SIS Week** - intensive media pitching from 2/19-3/13
- **Satellite Media Tour** (3/6)
- **Radio Media Tour** (late March) focusing on counting young children, in English and Spanish.
- **Podcast tour** currently being scheduled, with interviews on relevant education podcasts such as *Teaching Matters, Teacher's Lounge Podcast, and The Class Dismissed Podcast*.
- **Intensive national, regional, local pitching**
- **Local pitching** with trained local SIS Ambassadors available in 20 HTC markets



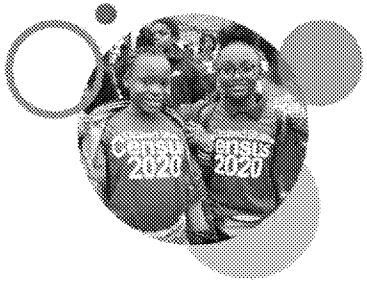
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SIS Week

March 2-6

SIS WEEK: EVERYONE COUNTS!



Shape the future for your students and school

Join the movement to make sure every child is counted in the 2020 Census by taking part in Statistics in Schools Week: Everyone Counts! This weeklong series of fun classroom activities is provided by the U.S. Census Bureau's Statistics in Schools (SIS) program to educate students about the importance of the once-a-decade count.

The 2020 Census will impact the federal funds that schools receive each year for special education, classroom technology, teacher training, after-school programs, school lunch assistance, and more. It will also affect billions in funds for other community services. Your students count on you every day. Here is your chance to help shape the future not only for them but for your whole community.

Learn more about SIS Week by going to census.gov/schools.

Participate in the daily activities

Monday **March 2**

What is the 2020 Census?

Introduce the 2020 Census to each grade level by using our featured activity.

Tuesday **March 3**

Apportionment

Use SIS materials to teach students about congressional apportionment and its connection to the decennial census. Students in grades K-2 can create and conduct a survey.

Wednesday **March 4**

Diversity Collage

Show how census questions highlight the country's diversity by assembling and sharing a collage that highlights diversity in your classroom.

Thursday **March 5**

Virtual Field Trip to the U.S. Census Bureau

Take students on a virtual field trip to the Census Bureau to learn more about how census data is collected and used.

Friday **March 6**

Shape My Community's Future

Ask students to reflect on what they want to see in their future. On this day, send the SIS take-home flyer home with all your students. Find it at census.gov/schools/getinvolved.

STATISTICS IN SCHOOLS

Shape your future START HERE >

Census 2020

See slides 38-43 for daily themes and details.

BC-DOC-0000000681

SIS: Path Ahead

Planned Surge Activities

- Field surge to continue outreach to **54,500**+ schools directly and share items/materials
- Intensive digital promotion leading into SIS Week and extending through Census Week **(75M+ impressions, 5.2M+ emails, 4M+ eNewsletters)**
- OCIA outreach to Congressional staff to promote SIS Week, Census Week, and evergreen offerings
- Ongoing SCCC outreach
- Satellite media tour, radio media tour, podcast tour, and ongoing media pitching and promotion of SIS and related programs
- Email blasts to educator lists and integration with ongoing Census communications

Supplemental Activities

- Increase in paid funding for digital outreach to amplify reach to teachers and administrators
- Increased emphasis on distribution of print materials and items by partnership specialists
- Activation of limited fulfillment system for print activities and maps per request by educators
- Extensive school outreach and engagement through Census Week and beyond

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Appendix

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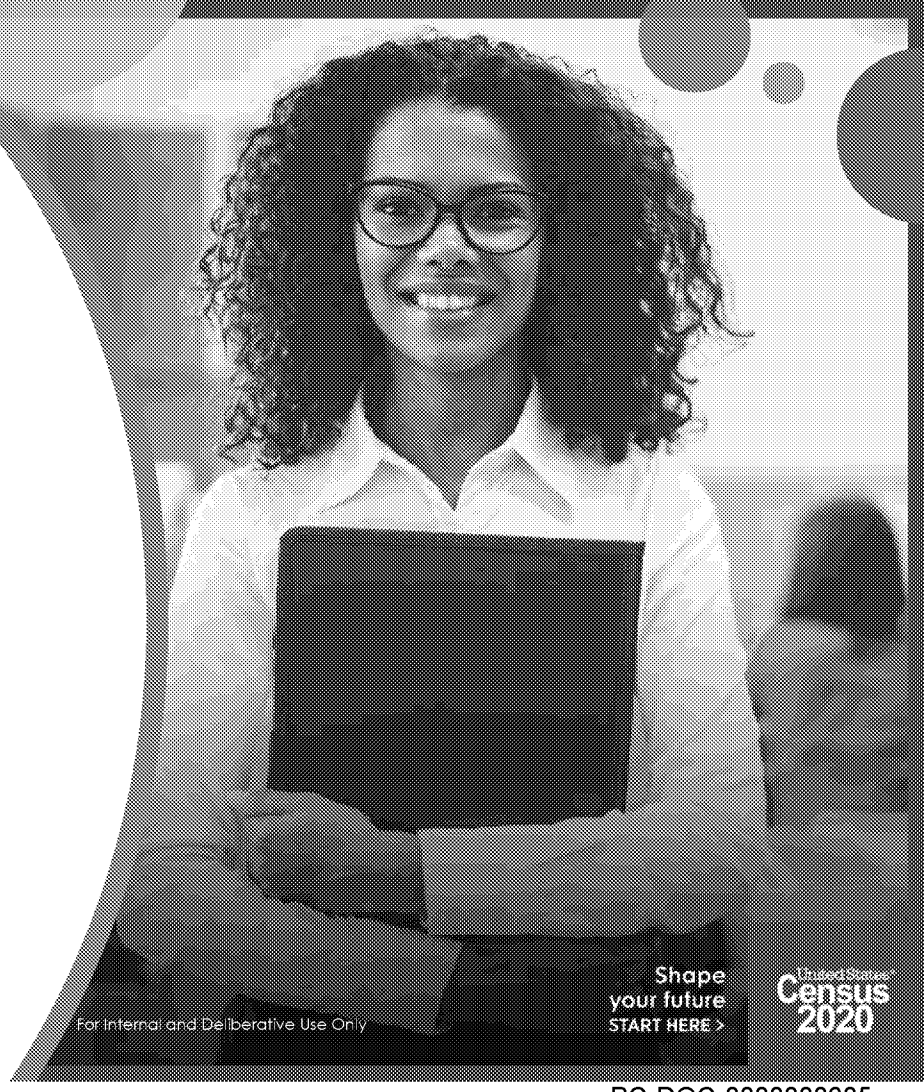
Expert Advisory Team

- SIS educator advisory team includes 60 content creators and subject matter experts, including teachers living in each Island Area and Puerto Rico.
- Three teachers are subject matter experts in working with English language learners and adults learning English as a second language.
- Many teach in areas with high hard-to-count populations.
- The team developed and refined all 67 new 2020 classroom activities and review/contributed to other SIS resources such as the activity book, videos, educator toolkits, and more.

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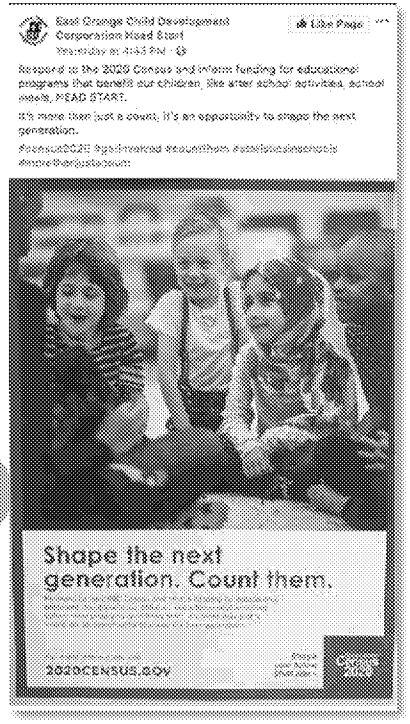
Partner Promotion & Earned Media

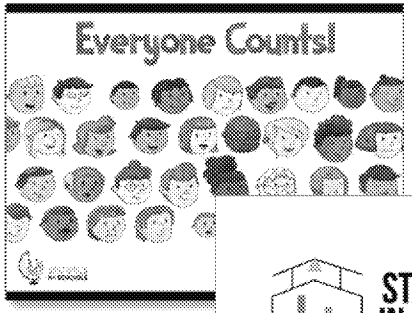


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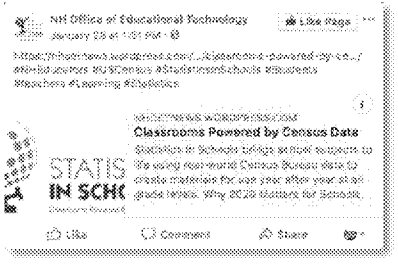
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Partner Promotion Examples





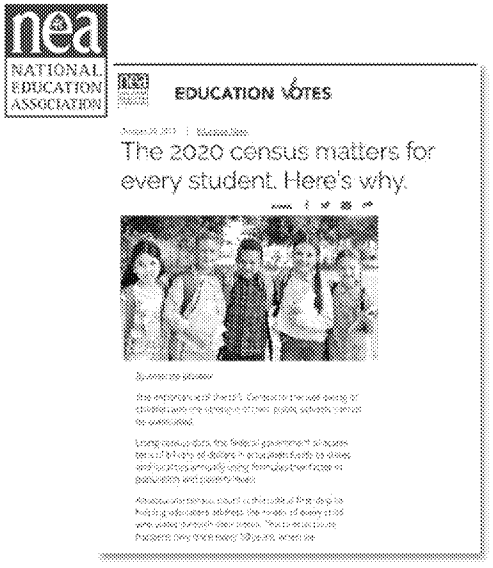






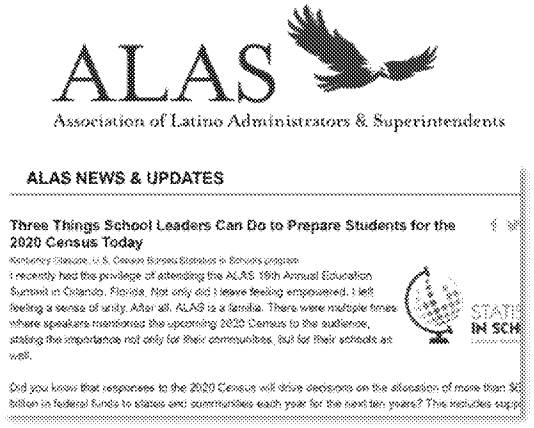
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Partner Promotion Examples



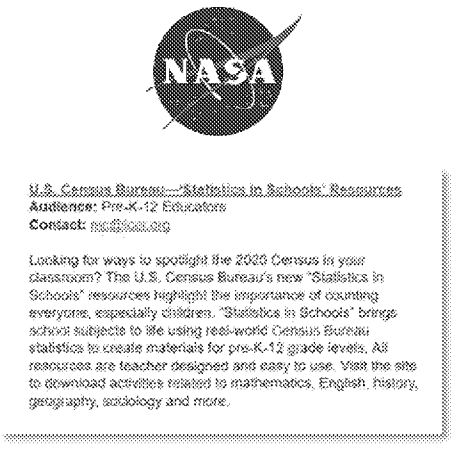
NEA (~3million members) provided free conference space at:

- Annual Conference
- National Leadership Summit
- NEA Educational Support Professionals



ALAS provided free conference space at their annual conference in Orlando, FL:

- Speaking Engagements
- Blogs
- Email Blurbs



The NASA EXPRESS newsletter was sent to **43,295** subscribers on 2/6/20 and shared with:

- **170,181** @NASASTEM Twitter
- **79,234** NASA STEM for Students(FB)
- **269,160** NASA STEM Pinterest

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Digital Partnerships

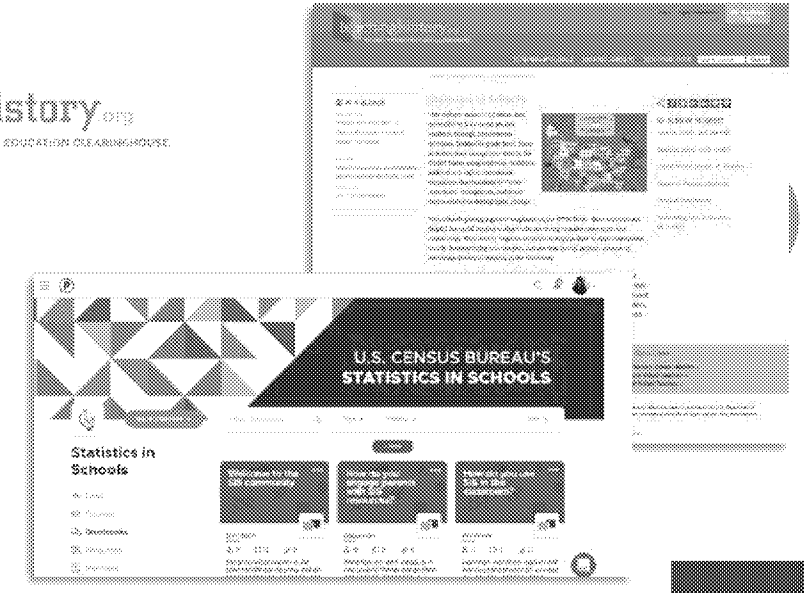
SIS has developed in-kind partnerships with a broad spectrum of digital education platforms to amplify existing marketing efforts. Initial activations began in November 2019 and continue to expand. Include e-newsletter and e-blast promotion, blog posts, and development of custom content.

TED-Ed participate teachinghistory.org NATIONAL HISTORY EDUCATION CLEARINGHOUSE

Tch TeachingChannel PowerMyLearning

readwritethink International Reading Association NCTE TeacherVision

TEACHING TOLERANCE Infoplease

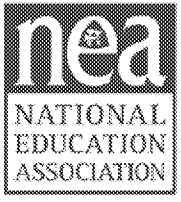


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National Partnerships

Census is working directly with network of national partners to accelerate promotion of Statistics in Schools, SIS Week, and drive awareness of, and participation in, the 2020 Count. Early partners began activities in 2019 and are accelerating efforts leading up to 2020 Census. Outreach is ongoing.







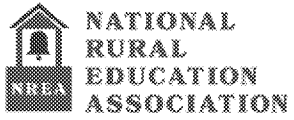




















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Partner Promotion Examples

Webinars

- Academy Tutors
- American Statistical Association
- American Sociological Association
- National Indian Education Association
- Association for American Educators
- National Council for the Social Studies
- Arlington County Public Schools
- Association for Middle Level Education
- National School Board Association
- National Head Start Association
- American Association of School Administrators
- National School of Public Relations Association
- Annenberg Learner

Conference Presentations

- National Indian Education Association
- Association for Middle Level Education
- Council of the Great City Schools
- Early Childhood Education Summit
- Association of Latino Administrators and Superintendents
- New Hampshire Council of the Social Studies
- The National Association of ESEA State Program Administrators (formerly National Title I Association)
- National Council for History Education
- Iowa Council of Teachers of Math
- National Council of Teachers of Mathematics
- Share My Lesson
- Native American Grant Association
- Texas Library Association

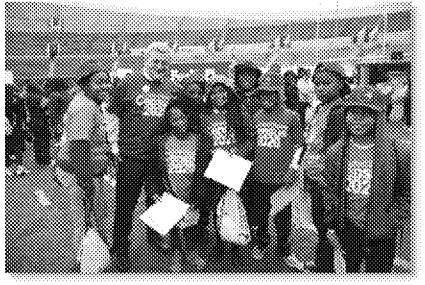
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Earned Media Examples

- Consistent national, regional, and local media outreach.
- SIS Kickoff Event in Memphis, TN with over 1,000 Shelby County 5th graders garnered national coverage by Associated Press and was widely reposted – in a total of 153 outlets.
- SIS radio media tour on December 4, 2019 garnered 13 interviews and over 2.1M impressions



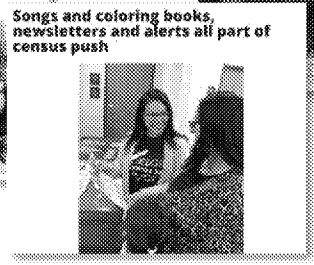






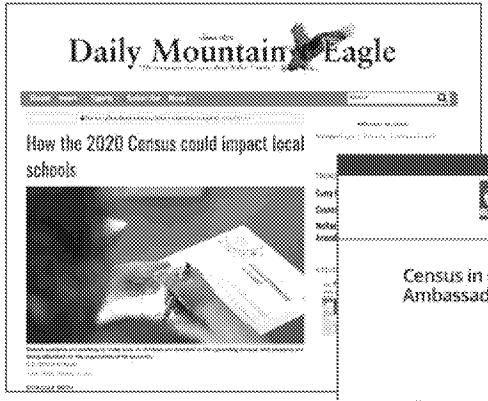


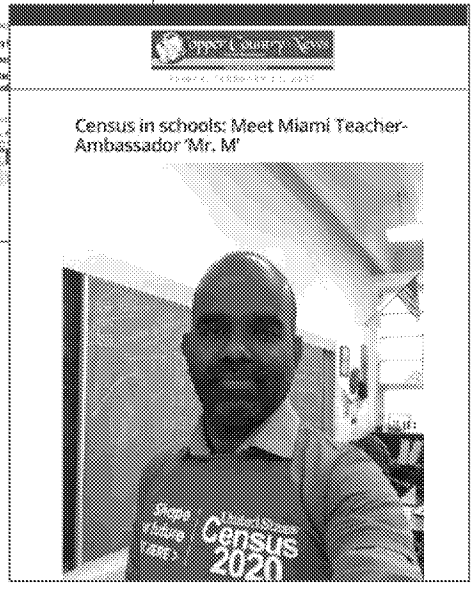




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Earned Media Examples



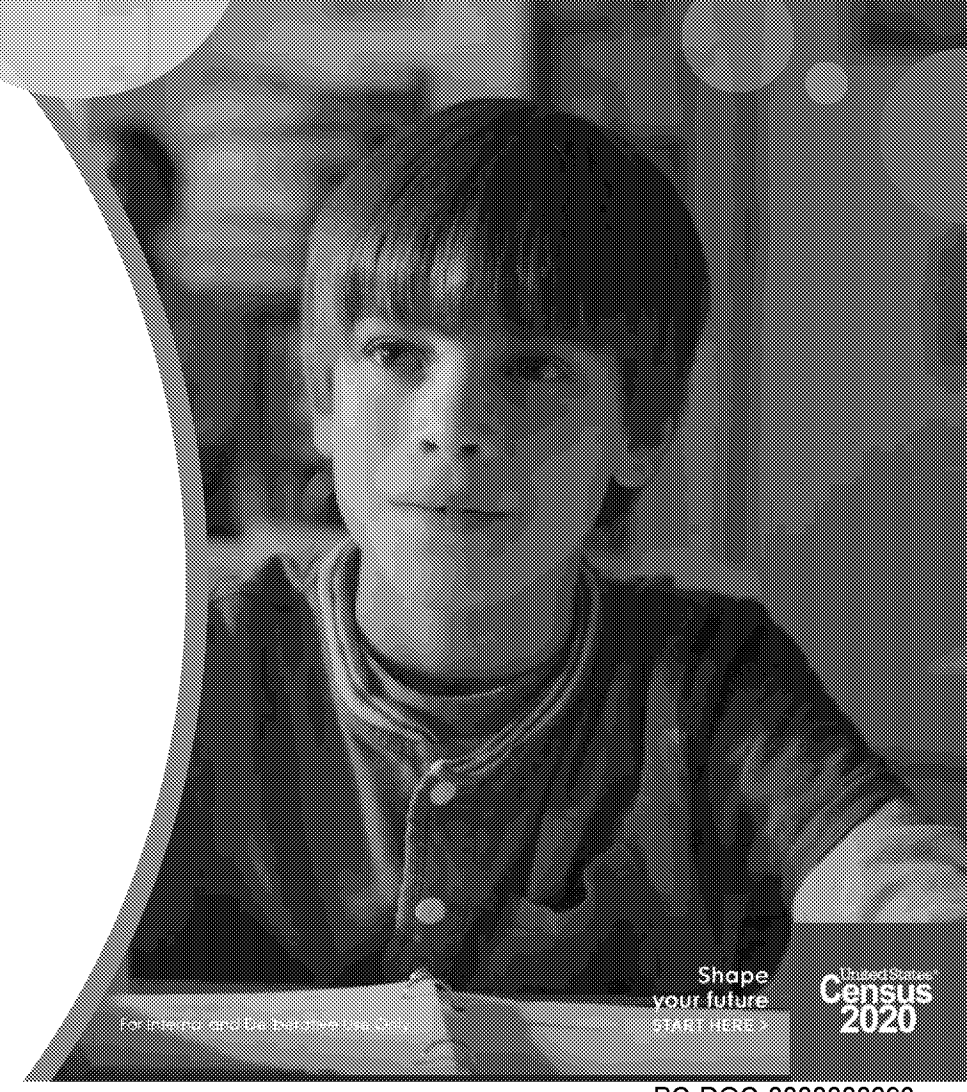






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DIGITAL ENGAGEMENT



BC-DOC-0000000693

Education Week

Education Week has been a trusted resource on American K-12 education since 1981. Serving 1.6 million monthly unique visitors and 1.3 million e-newsletter subscribers, it reaches a robust audience of K-12 teachers, district and school leaders, and policymakers.

The Educator's Network

With over 4 million unique monthly visitors, The Educator's Network offers efficient, optimized campaigns across multiple teacher websites via a single point of contact. Websites include Education World, MathGoodies.com, and Teacher Planet.

NCTM

NATIONAL COUNCIL OF TEACHERS OF MATHEMATICS

NCTM is the world's largest mathematics education organization, with a membership of 38,000 and more than 200 affiliates. 57% of NCTM members are classroom teachers, who on average have more than 15 years experience.

EdSurge

EdSurge operates as an independent news and research initiative of International Society for Technology in Education (ISTE). The EdSurge audience of 400,000+ monthly unique visitors is made up of teachers, administrators, entrepreneurs, and other thought leaders who are focused on learning about and building innovative schools.

DistrictWON

Partnering with Purpose

DistrictWON serves as the "official and exclusive" partner to the National Federation of High Schools and the National Interscholastic Athletic Administrators Association. They deliver targeted digital messaging to school communities through the school's own social media accounts – trusted and unfettered channels of communication.

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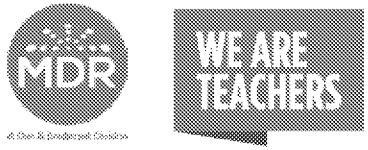
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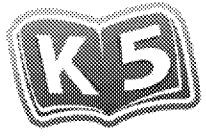
The National Education Association is the nation's largest professional employee organization and is committed to the advancing the cause of public education. NEA's 3 million members work at every level of education. NEA has affiliate organizations in every state and in more than 14,000 communities across the United States.



Chalkbeat is the country's fastest growing destination for education news serving an average of 500,000 monthly visitors. Influential educators, administrators, decision-makers, and parents across the United States read Chalkbeat every day. Chalkbeat reports an average open rate is 35 percent, which is significantly higher than industry standard for media and publishing.



MDR has connected educators and brands for over 50 years. Using its proprietary database composed of over 300 building-level data variables, over 400 K-12 job titles, and 35 demographic characteristics, MDR can accurately reach 95% of educators nationwide. MDR provides access to the popular WeAreTeachers brand, trusted by millions of teachers for resources and materials.



K5 Learning provides reading and math materials for kindergarten and elementary students. Serving parents, teachers, and homeschoolers, K5 Learning receives 2 million visits per month and has more than 200,000 newsletter subscribers.

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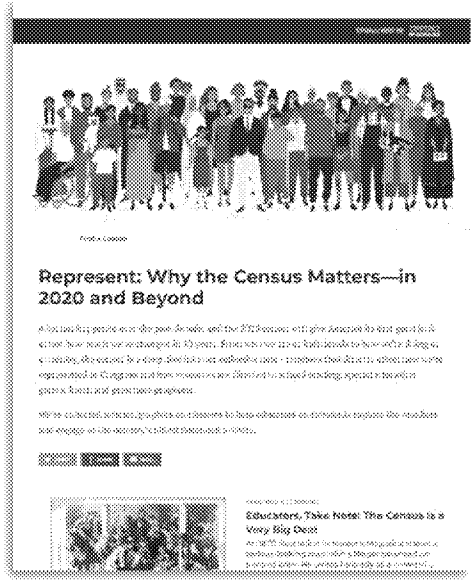
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Current Sponsored Content (Published February 2020)



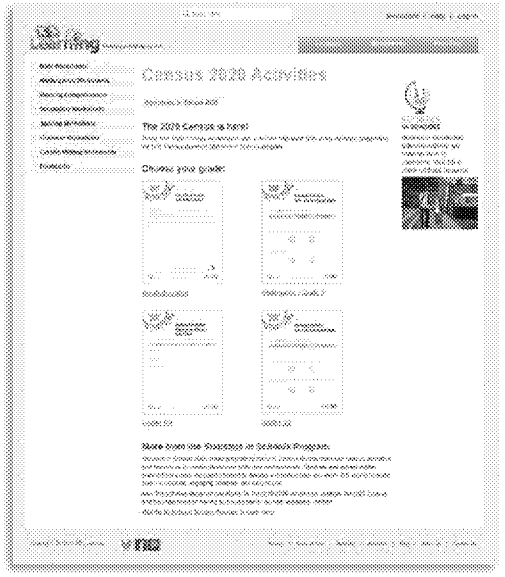
The Educator Network

3.5M display impressions
400,000 emails



EdSurge

705,000 display impressions
176,000 e-newsletter impressions



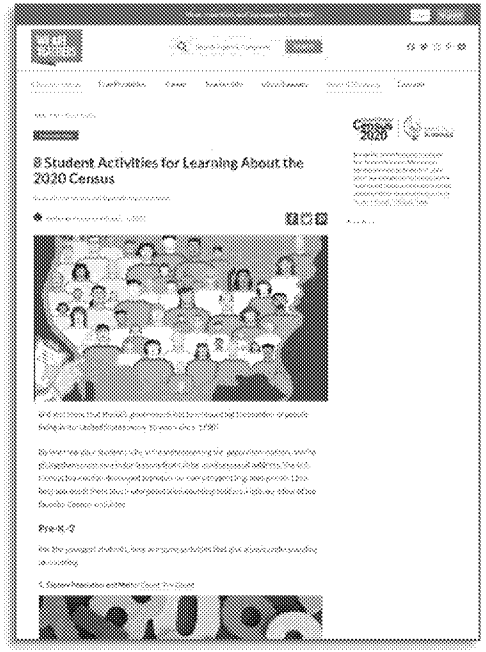
K5 Learning

28M display impressions
370,000 emails

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BC-DOC-0000000696

Current Sponsored Content (Published February 2020)



We Are Teachers

1M display impressions
100,000 emails
550,000 eNewsletter impressions





Education Week

438,000 display impressions
1,000 emails
292,000 e-newsletter impressions

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Surge Sponsored Content (Published February 2020)

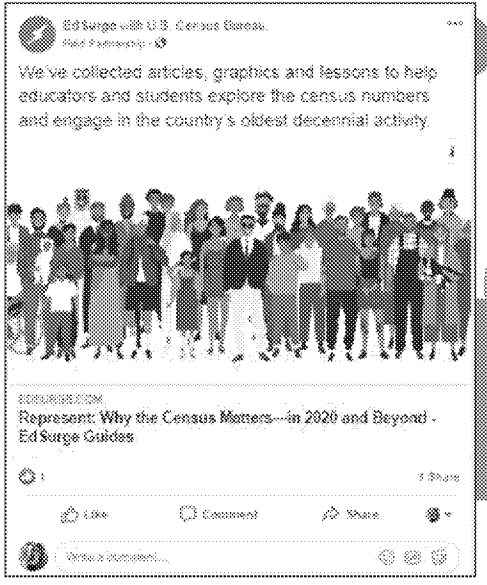
Content on EdWeek.org



WeAreTeachers: Email Feature



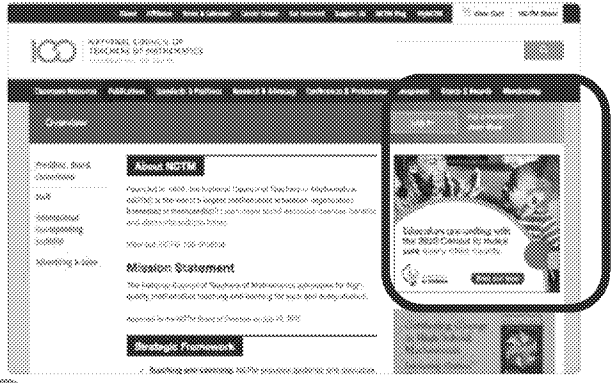
EdSurge: Article and Social Media



BC-DOC-0000000698

Surge Sponsored Content (Published and Upcoming)

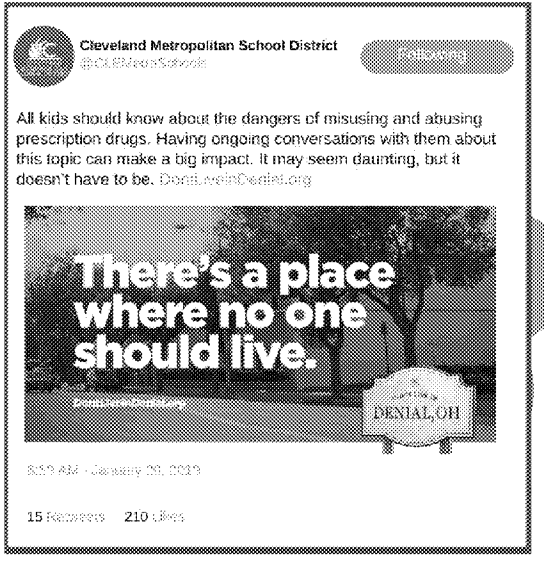
Nat'l Council of Teachers of Mathematics



Chalkbeat: Website Sponsorship*



DistrictWon: School-Owned Social Media Posts*

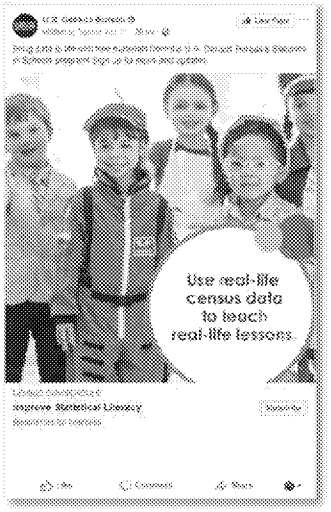


* Note: These are placement and format examples only. They do not reflect actual SIS content yet.

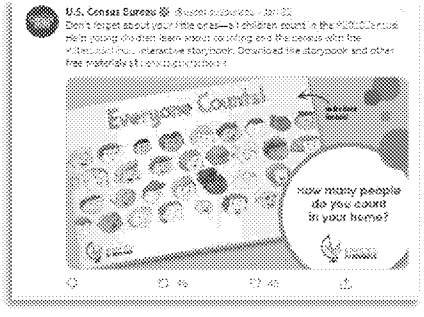
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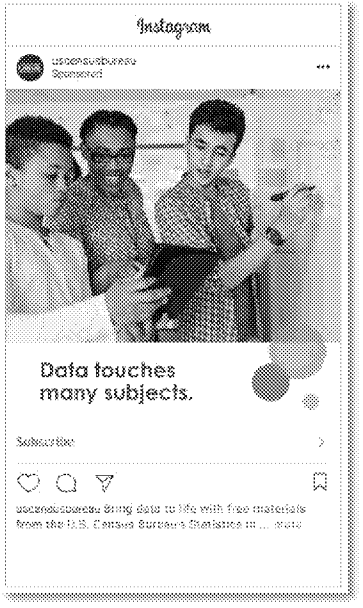
Digital: Social Media Advertisements

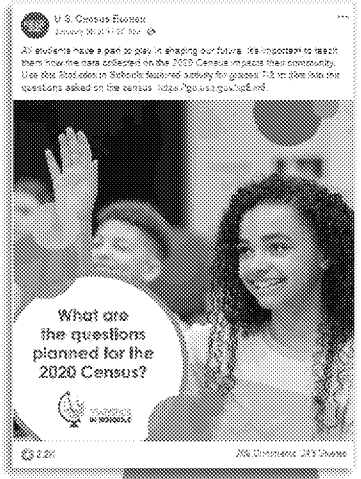










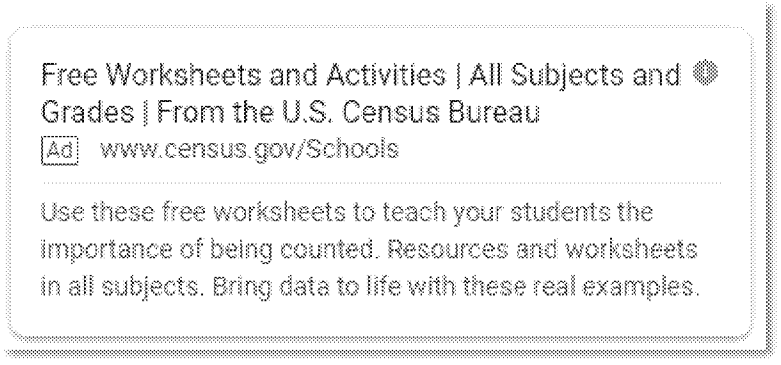


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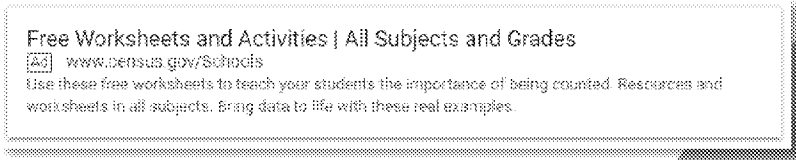
BC-DOC-0000000700

Digital: Keyword Search

Mobile



Desktop



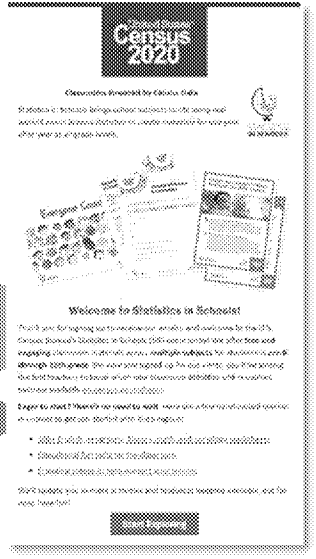
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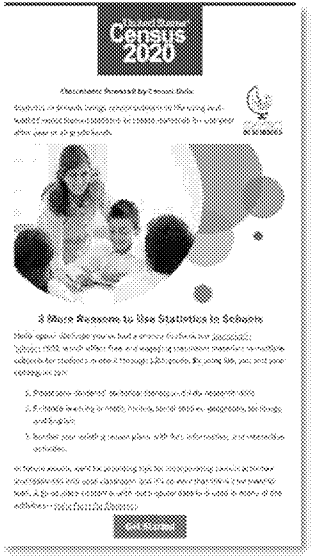
Digital: Census Email Marketing

WELCOME SERIES (4 emails)

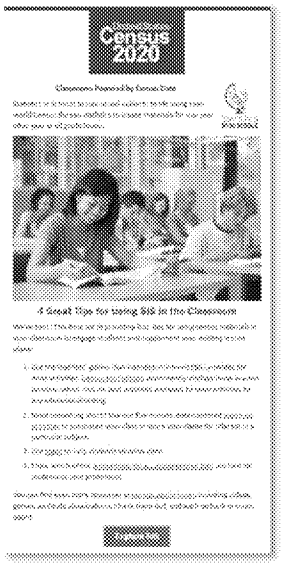
Email #1



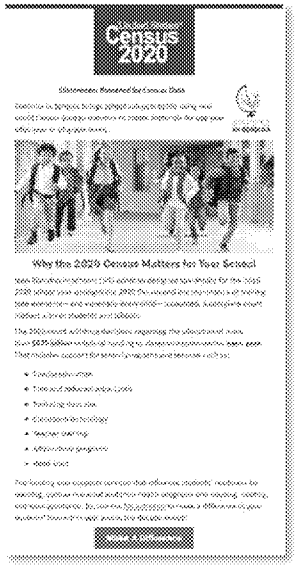
Email #2



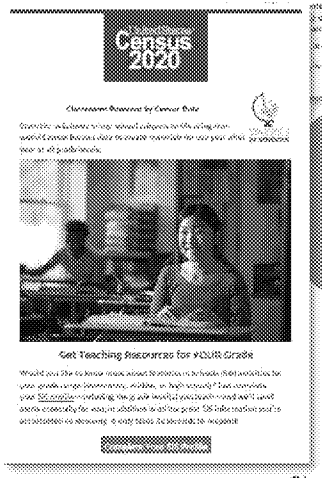
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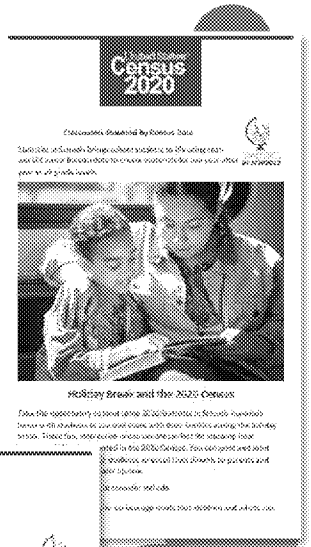


Email #4



Ongoing Emails





For Internal and Deliberative Use Only

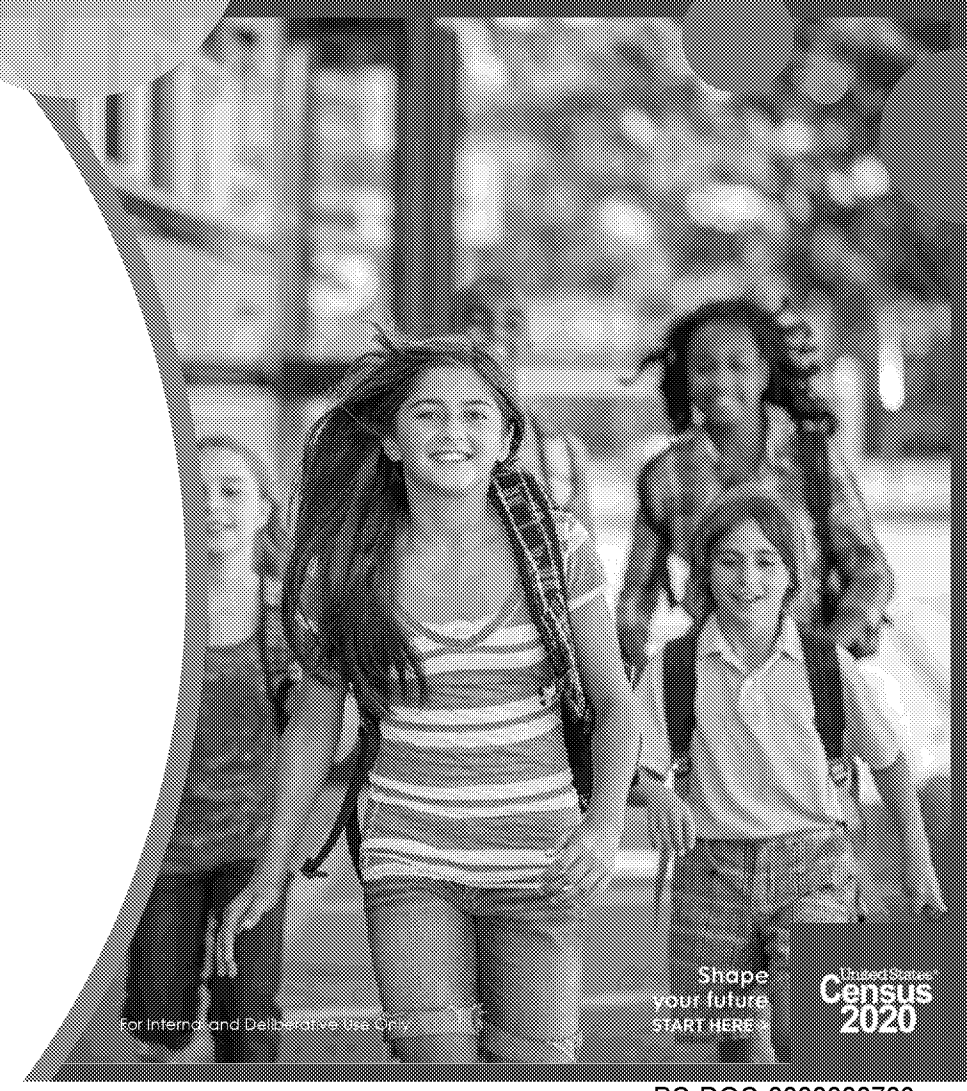
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United States Census 2020

BC-DOC-0000000702

SIS WEEK

(March 2 – March 6)

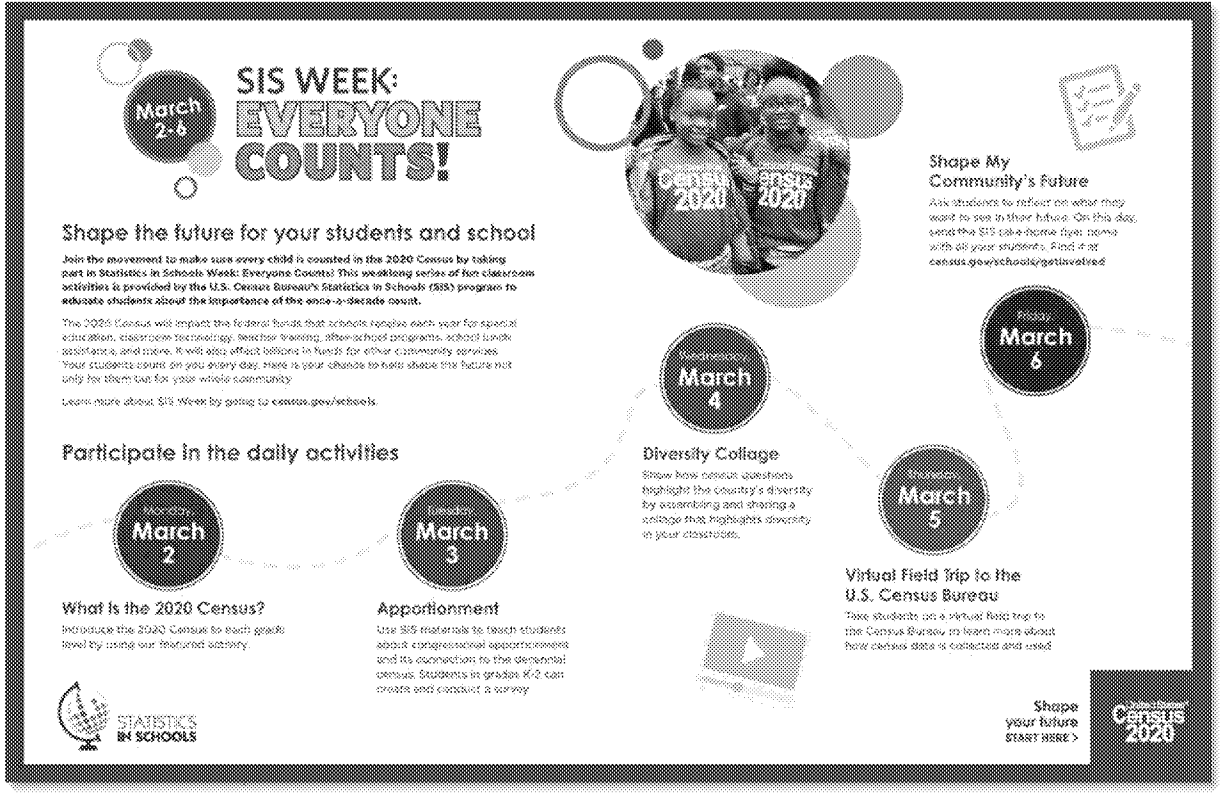


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BC-DOC-0000000703

SIS Week

Intensive week of integrated activities and promotion featuring the SIS program and resources. Audiences can participate each day or opt in for just some.

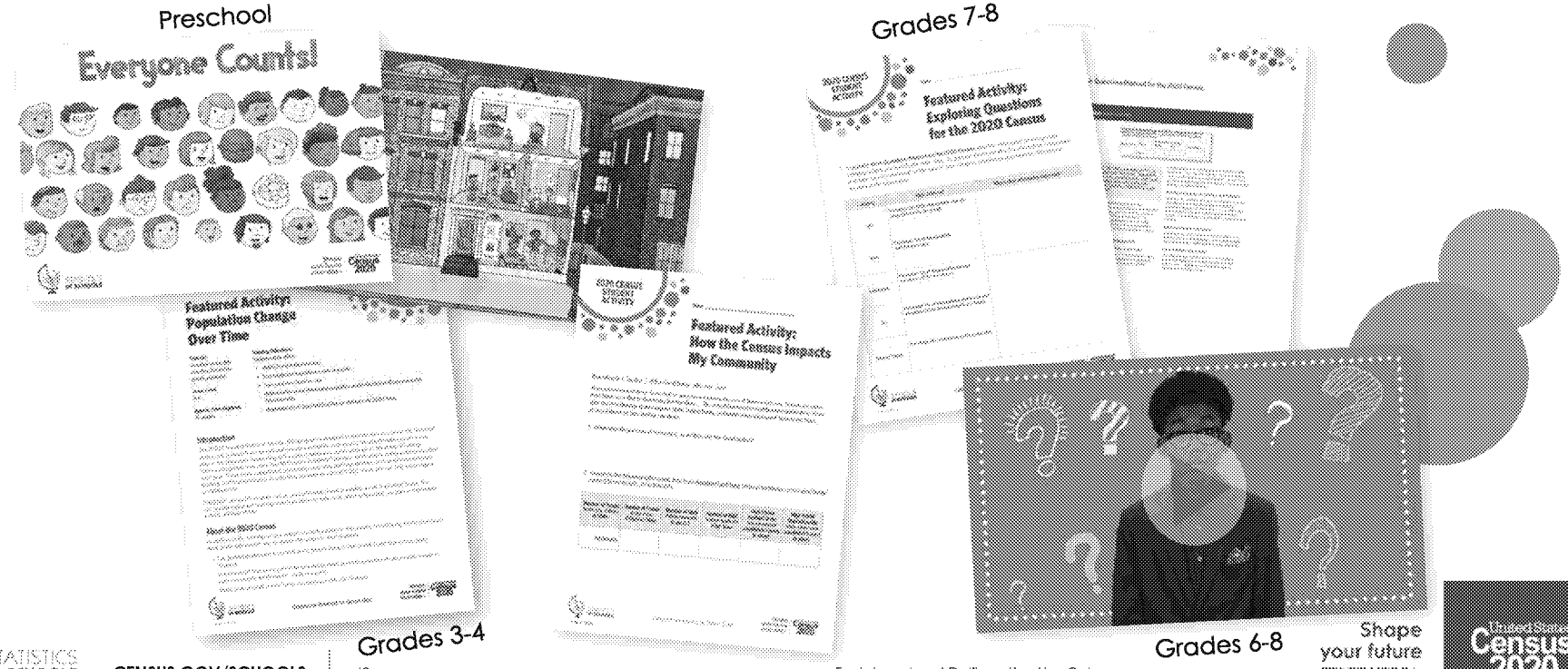


STATISTICS IN SCHOOLS
Shape your future START HERE >

BC-DOC-0000000704

March 2: What is the 2020 Census?

Introduce the 2020 Census to each grade level by showcasing new SIS materials.

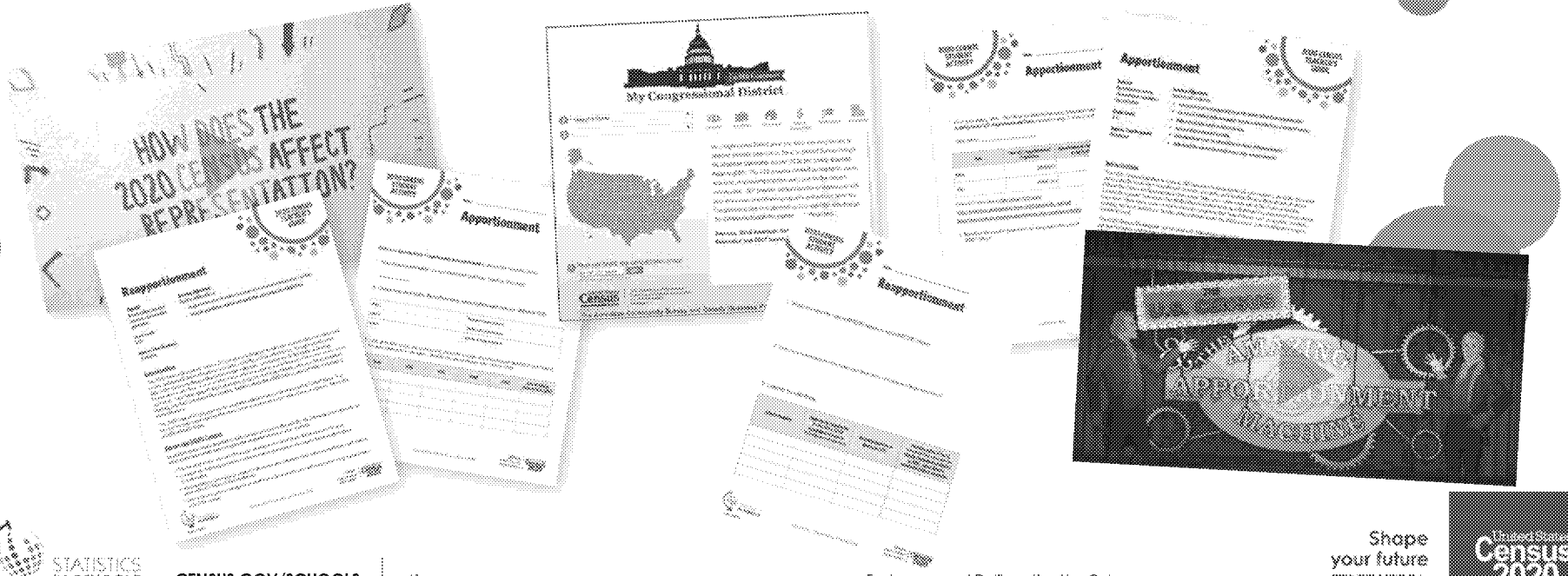


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BC-DOC-0000000705

March 3: Apportionment

Students will learn what congressional apportionment is, how it works, why it is important, and how it relates to the decennial census. Students in grades K-2 will conduct a mock class census.

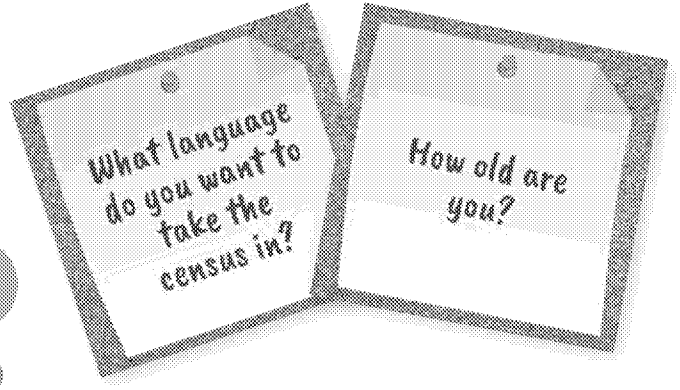


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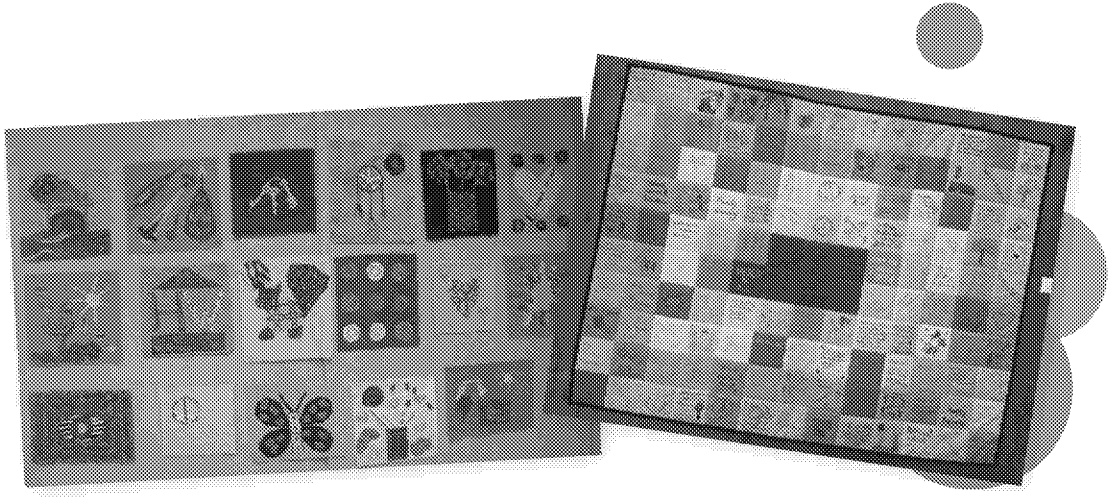
BC-DOC-0000000706

March 4: Diversity Collage

Have schools develop their own "Diversity Collage" to highlight diversity in the classroom and make the connection to how the census questionnaire highlights diversity in our country.



The activity will ask students to answer questions on squares to form the collage.



The activity will ask teachers to assemble a classroom collage from individual student squares. A classroom discussion guide will explore diversity. Teachers will be asked to photograph and share their collages online.

BC-DOC-0000000707

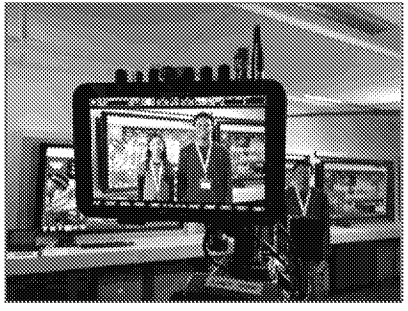
March 5: Virtual Field Trip

Schools will participate in a virtual field trip allowing students to visit the U.S. Census Bureau to learn more about how census data is collected and used. The field trip will be accessible via the SIS website, along with all other materials for this day.

- The field trip will be a 15-minute pre-taped "show" broken into four or five segments woven together with host commentary.
- This activity will provide unique access to behind-the-scenes interviews with Census Bureau experts (e.g., members of the geography and data visualization teams) and key partners.
- Classrooms will be provided with pre- and post-trip activities to further engage students.
- A live Twitter Chat will accompany the field trip on March 5 to promote online conversation and extend SIS promotion.



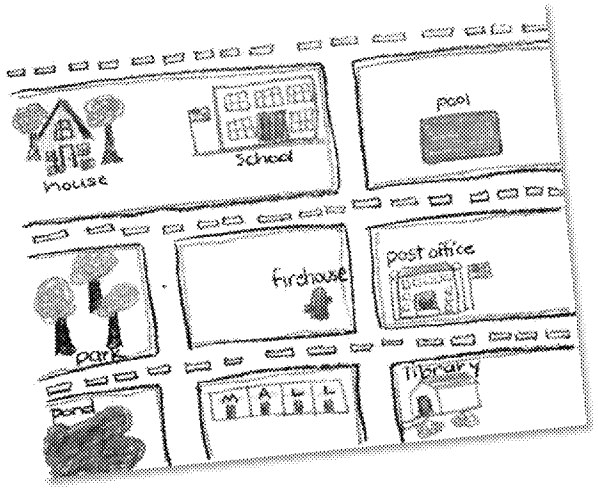


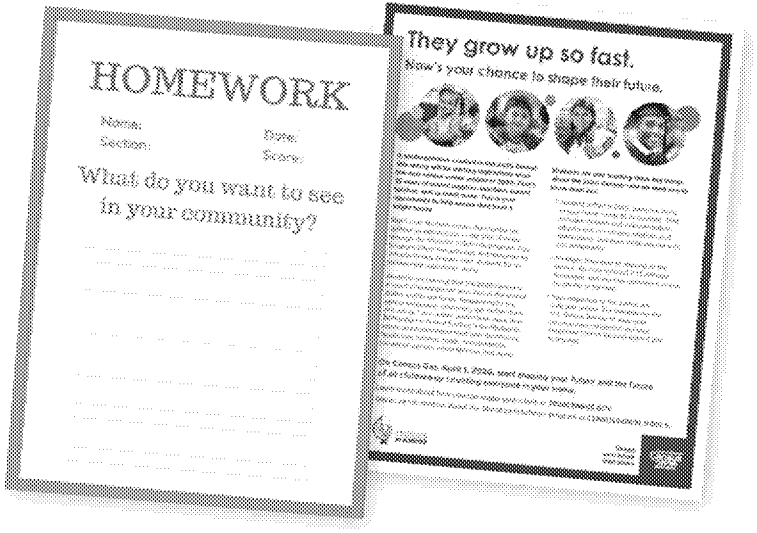


BC-DOC-0000000708

March 6: Shape My Community's Future

Younger students will draw what they want to see in their community and will give the adults in their home homework by asking them to answer brief questions about what they want to see in their community. Older students will write a letter to a community leader to encourage them to complete the 2020 Census and spread the word. **Most importantly, on this day all educators will send their students home with the SIS Take Home Flyer.**





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BC-DOC-0000000709

Thank you

BC-DOC-0000000710

From: Risko, Daniel (Federal) [DRisko@doc.gov]
Sent: 9/8/2020 2:33:08 PM
To: Cogley, Nathaniel [nathaniel.cogley@census.gov]; Dillingham, Steven [steven.dillingham@census.gov]; Overholt, Benjamin A [benjamin.a.overholt@census.gov]; Walsh, Michael (Federal) [MWalsh@doc.gov]; Blair, Robert (Federal) [RBlair@doc.gov]
Subject: 1430 Deck
Attachments: 09092020.pdf

CUI//PRIVILEGE//NOT FOR DISTRIBUTION

Dan Risko
Chief of Staff
Office of the Deputy Secretary
United States Department of Commerce
202-482-6010 (o) | b(6) (c)
drisko@doc.gov

From: Kourkoumelis, Aristidis (Federal) [AKourkoumelis@doc.gov]
Sent: 9/4/2020 7:56:59 PM
To: Walsh, Michael (Federal) [MWalsh@doc.gov]
Subject:
Attachments: b(5) - DP

CUI/PRIV/AWP

See attached. Thank you.

Aristidis (Aris) Kourkoumelis | Senior Counsel
Office of the General Counsel
U.S. Department of Commerce
M: b(6)

From: Walsh, Michael (Federal) [MWalsh@doc.gov]
Sent: 4/19/2020 11:29:43 AM
To: Wilbur Ross b(6)
Subject: Census legislative proposal- language & section by section sent to Hill
Attachments: Census Legislative Text and Section-by-Section 04.18.20.pdf

Draft Legislative Text

Notwithstanding the timetables provided in sections 141(b) and (c) of title 13, United States Code, and section 2a(a) of title 2, United States Code, for the 2020 decennial census of the population –

(a) the tabulation of total population by States required by section 141(a) of title 13, United States Code, for the apportionment of Representatives in Congress among the several States shall be completed within 13 months after the census date of April 1, 2020 and reported by the Secretary to the President of the United States;

(b) the President shall transmit to the Congress a statement showing the whole number of persons in each State, and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives, as required by section 2a(a) of title 2, United States Code, within 14 days after receipt of the tabulation reported by the Secretary; and

(c) the tabulations of populations required by section 141(c) of title 13, United States Code, shall be completed by the Secretary as expeditiously as possible after the census date of April 1, 2020, and reported to the Governor of the State involved and to the officers or public bodies having responsibility for legislative apportionment or districting of such State, except that such tabulations of population of each State requesting a tabulation plan, and basic tabulations of population of each other State, shall, in any event, be completed, reported, and transmitted to each respective State within 16 months after the census date of April 1, 2020.

Section-by-Section

The draft legislation would, only for the 2020 Census, extend the statutory deadlines to deliver certain census data, including apportionment data.

Subsection (a): Under current law (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 draft legislation would extend that deadline for the 2020 Census to 13 months after the census date of April 1, 2020.

Subsection (b): Under current law (2 USC 2a(a)), on the first day or within one week thereafter, of the first regular session of Congress after the decennial census is conducted, the President is required to transmit to the Congress a statement showing the whole number of persons in each State and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives. The draft legislation would amend that deadline for the 2020 Census to require the President to transmit the statement to Congress within 14 days after receipt of the tabulation reported by the Secretary (as required under section 13 USC 141(b), with the extended deadline as set out above in Subsection (a)).

Subsection (c): Under current law (13 USC 141(c)), the Secretary of Commerce is required to complete, report, and transmit to State Governors and other State officials and public bodies certaintabulations of state populations within one year of the census date. The draft legislation would extend that deadline to require the Secretary to complete, report, and transmit the tabulations to each State within 16 months after the census date of April 1, 2020.

From: MWalsh@doc.gov [MWalsh@doc.gov]
Sent: 8/18/2020 2:54:44 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.

Brian D. DiGiacomo
Assistant General Counsel for Employment, Litigation, and Information
Office of the General Counsel
Room 5896
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, D.C. 20230
Office Phone: 202-482-5393
Cell Phone: b(6)

LATHAM & WATKINS LLP
Steven M. Bauer (Bar No. 135067)
steven.bauer@lw.com
Sadik Huseny (Bar No. 224659)
sadik.huseny@lw.com
Shannon D. Lankenau (Bar No. 294263)
shannon.lankenau@lw.com
505 Montgomery Street, Suite 2000
San Francisco, CA 94111
Telephone: 415.391.0600
Facsimile: 415.395.8095

LATHAM & WATKINS LLP
Richard P. Bress (*pro hac vice* pending)
rick.bress@lw.com
Melissa Arbus Sherry (*pro hac vice* pending)
melissa.sherry@lw.com
Anne W. Robinson (*pro hac vice* pending)
anne.robinson@lw.com
Tyce R. Walters (*pro hac vice* pending)
tyce.walters@lw.com
Genevieve P. Hoffman (*pro hac vice* pending)
genevieve.hoffman@lw.com
Gemma Donofrio (*pro hac vice* pending)
gemma.donofrio@lw.com
555 Eleventh Street NW, Suite 1000
Washington, D.C. 20004
Telephone: 202.637.2200
Facsimile: 202.637.2201

LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW
Kristen Clarke (*pro hac vice* pending)
kclarke@lawyerscommittee.org
Jon M. Greenbaum (Bar No. 166733)
jgreenbaum@lawyerscommittee.org
Ezra D. Rosenberg (*pro hac vice* pending)
erosenberg@lawyerscommittee.org
Dorian L. Spence (*pro hac vice* pending)
dspence@lawyerscommittee.org
Ajay P. Saini (*pro hac vice* pending)
asaini@lawyerscommittee.org
Maryum Jordan (Bar No. 325447)
mjordan@lawyerscommittee.org
Pooja Chaudhuri (Bar No. 314847)
pchaudhuri@lawyerscommittee.org
1500 K Street NW, Suite 900
Washington, D.C. 20005
Telephone: 202.662.8600
Facsimile: 202.783.0857

Additional counsel and representation information listed in signature block

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

LATHAM & WATKINS LLP

By: */s/ Sadik Huseny*

Steven M. Bauer (Bar No. 135067)
Sadik Huseny (Bar No. 224659)
Shannon D. Lankenau (Bar. No. 294263)
505 Montgomery Street, Suite 2000
San Francisco, CA 94111
Telephone: 415.391.0600
Facsimile: 415.395.8095

Richard P. Bress (*pro hac vice* pending)
Melissa Arbus Sherry (*pro hac vice* pending)
Anne W. Robinson (*pro hac vice* pending)
Tyce R. Walters (*pro hac vice* pending)
Genevieve P. Hoffman (*pro hac vice* pending)
Gemma Donofrio (*pro hac vice* pending)
555 Eleventh Street NW, Suite 1000
Washington, D.C. 20004
Telephone: 202.637.2200
Facsimile: 202.637.2201

Attorneys for Plaintiffs National Urban League; City of San Jose, California; Harris County, Texas; League of Women Voters; King County, Washington; Black Alliance for Just Immigration; Rodney Ellis and Adrian Garcia

LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW

By: */s/ Jon M. Greenbaum*
Kristen Clarke (*pro hac vice* pending)
Jon M. Greenbaum (Bar No. 166733)
Ezra D. Rosenberg (*pro hac vice* pending)
Dorian L. Spence (*pro hac vice* pending)
Ajay P. Saini (*pro hac vice* pending)
Maryum Jordan (Bar No. 325447)
Pooja Chaudhuri (Bar No. 314847)
1500 K Street NW, Suite 900
Washington, DC 20005
Telephone: 202.662.8600
Facsimile: 202.783.0857

Attorneys for Plaintiffs National Urban League; City of San Jose, California; Harris County, Texas; League of Women Voters; King County, Washington; Black Alliance for Just Immigration; Rodney Ellis, and Adrian Garcia

BRENNAN CENTER FOR JUSTICE

By: */s/ Wendy R. Weiser*
Wendy R. Weiser (*pro hac vice* pending)
weiserw@brennan.law.nyu.edu
Thomas P. Wolf (*pro hac vice* pending)
wolf@brennan.law.nyu.edu
Kelly M. Percival (*pro hac vice* pending)
percivalk@brennan.law.nyu.edu
120 Broadway, Suite 1750
New York, NY 10271
Telephone: 646.292.8310
Facsimile: 212.463.7308

Attorneys for Plaintiffs National Urban League; City of San Jose, California; Harris County, Texas; League of Women Voters; King County, Washington; Black Alliance for Just Immigration; Rodney Ellis, and Adrian Garcia

CITY ATTORNEY FOR THE CITY OF LOS ANGELES

By: */s/ Danielle Goldstein*
Michael N. Feuer (Bar No. 111529)
mike.feuer@lacity.org
Kathleen Kenealy (Bar No. 212289)
kathleen.kenealy@lacity.org
Danielle Goldstein (Bar No. 257486)
danielle.goldstein@lacity.org
Michael Dundas (Bar No. 226930)
mike.dundas@lacity.org
200 N. Main Street, 8th Floor
Los Angeles, CA 90012
Telephone: 213.473.3231
Facsimile: 213.978.8312

Attorneys for Plaintiff City of Los Angeles

CITY OF SALINAS

By: */s/ Christopher A. Callihan*
Christopher A. Callihan (Bar No. 203010)
legalwebmail@ci.salinas.ca.us
Michael Mutalipassi (Bar No. 274858)
michaelmu@ci.salinas.ca.us
200 Lincoln Avenue
Salinas, CA 93901
Telephone: 831.758.7256
Facsimile: 831.758.7257

Attorneys for Plaintiff City of Salinas

PUBLIC COUNSEL

By: */s/ Mark Rosenbaum*
Mark Rosenbaum (Bar No. 59940)
mrosenbaum@publiccounsel.org
610 South Ardmore Avenue
Los Angeles, CA 90005
Telephone: 213.385.2977
Facsimile: 213.385.9089

Attorneys for Plaintiff City of San Jose

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: Martin, Nicole (Federal) b(6)
b(6)

Sent: 8/19/2020 4:48:50 PM

To: Kelley, Karen (Federal) [KKelley@doc.gov]; Dillingham, Steven [steven.dillingham@census.gov]; Smith, Steven Kelly [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]; 'benjamin.a.overholt@census.gov' [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

Location: b(6)

Start: 8/21/2020 10:00:00 AM

End: 8/21/2020 11:30:00 AM

Show Time As: Busy

Required Attendees: Dillingham, Steven; Smith, Steven Kelly; Jarmin, Ron S; Lamas, Enrique; Jones, Christa D; Fontenot, Albert E; Stempowski, Deborah M; Velkoff, Victoria A; Thieme, Michael T; Cogley, Nathaniel; Korzeniewski, Adam (Federal); Bishop, Deirdre D; LoPresti, Barbara M; 'benjamin.a.overholt@census.gov'; Abowd, John M; Michael Walsh

From: Ron S Jarmin (CENSUS/DEPDIR FED) [Ron.S.Jarmin@census.gov]
Sent: 8/2/2020 10:45:20 AM
To: Kelley, Karen (Federal) [KKelley@doc.gov]
Subject: brute force method - meeting info in this message
Attachments: Operational and Processing Options to meet September 30 Final.pdf

Join online meeting

Join by Phone

b(6) (Dial-in Number) English (United States)

Find a local number

Conference ID: b(6)

Forgot your dial-in PIN? | Help

Ron S Jarmin, PhD., Deputy Director
U.S. Census Bureau
o: 301-763-1858 | m: b(6)
census.gov | @uscensusbureau
Shape your future. START HERE > 2020census.gov

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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United States Census 2020

BC-DOC-0000000792

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-0000000793

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

Shape your future START HERE >
United States Census 2020

BC-DOC-0000000794

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

Shape your future START HERE >
United States Census 2020

BC-DOC-0000000795

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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United States Census 2020

BC-DOC-0000000797

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.
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.

Shape your future START HERE >
United States Census 2020

BC-DOC-0000000799

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.

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-0000000801

Questions?

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United States Census 2020

From: Risko, Daniel (Federal) [DRisko@doc.gov]
Sent: 9/2/2020 5:27:48 PM
To: Kelley, Karen (Federal) [KKelley@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

Dan Risko
Chief of Staff
Office of the Deputy Secretary
United States Department of Commerce
202-482-6010 (o) b(6) (c)
drisko@doc.gov

Begin forwarded message:

From: "Ali Mohammad Ahmad (CENSUS/ADCOM FED)" <ali.m.ahmad@census.gov>
Date: September 2, 2020 at 3:23:14 PM EDT
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

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
U.S. Census Bureau
O: 301-763-4083 | M: b(6)
census.gov | @uscensusbureau

From: Tierney Sneed b(6) @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) b(6) @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

Shape your future START HERE >

Census 2020

BC-DOC-0000000805

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-0000000806

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.

Shape your future START HERE >
Census 2020

BC-DOC-0000000807

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-0000000808

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

Shape your future START HERE > Census 2020

BC-DOC-0000000809

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.

Shape your future START HERE>
Census 2020

BC-DOC-0000000810

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

Shape your future START HERE> Census 2020

BC-DOC-0000000811

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

Shape your future START HERE > Census 2020

BC-DOC-0000000812

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.

Shape your future START HERE > Census 2020

BC-DOC-0000000813

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.

Shape your future START HERE > Census 2020

BC-DOC-0000000814

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-0000000815

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-0000000816

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-0000000817

Questions?

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Census 2020

BC-DOC-0000000818

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
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6143
MAJORITY (202) 225-5051
MINORITY (202) 225-5074
https://oversight.house.gov

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: Ron S Jarmin (CENSUS/DEPDIR FED) [Ron.S.Jarmin@census.gov]
Sent: 8/24/2020 8:45:25 AM
To: Kelley, Karen (Federal) [KKelley@doc.gov]
CC: Abowd, John M [john.maron.abowd@census.gov]; Velkoff, Victoria A [victoria.a.velkoff@census.gov]; Lamas, Enrique [enrique.lamas@census.gov]
Subject: Discuss PM today?
Attachments: b(5) - DP

Karen,

John and Tori are prepared to update on b(5) - DP

b(5) - DP

Thanks

Ron S Jarmin, PhD., Deputy Director
U.S. Census Bureau
o: 301-763-1858 | m b(6)
census.gov | @uscensusbureau
Shape your future. START HERE > 2020census.gov

From: Victoria Velkoff (CENSUS/ADDP FED) <Victoria.A.Velkoff@census.gov>
Sent: Monday, August 24, 2020 7:54 AM
To: Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>
Cc: John Maron Abowd (CENSUS/ADRM FED) <john.maron.abowd@census.gov>
Subject: Presentation

Ron

Attached is the presentation on the PM.

Let us know if you need anything else.

Thanks

Tori

Victoria Velkoff, PhD
Associate Director for Demographic Programs
U.S. Census Bureau
o: 301-763-1372
Shape your future. START HERE >2020census.gov
census.gov | @uscensusbureau

From: Steven Dillingham (CENSUS/DEPDIR FED) [steven.dillingham@census.gov]
Sent: 8/24/2020 8:07:19 AM
To: Kelley, Karen (Federal) [KKelley@doc.gov]; Risko, Daniel (Federal) [DRisko@doc.gov]
Subject: Fw: Overnight Updates to Processing Deck
Attachments: b(5) - DP

Steven D. Dillingham, Ph.D., Director
U.S. Census Bureau
o: 301-763-2135 | m: b(6)
census.gov | @uscensusbureau

From: Michael T Thieme (CENSUS/ADDC FED) <Michael.T.Thieme@census.gov>
Sent: Monday, August 24, 2020 7:27 AM
To: Kelley, Karen (Federal) <KKelley@doc.gov>; Paranzino, Anthony (Federal) <AParanzino@doc.gov>; Risko, Daniel (Federal) <DRisko@doc.gov>; Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>; Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; Victoria Velkoff (CENSUS/ADDP FED) <Victoria.A.Velkoff@census.gov>; Albert E Fontenot (CENSUS/ADDC FED) <Albert.E.Fontenot@census.gov>; Deirdre Bishop (CENSUS/GEO FED) <Deirdre.Dalpiaz.Bishop@census.gov>; Steven Dillingham (CENSUS/DEPDIR FED) <steven.dillingham@census.gov>; Barbara M LoPresti (CENSUS/DITD FED) <Barbara.M.LoPresti@census.gov>; Karen Battle (CENSUS/POP FED) <karen.battle@census.gov>
Subject: Overnight Updates to Processing Deck

All -
This version has some corrections from Barbara and Deirdre. Please use this one. Thanks,

-Michael

Michael T. Thieme
Assistant Director for Decennial Census Programs, Systems and Contracts
U.S. Census Bureau
(301) 763-9062 (Office)
b(6) (Mobile)
Michael.t.thieme@census.gov

From: Michael T Thieme (CENSUS/ADDC FED) <Michael.T.Thieme@census.gov>
Sent: Sunday, August 23, 2020 7:34 PM
To: Kelley, Karen (Federal) <KKelley@doc.gov>; Paranzino, Anthony (Federal) <AParanzino@doc.gov>; Risko, Daniel (Federal) <DRisko@doc.gov>; Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>; Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; Victoria Velkoff (CENSUS/ADDP FED) <Victoria.A.Velkoff@census.gov>; Albert E Fontenot (CENSUS/ADDC FED) <Albert.E.Fontenot@census.gov>; Deirdre Bishop (CENSUS/GEO FED) <Deirdre.Dalpiaz.Bishop@census.gov>; Steven Dillingham (CENSUS/DEPDIR FED) <steven.dillingham@census.gov>; Barbara M LoPresti (CENSUS/DITD FED) <Barbara.M.LoPresti@census.gov>; Karen Battle (CENSUS/POP FED) <karen.battle@census.gov>
Subject: Updated Processing Deck

All - Attached is an updated deck with input from the 5:00 PM meeting. Here are the changes:

b(5) - DP

Thanks for everyone's help,

-Michael

Michael T. Thieme
Assistant Director for Decennial Census Programs, Systems and Contracts
U.S. Census Bureau
(301) 763-9062 (Office)
b(6) Mobile)
Michael.t.thieme@census.gov

From: Kelley, Karen (Federal)
Sent: Friday, August 21, 2020 1:24 PM
To: Kelley, Karen (Federal) <KKelley@doc.gov>; Paranzino, Anthony (Federal) <AParanzino@doc.gov>; Risko, Daniel (Federal) <DRisko@doc.gov>; Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>; Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; Victoria Velkoff (CENSUS/ADDP FED) <Victoria.A.Velkoff@census.gov>; Albert E Fontenot (CENSUS/ADDC FED) <Albert.E.Fontenot@census.gov>; Michael T Thieme (CENSUS/ADDC FED) <Michael.T.Thieme@census.gov>; Deirdre Bishop (CENSUS/GEO FED) <Deirdre.Dalpiaz.Bishop@census.gov>; Steven Dillingham (CENSUS/DEPDIR FED) <steven.dillingham@census.gov>
Subject: Check In
When: Sunday, August 23, 2020 5:00 PM-5:30 PM.
Where: b(6)

From: Michael T Thieme (CENSUS/ADDC FED) [Michael.T.Thieme@census.gov]
Sent: 8/24/2020 10:58:43 AM
To: Risko, Daniel (Federal) [DRisko@doc.gov]
CC: Bishop, Deirdre D [deirdre.dalpiaz.bishop@census.gov]; Abowd, John M [john.maron.abowd@census.gov]; Jarmin, Ron S [ron.s.jarmin@census.gov]; Paranzino, Anthony (Federal) [AParanzino@doc.gov]; Fontenot, Albert E [albert.e.fontenot@census.gov]; Kelley, Karen (Federal) [KKelley@doc.gov]; Lamas, Enrique [enrique.lamas@census.gov]; Velkoff, Victoria A [victoria.a.velkoff@census.gov]; Battle, Karen [karen.battle@census.gov]; LoPresti, Barbara M [barbara.m.lopresti@census.gov]; Dillingham, Steven [steven.dillingham@census.gov]; Cogley, Nathaniel [nathaniel.cogley@census.gov]; Overholt, Benjamin A [benjamin.a.overholt@census.gov]
Subject: Updated Final Slide Decks for Census Processing and Presidential Memo Meeting
Attachments: Census 2020 Backend Processing FINAL.pptx; 20200824 Overview slide for PM Final1.pptx

Further updated decks attached. On the PM deck, b(5) - DP and slide number references removed. No change in the Processing deck, but adding for Nathaniel and Ben. Thanks,

-Michael

Michael T. Thieme
Assistant Director for Decennial Census Programs, Systems and Contracts
U.S. Census Bureau
(301) 763-9062 (Office)
b(6) Mobile)
Michael.t.thieme@census.gov

From: Michael T Thieme (CENSUS/ADDC FED) <Michael.T.Thieme@census.gov>
Sent: Monday, August 24, 2020 10:33 AM
To: Risko, Daniel (Federal) <DRisko@doc.gov>
Cc: Deirdre Bishop (CENSUS/GEO FED) <Deirdre.Dalpiaz.Bishop@census.gov>; John Maron Abowd (CENSUS/ADRM FED) <john.maron.abowd@census.gov>; Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>; Paranzino, Anthony (Federal) <AParanzino@doc.gov>; Albert E Fontenot (CENSUS/ADDC FED) <Albert.E.Fontenot@census.gov>; Kelley, Karen (Federal) <KKelley@doc.gov>; Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; Victoria Velkoff (CENSUS/ADDP FED) <Victoria.A.Velkoff@census.gov>; Karen Battle (CENSUS/POP FED) <karen.battle@census.gov>; Barbara M LoPresti (CENSUS/DITD FED) <Barbara.M.LoPresti@census.gov>; Steven Dillingham (CENSUS/DEPDIR FED) <steven.dillingham@census.gov>
Subject: Re: Final Slide Decks for Census Processing and Presidential Memo Meeting

Dan -
Apologies. We found a typo on slide 5 of the Processing Deck - fixed in this version. (hopefully you can still get this one to the Secretary). Thanks,

-Michael

Michael T. Thieme
Assistant Director for Decennial Census Programs, Systems and Contracts
U.S. Census Bureau
(301) 763-9062 (Office)
b(6) Mobile)

Michael.t.thieme@census.gov

From: Michael T Thieme (CENSUS/ADDC FED) <Michael.T.Thieme@census.gov>
Sent: Monday, August 24, 2020 10:16 AM
To: Risko, Daniel (Federal) <DRisko@doc.gov>
Cc: Deirdre Bishop (CENSUS/GEO FED) <Deirdre.Dalpiaz.Bishop@census.gov>; John Maron Abowd (CENSUS/ADRM FED) <john.maron.abowd@census.gov>; Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>; Paranzino, Anthony (Federal) <AParanzino@doc.gov>; Albert E Fontenot (CENSUS/ADDC FED) <Albert.E.Fontenot@census.gov>; Kelley, Karen (Federal) <KKelley@doc.gov>; Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; Victoria Velkoff (CENSUS/ADDP FED) <Victoria.A.Velkoff@census.gov>; Karen Battle (CENSUS/POP FED) <karen.battle@census.gov>; Barbara M LoPresti (CENSUS/DITD FED) <Barbara.M.LoPresti@census.gov>; Steven Dillingham (CENSUS/DEPDIR FED) <steven.dillingham@census.gov>
Subject: Final Slide Decks for Census Processing and Presidential Memo Meeting

Dan -
Here are the final decks reviewed by both the Deputy Secretary and the Director. Thanks,

-Michael

Michael T. Thieme
Assistant Director for Decennial Census Programs, Systems and Contracts
U.S. Census Bureau
(301) 763-9062 (Office)
b(6) Mobile)
Michael.t.thieme@census.gov

From: Kelley, Karen (Federal)
Sent: Friday, August 21, 2020 1:24 PM
To: Kelley, Karen (Federal) <KKelley@doc.gov>; Paranzino, Anthony (Federal) <AParanzino@doc.gov>; Risko, Daniel (Federal) <DRisko@doc.gov>; Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>; Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; Victoria Velkoff (CENSUS/ADDP FED) <Victoria.A.Velkoff@census.gov>; Albert E Fontenot (CENSUS/ADDC FED) <Albert.E.Fontenot@census.gov>; Michael T Thieme (CENSUS/ADDC FED) <Michael.T.Thieme@census.gov>; Deirdre Bishop (CENSUS/GEO FED) <Deirdre.Dalpiaz.Bishop@census.gov>; Steven Dillingham (CENSUS/DEPDIR FED) <steven.dillingham@census.gov>
Subject: Check In
When: Sunday, August 23, 2020 5:00 PM-5:30 PM.
Where b(6)

From: Michael T Thieme (CENSUS/ADDC FED) [Michael.T.Thieme@census.gov]
Sent: 8/23/2020 7:34:11 PM
To: Kelley, Karen (Federal) [KKelley@doc.gov]; Paranzino, Anthony (Federal) [AParanzino@doc.gov]; Risko, Daniel (Federal) [DRisko@doc.gov]; Jarmin, Ron S [ron.s.jarmin@census.gov]; Lamas, Enrique [enrique.lamas@census.gov]; Velkoff, Victoria A [victoria.a.velkoff@census.gov]; Fontenot, Albert E [albert.e.fontenot@census.gov]; Bishop, Deirdre D [deirdre.dalpiaz.bishop@census.gov]; Dillingham, Steven [steven.dillingham@census.gov]; LoPresti, Barbara M [barbara.m.lopresti@census.gov]; Battle, Karen [karen.battle@census.gov]
Subject: Updated Processing Deck
Attachments: Census 2020 Backend Processing DRAFT 3.0.pptx

All - Attached is an updated deck with input from the 5:00 PM meeting. Here are the changes:

b(5) - DP

Thanks for everyone's help,

-Michael

Michael T. Thieme
Assistant Director for Decennial Census Programs, Systems and Contracts
U.S. Census Bureau
(301) 763-9062 (Office)
b(6) (Mobile)
Michael.t.thieme@census.gov

From: Kelley, Karen (Federal)
Sent: Friday, August 21, 2020 1:24 PM
To: Kelley, Karen (Federal) <KKelley@doc.gov>; Paranzino, Anthony (Federal) <AParanzino@doc.gov>; Risko, Daniel (Federal) <DRisko@doc.gov>; Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>; Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; Victoria Velkoff (CENSUS/ADDP FED) <Victoria.A.Velkoff@census.gov>; Albert E Fontenot (CENSUS/ADDC FED) <Albert.E.Fontenot@census.gov>; Michael T Thieme (CENSUS/ADDC FED) <Michael.T.Thieme@census.gov>; Deirdre Bishop (CENSUS/GEO FED) <Deirdre.Dalpiaz.Bishop@census.gov>; Steven Dillingham (CENSUS/DEPDIR FED) <steven.dillingham@census.gov>
Subject: Check In
When: Sunday, August 23, 2020 5:00 PM-5:30 PM.
Where: b(6)

From: Ron S Jarmin (CENSUS/DEPDIR FED) [Ron.S.Jarmin@census.gov]
Sent: 8/23/2020 4:51:08 PM
To: Kelley, Karen (Federal) [KKelley@doc.gov]; Risko, Daniel (Federal) [DRisko@doc.gov]
Subject: Fw: Sunday Draft Of b(5) - DP for KDK (Post 8/21 10:00AM meeting)
Attachments: b(5) - DP

Here's the current version of the slide deck. Talk soon.

Ron S Jarmin, PhD., Deputy Director
U.S. Census Bureau
o: 301-763-1858 | m: b(6)
census.gov | @uscensusbureau
Shape your future. START HERE > 2020census.gov

From: Michael T Thieme (CENSUS/ADDC FED) <Michael.T.Thieme@census.gov>
Sent: Sunday, August 23, 2020 10:08 AM
To: Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>; Albert E Fontenot (CENSUS/ADDC FED) <Albert.E.Fontenot@census.gov>; Deirdre Bishop (CENSUS/GEO FED) <Deirdre.Dalpiaz.Bishop@census.gov>; Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; John Maron Abowd (CENSUS/ADRM FED) <john.maron.abowd@census.gov>; Victoria Velkoff (CENSUS/ADDP FED) <Victoria.A.Velkoff@census.gov>; Christa D Jones (CENSUS/DEPDIR FED) <Christa.D.Jones@census.gov>; Karen Battle (CENSUS/POP FED) <karen.battle@census.gov>; Patrick J Cantwell (CENSUS/DSSD FED) <Patrick.J.Cantwell@census.gov>; James B Treat (CENSUS/DEPDIR FED) <James.B.Treat@census.gov>; Jennifer W Reichert (CENSUS/DCMD FED) <Jennifer.W.Reichert@census.gov>; Maryann M Chapin (CENSUS/ADDC FED) <Maryann.M.Chapin@census.gov>; Barbara M LoPresti (CENSUS/DITD FED) <Barbara.M.LoPresti@census.gov>
Subject: Sunday Draft Of b(5) - DP for KDK (Post 8/21 10:00AM meeting)

All -
Deirdre added b(5) - DP that we would like to run by the group. b(5) - DP
b(5) - DP Please use this version of the deck for this afternoon's meeting. I also noticed Karen Battle was not on the 5:00 PM invite, so I just forwarded it to her. My apologies, Karen, if someone already forwarded it.

Talk to you at 5:00.

-Michael

Michael T. Thieme
Assistant Director for Decennial Census Programs, Systems and Contracts
U.S. Census Bureau
(301) 763-9062 (Office)
b(6) (Mobile)
Michael.t.thieme@census.gov

From: Michael T Thieme (CENSUS/ADDC FED) <Michael.T.Thieme@census.gov>
Sent: Friday, August 21, 2020 4:59 PM
To: Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>; Albert E Fontenot (CENSUS/ADDC FED)

<Albert.E.Fontenot@census.gov>; Deirdre Bishop (CENSUS/GEO FED) <Deirdre.Dalpiaz.Bishop@census.gov>; Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; John Maron Abowd (CENSUS/ADRM FED) <john.maron.abowd@census.gov>; Victoria Velkoff (CENSUS/ADDP FED) <Victoria.A.Velkoff@census.gov>; Christa D Jones (CENSUS/DEPDIR FED) <Christa.D.Jones@census.gov>; Karen Battle (CENSUS/POP FED) <karen.battle@census.gov>; Patrick J Cantwell (CENSUS/DSSD FED) <Patrick.J.Cantwell@census.gov>; James B Treat (CENSUS/DEPDIR FED) <James.B.Treat@census.gov>; Jennifer W Reichert (CENSUS/DCMD FED) <Jennifer.W.Reichert@census.gov>; Maryann M Chapin (CENSUS/ADDC FED) <Maryann.M.Chapin@census.gov>; Barbara M LoPresti (CENSUS/DITD FED) <Barbara.M.LoPresti@census.gov>
Subject: (Another) Updated Draft Of b(5) - DP for KDK (Post 8/21 10:00AM meeting)

I found a few inconsistencies. Please use this deck. Thanks,

-Michael

Michael T. Thieme
Assistant Director for Decennial Census Programs, Systems and Contracts
U.S. Census Bureau
(301) 763-9062 (Office)
b(6) Mobile)
Michael.t.thieme@census.gov

From: Michael T Thieme (CENSUS/ADDC FED) <Michael.T.Thieme@census.gov>
Sent: Friday, August 21, 2020 1:45 PM
To: Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>; Albert E Fontenot (CENSUS/ADDC FED) <Albert.E.Fontenot@census.gov>; Deirdre Bishop (CENSUS/GEO FED) <Deirdre.Dalpiaz.Bishop@census.gov>; Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; John Maron Abowd (CENSUS/ADRM FED) <john.maron.abowd@census.gov>; Victoria Velkoff (CENSUS/ADDP FED) <Victoria.A.Velkoff@census.gov>; Christa D Jones (CENSUS/DEPDIR FED) <Christa.D.Jones@census.gov>; Karen Battle (CENSUS/POP FED) <karen.battle@census.gov>; Patrick J Cantwell (CENSUS/DSSD FED) <Patrick.J.Cantwell@census.gov>; James B Treat (CENSUS/DEPDIR FED) <James.B.Treat@census.gov>; Jennifer W Reichert (CENSUS/DCMD FED) <Jennifer.W.Reichert@census.gov>; Maryann M Chapin (CENSUS/ADDC FED) <Maryann.M.Chapin@census.gov>; Barbara M LoPresti (CENSUS/DITD FED) <Barbara.M.LoPresti@census.gov>
Subject: Re: Updated Draft Of b(5) - DP for KDK (Post 8/21 10:00AM meeting)

I just got the invitation to KDK's Sunday Check-in. Should we (census people) get together to review the latest changes today, or is review by email okay with everyone? Thanks,

-Michael

Michael T. Thieme
Assistant Director for Decennial Census Programs, Systems and Contracts
U.S. Census Bureau
(301) 763-9062 (Office)
b(6) Mobile)
Michael.t.thieme@census.gov

From: Michael T Thieme (CENSUS/ADDC FED) <Michael.T.Thieme@census.gov>
Sent: Friday, August 21, 2020 1:03 PM
To: Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>; Albert E Fontenot (CENSUS/ADDC FED)

<Albert.E.Fontenot@census.gov>; Deirdre Bishop (CENSUS/GEO FED) <Deirdre.Dalpiaz.Bishop@census.gov>; Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; John Maron Abowd (CENSUS/ADRM FED) <john.maron.abowd@census.gov>; Victoria Velkoff (CENSUS/ADDP FED) <Victoria.A.Velkoff@census.gov>; Christa D Jones (CENSUS/DEPDIR FED) <Christa.D.Jones@census.gov>; Karen Battle (CENSUS/POP FED) <karen.battle@census.gov>; Patrick J Cantwell (CENSUS/DSSD FED) <Patrick.J.Cantwell@census.gov>; James B Treat (CENSUS/DEPDIR FED) <James.B.Treat@census.gov>; Jennifer W Reichert (CENSUS/DCMD FED) <Jennifer.W.Reichert@census.gov>; Maryann M Chapin (CENSUS/ADDC FED) <Maryann.M.Chapin@census.gov>; Barbara M LoPresti (CENSUS/DITD FED) <Barbara.M.LoPresti@census.gov>
Subject: Updated Draft Of b(5) - DP for KDK (Post 8/21 10:00AM meeting)

All -
Here is the updated deck after meeting with KDK. I made the following changes:

Slide 2 - Updated bullets 5,6, and 7
Slide 3 - b(5) - DP
Slide 4 - Updated the slide title color to align with the timeline graphic
- Updated the opening paragraph
Slide 5 - New slide
- Updated the opening paragraph
- Updated the graphic to align colors with timeline graphic (Thanks again, Liz Love)
Slide 6 - Updated title color to align with the timeline graphic
Slide 7 - Updated title color to align with the timeline graphic
Slide 8 - Updated title wording
Slide 9 - Updated title wording
- Added bullet 2
Slide 10 - Updated all bullet language
- Consolidated bullet 3 and added sub-bullets

The only other thing I had noted was the possibility that Deirdre might update some of the language and numbers on slide 4 b(5) - DP

b(5) - DP

All comments welcome. Thanks,

-Michael

Michael T. Thieme
Assistant Director for Decennial Census Programs, Systems and Contracts
U.S. Census Bureau
(301) 763-9062 (Office)
b(6) Mobile)
Michael.t.thieme@census.gov

From: Michael T Thieme (CENSUS/ADDC FED) <Michael.T.Thieme@census.gov>
Sent: Thursday, August 20, 2020 6:26 PM
To: Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>; Albert E Fontenot (CENSUS/ADDC FED) <Albert.E.Fontenot@census.gov>; Deirdre Bishop (CENSUS/GEO FED) <Deirdre.Dalpiaz.Bishop@census.gov>; Enrique

Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>; John Maron Abowd (CENSUS/ADRM FED) <john.maron.abowd@census.gov>; Victoria Velkoff (CENSUS/ADDP FED) <Victoria.A.Velkoff@census.gov>; Christa D Jones (CENSUS/DEPDIR FED) <Christa.D.Jones@census.gov>; Karen Battle (CENSUS/POP FED) <karen.battle@census.gov>; Patrick J Cantwell (CENSUS/DSSD FED) <Patrick.J.Cantwell@census.gov>; James B Treat (CENSUS/DEPDIR FED) <James.B.Treat@census.gov>; Jennifer W Reichert (CENSUS/DCMD FED) <Jennifer.W.Reichert@census.gov>; Maryann M Chapin (CENSUS/ADDC FED) <Maryann.M.Chapin@census.gov>; Barbara M LoPresti (CENSUS/DITD FED) <Barbara.M.LoPresti@census.gov>
Subject: Final Draft Of b(5) - DP Deck for KDK

All -
Here is the suggested final draft for tomorrow's meeting with KDK. b(5) - DP
b(5) - DP
b(5) - DP Thanks to everyone who helped put all this together!

Who should send to KDK?

-Michael

Michael T. Thieme
Assistant Director for Decennial Census Programs, Systems and Contracts
U.S. Census Bureau
(301) 763-9062 (Office)
b(6) Mobile)
Michael.t.thieme@census.gov

From: Ron S Jarmin (CENSUS/DEPDIR FED) [Ron.S.Jarmin@census.gov]
Sent: 8/21/2020 9:42:08 AM
To: Kelley, Karen (Federal) [KKelley@doc.gov]; Dillingham, Steven [steven.dillingham@census.gov]
CC: Risko, Daniel (Federal) [DRisko@doc.gov]; Martin, Nicole (Federal) [NMartin1@doc.gov]
Subject: deck for 10
Attachments: Census 2020 Backend Processing DRAFT 2.6.pptx; Census 2020 Backend Processing DRAFT 2.6.pptx

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: Jarmin, Ron S [ron.s.jarmin@census.gov]
Sent: 8/2/2020 9:50:43 AM
To: Jarmin, Ron S [ron.s.jarmin@census.gov]; Kelley, Karen (Federal); Dillingham, Steven; Cogley, Nathaniel; Smith, Steven K; Jones, Christa D; Lamas, Enrique

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: Tentative

Join online meeting

Join by Phone

b(6) (Dial-in Number) English (United States)

Find a local number

Conference ID: b(6)

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ONLINE MEETING SECURITY: Please be advised that anyone who obtains a copy of a Skype for Business online meeting invitation can join the online meeting as an "unauthenticated guest." This may include people outside of CENSUS that were not invited by the meeting organizer. It is the responsibility of the meeting presenter to ensure that any unauthenticated guests waiting in the "Lobby" are verified before they are allowed into the online meeting. CENSUS staff can click the "Help" link above for more details on how to join a skype online meeting.

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 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-0000000861

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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BC-DOC-0000000862

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-0000000863

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-0000000864

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.

BC-DOC-0000000865

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

BC-DOC-0000000866

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.
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-0000000868

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-0000000869

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-0000000870

Questions?

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United States Census 2020

BC-DOC-0000000871

From: Steven Dillingham (CENSUS/DEPDIR FED) [steven.dillingham@census.gov]
Sent: 8/10/2020 7:54:28 PM
To: Risko, Daniel (Federal) [DRisko@doc.gov]
CC: Kelley, Karen (Federal) [KKelley@doc.gov]
Subject: Fw: Discussion of b(5) - DP Options and Schedule
Attachments: 2020-08-10 One Pager on Options v3 nc,sd.docx

From: Steven Dillingham (CENSUS/DEPDIR FED)
Sent: Monday, August 10, 2020 7:53 PM
To: Enrique Lamas (CENSUS/DEPDIR FED) <Enrique.Lamas@census.gov>
Cc: Nathaniel Cogley (CENSUS/DEPDIR FED) <nathaniel.cogley@census.gov>
Subject: Discussion of b(5) - DP Options and Schedule

Excellent work, many thanks. Nathaniel made a substantive edit and I corrected a few words. It was sent to Dan and Karen to review. I assume we will discuss the summary tomorrow afternoon with S-1, probably as part of small group. Anyone needed besides us three and the DOC leadership team?

Steven D. Dillingham, Ph.D., Director
U.S. Census Bureau
o: 301-763-2135 | m: b(6)
census.gov | @uscensusbureau

From: Kelley, Karen (Federal) [KKelley@doc.gov]
Sent: 9/16/2020 7:53:13 AM
To: Martin, Nicole (Federal) [NMartin1@doc.gov]
Subject: Fw: Follow-up from Friday call

pls print

From: Ron S Jarmin (CENSUS/DEPDIR FED) <Ron.S.Jarmin@census.gov>
Sent: Tuesday, September 15, 2020 2:43 PM
To: Kelley, Karen (Federal) <KKelley@doc.gov>
Subject: Follow-up from Friday call

Karen,

b(5) - DP

b(5) - DP

Thanks

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: Walsh, Michael (Federal) [MWalsh@doc.gov]
Sent: 8/3/2020 5:47:24 AM
To: Wilbur Ross b(6)
CC: Barranca, Steven (Federal) [SBarranca1@doc.gov]
Subject: FW: Monday Census Calls
Attachments: Operational and Processing Options to meet September 30 Final.pdf

PREDECISIONAL AND DELIBERATIVE

Here is a revised version for this morning's 8:00 call.

From: Dan Risko <DRisko@doc.gov>
Date: Sunday, August 2, 2020 at 10:08 PM
To: Karen Kelley <KKelley@doc.gov>, "Olson, Stephanie (Federal)" <SOlson@doc.gov>, "Paranzino, Anthony (Federal)" <AParanzino@doc.gov>, "Ahmad, Ali M" <ali.m.ahmad@census.gov>, Mike Walsh <MWalsh@doc.gov>, "Smith, Steven K" <steven.k.smith@census.gov>, "Treat, James B" <james.b.treat@census.gov>, "Stempowski, Deborah M" <deborah.m.stempowski@census.gov>, "Fontenot, Albert E" <albert.e.fontenot@census.gov>, "Olson, Timothy P" <timothy.p.olson@census.gov>, "Lamas, Enrique" <enrique.lamas@census.gov>, "Cogley, Nathaniel" <nathaniel.cogley@census.gov>, "Dillingham, Steven" <steven.dillingham@census.gov>, Ron Jarmin <ron.s.jarmin@census.gov>, "Meredith, Ethan (Federal)" <EMeredith@doc.gov>, "Jones, Christa D" <christa.d.jones@census.gov>, "Thieme, Michael T" <michael.t.thieme@census.gov>
Cc: "Goudarzi, Talat (Federal)" <TGoudarzi@doc.gov>, Steven Barranca <SBarranca1@doc.gov>, "Martin, Nicole (Federal)" <NMartin1@doc.gov>
Subject: Monday Census Calls

Good evening,

Please see the attached slide deck for tomorrow's calls. We will use the following phone line:

Conference line b(6)
Passcode b(6)

Contact me directly if you have any issues with the slides or the conference line.

Best,

Dan Risko
Chief of Staff
Office of the Deputy Secretary
United States Department of Commerce
202-482-6010 (o) b(6) (c)
drisko@doc.gov

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-0000000878

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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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-0000000879

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-0000000880

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-0000000881

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.

BC-DOC-0000000882

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-0000000883

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
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Overview of Backend Processing

Assumptions:

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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.
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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-0000000886

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.
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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-0000000888

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-0000000889

Questions?

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United States Census 2020

From: Walsh, Michael (Federal) [MWalsh@doc.gov]
Sent: 8/2/2020 5:13:38 PM
To: Wilbur Ross b(6)
CC: Barranca, Steven (Federal) [SBarranca1@doc.gov]
Subject: DRAFT Census plan
Attachments: Operational and Processing Options to meet September 30 Final.pdf

PRIVILEGED AND CONFIDEDENTIAL
PREDECISIONAL AND DELIBERATIVE
DRAFT

Attached is a draft plan from Census on meeting the 12/31 deadline. It is still being revised and proofread.

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

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BC-DOC-0000000893

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BC-DOC-0000000894

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.

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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

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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.

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.

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.

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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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Sent: 4/2/2020 2:30:05 PM
Subject: FW: CUI//PRIV FW: Def-Int Expert Report
Attachments: Expert Report of D. Sunshine Hillygus dated March 13, 2020.pdf; 2020-03-13 - AL v. Commerce - Rule 26(a)(2) Disclosure - Kimball W. Brace.pdf; Martinez Intervenors - Expert Report of Douglas Massey 3-13-2020.pdf;

b(5) - DP/AC/WP

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA SOUTHERN DIVISION

STATE OF ALABAMA, et al., Plaintiffs, v. UNITED STATES DEPARTMENT OF COMMERCE, et al., Defendants, and DIANA MARTINEZ, et al., Defendant-Intervenors, COUNTY OF SANTA CLARA, CALIFORNIA, et al., Defendant-Intervenors, and STATE OF NEW YORK, et al., Defendant-Intervenors.	Civil Action No. 2:18-cv-00772-RDP

SWORN DECLARATION AND EXPERT REPORT OF D. SUNSHINE HILLYGUS

Sworn Declaration and Expert Report of D. Sunshine Hillygus

I. Qualifications

I am a Professor of Political Science and Public Policy at Duke University. I earned a Ph.D. in political science from Stanford University in 2003. From 2003-2009, I was a faculty member at Harvard University in the Department of Government. In 2009, I joined the faculty at Duke University as an associate professor and was promoted to full professor in 2015.

I have more than 20 years of experience in survey design, implementation, and analysis. Of relevance to this report, I have published research on the topics of census participation, survey methodology, survey non-response, and data quality. This work has been funded by the National Science Foundation and published in respected academic journals including *Public Opinion Quarterly*, *Journal of Survey Statistics and Methodology*, *Statistical Science*, *Political Analysis*, and *Annals of Applied Statistics*. I am co-author of *The Hard Count: The Political and Social Challenges of Census Mobilization*.[1] My other experience of relevance includes serving as associate principal investigator of the American National Election Study, on the editorial boards of several academic journals, and as director of the Initiative on Survey Methodology at Duke University. I was also founding director of the Program on Survey Research at Harvard University. From 2012-2018, I served as a member of the Census Scientific Advisory Committee (the "CSAC"), a committee that advises the director of the U.S. Census Bureau (the "Census Bureau") on the uses of scientific developments in statistical data collection, survey methodology, geospatial and statistical analysis, econometrics, cognitive psychology, business operations, and computer science as they pertain to the full range of Census Bureau programs and activities, including census tests, policies, and operations.

[1] Hillygus, D.S., Nie, N.H., Prewitt, K. & Pals, H. (2006). *The hard count: The political and social challenges of census mobilization*, Russell Sage Foundation, New York.

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I have previously served as an expert witness *in League of Women Voters of North Carolina, et al. v. North Carolina, et al.*, No. 1:13-CV-00660-TDS-JEP (M.D.N.C.); *State of New York, et al., v. United States Department of Commerce, et al.*, No. 18-CV-2921-JMF (S.D.N.Y.); and *NAACP, et al. v. Bureau of the Census*, No. 18-CV-891-PWG (D. Md.). A copy of my curriculum vitae is attached.

II. Retainer Information and Summary of Opinions

Defendant-Intervenors in this action, and Martinez Intervenors in the cross claim brought against the federal government, retained me to evaluate (1) the claims made by Dr. Dudley Poston in his expert report for the State of Alabama ("Alabama" or "Plaintiff") that inclusion of undocumented immigrants[2] in the total population for apportionment after the 2020 decennial count will cause a loss of one congressional seat in the U.S. House of Representatives (the "House") for Alabama, whereas exclusion of undocumented immigrants from the apportionment count will result in Alabama retaining seven seats; and (2) whether exclusion of undocumented immigrants from the 2020 apportionment count is possible. My compensation in this case is $350 per hour.[3]

Based on the knowledge I have amassed over my education, training, and experience, as well as a detailed review of government and academic research, data, and reports, I have reached the following opinions:

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[2] For the purposes of this report, I use the term "undocumented immigrant" to include foreign-born non-citizens that reside in the U.S. but do not have formal legal status. Pew Research Center refers to these individuals as "unauthorized immigrants." I recognize that those with Deferred Action for Childhood Arrivals, or some other form of lawful presence, may or may not be categorized as undocumented immigrants, depending on the context. I offer no opinion as to the legal significance of these various classifications.

[3] To formulate an expert opinion in this case, I reviewed a variety of materials from academic, governmental, legal, and media sources, *see* References, including the Complaint for Declaratory Relief and the exhibits in the Depositions of Karen Battle on January 16, 2020 and March 2, 2020 in *Alabama et al. v. United States Department of Commerce et al.*, No. 2:18-cv-00772-RDP (N.D. Al. 2018). Moreover, I relied on my own experiences and familiarity with survey practices and standards and Census Bureau programs and activities.

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First, Dr. Poston does not demonstrate, to any degree of reasonable certainty, that Alabama will (a) lose a congressional seat because of the inclusion of undocumented immigrants in the 2020 apportionment count, or (b) maintain a congressional seat because of the exclusion of undocumented immigrants in the 2020 apportionment count.

Second, there is no reliable way to exclude undocumented immigrants from the 2020 apportionment count because (a) there is currently no reliable methodology or data product that the Census Bureau may use to do so; (b) no administrative records are of sufficient quality to use to exclude undocumented immigrants from the 2020 apportionment count; and (c) the nature, scope, and methodology of the statistical modeling needed to produce estimates of the undocumented population is fundamentally different from the statistical modeling currently used in producing the apportionment population, and would result in a less accurate and reliable enumeration.

In this report, I first provide background with respect to the Census Bureau's relevant responsibilities and standards, as related to the apportionment count. I then explain why Dr. Poston's methodology, data, and key conclusions are unreliable, and cannot be used to demonstrate that Alabama will likely lose a congressional seat because of the inclusion of undocumented immigrants in the 2020 apportionment count, or maintain a congressional seat if undocumented immigrants are excluded from the 2020 apportionment count. Finally, I explain why I conclude that there is currently no feasible way to reliably exclude undocumented immigrants from the apportionment count.[4]

III. Relevant Background

A. The Census Bureau's Relevant Responsibilities

[4] I am not an attorney and my references to constitutional and statutory provisions and court cases are for the purposes of providing factual context.

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Article 1, Section 2 of the U.S. Constitution requires that an "actual enumeration" of the population be taken every 10 years for the purpose of apportioning seats in the House among the states, with the provision that each state must have at least one Representative. The 14th Amendment 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."

The Census Bureau has the responsibility of both counting the population in the decennial census, and using the results to calculate the number of House seats each state is entitled to have based on that population count. The Census Bureau counts all people (citizens and foreign-born immigrants) who are living in the state at the time of the census.[5] This total resident population, along with the overseas federal employees and their dependents, make up the apportionment population count for each state. To count all people, the Census Bureau uses a multi-part process that starts with (1) creating the Master Address File (the "MAF")—a database containing every known housing unit in the country, then (2) asking every household in the MAF to self-respond with information about their household, followed by (3) employing the Non-Response Follow-up (the "NRFU") operation, which attempts to enumerate all non-responding households through an in-person visit,[6] and, finally, (4) applying count imputation to any remaining uncounted households to estimate the number of household members using information from neighboring households. By law, the Census Bureau must submit the apportionment count to the President within nine months of the census date. For the 2020 Census, the census date is April 1, 2020, and the President will receive the counts by December 31, 2020.

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[5] Immigrants, called "foreign-born" by the Census Bureau, include naturalized U.S. citizens, lawful permanent residents, temporary migrants (such as foreign students), refugees and asylees, and undocumented immigrants.

[6] If a household is not enumerated after one visit, administrative records will be used to enumerate the household in those cases in which multiple, high-quality records are available. If administrative records cannot be used, at least two more in-person visits are attempted before the household becomes eligible to be enumerated through a proxy, such as a neighbor or landlord.

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Since 1940, the Census Bureau has used the Equal Proportions Method to allocate the number of Representatives among the states—after each state is assigned the one seat it is entitled to receive, the remaining 385 seats are assigned sequentially, on the basis of a list of descending "priority values" that are calculated based on each state's share of the total U.S. population.[7] Because apportionment is based on population size relative to other states, under- or over- counting the population in one state has implications for the fair distribution of representation among all states.[8]

Within one year of the census date—April 1, 2021 for the 2020 Census—the Census Bureau is also required to make redistricting data available to the states. Whereas the apportionment count is produced using the Census Unedited File (the "CUF"), the redistricting data products are produced using the Census Edited File (the "CEF"), which applies characteristic imputation—statistically imputing missing or conflicting information about the people in the household (i.e., race, ethnicity, age, date of birth, sex, tenure, and relationship).[9] The redistricting data are also altered to meet the confidentiality requirements of Title 13 of the United States Code.[10]

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[7] This method ensures that no additional transfer of a seat (from one state to another) will reduce the ratio between the numbers of persons per representative in any two states. For more detail, *see* https://www.census.gov/population/apportionment/about/faq.html and https://www.census.gov/population/apportionment/about/computing.html.

[8] Prewitt, K. (2010). The US decennial census: Politics and political science. Annual Review of Political Science, 13, 237-254.

[9] The total resident population count in the CUF and CEF has applied count imputation—an estimate of the number of household members—for the limited number of households not enumerated in the decennial count. In 2010, count imputation accounted for only 0.39% of the total population. 2020 Census Operational Plan: A New Design for the 21st Census, v. 4. (December 2018), available at https://www2.census.gov/programs-surveys/decennial/2020/program-management/planning-docs/2020-oper-plan4.pdf.

[10] The data are processed through the disclosure avoidance system that injects noise into the estimates, creating uncertainty in the numbers to protect confidentiality. *See* https://www.census.gov/newsroom/blogs/research-matters/2018/08/protecting_the_confi0.html.

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Neither the CUF nor the CEF has information about the citizenship or legal status[11] of the population.

Following President Trump's July 2019 Executive Order 13880,[12] the Census Bureau plans to use administrative records to separately produce data on block-level Citizen Voting-Age Population ("CVAP data" or "CVAP") by race and ethnicity.[13] As of the date of this report, the methodology to produce this data product is still under development.[14]

B. The Census Bureau's Quality Standards

The Census Bureau has formal standards for data quality governing all information products and the processes that generate them.[15] These guidelines require that all information collected and disseminated by the Census Bureau be designed to ensure and maximize the utility, objectivity, and integrity of the information. *Utility* or "fitness of use" refers to the "usefulness of the information for its intended users;" *objectivity* means the information is "accurate, reliable, and unbiased, and is presented in an accurate, clear, complete, and unbiased manner;" and *integrity* refers to the security of the information, including protection of such information from unauthorized access or revision.[16]

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[11] For the purposes of this report, I use the term "legal status" to encompass determinations of whether individuals are immigrants with formal legal status, or immigrants without formal legal status. I offer no opinion as to the legal significance of these various classifications.

[12] *See* 84 Fed. Reg. 33,821 (July 11, 2019).

[13] *See* https://www2.census.gov/programs-surveys/decennial/rdo/technical-documentation/special-tabulation/CVAP_Post2020_Census_documentation_v5.pdf?. The Census Bureau previously provided CVAP tables annually from each year's most recent 5-year American Community Survey ("ACS") data. The Post-2020 Census CVAP Special Tabulation will replace CVAP tables based on the ACS that would have been released in February 2021. A census block is the smallest geographic unit used by the Census Bureau. Census blocks are defined by geographic features, such as roads, so they vary in the exact number of households they contain—many contain no population. More than 11 million census blocks were enumerated in 2010. *See* https://transition.fcc.gov/form477/Geo/more_about_census_blocks.pdf.

[14] *See* https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap/Post-2020-CVAP.html.

[15] *See* U.S. Census Bureau Statistical Quality Standards (July 2013), https://www.census.gov/content/dam/Census/about/about-the-bureau/policies_and_notices/quality/statistical-quality-standards/Quality_Standards.pdf. These standards were established to incorporate and adhere to Policy Directive No. 1 of the Office of Management and Budget ("OMB"). *See* https://www.govinfo.gov/content/pkg/FR-2014-12-02/pdf/2014-28326.pdf.

[16] *See* U.S. Census Bureau Statistical Quality Standards (July 2013), i-ii.

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These formal standards govern the Census Bureau's mission to "count everyone once, only once, and in the right place" in the decennial census.[17] Critically, objectivity refers not only to the overall accuracy of the information, but also to distributional accuracy—a complete and accurate count across geography and population subgroups so that the proportional distribution of the population is correct.[18] If the Census Bureau misses more people living in one state than another, the census count is not only inaccurate, it is will also be unfair for apportionment in violation of both the utility and objectivity quality standards.

IV. Dr. Poston's Data, Methodology and Key Conclusions Are Not Credible.

Dr. Poston opines that in 2020, Alabama will receive six seats if undocumented persons are included in the apportionment count, compared to seven seats if undocumented persons are excluded from the apportionment count.[19] To reach these opinions, Dr. Poston's analysis hypothetically apportions congressional seats for all states using a projected 2020 total population count, and then compares the results to a hypothetical apportionment of congressional seats using a 2020 projected population count that excludes undocumented persons.[20] Dr. Poston's conclusions depend on: (1) projections of total population numbers of each state (including the overseas population) in 2020 based on 2010 Census Bureau apportionment counts, and 2018 and 2019 Census Bureau population estimates; and (2) projections of the population of undocumented immigrants in each state in 2020 based on estimates in 2016 of the undocumented immigrant population from Pew Research Center ("Pew"), an independent American think tank founded in 2004 by pollster Andrew Kohut.

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[17] *See* https://www.census.gov/programs-surveys/decennial-census/about/why.html.
[18] Prewitt, K. (2010). The US decennial census: Politics and political science. *Annual Review of Political Science*, 13, 237-254.
[19] Sworn Declaration & Expert Report of Dudley L. Poston, Jr., Ph.D. (January 23, 2020) (the "Poston Report"), 3.
[20] Poston Report.

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Dr. Poston's overall conclusions, methodology, and underlying data are unreliable. Dr. Poston fails to acknowledge massive uncertainty in his estimates, and he relies on flawed assumptions that are likely to bias his results. Statisticians and demographers readily acknowledge that projections of future populations figures can be unreliable.[21] Projection outside of known data requires assumptions that should be validated. Dr. Poston, however, fails to assess the reasonableness of the modeling and data assumptions that he makes.[22]

Moreover, Dr. Poston ignores the uncertainty in his estimates, in violation of basic statistical principles. All modeled estimates, like the projections Dr. Poston advances in his report, have uncertainty, which is a quantification of accuracy and precision, placing confidence limits, or bounds, on modeled estimates. Such uncertainty is especially critical to acknowledge in the context of apportionment because apportionment outcomes are sensitive to small changes in population counts. Statisticians have called this issue "the apportionment problem"— that very small inaccuracies in a state population can change the number of representatives received—and have shown this to be an "inescapable property of any method of apportionment that is a function of population."[23] This means that predictions about apportionment outcomes are often wrong given the difficulty of precisely projecting population. For example, prior to the 1990 Census, the Census Bureau correctly predicted only three of the five eventual seat

[21] Skerry, P. (2000). Counting on the census? Race, group identity, and the evasion of politics (Vol. 56). Brookings Institution Press, 131.
[22] For review of various approaches, *see* Hyndman, R. J., & Athanasopoulos, G. (2018). Forecasting: principles and practice. OTexts. A key assumption is the time frame that informs the forward projection, e.g., 2010-2018 versus 2017 to 2018. The other key assumption is the modeling of the trend, whether linear or exponential, for example.
[23] Keyfitz, N. (1979). Information and allocation: two uses of the 1980 census. *The American Statistician*, 33, 45-50. It is highly unlikely, but theoretically possible, that the omission of a single person from a state population could result in the loss of a representative. On the other hand, an omission of 100,000 persons would have a one in five chance of depriving that state of a representative.

changes.[24] The Census Bureau 2009 population estimates similarly did not predict all of the 12 seats gained and 12 seats lost.[25]

Below, I discuss in more detail the significant flaws in each of Dr. Poston's projections, and then explain how these errors contribute to massive uncertainty in his estimates, and result in unreliable and unconvincing conclusions.

A. Dr. Poston's Data and Methodology for Projecting Total Population Counts Are Flawed.

In projecting total population numbers for each state in 2020, Dr. Poston starts with Census Bureau population estimates for each state from July 2018, and, in his supplemental report, from July 2019.[26] In contrast to the actual enumeration that the Census Bureau conducts in each decennial census, these yearly population estimates from the Census Bureau are statistically modeled—i.e., they are adjustments to the decennial count made to attempt to account for births, deaths, and migration.[27] These population estimates can differ significantly from census counts, most notably because of the difficulty of estimating net international migration.[28]

Dr. Poston then assumes, without evidence, that each state's population will grow or decline in population at the same average annual rate between 2018 (or 2019 in the supplemental report) and 2020 as it did between 2010 to 2018 (or 2019 in the supplemental report).[29]

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[24] According to Skerry (2000), 131.
[25] *See* https://www.psc.isr.umich.edu/dis/census/Features/apportionment/apportion_estimates.html.
[26] *See* Poston Report, 14; Supplement to Sworn Declaration & Expert Report of Dudley L. Poston, Jr., Ph.D. (Jan. 28, 2020) ("Poston Supplementary Report"), 3.
[27] *See* https://www2.census.gov/programs-surveys/popest/technical-documentation/methodology/2010-2018/2018-natstcopr-meth.pdf?#.
[28] In 1980 and 2000, for example, the population estimated underestimated relative to the census count by more than 2 percentage points. Tiffany Yowell and Jason Devine. (July 2013, Revised May 2014). Evaluating Current and Alternative Methods to Produce 2010 County Population Estimates, U.S. Census Bureau, https://www.census.gov/population/www/documentation/twps0100/E2%20County%20Totals_FINAL.pdf.
[29] Poston report, 14; Poston Supplementary Report, 3.

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However, documentation of significant geographic and temporal variability in population change by the Census Bureau indicate that this is a flawed assumption. With respect to geography, there has been wide variability in population growth patterns across states within the decade; for example, the Census Bureau reports that, from 2010 to 2019, states have seen changes in total population growth and loss ranging from a 3.3% loss in population (West Virginia) to a 16% growth in population (Utah).[30] With respect to time, the nation's overall population growth rate, for instance, has slowed over the course of the decade.[31] And there is temporal variation in the population growth across states. For example, the state of New York saw population growth from 2010 until 2015, but population loss in the years since; in contrast, the state of Texas has seen population growth.[32] These inconsistent population growth patterns indicate that Dr. Poston's population projections are inaccurate and demonstrate the unreliability in Dr. Poston's estimates, undermining confidence in his conclusions.

Dr. Poston also assumes, without evidence, that a state's overseas population will be the same proportion of the population in 2020 as it was in 2010.[33] This too is inaccurate. In 2016, the number of active-duty U.S. military troops stationed overseas declined to its lowest level in at least 60 years.[34] A change in the residency rules affecting overseas-deployed military personnel also makes it untenable to assume the overseas population will be the same in 2010 as it was in 2020. Specifically, in 2010, deployed military personnel were counted in their "home of record" state (the address provided at the time of enrollment in the military). In 2020, by contrast, military personnel will be counted at their usual residence. This will likely increase the

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[30] *See* https://www.census.gov/quickfacts/geo/chart/US/PST120219.
[31] *See* https://www.census.gov/library/visualizations/2019/comm/slower-growth-nations-pop.html.
[32] *See* https://www.census.gov/data/tables/time-series/demo/popest/2010s-state-total.html.
[33] Poston Report, 14.
[34] Bialik, Kristen. (August 22, 2017). U.S. Active-Duty Military Presence Overseas Is At Its Smallest In Decades. Pew Research Center. https://www.pewresearch.org/fact-tank/2017/08/22/u-s-active-duty-military-presence-overseas-is-at-its-smallest-in-decades/.

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overseas populations of states with major military installations, which further emphasizes the uncertainty, of Dr. Poston's calculations.[35] And finally, as noted above, there has also been wide variability in population growth patterns across states, which means that the overseas population is likely to increase in some states but decrease in others in 2020. Dr. Poston concedes that he has not taken into account any of these issues with respect to the overseas population.[36]

In sum, the assumptions underlying Dr. Poston's total population projections are problematic, undermining the credibility of his calculations and highlighting the difficulty of accurately predicting apportionment outcomes.

B. Dr. Poston's Data and Methodology for Projecting Apportionment Counts Excluding Undocumented Immigrants is Flawed.

Dr. Poston next projects a population count for each state excluding undocumented immigrants by (1) relying on the flawed projection of the total population count, as described above, and (2) subtracting from that count a projected count of the undocumented immigrants in each state.[37] To reach a count of the undocumented immigrants in each state, Dr. Poston relies on 2016 state-level estimates of undocumented immigrants from Pew, and assumes that the proportion of the undocumented immigrant population in a state will be unchanged from the population proportion Pew estimated for a state in 2016.[38] This approach is flawed for a number of reasons, as follows.

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[35] Jarosz, Beth. (October 28, 2019). How Does the U.S. Census Bureau Count People Who Have More Than One Address? PRB. https://www.prb.org/how-does-the-u-s-census-bureau-count-people-who-have-more-than-one-address/.

[36] Deposition of Dudley L. Poston, Jr., Ph.D. (Feb. 27, 2020), at 105-114.

[37] Poston report, 16.

[38] Pew defines unauthorized immigrants as "all foreign-born noncitizens residing in the country who are not `lawful immigrants…The vast majority of unauthorized immigrants entered the country without valid documents or arrived with valid visas but stayed past their visa expiration date or otherwise violated the terms of their admission." Passel et al. (2018), 2. This is the same definition I use throughout this report.

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First, Dr. Poston's assumption that the proportion of the undocumented immigrant population in a state will not change between 2016 and 2020 is simply wrong. Most glaringly, the assumption contradicts Pew's own updated estimates for 2017.[39] Indeed, Pew reports significant variation across states and time in the undocumented population, including a continued decline in the overall numbers of undocumented immigrants in the United States.[40] As one example, Pew reports that California's undocumented immigrant population was 2.2 million in 2016, compared to 2.0 million in 2017—at the same time, the Census Bureau reports an overall growth in total population for the California between 2016 to 2017.[41] Moreover, there are substantial reasons to believe that the changes in immigration policy from 2010 to 2020 have had significant impacts on the undocumented immigrant populations in many states, none of which are taken into account by Dr. Poston's numbers.[42] Given the already mentioned variation in the total population change across states—the denominator for calculating the proportion of the undocumented immigrants in a state—some states will see their proportion of undocumented immigrants increase in 2020 relative to 2016, while others will likely see it decrease.

Second, and more fundamentally, Dr. Poston ignores the massive and undisputed uncertainty in Pew's estimates of undocumented immigrants. Uncertainty is a critical part of *every* statistical estimate, but it is especially remiss to ignore it when estimating the size of the undocumented immigrant population in the United States given that government agencies, scholars, and policy-makers widely acknowledge that this population is difficult to estimate.[43]

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[39] 2017 estimates were released in June 2019 so it's unclear why Dr. Poston did not use the more recent estimates.
[40] *See* https://www.pewresearch.org/hispanic/interactives/unauthorized-trends/.
[41] *See* https://www.census.gov/content/dam/Census/library/visualizations/2017/comm/popest-idaho.pdf.
[42] Warren, Robert. (February 27, 2019). Sharp Multiyear Decline in Undocumented Immigration Suggests Progress at US-Mexico Border, Not a National Emergency. https://cmsny.org/publications/essay-warren-022719/.
[43] For review, *see* Woodrow-Lafield, K. A. (1998). Undocumented immigrants in the United States in 1990: Issues of uncertainty in quantification. International Migration Review, 32(1), 145-173. Demographers acknowledge that many methods fail to account for uncertainty, instead treated "values as if they were true" (Van Hook et al. 2015, 331). However, previous estimates have not be considered for use to determine political representation.

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For example, while Pew estimated an undocumented population of 10.7 million in 2016, researchers at Yale estimated that the 2016 number of undocumented immigrants ranged from a conservative 16.7 million to a high of 27.5 million.[44] While Dr. Poston admits (in a footnote) that "there are inherent difficulties in counting undocumented immigrants," he fails to account for that uncertainty in his conclusions.[45] These massive uncertainties include (1) uncertainties with respect to Pew's overall methodological approach, and (2) uncertainties with respect to the specific data and methodology on which components of Pew's estimates rely, as described below.

1. Pew's Overall Methodology for Projecting Apportionment Counts Excluding Undocumented Immigrants Produces an Unreliable Estimate.

Estimates of the undocumented population vary widely depending on the methodological approach, assumptions, and underlying data used. Broadly, Pew relies on a method called the residual technique for estimating numbers of undocumented immigrants in the United States. The residual technique estimates the number of undocumented immigrants by subtracting the number of lawful immigrants—estimated from government records—from the total number of immigrants in the country, as estimated from self-report responses to government surveys. The residual technique is one that has also been used by the Department of Homeland Security ("DHS"),[46] the Migration Policy Institute, the Center for Migration Studies of New York, and, in previous years, by the Census Bureau.[47]

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[44] Fazel-Zarandi, M. M., Feinstein, J. S., & Kaplan, E. H. (2018). The number of undocumented immigrants in the United States: Estimates based on demographic modeling with data from 1990 to 2016. PloS one, 13(9).
[45] Poston Report, 16 n.2.
[46] Prior to 2018, DHS population estimates referred to foreign-born non-citizens unlawfully present in the United States as "unauthorized immigrants." The 2018 report changes the term to "illegal aliens."
[47] *E.g.*, Baker, B. (2018). Population Estimates: Illegal Alien Population Residing in the United States: January 2015. Washington, DC: Department of Homeland Security. https://www.dhs.gov/sites/default/files/publications/18_1214_PLCY_pops-est-report.pdf.

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Although the aggregate numbers of undocumented immigrants resulting from the residual technique can be somewhat similar—recent estimates ranging from 10.5 million to 12 million[48]—there is considerable variability within subgroups and at smaller geographies.[49] In recognition of the limitations of the residual technique, when the Census Bureau released 2001 residual estimates of the undocumented population, they provided the following disclaimer:

> "Although the residual technique . . . is based on the simple idea of subtracting the expected legal population from the counted foreign-born population at the census date, *the approach suffers from a number of limitations.* These limitations stem from anomalies and shortcomings in the data sets used, assumptions made to correct for data deficiencies or to derive intermediate estimates, and the exclusion of components that may prove to be relevant in the changing migration environment."[50]

Similarly, DHS also acknowledges that their estimates of undocumented populations are "subject to sampling error in the ACS and considerable non-sampling error because of uncertainty in some of the assumptions required for estimation . . . Caution is recommended."[51] A March 2019 DHS report explains:

> DHS's ability to describe the illegal alien population depends on its ability to describe the different population groups included in the residual methodology: the total foreign-born population and the subgroups that comprise the legally resident foreign-born population. *Data limitations mean that neither of these populations can be described with precision.*[52]

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[48] Kamarck, Elaine and Christine Stenglein. (November 12, 2019). How many undocumented are in the United States and who are they? Brookings Institute. https://www.brookings.edu/policy2020/votervital/how-many-undocumented-immigrants-are-in-the-united-states-and-who-are-they/.

[49] Van Hook, J., Bachmeier, J. D., Coffman, D. L., & Harel, O. (2015). Can we spin straw into gold? An evaluation of immigrant legal status imputation approaches. Demography, 52(1); Baker, B. (2018). Population Estimates: Illegal Alien Population Residing in the United States: Jan. 2015. Washington, DC: Dep. of Homeland Security.

[50] Costanzo et al. Evaluating Components of International Migration: The Residual Foreign Born. June 2002, page 20. https://www.census.gov/content/dam/Census/library/working-papers/2001/demo/POP-twps0061.pdf (emphasis added). The Census Bureau emphasized that "Our assumptions include a great deal of uncertainty, especially for small migration components. Therefore, the residual may be quite different from the actual number of unauthorized migrants" (2).

[51] Office of Immigration Statistics, Homeland Security. (December 2018). Population Estimates: Illegal Aliens Population Residing in the United States: January 2015, 11. Although DHS produces an estimate of the undocumented immigrant population using a residual method similar to Pew, they do not produce population estimates for every state.

[52] Department of Homeland Security, "Potential Improvements to DHS Illegal Alien Population Estimates: Collection and Use of Data," Fiscal Year 2018 Report to Congress, March 5, 2019, page 1.

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In employing the residual method, Pew estimates the number of undocumented immigrants by subtracting the number of immigrants with formal legal status—estimated from government records from DHS—from the total number of immigrants in the country, as estimated from self-report responses to the American Community Survey (the "ACS").[53] Because it is known that immigrants (especially undocumented immigrants) are harder to locate, harder to contact, harder to persuade, and harder to interview,[54] Pew then "augments and adjusts" their estimates in an attempt to account for the fact that surveys are more likely to miss immigrants.[55] To get state-level estimates, the legal status of each foreign-born respondent is imputed based on their survey responses and the total population estimates, aggregated, and then weighted to develop state-level estimates that take into account trends over time.[56] Additionally, Pew often makes revisions to previous estimates and the exact way in which it employs the residual method. For example, Dr. Poston used Pew's 2016 estimate of 55,000 for the undocumented population in Alabama in 2016; yet, their 2017 estimates report the 2016 undocumented population in Alabama to be 60,000.[57]

The accuracy of the residual technique estimates critically depends on the accuracy of the individual data components, and the assumptions used.[58] While Pew is not transparent about all of their data components and assumptions, those that can be scrutinized show that Pew's approach is error-prone and massively uncertain. It is not surprising, then, that demographers

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[53] Passel et al. (2018), 37.
[54] Tourangeau, R., Edwards, B., Johnson, T. P., Wolter, K. M., & Bates, N. (Eds.). (2014). Hard-to-survey populations. Cambridge University Press.
[55] *See* https://www.pewresearch.org/hispanic/2018/11/27/u-s-unauthorized-immigrant-total-dips-to-lowest-level-in-a-decade/.
[56] Passel et al. (2018), 44.
[57] *See* https://www.pewresearch.org/hispanic/interactives/unauthorized-trends/.
[58] Margo Anderson and Stephen Feinberg (Who Counts?), 59: "The accuracy of the demographic analysis depends on the accuracy of the inputs. Several of the statistical inputs are incomplete.

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call their estimates "difficult to replicate."[59] An evaluation of the approach also found significant biases in the resulting estimates.[60] One recent peer-reviewed academic research article explained that although Pew's estimates "have come to be trusted and widely cited outside of academia," the method has never been evaluated and "[t]he specific details of the Pew[ ] method are not publicly available, thus making it difficult for other researchers to replicate the method."[61] The authors conclude that "it is not possible to spin straw into gold."[62] The specific flaws in each of the components of Pew's estimates that contribute to the unreliability of Dr. Poston's conclusions are discussed in detail below.

2. The Data Components and Specific Method of Pew's Residual Approach Are Not Reliable.

i. Pew and Dr. Poston rely on unreliable and inaccurate ACS estimates of the total foreign-born population.

In estimating the number of undocumented immigrants using the residual technique, Pew starts by estimating the total number of foreign-born residents—anyone who was not a U.S. citizen from birth—from the ACS. The ACS is a nationwide survey designed and conducted by the Census Bureau that collects social, economic, housing, and demographic characteristics from approximately 1.6% of households annually.[63] The ACS asks about the citizenship status—but not the legal status—of each household member. The sampling errors and nonsampling errors in ACS, and Pew's undercount adjustments with respect to this population, undermine confidence in Pew's estimates of the total foreign-born population, on which Dr. Poston relies.

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[59] Van Hook, J., Bachmeier, J. D., Coffman, D. L., & Harel, O. (2015). Can we spin straw into gold? An evaluation of immigrant legal status imputation approaches. Demography, 52(1), 333.
[60] *Ibid.*
[61] *Ibid*, 330.
[62] *Ibid*, 330.
[63] The ACS replaced the Census long form after 2000. The ACS is implemented as a continuous survey, with about 3.5 million household addresses contacted each year. The Census Bureau releases yearly estimates that allow for characteristic estimates for populations of 65,000 or more. The ACS accumulates sample into 5-year estimates for smaller geographic areas, including census tracts and block groups.

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1. Sampling errors in underlying ACS estimates make Pew's numbers unreliable.

Because the ACS is a sample of the population, rather than a census, any resulting population estimates are subject to uncertainty from random sampling error.[64] That sampling error is often reported as a margin-of-error with survey statistics. The greater the margin of error, the less confidence one should have in the resulting statistical estimate.[65] For small population subgroups or geographies—such as state-level estimates of the foreign-born population—the sampling error in the ACS can be quite large.

Although Pew reports its estimates of undocumented immigrants with a sampling error,[66] Dr. Poston fails to acknowledge or account for such sampling error in his calculations. For example, Pew's estimate of the number of undocumented immigrants in Alabama in 2016 was 55,000 +/- 10,000.[67] That is, Pew's estimate has a 90% confidence interval of 45,000 to 65,000 undocumented immigrants in Alabama in 2016—revealing a large degree of uncertainty in the estimate, even before trying to make projections in the future.[68] To put that level of uncertainty into context, consider that in the 2000 Decennial Census, Utah would have needed fewer than 1,000 additional residents to qualify for the 435th and final congressional seat instead of North Carolina.[69] In other words, the margin of error on the number of undocumented immigrants was larger than the population difference between two states determining priority values for

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[64] Groves, R. M., Fowler Jr, F. J., Couper, M. P., Lepkowski, J. M., Singer, E., & Tourangeau, R. (2011). Survey methodology (Vol. 561). John Wiley & Sons.
[65] Error has a statistical meaning—referencing the unknown difference between an estimate and its true value. Sampling error that there will be random sample-to-sample variation if one was to draw multiple samples from the population.
[66] Passel et al. (2018), 45.
[67] Passel et al. (2018) and https://www.pewresearch.org/hispanic/interactives/unauthorized-trends/.
[68] This means that 90% of the time, the true population estimate of undocumented immigrants in Alabama would fall between 45,000 to 65,000.
[69] *See* https://www.pewsocialtrends.org/2011/01/11/census-2010-the-last-seat-in-congress/.

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apportionment.[70] Pew further reports that this margin of error *underestimates* the extent of uncertainty in the estimate because it captures only sampling, but not nonsampling, errors:

> "The ranges reported represent a 90% confidence interval around the estimates. They represent the sampling error associated with the survey-based estimate. Other sources of potential error—including the variability associated with the random assignment of statuses, potential errors in the status assignment process and non-sampling error in the surveys—are not represented in the reported margins of error. For this report, statistical tests rely on a 90% confidence level."[71]

2. Nonsampling errors in underlying ACS estimates make Pew's numbers unreliable and inaccurate.

There are a variety of other sources of error in Pew's estimates in addition to sampling errors that threaten the accuracy and reliability of Pew's estimates. Broadly called nonsampling errors, these include all other sources of error, such as those that arise from misreporting, incomplete coverage, or data processing. Although nonsampling errors can be more difficult to quantify than sampling errors, they still demonstrate the lack of precision in Pew's, and in turn, Dr. Poston's estimates of undocumented immigrants.

First, it is widely recognized that citizenship status is often inaccurately reported in government surveys.[72] One study using the Census Bureau's Current Population Survey estimated that 75 percent of those who reported being naturalized citizens and living in the U.S. fewer than five years were in fact non-citizens at the time of the survey.[73] In a recent comparison of administrative records from the Social Security Administration with individual

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[70] *See* https://www.pewresearch.org/hispanic/interactives/unauthorized-trends/. Similarly, Pew estimates the number of undocumented immigrants in North Carolina in 2010 to be 350,000 +/- 15,000; the number in Minnesota was 90,000 +/- 10,000, so that the uncertainty again exceeds the population difference.

[71] Passel, J. S., & Cohn, D. (2018). US Unauthorized immigrant total dips to lowest level in a decade. Pew Research Center.

[72] Bachmeier, J. D., Van Hook, J., & Bean, F. D. (2014). Can we measure immigrants' legal status? Lessons from two US surveys. International Migration Review, 48(2), 538-566.

[73] Passel JS, Clark RL. How Many Naturalized Citizens Are Thee? An Assessment of Data Quality in the Decennial Census and CPS. Paper presented at the Annual Meeting of the Population Association of America; Washington, DC. March 1997, as reported in Brown et al. (2018).

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responses to the ACS, census researchers found that 37.6 percent of those individuals who were recorded as non-citizens in administrative records had self-reported being U.S. citizens in the ACS.[74] As explained by the researchers, undocumented immigrants "have a strong incentive to provide an incorrect survey answer, if they answer at all, due to concerns about the data being used for enforcement."[75]

Second, and, even more problematic for Dr. Poston's apportionment estimates, misreporting is likely to vary by geography, raising concerns about the way that measurement error might disproportionately affect estimates of undocumented immigrants in some states more than others, and thus threaten the distributional accuracy of the resulting estimates. Census researchers acknowledge that "the extent of intentional misreporting is most likely to vary across geographical areas and over time, depending on the degree of concern about personal security."[76] Indeed, Census Bureau research finds that match rates between the ACS and administrative records is lower in Alabama than any other state—65% compared to a high of 89% in Maine.[77] This both highlights the inherent difficulty of estimating the undocumented immigrant population, and suggests that Pew, and in turn, Dr. Poston, underestimates the number of undocumented immigrants in Alabama compared to other states, which would lead to an overestimate of Alabama's apportionment population if undocumented immigrants are excluded.

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[74] Moreover, this is likely an underestimate because the noncitizens able to be matched to administrative records are more likely to be legal noncitizens. Brown et al. (2018).

[75] J. Brown et. al., Working Paper: Understanding the Quality of Alternative Citizenship Data Sources for the 2020 Census, Center for Economic Studies, U.S. Census Bureau, 18–38 (2018), https://www2.census.gov/ces/wp/2018/CES-WP-18-38.pdf.

[76] Brown et al., 21.

[77] Bhaskar, R., Fernandez, L. E., & S. Rastogi. (2018). Assimilation and coverage of the foreign-born population in administrative records. Center for Administrative Records Research and Applications (CARRA) Working Paper Series #2015-02., April 21, 2015. Mulrow et al. (2011) similarly find considerable geographic variation in the ability match administrative records to ACS respondents. Mulrow, Edward, Ali Mushtaq, Santanu Pramanik, and Angela Fontes. 2011. "Final Report: Assessment of the U.S. Census Bureau's Person Identification Validation System," NORC at the University of Chicago, http://www.norc.org/PDFs/May%202011%20Personal%20Validation%20and%20Entity%20Resolution%20Conference/PVS%20Assessment%20Report%20FINAL%20JULY%202011.pdf.

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In other words, in Dr. Poston's analysis, Alabama would inaccurately benefit from higher levels of misreporting in the state.

In sum, there is clear evidence that Pew's estimates are subject to large amounts of measurement error in the ACS estimates of foreign-born residents, jeopardizing the reliability of the resulting estimates. Misreporting of citizenship status is pervasive and appears to vary across states, resulting in biased estimates of an apportionment population with undocumented immigrants excluded.

3. Undercount adjustments in the total foreign-born population make Pew's numbers unreliable.

Another source of imprecision in the Pew estimates involves the statistical adjustment made to try to account for immigrants being disproportionately missed by the ACS. Surveys always miss some people, but immigrants (and especially undocumented immigrants) are especially likely to be undercounted—a source of error called coverage error. Unfortunately, the extent of the undercount is unknown and unknowable, so Pew has to make a guess as to how and how much to adjust their statistical estimates.

Pew reports that their adjustment increases the size of the undocumented immigrant population by 5% to 7% for the years 2010-16.[78] It is not possible to assess the reasonableness of Pew's statistical adjustment because the methodology is not disclosed. Pew simply states that undercount adjustments are based on "comparisons with Mexican data, U.S. mortality data and specialized surveys conducted at the time of the 2000 census."[79] For comparison, DHS assumes

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[78] Passel et al. (2018), 44.

[79] *See* https://www.pewresearch.org/hispanic/wp-content/uploads/sites/5/2019/03/Pew-Research-Center_2018-11-27_U-S-Unauthorized-Immigrants-Total-Dips_Updated-2019-06-25.pdf, 44. Research shows, for example, that the undercount of young children varies across states and county size—undercounts are large in more populous counties than less populous ones. O'Hare, W. P. (2019). Differential undercounts in the US Census: Who is missed?. Cham: Springer Open.

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that the undercount of undocumented immigrants is 10% based on a study about LA County in California in the 2000 decennial census.[80] It is, of course, also problematic to assume that the undercount hasn't changed since 2000, or that it is the same across the country as it is in Los Angeles,[81] given geographic variation in the size and nature of the immigrant population. In 2014, for example, the estimated share of undocumented immigrants from Mexico was 5% nationwide, but 70 percent in California, variation that is undoubtedly related to the undercount.[82] For their part, DHS acknowledges that "the exact degree of the undercount is unknown."[83]

The adjustments undergirding the Pew data further undermine confidence in Dr. Poston's estimates. Pew statistically adjusts estimates of the undocumented population to try to account for the undercount of this population; in contrast the total population estimates used by Dr. Poston have not been statistically adjusted for the undercount because the Census Bureau does not statistically adjust census numbers. Following the 2000 Census, the Census Bureau spent enormous resources to research whether statistical methods could be used to adjust for the undercount for use in redistricting and other purposes not related to reapportionment (given the Supreme Court's prohibition on its use for reapportionment).[84] In the end, the Census Bureau determined that the research could not conclude, with a high level of certainty, that the adjusted

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[80] Enrico Marcelli, "2000 Census Coverage of Foreign-born Mexicans in Los Angeles County: Implications for Demographic Analysis," presented at 2000 Annual Meeting of the Population Association of American, Atlanta GA.
[81] *See* https://www.pewresearch.org/hispanic/wp-content/uploads/sites/5/2019/03/Pew-Research-Center_2018-11-27_U-S-Unauthorized-Immigrants-Total-Dips_Updated-2019-06-25.pdf, 44.
[82] *See* https://www.ppic.org/publication/undocumented-immigrants-in-california/.
[83] Department of Homeland Security, "Potential Improvements to DHS Illegal Alien Population Estimates: Collection and Use of Data," Fiscal Year 2018 Report to Congress, March 5, 2019, 3.
[84] Whitford, D. C. (2002) Chronologic Overview of the Census 2000 Adjustment Decision. Joint Statistical Meetings - Section on Survey Research. Methods. New York City. http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.380.7478&rep=rep1&type=pdf.

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census results would be more accurate than the unadjusted results.[85] Any requests for the already-produced adjusted data acknowledged:

> [T]he adjusted estimates were determined to be so severely flawed that all potential uses of these data would be inappropriate. Accordingly, the Department of Commerce deems that these estimates should not be used for any purpose that legally require use of data from the decennial census and assumes no responsibility for the accuracy of the data for any purpose whatsoever.[86]

The very fact that the Census Bureau concluded statistical adjustment could reduce the accuracy of the census count undermines Pew's decision to adjust. It also highlights the inherent imprecision in Pew's estimates, and makes the components of Dr. Poston's calculations (total population count and total population count with undocumented immigrants excluded) incomparable, both of which contribute further to the lack of confidence in Dr. Poston's resulting estimates.[87]

ii. Pew and Dr. Poston rely on unreliable estimates of the lawful immigrant population.

From the total foreign-born population estimated from ACS, the residual technique subtracts the estimated population of naturalized citizens and immigrants with formal legal status—lawful naturalized citizens, legal permanent residents, temporary migrants (such as foreign students), and refugees and asylees—based on estimates from administrative records.[88] In the case of immigrants with formal legal status, lawful permanent residents are estimated using data from DHS's Office of Immigration Statistics, and refugees are estimated using data from the Office of Refugee Resettlement.[89]

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[85] *See* U.S. Bureau of the Census (2001) Report: Recommendation Concerning the Methodology to be Used in Producing Tabulations of Population Reported to States and Localities Pursuant to 13 U.S.C. 141(c) (March 1) Washington, DC Department of Commerce https://www.census.gov/dmd/www/pdf/Escap2.pdf.
[86] *See* https://www.icpsr.umich.edu/icpsrweb/ICPSR/themes/census2000/disclaimer.jsp.
[87] *See* https://govinfo.library.unt.edu/cmb/cmbc/articles-archive/031201.asp.
[88] Administrative records refer to micro data records contained in files collected and maintained by administrative agencies, such as the U.S. Postal Service, Internal Revenue Service, or the Social Security Administration.
[89] *See* https://www.pewresearch.org/hispanic/2018/11/27/unauthorized-immigration-estimate-methodology/.

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Scrutiny of Pew's documentation of its reliance on DHS data, and its method with respect to that data, reveals that its estimates are far from an actual count and involve considerable imprecision. Administrative data is incomplete and untimely. As the Census Bureau has recognized, DHS has "incomplete records prior to 2001. These data do not cover naturalizations occurring before 1988, and they miss some between 1988 and 2000."[90] Moreover, available records "do not always cover children under 18 at the time a parent became a naturalized U.S. citizen. These children automatically become U.S. citizens under the Child Citizenship Act of 2000."[91]

Because the administrative records are incomplete and unreliable, Pew estimates the number of legal immigrants by "applying demographic methods . . . with projections to current years, when necessary."[92] Pew makes statistical adjustments to the estimates from administrative records to account for deaths and departures from the country. Once again, the accuracy of the estimates depends on the accuracy of the individual components of the underlying data—yet these components are not known quantities, nor can they assumed to be stable across time or geography. In calculating its own estimates of the undocumented population, DHS admits that the agency "does not know how many lawfully admitted aliens have deceased or departed the United States."[93] Mortality rates are a source of considerable controversy and disagreement among demographers.[94] Departures from the country also vary across time and geography. Pew makes projections, but the exact assumptions underlying those projections are not disclosed and it is clear that precise numbers simply do not exist.

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[90] Brown et al., 18.
[91] Brown et al., 18.
[92] Passel et al. (2018), 36.
[93] Department of Homeland Security, "Potential Improvements to DHS Illegal Alien Population Estimates: Collection and Use of Data," Fiscal Year 2018 Report to Congress, March 5, 2019, 3.
[94] Warren, R., & Warren, J. R. (2013). Unauthorized Immigration to the United States: Annual Estimates and Components of Change, by State, 1990 to 2010. International Migration Review, 47(2), 296–329.

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In sum, the estimation of the population of immigrants with formal legal status from administrative records on which Pew relies is not an actual enumeration. Instead, such population is imprecisely estimated using a combination of incomplete administrative records and contentious assumptions. Taken together with the other sources of error outlined above, it is clear that the Pew estimates, and in turn Dr. Poston's results, are imprecise and error prone.

iii. Pew and Dr. Poston rely on unreliable estimates of undocumented immigrants at the state-level.

The state-level estimates of the undocumented immigrant populations that Dr. Poston uses require many additional steps after computation of the national residual estimate outlined above; although Pew treats these steps as deterministic, scrutiny of the complex and unverified set of modeling and data assumptions reveal the imprecision and uncertainty in such estimates.

Specifically, state-level estimates of undocumented immigrants are produced after assigning a legal status to all foreign-born respondents in the ACS. A variety of approaches are used in that assignment—logical decision rules, statistical imputation, and weighting adjustments. The initial categorization of someone as "potentially unauthorized" relies on decision rules using self-reported information about arrival year, country of origin, occupation, participation in government programs, and family relationships that could be indicators of legality. Here, again, Dr. Poston's estimates rest on strong assumptions that are unsubstantiated. For example, the survey responses can be inaccurate (e.g., there can be high levels of missingness and misreporting in arrival year). And the decision rules are not 100% accurate. Some immigrant veterans are deported[95]; some households have mixed immigration status; and some who should be eligible to adjust to lawful permanent resident status do not apply for such

[95] Zamudio, Maria. (June 21, 2019). Deported U.S. Veterans Feel Abandoned By The Country They Defended. NPR. https://www.npr.org/local/309/2019/06/21/733371297/deported-u-s-veterans-feel-abandoned-by-the-country-they-defended.

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an adjustment, whether due to lack of money, language barriers, or other reasons.[96] Reflecting the imprecision of Pew's assignment process, Pew acknowledges that the resulting "number of potentially unauthorized immigrants typically exceeds the estimated number of unauthorized immigrants from the residual estimates by 20-35% nationally."[97] This mismatch between the assignment process and the national residual estimates demonstrates the inaccuracy of Pew's complex and opaque process, and highlights the extent to which their resulting population estimates are not precise counts.

To adjust the numbers of undocumented immigrants to bring them in line with the national residual estimates, Pew assigns legal status based on an estimated probability of being an undocumented immigrant, which is in turn based on the occupation distribution by age, sex, and state of residents from the 1989 Legalized Population Survey.[98] This survey benchmark is 30 years old, and overrepresents Mexicans and those in the Southwest.[99] To get state estimates, "the final estimated state totals for any given year take into account estimates for surrounding years; however, only a small number of state estimates require significant adjustment based on the trend analysis."[100] Critically for Dr. Poston's state-by-state count of the undocumented population on which his conclusions rely, Pew does not report which states have inaccurate outcomes that must be significantly adjusted.

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[96] Frost, Amanda. (June 19, 2016). The Overlooked Pathways to Legal Status. The Atlantic. As reported, one study found individuals in removal proceedings with legal representation were 15 times more likely to apply for relief than those without lawyers and are 5.5 times more likely to be granted legal status.
[97] Passel and Cohn, 2018, 40.
[98] As reported in Van Hook et al. (2015).
[99] Van Hook, J., Bachmeier, J. D., Coffman, D. L., & Harel, O. (2015). Can we spin straw into gold? An evaluation of immigrant legal status imputation approaches. Demography, 52(1), 332.
[100] Passel and Cohn, 2018, 40.

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3. Dr. Poston's Conclusions Are Not Credible.

As I have shown, the individual population projections underlying Dr. Poston's calculations are imperfect approximations subject to considerable uncertainty and sampling and nonsampling errors. To recap, Dr. Poston's projection of the total state population rests on flawed assumptions about population growth over time, geographic variation in population growth over time, and the overseas population, and fails to acknowledge inherent uncertainty in projecting population trends into the future. Regarding the estimates of the number of undocumented immigrants in each state, it is clear that the numbers are not counts, but rather rough and imprecise estimates calculated from incomplete and outdated data using an opaque methodology criticized by demographers. Although Dr. Poston's calculations give the illusion of precision, the individual data components underlying his analysis are error-prone and unreliable. Pew's estimates are not "fit for use" for apportionment; nor are they sufficiently reliable or accurate to support Dr. Poston's opinions that Alabama will lose a seat if undocumented immigrants are included in the population counts, or maintain a seat if they are included.

Given these outlined problems and the sensitivity of apportionment outcomes to small changes in population counts, as discussed above, Alabama's claim that they will lose a seat from the inclusion of undocumented immigrants in the apportionment count, or maintain a seat if undocumented immigrants are excluded, is only speculative. The lack of precision in the data means that different states could have reasonable claims to "priority" to the available seats depending on the particular assumptions made about the many and varying components that underlie Dr. Poston's estimates. Indeed, a 2015 analysis by the Congressional Research Service in which seats were hypothetically apportioned using the 2013 estimated citizen population

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reported that Alabama received the same number of seats whether estimated numbers of non-citizens were included or excluded in the apportionment population.[101]

To highlight the uncertainty of Dr. Poston's estimates, sampling error alone is enough to undermine Dr. Poston's conclusion that Alabama is likely to lose a congressional seat if undocumented immigrants are included in the apportionment population, or to maintain a seat of undocumented immigrants are excluded. The reported margin of error on the estimate of the undocumented population ranged from 45,000 to 65,000—that confidence interval (spanning 20,000 persons) is in fact wider than the population difference of the approximately 10,000 additional persons that Election Data Services estimates Alabama would need to gain another congressional seat.[102]

In addition to the extensive uncertainty in the estimates, the geographic variation ignored by Dr. Poston means that both the total population projections and the undocumented population projections are likely to be overestimated in some states and underestimated in others (but not necessarily in the same direction for the two quantities).

V. There Is Currently No Feasible Way to Reliably Exclude Undocumented Immigrants From the 2020 Apportionment Count.

I also examined whether there is a feasible way in which undocumented immigrants could be excluded from the 2020 apportionment count. For numerous reasons, I conclude that there is currently no feasible method by which to exclude undocumented immigrants from the 2020 apportionment count. Specifically, I conclude that excluding undocumented immigrants from the apportionment count in 2020 is impossible because (1) there is no current methodology or data product at the time of this writing that the Census Bureau can use to exclude

[101] Congressional Research Service. 7-5700. R41636. https://crsreports.congress.gov/product/pdf/R/R41636.
[102] *See* https://www.electiondataservices.com/wp-content/uploads/2019/12/NR_Appor19wTablesMaps.pdf, Appendix Main, Page 1.

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undocumented immigrants from the 2020 apportionment count; (2) it is not currently feasible for the Census Bureau to produce estimates of undocumented immigrants from administrative records that would be of sufficient quality to use to exclude undocumented immigrants from the 2020 apportionment count; and (3) the nature, scope, and methodology of the statistical modeling needed to produce estimates of the undocumented population is fundamentally different from the statistical modeling currently used in producing the apportionment population, and would result in a less accurate and reliable enumeration.

A. Current Methodologies and Data Products Are Not Sufficient for Excluding Undocumented Immigrants from the Apportionment Count.

It is my opinion that there is no current methodology or data product at the time of this writing that the Census Bureau may use to reliably exclude undocumented immigrants from the 2020 apportionment count. First, as discussed above, the apportionment count is an "actual enumeration" of the population. The Pew methodology on which Dr. Poston relies, and the residual techniques currently used by the federal government to estimate undocumented populations are inadequate for the apportionment count because reliance on estimates from ACS controverts the prohibition on the use of statistical sampling in the production of apportionment population totals.[103] In *Department of Commerce v. U.S. House of Representatives* (1999), the Supreme Court ruled that the Census Act precluded the use of sampling to produce the apportionment count "[w]hether used as a 'supplement' or as a 'substitute.'"[104]

Second, there are no known data products from the 2020 Census that would identify the undocumented immigrant population that Alabama proposes to exclude from the apportionment count. The planned CVAP datafile, described above, is obviously not sufficient for excluding

[103] *Department of Commerce v. U.S. House of Representatives* (1999).
[104] *Department of Commerce v. U.S. House of Representatives* (1999), 24.

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undocumented immigrants from the apportionment count because it only identifies the total number of citizens of voting age population. Subtracting the CVAP numbers from total population numbers does not provide the numbers to apportion excluding undocumented immigrants because CVAP does not distinguish undocumented immigrants from legal non-citizen residents, and it does not provide the citizenship or legal status of those younger than 18 years of age. Even if CVAP had sufficient data—which it does not—it is unlikely to be considered of sufficient quality for use in apportionment. In addition, the other data products, sources, and analysis that the Census Bureau is examining to fulfill the Executive Order are insufficient, as discussed below.

B. Reliance on Administrative Records to Exclude Undocumented Immigrants from the Apportionment Count is Not Sufficient for the 2020 Apportionment Count.

It is my opinion that it is not currently feasible for the Census Bureau to produce estimates of undocumented immigrants from administrative records that would be of sufficient quality to use as a basis to exclude undocumented immigrants from the 2020 apportionment count. To date, administrative record usage for purposes of enumerating households is limited to those nonresponding addresses where the Census Bureau has multiple "high-quality" administrative records available.[105] More importantly, the Census Bureau does not use administrative records *on their own*—administrative records are used only after giving the entire population an opportunity to self-respond and after an attempt to enumerate the household by field staff.[106]

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[105] 2020 Census Operational Plan.
[106] Memorandum from Deborah M. Stempowski to The Record Regarding Use of Administrative Records in the 2018 End-to-End Census Test (Mar. 26, 2018), 7.

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Although administrative records are being used to fulfill President Trump's executive order to produce block-level citizen voting age population estimates,[107] administrative records lack the coverage, accuracy, and reliability needed to produce an actual enumeration of the undocumented population, which would be necessary to exclude undocumented immigrants from the 2020 apportionment count. Specifically, as I explain below, (1) very few administrative records directly identify those individuals with undocumented status, and the few that do so are fundamentally flawed; and (2) administrative records that may theoretically be used to estimate the number of undocumented immigrants lack sufficient coverage, accuracy, and reliability for this purpose.

1. Direct Identification of Undocumented Immigrants from Administrative Records is Not Feasible.

Very few administrative records directly identify those with undocumented status. Indeed, administrative records are "weak in their coverage of undocumented aliens because programs typically require documentation that many undocumented aliens do not have."[108] The limited records available with respect to undocumented immigrants, described below, are woefully deficient because they are incomplete, outdated, and often inaccurate.

i. Administrative records from the Department of Justice

The Census Bureau is unable to attain a precise number of individuals who entered the country undetected, because it is likely to only have records for those individuals who are apprehended.[109] The Census Bureau expects to receive administrative records about

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[107] *See generally* 84 Fed. Reg. at 33,891.

[108] Czajka, J. L. (2013). Can administrative records be used to reduce nonresponse bias? The ANNALS of the American Academy of Political and Social Science, 645(1), 171-184.

[109] Some research has attempted to roughly estimate this number by using annual number of apprehensions and estimating the probability that an undocumented migrant is apprehended along the U.S. Mexico border to produce an estimate of the number undocumented migrants from Mexico (e.g., Massey and Singer 1995). These estimates, however, only speak to migration across the Mexico border.

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incarcerations and apprehensions of undocumented immigrants from the Department of Justice ("DOJ"),[110] but the most recent report (Alien Incarceration Report, Fiscal Year 2018 Q2, April 16, 2019) summarizing those records report only 43,519 individuals.[111] This is surely a far cry from the total number of undocumented immigrants in the country.

Scrutiny of these DOJ records also highlights the difficulty of obtaining complete, accurate, and timely information—even among those in federal custody. The report notes that an additional 16,426 individuals—27.4% of all "known or suspected aliens" in federal custody—were still under investigation by Immigration and Customs Enforcement to determine alienage, and many others are difficult to classify: 1,281 were legally present and undergoing removal proceedings, 1,100 were granted relief or protection from removal, and 4,903 were deemed undocumented but under adjudication.[112] If determination of undocumented status is difficult for Immigration and Customs Enforcement, the Census Bureau cannot be expected to make such determinations with incomplete and deficient administrative records.

Finally, it is worth noting the time lag of about a year from the date of the incarceration data to the report's release. Specifically, the April 16, 2019 report summarizes incarcerations as of the end of fiscal year 2018, Quarter 2. This is just one example of both the time it takes to process and analyze administrative records, and the fact that such records are outdated by the time they can be summarized. This lag in reporting—plus the large number of unresolved statuses—calls into question the ability of the Census Bureau to produce apportionment numbers that exclude undocumented immigrants in the required nine months from the date of the census.

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[110] *See* Background Sheet 2: Creating an Interagency Working Group and Established Agreement for New Data. The Department of Interior is also sharing records on security interactions, although scant information about the coverage or quality of these records is available.
[111] Alien Incarceration Report, Fiscal Year 2018 Q2 (April 16, 2019). https://www.justice.gov/opa/page/file/1154711/download.
[112] Alien Incarceration Report, 2.

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ii. Administrative records from the Department of Homeland Security

The Census Bureau is unable to attain a precise number of individuals who have overstayed their visas because DHS records are similarly unreliable. DHS is providing the Census Bureau with Arrival/Departure Information System and Visa Data, but these data do not completely or accurately identify visa overstays.[113] Record-keeping challenges make it difficult to match arrival and departure records for the same person, which could result in erroneously counting as an overstayer someone who actually left the country.[114] Consider the enormity of the task—more than 47 million people visit the United States from abroad for tourism and business.[115] When departure records are incompletely collected by the airlines and transmitted to DHS, errors result. The land borders are even harder to track, since the ports of entry are primarily focused on screening incoming traffic rather than checking who is departing. More than 254 million people annually pass through the border checkpoints (nearly 700,000 travelers on a given day)—mostly individuals who are legally able to "travel back and forth across the border for commercial trade, tourism, work, school, family visits or a simple trip to the store."[116] As admitted in the DHS Privacy Impact Assessment for the Immigration-Related Information Sharing with the U.S. Census Bureau: "Determining an individual's citizenship based on various DHS data is a challenging task . . . . Due to the decentralized nature of admission and immigration information, as well as the lack of a nationwide departure control system, [U.S.

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[113] *See* Background Sheet 2: Creating an Interagency Working Group and Established Agreement for New Data.
[114] *See* https://thehill.com/opinion/immigration/447607-illegal-immigration-by-the-numbers-visa-violators-and-border-crossers.
[115] Morral, Anrew, Henry Willis, Peter Brownell. (2011). Measuring Illegal Border Crossing Between Ports of Entry: An Assessment of Four Promising Methods. Rand, Homeland Security and Defense Center. https://www.rand.org/content/dam/rand/pubs/occasional_papers/2011/RAND_OP328.pdf.
[116] Davis, Kristina. (April 7, 2019). "The impossible challenge of tracking visa overstays," The San Diego Union-Tribune. https://www.sandiegouniontribune.com/news/immigration/story/2019-04-06/the-impossible-challenge-of-tracking-visa-overstays.

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Customs and Border Protection] collects different data points from different data set."[117] As a result, the classification of an individual as an overstayer is often inaccurate. Indeed, research by the Center for Migration Studies found nearly half the visa overstayers identified by DHS had likely left the U.S. unnoticed.[118] Others have emphasized that the data are quickly out of date because "many overstayers leave or adjust their status within a few months of their visa expiration date."[119] In the Memorandum of Agreement to share this data with the Census Bureau, DHS acknowledges that the shared information "is assumed to be accurate at the time it was collected. However, because DHS is providing information at a point in time, it is reasonable to believe that eventually data accuracy issues may arise."[120]

iii. Additional records with respect to undocumented status

In addition to the records described above, a handful of administrative records may have some information with respect to small groups of undocumented immigrants. One group with administrative records that identify immigrants without formal legal status are those with Deferred Action for Childhood Arrivals ("DACA") status, and who may be considered by some to fall under the category of "undocumented."[121] DACA recipients do not have formal legal status, but they are currently protected from deportation, and retain lawful presence in the U.S. Administrative records also exist for undocumented immigrants with pending asylum cases. The Census Bureau has not, however, requested DACA or records with respect to pending asylum

[117] Department of Homeland Security. (Dec. 20, 2019). Privacy Impact Assessment for the Department of Homeland Security Immigration-Related Information Sharing with the U.S. Census Bureau, 6.
[118] Warren, Robert (February 27, 2019). Sharp Multiyear Decline in Undocumented Immigration Suggests Progress at US-Mexico Border, Not a National Emergency. https://cmsny.org/publications/essay-warren-022719/
[119] Fazel-Zarandi, Feinstein, Kaplan 2018.
[120] Memorandum of Agreement Between the U.S. Department of Commerce, U.S. Census Bureau and United States Department of Homeland Security Regarding the Transfer of Immigration and Citizenship Related Data, 6.
[121] To be eligible, individuals needed to have arrived in the U.S. before turning 16 and must meet education and other related requirements.

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cases.[122] In any event, both of these groups represent a tiny part of the undocumented population.

In sum, the limited number of administrative records that identify undocumented status mean it is impossible to directly enumerate the undocumented population from available administrative records.

2. Indirect Identification of Undocumented Immigrants from Administrative Records is Not Feasible.

The Census Bureau is also unable to produce an accurate and reliable enumeration of the undocumented population by indirectly estimating the undocumented immigrant population through a process of elimination based on information in administrative records. Doing so requires correct identification of citizens and the lawful non-citizen immigrant population—those persons granted lawful permanent residence, persons granted asylum, persons admitted as refugees, and persons admitted as nonimmigrants under classes of admission associated with residence (e.g., students and temporary workers, as opposed to tourists) and with authorized periods of admission in the future of any estimated date.[123]

Here, again, administrative records lack the necessary coverage, accuracy, and reliability to produce high quality estimates. Regarding the estimation of citizenship status, John Abowd, Chief Scientist of the Census Bureau, acknowledges that the Census Bureau "will most likely never possess a fully adequate truth deck to benchmark to."[124] Determining the specific legal

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[122] *See* Background Sheet 2: Creating an Interagency Working Group and Established Agreement for New Data.
[123] Alabama has not clearly explained how to handle so-called quasi-legal cases, such as foreign nationals granted Temporary Protected Status (TPS) because they are from countries in which they cannot return home safely or those with DACA status, who have work authorization and protection against deportation. Pew includes in the authorized immigrant estimates those with temporary protection from deportation under DACA, TPS, and pending asylum cases. This would mean that a resident with 18-month temporary protected status (that could be extended) would be excluded from political representation but a student or temporary worker on a 12-month visa would be included.
[124] Memorandum from John M. Abowd, Chief Scientist & Assoc. Dir. for Research & Methodology, U.S. Census Bureau, to Wilbur L. Ross, Sec'y, U.S. Dep't of Commerce (Mar. 1, 2018).

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status (undocumented or otherwise) among immigrants is even more difficult. DHS admits that "immigration status information is challenging, complicated, and dynamic . . . . No one source of citizenship information is complete and up-to-date"[125] In another report, DHS acknowledges, "while Census and DHS data provide a wealth of information on the total foreign-born population broken down by citizenship and on annual migration flows and status changes, national population data on the major subcategories of non-citizens, including lawful permanent residents, students, temporary workers, and unauthorized immigrants, are not readily available from any source and must be estimated."[126]

Below, I will show how the Census Bureau's most complete source of citizenship, the Numident, is inadequate, and then I will demonstrate that the other administrative records that the Bureau could consider using to fill the gaps in data are also insufficient.

i. The Numident

The Census Bureau's most complete source of citizenship data is the Census Numident file, a record of individual applications for Social Security cards and any changes subsequently made (such as change of name).[127] In an effort to evaluate the potential use of administrative records to estimate the citizenship status for the 2020 Census, the Census Bureau undertook extensive research evaluating the strengths and weaknesses of Numident. These results were reported in a 2018 white paper titled, "Understanding the Quality of Alternative Citizenship Data Sources for the 2020 Census" (hereinafter, "The Brown Memo"). As the Census Bureau found, there are several sources of error in these records. First, there will be individuals enumerated in the 2020 census who will not have information in the Numident. While this is more likely

[125] *See* Department of Homeland Security. (Dec. 20, 2019). Privacy Impact Assessment for the Department of Homeland Security Immigration-Related Information Sharing with the U.S. Census Bureau.
[126] *See* https://www.dhs.gov/sites/default/files/publications/lpr_population_estimates_january_2015.pdf, 2.
[127] See Layne, Wagner, and Rothaas (2014) and NORC (2011). Also Rastogi and Ohara (2012), Bond et al. 2014.

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among undocumented immigrants, citizens and non-citizens with formal legal status can also be missing because of linkage errors, or incomplete identifying information provided by the household.[128] Of those enumerated in the 2010 census, the Brown Memo reports that 89.4% could be matched to the Numident file.[129]

A second issue is that some individuals in Numident have missing information about citizenship status. In 2017, 6.6 million persons born outside the U.S. have blank citizenship among those born in 1920 or later with no year of death.[130] Some of the individuals missing citizenship status could be undocumented immigrants, but a much higher share appear to be U.S. citizens.[131] The Brown Memo outlines the different groups of people who could have missing citizenship status in Numident, as follows:

1. U.S. citizens from birth with no Social Security number or U.S. passport;
2. U.S. citizens from birth born outside the U.S., who do not have a U.S. passport, and either applied for a Social Security number prior to 1974 and were 18 or older or applied before the age of 18 prior to 1978;
3. U.S. citizens who were automatically naturalized if they were under the age of 18 when their parents became naturalized in 2000 or later, and they did not inform USCIS or receive a U.S. passport;

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[128] The internal unique person identifier is called the protected identification key or PIK.
[129] Brown et al, 14 (as reported, 91% can be assigned a PIK; once assigned, 98.2% could be matched to Numident).
[130] *See* https://www.supremecourt.gov/DocketPDF/18/18-966/91016/20190306200155135_18-966%20Commerce%20J.A.pdf, 153. In total, 20.0 percent of 2010 Numident records have missing citizenship status, but some of those will not be in the 2020 Census—either because they no longer reside in the U.S. (e.g., those who had temporary work status), or because they fail to respond.
[131] Memorandum from John M. Abowd, Chief Scientist & Assoc. Dir. for Research & Methodology, U.S. Census Bureau, to Wilbur L. Ross, Sec'y, U.S. Dep't of Commerce (Mar. 1, 2018).

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4. U.S. citizens who were naturalized prior to 2001 and did not inform the Social Security Administration of their naturalization and had never applied for a Social Security number; and
5. Lawful permanent residents (LPR) who received that status prior to 2001 and had never applied for a Social Security number.[132]

The reason for the gap in citizenship status information is related to the history of the Social Security number, which was not created to track citizenship status, but rather created for the sole purpose of tracking earnings for use in determining benefit levels. Evidence of citizenship was not added to the Social Security application until 1974. Now, parents typically apply for an infant's Social Security number at the hospital where the infant is born, but there was variation across states in the rollout of this enumeration-at-birth ("EAB") program, which potentially resulted in geographic variation in the accuracy of the data.[133] For example, New Mexico, Indiana, and Iowa were early adopters of EAB in 1987, while California, Rhode Island, and Connecticut did not participate in EAB until 1995.[134] This means that late adopting states could be more likely to have citizens with missing citizenship status in Numident, potentially leading to their exclusion from apportionment numbers.

A third issue is inaccuracies in Numident. There are a number of cases where Numident indicates a person is a non-citizen, but the individual is in fact a citizen. This includes U.S. citizens who were naturalized prior to 2001 and who did not inform the Social Security Administration of their naturalization. Similarly, lawful permanent residents who received that

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[132] Brown et al., 19.
[133] *See* https://www.ssa.gov/policy/docs/ssb/v69n2/v69n2p55.html.
Today, over 90 percent of parents use the EAB process, which is offered in all 50 states plus Puerto Rico and the District of Columbia. The Social Security Administration receives nearly three-quarters of original Social Security number applications through the EAB process and issues over 4 million Social Security numbers via EAB each year (Social Security Administration 2006).
[134] *See* https://www.ssa.gov/policy/docs/ssb/v69n2/v69n2p55.html.

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status prior to 2001 and had applied for a Social Security number prior 1974 would also have inaccurate data. Of course, there can also be inaccuracies in which a non-citizen is listed as a citizen. According to a 2005 GAO report, the Social Security number system had quality control issues for many years.[135] Audits during the 2000s found widespread misuse, with millions of workers showing mismatches.[136]

In sum, Numident lacks coverage of the entire population, and missing citizenship in Numident is not a clear indication of undocumented status. The Census Bureau is receiving other administrative records from federal agencies and state governments to supplement Numident, but they do not completely fill in the gaps, as explained below. Moreover, these administrative records can introduce inconsistencies across data sources that have to be reconciled, as also explained below.

ii. Other administrative records

DHS offers the most complete information about legal non-citizens, but the records it is providing to the Census Bureau are still inadequate for the purpose of apportionment. DHS is providing the Census Bureau with the Lawful Permanent Resident File, Naturalization Data from the Citizen and Immigration Services, and Arrival/Departure Information System and Visa Data.[137] As outlined when discussing Pew's residual method, these records are incomplete and often outdated, and can only partially address Numident's weaknesses.[138] For example, these data "do not cover naturalizations occurring before 1988 . . . and do not always cover children under 18 at the time a parent became a naturalized U.S. citizen."[139] As another example, the

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[135] *See* https://www.govinfo.gov/content/pkg/GAOREPORTS-GAO-05-115/html/GAOREPORTS-GAO-05-115.htm.
[136] *See* July 2004 OIG report, 25
[137] *See* Background Sheet 2: Creating an Interagency Working Group and Established Agreement for New Data.
[138] Memorandum from John M. Abowd, Chief Scientist & Assoc. Dir. for Research & Methodology, U.S. Census Bureau, to Wilbur L. Ross, Sec'y, U.S. Dep't of Commerce (Mar. 1, 2018).
[139] Brown et al., 18.

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Worldwide Refugee Admission Processing System for the Department of State contains only some of the asylum cases.[140]

Other administrative records that the Census Bureau currently plans to use have considerable variability in availability and coverage across states. For example, Medicaid/Children's Health Insurance Program data from the Department of Health and Human Services ("HHS") has "some citizenship information potentially available."[141] However, Census Bureau research finds that the availability of HHS varies widely across states.[142] A similar issue arises in the use of state Department of Motor Vehicle ("DMV") records. The Census Bureau has requested DMV data, including with respect to citizenship status and eye color, but the citizenship data can be inaccurate.[143] For example, when Florida and Texas attempted to purge registered voters who were identified as having been noncitizens when they applied for the driver licenses from voter rolls, they found that most were naturalized citizens who had outdated information in DMV records.[144]

Finally, any reliance by the Census Bureau on commercial data (i.e. CoreLogic data) cannot fill the gaps.[145] CoreLogic fails to provide full coverage of the population and its availability and accuracy varies across states. Households of higher socioeconomic status are better represented among linked CoreLogic records than are households of lower socioeconomic

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[140] Applicants obtain asylum in one of two ways: affirmatively through a USCIS asylum officer, or defensively in removal proceedings before an immigration judge of DOJ's Executive Office for Immigration Review. The database only contains state of residence information for those receiving affirmative asylum.
[141] *See* Background Sheet 2: Creating an Interagency Working Group and Established Agreement for New Data.
[142] Brown et al. 2018, 14.
[143] Wang, Hansi Lo. (November 20, 2019). Nebraska Is 1st State To Share Driver's License Records With Census Bureau. https://www.npr.org/2019/11/20/781373128/nebraska-1st-to-say-it-will-share-drivers-license-records-with-census-bureau.
[144] Lopez, Ashley. (February 14, 2019). There's No Easy Way For Texas To Vet Its List Of Alleged Noncitizen Voters. Just Ask Florida. National Public Radio Kut 90.5. https://www.kut.org/post/theres-no-easy-way-texas-vet-its-list-alleged-noncitizen-voters-just-ask-florida.
[145] *See* https://www.federalregister.gov/documents/2018/06/08/2018-12365/proposed-information-collection-comment-request-2020-census.

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status.[146] Even more importantly, research finds that the availability and quality of these data vary across states, raising concerns about distributional accuracy.[147] One study evaluating the potential for commercial data in the 2020 census found that "the quality of the CoreLogic data varies between counties and townships around the country, both in the coverage of the CoreLogic data and in the correspondence between ACS and CoreLogic property tax values."[148]

Such variation in data availability and accuracy across states raises concerns about the fairness or distributional accuracy of the resulting population counts. The Census Bureau will have far more information available about the population of some states compared to others. As of this writing, for example, only Nebraska had provided DMV data to the Census Bureau.[149] Asymmetries in information about state populations could make it easier or harder to identify and exclude undocumented persons from apportionment populations. Consider, for instance, that some states, but not others, allow undocumented immigrants to obtain driver's licenses. To the extent those DMV records improve the ability to identify undocumented immigrants in a state, it will increase the chance that those states will be more likely to have undocumented immigrants identified and excluded from their apportionment total, jeopardizing the distributional accuracy of the resulting apportionment count.

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[146] Bond, B., Brown, J. D., Luque, A. & O'Hara, A. (2014). The nature of the bias when studying only linkable person records: Evidence from the American Community Survey. CARRA Working Paper #2014-08. Washington, D.C.: U.S. Census Bureau. https://www.census.gov/content/dam/Census/library/working-papers/2014/adrm/carra-wp-2014-08.pdf. Similarly, Brummet (2014) found that 63.4 percent of records could be linked to the Master Address File, but the number varied across structure type—just 14.8 percent of multi-unit structure were linked, compared to 79 percent of single-unit structures. Brummet, Q. O. (2014). Comparison of survey, federal, and commercial address quality. CARRA Working Paper #2014-06. Washington, D.C.: U.S. Census Bureau. https://www.census.gov/content/dam/Census/library/working-papers/2014/adrm/carra-wp-2014-06.pdf.

[147] Moore, B. (2015). Preliminary research for replacing or supplementing the year built question on the American Community Survey with administrative records. Washington, D.C.: U.S. Census Bureau. https://www.census.gov/library/working-papers/2015/acs/2015_Moore_02.html.

[148] Seeskin, Z. H. (2016). Evaluating the Use of Commercial Data to Improve Survey Estimates of Property Taxes (No. 2016-06). Center for Economic Studies, US Census Bureau, 5.

[149] The Census Bureau reports that they had reached verbal agreements with about 1/3 of states. *See* Deposition Transcript of Karen Battle. (Mar. 2, 2020), 175, 201-02.

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In sum, it is not possible to conduct an actual enumeration of the undocumented population using administrative records given their incomplete coverage of the population. Very few administrative records provide timely and accurate information about legal status. As a result, administrative records cannot be used to directly enumerate the population, and so any attempt to produce a count of the undocumented population for purposes of exclusion from the 2020 apportionment count would require extensive statistical modeling. In the next section, I explain how this modeling would differ in fundamental ways from that previously used to enumerate the apportionment population, and would result in a less accurate and reliable population enumeration.

C. Statistical Modeling to Exclude Undocumented Immigrants From the 2020 Apportionment Count Would Result in a Less Accurate and Reliable Enumeration.

It is my opinion that the use of statistical modeling to exclude undocumented immigrants would result in a less accurate and reliable enumeration. Below, I (1) explain how current statistical methods used in the enumeration process fundamentally differ from what would be required to estimate an apportionment population that excludes undocumented immigrants; and (2) explain why, in light of the Census Bureau Standards, implementation of any such statistical model would not be feasible for the 2020 apportionment count.

I start by first outlining what the Census Bureau currently plans with respect to estimating citizenship status to produce CVAP because that informs my understanding of the type of statistical modeling that might be considered, although I note that CVAP is not clearly being developed for the purpose of apportionment.[150] Given the shortcomings of available

[150] Trump's executive order calls for identification of citizenship status for states to use for "districting purposes," while acknowledging that it might not be permissible: "Whether that approach is permissible will be resolved when a State actually proposes a districting plan based on the voter-eligible population." 84 Fed. Reg. at 33,824. To date, no states have actually requested the data.

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administrative records, explained above, the Census Bureau also must use modeling to estimate CVAP. Although the exact methodology for doing so has not been finalized, documents indicate that a model will be estimated for each person in the census "using the most current citizenship status from each available citizenship source for the person, as well as the person's other demographic, household, and location information as explanatory variables."[151] I presume that any model to estimate legal status would rely on a similar model specification.

1. The Extent of Any Planned Statistical Modeling to Exclude Undocumented Immigrants is Fundamentally Different than the Census Bureau's Current Uses of Statistical Modeling in Apportionment.

The current statistical methods used by the Census Bureau to address missing and erroneous values in the census include data editing and imputations. Data editing is the process of identifying missing, invalid, or inconsistent entries, and changing the entries according to checks of logical relationships.[152] For example, an individual who leaves blank the age question on the census form but completes information with respect to her date of birth would have age filled in through the process of editing. Statistical imputation is the process of filling in missing or conflicting values with a substitute. To produce population numbers from the decennial census, deterministic hot-deck count imputation is used in the small number of cases when an individual or a household does not answer a question, or when a household is not enumerated through self-completion or the Census Bureau's NRFU process, as described above.[153] The hot-

[151] *See* Department of Homeland Security (Dec. 20, 2019). Privacy Impact Assessment for the Department of Homeland Security Immigration-Related Information Sharing with the U.S. Census Bureau.
[152] This is sometimes called logical imputation. Editing can also rely on recontacts with the respondent or reliance on other data sources.
[153] Earlier in the data collection process, modeling on the basis of administrative records is used, for example, in the creation of the MAF and in the determination of a household as occupied or vacant. Count imputation occurs when the Census Bureau is unable to get information about an address in the MAF: (1) when records indicate housing unit is occupied but did not have number of residents; (2) when records say a housing unit exists, but they are unclear whether occupied or vacant, then the Bureau imputes both information with respect to if occupied and household size; (3) status imputation: if unclear if a unit exists, then impute if occupied, vacant, or nonexistent and then

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deck procedure uses contemporaneous data from neighboring housing units to fill in deterministic values for the missing information.[154]

The nature of the statistical modeling that would be required for estimating legal status fundamentally differs from the statistical modeling currently used in producing population numbers for apportionment in several ways. First, excluding undocumented immigrants from the apportionment population requires imputing not just the household count, but also the characteristics (namely, citizenship status and legal status) of the household. As explained above, the Census Bureau currently produces apportionment numbers from the CUF, which only relies on count imputation. Characteristic imputation occurs in the CEF as a separate process, after the final population count is established and for the purposes of redistricting and other data tabulations.[155]

Second, the scope of any statistical modeling required to estimate the number of undocumented immigrants would be unprecedented for use in enumerating the apportionment population. For example, in 2010, 0.39% (less than one half of one percent) of the total population was added via count imputation; in 2000, 0.43% of total population was added using count imputation.[156] In other words, count imputation is used sparingly, and only after giving the entire population an opportunity to self-respond, and attempting to enumerate through NRFU.[157]

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household size. For official statistics beyond apportionment numbers, the Census Bureau also conducts characteristic imputation, in which the characteristics of the household are imputed using hot-deck methods.

[154] In contrast, a cold-deck imputation procedure would use information from outside sources.

[155] Memorandum from Deborah M. Stempowski to The Record Regarding Use of Administrative Records in the 2018 End-to-End Census Test (Mar. 26, 2018), 8.

[156] *See* https://www.pewsocialtrends.org/2011/05/04/imputation-adding-people-to-the-census/.

[157] Relatedly, the Census Bureau acknowledges in the 2020 Operational Plan that "[t]he accuracy and usefulness of the data collected for the 2020 Census are dependent upon the ability to obtain information from the public, which is influenced partly by the public's perception of how well their privacy and confidentiality concerns are being addressed . . . . If a substantial segment of the public is not convinced that the Census Bureau can safeguard their response data against data breaches and unauthorized use, then response rates may be lower than projected, leading to an increase in cases for follow-up and cost increases." For review of research on this topic, *see* U.S. Census Bureau, Privacy Research in Census 2000, Census 2000 Topic Report No. 1 (2003).

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In contrast, estimation of the apportionment population excluding undocumented immigrants requires extensive modeling to account for gaps and inconsistencies in administrative records. With almost no administrative records directly identifying undocumented persons, the Census Bureau would need to impute the vast majority of the population to be excluded. The Census Bureau also acknowledges the inaccuracy of the models for those in the 2020 Census who are unable to be linked to administrative records. These individuals will have their citizenship probability "estimated based on local area information and the person's demographic characteristics, but not the person's citizenship, which makes the estimate much less accurate."[158]

Third, the shortcomings of the inputs to any model to estimate undocumented status would seriously implicate the accuracy of the outputs to such a model. All of the issues outlined above regarding the accuracy, reliability, and timeliness of administrative records will impact the predictive accuracy of the model results. Census research acknowledges that the modeling of missing information on citizenship will be challenging, with the accuracy of the models "not known."[159] Critically, the concern is not just with the accuracy and reliability of information about citizenship and legal status in administrative records, but also the other information from the administrative records that might be used in building the predictive model—such as race, ethnicity, sex, age, or country of origin.[160] If there are errors in the other explanatory variables, the model results can be biased and unreliable.

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[158] Memorandum of Agreement Between the U.S. Department of Commerce, U.S. Census Bureau and United States Department of Homeland Security Regarding the Transfer of Immigration and Citizenship Related Data, 17.
[159] Brown et al, 44.
[160] As explained in Memorandum of Agreement Between the U.S. Department of Commerce, U.S. Census Bureau and United States Department of Homeland Security Regarding the Transfer of Immigration and Citizenship Related Data, 17: "A model will be estimated for each person using the most current citizenship status from each available citizenship source for the person, as well as the person's other demographic, household, and location information as explanatory variables."

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Specifically, one key input of concern is the quality of the measures of race and ethnicity in administrative records. The quality of the race and ethnicity data in Numident is poor.[161] The race data included in the Numident file is collected at the time an application is made to obtain a Social Security number. Prior to 1980, the application form only permitted the racial categories of white, black, and other.[162] Individuals added to Numident through state vital records (the EAB program)—roughly one-fourth of the population—are typically missing race entirely because states do not transfer that information.[163] Also problematic is that Hispanic origin data are indirectly estimated through country of birth—a flawed assumption given that Hispanics often select more than one race or "some other race."[164] Given the problems with Hispanic ethnicity in Numident, census research has warned that statistical imputation could result in "bias in the resulting proportion of persons who are Hispanic," which could, in turn, bias estimates of citizenship and legal status.[165]

Finally, there are critical unanswered questions about how unverifiable modeling assumptions will be translated into any model results that would be used to exclude individuals from apportionment counts. The modeling of legal status seems likely to follow the same modeling strategy taken for estimating citizenship status, in which the planned model will result

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[161] The Census Bureau has built an internal Best Race and Hispanic Origin file, a composite from various government and commercial sources that uses a rules-based approach to resolve unique race and Hispanic origin codes for person records where those values vary across different files. Unfortunately, the content and quality of this file "is mysterious to observers." Czajka, J. L. (2013). Can administrative records be used to reduce nonresponse bias?. The ANNALS of the American Academy of Political and Social Science, 645(1), 171-184.
[162] The current OMB race and ethnicity categories were not used until 1997.
[163] Czajka, J. L. (2013). Can administrative records be used to reduce nonresponse bias?. The ANNALS of the American Academy of Political and Social Science, 645(1), 171-184.
[164] Czajka, J. L. (2013). Can administrative records be used to reduce nonresponse bias?. The ANNALS of the American Academy of Political and Social Science, 645(1), 171-184.
[165] Richard A. Griffin. (2014). "Issues Concerning Imputation of Hispanic Origin due to Administrative Record Enumeration for the 2020 Census," Proceedings of the Survey Research Methods Section, American Statistical Association, available at http://ww2.amstat.org/sections/srms/proceedings/y2014/Files/311893_88330.pdf.

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in a probability of best citizenship status.[166] This means that the model output for each individual is a value that ranges from 0 to 1, where 0 would indicate a 0% chance of being a citizen and 1 would indicate a 100% chance of being a citizen, but where most values will fall somewhere in between. It is unclear, however, how the Census Bureau will decide on the threshold that will be used to classify an individual as a citizen or not based on their predicted probability.[167] Any appropriate rate of false positives and false negatives that would be considered acceptable in producing an apportionment population based on such probabilities are unclear. Indeed, a probabilistic model inherently implies error in the underlying data and clearly contravenes an actual enumeration of "whole number of persons in each State." And it is unclear how the uncertainty in the prediction will be accounted for in the enumeration count. What is clear, however, is that the resulting population count from the use of such probabilities will be less reliable than the existing method of counting the population, given that these modeling decisions will introduce uncertainty and bias into the resulting population numbers.

In sum, there are fundamental differences in the statistical modeling that would be necessary to produce apportionment populations excluding undocumented immigrants compared to the current use of statistical modeling in the enumeration process. The nature and scope of the statistical modeling required to produce estimates of undocumented immigrants from incomplete and outdated administrative records requires untested modeling approaches and unverified modeling assumptions that will inherently result in a population count that is less reliable and less accurate than the current enumeration methods.[168]

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[166] Memorandum of Agreement Between the U.S. Department of Commerce, U.S. Census Bureau and United States Department of Homeland Security Regarding the Transfer of Immigration and Citizenship Related Data, 17.

[167] For example, it is unclear if, say, a 50%, 70%, or 90% predicted chance of being a legal non-citizen would be considered sufficient for inclusion in the apportionment population.

[168] Additionally, any attempt to exclude the undocumented immigrant population from the apportionment count threatens the accuracy and reliability of the apportionment population by reducing cooperation with the decennial census. The very exercise of asking the Census Bureau to use administrative records beyond their originally

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2. Any Implementation of a Statistical Model to Exclude Undocumented Immigrants from the 2020 Apportionment Count is Not Feasible in the Limited Available Time.

The Census Bureau's Statistical Quality Standards govern the development and implementation of statistical methods in the design, collection, and dissemination of census products. These standards require an explicit plan that addresses (1) requirements for the editing and imputation systems; (2) verification and testing of the editing and imputation systems; and (3) monitoring and evaluation of the quality of the editing and imputation operations.[169] To date, there is no indication that sufficient planning and evaluation of the statistical modeling required to estimate an apportionment population that excludes undocumented immigrants has occurred, and there is likely not time for it to occur prior to December 31, 2020. It is telling to consider the time typically required to produce estimates of undocumented populations. For example, the most recent DHS estimate of the undocumented population—from December 2018—reports on numbers considered current as of July 2015.

With respect to the Census Bureau's timing, consider, as a point of comparison, that the Census Bureau began investigating methods for utilizing administrative records in NRFU operations shortly after the 2010 census. By the time the 2018 Operational Plan was drafted, the

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intended purpose to identify the legal status of the population will stoke fears about confidentiality and will undermine trust in the Census Bureau. As the former director of the Census John Keane explained: "If the Census Bureau were directed to enumerate undocumented aliens separately in order to remove them from the apportionment count, we would run the risk of being perceived as an enforcement agency . . . . The Census Bureau goes to great lengths to avoid misperception that could adversely affect cooperation. We must convince the population that it is safe to be included in the census." John G. Keane. Statement of the Director of the Bureau of the Census Before the Subcommittee on Energy, 5. Research shows that attitudes about privacy and confidentiality are strong predictors of census self-response—those individuals reporting higher levels of concern about the confidentiality of census data are less likely to return their census forms, more likely to skip individual questions, and more likely to provide inaccurate responses. *E.g.*, Singer, E., Mathiowetz, N. A., & Couper, M. P. (1993). The impact of privacy and confidentiality concerns on survey participation: The case of the 1990 U.S. census. Public Opinion Quarterly, 57, 465–482. Lower levels of self-response, in turn, increase the cost and reduce the quality of the census count. Brown, J. D., Heggeness, M. L., Dorinski, S. M., Warren, L., & Yi, M. (2019). Predicting the Effect of Adding a Citizenship Question to the 2020 Census. Demography, 56(4), 1173-1194.

[169] *See* https://www.census.gov/about/policies/quality/standards/standardc2.html.

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use of administrative records had undergone years of research led by a team of census researchers (i.e. the Administrative Records Modeling Team), extensive testing in large-scale tests, engagement with stakeholders (e.g., I served on an administrative records working group for the Census Scientific Advisory Committee), publication and presentation in professional outlets, and significant revisions in light of the results of that research.[170] Such a process is simply not possible before apportionment population numbers are due to the President on December 31, 2020.

VI. Conclusion

To reiterate my opinions:

First, Dr. Poston does not demonstrate, to any degree of reasonable certainty, that Alabama will (a) lose a congressional seat because of the inclusion of undocumented immigrants in the 2020 apportionment count, or (b) maintain a congressional seat because of the exclusion of undocumented immigrants in the 2020 apportionment count.

Second, there is no reliable way to exclude undocumented immigrants from the 2020 apportionment count because (a) there is currently no reliable methodology or data product that the Census Bureau may use to do so; (b) no administrative records are of sufficient quality to use to exclude undocumented immigrants from the 2020 apportionment count; and (c) the nature, scope, and methodology of the statistical modeling needed to produce estimates of the undocumented population is fundamentally different from the statistical modeling currently used in producing the apportionment population, and would result in a less accurate and reliable enumeration.

[170] The final 2020 Census Operational Plan scaled back the plans to use administrative records compared to initial plans in the 2015 version 1.1. Operational Plan.

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Executed on March 13, 2020 at Durham, NC.

I declare under penalty of perjury that the foregoing is true and correct.



D. Sunshine Hillygus, Ph.D

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Zamudio, Maria. (June 21, 2019). Deported U.S. Veterans Feel Abandoned By The Country They Defended. NPR. https://www.npr.org/local/309/2019/06/21/733371297/deported-u-s-veterans-feel-abandoned-by-the-country-they-defended.

D. SUNSHINE HILLYGUS

Department of Political Science
Duke University
Box 90204, Durham, NC 27708
919-660-4341 (phone) 919-660-4330 (fax)
hillygus@duke.edu

ACADEMIC APPOINTMENT

Duke University
Professor of Political Science, July 2015-
Professor of Public Policy (by courtesy), Nov 2015-
Associate Professor of Political Science, July 2009-2015
Director, Duke Initiative on Survey Methodology, July 2010-

Harvard University
Frederick S. Danziger Associate Professor of Government, July 2007-June 2009
Director, Program on Survey Research, July 2005-June 2009
Assistant Professor of Government, July 2003-June 2007

EDUCATION

Stanford University
Ph.D., Political Science, 2003
M.A., Political Science, 2000
Dissertation: Understanding Receptivity to Political Campaigns: Three Essays on Voter Decision Making in Election 2000.
Committee: Morris Fiorina (chair), Norman Nie, Simon Jackman, David Brady

University of Arkansas
M.A., Political Science, May 1998
B.A., Political Science and B.A., Spanish, *Summa Cum Laude*, May 1996

BOOKS

Holbein, J. and D.S. Hillygus. *Making Young Voters: Converting Civic Attitudes into Civic Action.* Cambridge University Press, 2020.

Hillygus, D.S. and T. Shields. *The Persuadable Voter: Wedge Issues in Presidential Campaigns.* Princeton University Press, 2008. Paperback, 2009.
Winner of the 2009 Robert E. Lane Award.
Excerpt reprinted in *Controversies in Voting Behavior*, 5th edition(2011).

Hillygus, D.S., N. Nie, K. Prewitt, and H. Pals. *The Hard Count: The Political and Social Challenges of Census Mobilization.* Russell Sage Foundation, 2006.

JOURNAL PUBLICATIONS

Bail, C.A., Guay, B., Maloney, E., Combs, A., Hillygus, D.S., Merhout, F., Freelon, D. and Volfovsky, A., 2020. Assessing the Russian Internet Research Agency's impact on the political attitudes and behaviors of American Twitter users in late 2017. *Proceedings of the National Academy of Sciences*, 117(1).

Madson, G. and D.S. Hillygus. 2019. "Who Trusts the Polls? Motivated Reasoning in Evaluations of Polling Results," *Political Behavior.*

Carlson, C., V. Dounoucos, and D.S. Hillygus. 2019. "The Message and the Medium: The Communication Effects of Twitter Commentary," *Journal of Information Technology & Politics*.

Holbein, J., D.S. Hillygus, C. Gibson-Davis, M. Lenard, and D. Hill. 2018. "The Development of Students' Engagement in School, Community, and Democracy," *British Journal of Political Science*.

Hillygus, D.S. 2018. "Navigating Scholarly Exchange in Today's Media Environment," *Journal of Politics* 80(3), 1064-1068(editor-reviewed).

Xing, Z. D.S. Hillygus and L. Carin. 2017. "Evaluating U.S. Electoral Representation with a Joint Statistical Model of Congressional Roll-Calls, Legislative Text, and Voter Registration Data," *Proceedings of the 23nd ACM SIGKDD Conference on Knowledge Discovery and Data Mining (KDD)*, 1205-1214.

Knutson, K, J. Phelan, M. Paskow, A. Roach, K. Whiton, G. Langer; D.S. Hillygus, M. Mokrzycki, W.A. Broughton, S. Chokroverty, K.L. Lichstein, M. Hirshkowitz. 2017. "The National Sleep Foundation's Sleep Health Index," *Sleep Health* 3 (4): 234-40.

DeYoreo, M., Reiter, J. and D.S. Hillygus. 2017."Nonparametric Bayesian Models With Focused Clustering for Mixed Ordinal and Nominal Data," *Bayesian Analysis*.

Hillygus, D.S., McKee, S., and M. Young. 2017. "Reversal of Fortune: The Political Behavior of White Migrants to the South," *Presidential Studies Quarterly*.

Henderson, M. and D.S. Hillygus. 2016. "Contextual Factors in Time of Decision in the 2008 Presidential Election," *Public Opinion Quarterly*.

Holbein, J. and D.S. Hillygus. 2016. "Making Young Voters: The Impact of Preregistration on Youth Turnout," *American Journal of Political Science*.

Ballard, A., D.S. Hillygus, and T. Konitzer. 2016. "Campaigning Online: Web Display Ads in the 2012 Presidential Campaign," *PS: Political Science & Politics*.

Si, Y., J. Reiter, and D.S. Hillygus. 2016. "Bayesian Latent Pattern Mixture Models For Handling Attrition In Panel Studies With Refreshment Samples," *Annals of Applied Statistics*.

Schifeling, T. C. Cheng, J. Reiter and D.S. Hillygus. 2015. "Accounting for Nonignorable Unit Nonresponse and Attrition in Panel Studies with Refreshment Samples," *Journal of Survey Statistics and Methodology*.

Gerber, A., K. Arceneaux, C. Boudreau, C. Dowling, and D.S. Hillygus. 2015."Reporting Balance Tables, Response Rates and Manipulation Checks in Experimental Research: A Reply from the Committee that Prepared the Reporting Guidelines," *Journal of Experimental Political Science*.

Johnston, C., D.S. Hillygus, and B. Bartels. 2014. "Ideology, The Affordable Care Act Ruling, and Supreme Court Legitimacy," *Public Opinion Quarterly*, 78 (4): 963-973.

Gerber, A., K. Arceneaux, C. Boudreau, C. Dowling, D.S. Hillygus, T. Palfrey, D. Biggers, D. Hendry. 2014. "Reporting Guidelines for Experimental Research: A Report from the Experimental Research Section Standards Committee," *Journal of Experimental Political Science*, 1(1): 81-98.

Si, Y., J. Reiter and D.S. Hillygus. 2014. "Semi-parametric Selection Models for Potentially Non-ignorable Attrition in Panel Studies with Refreshment Samples," *Political Analysis*, 23(1): 92-112.

Frankel, L. and D.S. Hillygus. 2014. "Panel Attrition and the Survey Experience," *Political Analysis*, 22(3): 336-353.

Hillygus, D.S. and S. Treul. 2014. "Assessing Strategic Voting in the 2008 Presidential Primaries," *Public Choice*, 161(3): 517-536.

Aldrich, J., B. Bishop, R. Hatch, D.S. Hillygus, and D. Rohde. 2013. "Blame, Responsibility, and the Tea Party in the 2010 Midterm Elections," *Political Behavior*, 36(3), 471-491.

Deng, Y., D.S. Hillygus, J. Reiter, and Y. Si. 2013. "Handling Attrition in Longitudinal Studies: The Case for Refreshment Samples," *Statistical Science*, 28(2): 238-256.

Hillygus, D.S. 2011. "The Evolution of Election Polling in the United States," *Public Opinion Quarterly*, 75(5): 962-981.

Henderson, M. and D.S. Hillygus. 2011. "The Dynamics of Health Care Opinion, 2008-2010: Partisanship, Self-Interest, and Racial Resentment," *Journal of Health Politics, Policy, and Law*, 36(6): 945-960.

Henderson, M., D.S. Hillygus, and T. Tompson. 2010. "'Sour Grapes' or Rational Voting? Voter Decision Making Among Thwarted Primary Voters in 2008," *Public Opinion Quarterly*, 74(3): 499-529.

Ellis, R., D.S. Hillygus and N. Nie. 2010. "Retrospective and Prospective Candidate Evaluations and the Dynamics of Vote Choice in 2008," *Electoral Studies* 29(4): 582-593.

Hillygus, D.S. and M. Henderson. 2010. "Policy Issues and the Dynamics of Vote Choice in the 2008 Presidential Election," *Journal of Elections, Public Opinion, and Parties*, 20(2): 241-269.

Treier, S. and D.S. Hillygus. 2009. "The Nature of Political Ideology in the Contemporary Electorate," *Public Opinion Quarterly*, 73(4):679-703.

Burden, B. and D.S. Hillygus. 2009. "Opinion Formation, Polarization, and Presidential Reelection." *Presidential Studies Quarterly*, 39: 619-35.

Hillygus, D.S. and T. Shields. 2008. "Southern Discomfort? Regional Differences in Voter Decision Making in the 2000 Presidential Election," *Presidential Studies Quarterly*, 38(3): 506-520.

Hillygus, D.S. 2007. "The Dynamics of Voter Decision Making Among Minor Party Supporters: The 2000 U.S. Presidential Election," *British Journal of Political Science*, 37(2): 225-244.

Hillygus, D.S. 2005. "Campaign Effects and the Dynamics of Turnout Intention in Election 2000," *Journal of Politics*, 66(1): 50-68.

Hillygus, D.S. 2005. "The Missing Link: Exploring the Relationship between Higher Education and Political Behavior," *Political Behavior*, 27(1): 25-47.

Hillygus, D.S. and T. Shields. 2005. "Moral Issues and Voter Decision Making in the 2004 Presidential Election," *PS: Political Science and Politics*, 38(2): 201-10.
Reprinted in *Quantitative Methods in Practice*, D. Rochefort (ed) CQ Press, 2006.

Hillygus, D.S. and S. Jackman. 2003. "Voter Decision Making in Election 2000: Campaign Effects, Partisan Activation, and the Clinton Legacy," *American Journal of Political Science*, 47(4): 583-596.

Nie, N. and D.S. Hillygus. 2002. "Where Does Internet Time Come From?: A Reconnaissance," *IT & Society*, 1(2): 1-20.

Nie, N. and D.S. Hillygus. 2002. "The Impact of Internet Use on Sociability: Time-Diary Findings," *IT & Society*, 1(1): 1-29.

OTHER PUBLICATIONS

Zhou, J., D.S. Hillygus, and J. Aldrich. 2019. "Understanding the Trump Win: Populism, Partisanship, and Polarization in the 2016 Election," *Publications of the Bavarian American Academy*, Heidelberg University Press.

Guay, B. and D.S. Hillygus. 2018. "Online Public Opinion Polling," *Oxford Bibliographies*

Hillygus, D.S. and S. Snell. 2018. "Longitudinal Surveys: Issues and Opportunities," *Oxford Handbook on Polling and Polling Methods*. L. Atkeson and M. Alvarez, eds. New York: Oxford University Press.

Hillygus, D.S. and B. Guay. 2016. "The Virtues and Limitations of Election Polling in the United States," *Seminar Magazine*.

Hillygus, D.S. 2016. "The Practice of Survey Research: Changes and Challenges," *New Directions in Public Opinion*, second edition. Adam Berinsky, ed. Routledge Press.

Hillygus, D.S., N. Jackson, and M. Young. 2014. "Professional Respondents in Online Survey Panels," *Online Panel Research: A Data Quality Perspective*. M.Callegaro, R. Baker, P. Lavrakas, J. Krosnick, J. Bethlehem, and A. Göritz, eds.

Frankel, L. and D.S. Hillygus. 2014. "Niche Communication in Political Campaigns," *Oxford Handbook on Political Communication*. Kathleen Hall Jamieson and Kate Kenski, eds. New York: Oxford University Press.

Hillygus, D.S. and B. Burden. 2013. "Mass Polarization in the Bush Presidency," *The Presidency of George W. Bush: Perspectives on the Forty-Third President of the United States*, D. Kelly and T. Shields, eds. Texas A&M Press.

Hillygus, D.S. 2011. "The Practice of Survey Research: Changes and Challenges" *New Directions in Public Opinion*. Adam Berinsky, ed. Routledge Press.

Bishop, B. and D.S. Hillygus. 2011. "Campaigning, Debating, Advertising," *Oxford Handbook on Public Opinion and Media*. Larry Jacobs and Robert. Shapiro, eds. New York: Oxford University Press.

Hillygus, D.S. 2010. "Campaign Effects on Vote Choice," *Oxford Handbook on Elections and Political Behavior*. Jan Leighly and George C. Edwards III, eds. Oxford University Press.

Bishop, B., A. Cooper, and D.S. Hillygus. 2009. "Innovative Survey Methodologies for the Study of Attitudes Toward Terrorism and Counterterrorism Strategies," Institute for Homeland Security Solutions, Duke University.

Hillygus, D.S. 2009. "Guest Editor Introduction: Understanding the 2008 Presidential Election," *Public Opinion Quarterly* 73: 841-844.

Hillygus, D.S. 2009. "The Need for Survey Reporting Standards in Political Science," *The Future of Political Science: 100 Perspectives*, G. King, N. Nie, and K. Schlozman (eds).

Hillygus, D.S. 2008. "Internet and Politics 2008: Microtargeting," *The Publius Project*, The Berkman Center.

Hillygus, D.S. and T. Shields. 2008. "Moderation or Polarization in Candidates' Campaign Agendas?" *The Polling Report*, 24(15).

Hillygus, D.S. 2007. "Moral Values: Media, Voters, and Candidate Strategy," in *A Matter of Faith? Religion in the 2004 Presidential Election*, Brookings Institution Press.

Hillygus, D.S. 2004. Review of Models of Voting in Presidential Elections: The 2000 Election, H. Weisberg and C. Wilcox (eds), in *Presidential Studies Quarterly*, 34(3).

Brady, D. and D.S. Hillygus. 2004. "Assessing the Clinton Presidency: The Political Constraints of Legislative Policy" in *The Clinton Riddle: Perspectives on the 42nd President*, Shields, Whayne, and Kelley (eds). U of Arkansas Press.

Nie, N., D.S. Hillygus, and L. Erbring. 2003."Internet Use, Interpersonal Relations and Sociability: A Time Diary Study" in *The Internet in Everyday Life*, Wellman and Haythornthwaite (eds). Oxford: Blackwell Publishers.

Nie, N. and D.S. Hillygus. 2001. "Education and Democratic Citizenship," in *Making Good Citizens: Education and Civil Society*, Ravitch and Viteritti (eds). Yale University Press.

CURRENT PROJECTS

Valentino, N., K. Zhirkov, D.S. Hillygus, B. Guay. "Personality Differences between Face-to-Face and Online Samples," R&R, *Public Opinion Quarterly*.

Olanrewaju A., G. Madson, D.S. Hillygus and J. Reiter. "Leveraging Auxiliary Information on Marginal Distributions in Nonignorable Models for Item and Unit Nonresponse in Surveys," under review.

Lopez, J. and D.S. Hillygus. "Why So Serious?: Survey Trolls and Political Misinformation" available at SSRN.

Endres, K. D.S. Hillygus, and S. Snell, "Big Data, Big Problems: Overcoming Barriers to Consent for Data Linking."

HONORS/AWARDS

Duke University Howard D. Johnson Distinguished Teaching Award, 2019.

National Science Foundation, Political Science Program ($3.9m) "ANES Web: American National Election Study," (Co-PI with PI S. Iyengar), 2018-2021.

Provost "Together Duke" Initiative ($454,000), "Duke Polarization Lab" (Co-PI with K. Heller, J. Moody, G. Sapiro, A. Volfovsky and PI C. Bail), 2018-2019

National Science Foundation, Political Science Program, Grant SES-1657821 ($335,690), "Making Young Voters: Policy Reforms to Increase Youth Turnout" (PI with Co-PI J. Holbein) 2017-2019

National Science Foundation, MMS Program, Grant SES-1733835 ($300,000), "Leveraging Auxiliary Information on Marginal Distributions in Multiple Imputation for Survey Nonresponse" (Co-PI with PI J. Reiter) 2017-2019

Bass Connections, Education and Human Development grant ($23,000), 2017-2019

Facebook Academic Program gift ($25,000), 2016

National Science Foundation, Political Science Program, Grant SES-1416816 ($249,999), "Education, Engagement, and Well-being among Adolescents" (PI with Co-PI C. Gibson-Davis) 2014-2016

National Science Foundation, MMS Program, Grant SES-1131897 supplement ($199,000), "Conducting Research Using the Survey of Income and Program Participation (SIPP) Panel Study," 2013-2015

Information Initiative at Duke, Research Incubator Award ($75,000) "Using Big Data to Understand the American Electorate," (with L. Carin), 2013-2015

National Science Foundation, MMS Program, Grant SES-1131897 ($2,997,591), "Triangle Census Research Network" (Senior Co-Investigator with L. Cox, D. Dunson, J. Hotz, F. Li, and PI J. Reiter and Co-PI A. Karr), 2011-2016

National Science Foundation, MMS Program, Grant SES-1061241 ($160,000), "Multiple Imputation Methods for Handling Missing Data in Longitudinal Studies with Refreshment Samples." (with PI J. Reiter), 2011-2012

National Science Foundation, Political Science Program, SES-1110341"Balancing Innovation and Continuity in Longitudinal Surveys"($38,235), 2011

IHSS Award, Innovative Survey Methodologies($25,081), 2009

Robert E. Lane Award for best book published in political psychology in 2008

CAPS Junior Faculty Seed Grant ($5000), 2008

Shorenstein Center for Press and Politics Fellow, Fall 2005

Program on the Global Demography of Aging Grant ($17,130), 2005-06

Institute for Quantitative Social Science Research Grant ($10,000), 2005-06

Institutional Development Initiative ($10,000), 2005-06

Blair Center for Southern Politics, 2004 Election Survey Funding ($85,000)

CAPS Junior Faculty Seed Grant ($5000), 2004-2005

Milton Fund Grant, Harvard University ($3500), 2004-2005

Harvard University Cooke-Clark Grant ($6000)

Westview Paper Prize, 2003 Midwest Political Science Meeting

Heinz Eulau Political Behavior Fellowship, 2002-2003

Best Graduate Student Poster Award, 2002 Political Methodology Meeting

National Conference of State Legislators Women's Graduate Fellowship, 1998

PROFESSIONAL SERVICE

Associate PI, American National Election Study, 2018-2021
Associate Editor, *Political Analysis*, 2018-
Chair, POQ Advisory Committee, 2011-
Methods, Measurement, and Statistics Advisory Panel, National Science Foundation, 2018-2020
Board Member, American National Election Studies, 2010-2013, 2014-2017
Scientific Advisory Committee, U.S. Census Bureau, 2012-2018
Political Science Advisory Panel, National Science Foundation, 2010-2012
Member, Executive Council, Midwest Political Science Association, 2014-17
Member, Executive Council, Southern Political Science Association, 2014-17
Editorial Board, *American Political Science Review*, 2016-
Editorial Board, *Journal of Politics*, 2010-
Editorial Board, *Public Opinion Quarterly*, 2008-
Editorial Board, *Political Communication*, 2015-

Editorial Board, *Journal of Experimental Political Science*, 2013-
Editorial Board, *Political Behavior*, 2011-
Editorial Board, *Journal of Elections, Public Opinion and Parties*, 2008-
Editorial Board, *Political Science Network*, 2007-
Editorial Board, *The Forum*, 2011-
Editorial Board, *Political Analysis*, 2015-2017
Editorial Board, *American Journal of Political Science*, 2009-2012
Guest Editor, *Public Opinion Quarterly* 2009 Special Issue
AAPOR Journals Committee (2019)
APSA EPOVB Best Article in Political Behavior Award Committee (2019)
APSA Experimental Research Section: Reporting Standards Committee (2011)
APSA Political Meth Section: Nominations Committee (2010-2012), Diversity Committee (2005-08, 2011-12), Miller Prize (2017), Emerging Scholar (2018-2020)
SPSA, VO Key Award Committee, 2013
APSA Gladys M. Kammerer Award Committee, 2012
APSA Philip Converse Book Award Committee, 2009, 2010 and 2012
SPSA Program Committee, 2009 and 2012
JOP Best Paper Award Committee, 2011
AAPOR Book Award Committee, 2011, 2016

CONFERENCES ORGANIZED

International Total Survey Error Workshop (6/18)
Conducting Research Using the Survey of Income and Program Participation (SIPP) Panel Study, Durham, NC (2/14)
Balancing Innovation and Continuity in Longitudinal Surveys, Durham, NC (2/11)
Assessing Survey Quality, Cambridge, MA (4/09)
Surveying Multiethnic America, Cambridge, MA (4/07)
Advances in Questionnaire Design, Cambridge, MA (2/06)

Expert Witness Work

League of Women Voters v. State of North Carolina, Case No. 1:13-CV-660
NAACP et al. v. Bureau of the Census et al., Case No. 8:18-CV-00891
New York Immigration Coalition v. Dept. of Commerce, Case No. 18-CV-5025

INVITED PRESENTATIONS(last 5 years)

Plenary, Pacific Association of Public Opinion Research Meeting (12/19)
Massachusetts Institute of Technology (10/19)
Michigan State University (9/19)
Plenary, American Association of Public Opinion Research Meeting (5/19)
University of North Carolina (2/19)
Emory University (11/18)
Duke Alumni Association of Philadelphia (4/18)
Duke Alumni Association of Los Angeles (6/17)
Duke Alumni Association of Austin (6/17)
Duke Alumni Association of Denver (5/17)
Fordham University (4/17)
Qualtrics Innovation Summit, Salt Lake City (3/17)
Stanford Alumni Association, Durham (2/17)

Duke Alumni Association of San Diego (11/16)
Wake Forest University (11/16)
Reed College (10/16)
UNC-Wilmington (10/16)
Duke Alumni Association of North Texas (9/16)
Duke Alumni Association of Charlotte (5/16)
Dept of Political Science, MIT (4/16)
Center for the Study of Democratic Politics, Princeton (3/16)
Appalachian State University (3/16)
Computers, Privacy, and Data Protection Conference, Brussels (1/16)
Political Persuasion Conference, Laguna Beach, CA (1/16)
Duke Alumni Association of Tampa (1/16)
Keynote, Australian Society for Quantitative Political Science, Melbourne (12/15)
Dept of Communication, U. of Michigan (11/15)
Dept of Political Science, UNC-Greensboro (11/15)
Microsoft Panel on Campaign Technology, D.C. (11/15)
Political Science Dept, U. Texas (12/14)
ElectionsLive!, Duke University (11/14)
American Politics Research Group, UNC (11/14)
American Politics Workshop, UCLA (01/14)
The American Panel Survey Workshop, Wash U (11/13)
Intro to Survey Methods, Shanghai Jiao Tong University (06/13)
Senior Scholar Career Presentation, Visions in Methodology, FSU (04/13)
American Politics Workshop, Yale University (03/13)
Google Political Innovation Summit, New York (01/13)

DEPARTMENTAL AND UNIVERSITY SERVICE

Founding Director, Duke Initiative on Survey Methodology, 2010-
Associate Director, Institutional Review Board, Duke University, 2010-
Social Science Research Institute Steering Committee, 2011-
Duke Advisory Committee on Investment Responsibility, 2017-
EHD-Bass Connections Team Leader, 2017-2020
Standing Committee for Misconduct in Research, 2019-2022
Social Science Research Institute (SSRI) Director Search chair, 2018
Faculty Fellow, Duke Alumni Association, 2015-2018
POLIS steering committee, 2015-2017
Social Science Research Institute Planning Committee, 2012
Behavior and Identity Field Chair, 2011-2012, 2014, 2016-2018
Behavior and Identity Workshop Organizer, 2010-2012, 2016
American Politics Field Organizer, 2010-2012
REP Search Committee, Duke Political Science, 2013, 2017
China Search Committee, Duke Political Science, 2011
Graduate Admissions Committee, Duke Political Science, 2009, 2014
Undergraduate Curriculum Committee, Duke Political Science, 2009
Faculty Organizer, Duke Political Science Graduate Orientation, 2009
Harvard University Faculty Advisory Group for Metrics and Analysis, 2006-2009
Faculty Advisory Board for the Social Sciences, Harvard FAS, 2008-2009

Executive Committee, Center for American Political Studies, 2003-2009
Organizer, Political Psychology and Behavior Workshop, 2003-2008
Standing Committee on Women, Harvard FAS 2004-2005

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

STATE OF ALABAMA, et al., Plaintiffs, v. UNITED STATES DEPARTMENT OF COMMERCE, et al., Defendants, and DIANA MARTINEZ, et al., COUNTY OF SANTA CLARA, CALIFORNIA, et al., STATE OF NEW YORK, et al., Defendant-Intervenors.	Civil Action No. 2:18-cv-00772-RDP

RULE 26(A)(2)(B) EXPERT REPORT AND DECLARATION OF KIMBALL W. BRACE

EXPERT REPORT AND DECLARATION OF KIMBALL W. BRACE
MARCH 13, 2020

I. Introduction

My name is Kimball William Brace. I am the president of Election Data Services, Inc. ("Election Data Services" or "EDS, Inc."), a Manassas, Virginia-based consulting firm whose specialty is reapportionment, redistricting matters, election administration issues, and the census.

I have been retained by all of the Defendant-Intervenors in *Alabama, et al. v. Department of Commerce, et al.*, 2:18-cv-00772-RDP. My understanding of the case is that Alabama seeks to require the federal government to exclude undocumented immigrants from congressional reapportionment calculations, and that Alabama alleges that it will lose a congressional seat that it otherwise would have kept following the 2020 census if undocumented immigrants are not excluded from the apportionment count. I have been asked by Defendant-Intervenors to provide background and history on the congressional reapportionment process, including my continuing involvement with creating EDS, Inc.'s yearly reapportionment reports based on United States Census Bureau ("Census Bureau") population estimates from the Population Estimates Program that are also released yearly. I have also been asked to review and opine on the report and supplemental report submitted by Plaintiff's expert witness, Dr. Dudley Poston, in this case.

All the materials considered in forming the opinions contained herein are identified in this report. I am being compensated at an hourly rate of $275 per hour for my work, and at an hourly rate of $185 for work performed by another Election Data Services staffer.

II. Background and Qualifications

I attended American University in Washington, D.C., from 1969 through 1974 (having taken a year off for the 1972 campaign), where I earned a B.A. degree in Political Science. I started Election Data Services in 1977 and have been with the company since that time. Prior to 1977, I was a journalist and was employed by such companies as NBC News, Congressional Quarterly, and Plus Publications.

As president of Election Data Services I supervise and direct all major projects in which the company is involved. Election Data Services has been viewed by clients, the press, academics, and the general public as a research facility and consulting firm dealing with many aspects of the electoral process. The company and its staff have been hired by state and local governments across the nation to provide software, database development services, and consulting services for the creation of districting plans and the analysis of many aspects of the redistricting process.

Since 1979, I, individually and with Election Data Services, have been actively involved in many aspects of the redistricting process, having gone through four full census and redistricting cycles. I have been a consultant to many state and local governmental organizations around the nation, providing strategic advice and consulting on redistricting matters, coordinating the development of extensive databases used in the redistricting process, creating

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and assisting others with the creation of districting plans, and analyzing many aspects of districts and district configurations. Over the past 41 years, Election Data Services's clients for redistricting services have come from more than half the states in the nation. In addition, over the past four decades I have been called upon to provide reports, expert witness testimony, and assistance to attorneys in more than 75 different court cases.

I frequently give speeches to groups and organizations and participate in numerous conferences and panels on various aspects of apportionment, redistricting, and the census. Since the early 1980s, I have been a regular participant and speaker at annual and bi-annual meetings of the Task Force on Redistricting of the National Conference of State Legislatures ("NCSL"). I have also been on their faculty, as NCSL has conducted five regional "Get Ready for Redistricting" seminars each decade since 1980. I was also appointed by the U.S. Secretary of Commerce to the 2010 Census Advisory Committee, a 20-person advisory board to the Director of the Census Bureau. Just this week I was asked to be NCSL's representative on a series of half-day small-group expert meetings, being arranged by the Committee on National Statistics (CNSTAT), to delve deeply into and provide informal discussion/feedback with Census Bureau staff as they continue to develop the differential privacy-based Disclosure Avoidance System for the 2020 census. I am regularly called upon by members of the press with questions on redistricting, reapportionment, the census, election administration issues, and politics in general.

For the past four decades I and Election Data Services have studied and issued yearly reports on the apportionment process using new population estimates released by the Census Bureau and private demographic firms. All of our reports can be found at our website: www.electiondataservices.com, under the "Research" tab. We have become a staple for the press and others to cite when looking at the shift that is occurring in population between different states.

A copy of my curriculum vitae is attached as **Exhibit A**, which includes a complete list of cases in which, during the previous four years, I have testified as an expert at trial or by deposition.

III. Summary of Conclusions

Based upon my decades of experience with congressional reapportionment, population projections, and the census generally, it is my opinion that Dr. Poston does not show with any level of certainty that Alabama will lose its seventh congressional seat following the 2020 census if undocumented immigrants are not excluded from the population counts. In addition, it is my opinion that Dr. Poston does not show with any level of certainty that Alabama will retain a seventh congressional seat following the 2020 Census as a result of excluding undocumented immigrants from the apportionment count. Finally, it is my opinion that Dr. Poston's argument that all states should have the same average congressional district population size, and that this is better achieved by excluding the undocumented population, is specious. Dr. Poston ignores the constitutional requirement that each state be assigned at least one congressional seat, which results in a wide range of congressional district sizes across states.

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With respect to his apportionment calculations, Dr. Poston makes the following series of mistakes and assumptions that render his ultimate conclusions unreliable:

First, Dr. Poston's projections of the 2020 resident populations of each state are not a reliable projection of the resident population of each state on Census Day, or April 1, 2020. Dr. Poston uses a long-term trend line to project the 2020 resident population of each state, notwithstanding the fact that such a projection incorporates population changes early in the decade which may not apply to more recent conditions. More importantly, Dr. Poston's projections are not a projection of the resident population of each state on April 1, 2020, the count of the population necessary for congressional reapportionment, but instead appear to be a projection of the resident population of each state on July 1, 2020, three months past census day.

Second, Dr. Poston's projections of the overseas population of each state are not reliable projections of the overseas population of each state on April 1, 2020. Dr. Poston assumes, without any basis, that the proportion of the overseas population of each state on April 1, 2020, will be the same proportion of the overseas population of each state on July 1, 2010. Not only did Dr. Poston fail to explore whether this assumption was appropriate, Dr. Poston was unaware that the Census Bureau changed the way that it will count certain portions of the overseas population from the 2010 census to the 2020 census. Dr. Poston then added his unreliable projections of the 2020 overseas population of each state to his unreliable projections of the 2020 resident population of each state to calculate an unreliable 2020 apportionment population.

Third, Dr. Poston's projections of the undocumented population of each state are not reliable projections of the undocumented population of each state on April 1, 2020. Dr. Poston assumes, without any basis, that the proportion of the undocumented population of each state on April 1, 2020, will be the same proportion of the undocumented population of each state in 2016. Dr. Poston then subtracted his unreliable projections of the 2020 undocumented population from his unreliable projections of the 2020 apportionment population and used these numbers to run a flawed apportionment calculation.

Fourth, even if Dr. Poston had developed a way to more reliably project the 2020 apportionment population and his calculations showed Alabama would lose a seat, the issue still remains whether he can reliably claim with any level of certainty that the loss would come about, because the apportionment process is so susceptible to small changes. As explained in more detail below, because Alabama is so close to gaining its seventh seat back under any of the projections in Election Data Service's 2019 Reapportionment Analysis ("2019 EDS, Inc. Report"), Alabama could very possibly keep or lose its seventh seat when the new numbers become available.

Finally, Dr. Poston compares his apportionment results in his first report to the 2019 EDS, Inc. Report results. But these comparisons are not appropriate because the calculations are based on different inputs.

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IV. United States Congressional Reapportionment and the Method of Equal Proportions

As required by the Constitution, each state is provided at least one initial seat in the House of Representatives. The apportionment of the remaining 385 congressional districts or seats to the states is governed by the "method of equal proportions" formula that was adopted by Congress in 1941. The formula works as follows:

> The [remaining 385] seats are handed out based on statistical "priority values" assigned to each additional seat that a state might get. In as close to plain English as the formula will allow, these priority values are calculated in a two-step process that requires dividing a state's population by the square root of the product of the number of seats it's already been assigned and that number plus one. The priority numbers are then rank ordered: "State A" will get an additional seat if its priority value for that seat is greater than any other state's. The seats are disbursed to states based on these rankings until all 435 have been awarded.[1]

Each decade, by December 31, in the year ending in zero, the Census Bureau releases the initial state-level resident total population results, counts of military and other U.S. government employees and their families living abroad, and the resulting apportionment population counts for each state by December 31, in the year ending in zero. At the same time, the Census Bureau performs the administrative task of running the state numbers through an apportionment program that is based on the method of equal proportions to determine the number of representatives to which each state is entitled. They release the results of both the census counts (by state) and the apportionment results that same day.

Some states and many commentators interchange the terms reapportionment and redistricting to describe the process that occurs each decade with the taking of the census. However, they are two different and rather distinct processes. I always say that reapportionment is the process by which seats or districts are assigned **to** an area, such as congressional districts being assigned **to** different states. Redistricting, however, is the process whereby districts are drawn or created **within** that area. Before the Supreme Court's one-person, one-vote rulings in the 1960s relating to state legislative districts, a number of states allocated State Senate districts to their counties, hence they called the process "reapportionment," even though the process was in fact redistricting.

V. EDS, Inc.'s Reapportionment Work

A. EDS, Inc.'s Initial Involvement with Reapportionment

As noted above, EDS, Inc. first developed a computer program to calculate apportionment results according to the method of equal proportions in the early 1990s. We also

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[1] Greg Giroux, *Before Redistricting, That Other 'R' Word*, CQ Weekly (Nov. 30, 2009); *see also* Kristin D. Burnett, *Congressional Apportionment: 2010 Census Briefs*, U.S. Census Bureau (Nov. 2011), https://www.census.gov/prod/cen2010/briefs/c2010br-08.pdf.

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programmed options so that we could, for example, include the District of Columbia in an apportionment calculation or change the total number of congressional seats. We did this in the event additional states came into existence, or in the event someone inquired about the impact of adding seats to the House of Representatives.

Since the early 1990s we have studied and issued yearly reports on the apportionment process as new population estimates have been released both by the Census Bureau (as part of the Bureau's Population Estimates Program, discussed below), and by private demographic firms. Our annual studies are usually released the same day the Census Bureau releases its population estimates (usually in late December) and can be found on our website: http://www.electiondataservices.com/, under the "Research" tab. All our historical studies (back to when we started them in 1994) and press releases are also kept on our website, available for all to see. The same tables have also been generated from the final official decennial population numbers for each decade from 1940 to 2010. Our website also has a historical table, that we have continued to update, showing the number of seats given to each state each decade back to the nation's founding in 1789.

B. EDS, Inc.'s Reapportionment Reports

When the Census Bureau releases the final state apportionment population counts by December 31 of any year ending in zero, the Census Bureau also reports its apportionment calculations. However, the Census Bureau does not report any calculations for how close or how far away each state was from gaining or losing an additional seat. In addition to reporting its apportionment calculations, the Census Bureau also reports as a separate column of the overseas counts (both military and non-military overseas residents), so EDS, Inc. is able to create a separate apportionment table showing whether the overseas numbers caused a state to gain or lose a seat.

In contrast to the Census Bureau's apportionment counts and calculations, EDS, Inc.'s reapportionment program calculates not only how many seats each state would receive based on the population or other numbers put into the formula, but it also calculates and reports the number of people a state gained its last seat by or lost the next seat by. EDS, Inc.'s program, using the Census Bureau's reporting creates a separate apportionment table showing whether the overseas numbers caused a state to gain or lose a seat. It also reports the last seat number that is given to a state, as well as what number seat the next district would be if the calculations continued past the 435 seat cut-off. The program allows the user to change the maximum number of seats to be calculated. Finally, the program calculates the ideal district size for each state, by taking the state's total population and dividing it by the number of seats that the state has been awarded.

Our current report was generated on December 30, 2019 and is available on the front page of EDS, Inc.'s webpage. A copy of the 2019 EDS, Inc. Report is also attached to this document as **Exhibit B**.

This new study follows our normal practice of taking the census's new state-level total resident population estimates, using a straight line projection to move the estimates forward to be

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as of April 1 in the year ending in zero (to correspond to when the census is taken), and then using the resulting state resident population projections as input to the apportionment program. We have always recognized the importance of showing population estimates to correspond to Census Day (April 1) because this is the population count necessary for apportionment, and have always projected the last year of estimates to be $9/12^{th}$ of a year (i.e., from July 1 to April 1, or nine months). EDS, Inc. has never, however, included any projections in its yearly apportionment studies for the overseas population because there have not been any reliable numbers available for such projections. EDS, Inc. has also never attempted to calculate projections of the undocumented population because available estimates of this population vary widely.

It is important to note that estimates from the Population Estimates Program are based on the premise of a data date of July 1 for each year (i.e., different from Census Day of April 1).[2] While the Census Bureau uses the enumerated resident population from the 2010 census as a starting point for all post-2010 population estimates, they modify the data to produce the "April 1, 2010 Population Estimates base" so that the data reflect the following information:

1) Changes brought about by the Count Question Resolution program, where local jurisdictions can challenge their decennial census results. Successful changes are incorporated into the estimates base.
2) Legal boundary changes. While this does not impact state-level population numbers, it will impact county, city or town boundaries within a state (these jurisdictions also see population estimates being generated over the decade).
3) Revisions to racial categorizations, most significantly the "Some other race" category. Again, this does not impact the state-level total population estimates used in the reapportionment studies.[3]

Each year when the Census Bureau releases their state estimates for the current year, part of the Population Estimates Program also revises all past year's estimates in that decade. As the Census Bureau's documentation notes:

> With each annual release of population estimates, the Population Estimates Program revises and updates the entire time series of estimates from April 1, 2010 to July 1 of the current year, which we refer to as the vintage year. We use the term "vintage" to denote an entire time series created with a consistent population starting point and methodology. The release of a new vintage of estimates supersedes any previous series and incorporates the most up-to-date input data and methodological improvements.[4]

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[2] U.S. Census Bureau, *Methodology for the United States Population Estimates: Vintage 2019, Nation, States, Counties, and Puerto Rico – April 1, 2010 to July 1, 2019* 1 (2019), *available at* https://www2.census.gov/programs-surveys/popest/technical-documentation/methodology/2010-2019/2019-natstcopr-meth.pdf (hereinafter "Methodology for the U.S. Population Estimates").

[3] *Id.* at 2-3.

[4] *Id.* at 1.

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These revisions to the estimates reflect new information Census Bureau staff may have received from the states on their births, deaths and migration estimates in previous time periods.[5] As a result, EDS, Inc. always completely replaces the entire decade's estimates for each state for each year with the Census Bureau's new tables.

Over the decades, EDS, Inc. has also developed a spreadsheet that automatically calculates both raw number and percentage changes for individual yearly population data, as well as multiple time period changes. This allows us to test multiple time period ranges to see whether different time periods will yield different apportionment results. In each of the past two decades we have observed that different national events have caused changes in population movements. For example, we could see how the 2008 recession significantly changed the nation's growth pattern for not only that year, but for several subsequent years into the next decade.

As a result of these observed changes, for the past several years we have generated different trend line scenarios, and given them easily recognized names (such as "long-term trend," "mid-term trend," and "short-term trend") and then utilized them in our studies. With each new year's estimates, the years covered by these trends may change, but generally the "long-term trend" looks at the entire decade's worth of change to calculate. Usually the "short-term trend" period only covers the immediate one or two years of change, in order to project the population estimates forward.

When we performed the analysis for our 2019 EDS, Inc. Report, we discovered and reported that all the different trend models ultimately produced the same overall outcome results as it relates to reapportionment results. We theorized that this was because of the very short time before April 2020 (basically nine months from the July 1, 2019 date of the 2019 estimates) resulted in the projections not shifting much in the trending forward process. It is unusual for this to happen, but we observed that the different trend models did produce different margins of how much a state gained or lost a seat by, and where states fell at the 435-seat cut-off point. As a result, the EDS, Inc. 2019 Study focused on using the "short-term" trend model to generate 2020 populations for apportionment. A short-term trend projection that focuses on more recent population changes is a better projection of what will happen on April 1, 2020 when compared to a long-term trend projection that incorporates and potentially amplifies population changes earlier in the decade.

i. A Number of States Are Close to Gaining or Losing a Seat in the 2019 EDS, Inc. Report

The apportionment process is very susceptible to small changes in the population. As a result, one of the focuses of our studies is to see which, and how many states are "sitting on the edge" of the 435-seat cut-off for the allocation of seats in Congress, but most importantly by what margin of gain or loss. Each of our studies contains a table that shows which states receive seat numbers 430 through 435, and which states just missed the cut-off by receiving theoretical seats numbers 436 through 440. Each year different states fall into this "watch" category, as population estimates change and different states get seat numbers around the magic 435 cut-off

[5] *See id.*

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each year, particularly if they would have received seat number 436. Any state that falls into seat ranges 429 through 440, particularly if they gained or lost the seat by under 50,000 people, could very possibly change when new numbers become available.

The 2019 EDS, Inc. Report shows the State of Alabama would receive seat number 436, or, in other words, would just miss that last seat (435) by only 10,072 people, assuming all other state populations stay the same.[6] Although our 2019 EDS, Inc. Report shows Alabama losing a seat, in earlier parts of the decade the margin that Alabama would lose their seventh seat by was much larger than it is in our new study. Our 2015 study showed Alabama would lose that seat by 64,891 people.[7] By the time of our 2018 study, Alabama's loss margin dropped to just over 40,000 people,[8] and, as noted above, the margin is now only 10,072.

Other states are also close to the cut-off mark, at least one by a smaller number of people: Montana would gain back their second seat by only 2,402 people to spare.[9] To demonstrate how susceptible the states are to gain or lose a seat, I took away 2,403 people from the Montana estimate, leaving it with 1,072,507 people, and re-ran the apportionment calculator. In this revision Montana lost its second seat and went back to receiving just a single seat. As a result of this small change, and with every other state keeping the same population estimates, the State of Alabama would avoid losing its seventh seat by a margin of only nine (9) people. This is without adding the overseas population to the resident population, subtracting undocumented immigrants from the apportionment population count, or considering any other factors that may ultimately affect the counting process. **Exhibit C** attached to this report are the results of a revised 2019 apportionment table reflecting the above population changes and resulting apportionment.

Because a number of states are "sitting on the edge" and by relatively close margins, it's very likely that the final official population totals released at the end of the year will produce a different shift in where states fall at the 435-seat cut-off mark. Certainly, the addition of the overseas population, which we have no way of reliably projecting, will also shift these final seat assignments.

ii. Factors That Contribute to Uncertainty in Apportionment Projections

There are a wide range of factors that will ultimately impact the final population numbers. As noted in the 2019 EDS, Inc. Report,[10] there are several factors that govern any apportionment study that deals with population estimates, as well as several factors that govern specifically relevant to the 2020 congressional reapportionment. As explained below, these include:

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[6] Exhibit B at 4.
[7] Election Data Services, *2015 Reapportionment Analysis* at Appendix 2020Proj10-15 (Dec. 22, 2015), *available at* https://www.electiondataservices.com/wp-content/uploads/2015/12/NR_Appor15wTables.pdf.
[8] Election Data Services, *2018 Reapportionment Analysis* 3 (Dec. 19, 2018), *available at* https://www.electiondataservices.com/wp-content/uploads/2018/12/NR_Appor18.pdf.
[9] *Id.*
[10] Exhibit B at 3.

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- What is the method used to project estimates forward to Census Day, 2020?
- How well will the census be conducted this year? Will the Internet option for filling out the form work?
- Will people respond to the census? Will the citizenship question debate over the past year cause some people to not respond?
- How will the addition of overseas military populations impact apportionment? What impact will the change in method of counting overseas military impact the additional numbers?
- What will be the impact of the current COVID-19 crisis?

a. What is the method used to project estimates forward to Census Day, 2020?

All firms or entities that create population estimates always pick a specific date in time their estimates reflect. Some are good as of January 1 or December 31. For instance, the Census Bureau Population Estimates Program uses July 1, a date which tends to follow state fiscal year dates and when the states update their own source data. This becomes important when one uses a time series of estimates to project the data forward to something like Census Day (officially April 1). If a researcher uses a whole number of years to project the Census Bureau's estimate data forward to Census Day, then they will either fall nine months short or (as Dr. Poston does in his report and admitted at his deposition)[11] three months longer in time. In the event the estimate includes an extra three months of change, it will include extra births, deaths, and migrations, [12] and the resulting population numbers are likely to be higher than expected. The bottom line, however, is that Dr. Poston's data does not constitute a projection of the population on Census Day, the day relevant for congressional reapportionment.

I have also seen instances where different population time series will create different population projections. This is why EDS, Inc. has its time series calculate not only the individual year population changes, but also population changes for parts of a decade (for example, for 2011 through 2019, and then from 2012 through 2019, followed by 2013 through 2019, etc.). We've particularly seen different population projections being created in the first half of the decade, as projections forward are much more susceptible to slight changes that get magnified at the end of the decade.

b. How well will the census be conducted this year? Will the Internet option for filling out the form work?

There has been a wide-ranging discussion over the past several years about whether enough funds will be, or have been, allocated to conduct this census. This was a problem initially raised in the first part of this decade, as planning and development of programs for the 2020 census were being formulated. Advocacy groups have expressed concerns that not enough funds were allocated to the Bureau early enough in the decade to conduct all the planning steps

[11] Sworn Declaration and Expert Report of Dudley L. Poston, Jr., Ph.D. (Jan. 23, 2020) ("Poston Report") at 14; Supplement to Sworn Declaration and Expert Report of Dudley L. Poston, Jr., Ph.D. ("Poston Supp. Report") at 3; February 27, 2020 Transcript of Deposition of Dudley L. Poston, Jr., Ph.D. ("Poston Dep.") 41:20-42:2, 43:1-6.
[12] *See* Methodology for the U.S. Population Estimates at 1.

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necessary to ensure a good census. Instead of four testing sites, for example, the Census Bureau had to cut back to only one location in order to test out some of their processes.[13] Moreover, if different hard to count groups are not properly enumerated, then population counts could suffer, including final state resident population data for states with larger hard-to-count populations.[14]

There have also been concerns surfacing over the past several weeks on whether the Internet option for filling out the census form will work properly. This is the first time the Census Bureau will implement a primarily online census.[15] The sudden decision to change from the vendor-provided solution to one developed in-house has surfaced immense concerns.[16] While the Census Bureau has touted the Internet option as a new improvement to the whole census experience in this new decade, it remains to be seen if all groups will accept and make use of this process.

These are just a few examples of where things might go wrong as the census is conducted over the next several months. Any or all these problems have a potential of impacting the census and are likely to result in different population counts being generated. As a result, state reapportionment calculations would be impacted and change the likely outcome.

c. Will people respond to the census? Will the citizenship question debate over the past year cause some people not to respond?

There is also the issue of whether people will respond to the census, and the impact of the citizenship question debate on response rates. While this issue could apply to several individuals or groups over the next several months, this is of great concern in the Hispanic community because of last year's attempt by the Trump Administration to add a citizenship question to the 2020 census questionnaire. Although the decision was enjoined by the courts, there is still concern that discussion of the larger citizenship issue will cause large numbers of this group to not answer the census.

d. How will the addition of overseas military populations impact apportionment? What impact will the change in method of counting overseas military impact the additional numbers?

Since at least the 1990 census, the Census Bureau has created the total state population numbers that are used for apportionment by adding each state's overseas population (which primarily includes military personnel, but also includes other civilian employees of the U.S. government and their dependents) to their respective resident population. For 2020, however, and as noted elsewhere in this report, the Census Bureau and the Department of Defense have modified the way the military overseas population will be counted. The new residency rules

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[13] Michelle Wines, *Census Officials Say Rhode Island Rehearsal is Going Well. Not Everyone Agrees*, N.Y. Times (Apr. 28, 2018), https://www.nytimes.com/2018/04/28/us/2020-census-test-rhode-island.html.

[14] Hard-to-count groups are groups that that the Census Bureau identifies as difficult to fully enumerate, including children and certain racial and ethnic minorities.

[15] Nick Brown, *Census Says Switching Software for U.S. Population Count*, Reuters.com (Feb. 13, 2020), https://www.reuters.com/article/us-usa-census-technology/census-says-switching-software-for-u-s-population-count-idUSKBN2072SN.

[16] *Id.*

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released by the Trump Administration in the last several years will take short-term "deployed" military personnel and count them back at the states of their usual residence in the United States. They will be counted as part of their respective states' resident population for both apportionment and redistricting purposes. This means that they will no longer constitute part of the overseas population.

In contrast, in 2010 deployed military personnel were counted at their "home state of record," the address they provided when they entered military service. They were counted only as part a state's overseas population, but not the state's resident population, and were counted only for apportionment purposes. Department of Defense documents seem to indicate the new rules regarding deployed personnel will reduce the military overseas population by about 15% because deployed personnel will instead be counted as part of the resident population of the states of their usual residence in the United States.[17]

The addition of the military overseas population has affected the reapportionment process twice since 1990. In 2000, had the overseas populations not been included in the apportionment calculation, North Carolina's surprise gain of a seat would have instead gone to the state of Utah.[18] Utah would have gained the 435th and final seat, with just 691 persons to spare, while North Carolina would have missed the seat by 2,493 people.[19] North Carolina's gain was directly attributable to the way the overseas population was counted. That decade, individuals were allocated to states using the "home of record" in their personnel files, or the state from which Americans overseas entered government service. Although several military bases are in the state of Utah, the number of North Carolina residents living overseas was almost six times the number of Utah residents overseas.

The inclusion of overseas personnel for congressional apportionment had a similar impact following the 1990 census. In 1990, the state of Washington gained a seat at Massachusetts' expense after the overseas population was included in the apportionment calculations.[20]

e. What will be the impact of the current COVID-19 crisis?

With three weeks to go before Census Day, the rapidly changing coronavirus crisis is bound to impact how the Census is taken and could impact the apportionment results. The fact that many college campuses are closing, and students sent home, raises the question of where they will be counted.[21] For students that go to school out of state, will they still have an

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[17] Hansi Lo Wang, *Restrictions On Deployed U.S. Troop Data Could Put 2020 Census 'At Risk'*, NPR (Feb. 25, 2019), https://www.npr.org/2019/02/25/697315761/restrictions-on-deployed-u-s-troop-data-could-put-2020-census-at-risk.

[18] Election Data Services, *2000 Census Counts Produce Surprises in Congressional Delegations* 2 (Dec. 28, 2000), https://www.electiondataservices.com/wp-content/uploads/2014/12/reap2000_nr.pdf

[19] *Id.*

[20] Margo Anderson and Stephen E. Fienberg, *A Short Story About the Reapportionment of Congress and the 1990 Census*, UWMilwake (accessed Mar.13, 2020), https://sites.uwm.edu/margo/history-myth-making-and-statistics/.

[21] Lily Jackson, *Universities Across the State End Lectures, Go Online*, AL.com (Mar. 13, 20220), https://www.al.com/coronavirus/2020/03/auburn-and-samford-end-lectures-universities-cancel-travel-as-alabama-prepares-for-coronavirus.html.

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attachment to the college campus when the census form arrives in the mail, or will they fill it out based on their parents' address? This could have a significant impact on states with large college populations, like Alabama. More than 100,000 undergraduate students attend public four-year colleges in Alabama.[22] Where will the over 100,000 students be counted, particularly if they are sent home during the census?

VI. ISSUES WITH DR. POSTON'S REPORTS

I reviewed Dr. Poston's initial report and supplemental report. Methodologically, there are a number of issues with Dr. Poston's projections in both reports, which I have outlined below. These issues render Dr. Poston's projections unreliable. Even if Dr. Poston had conducted sound projections, however, because of the closeness of Alabama to the magic 435 cut-off mark, it is impossible to say with any level of certainty that not excluding undocumented immigrants will cause Alabama to lose its seventh congressional seat. Given the unreliability in Dr. Poston's projections and the fact that so many issues are still in flux on the eve of the 2020 census, it is my opinion that Dr. Poston cannot reliably predict that Alabama will lose its seventh congressional district following the 2020 census. In addition, it is my opinion that Dr. Poston cannot reliably predict that Alabama would keep its seventh congressional district following the 2020 census as a result of excluding undocumented immigrants from the apportionment population counts.

A. Projection of the 2020 Resident Population

There are several problems in the method Dr. Poston's uses to project his population numbers forward to correspond to 2020. Dr. Poston uses a long-term trend line to project the 2020 resident population of each state, notwithstanding the fact that such a projection incorporates population changes early in the decade that resulted from factors that do not reflect more recent conditions. More importantly, Dr. Poston's projections are not a projection of the resident population of each state on April 1, 2020, the count of the population necessary for congressional apportionment, but instead it appears Dr. Poston's numbers are a projection of the resident population of each state on July 1, 2020, three months after Census Day.

i. Trend Line Used by Dr. Poston

Dr. Poston has adopted a "long-term" model where he looks at the trend in the overall decade (2010 through 2018, or 2010 to 2019 in his supplemental report) to project his data forward.[23] He attempted to create "annualized" change estimates (average change of the whole decade, reflected as an annual number) that he then added to the 2018 and 2019 Census Bureau estimates.[24]

By taking all ten years into account Dr. Poston is giving too much weight to demographic and population changes that occurred at the beginning of the decade that no longer have an

[22] *Public Four-Year FTE, Fall 2019*, Alabama Commission on Higher Education, *available at* https://ache.edu/ACHE_Reports/Reports/SDB_Reports/FTE/FTE-4YR-Fall-2019.pdf.
[23] Poston Report at 14; Poston Supp. Report at 3.
[24] *Id.*

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impact, such as the 2008 recession. Because of the immediacy of Census Day, a short-term trend projection that focuses on more recent population changes is a better projection of what will happen on April 1, 2020.

ii. Incorrect Starting Point for Projections

The Census Bureau's population estimates series is built around the prospect that the numbers are an estimate of the resident population as of July 1 of each year. As a result, the Census Bureau publishes "adjusted 2010 Census numbers" to correspond to the different July 1 timetable, as opposed to the official 2010 census count numbers from April 1.[25] In addition, the Census Bureau updates the population estimates base to reflect changes brought about by their Count Question Resolution program.[26] This program allows jurisdictions to challenge their population counts, and successful challenge results are incorporated into the estimate program.[27]

I follow the Census Bureau's practice and always use the "adjusted 2010 Census numbers" as the starting point in the EDS, Inc. projection models. [28] Dr. Poston's calculations, however, are anchored to the April 1, 2010 census counts, not the July 1, 2010 starting point for the Census Bureau estimates series.[29] This is problematic not only because it ignores adjustments to the 2010 census count numbers that better reflect the population, but also because Dr. Poston subtracted April 1, 2010 census counts from the July 1, 2018 (or 2019) Census Bureau estimates, and divided this number by nine instead of nine and one third. In other words, Dr. Poston did not correctly annualize the differences that he then added to the 2018 (or 2019) Census Bureau estimates.

iii. Incorrect Ending Point for Projections

Dr. Poston also does not have a correct ending point for his projections. Dr. Poston used a whole number of years to project the Census Bureau estimates forward to 2020.[30] Because Dr. Poston used a whole number of years to project the Census Bureau's July 1 population estimate data, his projections fall three months over in time from Census Day.[31] This means that Dr. Poston's resident population projections include births, deaths, and migrations for a three-month period beyond Census Day. Put another way, Dr. Poston's population projections are not estimates of the apportionment resident population on Census Day, the population needed for congressional reapportionment, but for July 1, 2020, a date that has no significance to congressional reapportionment.

B. Projection of overseas populations and impact of changes to residency rules

Dr. Poston attempted to project the 2020 overseas population for the states by calculating the proportion of each state's 2010 resident population to the 2010 overseas population and

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[25] *Methodology for the U.S. Population Estimates* at 1.
[26] *Id.* at 2-3.
[27] *Id.*
[28] *See id.* at 1.
[29] Poston Report at 14; Poston Supp. Report at 3; Poston Dep. at 97:4-98:14.
[30] Poston Report at 14; Poston Supp. Report at 3; Poston Dep. at 41:20-42:2, 43:1-6, 97:4-98:14.
[31] Poston Report at 14; Poston Supp. Report at 3; Poston Dep. at 41:20-42:2, 43:1-6.

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applying those proportions to his 2020 resident population projections.[32] Those resulting numbers were then added to his 2020 resident population estimates to create his 2020 apportionment counts.[33]

Dr. Poston's overseas population estimates are highly problematic because there is no indication that each state's proportion of the overseas population in 2010 will be the same proportion in 2020. We know the proportions are very likely to be different because of changes, discussed above, to the residency rule dealing with how the overseas population will be counted in 2020. Despite the fact that this information was cited in the 2019 EDS, Inc. Report, Dr. Poston was apparently not aware of these changes when he decided to apply the 2010 proportion of each state's overseas population to his 2020 projections, nor was he aware of the way in which the overseas population was counted in 2010.[34] Changes in foreign policy will also likely impact the overseas population counts for 2020, and no good data is available to determine how much of an impact this will have.

A look at past overseas population state proportions further highlight Dr. Poston's flawed assumption. For the past three censuses the numbers of the overseas population have significantly changed with each decennial census, in both raw numbers and the percentages they represent of the total apportionment count. In 1990, the Census Bureau reported 919,810 individuals living overseas, but in 2000 it dropped to only 574,330. This ballooned to 1,039,648 in 2010. While these represented low percentages of the total apportionment population count (0.37% in 1990, 0.20% in 2000, and 0.34% in 2010), there is a great deal of variation in the individual states' percentages. Further, within states the overseas population numbers see changes in the thousands from decade to decade. For example, in 1990, California's overseas population was 88,033 and constituted 0.24% of its total apportionment population. In 2000, California's overseas population fell to 59,150 and constituted 0.17% of its total apportionment population. Finally, in 2010, California's overseas population jumped back up to 79,229 and constituted 0.27% of California's total apportionment population. Tables for each decade's overseas numbers are attached as **Exhibit D.**

At best, Dr. Poston's projections of the 2020 overseas population are a guessing game, based on an assumption that is not supported by any facts, and should be disregarded.

C. Undocumented Immigrant Population

The central claim in Dr. Poston's report is that it is substantially likely that the continued inclusion of undocumented immigrants in the 2020 census apportionment population will cause the State of Alabama to lose a congressional seat in 2020. In addition, he claims it is likely that the exclusion of undocumented immigrants from the apportionment population will allow Alabama to keep a seventh congressional seat.[35] Because there are no Census Bureau state-by-state estimates of undocumented immigrants, Dr. Poston uses four-year old estimates from the Pew Research Center to generate undocumented immigrant counts that he then removes from his

[32] Poston Report at 14; Poston Supp. Report at 3.
[33] *Id.*
[34] Poston Dep. at 105:10-23.
[35] Poston Report at 2, 3.

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2020 apportionment population projections.[36] He specifically says that his "assumption is that the proportions of undocumented immigrants in the states in 2016 will be the same proportions in 2020."[37]

As with his projections of the 2020 resident and overseas populations, Dr. Poston's projections of the 2020 undocumented population are highly problematic. As an initial matter, there are no official estimates of the undocumented population, and the available estimates of the undocumented population vary widely. For example, a study by professors at the Yale School of Management estimates that in 2016 there were 16.7 million undocumented immigrants in the country,[38] while Pew estimates that in 2016 there were 10.7 undocumented immigrants in the country.[39] Because apportionment calculations are very susceptible to even small population changes, the choice of one estimate over another can have a large impact on the final apportionment results.

Despite the fact that there is variability in the available undocumented population estimates, Dr. Poston decided to use the 2016 Pew estimates[40] and did not to look into whether other estimates were more accurate or reliable.[41] Dr. Poston used the Census Bureau's 2016 population estimates for the resident population totals of each state.[42] There is no indication, however, that the Pew estimates are tied to any particular date in 2016, much less that they are tied to July 1, 2016. Are the Pew estimates for the beginning of the calendar year? The end? How does this correspond to the April 1 Census Day or the July 1 Census estimate date? Dr. Poston does not appear to have grappled with these questions.

Even assuming that the 2016 Pew estimates were reliable, however, there is no indication that each state's proportion of the undocumented population in 2016 will be the same proportion in 2020. Pew's own estimates show that between 2010 and 2016, the undocumented population decreased from 11.4 million to 10.7 million, with varying changes state by state.[43] While total population estimates from different sources vary, other estimates also show that the undocumented population has been decreasing over time. For example, the Center for Migration Studies reports that the undocumented population decreased from 11.7 million in 2010 to 10.7 million in 2017.[44]

Further, data released over the past several years indicates that the number of undocumented immigrants has continued to decrease since 2016 as a result of the Trump Administration's efforts to lower the flow of immigrants into the country. News agencies have

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[36] *Id.* at 15-16.
[37] Poston Supp. Report at 5.
[38] Mohammad M. Fazel Zarandi, Jonathan S. Feinstein, and Edward H. Kaplan, *The Number of Undocumented Immigrants in the United States: Estimates Based on Demographic Modeling with Data from 1990 to 2016*, PLOS ONE (Sept. 21, 2018), https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0201193.
[39] Jeffrey S. Passel and D'Vera Cohn, *U.S. Unauthorized Immigrant Total Dips to Lowest Level in a Decade* 5, Pew Research Center (Nov. 27, 2018) (hereinafter "2016 Pew Estimates").
[40] Poston Report at 15-16; Poston Supp. Report at 4-5.
[41] Poston Dep. at 146:23-147:5.
[42] *Id.*
[43] 2016 Pew Estimates at 5, 14.
[44] State-Level Unauthorized Population and Eligible-to-Naturalize Estimates, Center for Migration Studies, http://data.cmsny.org/.

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recently reported that the "Illegal immigrant population shrinks as Mexicans head back home"[45] and "A Mexican Exodus is Helping Shrink the Undocumented Population."[46] If the Trump Administration's policies have been even moderately successful, then it is likely that Dr. Poston's proportional methodology will overestimate the undocumented population.

D. Dr. Poston's District Size Argument

Dr. Poston argues that it is important that all states have the same average congressional district population size, seeming to argue that this is closer to the one-person, one-vote requirement from the courts and that this is better achieved by excluding undocumented immigrants.[47] This is a specious argument because Dr. Poston fails to take into account the first step of the apportionment process: that every state is guaranteed at least one congressional district, no matter their total population.

Article 1, section 2 of the Constitution specifically states that: "The Number of Representatives shall not exceed one for every thirty thousand, *but each State shall have at least one Representative*." (emphasis added). One can see the results of this tenet in any of the apportionment tables attached to any EDS, Inc. apportionment study, where we calculate the ideal district size (labeled "average size") for each state.[48] The 2019 EDS, Inc. Report shows this column as the second column from the right.[49] At the bottom of each of our tables we report not only the median average district size for the country, but also the minimum and maximum district population for the 50 states. For example, the 2019 EDS, Inc. Report apportionment calculations based on EDS, Inc.'s 2020 resident population projections shows that Rhode Island's single seat is projected to have a population of 1,060,167.[50] This is nearly double the size of a congressional district in the state of Montana (537,455), which would go back to two seats in the 2019 EDS, Inc. Report.[51] The seven "at-large" states that have only a single congressional district demonstrate the largest and smallest extremes of the district population size issue.[52] **Exhibit E** sorts the states by their average district size to further show this dichotomy.

Dr. Poston attempts to obscure these basic facts of apportionment by bringing in a standard deviation calculation, but this is irrelevant to the basic premise of reapportionment when every state gets at least one seat. Whether the ideal district size includes or excludes undocumented immigrants has little bearing on the issue of whether there is disparity in district population sizes when every state gets at least one district, no matter its total population.

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[45] Stephen Dinan, *Illegal Immigrant Population Shrinks as Mexicans Go Home*, Wash. Times (Feb. 27, 2020), https://www.washingtontimes.com/news/2020/feb/26/illegal-immigrant-population-shrinks-mexicans-go-h/.
[46] Miriam Jordan, *A Mexican Exodus Is Helping Shrink the Undocumented Population*, N.Y. Times (Feb. 26, 2020), https://www.nytimes.com/2020/02/26/us/undocumented-population-study-mexicans.html.
[47] Poston Report at 17-19.
[48] *E.g.*, Exhibit B at Appendix Main.
[49] *Id.*
[50] *Id.*
[51] *Id.*
[52] *Id.*

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E. Dr. Poston's Reference to the 2019 EDS, Inc. Report

Dr. Poston compares his apportionment results in his first report to the 2019 EDS, Inc. Report results, presumably in support of his conclusions. But this comparison is not appropriate because the calculations are based on different inputs. Thus, any consistency between the two reports is as much the result of happenstance as anything else.

The 2019 EDS, Inc. Report is based on the Census Bureau's 2019 population estimates and uses only the 2020 resident population projections for the apportionment calculations. That is, the apportionment population does not include a projection of the overseas population. Further, the 2019 EDS, Inc. Report uses a short-term trend line and projects the estimates to April 1, 2020, or Census Day. Importantly, Election Data Services recognizes the report's limitations as a projection of the actual 2020 congressional reapportionment because there is no reliable overseas population projection to use in the calculations.

Dr. Poston's analysis in his main report, on the other hand, relies on the Census Bureau's 2018 population estimates. Dr. Poston conducted the reapportionment calculation using apportionment population counts that include his projected 2020 resident population counts *plus* his projected 2020 overseas population counts. Further, Dr. Poston uses a long-term trend line and projects the estimates to July 1, 2020. His introduction of unreliable projections renders his calculations a wholly different animal than the 2019 EDS, Inc.'s Report's calculations. Importantly, because Dr. Poston used different inputs for his calculations, the different inputs for the 50 states will have an effect on the gain or loss population margins and on the seat positions.

VII. Conclusion

Dr. Poston compounds mistake upon mistake in reaching his conclusions, and does not show with any level of certainty that Alabama will lose its seventh congressional seat following the 2020 census if undocumented immigrants are not excluded from the apportionment count. Neither does he show with any level of certainty that Alabama will retain a seventh congressional seat following the 2020 Census as a result of excluding undocumented immigrants from the apportionment count.



KIMBALL W. BRACE
President,
Election Data Services, Inc.
6171 Emerywood Ct.
Manassas, VA 20112-3078

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EXHIBIT A

VITA

KIMBALL WILLIAM BRACE

Election Data Services, Inc.
6171 Emerywood Court
Manassas, VA 20112-3078

703 580-7267 or 202 789-2004 phone
703 580-6258 fax
kbrace@electiondataservices.com or kbrace@aol.com

Kimball Brace is the president of Election Data Services Inc., a consulting firm that specializes in redistricting, election administration, and the analysis and presentation of census and political data. Mr. Brace graduated from the American University in Washington, D.C., (B.A., Political Science) in 1974 and founded Election Data Services in 1977.

Redistricting Consulting

Activities include software development; construction of geographic, demographic, or election databases; development and analysis of alternative redistricting plans; general consulting, and onsite technical assistance with redistricting operations.

Congressional and Legislative Redistricting

Arizona Independent Redistricting Commission: Election database, 2001

Arizona Legislature, Legislative Council: Election database, 2001

Colorado General Assembly, Legislative Council: Geographic, demographic, and election databases, 1990–91

Connecticut General Assembly

- Joint Committee on Legislative Management: Election database, 2001; and software, databases, general consulting, and onsite technical assistance, 1990–91
- Senate and House Democratic Caucuses: Demographic database and consulting, 2001

Florida Legislature, House of Rep.: Geographic, demographic, and election databases, 1989–92

Illinois General Assembly

- Speaker of House and Senate Minority Leader: Software, databases, general consulting, and onsite technical assistance, 2000–02,
- Speaker of House and President of Senate: Software, databases, general consulting, and onsite technical assistance, 2018-current, 2009-2012, 1990–92, and 1981-82

Iowa General Assembly, Legislative Service Bureau and Legislative Council: Software, databases, general consulting, and onsite technical assistance, 2000–01 and 1990–91

Kansas Legislature: Databases and plan development (state senate and house districts), 1989

Massachusetts General Court

- Senate Democratic caucus: Election database and general consulting, 2001–02

- Joint Reapportionment Committees: Databases and plan development (cong,, state senate, and state house districts), 1991–93, 2010-2012(Redistricting Consulting, cont.)

Michigan Legislature: Geographic, demographic, and election databases, 1990–92; databases and plan development (cong., state senate, and state house districts), 1981-82

Missouri Redistricting Commission: General consulting, 1991–92

Commonwealth of Pennsylvania: General consulting, 1992

Rhode Island General Assembly and Reapportionment Commissions

- Software, databases, plan development, and onsite assistance (cong., state senate, and state house districts), 2016- current, 2010-2012, 2001–02 and 1991–92
- Databases and plan development (state senate districts), 1982-83

State of South Carolina: Plan development and analysis (senate), U.S. Dept. of Justice, 1983–84

Local Government Redistricting

Orange County, Calif.: Plan development (county board), 1991–92

City of Bridgeport, Conn.: Databases and plan development (city council), 2011-2012 and 2002–03

Cook County, Ill.: Software, databases, and general consulting (county board), 2010-2012, 2001–02, 1992–1993, and 1989

Lake County, Ill.: Databases and plan development (county board), 2011 and 1981

City of Chicago, Ill.: Software, databases, general consulting, and onsite technical assistance (city wards), 2010-2012, 2001–02 and 1991–92

City of North Chicago, Ill.: Databases and plan development (city council), 1991 and 1983

City of Annapolis, Md.: Databases and plan development (city council), 1984

City of Boston, Mass.: Databases and plan development (city council), 2011-2012, 2001-2002, and 1993

City of New Rochelle, N.Y.: Databases and plan development (city council), 1991–92

City of New York, N.Y.: Databases and plan development (city council), 1990–91

Cities of Pawtucket, Providence, East Providence, and Warwick, and town of North Providence, R.I.: Databases and plan development (city wards and voting districts), 2011-2012, 2002

City of Woonsocket and towns of Charlestown, Johnston, Lincoln, Scituate and Westerly, R.I.: Databases and plan development (voting districts), 2011-2012, 2002; also Westerly 1993

City of Houston, Tex.: Databases and plan development (city council), 1979 — recommended by U.S. Department of Justice

City of Norfolk, Va.: Databases and plan development (city council), 1983–84 — for Lawyers' Committee for Civil Rights

Virginia Beach, Va.: Databases and plan development (city council), 2011-2012, 2001–02, 1995, and 1993

Other Activities

International Foundation for Electoral Systems (IFES) and U.S. Department of State: redistricting seminar, Almaty, Kazakhstan, 1995

Library of Congress, Congressional Research Service: Consulting on reapportionment, redistricting, voting behavior and election administration

National Conference of State Legislatures (NCSL): Numerous presentations on variety of redistricting and election administration topics, 1980 - current

Election Administration Consulting

Activities include seminars on election administration topics and studies on voting behavior, voting equipment, and voter registration systems.

Prince William County, VA:
2013 – Appointed by Board of County Supervisors to 15 member Task Force on Long Lines following 2012 election. Asked and appointed by County's Electoral Board to be Acting General Registrar for 5-month period between full-time Registrars.
2008 - current – poll worker and now chief judge for various precincts in county

U.S. Election Assistance Commission (EAC): Served as subcontractor to prime contractors who compiled survey results from 2008 and 2010 Election Administration and Voting Survey.

U.S. Election Assistance Commission (EAC): Compile, analyze, and report the results of a survey distributed to state election directors during FY–2007. Survey results were presented in the following reports of the EAC: *The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 2005–2006, A Report to the 110th Congress,* June 30, 2007; *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), Survey Report Findings,* September, 2007; and *The 2006 Election Administration and Voting Survey, A Summary of Key Findings,* December, 2007.

U.S. Election Assistance Commission (EAC): Compile, analyze, and report the results of three surveys distributed to state election directors during FY–2005: Election Day, Military and Overseas Absentee Ballot (UOCAVA), and Voter Registration (NVRA) Surveys. Survey results were presented in the following reports: *Final Report of the 2004 Election Day Survey,* by Kimball W. Brace and Dr. Michael P. McDonald, September 27, 2005; and *Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 2003–2004, A Report to the 109th Congress,* June 30, 2005.

Rhode Island Secretary of State: Verification of precinct and district assignment codes in municipal registered voter files and production of street files for a statewide voter registration database, on-going maintenance of street file, 2004-2006, 2008-2014, 2016-2017.

Rhode Island Secretary of State, State Board of Elections & all cities & towns: production of precinct maps statewide, 2012, 2002, 1992

District of Columbia, Board of Elections and Ethics (DCBOEE): Verification of election ward, Advisory Neighborhood Commission (ANC), and Single-Member District (SMD) boundaries and production of a new street locator, 2003. Similar project, 1993.

Harris County, Tex.: Analysis of census demographics to identify precincts with language minority populations requiring bilingual assistance, 2002–03

(Election Administration Consulting, cont.)

Cook County, Ill., Election Department and Chicago Board of Election Commissioners:
- Analysis of census demographics to identify precincts with language minority populations requiring bilingual assistance, 2019, 2010-2013, 2002–03
- Study on voting equipment usage and evaluation of punch card voting system, 1997

Chicago Board of Election Commissioners: Worked with Executive Director & staff in Mapping Dept. to redraw citywide precincts, eliminate over 600 to save costs, 2011-12

Library of Congress, Congressional Research Service: Nationwide, biannual studies on voter registration and turnout rates, 1978–2002

U.S. General Accounting Office (GAO), U.S. Dept. of Justice, and numerous voting equipment vendors and media: Data on voting equipment usage throughout the United States, 1980–present

Needs assessments and systems requirement analyses for the development of statewide voter registration systems:
- Illinois State Board of Elections: 1997
- North Carolina State Board of Elections, 1995
- Secretary of Commonwealth of Pennsylvania, 1996

Federal Election Commission, Office of Election Administration:
- Study on integrating local voter registration databases into statewide systems, 1995
- Nationwide workshops on election administration topics, 1979–80
- Study on use of statistics by local election offices, 1978–79

Cuyahoga County, Ohio, Board of Elections: Feasibility study on voting equipment, 1979

Winograd Commission, Democratic National Committee: Analysis of voting patterns, voter registration and turnout rates, and campaign expenditures from 1976 primary elections

Mapping and GIS

Activities include mapping and GIS software development (geographic information systems) for election administration and updating TIGER/Line files for the decennial census.

2000 Census Transportation Planning Package (CTPP), 1998–99: GIS software for the U.S. Department of Transportation to distribute to 400 metropolitan planning organizations (MPOs) and state transportation departments for mapping traffic analysis zones (TAZs) for the 2000 census; provided technical software support to MPOs

Census 2000, 2010 and 2020 Redistricting Data Program, Block Boundary Suggestion Project (Phase 1) and Voting District Project (Phase 2), 1995–99: GIS software and provided software, databases, and technical software support to the following program participants:
- Alaska Department of Labor
- Connecticut Joint Committee on Legislative Management

- Illinois State Board of Elections
- Indiana Legislative Services Agency
- Iowa Legislative Service Bureau

(Mapping & GIS Support, cont.)

- New Mexico Legislative Council Service
- Rhode Island General Assembly
- Virginia Division of Legislative Services

Developed PRECIS® Precinct Information System—GIS software to delineate voting precinct boundaries—and delivered software, databases, and technical software support to the following state and local election organizations (with date of installation):

- Cook County, Ill., Department of Elections (1993)
- Marion County, Fla., Supervisor of Elections (1995)
- Berks County Clerk, Penn. (1995)
- Hamilton County, Ohio, Board of Elections (1997)
- Brevard County, Fla., Supervisor of Elections (1999)
- Osceola County, Fla., Supervisor of Elections (1999)
- Multnomah County, Ore, Elections Division (1999)
- Chatham County, Ga., Board of Elections (2000)
- City of Chicago, Ill., Board of Election Commissioners (2000)
- Mahoning County, Ohio, Board of Elections (2000)
- Iowa Secretary of State, Election and Voter Registrations Divisions (2001)
- Woodbury County, Iowa, Elections Department (2001)
- Franklin County, Ohio, Board of Elections (2001)
- Cobb County, Ga., Board of Elections and Voter Registration (2002)

Illinois State Board of Elections, Chicago Board of Election Commissioners, and Cook County Election Department: Detailed maps of congressional, legislative, judicial districts, 1992

Associated Press: Development of election night mapping system, 1994

Litigation Support

Activities include data analysis, preparation of court documents and expert witness testimony. Areas of expertise include the census, demographic databases, district compactness and contiguity, racial bloc voting, communities of interest, and voting systems. Redistricting litigation activities also include database construction and the preparation of substitute plans.

State of Alabama vs. US Department of Commerce, et al (2019-2020) apportionment & citizenship data

NAACP vs. Denise Merrill, CT Secretary of State, et al (2019-2020) state legislative redistricting and prisoner populations

Latasha Holloway, et al. v. City of Virginia Beach, VA (2019) city council redistricting

Joseph V. Aguirre vs. City of Placentia, CA (2018-2019), city council redistricting

Davidson, et al & ACLU of Rhode Island vs. City of Cranston, RI (2014-16), city council & school committee redistricting with prisoner populations.

Navaho Nation v. San Juan County, UT (2014-17) county commissioner & school board districts.

Michael Puyana vs. State of Rhode Island (2012) state legislature redistricting

(Litigation Support, cont.)

United States of America v. Osceola County, Florida, (2006), county commissioner districts.

Deeds vs McDonnell (2005), Va. Attorney General Recount

Indiana Democratic Party, et al., v. Todd Rokita, et al. (2005), voter identification.

Linda Shade v. Maryland State Board of Elections (2004), electronic voting systems

Gongaley v. City of Aurora, Ill. (2003), city council districts

State of Indiana v. Sadler (2003), ballot design (city of Indianapolis-Marion County, Ind.)

Peterson v. Borst (2002–03), city-council districts (city of Indianapolis-Marion County, Ind.)

New Rochelle Voter Defense Fund v. City of New Rochelle, City Council of New Rochelle, and Westchester County Board Of Elections (2003), city council districts (New York)

Charles Daniels and Eric Torres v. City of Milwaukee Common Council (2003), council districts (Wisconsin)

The Louisiana House of Representatives v. Ashcroft (2002–03), state house districts

Camacho v. Galvin and *Black Political Caucus v. Galvin* (2002–03), state house districts (Massachusetts)

Latino Voting Rights Committee of Rhode Island, et al., v. Edward S. Inman, III, et al. (2002–03), state senate districts

Metts, v. Harmon, Almond, and Harwood, et al. (2002–03), state senate districts (Rhode Island)

Joseph F. Parella, et al. v. William Irons, et al. (2002–03), state senate districts (Rhode Island)

Jackson v. County of Kankakee (2001–02), county commissioner districts (Illinois)

Corbett, et al., v. Sullivan, et al. (2002), commissioner districts (St Louis County, Missouri)

Harold Frank, et al., v. Forest County, et al. (2001–02), county commissioner districts (Wisc.)

Albert Gore, Jr., et al., v. Katherine Harris as Secretary of State, State of Florida, et al., and The Miami Dade County Canvassing Board, et al., and The Nassau County Canvassing Board, et al., and The Palm Beach County Canvassing Board, et al., and George W. Bush, et al (2000), voting equipment design — Leon County, Fla., Circuit Court hearing, December 2, 2000, on disputed ballots in Broward, Volusia, Miami-Dade, and Palm Beach counties from the November 7, 2000, presidential election.

Barnett v. Daley/PACI v. Daley/Bonilla v. Chicago City Council (1992–98), city wards

Donald Moon, et al. v. M. Bruce Meadows, etc and Curtis W. Harris, et al. (1996–98), congressional districts (Virginia)

Melvin R. Simpson, et al. v. City of Hampton, et al. (1996–97), city council districts (Va.)

Vera vs. Bush (1996), Texas redistricting

In the Matter of the Redistricting of Shawnee County Kansas and Kingman, et al. v. Board of County Commissioners of Shawnee County, Kansas (1996), commissioner districts

Vecinos de Barrio Uno v. City of Holyoke (1992–96), city council districts (Massachusetts)

(Litigation Support, cont.)

Torres v. Cuomo (1992–95), congressional districts (New York)

DeGrandy v. Wetherell (1992–94), congressional, senate, and house districts (Florida)

Johnson v. Miller (1994), congressional districts (Georgia)

Jackson, et al v Nassau County Board of Supervisors (1993), form of government (N.Y.)

Gonzalez v. Monterey County, California (1992), county board districts

LaPaille v. Illinois Legislative Redistricting Commission (1992), senate and house districts

Black Political Task Force v. Connolly (1992), senate and house districts (Massachusetts)

Nash v. Blunt (1992), house districts (Missouri)

Fund for Accurate and Informed Representation v. Weprin (1992), assembly districts (N.Y.)

Mellow v. Mitchell (1992), congressional districts (Pennsylvania)

Phillip Langsdon v. Milsaps (1992), house districts (Tennessee)

Smith v. Board of Supervisors of Brunswick County (1992), supervisor districts (Virginia)

People of the State of Illinois ex. rel. Burris v. Ryan (1991–92), senate and house districts

Good v. Austin (1991–92), congressional districts (Michigan)

Neff v. Austin (1991–92), senate and house districts (Michigan)

Hastert v. Illinois State Board of Elections (1991), congressional districts

Republican Party of Virginia et al. v. Wilder (1991), senate and house districts

Jamerson et al. v. Anderson (1991), senate districts (Virginia)

Ralph Brown v. Iowa Legislative Services Bureau (1991), redistricting database access

Williams, et al. v. State Board of Election (1989), judicial districts (Cook County, Ill.)

Fifth Ward Precinct 1A Coalition and Progressive Association v. Jefferson Parish School Board (1988–89), school board districts (Louisiana)

Michael V. Roberts v. Jerry Wamser (1987–89), St. Louis, Mo., voting equipment

Brown v. Board of Commissioners of the City of Chattanooga, Tenn. (1988), county commissioner districts

Business Records Corporation v. Ransom F. Shoup & Co., Inc. (1988), voting equip. patent

East Jefferson Coalition for Leadership v. The Parish of Jefferson (1987–88), parish council districts (Louisiana)

Buckanaga v. Sisseton School District (1987–88), school board districts (South Dakota)

Griffin v. City of Providence (1986–87), city council districts (Rhode Island)

United States of America v. City of Los Angeles (1986), city council districts

Latino Political Action Committee v. City of Boston (1984–85), city council districts

Ketchum v. Byrne (1982–85), city council districts (Chicago, Ill.)

(Litigation Support, cont.)

State of South Carolina v. United States (1983–84), senate districts — U.S. Dept. of Justice

Collins v. City of Norfolk (1983–84), city council districts (Virginia) — for Lawyers' Committee for Civil Rights

Rybicki v. State Board of Elections (1981–83), senate and house districts (Illinois)

Licht v. State of Rhode Island (1982–83), senate districts (Rhode Island)

Agerstrand v. Austin (1982), congressional districts (Michigan)

Farnum v. State of Rhode Island (1982), senate districts (Rhode Island)

In Re Illinois Congressional District Reapportionment Cases (1981), congressional districts

Publications

"EAC Survey Sheds Light on Election Administration", *Roll Call*, October 27, 2005 (with Michael McDonald)

Developing a Statewide Voter Registration Database: Procedures, Alternatives, and General Models, by Kimball W. Brace and M. Glenn Newkirk, edited by William Kimberling, (Washington, D.C.: Federal Election Commission, Office of Election Administration, Autumn 1997).

The Election Data Book: A Statistical Portrait of Voting in America, 1992, Kimball W. Brace, ed., (Bernan Press, 1993)

"Geographic Compactness and Redistricting: Have We Gone Too Far?", presented to Midwestern Political Science Association, April 1993 (with D. Chapin and R. Niemi)

"Whose Data is it Anyway: Conflicts between Freedom of Information and Trade Secret Protection in Redistricting", *Stetson University Law Review*, Spring 1992 (with D. Chapin and W. Arden)

"Numbers, Colors, and Shapes in Redistricting," *State Government News*, December 1991 (with D. Chapin)

"Redistricting Roulette," *Campaigns and Elections*, March 1991 (with D. Chapin)

"Redistricting Guidelines: A Summary", presented to the Reapportionment Task Force, National Conference on State Legislatures, November 9, 1990 (with D. Chapin and J. Waliszewski)

"The 65 Percent Rule in Legislative Districting for Racial Minorities: The Mathematics of Minority Voting Equality," *Law and Policy*, January 1988 (with B. Grofman, L. Handley, and R. Niemi)

"Does Redistricting Aimed to Help Blacks Necessarily Help Republicans?" *Journal of Politics*, February 1987 (with B. Grofman and L. Handley)

"New Census Tools," *American Demographics*, July/August 1980

Professional Activities

Member, Task Force on Long Lines in 2012 Election, Prince William County, VA

Member, 2010 Census Advisory Committee, a 20-member panel advising the Director of the Census on the planning and administration of the 2010 census.

Delegate, Second Trilateral Conference on Electoral Systems (Canada, Mexico, and United States), Ontario, Canada, 1995; and Third Trilateral Conference on Electoral Systems, Washington, D.C., 1996

Member, American Association of Political Consultants

Member, American Association for Public Opinion Research

Member, American Political Science Association

Member, Association of American Geographers, Census Advisory Committee

Member Board of Directors, Association of Public Data Users

Member, National Center for Policy Alternatives, Voter Participation Advisory Committee

Member, Urban and Regional Information Systems Association

Historical Activities

Member, Manassas Battlefield Trust Board Member, 2018 -- current

Member, Historical Commission, Prince William County, VA., 2015 – current. Elected Chairman in 2017, re-elected 2018

Member of Executive Committee & head of GIS Committee, Bull Run Civil War Round Table, Centerville, VA. 2015 – current

Member, Washington Capitals Fan Club, Executive Board 2017 -- current

February, 2020

EXHIBIT B

Election Data Services

6171 Emerywood Court
Manassas, Virginia 20112

202 789.2004 tel. or
703 580.7267
703 580.6258 fax
Info@electiondataservices.com

FOR IMMEDIATE RELEASE

Date: December 30, 2019
Contact: Kimball W. Brace
Tel.: (202) 789–2004 or (703) 580-7267
Email: kbrace@electiondataservices.com
Website: www.electiondataservices.com

Montana Gains California's Seat With New 2019 Census Estimates; But Alabama & Ohio to also lose by 2020

New Census Bureau population estimates for 2019 released today shows a change of one more seat between two states from last year's study generated by Election Data Services, Inc. on which states would gain or lose congressional seats if the current estimate numbers were used for apportionment in 2019. But projecting these numbers to 2020, using several different methods, leads to more states being impacted by the decennial census scheduled to take place in just four months. These numbers could also be majorly impacted by how well the Commerce Department and Census Bureau conducts the census, how well the American public responds to this decennial exercise, the first where major components will be conducted via the internet, and whether the discussion on citizenship over the past year will cause some groups to avoid participating. A changed practice on how to count the military overseas could also change the final apportionment when it is announced December 31, 2020.

The Bureau's 2019 total population estimates show that now 15 states will be impacted by changes in their congressional delegation if these new numbers were used for apportionment today. The state of **Montana** joins the previously indicated states of **Arizona, Colorado, Florida**, **North Carolina**, and **Oregon** to each gain a single seat while the state of **Texas** is now shown to gain a second seat with the new data. The state of **California** joins the states of **Illinois**, **Michigan**, **Minnesota, New York, Pennsylvania, Rhode Island,** and **West Virginia** to lose a seat in Congress using the new data. A map of the 2019 numbers is attached.

The new numbers, however, reflect subtle changes taking place across the nation in birth and death rates and resulting total population numbers that become magnified when the information is projected forward to coincide with the taking of the Census on April 1, 2020. Election Data Services created a variety of different methodologies to project the 2019 data forward nine months (from the July1, 2019 date of the Census estimates) to April 1, 2020 (several short-term projection methods for the trend occurring in 2018-2019, and 2017-2019, a middle term

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methodology using the 2015-2019 trend, and a long-term projection for 2011-2019). The different methodologies benefit some states and disadvantage others in the "musical-chairs" effort of allocating 435 seats to the 50 states. All the methods would add a second seat for **Florida** and a third seat for **Texas,** to the list of states noted above that will gain one or more seats by 2020. The list of losing states will expand to also include **Alabama** and **Ohio**, by the time the Census is taken in 2020. A map showing the 2020 projected apportionment using the 2018-2019 trend is attached. Because all the projection models produce the same state overall results in seats as the 2018-2019 trend map, only the tables of the calculations for the different projection models are attached so that how close states are to changes can be observed.

The new 2019 data and all projections forward to 2020 now confirms that **California** will lose a congressional district in 2020. Our 2018 study first picked up the possibility that **California** could lose a congressional district for the first time in their nearly 160-year history. The new 2019 numbers from the Bureau indicate the state would lose that seat by 98,709 people but projecting the data forward to 2020 shows the state further away from potentially keeping that seat, losing it by over 300,000 people in 2020.

While the 2019 Census estimate numbers show **Alabama** keeping their seventh seat by a slim margin of just 18,516 people, projecting the data forward to 2020 would find the state losing the seventh seat by only 10,072 to 19,074 people, depending on the projection model utilized. All of the projection models find **Alabama** just missing the last seat to be apportioned, coming in at seat #436 when there are only 435 seats to hand out (a cut-off mark established in 1910).

The state of **Montana** is just barely able to reverse previous decades of population shifts when it went from two seats down to one in 1990. For 2020 the state is projected to go back to having two seats, but that gain of a second seat is because the state occupies the dubious distinction of obtaining seat #435, the last one to be apportioned. Election Data Services calculations show **Montana** getting that additional seat by only between 2,402 and 4,163 people to spare; a very close margin.

Rhode Island is also a state with an extremely close margin. For most of the decade our studies have projected that **Rhode Island** would lose their second seat by the end of the decade and the new numbers confirm that projection. But their margin has gotten tighter with the new data. For the past several years we saw that **Rhode Island** would lose that second seat by more than 25,000 people. But this new data shows the state missing the seat by only 14,539 residents.

Previous Election Data Services studies have hinted that the states of **Illinois** and **New York** might be in a position to each lose a second seat by 2020. However, these new Census numbers seem to indicate this will not be the case, with both states just losing a single seat each.

The state of **Minnesota** is also close to the margin of likely losing a seat in Congress. All of the projections place the state at position #437, having lost their last seat (their 8th) by between 6,740 people (the 2019 estimate) to around 21,000 people. **Minnesota**'s state demographer has indicated that recent influx of people to the state has boosted their numbers and it is likely to have had an impact on reapportionment.

Using any methodology, the population projections points toward a ten (10) seat change over 17 states across the nation by year 2020. States that will gain single seats include **Arizona**, **Colorado**, **Montana**, **North Carolina**, and **Oregon**, while **Florida** is set to gain two congressional districts and **Texas** would gain three seats. Single seat losses will again occur in the Midwest and Northeast sections of the nation, where **Alabama**, **California, Illinois, Michigan**, **Minnesota, New York**, **Ohio**, **Pennsylvania, Rhode Island** and **West Virginia** would each lose a seat. All other states would keep the same number of representatives they were awarded in December 2010 when the official 2010 Census numbers were released.

In table form, the gainers and losers are:

States Gaining Districts (7)	States Losing Districts (10)
Arizona +1 (from 9 to 10)	**Alabama** -1 (from 7 to 6)
Colorado +1 (from 7 to 8)	**California** -1 (from 53 to 52)
Florida +2 (from 27 to 29)	**Illinois** -1 (from 18 to 17)
Montana +1 (from At-large to 2)	**Michigan** -1 (from 14 to 13)
North Carolina +1 (from 13 to 14)	**Minnesota** -1 (from 8 to 7)
Oregon +1 (from 5 to 6)	**New York** -1 (from 27 to 26)
Texas +3 (from 36 to 39)	**Ohio** -1 (from 16 to 15)
	Pennsylvania -1 (from 18 to 17)
	Rhode Island -1 (from 2 to 1)
	West Virginia -1 (from 3 to 2)

With only four months until Census Day, many states have appropriated funds to help send a message to their constituents about the importance of participating in the Census[i]. Many of these states are on the edge of gaining or losing a seat in the apportionment process, but there are some notable exceptions. For example, Texas has not appropriated any funds for Complete Count efforts, and yet whether they stand to gain only two or maybe three additional seats may depend on how good the counting is conducted in the state. This could also be impacted by the reaction to the citizenship issue that has become more of a focus in the past year. Florida has also failed to appropriate any funds for Complete Count efforts in 2020, but they are more firm in the projection of receiving two additional seats in 2020. Thus, the two largest gaining states in number of seats are those that didn't spend their own money to help the counting process.

Since 1941, by law the number of seats in the U.S. House of Representatives has been capped at 435. As a result, there has always been interest in finding which states are close to that magic bubble, either just gaining their last seat, or just missing their next seat. The following table shows the results of the 2019 population estimates, as well as one of the short-term trend methodology calculations (2018-2019) for the seats within five positions of the 435 cut off.

2019 Reapportionment Analysis

2019 Population Estimates			2020 Projections (using 2018-2019 short-term trend)		
Last Five Seats		**Margin of Gain**	**Last Five Seats**		**Margin of Gain**
431	Arizona (10th)	128,294	431	Illinois (17th))	126,052
432	New York (26th)	237,376	432	New York (26th)	61,279
433	Alabama(7th)	18,516	433	Texas (39th)	79,742
434	Montana (2nd)	2,856	434	Montana (2nd)	2,402
435	Ohio (16th)	12,508	435	Florida (29th)	44,285

2019 Reapportionment Analysis

2019 Population Estimates			2020 Projections (using 2018-2019 short-term trend)		
Next Seats		**Margin of Loss**	**Next Seats**		**Margin of Loss**
436	Florida (29th)	23,006	436	Alabama (7th)	10,072
437	Minnesota (8th)	6,740	437	Minnesota (8th))	21,992
438	Texas (39th)	51,004	438	Ohio (16th)	74,135
439	California (53rd)	98,709	439	California (53rd)	344,367
440	Rhode Island (2nd)	7,703	440	Rhode Island (2nd)	14,539

The Census Bureau's yearly release of population estimates also results in a revision of previous year estimates. While Election Data Services has traditionally reflected those revisions in our projection methodology, we have created a new apportionment table that shows the apportionment results for each year in the decade based upon those revised numbers. The table, entitled "2020 Apportionment Calculations based on different trend lines coming from the 2019 Census Bureau Estimates" is attached to this press release. The table shows consistent gains and losses of seats over the entire decade with the new data. The table also includes a chart of where seats # 430 through # 440 would be assigned to states in each projection.

Kimball Brace, President of Election Data Services, Inc. cautioned users that even though there is a very short time before the Census, the population projections are still subject to change. "We are now at a place where the rubber meets the road. How well does the Census Bureau and the Trump administration put on the greatest mobilization of government resources outside of war time? How well will the public respond and answer the Census, given the competing focuses of everyday life and the need to utilize the internet? Will the fear of foreign intervention also impact the census?" Brace noted. "Having worked with Census data and estimates since the 1970s, it is important to remember that major events like Katrina and the 2008 recession each changed population growth patterns and that impacted and changed the next apportionment," he said.

Brace also noted that major changes in the counting process are in the works for 2020 and that reduced budget funding could impact those plans. "History can also be a guide, recalling that the 1920 apportionment was cancelled because the numbers showed for the first time that more people resided in urban areas than rural areas" said Brace. "I have had my share of nightmares that a failed Census process could lead to unreliable numbers and a repeat of 1920."

Because congressional apportionment also impacts the Electoral College and the vote for President, Election Data Services took the 2020 projections for each state and applied the Presidential election results from the past five Presidential contests to determine the Electoral College outcomes in the past 16 years. The study shows that none of the presidential contests would have elected a different presidential candidate using the new apportionment counts but they would have been more Republican in nature. For example, in 2016 President Trump would have gained two additional electoral college votes under the new apportionment projections. In 2012 President Obama would still have won the Electoral College, but with four less votes (328 vs 332) than he won at the time of the voting. The biggest change would have occurred in the 2000 presidential election where George Bush would have gained an additional 20 electoral votes had the new 2020 apportionment projections determined the number of congressional seats in each state.

The 2016 Electoral College was muddled because 7 electors voted for a different candidate than what they had pledged based on the vote totals. As a result, the overall change in candidate votes based on the new apportionment numbers shows just two vote difference in the bottom line results. President elect Trump's ability to carry states that will be losing congressional seats in 2020 also contributed to a reversal of the pattern depicted in previous elections.

It should be noted that the 2020 Presidential election and resulting Electoral College will occur before the results of the 2020 Census are released by December 31, 2020. Therefore, the Electoral College results in 2020 will be governed by the state's apportionment allocation as they exist today, having been first determined in 2011. The first time the new 2020 apportionment results will be utilized will be the 2024 Presidential election. Election Data Services, Inc. has also worked with the website 270ToWin, who has built an interactive map of the these new apportionment results where users can adjust state outcomes to discover Electoral College outcomes for the presidential elections back to 2000.

Major weather events have also affected apportionment. The Census Bureau's estimated populations released for 2005 showed **Louisiana** would keep all their congressional districts that decade. Even the Bureau's own projections for 2010 released that same year showed **Louisiana** staying the same. Then hurricane Katrina hit **Louisiana** at the end of August 2005 (after the date of the population estimates). Devastation and population loss impacted New Orleans in a major way, and when the Bureau's 2006 population estimates were released **Louisiana** was looking at losing a congressional seat. That was ultimately confirmed when the 2010 Census was taken, and state data was released at the end of that year.

As Election Data Services, Inc. noted last year in the 2017 study, the year of 2017 saw 18 hurricanes and tropical storms, three of which had a potential of impact on population movements in the United States. Two of these storms: Irma (impacting Miami and the Florida Gulf Coast), and Maria (which devastated Puerto Rico)) affected **Florida** and the new population estimates reflect that fact. Last years study showed **Florida** was 366,735 people away from gaining a third seat.

The 2019 data shows the state is only 172,169 people away from a third additional seat, an improvement of nearly 200,000 people.

The 2019 population estimates have not been statistically adjusted for any known undercount that may take place when the Census is conducted. In addition, no estimates were provided for U.S. military personnel overseas. This component has in the past been counted by the Census Bureau and allocated to the states based on administrative records retained by the military. Overseas military personnel have been a factor in the apportionment formula for the past several decades, including the switching of the final district in 2000 that went from **Utah** to **North Carolina**.

For 2020 the Census Bureau has changed the "residency rules" for counting the military by creating a distinction between personnel who are *deployed* overseas (usually for short periods of time) compared to those who are *stationed* or *assigned* overseas (frequently for longer periods of time). The Bureau will use DOD's administrative records to count *deployed* personnel at their usual residence in the US for both apportionment and redistricting purposes (they will be embedded within the state's resident population counts). On the other hand, personnel who are *stationed* or *assigned* overseas will be counted to their "home state of record" for apportionment purposes only and will show up as part of a state's total "overseas count" when the Bureau releases the final and official apportionment data by December, 31, 2020. Military sources have told the Census Bureau that of all overseas military, approximately 15% are *deployed* personnel and 85% are *stationed* or *assigned* overseas.

Past apportionment studies by Election Data Services, Inc. can be found at https://www.electiondataservices.com/reapportionment-studies/. A historical chart on the number of districts each state received each decade from 1789 to current is also available at this web address and linkable at https://www.electiondataservices.com/wp-content/uploads/2014/10/CD-apportionment-1789-2010.pdf.

Election Data Services Inc. is a political consulting firm that specializes in redistricting, election administration, and the analysis of census and political data. Election Data Services, Inc. conducts the congressional apportionment analyses with each annual release of the census population estimates. For more information about the reapportionment analysis, contact Kimball Brace (703-580-7267 or 202-789-2004 or kbrace@electiondataservices.com).

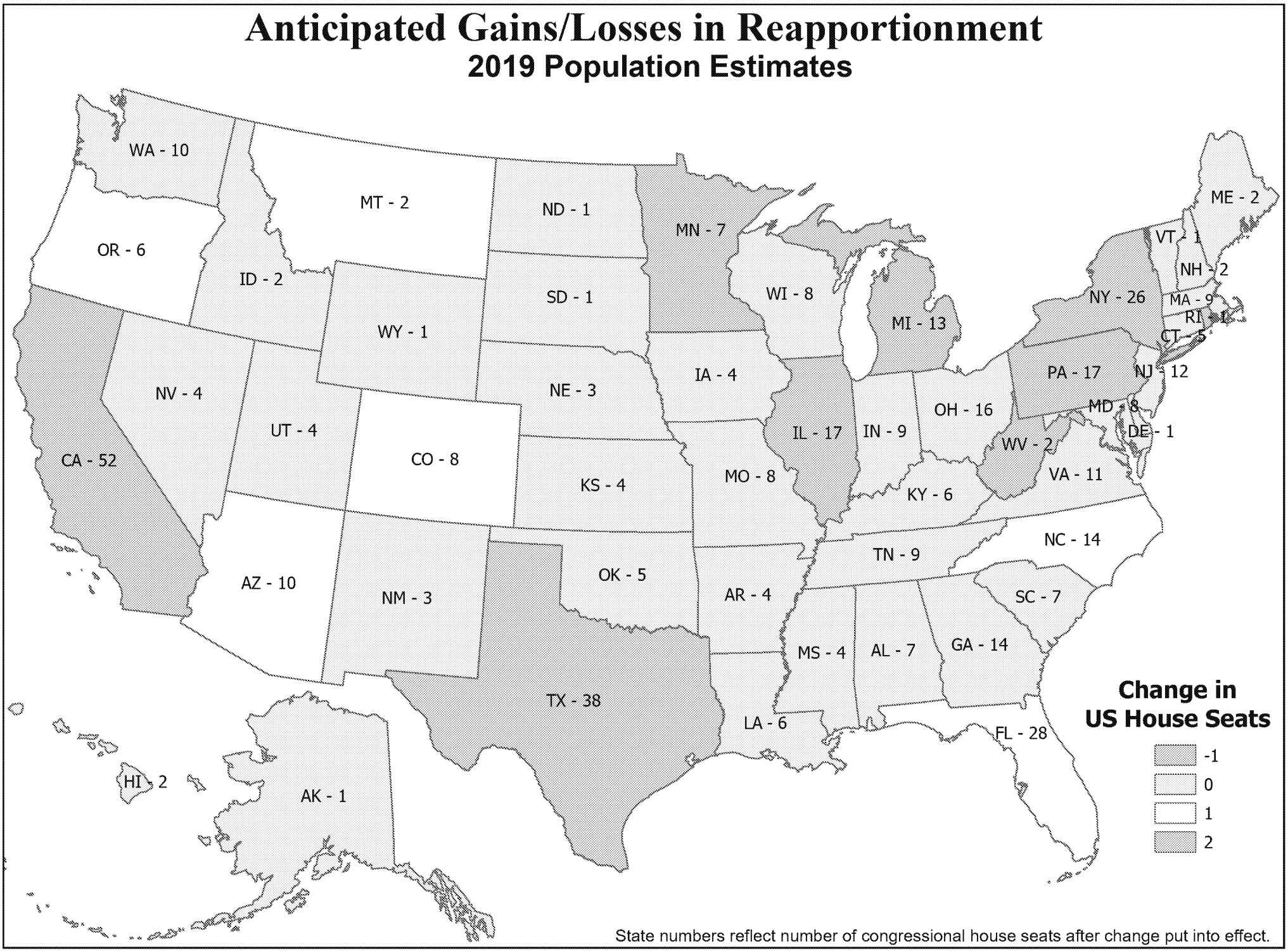
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[i] National Conference of State Legislatures reports 26 states have appropriated funds for Census counting. http://www.ncsl.org/research/redistricting/2020-census-resources-and-legislation.aspx

2019 Population Estimates, Generated by Census Bureau 12/30/2019										
State	Population	Compare To	Seats	Change	Gain a Seat	Lose a Seat	Last Seat Given	Next Seat At	Average Size	Size Rank
Alabama	4,903,185	7	7	0	743,187	18,516	433	502	700,455	43
Alaska	731,545	1	1	0			at large	637	731,545	34
Arizona	7,278,717	9	10	1	634,842	128,294	431	472	727,872	37
Arkansas	3,017,804	4	4	0	356,549	406,839	378	490	754,451	24
California	39,512,223	53	52	-1	98,709	697,431	430	439	759,850	20
Colorado	5,758,736	7	8	1	643,648	118,406	428	487	719,842	39
Connecticut	3,565,287	5	5	0	567,434	194,546	413	507	713,057	40
Delaware	973,764	1	1	0			at large	477	973,764	2
Florida	21,477,737	27	28	1	23,006	753,842	421	436	767,062	15
Georgia	10,617,423	14	14	0	316,729	449,174	419	446	758,387	22
Hawaii	1,415,872	2	2	0	432,337	349,950	330	565	707,936	41
Idaho	1,787,065	2	2	0	61,144	721,143	262	449	893,533	4
Illinois	12,671,821	18	17	-1	527,032	241,139	429	454	745,401	29
Indiana	6,732,219	9	9	0	425,864	336,686	417	465	748,024	28
Iowa	3,155,070	4	4	0	219,283	544,105	362	468	788,768	9
Kansas	2,913,314	4	4	0	461,039	302,349	393	505	728,329	36
Kentucky	4,467,673	6	6	0	422,229	339,375	402	474	744,612	30
Louisiana	4,648,794	6	6	0	241,108	520,496	390	459	774,799	11
Maine	1,344,212	2	2	0	503,997	278,290	344	597	672,106	46
Maryland	6,045,680	8	8	0	356,704	405,350	407	462	755,710	23
Massachusetts	6,892,503	9	9	0	265,580	496,970	405	451	765,834	16
Michigan	9,986,857	14	13	-1	192,285	572,888	411	442	768,220	13
Minnesota	5,639,632	8	7	-1	6,740	754,963	379	437	805,662	6
Mississippi	2,976,149	4	4	0	398,204	365,184	385	493	744,037	31
Missouri	6,137,428	8	8	0	264,956	497,098	399	456	767,179	14
Montana	1,068,778	1	2	1	779,431	2,856	434	734	534,389	50
Nebraska	1,934,408	3	3	0	679,355	88,177	418	586	644,803	47
Nevada	3,080,156	4	4	0	294,197	469,191	371	476	770,039	12
New Hampshire	1,359,711	2	2	0	488,498	293,789	339	589	679,856	45
New Jersey	8,882,190	12	12	0	541,864	222,598	426	464	740,183	32
New Mexico	2,096,829	3	3	0	516,934	250,598	387	542	698,943	44
New York	19,453,561	27	26	-1	537,876	237,376	432	444	748,214	27
North Carolina	10,488,084	13	14	1	446,068	319,835	423	455	749,149	26
North Dakota	762,062	1	1	0			at large	613	762,062	18
Ohio	11,689,100	16	16	0	754,898	12,508	435	466	730,569	35
Oklahoma	3,956,971	5	5	0	175,750	586,230	374	457	791,394	8
Oregon	4,217,737	5	6	1	672,165	89,439	427	508	702,956	42
Pennsylvania	12,801,989	18	17	-1	396,864	371,307	424	447	753,058	25
Rhode Island	1,059,361	2	1	-1			at large	440	1,059,361	1
South Carolina	5,148,714	7	7	0	497,658	264,045	415	478	735,531	33
South Dakota	884,659	1	1	0			at large	524	884,659	5
Tennessee	6,829,174	9	9	0	328,909	433,641	409	458	758,797	21
Texas	28,995,881	36	38	2	51,004	733,864	425	438	763,050	17
Utah	3,205,958	4	4	0	168,395	594,993	355	460	801,490	7
Vermont	623,989	1	1	0			at large	729	623,989	48
Virginia	8,535,519	11	11	0	133,350	630,429	404	441	775,956	10
Washington	7,614,893	10	10	0	298,666	464,470	410	452	761,489	19
West Virginia	1,792,147	3	2	-1	56,062	726,225	261	448	896,074	3
Wisconsin	5,822,434	8	8	0	579,950	182,104	422	480	727,804	38
Wyoming	578,759	1	1	0			at large	781	578,759	49
Washington DC	705,749	*0*								
	328,239,523		435					Median =	751,104	
Other Inputs:	Seats to Apportion							Min =	534,389	
435	Max Seats to Calculate							Max =	1,059,361	
75	States									
50										
☐ Include										

Anticipated Gains/Losses in Reapportionment

2019 Population Estimates



State numbers reflect number of congressional house seats after change put into effect.

Election Data Services

Based on Census Bureau estimates released 12/30/2019

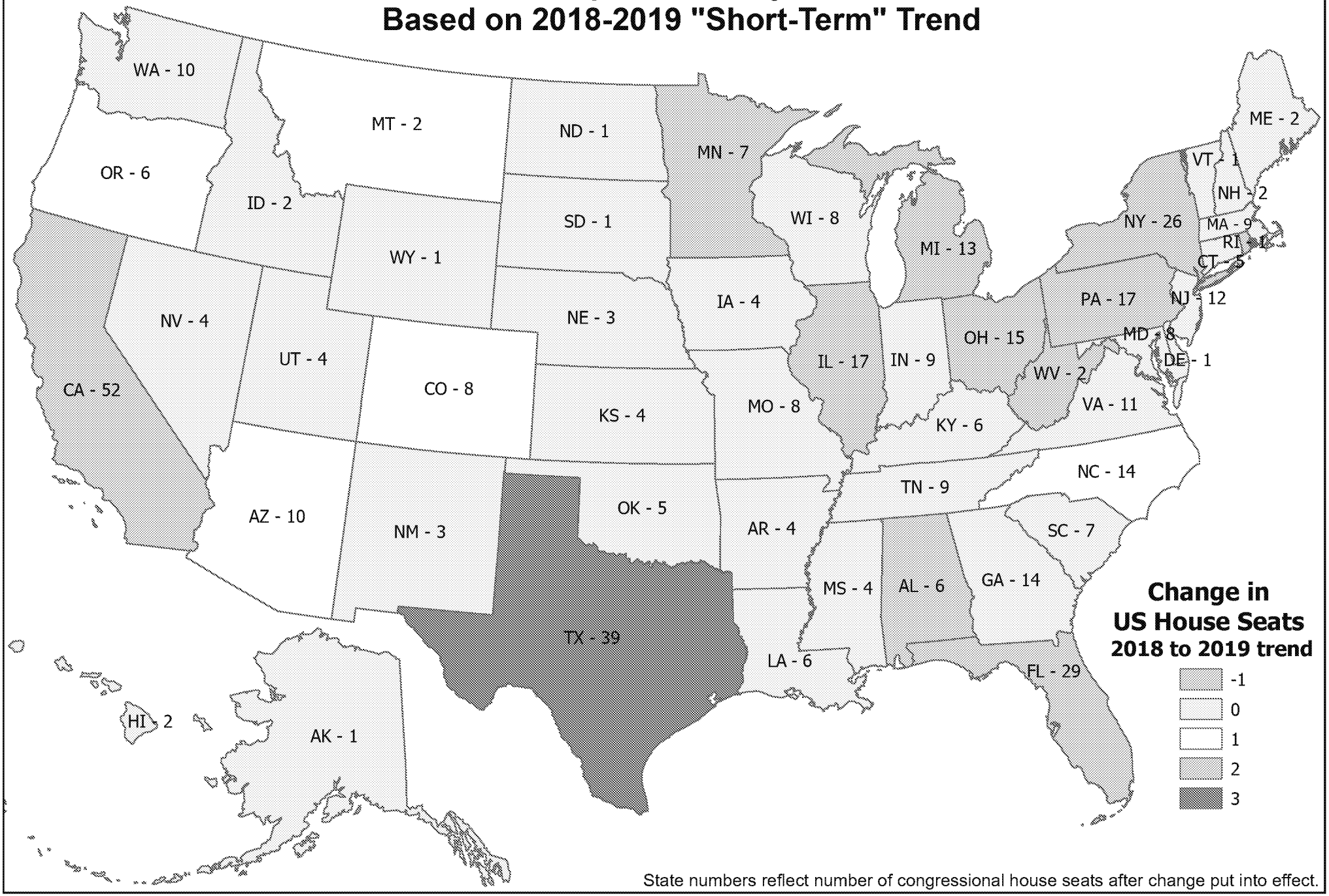
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2020 Projections (short term 2018-2019 change) based on 2019 Population Estimates, Generated by Census Bureau 12/30/2019										
State	Population	Compare To	Seats	Change	Gain a Seat	Lose a Seat	Last Seat Given	Next Seat At	Average Size	Size Rank
Alabama	4,914,850	7	6	-1	10,072	761,044	371	436	819,142	6
Alaska	728,863	1	1	0			at large	640	728,863	38
Arizona	7,370,763	9	10	1	599,470	176,160	425	471	737,076	36
Arkansas	3,023,873	4	4	0	374,646	396,776	379	489	755,968	24
California	39,550,248	53	52	-1	344,367	495,632	430	439	760,582	22
Colorado	5,809,922	7	8	1	638,314	134,743	426	485	726,240	40
Connecticut	3,560,620	5	5	0	601,698	169,052	416	508	712,124	41
Delaware	980,031	1	1	0			at large	475	980,031	2
Florida	21,654,726	27	29	2	760,045	44,285	435	447	746,715	29
Georgia	10,697,948	14	14	0	314,512	466,873	417	446	764,139	20
Hawaii	1,412,343	2	2	0	449,103	339,835	334	572	706,172	43
Idaho	1,815,033	2	2	0	46,412	742,526	261	443	907,517	3
Illinois	12,633,538	18	17	-1	659,841	126,052	431	460	743,149	32
Indiana	6,759,912	9	9	0	449,436	324,863	415	464	751,101	27
Iowa	3,159,919	4	4	0	238,600	532,822	362	468	789,980	10
Kansas	2,914,781	4	4	0	483,738	287,684	395	507	728,695	39
Kentucky	4,472,570	6	6	0	452,352	318,764	402	478	745,428	31
Louisiana	4,640,641	6	6	0	284,281	486,835	392	461	773,440	14
Maine	1,348,093	2	2	0	513,353	275,585	342	596	674,047	46
Maryland	6,053,101	8	8	0	395,136	377,921	409	462	756,638	23
Massachusetts	6,899,915	9	9	0	309,433	464,866	406	453	766,657	18
Michigan	9,988,946	14	13	-1	263,096	516,811	413	444	768,380	17
Minnesota	5,664,818	8	7	-1	21,992	749,969	377	437	809,260	8
Mississippi	2,972,502	4	4	0	426,017	345,404	386	497	743,125	33
Missouri	6,149,312	8	8	0	298,924	474,133	400	457	768,664	15
Montana	1,074,909	1	2	1	786,537	2,402	434	735	537,455	50
Nebraska	1,941,034	3	3	0	691,448	83,395	418	587	647,011	47
Nevada	3,120,458	4	4	0	278,061	493,361	369	473	780,115	11
New Hampshire	1,364,417	2	2	0	497,029	291,909	339	589	682,209	45
New Jersey	8,879,315	12	12	0	612,232	166,218	429	465	739,943	35
New Mexico	2,099,901	3	3	0	532,581	242,263	387	542	699,967	44
New York	19,396,195	27	26	-1	738,416	61,279	432	449	746,007	30
North Carolina	10,568,755	13	14	1	443,705	337,679	421	451	754,911	25
North Dakota	765,064	1	1	0			at large	612	765,064	19
Ohio	11,698,680	16	15	-1	74,135	708,742	410	438	779,912	12
Oklahoma	3,969,576	5	5	0	192,743	578,008	374	456	793,915	9
Oregon	4,244,856	5	6	1	680,066	91,050	428	505	707,476	42
Pennsylvania	12,802,789	18	17	-1	490,590	295,303	427	450	753,105	26
Rhode Island	1,060,167	2	1	-1			at large	440	1,060,167	1
South Carolina	5,197,747	7	7	0	489,063	282,898	412	474	742,535	34
South Dakota	889,160	1	1	0			at large	525	889,160	5
Tennessee	6,872,698	9	9	0	336,649	437,649	408	458	763,633	21
Texas	29,274,825	36	39	3	740,080	79,742	433	442	750,637	28
Utah	3,245,917	4	4	0	152,602	618,820	350	454	811,479	7
Vermont	623,712	1	1	0			at large	731	623,712	48
Virginia	8,561,297	11	11	0	169,656	607,364	403	441	778,300	13
Washington	7,683,987	10	10	0	286,246	489,384	407	448	768,399	16
West Virginia	1,783,100	3	2	-1	78,346	710,593	264	452	891,550	4
Wisconsin	5,833,734	8	8	0	614,502	158,555	424	483	729,217	37
Wyoming	579,629	1	1	0			at large	782	579,629	49
Washington DC	708,919	*0*								
	329,418,113		435					Median =	754,008	
Other Inputs:	Seats to Apportion							Min =	537,455	
435	Max Seats to Calculate							Max =	1,060,167	
75	States									
50										
☐ Include										

Anticipated Gains/Losses in Reapportionment

2020 Population Projections

Based on 2018-2019 "Short-Term" Trend



State numbers reflect number of congressional house seats after change put into effect.

Election Data Services

Based on Census Bureau estimates released 12/30/2019

2020 Projections (short term 2017-2019 change) based on 2019 Population Estimates, Generated by Census Bureau 12/30/2019										
State	Population	Compare To	Seats	Change	Gain a Seat	Lose a Seat	Last Seat Given	Next Seat At	Average Size	Size Rank
Alabama	4,914,010	7	6	-1	12,184	760,914	372	436	819,002	6
Alaska	728,521	1	1	0			at large	640	728,521	39
Arizona	7,369,666	9	10	1	602,627	176,291	426	471	736,967	36
Arkansas	3,024,010	4	4	0	375,387	397,361	379	490	756,002	24
California	39,570,095	53	52	-1	334,826	522,150	430	439	760,963	22
Colorado	5,815,246	7	8	1	634,656	141,036	425	485	726,906	40
Connecticut	3,562,290	5	5	0	601,104	171,301	416	508	712,458	41
Delaware	980,229	1	1	0			at large	475	980,229	2
Florida	21,675,262	27	29	2	745,300	68,512	433	447	747,423	29
Georgia	10,696,628	14	14	0	318,677	467,300	417	446	764,045	20
Hawaii	1,412,696	2	2	0	449,231	340,371	334	572	706,348	43
Idaho	1,814,121	2	2	0	47,806	741,797	261	444	907,061	3
Illinois	12,632,029	18	17	-1	664,784	126,679	431	460	743,061	32
Indiana	6,760,331	9	9	0	450,878	326,382	415	464	751,148	27
Iowa	3,160,162	4	4	0	239,235	533,513	362	468	790,040	10
Kansas	2,915,040	4	4	0	484,357	288,392	395	507	728,760	38
Kentucky	4,473,470	6	6	0	452,724	320,373	402	478	745,578	31
Louisiana	4,640,670	6	6	0	285,525	487,573	392	461	773,445	14
Maine	1,347,838	2	2	0	514,089	275,513	343	597	673,919	46
Maryland	6,053,889	8	8	0	396,013	379,679	409	462	756,736	23
Massachusetts	6,904,829	9	9	0	306,381	470,880	406	453	767,203	18
Michigan	9,992,018	14	13	-1	262,673	521,500	413	443	768,617	17
Minnesota	5,667,521	8	7	-1	20,758	753,511	377	437	809,646	8
Mississippi	2,971,533	4	4	0	427,864	344,884	386	497	742,883	33
Missouri	6,149,020	8	8	0	300,882	474,810	400	457	768,628	16
Montana	1,074,984	1	2	1	786,943	2,659	435	735	537,492	50
Nebraska	1,941,398	3	3	0	691,764	84,077	418	587	647,133	47
Nevada	3,123,035	4	4	0	276,362	496,386	368	473	780,759	11
New Hampshire	1,363,841	2	2	0	498,086	291,516	339	589	681,920	45
New Jersey	8,880,940	12	12	0	613,059	169,331	429	465	740,078	35
New Mexico	2,098,725	3	3	0	534,436	241,405	387	543	699,575	44
New York	19,402,911	27	26	-1	736,901	71,298	432	449	746,266	30
North Carolina	10,572,293	13	14	1	443,011	342,965	421	451	755,164	25
North Dakota	764,757	1	1	0			at large	612	764,757	19
Ohio	11,700,172	16	15	-1	75,684	712,111	410	438	780,011	12
Oklahoma	3,966,654	5	5	0	196,740	575,666	374	458	793,331	9
Oregon	4,246,026	5	6	1	680,168	92,930	428	505	707,671	42
Pennsylvania	12,807,376	18	17	-1	489,438	302,025	427	450	753,375	26
Rhode Island	1,060,749	2	1	-1			at large	440	1,060,749	1
South Carolina	5,197,719	7	7	0	490,560	283,709	411	474	742,531	34
South Dakota	889,140	1	1	0			at large	525	889,140	5
Tennessee	6,875,125	9	9	0	336,085	441,175	408	456	763,903	21
Texas	29,265,114	36	39	3	757,545	75,018	434	442	750,388	28
Utah	3,246,633	4	4	0	152,765	619,984	350	455	811,658	7
Vermont	623,856	1	1	0			at large	731	623,856	48
Virginia	8,562,723	11	11	0	170,486	610,148	403	441	778,429	13
Washington	7,688,570	10	10	0	283,722	495,196	407	448	768,857	15
West Virginia	1,782,953	3	2	-1	78,974	710,629	264	452	891,477	4
Wisconsin	5,834,594	8	8	0	615,308	160,384	424	483	729,324	37
Wyoming	578,695	1	1	0			at large	783	578,695	49
Washington DC	709,879	*0*								
	329,489,985		435					Median =	754,269	
Other Inputs:	Seats to Apportion							Min =	537,492	
435	Max Seats to Calculate							Max =	1,060,749	
75	States									
50										
☐ Include										

2020 Projections (mid- term 2015-2019 change) based on 2019 Population Estimates, Generated by Census Bureau 12/30/2019										
State	Population	Compare To	Seats	Change	Gain a Seat	Lose a Seat	Last Seat Given	Next Seat At	Average Size	Size Rank
Alabama	4,912,817	7	6	-1	19,074	760,729	372	436	818,803	6
Alaska	730,438	1	1	0			at large	638	730,438	37
Arizona	7,368,448	9	10	1	613,064	176,821	427	471	736,845	36
Arkansas	3,025,358	4	4	0	377,971	399,347	379	490	756,339	24
California	39,625,332	53	52	-1	325,736	586,871	430	439	762,026	22
Colorado	5,819,773	7	8	1	637,588	146,941	425	485	727,472	40
Connecticut	3,561,218	5	5	0	606,991	171,053	415	508	712,244	41
Delaware	980,071	1	1	0			at large	475	980,071	2
Florida	21,730,551	27	29	2	715,938	129,049	432	447	749,329	29
Georgia	10,703,281	14	14	0	324,762	476,437	417	446	764,520	19
Hawaii	1,414,718	2	2	0	449,362	342,654	334	570	707,359	43
Idaho	1,814,667	2	2	0	49,413	742,603	261	444	907,333	3
Illinois	12,637,252	18	17	-1	674,939	134,938	431	460	743,368	33
Indiana	6,755,866	9	9	0	463,683	323,479	416	465	750,652	28
Iowa	3,161,536	4	4	0	241,793	535,525	362	468	790,384	10
Kansas	2,914,122	4	4	0	489,206	288,111	395	507	728,531	39
Kentucky	4,475,565	6	6	0	456,326	323,477	402	478	745,927	31
Louisiana	4,645,835	6	6	0	286,056	493,748	392	461	774,306	14
Maine	1,347,239	2	2	0	516,841	275,174	344	598	673,619	46
Maryland	6,057,065	8	8	0	400,296	384,233	409	463	757,133	23
Massachusetts	6,911,196	9	9	0	308,353	478,809	406	452	767,911	18
Michigan	9,997,254	14	13	-1	269,296	529,036	414	443	769,020	16
Minnesota	5,670,032	8	7	-1	24,826	757,215	377	437	810,005	8
Mississippi	2,973,848	4	4	0	429,480	347,838	386	497	743,462	32
Missouri	6,149,879	8	8	0	307,482	477,047	400	456	768,735	17
Montana	1,076,227	1	2	1	787,853	4,163	435	735	538,113	50
Nebraska	1,942,679	3	3	0	693,527	85,810	418	587	647,560	47
Nevada	3,123,107	4	4	0	280,221	497,097	369	473	780,777	11
New Hampshire	1,364,168	2	2	0	499,912	292,104	340	589	682,084	45
New Jersey	8,884,864	12	12	0	620,113	175,371	429	466	740,405	35
New Mexico	2,098,247	3	3	0	537,959	241,378	388	543	699,416	44
New York	19,416,240	27	26	-1	746,863	89,321	433	449	746,778	30
North Carolina	10,577,560	13	14	1	450,483	350,716	422	451	755,540	25
North Dakota	763,577	1	1	0			at large	614	763,577	21
Ohio	11,702,603	16	15	-1	86,871	717,210	410	438	780,174	12
Oklahoma	3,965,980	5	5	0	202,229	575,815	375	458	793,196	9
Oregon	4,257,506	5	6	1	674,385	105,418	426	502	709,584	42
Pennsylvania	12,805,211	18	17	-1	506,979	302,898	428	450	753,248	26
Rhode Island	1,059,981	2	1	-1			at large	440	1,059,981	1
South Carolina	5,199,387	7	7	0	495,471	286,570	412	474	742,770	34
South Dakota	890,616	1	1	0			at large	526	890,616	5
Tennessee	6,875,411	9	9	0	344,138	443,024	408	457	763,935	20
Texas	29,297,864	36	39	3	759,514	114,857	434	442	751,227	27
Utah	3,251,140	4	4	0	152,189	625,129	350	455	812,785	7
Vermont	623,759	1	1	0			at large	731	623,759	48
Virginia	8,568,766	11	11	0	174,542	618,123	404	441	778,979	13
Washington	7,704,829	10	10	0	276,683	513,202	407	448	770,483	15
West Virginia	1,783,044	3	2	-1	81,036	710,980	266	453	891,522	4
Wisconsin	5,834,087	8	8	0	623,274	161,255	424	483	729,261	38
Wyoming	577,489	1	1	0			at large	785	577,489	49
Washington DC	711,695	*0*								
	329,739,397		435					Median =	754,394	
Other Inputs:	Seats to Apportion							Min =	538,113	
435	Max Seats to Calculate							Max =	1,059,981	
75	States									
50										
☐ Include										

2020 Projections (long- term 2011-2019 change) based on 2019 Population Estimates, Generated by Census Bureau 12/30/2019										
State	Population	Compare To	Seats	Change	Gain a Seat	Lose a Seat	Last Seat Given	Next Seat At	Average Size	Size Rank
Alabama	4,913,158	7	6	-1	17,500	760,782	372	436	818,860	6
Alaska	732,439	1	1	0			at large	637	732,439	37
Arizona	7,363,698	9	10	1	615,818	171,572	428	472	736,370	36
Arkansas	3,025,225	4	4	0	377,252	399,033	379	490	756,306	24
California	39,696,643	53	52	-1	244,435	655,474	430	438	763,397	22
Colorado	5,825,957	7	8	1	629,790	152,731	425	485	728,245	40
Connecticut	3,563,145	5	5	0	604,021	172,745	415	508	712,629	41
Delaware	980,443	1	1	0			at large	475	980,443	2
Florida	21,733,957	27	29	2	706,919	130,957	433	447	749,447	29
Georgia	10,700,181	14	14	0	325,104	472,628	419	445	764,299	20
Hawaii	1,419,389	2	2	0	444,225	347,250	333	568	709,694	42
Idaho	1,808,554	2	2	0	55,060	736,415	261	446	904,277	3
Illinois	12,653,759	18	17	-1	655,102	150,579	431	460	744,339	32
Indiana	6,753,109	9	9	0	464,634	320,276	416	465	750,345	28
Iowa	3,163,630	4	4	0	238,848	537,437	362	468	790,907	10
Kansas	2,917,511	4	4	0	484,966	291,318	395	507	729,378	38
Kentucky	4,477,052	6	6	0	453,606	324,676	404	477	746,175	31
Louisiana	4,655,763	6	6	0	274,894	503,388	392	461	775,961	14
Maine	1,345,723	2	2	0	517,891	273,585	344	599	672,862	46
Maryland	6,065,700	8	8	0	390,046	392,475	408	463	758,212	23
Massachusetts	6,919,755	9	9	0	297,989	486,922	406	452	768,862	18
Michigan	9,996,752	14	13	-1	267,230	527,878	414	444	768,981	17
Minnesota	5,668,657	8	7	-1	24,776	755,500	378	437	809,808	8
Mississippi	2,975,907	4	4	0	426,570	349,714	386	497	743,977	33
Missouri	6,149,601	8	8	0	306,145	476,376	400	458	768,700	19
Montana	1,075,958	1	2	1	787,656	3,819	435	735	537,979	50
Nebraska	1,943,643	3	3	0	691,904	86,645	418	587	647,881	47
Nevada	3,119,268	4	4	0	283,209	493,075	369	473	779,817	13
New Hampshire	1,363,526	2	2	0	500,088	291,387	340	589	681,763	45
New Jersey	8,887,290	12	12	0	615,310	177,193	429	466	740,608	35
New Mexico	2,098,377	3	3	0	537,171	241,378	388	544	699,459	44
New York	19,449,289	27	26	-1	708,771	121,030	432	448	748,050	30
North Carolina	10,572,638	13	14	1	452,647	345,085	422	451	755,188	25
North Dakota	770,073	1	1	0			at large	608	770,073	15
Ohio	11,702,810	16	15	-1	83,715	716,656	410	439	780,187	11
Oklahoma	3,973,480	5	5	0	193,687	583,080	374	456	794,696	9
Oregon	4,253,040	5	6	1	677,618	100,664	427	504	708,840	43
Pennsylvania	12,807,279	18	17	-1	501,583	304,098	426	450	753,369	26
Rhode Island	1,059,899	2	1	-1			at large	440	1,059,899	1
South Carolina	5,197,967	7	7	0	495,466	284,810	412	474	742,567	34
South Dakota	890,810	1	1	0			at large	526	890,810	5
Tennessee	6,872,183	9	9	0	345,561	439,350	409	459	763,576	21
Texas	29,350,998	36	39	3	698,863	165,968	434	442	752,590	27
Utah	3,247,776	4	4	0	154,702	621,583	351	455	811,944	7
Vermont	623,704	1	1	0			at large	732	623,704	48
Virginia	8,578,424	11	11	0	162,697	627,230	403	441	779,857	12
Washington	7,697,326	10	10	0	282,190	505,200	407	449	769,733	16
West Virginia	1,786,340	3	2	-1	77,273	714,202	265	453	893,170	4
Wisconsin	5,833,642	8	8	0	622,104	160,417	424	483	729,205	39
Wyoming	579,855	1	1	0			at large	782	579,855	49
Washington DC	714,924	*0*								
	329,956,225		435					Median =	754,279	
Other Inputs:	Seats to Apportion							Min =	537,979	
435	Max Seats to Calculate							Max =	1,059,899	
75	States									
50										
☐ Include										

		2020 Apportionment Calculations based on different trend lines coming from the 2019 Census Bureau Estimates																	
		2010-2019 Trend		2011-2019 Trend		2012-2019 Trend		2013-2019 Trend		2014-2019 Trend		2015-2019 Trend		2016-2019 Trend		2017-2019 Trend		2018-2019 Trend	
State	Compare To	Seats	Change	Seats	Change	Seats	Change	Seats	Change	Seats	Change	Seats	Change	Seats	Change	Seats	Change	Seats	Change
Alabama	7	6	-1	6	-1	6	-1	6	-1	6	-1	6	-1	6	-1	6	-1	6	-1
Alaska	1	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0
Arizona	9	10	1	10	1	10	1	10	1	10	1	10	1	10	1	10	1	10	1
Arkansas	4	4	0	4	0	4	0	4	0	4	0	4	0	4	0	4	0	4	0
California	53	52	-1	52	-1	52	-1	52	-1	52	-1	52	-1	52	-1	52	-1	52	-1
Colorado	7	8	1	8	1	8	1	8	1	8	1	8	1	8	1	8	1	8	1
Connecticut	5	5	0	5	0	5	0	5	0	5	0	5	0	5	0	5	0	5	0
Delaware	1	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0
Florida	27	29	2	29	2	29	2	29	2	29	2	29	2	29	2	29	2	29	2
Georgia	14	14	0	14	0	14	0	14	0	14	0	14	0	14	0	14	0	14	0
Hawaii	2	2	0	2	0	2	0	2	0	2	0	2	0	2	0	2	0	2	0
Idaho	2	2	0	2	0	2	0	2	0	2	0	2	0	2	0	2	0	2	0
Illinois	18	17	-1	17	-1	17	-1	17	-1	17	-1	17	-1	17	-1	17	-1	17	-1
Indiana	9	9	0	9	0	9	0	9	0	9	0	9	0	9	0	9	0	9	0
Iowa	4	4	0	4	0	4	0	4	0	4	0	4	0	4	0	4	0	4	0
Kansas	4	4	0	4	0	4	0	4	0	4	0	4	0	4	0	4	0	4	0
Kentucky	6	6	0	6	0	6	0	6	0	6	0	6	0	6	0	6	0	6	0
Louisiana	6	6	0	6	0	6	0	6	0	6	0	6	0	6	0	6	0	6	0
Maine	2	2	0	2	0	2	0	2	0	2	0	2	0	2	0	2	0	2	0
Maryland	8	8	0	8	0	8	0	8	0	8	0	8	0	8	0	8	0	8	0
Massachusetts	9	9	0	9	0	9	0	9	0	9	0	9	0	9	0	9	0	9	0
Michigan	14	13	-1	13	-1	13	-1	13	-1	13	-1	13	-1	13	-1	13	-1	13	-1
Minnesota	8	7	-1	7	-1	7	-1	7	-1	7	-1	7	-1	7	-1	7	-1	7	-1
Mississippi	4	4	0	4	0	4	0	4	0	4	0	4	0	4	0	4	0	4	0
Missouri	8	8	0	8	0	8	0	8	0	8	0	8	0	8	0	8	0	8	0
Montana	1	2	1	2	1	2	1	2	1	2	1	2	1	2	1	2	1	2	1
Nebraska	3	3	0	3	0	3	0	3	0	3	0	3	0	3	0	3	0	3	0
Nevada	4	4	0	4	0	4	0	4	0	4	0	4	0	4	0	4	0	4	0
New Hampshire	2	2	0	2	0	2	0	2	0	2	0	2	0	2	0	2	0	2	0
New Jersey	12	12	0	12	0	12	0	12	0	12	0	12	0	12	0	12	0	12	0
New Mexico	3	3	0	3	0	3	0	3	0	3	0	3	0	3	0	3	0	3	0
New York	27	26	-1	26	-1	26	-1	26	-1	26	-1	26	-1	26	-1	26	-1	26	-1
North Carolina	13	14	1	14	1	14	1	14	1	14	1	14	1	14	1	14	1	14	1
North Dakota	1	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0
Ohio	16	15	-1	15	-1	15	-1	15	-1	15	-1	15	-1	15	-1	15	-1	15	-1
Oklahoma	5	5	0	5	0	5	0	5	0	5	0	5	0	5	0	5	0	5	0
Oregon	5	6	1	6	1	6	1	6	1	6	1	6	1	6	1	6	1	6	1
Pennsylvania	18	17	-1	17	-1	17	-1	17	-1	17	-1	17	-1	17	-1	17	-1	17	-1
Rhode Island	2	1	-1	1	-1	1	-1	1	-1	1	-1	1	-1	1	-1	1	-1	1	-1
South Carolina	7	7	0	7	0	7	0	7	0	7	0	7	0	7	0	7	0	7	0
South Dakota	1	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0
Tennessee	9	9	0	9	0	9	0	9	0	9	0	9	0	9	0	9	0	9	0
Texas	36	39	3	39	3	39	3	39	3	39	3	39	3	39	3	39	3	39	3
Utah	4	4	0	4	0	4	0	4	0	4	0	4	0	4	0	4	0	4	0
Vermont	1	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0
Virginia	11	11	0	11	0	11	0	11	0	11	0	11	0	11	0	11	0	11	0
Washington	10	10	0	10	0	10	0	10	0	10	0	10	0	10	0	10	0	10	0
West Virginia	3	2	-1	2	-1	2	-1	2	-1	2	-1	2	-1	2	-1	2	-1	2	-1
Wisconsin	8	8	0	8	0	8	0	8	0	8	0	8	0	8	0	8	0	8	0
Wyoming	1	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0
Washington DC	*0*																		
		435		435		435		435		435		435		435		435		435	
		State	Seat	State	Seat	State	Seat	State	Seat	State	Seat	State	Seat	State	Seat	State	Seat	State	Seat
	430	California	52	California	52	California	52	California	52	California	52	California	52	California	52	California	52	California	52
	431	Illinois	17	Illinois	17	Illinois	17	Illinois	17	Illinois	17	Illinois	17	Illinois	17	Illinois	17	Illinois	17
	432	New York	26	New York	26	Florida	29	Florida	29	Florida	29	Florida	29	Florida	29	New York	26	New York	26
	433	Texas	39	Florida	29	New York	26	New York	26	New York	26	New York	26	New York	26	Florida	29	Texas	39
	434	Florida	29	Texas	39	Texas	39	Texas	39	Texas	39	Texas	39	Montana	2	Texas	39	Montana	2
	435	Montana	2	Montana	2	Montana	2	Montana	2	Montana	2	Montana	2	Texas	39	Montana	2	Florida	29
	436	Alabama	7	Alabama	7	Alabama	7	Alabama	7	Alabama	7	Alabama	7	Alabama	7	Alabama	7	Alabama	7
	437	Minnesota	8	Minnesota	8	Minnesota	8	Minnesota	8	Minnesota	8	Minnesota	8	Minnesota	8	Minnesota	8	Minnesota	8
	438	California	53	California	53	California	53	California	53	Ohio	16	Ohio	16	Ohio	16	Ohio	16	Ohio	16
	439	Ohio	16	Ohio	16	Ohio	16	Ohio	16	California	53	California	53	California	53	California	53	California	53
	440	Rhode Island	2	Rhode Island	2	Rhode Island	2	Rhode Island	2	Rhode Island	2	Rhode Island	2	Rhode Island	2	Rhode Island	2	Rhode Island	2

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					2016 Presidential Election				
State	New Apportionment Count (2018-2019 Trend)	New Electoral College Count	2010s Electoral College Count	2000s Electoral College Count	2016 Presidential Victor	Electoral Votes For Clinton (D)	Electorial Votes For Trump (Rep)	Revised Electoral Votes For Clinton (D)	Revised Electorial Votes For Trump (Rep)
Alabama	6	8	9	9	Trump	0	9	0	8
Alaska	1	3	3	3	Trump	0	3	0	3
Arizona	10	12	11	10	Trump	0	11	0	12
Arkansas	4	6	6	6	Trump	0	6	0	6
California	52	54	55	55	Clinton	55	0	54	0
Colorado	8	10	9	9	Clinton	9	0	10	0
Connecticut	5	7	7	7	Clinton	7	0	7	0
Delaware	1	3	3	3	Clinton	3	0	3	0
Florida	29	31	29	27	Trump	0	29	0	31
Georgia	14	16	16	15	Trump	0	16	0	16
Hawaii	2	4	4	4	Clinton*	3	0	3	0
Idaho	2	4	4	4	Trump	0	4	0	4
Illinois	17	19	20	21	Clinton	20	0	19	0
Indiana	9	11	11	11	Trump	0	11	0	11
Iowa	4	6	6	7	Trump	0	6	0	6
Kansas	4	6	6	6	Trump	0	6	0	6
Kentucky	6	8	8	8	Trump	0	8	0	8
Louisiana	6	8	8	9	Trump	0	8	0	8
Maine	2	4	4	4	*Clinton*	3	1	4	0
Maryland	8	10	10	10	Clinton	10	0	10	0
Massachusetts	9	11	11	12	Clinton	11	0	11	0
Michigan	13	15	16	17	Trump	0	16	0	15
Minnesota	7	9	10	10	Clinton	10	0	9	0
Mississippi	4	6	6	6	Trump	0	6	0	6
Missouri	8	10	10	11	Trump	0	10	0	10
Montana	2	4	3	3	Trump	0	3	0	4
Nebraska	3	5	5	5	Trump	0	5	0	5
Nevada	4	6	6	5	Clinton	6	0	6	0
New Hampshire	2	4	4	4	Clinton	4	0	4	0
New Jersey	12	14	14	15	Clinton	14	0	14	0
New Mexico	3	5	5	5	Clinton	5	0	5	0
New York	26	28	29	31	Clinton	29	0	28	0
North Carolina	14	16	15	15	Trump	0	15	0	16
North Dakota	1	3	3	3	Trump	0	3	0	3
Ohio	15	17	18	20	Trump	0	18	0	17
Oklahoma	5	7	7	7	Trump	0	7	0	7
Oregon	6	8	7	7	Clinton	7	0	8	0
Pennsylvania	17	19	20	21	Trump	0	20	0	19
Rhode Island	1	3	4	4	Clinton	4	0	3	0
South Carolina	7	9	9	8	Trump	0	9	0	9
South Dakota	1	3	3	3	Trump	0	3	0	3
Tennessee	9	11	11	11	Trump	0	11	0	11
Texas	39	41	38	34	Trump#	0	36	0	39
Utah	4	6	6	5	Trump	0	6	0	6
Vermont	1	3	3	3	Clinton	3	0	3	0
Virginia	11	13	13	13	Clinton	13	0	13	0
Washington	10	12	12	11	Clinton&	8	0	8	0
West Virginia	2	4	5	5	Trump	0	5	0	4
Wisconsin	8	10	10	10	Trump	0	10	0	10
Wyoming	1	3	3	3	Trump	0	3	0	3
Washington DC	*1*	3	*3*	3	Clinton	3	0	3	0
						227	304	225	306
								-2	2
					#One elector voted for John Kasich for President				
					#One elector voted for Ron Paul for President				
					&Three electors voted for Colin Powell for President				
					&One elector voted for Faith Spotted Eagle				
					*One elector voted for Bernie Sanders				

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2012 Presidential Election					2008 Presidential Election				
2012 Presidential Victor	Electoral Votes For Obama (D)	Electoral Votes For Romney (Rep)	Revised Electoral Votes For Obama (D)	Revised Electorial Votes For Romney (Rep)	2008 Presidential Victor	Electoral Votes For Obama (D)	Electorial Votes For McCain (Rep)	Revised Electoral Votes For Obama (D)	Revised Electorial Votes For McCain (Rep)
Romney	0	9	0	8	McCain	0	9	0	8
Romney	0	3	0	3	McCain	0	3	0	3
Romney	0	11	0	12	McCain	0	10	0	12
Romney	0	6	0	6	McCain	0	6	0	6
Obama	55	0	54	0	Obama	55	0	54	0
Obama	9	0	10	0	Obama	9	0	10	0
Obama	7	0	7	0	Obama	7	0	7	0
Obama	3	0	3	0	Obama	3	0	3	0
Obama	29	0	31	0	Obama	27	0	31	0
Romney	0	16	0	16	McCain	0	15	0	16
Obama	4	0	4	0	Obama	4	0	4	0
Romney	0	4	0	4	McCain	0	4	0	4
Obama	20	0	19	0	Obama	21	0	19	0
Romney	0	11	0	11	Obama	11	0	11	0
Obama	6	0	6	0	Obama	7	0	6	0
Romney	0	6	0	6	McCain	0	6	0	6
Romney	0	8	0	8	McCain	0	8	0	8
Romney	0	8	0	8	McCain	0	9	0	8
Obama	4	0	4	0	Obama	4	0	4	0
Obama	10	0	10	0	Obama	10	0	10	0
Obama	11	0	11	0	Obama	12	0	11	0
Obama	16	0	15	0	Obama	17	0	15	0
Obama	10	0	9	0	Obama	10	0	9	0
Romney	0	6	0	6	McCain	0	6	0	6
Romney	0	10	0	10	McCain	0	11	0	10
Romney	0	3	0	4	McCain	0	3	0	4
Romney	0	5	0	5	McCain	1	4	1	4
Obama	6	0	6	0	Obama	5	0	6	0
Obama	4	0	4	0	Obama	4	0	4	0
Obama	14	0	14	0	Obama	15	0	14	0
Obama	5	0	5	0	Obama	5	0	5	0
Obama	29	0	28	0	Obama	31	0	28	0
Romney	0	15	0	16	Obama	15	0	16	0
Romney	0	3	0	3	McCain	0	3	0	3
Obama	18	0	17	0	Obama	20	0	17	0
Romney	0	7	0	7	McCain	0	7	0	7
Obama	7	0	8	0	Obama	7	0	8	0
Obama	20	0	19	0	Obama	21	0	19	0
Obama	4	0	3	0	Obama	4	0	3	0
Romney	0	9	0	9	McCain	0	8	0	9
Romney	0	3	0	3	McCain	0	3	0	3
Romney	0	11	0	11	McCain	0	11	0	11
Romney	0	38	0	41	McCain	0	34	0	41
Romney	0	6	0	6	McCain	0	5	0	6
Obama	3	0	3	0	Obama	3	0	3	0
Obama	13	0	13	0	Obama	13	0	13	0
Obama	12	0	12	0	Obama	11	0	12	0
Romney	0	5	0	4	McCain	0	5	0	4
Obama	10	0	10	0	Obama	10	0	10	0
Romney	0	3	0	3	McCain	0	3	0	3
Obama	3	0	3	0	Obama	3	0	3	0
	332	206	328	210		365	173	356	182
			-4	4				-9	9

2004 Presidential Election					2000 Presidential Election				
2004 Presidential Victor	Electoral Votes For Kerry (D)	Electorial Votes For Bush (Rep)	Revised Electoral Votes For Kerry (D)	Revised Electorial Votes For Bush (Rep)	2000 Presidential Victor	Electoral Votes For Gore (D)	Electorial Votes For Bush (Rep)	Revised Electoral Votes For Gore (D)	Revised Electorial Votes For Bush (Rep)
Bush	0	9	0	8	Bush	0	9	0	8
Bush	0	3	0	3	Bush	0	3	0	3
Bush	0	10	0	12	Bush	0	8	0	12
Bush	0	6	0	6	Bush	0	6	0	6
Kerry	55	0	54	0	Gore	54	0	54	0
Bush	0	9	0	10	Bush	0	8	0	10
Kerry	7	0	7	0	Gore	8	0	7	0
Kerry	3	0	3	0	Gore	3	0	3	0
Bush	0	27	0	31	Bush	0	25	0	31
Bush	0	15	0	16	Bush	0	13	0	16
Kerry	4	0	4	0	Gore	4	0	4	0
Bush	0	4	0	4	Bush	0	4	0	4
Kerry	21	0	19	0	Gore	22	0	19	0
Bush	0	11	0	11	Bush	0	12	0	11
Bush	0	7	0	6	Gore	7	0	6	0
Bush	0	6	0	6	Bush	0	6	0	6
Bush	0	8	0	8	Bush	0	8	0	8
Bush	0	9	0	8	Bush	0	9	0	8
Kerry	4	0	4	0	Gore	4	0	4	0
Kerry	10	0	10	0	Gore	10	0	10	0
Kerry	12	0	11	0	Gore	12	0	11	0
Kerry	17	0	15	0	Gore	18	0	15	0
Kerry	9	0	8	0	Gore	10	0	9	0
Bush	0	6	0	6	Bush	0	7	0	6
Bush	0	11	0	10	Bush	0	11	0	10
Bush	0	3	0	4	Bush	0	3	0	4
Bush	0	5	0	5	Bush	0	5	0	5
Bush	0	5	0	6	Bush	0	4	0	6
Kerry	4	0	4	0	Bush	0	4	0	4
Kerry	15	0	14	0	Gore	15	0	14	0
Bush	0	5	0	5	Gore	5	0	5	0
Kerry	31	0	28	0	Gore	33	0	28	0
Bush	0	15	0	16	Bush	0	14	0	16
Bush	0	3	0	3	Bush	0	3	0	3
Bush	0	20	0	17	Bush	0	21	0	17
Bush	0	7	0	7	Bush	0	8	0	7
Kerry	7	0	8	0	Gore	7	0	8	0
Kerry	21	0	19	0	Gore	23	0	19	0
Kerry	4	0	3	0	Gore	4	0	3	0
Bush	0	8	0	9	Bush	0	8	0	9
Bush	0	3	0	3	Bush	0	3	0	3
Bush	0	11	0	11	Bush	0	11	0	11
Bush	0	34	0	41	Bush	0	32	0	41
Bush	0	5	0	6	Bush	0	5	0	6
Kerry	3	0	3	0	Gore	3	0	3	0
Bush	0	13	0	13	Bush	0	13	0	13
Kerry	11	0	12	0	Gore	11	0	12	0
Bush	0	5	0	4	Bush	0	5	0	4
Kerry	10	0	10	0	Gore	11	0	10	0
Bush	0	3	0	3	Bush	0	3	0	3
Kerry	3	0	3	0	Gore	2	0	2	0
	251	286	239	298		266	271	246	291
			-12	12				-20	20

EXHIBIT C

2020 Population Projections and Apportionment

2020 Projections wMTchange (short term 2018-2019 change) based on 2019 Population Estimates, Generated by Census Bureau 12/30/2019

State	Population	Compare To	Seats	Change	Gain a Seat	Lose a Seat	Last Seat Given	Next Seat At	Average Size	Size Rank
Alabama	4,914,850	7	7	0	760,330	9	435	502	702,121	44
Alaska	728,863	1	1	0			at large	640	728,863	38
Arizona	7,370,763	9	10	1	583,171	176,173	425	471	737,076	36
Arkansas	3,023,873	4	4	0	367,696	396,781	379	489	755,968	24
California	39,550,248	53	52	-1	262,781	495,701	430	439	760,582	22
Colorado	5,809,922	7	8	1	625,127	134,753	426	485	726,240	40
Connecticut	3,560,620	5	5	0	593,186	169,058	416	508	712,124	41
Delaware	980,031	1	1	0			at large	475	980,031	3
Florida	21,654,726	27	29	2	714,206	44,323	434	447	746,715	29
Georgia	10,697,948	14	14	0	291,991	466,891	417	446	764,139	20
Hawaii	1,412,343	2	2	0	445,296	339,837	334	572	706,172	43
Idaho	1,815,033	2	2	0	42,606	742,528	261	443	907,517	4
Illinois	12,633,538	18	17	-1	632,656	126,074	431	460	743,149	32
Indiana	6,759,912	9	9	0	434,692	324,874	415	464	751,101	27
Iowa	3,159,919	4	4	0	231,650	532,826	362	468	789,980	10
Kansas	2,914,781	4	4	0	476,788	287,689	395	507	728,695	39
Kentucky	4,472,570	6	6	0	442,280	318,772	402	478	745,428	31
Louisiana	4,640,641	6	6	0	274,209	486,843	392	461	773,440	14
Maine	1,348,093	2	2	0	509,546	275,587	342	596	674,047	47
Maryland	6,053,101	8	8	0	381,949	377,931	409	462	756,638	23
Massachusetts	6,899,915	9	9	0	294,689	464,877	406	453	766,657	18
Michigan	9,988,946	14	13	-1	242,130	516,828	413	444	768,380	17
Minnesota	5,664,818	8	7	-1	10,362	749,978	377	437	809,260	8
Mississippi	2,972,502	4	4	0	419,067	345,409	386	497	743,125	33
Missouri	6,149,312	8	8	0	285,737	474,143	400	457	768,664	15
Montana	1,072,506	1	1	0			at large	436	1,072,506	1
Nebraska	1,941,034	3	3	0	686,065	83,399	418	587	647,011	48
Nevada	3,120,458	4	4	0	271,111	493,366	369	473	780,115	11
New Hampshire	1,364,417	2	2	0	493,222	291,911	339	589	682,209	46
New Jersey	8,879,315	12	12	0	592,821	166,233	429	465	739,943	35
New Mexico	2,099,901	3	3	0	527,197	242,266	387	542	699,967	45
New York	19,396,195	27	26	-1	697,240	61,313	432	449	746,007	30
North Carolina	10,568,755	13	14	1	421,184	337,697	421	451	754,911	25
North Dakota	765,064	1	1	0			at large	612	765,064	19
Ohio	11,698,680	16	15	-1	50,059	708,761	410	438	779,912	12
Oklahoma	3,969,576	5	5	0	184,230	578,014	374	456	793,915	9
Oregon	4,244,856	5	6	1	669,995	91,057	428	505	707,476	42
Pennsylvania	12,802,789	18	17	-1	463,405	295,325	427	450	753,105	26
Rhode Island	1,060,167	2	1	-1			at large	440	1,060,167	2
South Carolina	5,197,747	7	7	0	477,433	282,907	412	474	742,535	34
South Dakota	889,160	1	1	0			at large	525	889,160	6
Tennessee	6,872,698	9	9	0	321,906	437,661	408	458	763,633	21
Texas	29,274,825	36	39	3	678,699	79,794	433	442	750,637	28
Utah	3,245,917	4	4	0	145,652	618,825	350	454	811,479	7
Vermont	623,712	1	1	0			at large	731	623,712	49
Virginia	8,561,297	11	11	0	151,801	607,378	403	441	778,300	13
Washington	7,683,987	10	10	0	269,947	489,396	407	448	768,399	16
West Virginia	1,783,100	3	2	-1	74,539	710,595	264	452	891,550	5
Wisconsin	5,833,734	8	8	0	601,315	158,565	424	483	729,217	37
Wyoming	579,629	1	1	0			at large	782	579,629	50
Washington DC	708,919	*0*								
	329,415,710		435					Median =	754,008	
Other Inputs:	Seats to Apportion							Min =	579,629	
435	Max Seats to Calculate							Max =	1,072,506	
75	States									
50										
Include										

BC-DOC-0000001022

EXHIBIT D

Table 1. Apportionment Population and Number of Representatives, by State: Census 2010

State	Apportionment Population	Resident	Overseas	Number of Apportioned Representatives Based on Census 2010	Change From 2000 Census Apportionment	Percent Overseas ot Apportionment Population
Alabama	4,779,736	4,756,490	23,246	7	0	0.49%
Alaska	710,231	698,939	11,292	1	0	1.59%
Arizona	6,392,017	6,371,334	20,683	9	1	0.32%
Arkansas	2,915,918	2,905,607	10,311	4	0	0.35%
California	37,253,956	37,165,923	88,033	53	0	0.24%
Colorado	5,029,196	5,013,462	15,734	7	0	0.31%
Connecticut	3,574,097	3,566,566	7,531	5	0	0.21%
Delaware	897,934	894,991	2,943	1	0	0.33%
Florida	18,801,310	18,701,847	99,463	27	2	0.53%
Georgia	9,687,653	9,647,740	39,913	14	1	0.41%
Hawaii	1,360,301	1,353,740	6,561	2	0	0.48%
Idaho	1,567,582	1,561,665	5,917	2	0	0.38%
Illinois	12,830,632	12,796,884	33,748	18	-1	0.26%
Indiana	6,483,802	6,466,022	17,780	9	0	0.27%
Iowa	3,046,355	3,038,923	7,432	4	-1	0.24%
Kansas	2,853,118	2,842,423	10,695	4	0	0.37%
Kentucky	4,339,367	4,328,128	11,239	6	0	0.26%
Louisiana	4,533,372	4,512,782	20,590	6	-1	0.45%
Maine	1,328,361	1,323,648	4,713	2	0	0.35%
Maryland	5,773,552	5,757,175	16,377	8	0	0.28%
Massachusetts	6,547,629	6,535,614	12,015	9	-1	0.18%
Michigan	9,883,640	9,855,654	27,986	14	-1	0.28%
Minnesota	5,303,925	5,292,971	10,954	8	0	0.21%
Mississippi	2,967,297	2,956,354	10,943	4	0	0.37%
Missouri	5,988,927	5,966,376	22,551	8	-1	0.38%
Montana	989,415	984,414	5,001	1	0	0.51%
Nebraska	1,826,341	1,820,857	5,484	3	0	0.30%
Nevada	2,700,551	2,691,670	8,881	4	1	0.33%
New Hampshire	1,316,470	1,311,495	4,975	2	0	0.38%
New Jersey	8,791,894	8,776,287	15,607	12	-1	0.18%
New Mexico	2,059,179	2,051,085	8,094	3	0	0.39%
New York	19,378,102	19,335,149	42,953	27	-2	0.22%
North Carolina	9,535,483	9,505,185	30,298	13	0	0.32%
North Dakota	672,591	669,277	3,314	1	0	0.49%
Ohio	11,536,504	11,504,513	31,991	16	-2	0.28%
Oklahoma	3,751,351	3,737,820	13,531	5	0	0.36%
Oregon	3,831,074	3,813,542	17,532	5	0	0.46%
Pennsylvania	12,702,379	12,669,853	32,526	18	-1	0.26%
Rhode Island	1,052,567	1,049,887	2,680	2	0	0.25%
South Carolina	4,625,364	4,604,753	20,611	7	1	0.45%
South Dakota	814,180	808,599	5,581	1	0	0.69%
Tennessee	6,346,105	6,316,779	29,326	9	0	0.46%
Texas	25,145,561	25,022,704	122,857	36	4	0.49%
Utah	2,763,885	2,757,005	6,880	4	1	0.25%
Vermont	625,741	621,145	4,596	1	0	0.73%
Virginia	8,001,024	7,964,312	36,712	11	0	0.46%
Washington	6,724,540	6,695,711	28,829	10	1	0.43%
West Virginia	1,852,994	1,846,173	6,821	3	0	0.37%
Wisconsin	5,686,986	5,675,742	11,244	8	0	0.20%
Wyoming	563,626	558,952	4,674	1	0	0.83%
Total Apportionment Population	308,143,815	307,104,167	1,039,648	435		0.34%
					Min	0.18%
					Max	1.59%

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Table 1. Apportionment Population and Number of Representatives, by State: Census 2000

State	Apportionment Population	Resident	Overseas	Number of Apportioned Representatives Based on Census 2000	Change From 1990 Census Apportionment	Percent Overseas of Apportionment Population
Alabama	4,461,130	4,447,100	14,030	7	0	0.31%
Alaska	628,933	626,932	2,001	1	0	0.32%
Arizona	5,140,683	5,130,632	10,051	8	2	0.20%
Arkansas	2,679,733	2,673,400	6,333	4	0	0.24%
California	33,930,798	33,871,648	59,150	53	1	0.17%
Colorado	4,311,882	4,301,261	10,621	7	1	0.25%
Connecticut	3,409,535	3,405,565	3,970	5	-1	0.12%
Delaware	785,068	783,600	1,468	1	0	0.19%
Florida	16,028,890	15,982,378	46,512	25	2	0.29%
Georgia	8,206,975	8,186,453	20,522	13	2	0.25%
Hawaii	1,216,642	1,211,537	5,105	2	0	0.42%
Idaho	1,297,274	1,293,953	3,321	2	0	0.26%
Illinois	12,439,042	12,419,293	19,749	19	-1	0.16%
Indiana	6,090,782	6,080,485	10,297	9	-1	0.17%
Iowa	2,931,923	2,926,324	5,599	5	0	0.19%
Kansas	2,693,824	2,688,418	5,406	4	0	0.20%
Kentucky	4,049,431	4,041,769	7,662	6	0	0.19%
Louisiana	4,480,271	4,468,976	11,295	7	0	0.25%
Maine	1,277,731	1,274,923	2,808	2	0	0.22%
Maryland	5,307,886	5,296,486	11,400	8	0	0.21%
Massachusetts	6,355,568	6,349,097	6,471	10	0	0.10%
Michigan	9,955,829	9,938,444	17,385	15	-1	0.17%
Minnesota	4,925,670	4,919,479	6,191	8	0	0.13%
Mississippi	2,852,927	2,844,658	8,269	4	-1	0.29%
Missouri	5,606,260	5,595,211	11,049	9	0	0.20%
Montana	905,316	902,195	3,121	1	0	0.34%
Nebraska	1,715,369	1,711,263	4,106	3	0	0.24%
Nevada	2,002,032	1,998,257	3,775	3	1	0.19%
New Hampshire	1,238,415	1,235,786	2,629	2	0	0.21%
New Jersey	8,424,354	8,414,350	10,004	13	0	0.12%
New Mexico	1,823,821	1,819,046	4,775	3	0	0.26%
New York	19,004,973	18,976,457	28,516	29	-2	0.15%
North Carolina	8,067,673	8,049,313	18,360	13	1	0.23%
North Dakota	643,756	642,200	1,556	1	0	0.24%
Ohio	11,374,540	11,353,140	21,400	18	-1	0.19%
Oklahoma	3,458,819	3,450,654	8,165	5	-1	0.24%
Oregon	3,428,543	3,421,399	7,144	5	0	0.21%
Pennsylvania	12,300,670	12,281,054	19,616	19	-2	0.16%
Rhode Island	1,049,662	1,048,319	1,343	2	0	0.13%
South Carolina	4,025,061	4,012,012	13,049	6	0	0.32%
South Dakota	756,874	754,844	2,030	1	0	0.27%
Tennessee	5,700,037	5,689,283	10,754	9	0	0.19%
Texas	20,903,994	20,851,820	52,174	32	2	0.25%
Utah	2,236,714	2,233,169	3,545	3	0	0.16%
Vermont	609,890	608,827	1,063	1	0	0.17%
Virginia	7,100,702	7,078,515	22,187	11	0	0.31%
Washington	5,908,684	5,894,121	14,563	9	0	0.25%
West Virginia	1,813,077	1,808,344	4,733	3	0	0.26%
Wisconsin	5,371,210	5,363,675	7,535	8	-1	0.14%
Wyoming	495,304	493,782	1,522	1	0	0.31%
Total Apportionment Population	281,424,177	280,849,847	574,330	435		0.20%
					Min	0.10%
					Max	0.42%

Table 1. Apportionment Population and Number of Representatives, by State: Census 1990

State	Apportionment Population	Resident	Overseas	Number of Apportioned Representatives Based on Census 1990	Change From 1980 Census Apportionment	Percent Overseas of Apportionment Population
Alabama	4,062,608	4,040,587	22,021	7	0	0.54%
Alaska	551,947	550,043	1,904	1	0	0.34%
Arizona	3,677,985	3,665,228	12,757	6	1	0.35%
Arkansas	2,362,239	2,350,725	11,514	4	0	0.49%
California	29,839,250	29,760,021	79,229	52	7	0.27%
Colorado	3,307,912	3,294,394	13,518	6	0	0.41%
Connecticut	3,295,669	3,287,116	8,553	6	0	0.26%
Delaware	668,696	666,168	2,528	1	0	0.38%
Florida	13,003,362	12,937,926	65,436	23	4	0.50%
Georgia	6,508,419	6,478,216	30,203	11	1	0.46%
Hawaii	1,115,274	1,108,229	7,045	2	0	0.63%
Idaho	1,011,986	1,006,749	5,237	2	0	0.52%
Illinois	11,466,682	11,430,602	36,080	20	-2	0.31%
Indiana	5,564,228	5,544,159	20,069	10	0	0.36%
Iowa	2,787,424	2,776,755	10,669	5	-1	0.38%
Kansas	2,485,600	2,477,574	8,026	4	-1	0.32%
Kentucky	3,698,969	3,685,296	13,673	6	-1	0.37%
Louisiana	4,238,216	4,219,973	18,243	7	-1	0.43%
Maine	1,233,223	1,227,928	5,295	2	0	0.43%
Maryland	4,798,622	4,781,468	17,154	8	0	0.36%
Massachusetts	6,029,051	6,016,425	12,626	10	-1	0.21%
Michigan	9,328,784	9,295,297	33,487	16	-2	0.36%
Minnesota	4,387,029	4,375,099	11,930	8	0	0.27%
Mississippi	2,586,443	2,573,216	13,227	5	0	0.51%
Missouri	5,137,804	5,117,073	20,731	9	0	0.40%
Montana	803,655	799,065	4,590	1	-1	0.57%
Nebraska	1,584,617	1,578,385	6,232	3	0	0.39%
Nevada	1,206,152	1,201,833	4,319	2	0	0.36%
New Hampshire	1,113,915	1,109,252	4,663	2	0	0.42%
New Jersey	7,748,634	7,730,188	18,446	13	-1	0.24%
New Mexico	1,521,779	1,515,069	6,710	3	0	0.44%
New York	18,044,505	17,990,455	54,050	31	-3	0.30%
North Carolina	6,657,630	6,628,637	28,993	12	1	0.44%
North Dakota	641,364	638,800	2,564	1	0	0.40%
Ohio	10,887,325	10,847,115	40,210	19	-2	0.37%
Oklahoma	3,157,604	3,145,585	12,019	6	0	0.38%
Oregon	2,853,733	2,842,321	11,412	5	0	0.40%
Pennsylvania	11,924,710	11,881,643	43,067	21	-2	0.36%
Rhode Island	1,005,984	1,003,464	2,520	2	0	0.25%
South Carolina	3,505,707	3,486,703	19,004	6	0	0.54%
South Dakota	699,999	696,004	3,995	1	0	0.57%
Tennessee	4,896,641	4,877,185	19,456	9	0	0.40%
Texas	17,059,805	16,986,510	73,295	30	3	0.43%
Utah	1,727,784	1,722,850	4,934	3	0	0.29%
Vermont	564,964	562,758	2,206	1	0	0.39%
Virginia	6,216,568	6,187,358	29,210	11	1	0.47%
Washington	4,887,941	4,866,692	21,249	9	1	0.43%
West Virginia	1,801,625	1,793,477	8,148	3	-1	0.45%
Wisconsin	4,906,745	4,891,769	14,976	9	0	0.31%
Wyoming	455,975	453,588	2,387	1	0	0.52%
Total Apportionment Population	249,022,783	248,102,973	919,810	435		0.37%
					Min	0.21%
					Max	0.63%

EXHIBIT E

2020 Population Projections Sorts and Apportionment

State	Seats	Average Size	Size Rank
Rhode Island	1	1,060,167	1
Delaware	1	980,031	2
Idaho	2	907,517	3
West Virginia	8	891,550	4
South Dakota	1	889,160	5
Alabama	6	819,142	6
Utah	4	811,479	7
Minnesota	7	809,260	8
Oklahoma	5	793,915	9
Iowa	4	789,980	10
Nevada	4	780,115	11
Ohio	15	779,912	12
Virginia	11	778,300	13
Louisiana	6	773,440	14
Missouri	8	768,664	15
Washington	10	768,399	16
Michigan	13	768,380	17
Massachusetts	9	766,657	18
North Dakota	1	765,064	19
Georgia	14	764,139	20
Tennessee	9	763,633	21
California	52	760,582	22
Maryland	8	756,638	23
Arkansas	4	755,968	24
North Carolina	14	754,911	25
Pennsylvania	17	753,105	26
Indiana	9	751,101	27
Texas	39	750,637	28
Florida	29	746,715	29
New York	26	746,007	30
Kentucky	6	745,428	31
Illinois	17	743,149	32
Mississippi	4	743,125	33
South Carolina	7	742,535	34
New Jersey	12	739,943	35
Arizona	10	737,076	36
Wisconsin	1	729,217	37
Alaska	1	728,863	38
Kansas	4	728,695	39
Colorado	8	726,240	40
Connecticut	5	712,124	41
Oregon	6	707,476	42
Hawaii	2	706,172	43
New Mexico	3	699,967	44
New Hampshir	2	682,209	45
Maine	2	674,047	46
Nebraska	3	647,011	47
Vermont	1	623,712	48
Wyoming	1	579,629	49
Montana	2	537,455	50
Washington DC	*2*		
Median =		754,008	
Min =		537,455	
Max =		1,060,167	

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PROOF OF SERVICE
LOS ANGELES, CALIFORNIA

I am employed in Los Angeles, California. I am over the age of 18 and am not a party to the within action; my business address is: 634 S. Spring St., Ste. 1100, Los Angeles, CA 90014.

On March 13, 2020, I served the following document(s) described as: **RULE 26(A)(2) EXPERT REPORT AND DECLARATION OF KIMBALL W. BRACE** on all interested parties in this action, by serving the following individuals:

Alexander V. SverdloV	alexander.v.sverdlov@usdoj.gov
Brad P. Rosenberg	brad.rosenberg@usdoj.gov

Attorneys for Defendants

Jim Davis	JimDavis@ago.state.al.us
Brad Chynoweth	bchynoweth@ago.state.al.us
Edmund LaCour	Edmund.LaCour@alabamaag.gov
Win Sinclair	wsinclair@ago.state.al.us
Brenton Smith	bsmith@ago.state.al.us

Attorneys for Plaintiff State of Alabama

Marshall Yates	Marshall.Yates@mail.house.gov

Attorney for Plaintiff Mo Brooks

[X] (By Electronic Service): By transmitting by email to the above Parties at the above email addresses.

[X] (Federal): I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on **March 13, 2020**, at Los Angeles, California.

Julia A. Gomez

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA

STATE OF ALABAMA, *et al.,*

*Plaintiff*s,

v.

UNITED STATES DEPARTMENT OF COMMERCE; *et. al*.,

Defendants,

and

DIANA MARTINEZ; et. al; COUNTY OF SANTA CLARA, CALIFORNIA, *et al*; and STATE OF NEW YORK, *et al*.,

Defendant-Intervenors.

Civil Action No. 2:18-cv-00772-RDP

DECLARATION OF DR. DOUGLAS S. MASSEY FOR MARTINEZ INTERVENORS AND CROSS CLAIMAINTS

[Fed. R. Civ. Pro. 26(a)(2)]

DECLARATION OF DR. DOUGLAS S. MASSEY

I, Douglas S. Massey declare:

1. I am currently the Henry G. Bryant Professor of Sociology and Public Affairs at Princeton University where I direct the Office of Population Research (OPR), the nation's oldest population research center. I am retained by Martinez Intervenors and Cross Claimants in this action to provide expert testimony pertaining to Plaintiffs' lawsuit to exclude the undocumented population from the apportionment population count and the related cross claim.

2. A copy of my expert report is attached as Exhibit A to this declaration.

3. A complete list of my qualifications, including a list of all publications authored in the previous 10 years, is attached as Exhibit B to this declaration.

4. I am being compensated by Martinez Intervenors and Cross Claimants for my time in preparing this report at a rate of $250 per hour.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on March 13, 2020 in Jamaica, Vermont.



Dr. Douglas S. Massey

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EXHIBIT A

EXPERT REPORT OF DOUGLAS S. MASSEY, PH.D.

Background and Qualifications

1. My name is Douglas S. Massey, an adult aged 67 with 40 years of experience on the faculties of the University of Pennsylvania (1980-1987, 1994-2003), the University of Chicago (1987-1993), and Princeton University (2003-2020). A complete list of my qualifications, including a list of all publications authored in the previous ten years, is included in my curriculum vitae, attached at Exhibit B. I am retained by counsel for Martinez Intervenors in the above-captioned case, and in the cross claim brought by Martinez Intervenors, to provide expert witness testimony related to Alabama's lawsuit to exclude undocumented immigrants from the apportionment population count and the related cross claim. I am being compensated for my work on this case at a rate of $250 per hour.

2. I am currently the Henry G. Bryant Professor of Sociology and Public Affairs at Princeton University where I direct the Office of Population Research (OPR), the nation's oldest population research center. I received doctoral training in demography as a graduate student at OPR, earning a Ph.D. in Sociology with a specialization in demography from Princeton in 1978. I then remained at Princeton for an additional year of postdoctoral work at OPR before going to the Graduate Group in Demography at UC Berkeley with a postdoctoral fellowship from the National Science Foundation. I began my faculty career at the Population Studies Center of the University of Pennsylvania in the fall of 1980.

3. I am an internationally recognized expert in the field of demography with an extensive background in the collection, dissemination, and analysis of data on immigration to the United States, both documented and undocumented. I have accumulated a steady stream of research published in peer-reviewed scientific journals such as *Demography, Population Studies, Population Research and Policy Review, Population and Development Review, International Migration*, *International Migration Review*, and *The Journal of Ethnic and Migration Studies*.

4. In the course of my academic career, I have directed population research centers at the University of Pennsylvania, the University of Chicago, and Princeton University and also served as director of graduate training in demography at Penn and Chicago. Based on my contributions to the field of demography, I received both the Clifford Clogg Early Career Award and the Irene Taeuber Lifetime Achievement Award from the Population Association of America, the nation's leading professional association for demographers. I have also received the Distinguished Career Award from the International Migration Section of the American Sociological Association. I am Past-President of the Population Association of America, the American Sociological Association, and the American Academy of Political and Social Science, and an elected member of the American Academy of Arts and Sciences, the American Philosophical Society, the National Academy of Sciences, and the Academia Europea.

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5. In addition to my academic accomplishments, I have compiled a long record of public and professional service. From 1984 to 1989, I chaired the PAA's Committee on Population Statistics. I also served on the Social Sciences and Population Study Section of the National Institute of Child Health and Human Development from 1984 to 1988 and was a member of the institute's Population Research Committee from 1989 to 1993. From 2002 to 2004 I was a member of the National Academy of Sciences' Committee on Population, and from 2004 to 2010 I served two terms on the Committee on National Statistics, the principal overseer of the federal statistical system for the National Academy of Sciences. From 2012 to 2018, I served two terms on the Census Scientific Advisory Committee, the publicly appointed body officially charged with providing scientific advice to the U.S. Census Bureau on its plans and strategies for data collection. I was a member of the National Academy of Sciences panel that produced the report on *The Integration of Immigrants in U.S. Society* from 2012-2015 and a report reviewer for the National Academy of Sciences report on *The Economic and Fiscal Consequences of Immigration*.

6. Since 1987, I have codirected the Mexican Migration Project, the largest and most reliable source of data on documented and undocumented migration from Mexico to the United States. Funded by the National Institute of Child Health and human development, the project received the institute's MERIT Award for scientific excellence and innovation. It currently provides data to more than 5,000 registered users. Since 1998, I have also codirected the Latin American Migration project, which provides valid and reliable data on documented and undocumented migration from other nations in Latin America to the United States. It currently has nearly 2,000 registered data users. From 2003 to 2015, I codirected the New Immigrant Survey, the first-ever representative longitudinal survey of legal immigrants to the United States, which has more than 4,400 registered users.

7. I currently serve as an expert witness in *Texas v. United States*, Case No. 1:18-cv-68 (S.D. Texas). I previously served as an expert witness in *La Unión Del Pueblo Entero, et al. v. Ross, et al.*, Case No. 8:18-cv-01570-GJH (D. Md.) (later consolidated under *Kravitz, et al. v. Department of Commerce, et al.*, Case No. 8:18-cv-01041-GJH (D. Md.)).

Challenges to Determining an Individual's Immigration Status

8. The U.S. Constitution mandates enumerating the "whole number of persons in each State" and the Census Act of 1790 established "place of usual residence" as the principle determining where these "persons" should be counted. "Usual residence" is defined as the place "where a person lives and sleeps most of the time." It is not the place of legal residence, the place of voter registration, or any other place of bureaucratic relevance. Given these criteria, since 1790, the Decennial Census has always included many categories of non-citizens whose place of usual residence is the United States. In addition to lawful permanent resident aliens, the census enumerates international students, foreign business persons, international investors, asylum seekers, fiancés of U.S. citizens, recipients of temporary protected status, intracompany transferees, exchange visitors, non-

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citizen contract workers, religious personnel, artists, entertainers, and sports figures, as well as persons who entered the country outside of an official port of entry, overstayed a legal visa, or violated the terms of their visa.

9. When the U.S. Constitution was adopted, immigration was open and unregulated. The only reference to immigration in the Constitution occurs in Article I, Section 8, which gave Congress the authority to establish rules for naturalization. In 1790, Congress passed the Naturalization Act, which authorized "free white persons" of "good moral character" who had resided in the country for two years to apply for citizenship. In 1875, the Supreme Court declared the regulation of immigration to be exclusively a federal responsibility. The first immigration-regulating legislation passed by Congress was the Chinese Exclusion Act of 1882. The Alien Contract Labor Laws of 1885 and 1887 prohibited certain laborers from immigration to the United States and the Immigration Act of 1891 established a federal bureau responsible for inspecting, processing, and admitting or rejecting immigrants seeking admission to the U.S. The Immigration Act of 1917 imposed a literacy requirement on immigrants but it was only haphazardly enforced. The first numerical limitations on immigration were the Quota Acts of 1921 and 1924, but they did not apply to nations in the Western Hemisphere. Although the Border Patrol was established in 1924, its original mission was to prevent the entry of Asian and European immigrants seeking to circumvent inspection at official ports of entry. Numerical limits on immigration from the Americas were not imposed until 1968 under legislation passed in 1965 and country-level quotas were not enacted until 1976. It wasn't until the 1970s, therefore, that "illegal immigration" became a recurring political issue in the United States.

10. At the individual level, even today determining who is present without authorization and therefore undocumented or "illegal" is far from straightforward. There is no formal definition used by immigration authorities to determine who is present in the United States "illegally." Legal status depends on a host of factors that vary from time to time, person to person, and context to context. Given the complexity of U.S. immigration laws, determinations about a person's legal status ultimately fall to the federal courts. Legal status is a fluid state that can change in response to shifting personal circumstances, court decisions, executive actions, and Congressional legislation. There is no bright line between authorized and unauthorized status. Rather there is a large gray area of transient categories that have proliferated over the years indicating what sociologists have termed "liminal legality." For example, certain categories of immigrants have been granted "temporary protected status" or "Deferred Action for Childhood Arrivals (DACA)," which allows them to live and work in the United States, but as the names imply they do not authorize legal permanent residence. These liminal statuses may last for years, even decades, during which people build lives in the United States and acquire ties that potentially could justify an "adjustment of status" to legal permanent resident, but whose situation cannot be definitively resolved in the absence of judicial or legislative actions. Individuals in a liminal status may also include those who have a pending application for immigration relief and who may or may not have a formal legal immigration status at the

time but have permission to stay in the country pending the adjudication of their application. This might include applicants for lawful permanent residence, asylum withholding or removal, or with pending Violence Against Women Act applications, among others. Thus, with respect to immigration status there is no true binary between legal and "illegal."

11. Despite the foregoing caveats, demographers have developed indirect methods to estimate the size and characteristics of the undocumented population. The methodology entails estimating the number, age, and sex of people who are legally in the United States and then subtracting them from the number, age, and sex of those enumerated in the census, which is assumed to represent the population of all persons whose place of usual residence is the United States. Between census years, the size and composition of this population are estimated from samples such as the Current Population Survey or the American Community Survey.

12. In any given year, the only pieces of information that demographers reliably know based on lawful permanent resident applications are the number, age, and sex of persons admitted to lawful permanent residence and the number, age, and sex of persons included in the census. However, in order to estimate the size and characteristics of the undocumented population, in any given year one also needs to know how many lawful permanent residents leave the country, die, or become U.S. citizens, how many U.S. citizens die or leave the country, how many nonimmigrants enter the country, die, or leave. Nonimmigrants are people holding a legal visa that permits work or residence in the United States but is not valid for permanent settlement. The United States has no reliable registry of exits from the United States, so the out-migration of lawful permanent residents, citizens, and nonimmigrants has to be estimated by making assumptions about the rates of departure for different segments of the population. Deaths are estimated by making assumptions about the mortality to which different segments of the population are exposed. Finally, although we know the number, age, and sex of persons enumerated, we don't know the rate at which lawful permanent residents, U.S. citizens, and nonimmigrants are undercounted, and undercount rates vary for these three categories as well as by age and sex, so they also have to be estimated by making assumptions based on whatever evidence is available.

13. Demographers use a technique known as the residual method to estimate the size and composition of the undocumented population. After all of the assumptions, adjustments, and estimations, demographers end up with a final estimated total population by age and sex and an estimated population of non-citizens with formal legal status by age and sex, and these two populations are subtracted from one other to estimate of the number of undocumented migrants by age and sex. Since the estimate is computed by subtraction, the technique is known as a residual method and is understood to contain systematic and random errors linked to inadequacies in the underlying assumptions and data sources. At best, the method provides a rough indicator of the size and composition of the undocumented population at the national level, but the likelihood of error increases rapidly

as one moves from estimates at the national level to those at the state, county, city, or block levels.

14. Although we cannot know with certainty the true size and composition of the undocumented population at any level, including nationally, if the same methods and assumptions are consistently applied to the same data sources over time, trends in the size and composition of the undocumented population emerge. Since 1990, the federal government has prepared its own estimates of the undocumented population, estimates that since 2005 have been done by the Office of Immigration Statistics in the Department of Homeland Security. In addition, beginning in 2006, the Pew Research Center in Washington, DC has also prepared annual estimates of the size and composition of the undocumented population; and since 2010 estimates have also been prepared by the Center for Migration Studies in New York.

15. The scale of the error incurred in making the foregoing estimates is indicated by the fact that in 2010 the number of undocumented migrants was estimated to be 11,590,000 by the Office of Immigration Statistics, 11,725,000 by the Center for Migration Studies, and 11,400,000 by the Pew Research Center. None of these estimates is necessarily more "correct" than the others.

16. Despite variability in the specific figures estimated in different years, all sources show the same trend over time. Undocumented migration began to rise in the 1960s, increased through the 1970s and early 1980s, and came to a peak of around 3.2 million in 1986. In that year, the Immigration Reform and Control Act authorized two separate legalization programs—one for long-term undocumented residents and another for undocumented farmworkers. The resulting legalizations reduced the undocumented population to around 1.9 million persons by 1988. Thereafter, growth resumed at roughly the same pace, but after 1993 the rate of growth accelerated markedly. After 2000, however, the growth rate slowed and peaked at around 12 million in 2007, after which growth ceased and since 2008 the undocumented has fluctuated around 11 million persons.

17. Recent estimates of the undocumented population's size are 11,960,000 in 2015 from the Office of Immigration Statistics, 10,700,000 in 2016 from the Pew Research Center, and 10,664,000 in 2017 from the Center for Migration Studies. All the estimates agree that the number of undocumented Mexicans has been falling since 2008, which means that undocumented Mexican departures annually have exceed undocumented Mexican arrivals. The net loss of undocumented Mexicans has been partially offset by net undocumented arrivals from Central America (principally El Salvador, Guatemala, and Honduras) and Asia (principally India and China); but these gains have not been sufficient to offset the net loss of undocumented Mexicans, and the undocumented population declined by about 1.1 million between 2010 and 2017.

18. Estimates based on data from the Mexican Migration Project indicate that the rate of undocumented in-migration from Mexico began to decline around the year 2000 and since

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2008 has plummeted to near zero. According to data from the Border Patrol, the number of Mexican apprehensions in 2019 reached its lowest level since 1969. Although the number of apprehensions of Central Americans did increase in 2019, total border apprehensions remain at historically low levels, and the undocumented population of Central Americans grew slowly at just 1.7% per year between 2010 and 2017, while the undocumented populations of persons from Caribbean and South America declined by around 1.1% per year, implying an excess of departures over arrivals.

19. The fact that the Mexican, Caribbean, and South American undocumented populations are shrinking, and that the Central American population is growing only slowly, implies that the large majority of undocumented migrants have been present in the country for a very long time. The latest estimates from the Center for Migration Studies indicate that as of 2017, 78% of all undocumented residents have lived in the United States for at least five years and 61% have been present for at least ten years. If we assume that three-fifths of those in the country for less than five years in 2017 aged into the five-years-or-greater category by 2000, around 90% of all undocumented migrants will have accumulated at least five years of continuous residence in the country at the time of the Decennial Census.

20. As a consequence of their long duration in the United States, undocumented migrants and those in liminal statuses, often acquire strong connections to the United States that render return migration unlikely, and in some cases support an adjustment to permanent resident status. As of 2017, for example, the Center for Migration Studies estimated that among undocumented migrants 67% were employed, 34% were homeowners, 31% were parents of a U.S. citizen, 12% were married to someone legally present in the U.S., and 3% were married to a U.S. citizen. The CMS also estimated that among 302,000 persons from El Salvador, Honduras, and Haiti who held Temporary Protected Status in the United States in January of 2017, 44% had been in the U.S. for at least 20 years, 9% were married to a legal permanent resident, and together they had produce some 273,000 U.S.-born citizen children. As of 2016, the Pew Research Center estimated that around five million children were living with an undocumented parent, and at the end of 2019, U.S. Citizenship and Immigration Services reported that 653,000 persons who entered the country as minors were registered under the program of Deferred Action for Childhood Arrivals. Given the fluidity of legal status categories, people who believe themselves to be legally present are often surprised they are not, WHILE others who believe themselves to be undocumented are surprised to discover they are eligible for permanent residence or even citizenship.

SOURCES

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Center for Migration Studies. 2020. "State-Level Unauthorized Population and Eligible-to-Naturalize Estimates." New York: Center for Migration Studies. http://data.cmsny.org/

Passel, Jeffrey S., and D'Vera Cohn. 2018. "U.S. Unauthorized Immigrant Total Dips to Lowest Level in a Decade." Washington, DC: Pew Research Center. https://www.pewresearch.org/hispanic/2018/11/27/u-s-unauthorized-immigrant-total-dips-to-lowest-level-in-a-decade/

Passel, Jeffrey S., D'Vera Cohn, and John Gramlich. 2018. "Number of U.S.-Born Babies with Unauthorized Immigrant Parents Has Fallen Since 2007." Washington, DC: Pew Research Center. https://www.pewresearch.org/fact-tank/2015/09/11/number-of-babies-born-in-u-s-to-unauthorized-immigrants-declines/

U.S. Citizenship and Immigration Services. 2019. "Approximate Active DACA Recipients as of September 30, 2019." Washington, DC: U.S. Citizenship and Immigration Services. www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/DACA_Population_Receipts_since_Injunction_Sep_30_2019.pdf.

Warren, Robert, and Donald Kerwin. 2020. "A Statistical and Demographic Profile of the US Temporary Protected Status Populations from El Salvador, Honduras, and Haiti." New York: Center for Migration Studies. https://cmsny.org/publications/jmhs-tps-elsalvador-honduras-haiti/

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Executed this 13th day of March, 2020, in Jamaica, Vermont



Douglas S. Massey, Ph.D.

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EXHIBIT B

Douglas S. Massey
Curriculum Vitae
January 2, 2020

Address: Office of Population Research
Princeton University
Wallace Hall
Princeton, NJ 08544
dmassey@princeton.edu

Birth: Born October 5, 1952 in Olympia, Washington, USA

Citizenship: Citizen and Resident of the United States

Education: Ph.D., Sociology, Princeton University, 1978
M.A., Sociology, Princeton University, 1977
B.A., Magna Cum Laude in Sociology-Anthropology, Psychology, and Spanish, Western Washington University, 1974

Honorary Degrees: Master in Arts and Sciences, Honoris Causa, University Pennsylvania, 1985.
Doctor of Social Science Honoris Causa, Ohio State University, 2012

Languages: Fluent in Spanish

Employment:
(9/05-present) Henry G. Bryant Professor of Sociology and Public Affairs, Princeton University
(7/03- 8/05) Professor of Sociology and Public Policy, Princeton University
(7/94-6/03) Dorothy Swaine Thomas Professor, Department of Sociology, Graduate Group in Demography, and Lauder Program in International Studies, University of Pennsylvania
(7/90-6/94) Professor, Irving B. Harris School of Public Policy Studies, University of Chicago
(7/87-6/94) Professor, Department of Sociology, University of Chicago
(7/85-7/87) Associate Professor, Department of Sociology and Graduate Group in Demography, University of Pennsylvania
(9/80-7/85) Assistant Professor, Department of Sociology and Graduate Group in Demography, University of Pennsylvania
(9/79-9/80) NSF Postdoctoral Fellow, Graduate Group in Demography, University of California at Berkeley
(1/79-6/79) Lecturer, Woodrow Wilson School of Public and International Affairs, Princeton University
(9/78-9/79) Research Associate, Office of Population Research, Princeton University

Major Fields: Demography, Urban Sociology, Stratification, Social Research Methods, Latin American Studies, Race/Ethnic Relations, Biosociology, Immigration

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Honors and Awards:

Academia Europaea, elected member 2018-present

Bronislaw Malinowsky Award 2018. Given by the Society for Applied . Anthropology to individuals widely recognized for their efforts to understand and serve the needs of the world through the use of social science (Shared with Jorge Durand for their 30 years of work on the Mexican Migration Project)

Henry Allen Moe Prize in the Humanities 2017. Given annually by the American Philosophical Society to the author of the best paper in the humanities or jurisprudence read at a meeting of the Society

John Hope Franklin Award 2016, for exceptional scholarship in the field of Race, Racism and the Law, from the Law and Society Association

President, American Academy of Political and Social Science, 2006-2015

Robert and Helen Lynd Career Award 2014, Community and Urban Studies Section, American Sociological Association

Robert E. Park Award for Best Book 2014. Community and Urban Studies Section, American Sociological Association

Paul Davidoff Award, 2013. From the Association of Collegiate Schools of Planning for *Climbing Mount Laurel: The Struggle for Affordable Housing and Social Mobility in an American Suburb* (Princeton U. Press)

Irene B. Taeuber Award, Given by the Population Association of America in

Award for the Public Understanding of Sociology, American Sociological Association, 2012

Lifetime National Associate of the National Research Council, 2011

Julian Simon Lecture, 8th Annual Migration Meeting, Deutsches Institut für Wirtschaftsforschung--DC, May 13, 2011

External Fellow, Center for Research and Analysis of Migration, University College London, 2011-present

Visiting Scholar, Russell Sage Foundation, 2009-2010

Distinguished Career Award, International Migration Section, American Sociological Association, 2009

Award for Distinguished Contribution to Scholarship in Population, for "From Illegal to Legal: Estimating Previous Illegal Experience Among New Legal Immigrants to the United States" published in Demography and coauthored with Guillermina Jasso, Mark Rosenzweig, and James Smith, from the Population Section of the American Sociological Association

Premio de Reconocimiento de Destacado Mérito, El Consejo Cultural Mundial, México, D.F., 2008

Fellow, American Association for the Advancement of Science, 2006

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Senior Prize, 2005, Vereinigung der Freunde des Deutschen Instituts für Wirtschaftsforschung (Association of Friends of the German Institute for Social Research–Berlin) for the paper "Return Migration by German Guestworkers: Neoclassical versus New Economic Theories" published in International Migration 40(4):5-38.

Otis Dudley Duncan Award, Population Section of the American Sociological Association (for Beyond Smoke and Mirrors), 2004.

W.E.B. DuBois Fellow, American Academy of Political and Social Science, 2003-present

Antonio García Cubas Prize, Best Book on Mexican Art, National Institute of Anthropology and History, Mexico City, 2001 (for Milagros en la Frontera)

President, American Sociological Association, 2000-2001

Member, American Philosophical Society, Elected 2004
Member, National Academy of Sciences, Elected 1998
Member, American Academy of Arts and Sciences, Elected 1995
Member, Sociological Research Association, Elected 1989

Exemplary Alumnus Award, Western Washington University, 2000

Clifford C. Clogg Award (outstanding early career), Population Association of America, 1998

President, Population Association of America, 1996

Member, Council of the American Sociological Association, 1996-99

Southwest Book Award, Border Regional Library Association (for Miracles on the Border), 1996

Distinguished Publication Award, American Sociological Association (for American Apartheid), 1995

Otis Dudley Duncan Award, Population Section of the American Sociological Association (for American Apartheid), 1994

Critics' Choice Award, American Educational Studies Association (for American Apartheid), 1993

First Vice President, Population Association of America, 1994

John Simon Guggenheim Memorial Fellow, 1990-91

MERIT Award, National Institute of Child Health and Human Development, 1987-97

Board of Directors, Population Association of America, 1986-1989

NSF Postdoctoral Fellow, University of California, Berkeley, 1979-1980

Charlotte Elizabeth Proctor Fellowship, Princeton University, 1977-78

NIH Trainee in Demography, Princeton University, 1975-77

Outstanding Graduate in Sociology-Anthropology, Western Washington University, 1975

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Administrative Experience:

(7/11- present) Director, Office of Population Research, Woodrow Wilson School of Public and International Affairs, Princeton University
(1/09-6/09) Chair, Dean Search Committee, Woodrow Wilson School of Public and International Affairs, Princeton University
(7/04-6/09) Director of Ph.D. Program in Policy Studies, Woodrow Wilson
(7/06-6/07) Interim Director, Program in Latin American Studies, Princeton University
(7/96-6/03) Chair, Department of Sociology, University of Pennsylvania
(1/97-12/97) Chair, Dean Search Committee, School of Arts & Sciences, University of Pennsylvania
(9/95-7/96) Director, Population Studies Center, University of Pennsylvania
(10/90-6/94) Director, Center for Latin American Studies, University of Chicago
(7/87-9/90) Director, Population Research Center, University of Chicago
(10/87-9/90) Chair, Committee on Demographic Training, University of Chicago
(7/85-6/87) Chair, Graduate Group in Demography, University of Pennsylvania

Professional Affiliations:

Population Association of America
American Sociological Association
International Union for the Scientific Study of Population
Southwestern Social Science Association
Latin American Studies Association
International Sociological Association
Mexican Demographic Society
American Association for the Advancement of Science

Funded Grants:

(9/1/97-5/31/20) "Public Use Data on Mexican Immigration." National Institute of Child Health and Human Development, Principal Investigator, $1,125,000 1 R01 HD35643

(1/1/09-11/30/15) The Latin American Migration Project and the Center for Migration and Development, John D. and Catherine T. MacArthur Foundation, $750,000,

(6/1/11-12/31/11) "Segregation, Securitized Lending and Foreclosure Outcomes in New York City." Center for New York City Neighborhoods, $10,000

(1/1/09-12/31/11) "Monitoring Mt. Laurel." John D. and Catherine T. MacArthur Foundation, $450,000.

(2/1/08-12/31/08) "Proposal for a Pilot Survey of New Immigrant Destinations." Russell Sage Foundation, $150,000. Co-PI with Marta Tienda

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(6/1/07 - 5/31/12) "Social Influences on Early Adult Stress Biomarkers," National Institute of Child Health and Human Development, $323,969.

(7/01/02-6/30/04) "Transnational Identities and Behavior." Russell Sage Foundation. $65,000.

(6/1/01-5/31/04) "Theoretical and Methodological Analysis of Mexico-U.S. Migration." NICHD, R3TW01223A, $120,582

(8/1/01-7/31/08) "Religion and Religious Practice among New Immigrants to the United States." Pew Charitable Trusts, $500,000. Co-PI with Guillermina Jasso.

3/1/98-11/1/2014) "New Immigrant Survey." NICHD, R01HD33834, $4,239,124, Subcontract, Co-PI with Guillermina Jasso, Mark Rosenzweig, and James Smith.

(9/1/98-8/31/2010) "National Longitudinal Survey of Freshmen at Selective Colleges and Universities." Andrew W. Mellon Foundation, $6.5 million (with Camille Charles).

(3/1/98-2/28/05) "The Latin American Migration Project," Principal Investigator, National Institute of Child Health and Human Development, $738,769, 1 R01 HD3584-01.

(12/1/95-11/30/98) "The New Immigrant Survey: A Pilot Study." NICHD, $1,218,550. Co-PI with Guillermina Jasso, Mark Rosenzweig, and James Smith.

(7/1/95-6/30/96) "The Hourglass Economy." Russell Sage Foundation, Principal Investigator, $24,500.

(11/1/94-12/31/05) "The Socioeconomic and Demographic Consequences of Mexico-U.S. Migration." Hewlett Foundation, Principal Investigator, $400,000, 94-7795.

(9/1/91-8/31/92) "Neighborhood Effects on Family Formation, Education, and Employment among the Poor." Hewlett Foundation, Principal Investigator, $26,000.

(1//1/90-7/1/92) "The Effects of the Immigration Reform and Control Act of 1986: Mexican Immigration to the United States." Sloan Foundation, Co-Principal Investigator (with Katharine Donato), $105,000.

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(9/87-8/97) "Public Use Data on Mexican Immigration," National Institute of Child Health and Human Development, Principal Investigator, $391,027, HD-23415, MERIT Award

(6/87-5/90) "The Consequences of Residential Segregation," National Institute of Child Health and Human Development, Principal Investigator, $342,532, HD-22992.

(6/84-5/87) "Spatial Segregation of Hispanics, Blacks, and Asians," National Institute of Child Health and Human Development, Principal Investigator, $278,719, HD-18594.

(9/81-8/84) "Mexican Migration: The Settlement Process," National Institute of Child Health and Human Development, Principal Investigator, $200,800, HD-15166.

(8/81-1/82) "Problems of Hispanics in the Labor Market," National Commission for Employment Policy, Principal Investigator, $18,343, 99-1-3050-50-52.

(9/79-9/80) "Processes of Residential Segregation Among Hispanic Americans," National Science Foundation, Postdoctoral Research Grant, $13,980, SPI-7914866.

Surveys Designed:

New Jersey Housing and Community Survey (2009-2010)
New Immigrant Survey 2003-2014
National Longitudinal Survey of Freshmen (1998-2004)
Survey of African American Home Buyers in Suburban Baltimore (1998)
Survey of Latin American Immigrants to the United States (1997-present)
Survey of Mexican Immigrants to the United States (1987-present)
New Immigrant Survey Pilot (1995-2000)

Editorial Boards:

Annual Review of Sociology, Board, 2002-2004; Co-Editor 2004-present
Proceedings of the National Academy of Sciences, 2019-present
Social Science Research, 1999-present
Social Science Quarterly, 1991-present
Race and Social Problems, 2008-present
International Migration Review, 2010-2018
Russell Sage Journal of the Social Sciences, 2012-2017
Cityscape, 2008-2014
World Politics, 2007-2013
Migraciones Internacionales, 2001-2011
Ethnicities, 1998-2012
International Journal of Conflict and Violence, 2006-2014
Race and Society, 1996-2002
Latino Review of Books, 1995-2002
Encyclopedia of Sociology, 1997-2001

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American Journal of Sociology, 1987-1994
Demography, 1984-1987

Professional Service:

Member, Board on Higher Education and Workforce, National Academies of Sciences, Engineering, and Medicine, 2019-present
Member, Census Scientific Advisory Committee, U.S. Bureau of the Census 2012-2018
Associate Member, Amsterdam Centre for Inequality Studies, 2013-2018.
Member, Advisory Board, Koshland Science Museum, Washington, DC, 2012-2016
Member, Council of the National Academy of Sciences 2011-2014
Member, Governing Board, National Research Council, 2012-2015
Member, National Academies Committee on the Integration of Immigrants in U.S. Society, 2012-2015
Member, Scientific Advisory Board, Max Planck Institute for the Study of Religious and Ethnic Diversity, 2011-2015
Chair, Class V–Social and Behavioral Sciences, National Academy of Sciences, 2010-2012
Member, Committee on Estimating Costs to the Department of Justice of Increased Border Security Enforcement by the Department of Homeland Security, 2009-2011
Member, Committee on National Statistics, National Research Council, 2004-2010
Secretary, Class V--Social and Behavioral Sciences, National Academy of Sciences, 2008-2010
Member, International Advisory Board, Institute for Interdisciplinary Research on Conflict and Violence, University of Bielefeld, Germany, 2006-present
Member, Advisory Board, Opportunity New Jersey, 2008-present
Member, Panel Evaluating HUD Office of Research and Policy Development, National Research Council, 2005-2008
Chair, Section 53--Social and Political Sciences, National Academy of Science, 2005-2008
Chair, Membership Committee for Class III,--Social and Behavioral Sciences, American Philosophical Society 2005-2008
Member, Class III Social Sciences Membership Committee--American Academy of Arts and Sciences, 2006-2008
Member, Advisory Board, Program on Intercultural Conflict and Societal Integration, Wissenschaftszentrum Berlin für Sozialforschung, 2003-2007.
Consultant, Center for Strategic and International Studies, Global Aging Initiative, 2005-2006
Member, Panel on the Measurement of Discrimination, Committee on Population, National Research Council, 2001-2003
Member, Committee on Population, National Research Council, 2002-2005
Member, National Advisory Board, Leadership Council for Metropolitan Open Communities, 1995-2003
Member, Immigration Advisory Board, Russell Sage Foundation, 1993-

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2006Member, Advisory Board, Mexican Cultural Center of Philadelphia,
1998- Visiting Professor, Mannheim University, Germany, Summer 2002
Member, Council of the American Sociological Association, 1997-2002
Member, Committee of Executive Office and Budget, American Sociological Association, 2000-2002
Member, Panel on Population Projections, Committee on Population, National Research Council, 1998-2000
Keynote Speaker, Meeting of the Advisory Board of the President's Initiative on Race, Georgetown University Law Center, Washington, D.C., July 13, 1998
Panelist, Meeting of the Advisory Board of the President's Initiative on Race, San Jose, California, February 11, 1998
Chair, Committee on South-North Migration, International Union for the Scientific Study of Population 1991-1996
Member, Nominating Committee, Latin American Studies Association, 1994-1995.
Member, Research and Planning Advisory Board, Chicago Urban League, 1990-1994
Member, Board of Trustees, Leadership Council for Metropolitan Open Communities, Chicago, 1993-1994
Member, Board of Trustees, Mexican Cultural and Education Institute, Chicago, 1993-1994
Member, NICHD Population Research Committee, NICHD, 1989-93
Member, Committee for Public Policy Research on Contemporary Hispanic Issues, Social Science Research Council, 1988-1993
Member, International Organizing Committee, Conference on the Peopling of the Americas, 1989-1992
Chair, Committee on Population Statistics, Population Association of America, 1984-1989
Member, Social Sciences and Population Study Section, NICHD, 1984-1988
Member, Subcommittee on Migration Statistics, Committee on Population Statistics, Population Association of America, 1987-88
Member, Subcommittee on the 1990 Census, PAA, 1985-86
Member, Ad Hoc Advisory Committee, Demographic and Behavioral Sciences Branch, Center for Population Research, NICHD, 1986
Visiting Lecturer, El Colegio de Michoacán, Zamora, Michoacán, México, 1985
Consultant, National Academy of Sciences, Committee on National Statistics, Panel on Immigration Statistics, 1980-85
Consultant, National Commission for Employment Policy, 1982
Consultant, Commission on International Migration and Cooperative Economic Development 1987-1988

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Authored and Coauthored Books:

2017 Comprender las Migraciones Internacionales: Teorías, Prácticas, Políticas. (Understanding International Migration: Theory, Practice, Politics). Barcelona:Bellaterra Edicions. A compilation of key works by Douglas S. Massey edited and introduced by Lorenzo Cachón Rodríguez.

2014 Spheres of Influence: The Social Ecology of Racial and Class Inequality. New York: Russell Sage Foundation.(Coauthored with Stefanie Brodmann)

2013 Climbing Mount Laurel: The Struggle for Affordable Housing and Social Mobility in an American Suburb. Princeton, NJ: Princeton University Press. (Coauthored with Len Albright, Rebecca Casciano, Elizabeth Derickson, and David Kinsey).

Paul Davidoff Award 2014, Best Book Promoting Participatory Planning and Positive Social Change, Association of Collegiate Schools of Planning

Robert E. Park Award 2014, Best Book, Community and Urban Studies Section, American Sociological Association

Chinese Edition published by the Social Sciences Academic Press of China.

2010 Brokered Boundaries: Creating Immigrant Identity in Anti-Immigrant Times. New York: Russell Sage Foundation. (Coauthored with Magaly Sánchez R.)

2009 Taming the River: Negotiating the Academic, Financial, and Social Currents in America's Selective Colleges and Universities. Princeton, NJ: Princeton University Press. (Coauthored with Camille Z. Charles, Mary J. Fischer, and Margarita Mooney)

2007 Categorically Unequal: The American Stratification System. New York: Russell Sage Foundation. (Commissioned for the Centennial of the Russell Sage Foundation)

2005 Return of the L-Word: A Liberal Vision for the New Century. Princeton: Princeton University Press.

2005 Strangers in a Strange Land: Humans in an Urbanizing World. New York: Norton Publishers.

2003 Clandestinos: Migración México-Estados Unidos en los Albores del Siglo XXI. México, D.F.: Editorial Porrua. (Coauthored with Jorge Durand)

Chapter 2 reprinted in Diálagos—Foro Universal de la Cultura: Identidad y Diversidad. Monterrey: Foro Editorial de Nuevo León.

BC-DOC-0000001050

2003 Source of the River: The Social Origins of Freshmen at America's Selective Colleges and Universities. Princeton: Princeton University Press. (Coauthored with Camille Charles, Garvey Lundy, and Mary J. Fischer)

2002 Beyond Smoke and Mirrors: Mexican Immigration in an Age of Economic Integration. New York: Russell Sage Foundation. (with Jorge Durand and Nolan Malone)

Otis Dudley Duncan Award 2004, Best Book, Population Section of the American Sociological Association.

Honorable Mention, *Thomas and Znaniecki Award* of the International Migration Section of the American Sociological Association

Spanish Edition. 2009. Detrás de la Trama: Políticas Migratorias entre México y Estados Unidos. México, D.F.: City: Editorial Porrua.

1998 Worlds in Motion: International Migration at the End of the Millennium. Oxford: Oxford University Press. (Coauthored with Joaquín Arango, Graeme Hugo, Ali Kouaouci, Adela Pellegrino, and J. Edward Taylor)

1995 Miracles on the Border: Retablos of Mexican Migrants to the United States. Tucson: University of Arizona Press. (Coauthored with Jorge Durand).

Spanish Edition. Milagros en la Frontera: Retablos de Migrantes Mexicanos a Estados Unidos. Editorial El Colegio de San Luis y el Centro de Investigación y Estudios Superiores en Antropología Social, San Luis Potosí y Guadalajara, 2001.

Antonio García Cubas Prize, Best Book on Mexican Art, National Institute of Anthropology and History, Mexico City, 2001.

Southwest Book Award, Border Regional Library Association, El Paso, TX, 1996

Design Award, Bookbuilders West (Now Publishing Professionals Network), 1995

1993 American Apartheid: Segregation and the Making of the Underclass. Cambridge: Harvard University Press. (Coauthored with Nancy A. Denton)

Distinguished Publication Award of the American Sociological Association, 1995

Otis Dudley Duncan Award of the ASA Population Section., 1994

Critics' Choice Award, American Educational Studies Association, 1993

BC-DOC-0000001051

French Edition. American Apartheid. Collection "Les Urbanités," Dirigée par Jean-Marc Rennes, Francis Godard, Sophie Body-Gendrot, et Thierry Paquot. Paris: Descartes & Cie, 1995.

Chapter 1, "The Missing Link" reprinted as "American Apartheid" in Margaret L. Anderson, Kim A. Logio, and Howard F. Taylor, eds., Understanding Society: An Introductory Reader. Stamford, CT: Wadsworth Publishing. Pp. 476-83.

Chapter 1, "The Missing Link" reprinted as "American Apartheid: Segregation and the Making of the Underclass" reprinted in David B. Grusky, ed., Social Stratification in Sociological Perspective: Race, Class, and Gender, Boulder: Westview, pp. 660-70.

Chapter 4, "The Continuing Causes of Segregation," reprinted in Amanda Konradi and Martha Schmidt, eds., Social Problems: Perspectives and Approaches (Mayfield Publishing Company, 1997)

Chapter 4, "The Continuing Causes of Segregation," reprinted in Thomas M. Shapiro, ed., Great Divides: Readings in Social Inequality in the United States. Moutainview, Ca: Mayfield Publishing, 2000, pp. 249-64.

Chapter 6, "The Perpetuation of the Underclass," reprinted in Charles A. Gallagher, ed., Rethinking the Color Line: Readings in Race and Ethnicity. Mountain View, Ca.: Mayfield Publishing.

Chapter 8 , "The Future of the Ghetto," reprinted in Stephen Steinberg, ed., Race and Ethnicity in the United States: Issues and Debates (Blackwell Publishers, Oxford, 2000), pp. 114-26.

1990 Doy Gracias: Iconografía de la Emigración México-Estados Unidos. Guadalajara: Programa de Estudios Jaliscienses, Secretraría de Educación y Cultura, Universidad de Guadalajara; Published in cooperation with the Instituto Nacional de Antropología e Historia. (Coauthored with Jorge Durand)

1990 Milagros en la Frontera. Museum Catalogue to Exhibit "Milagros en la Frontera" at the Diego Rivera Studio Museum, Mexico City, December-February, 1990-1991; the Centenario Museum, Monterrey, Mexico; and Pape Library Museum, Monclova, Coahuila, Mexico. (Coauthored with Jorge Durand)

1987 Return to Aztlan: The Social Process of International Migration from Western Mexico. Berkeley and Los Angeles: University of California Press. (Coauthored with Rafael Alarcón, Jorge Durand, and Humberto González).

Spanish Edition. 1991. Los Ausentes: El Proceso Social de Migración Internacional en México Occidental. México, D.F.: Alianza Editorial Mexicana and Consejo Nacional para la Cultura y las Artes. (with Rafael Alarcón, Jorge Durand, y Humberto González)

BC-DOC-0000001052

Edited Volumes:

2020 Segregation and Stratification in 21st Century America. New York: Springer. Special issue of *Race and Social Problems*.

2019 Behind the Smoke and Mirrors of U.S. Immigration Policy: Research from the Mexican Migration Project. Thousand Oaks, CA: Sage Publications. Special issue of the *Annals of the American Academy of Political and Social Science.* (Co-edited with Jorge Durand with two coauthored chapters)

2016 Undocumented Migration in a Global Economy. Thousand Oaks, CA: Sage Publications. Special issue of the *Annals of the American Academy of Political and Social Science* (Co-edited with Katharine Donato and includes three coauthored chapters)

2013 Immigration and the Future of America. Cambridge, MA: MIT Press. Special issue of *Daedalus*. (Edited with an introductory chapter).

2013 The Non-Response Challenge to Surveys and Statistics. Thousand Oaks, CA: Sage Publications. Special issue of the *Annals of the American Academy of Political and Social Science* (Co-edited with Roger Tourangeau)

2010 Continental Divides: International Migration in the Americas. Thousand Oaks, CA: Sage Publications. Special issue of the *Annals of the American Academy of Political and Social Science*. (Co-edited with Katharine Donato, John Hiskey, and Jorge Durand)

Spanish Edition: Salvando Fronteras: Migración Internacional en Amérca Latina y el Caribe. México, D.F.: Porrúa.

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Scholarly Articles and Book Chapters (* indicates refereed publication):

2020 "The Ethnosurvey Revisited: New Migrations, New Methodologies?"' Central and Eastern European Migration Review, forthcoming.

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Postdoctoral Fellows Supervised:

Nancy A. Denton (1984-90)
Professor Emerita
Department of Sociology
SUNY at Albany
1400 Washington Avenue
Albany, NY 12222

Katharine M. Donato (1988-90)
Donald G. Herzberg Professor of International Migration
Director, Institute for the Study of International Migration
Georgetown University
Harris Building
3300 Whitehaven Street, N.W.
Washington D.C. 20007

Margaret E. Greene (1990-93)
Program Associate
Center for Health and Gender Equity
6930 Carroll Ave., Suite 910
Takoma Park, MD 20912
Luin Goldring (1989-91)

BC-DOC-0000001096

Professor
Department of Sociology
York University
Toronto, Ontario
CANADA

Mitchell L. Eggers (1991-92)
Chief Scientist
Lightspeed Research
600 108th Ave. NE
Suite 202
Bellevue, WA 98004

Audrey Singer (1993-94)
Immigration Specialist
Congressional Research Service
Domestic Social Policy Division
101 Independence Avenue, SE
Washington, DC 20540
asinger@crs.loc.gov
audsinger@gmail.com

René Zenteno (1996-98)
Professor of Demography
College of Public Policy
University of Texas at San Antonio
501 W. César E. Chavéz
San Antonio TX 78207- 4415

Emilio A. Parrado (1997-99)
Dorothy Swaine Thomas Professor and Chair
Department of Sociology
University of Pennsylvania
3718 Locust Walk
Phildelphia, PA 19104-6298

Marcella Cerrutti (1997-2001)
Director, Centro de Estudios de Población
Av. Corrientes 2817 - 7° Piso
Buenos Aires, Argentina
Casilla 4397 - Correo Central
1000 - Buenos Aires, Argentina
mcerrutti@cenep.org.ar

Elizabeth Fussell (1998-2001)
Research Professor

BC-DOC-0000001097

Population Studies and Training Center
Brown University Box 1836
68 Waterman St.
Providence, RI 02912

Ayumi Takenaka (2001)
Research Officer
COMPAS
School of Anthropology
University of Oxford
58 Banbury Road,
Oxford, OX2 6QS

Rubén Hernández-León (2000-2003)
Professor
Department of Sociology
296 Haines Hall
University of California, Los Angeles
Los Angeles, CA 90095-1551

Amelie Constant (2000-2003)
Visiting Scholar
Office of Population Research
Princeton University
Princeton, NJ 08544

Krystyna Iglicka (1997-98)
Professor of Economics and Demography
Institute of Social Studies
University of Warsaw
00-183 Warsaw

Garvey Musumunu (formerly Lundy) (1998-2003)
Professor of Sociology
Social Science Division
Montgomery County Community College
340 DeKalb Pike
Blue Bell, PA 19422

Mary J. Fischer (2003-2004)
Associate Professor
Department of Sociology
University of Connecticut
Storrs, CN 06269
Cris Beauchemin (2004-2005)
Director of Research
Centre Population & Dévelopement

BC-DOC-0000001098

Institut National Etudes Démographiques
221 Boulevard Davout
75020 Paris, FRANCE
cris.beauchemin@ined.fr
(33)01.56.06.21.28

Susan Clampet-Lundquist (2005-2006)
Associate Professor
Department of Sociology
St. Joseph's University
130 Post Hall
5600 City Avenue
Philadelphia, PA 19131-1395

Margarita Mooney (2005-2007)
Associate Professor
Princeton Theological Seminary
64 Mercer Street
Princeton, NJ 08542-0803

Kimberly Torres (2006-2008, 2011-2012)
Parent Liaison
Expert Admissions
1270 Avenue of the Americas, Suite 1700
Rockefeller Center
New York, NY 10020

Stefanie Brodmann (2008-2009)
Senior Economist
Middle East and North Africa Social Protection and Labor Unit
The World Bank Group
Praterstraße 31
1020 Wien, Austria
stefanie.brodmann@gmail.com

Pablo Mateos (2008)
Profesor-Investigador
Centro de Investigaciones y Estudios Superiores en Antropología Social-Unidad Occidente
Av. España 1359
Col. Moderna, C.P. 44190
Guadalajara, Jalisco, México.

Albert Sabater (2010-2011)
Research Fellow in the Centre for Population Change
School of Geography & Geosciences
Irvine Building
University of St Andrews

BC-DOC-0000001099

Fife, Scotland, KY16 9AL
United Kingdom

Sofya Aptekar (2010-2011)
Assistant Professor
Department of Sociology
University of Massachusetts Boston
Wheatley Hall, Floor: 04, Room 00012
Boston, MA 02125

Brandon G. Wagner (2015-2016)
Assistant Professor of Sociology
SASW Department
Texas Tech University
Box 41012
Lubbock, TX 79409-1012

Doctoral Students Supervised:
A.W.A.D.G Abayasekara (1984)
Board of Agricultural Economics
Postgraduate Institute of Agriculture
University of Peradeniya
Peradeniya 20400
Sri Lanka

Brendan P. Mullan (1985)
Associate Professor
Department of Sociology
Michigan State University
East Lansing, MI 48824

Francis Dodoo (1987)
Professor of Sociology and Demography
Department of Sociology
412 Oswald Tower
Pennsylvania State University
University Park, PA 16802

BC-DOC-0000001100

Mitchell E. Eggers (1990)
Chief Scientist
Lightspeed Research
600 108th Ave. NE
Suite 202
Bellevue, WA 98004

Emily Rosenbaum (1990)
Professor of Sociology
Department of Sociology
Fordham University
Bronx, NY 10458

Felipe García España (1991)
Senior Research Associate
Department of Psychopharmacology
3600 Market Street, Suite 875
University of Pennsylvania
Philadelphia, PA 19104-2649

Eric Fong (1992)
Professor and Chair
Department of Sociology
Chinese University of Hong Kong
Room 431, 4th Floor, Sino Building
Hong Kong, Shatin, HKSAR
ericfong@cuhk.edu.hk

Zai Liang (1992)
Professor of Sociology
Department of Sociology
University at Albany
1400 Washington Avenue
Albany, NY 12222
zliang@albany.edu

Shawn Kanaiaupuni (1995)
Division Director, Public Education Support
Kamehameha Schools
567 South King Street, Ste 300
Honolulu, Hawai'i 96813
shkanaia@ksbe.edu

BC-DOC-0000001101

David Lindstrom (1995)
Professor of Sociology
Department of Sociology
Brown University, Box 1916
Providence, RI 02912
david_lindstrom@brown.edu
Héctor Cordero Guzmán (1995)
Professor of Sociology
School of Public & International Affairs
Baruch College
17 Lexington Ave.
New York, N.Y. 10010
Hector.Cordero@baruch.cuny.edu

Kumiko Shibuya (1996)
Research Associate Professor
Department of Sociology
Chinese University of Hong Kong
Room 431, 4th Floor, Sino Building
Hong Kong, Shatin, HKSAR
kumiko.shibuya@cuhk.edu.hk

Kristin E. Espinosa (1997)
Senior Consultant in Social Science and Research Methodology
Polk Small Business Consulting
Crystal Lake, IL 60014
dpolk@polk-sbc.com

William Kandel (1998)
Immigration Specialist
Congressional Research Service
Domestic Social Policy Division
101 Independence Avenue, SE
Washington, DC 20540
wkandel@crs.loc.gov
202-577-4593 (cell)

S. Mara Pérez (1998)
President
Development and Planning Services
Web site: www.svn.net/mperez
Larkspur, CA 94977
mperez@maraperez.com

Randall S. Kuhn (1999)
Associate Professor
Department of Community Health Sciences

BC-DOC-0000001102

UCLA Fielding School of Public Health
650 Charles E. Young Drive South, CHS 26-078B
Los Angeles, CA 90095-1772
kuhn@ucla.edu

Nicholas M. Young (2000)
Retired on Medical Disability
Formerly at: Lally School of Management
Rensselaer Polytechnic Institute
110 8th Street, Pittsburgh Building
Troy, New York 12180

Payal Gupta Kondisetty (2001)
Market Research Specialist
Project Management Institute
14 Campus Boulevard
Newtown Square, PA 19073-3299 USA

Mariano Sana (2003)
Associate Professor
Department of Sociology
Vanderbilt University
VU Station B #351811
Nashville, TN 37235-1811
mariano.sana@vanderbilt.edu

Rebecca Joyce Kissane (2003)
Associate Professor
Department of Anthropology and Sociology
Lafayette College
Easton, PA 18042
kissaner@lafayette.edu

Mary J. Fischer (2003)
Associate Professor
Department of Sociology
344 Mansfield Road
University of Connecticut
Storrs, CN 06269
mary.fischer@uconn.edu

Gretchen Livingston (2003)
Senior Researcher
Pew Research Center
1615 L Street NW

BC-DOC-0000001103

Washington DC 20036
glivingston@pewhispanic.org

Sara Goldrick-Rab (2004)
Professor of Higher Education Policy, Organizational, & Leadership Studies
Temple University
Ritter Annex 419
1301 Cecil B. Moore Ave.
Philadelphia, PA 19122
sara.goldrick-rab@temple.edu

Nolane J. Malone (2004)
Owner/President
Auriga WPS Consulting
P.O. Box 775
Honolulu, Hawai'i 96808
info@aurigawps.com

Nadia Flores-Yeffal (2005)
Associate Professor
Department of Sociology, Anthropology, and Social Work
Texas Tech University
MS 1012, Holden Hall,
Lubbock, TX 79409-1012
nadia.flores@ttu.edu

Ilana Redstone Akresh (2005)
Associate Professor
University of Illinois at Urbana-Champaign
326 Lincoln Hall
702 South Wright Street
Urbana, IL 61801
redstone@illinois.edu

María Aysa-Lastra (2005)
Associate Professor of Sociology
Winthrop University
329 Kinard
Rock Hill, SC 29733
aysalastram@winthrop.edu

Fernando Riosmena
Associate Professor
Population Program, Institute of Behavioral Science
University of Colorado Boulder
1416 Broadway St. 484 UCB.
Boulder, CO. 80302.

BC-DOC-0000001104

fernando.riosmena@gmail.com

Kimberly C. Torres (2006)
Research Associate
University of Pennsylvania
Center for Africana Studies
3401 Walnut St
Philadephia, PA 19104
Ktorres@sas.upenn.edu

Katherine Bartley (2007)
Demographic Analyst
Bureau of Epidemiology Services
NYC Dept of Health and Mental Hygiene
42-09 28th St
Long Island City, NY 11101
David Potere (2008)
Head of GeoInnovation
Indigo Ag
500 Rutherford Ave,
Boston, MA 02129

Rebecca Casciano (2009)
President and CEO
Glass Frog Solutions
172 Orchard Rd
Skillman, NJ 08558
201-341-3291
rebecca@glassfrog.us

Elisha Smith Arrillaga (2009)
Executive Director
The Education Trust-West
1814 Franklin Street, Suite 600,
Oakland, CA 94612
earrillaga@edtrustwest.org

BC-DOC-0000001105

Jonathan Rothwell (2009)
Senior Economist
Gallup Organizaton
901 F St NW, Washington, DC 20004
jonathan_rothwell@gallup.com

Gregory Elacqua (2009)
Principal Education Economist
Social Sector Department
Inter-American Development Bank
1300 New York Ave NW
Washington, DC 20577
gregory.elacqua@gmail.com

Nicholas Ehrmann (2010)
CEO and Founder
Blue Engine Educational Program
150 Court Street
Brooklyn, NY 11201
nick@blueengine.org

Sofya Aptekar (2010)
Assistant Professor
Department of Sociology
University of Massachusetts Boston
Wheatley Hall, Floor: 04, Room 00012
Boston, MA 02125
sofya.aptekar@umb.edu

Pratikshya Bohra-Mishra (2011)
Senior Research Associate
Glass Frog Solutions
172 Orchard Rd
Skillman, NJ 08558
pratikshya@glassfrog.us

Shahana Chattaraj (2011)
Postdoctoral Fellow
Blavatnik School of Government
Oxford University
10 Merton St
Oxford OX1 4JJ, United Kingdom

BC-DOC-0000001106

Michael Moynihan (2011)
Chief Economist
NYC Economic Development Corporation
110 William St
New York, NY 10038
mmoynihan@nycedc.com

Jacob S. Rugh (2012)
Associate Professor, Department of Sociology
Brigham Young University
2008 Joseph F. Smith Building
Provo, UT 84602
jacob_rugh@byu.edu

Julia Gelatt (2013)
Senior Policy Analyst
Migration Policy Institute
1400 16th Street N, Suite 300
Washington, DC 20036
jgelatt@migrationpolicy.org

Joel Thibert (2013)
Consultant, McKinsey & Co.
1250 René-Lévesque Ouest
Montreal, QC H3B 4W8, Canada

Jayanti Owens (2013)
Mary Tefft and John Hazen White, Sr. Assistant Professor
Department of Sociology
Brown University
Box 1916
Providence, RI 02912
jayanti_owens@brown.edu

Erik Vickstrom (2013)
Migration Policy Analyst
International Migration Division
Directorate for Employment, Labor, and Social Affairs
Organization for Economic Cooperation and Development
2, rue André Pascal - 75775 Paris Cedex 16
FRANCE
Erik.Vickstrom@oecd.org

BC-DOC-0000001107

Laura Nolan (2015)
Researcher
Mathematica Policy Research
P.O. Box 2393
Princeton, NJ 08543-2393
LNolan@mathematica-mpr.com

Mahesh Somashekar (2015)
Assistant Professor
Department of Sociology
University of Illinois at Chicago
1007 W Harrison St
Chicago, IL 60607
msoma@uic.edu

Takudzwa Sayi (2015)
Postdoctoral Fellow
Department of Community and Family Health
USF College of Public Health
13201 Bruce B. Downs Blvd., MDC 56
Tampa Florida 33612
tsayi@health.usf.edu

Charles Varner (2016)
Associate Director, Center on Poverty and Inequality
Institute for Research in the Social Sciences
30 Alta Road
Stanford, CA 94305
cvarner@stanford.edu

Kerstin Gentsch (2016)
Senior Policy Analyst
Office of Policy Research
City University Of New York
555 West 57th St., Suite 1240
New York, NY 10019
Kerstin.Gentsch@cuny.edu

Jonathan Tannen (2016)
Research Scientist
Facebook
Philadelphia, PA
jonathan.tannen@gmail.com

BC-DOC-0000001108

Janeria Easley (2016)
Assistant Professor
Department of Sociology
Emory University
201 Dowman Drive
Atlanta, Georgia 30322

Zitsi Mirakhur (2017)
Research Associate
Research Alliance for NYC Schools
Steinhardt School of Education
New York University
285 Mercer Street, 3rd Floor
New York, NY, 10003
zitsi.mirakhur@nyu.edu

Linsey Edwards (2018)
Assistant Professor of Sociology
New York University
Puck Building
295 Lafayette Street, 4th Floor
New York, NY 10012-9605
Linsey.edwards@nyu.edu

Amanda Cheong (2019)
Assistant Professor
Department of Sociology
University of British Columbia
AnSo 2111
6303 NW Marine Drive
Vancouver, BC
Canada V6T 1Z1

Leah Gillion (2019)
Postdoctoral Fellow
Graduate School of Education
University of Pennsylvania
3700 Walnut St.
Philadelphia, PA 19104

Emilce Santana (2019)
Postdoctoral Fellow
Department of Sociology
Texas A&M University
311 Academic Building
College Station, TX 77843-4351
Etienne Breton (2019)

BC-DOC-0000001109

Postdoctoral Fellow
Cornell Population Center
2301 MVR
Cornell University
Ithaca, NY 14853

Other Doctoral Students (Student Coauthors):
Kathleen Mullan Harris (1988)
James Haar Distinguished Professor
Department of Sociology
University of North Carolina
Chapel Hill, NC 27599-3210

Emilio A. Parrado (1996)
Dorothy Swaine Thomas Professor and Chair
Department of Sociology
University of Pennsylvania
3718 Locust Walk
Philadelphia, PA 19104-6299

Zoltan Hajnal (1998)
Professor
Department of Political Science
University of California at San Diego
9500 Gilman Drive
La Jolla, CA 92093-0521

Julie A. Phillips (1998)
Professor of Sociology
Rutgers University
54 Joyce Kilmer Avenue
Piscataway NJ 08854-8045

Michael B. Aguilera (1999)
Associate Professor
Department of Sociology
University of Oregon
Eugene, OR 97403-1291

Jennifer H. Lundquist (2004)
Professor and Associate Dean of Faculty Development
Department of Sociology
Thompson Hall
University of Massachusetts
Amherst, MA 01003-7525
Susan Clampett Lundquist (2003)
Assistant Professor

BC-DOC-0000001110

Department of Sociology
St. Joseph's University
130 Post Hall, 5600 City Avenue
Philadelphia, PA 19131-1395

Gniesha Dinwiddie (2005)
Assistant Professor
African American Studies Department
University of Maryland
2169 LeFrak Hall
College Park, MD 20742

Phillip Connor (2010)
Research Associate
Pew Research Center's Forum on Religion & Public Life
615 L Street NW, Suite 700
Washington, DC 20046
pconnor@pewforum.org

Steven E. Alvarado (2011)
Assistant Professor
Department of Sociology
Cornell University
336 Uris Hall
Ithaca, New York, 14853-7601

S. Heidi Norbis Ullman (2011)
Associate Social Affairs Officer
United Nations Economic Commission for Latin America and the Caribbean
Av. Dag Hammarskjöld 3477
Casilla 179-D
Santiago, Chile 7630412
(56-2) 210-2000; (56-2) 471-2000

Len Albright (2011)
Assistant Professor of Sociology and Public Policy
Northeastern University
360 Huntington Ave.
Boston, Massachusetts 02115
l.albright@neu.edu

BC-DOC-0000001111

Liz Derickson
Assistant Dean for Academic Affairs
Swarthmore College
500 College Ave.
Swarthmore, PA 19081
(610)328-8475
ederick1@swarthmore.edu

Current Doctoral Students:
Megan Blanchard, Chair
Christopher Hale, Chair
Ulrike Bialas, Committee Member

Master's Theses Supervised at University of Chicago
Virginia Ruiz, M.A., Latin American Studies, 1991
Amy Wendt, M.A., International Relations, 1992
Jeffrey Bass, M.A., Social Sciences, 1992
Jessica Fleischmann, M.A., Latin American Studies, 1992
Carla Burnett, M.A., Latin American Studies, 1992
Debra Westlake, M.A., Latin American Studies, 1992
S. Mara Perez, M.A., Latin American Studies, 1992
Bronwyn Nichols, International Studies, 1993
Mary C. Simon, M.A., Latin American Studies, 1993
Andrew Geer, M.A., Public Policy Studies, 1994
Jorge Buendia, Latin American Studies, 1994
Caryn Howell, Latin American Studies,, 1994
Ana Salas, M.A., International Relations, 1995

Master's Theses Supervised at University of Pennsylvania
Michael Jeram, Lauder Program, Wharton School, 1996
Jonathan Hoopes, Lauder Program, Wharton School, 1996
William Krolicki, Lauder Program, Wharton School, 1996
Lisa Sharon, Lauder Program, Wharton School, 1996
Deborah Hirst, Sociology, 1996
Michael McGrann, Lauder Program, Wharton School, 1997
R. Kenneth Bryant, Lauder Program, Wharton School, 1997
Bret Caldwell, Lauder Program, Wharton School, 1997
Laura Purcell, Lauder Program, Wharton School, 1997
Juan L. Betancourt, Lauder Program, Wharton School, 1998
Luis Gonzalez, Lauder Program, Wharton School, 1998
Agustin Lara, Lauder Program, Wharton School, 1998
Buxton Midyette, Lauder Program, Wharton School, 1998
Jill Scriba, Lauder Program, Wharton School, 1998
Ernesto Garza, Lauder Program, Wharton School, 1998
Matthew Laessig, Lauder Program, Wharton School, 1998
Roberto Junguito, Lauder Program, Wharton School, 1998

David Buenfil, Lauder Program, Wharton School, 1998

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Elizabeth Menke, Lauder Program Wharton School, 1998
Dan Feldman, Lauder Program. Wharton School, Spring 1999
Sean Ludwick, Lauder Program, Wharton School, Spring 1999
Jeffrey Smith, Lauder Program, Wharton School, Spring 1999
Sarene Riley, Lauder Program, Wharton School, Spring 1999
Richard Caballero, Lauder Program, Wharton School, Spring 1999
Nora Ruedi, Demography Program, Spring 1999
Douglas Asiello, Lauder Program, Wharton School, Spring 2000
Erica Blewer, Lauder Program, Wharton School, Spring 2000
Stewart Hobbs, Lauder Program, Wharton School, Spring 2000
Stephen Schafer, Lauder Program, Wharton School, Spring 2000
Andrew Bond, Lauder Program, Wharton School, Spring 2000
William Belleville, Lauder Program, Wharton School, Spring 2000
Anthony Diggle, Lauder Program, Wharton School, Spring 2001
Jason Nelson, Lauder Program, Wharton School, Spring 2001
Shimon Shkury, Lauder Program, Wharton School, Spring 2001
Tal Lev, Lauder Program, Wharton School, , Spring 20001
Cassandra Santos, Lauder Program, Wharton School, Spring 2001
Jonathan Masland, Lauder Program, Wharton School, Spring 2002
Maria Aysa, Demography Program, Spring 2002
Ilana Redstone, Demography Program, Spring 2002
Kevin Johnson, Lauder Program, Wharton School, Spring 2003
Erik Sandorff, Lauder Program, Wharton School, Spring 2003
William McClain, Lauder Program, Wharton School, Spring 2003

Undergraduate Theses Supervised at University of Chicago

Andrew Gross, Sociology, 1991
Aracely Muñoz, Sociology, 1994

Undergraduate Theses Supervised at University of Pennsylvania

Andrew Borinstein, Sociology, 1981
Leonardo Simpser, Development Studies, 1995
Azucena Rangel, Sociology, 1996
Bryan Hirsch, Political Economy, 2003

Senior Theses Supervised at Princeton University

2004

Alison Epting, Woodrow Wilson School
Kathryn Parolin, Sociology

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2005
Mark C. Parrett, Politics
Joseph Robinson III, Sociology
Rebecca Stewart, Sociology
Camille Coates, Woodrow Wilson School

2006
Lindsay F. Tintenfass, Woodrow Wilson School
Karen Barajas, Woodrow Wilson School
Rishard P.O. Cooper, Woodrow Wilson School
Cherice Landers, Sociology (Winner of Lisa Bryant Thesis Award)
Cynthia Loomis, Politics
Venkatram N. Rao, Sociology

2007
Laura Boyce, Woodrow Wilson School
Robert Braun, Sociology (Winner of Ruth Simmons Thesis Prize in African American Studies, *Summa Cum Laude*, *Phi Beta Kappa*)
Timothy Callahan, Sociology
Kristin Clarke, Woodrow Wilson School
Ana Cordovil, Sociology
Joseph Falit, Woodrow Wilson School
Alexander Maugeri, Woodrow Wilson School
Meghan McCormick, Woodrow Wilson School
Samara Penn, Woodrow Wilson School
Amelia Rawls, Woodrow Wilson School
Stephanie Steel, Politics

2008
Luke Cohler, Woodrow Wilson School and Program (Winner of Stanley Stein Thesis Prize in Latin American Studies)
Kathryn Lankester, Woodrow Wilson School, High Honors
Regina Lee, Politics (Winner of Center for Migration and Development Thesis Prize)
Sian O'Faolain, Woodrow Wilson School (Winner of Frederick Douglass Service Award and the Henry Richardson Labouisse '28 Prize)

2009
Chanté Coleman, Sociology
Amirah Mercer, Sociology
Barry Newell, Sociology
Colleen Poynton, Politics

2010
On sabbatical leave

2011
Margaret Boberg, Politics

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Katherine Gaudyn, Woodrow Wilson School
Megan Kelly, Sociology
Caaminee Pandit, Sociology, High Honors
Emily Persons, Sociology

2012
Katherine Alvarez, Sociology, Honors
Bianca Cabrera, Sociology
Omar Carrillo, Woodrow Wilson School
Raven Keith, Woodrow Wilson School
Destiny Ortega, Woodrow Wilson School
Nicole Phan, Woodrow Wilson School, Honors
Maya Reid, Sociology,
Alicia Zeng, Woodrow Wilson School, Highest Honors

2013
Rana Campbell, Sociology, Honors
Charles Du, Sociology, Isadore Brown Prize, Highest Honors
Merik Mulcahey, Politics

2014
Brittany Serafino, WWS, Honors
Jacob Jackson, WWS
Luc Cohen, WWS
Taylor Platt, WWS, Honors
Rukiya Ross, Sociology, Honorable Mention, Ruth J. Simmons Thesis Prize in African American Studies

2015
Jacob Intrator, WWS, High Honors
Diane Hu, WWS, Honors
Ali Pankowski, WWS
Nshira Turkson, WWS, Bain-Swigget Poetry Prize
Jiayan Yu, WWS, Center for Migration and Development Thesis Prize, Highest Honors

2016
On sabbatical leave

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2017
Julio Castillo, WWS
Jabari Johnson, WWS
Anne Kartheiser. WWS
Vivian Ramirez, WWS
Jessica Vickerman, Sociology
Michelle Mui, WWS

2018
Mary Claire Bartlett, WWS, Honors
My Bui, Politics
Chandler Cleveland, WWS
Jacob Hammel, WWS
Isabella Nappa, Sociology
Christopher Park, WWS
Taylor Pearson, WWS
Maria Perales, WWS
Caitlin Quinn, WWS

2019
Michjael Asparrin. WWS
Qalea, Ismael, SOC
Maria Jerez, WWS
Jackson Simcox, SOC
Jessica Wright, WWS

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PROOF OF SERVICE

I am employed in Washington, DC. I am over the age of 18 and am not a party to the within action; my business address is: 1016 16th Street NW, Washington, DC 20036.

On March 13, 2020, I served the following document(s) described as: **EXPERT DECLARATION OF DOUGLASS S. MASSEY, PH.D** on all interested parties in this action, by serving the following individuals:

Alexander V. Sverdlow	alexander.v.sverdlov@usdoj.gov
Brad P. Rosenberg	brad.rosenberg@usdoj.gov

Attorneys for Defendants

Mo Brooks	marshall.Yates@mail.house.gov

Plaintiff

Anil Mujumdar	anil@zarzaur.com
Dorian Spence	dspence@lawyerscommittee.org
Ezra Rosenberg	erosenberg@lawyerscommittee.org
John Lewis	jlewis@democracyforward.org
Jonathan Weissglass	jonathan@weissglass.com
Marcelo Quinones	marcelo.quinones@cco.sccgov.org
Ravi Rajendra	raphael.rajendra@cco.sccgov.org
Robert Segall	segall@copelandfranco.com
Robin Thurston	rthurston@democracyforward.org
Ryan Kusmin	rmkusmin@debevoise.com

Local Government Intervenors

Barry Ragsdale	bragsdale@sirote.com
Elena Goldstein	Elena.Goldstein@ag.ny.gov
Joyce Vance	joycevance4@gmail.com
Liz Morgan	elizabeth.Morgan@ag.ny.gov
Matthew Colangelo	matthew.Colangelo@ag.ny.gov

State and Other Governmental Entities Intervenors

[X] (By Electronic Service): By transmitting by email to the above Parties at the above email addresses.

[X] (Federal): I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on **March 13, 2020**, at Washington, District of Columbia.

/s/Andrea Senteno
Andrea Sentno