Differential Privacy and the 2020 Decennial Census

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Confidentiality of Census Data

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

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

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

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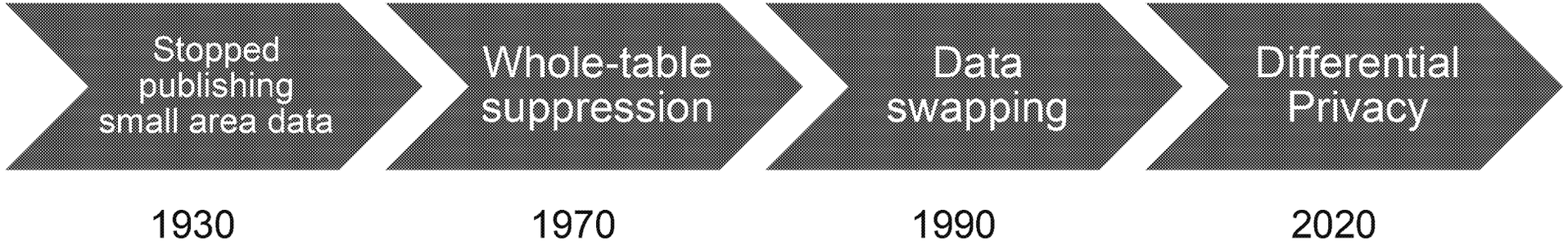
The Census Bureau's Privacy Protections Over Time

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

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



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The Privacy Challenge

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

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



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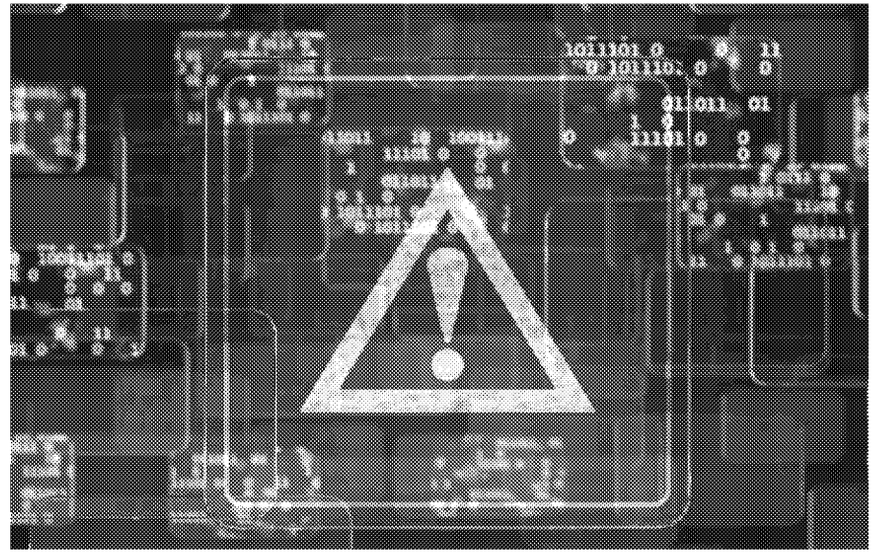
The Growing Privacy Threat

More Data and Faster Computers!

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

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

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



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Reconstruction

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

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

Computer algorithms can do this very easily.

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

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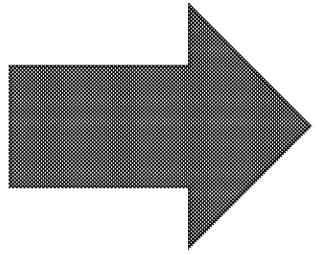
Reconstruction: An Example

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



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

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

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Re-identification

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

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

External Data

+

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

Confidential Data

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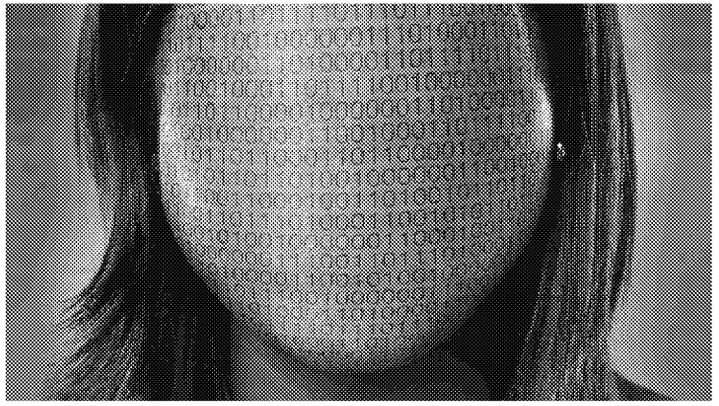
Reconstructing the 2010 Census

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



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Reconstructing the 2010 Census: What Did We Find?

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

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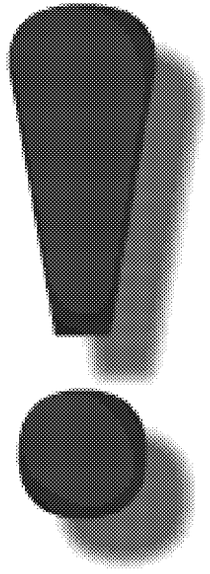
The Census Bureau's Decision

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



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

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

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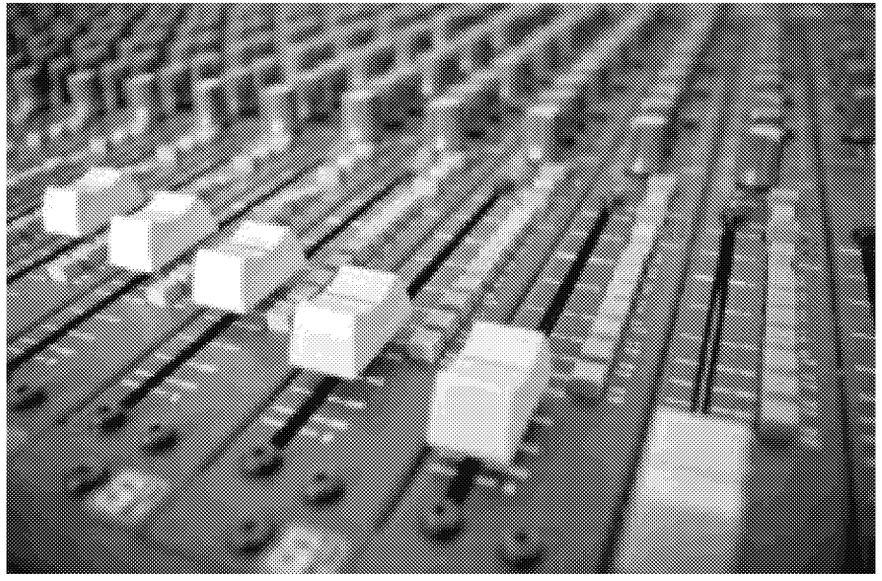
Differential Privacy

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

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

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

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



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Disclosure Avoidance System

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

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

How the TDA works:

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

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Current Initiatives
(DAS Development Sprint V)

Remediation of issues from Test Readiness Review (TRR)

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

Preparation for Production Readiness Review

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

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

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

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Upcoming Milestones

September 2020

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

March 2021

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

June-July 2021

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

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Status Reporting: Phased Restart for the 2020 Decennial Census

Periodic Reporting: Release for July 6, 2020

BC-DOC-0000028834

Periodic Performance Management Reports

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Periodic Performance Management Reports

2020 Census: Phased Restart Update Leave Status by State

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

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

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

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

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

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Periodic Performance Management Reports
2020 Census: Update Leave Progress & Cost

Status:
On Track

Data current as of:
July 6, 2020

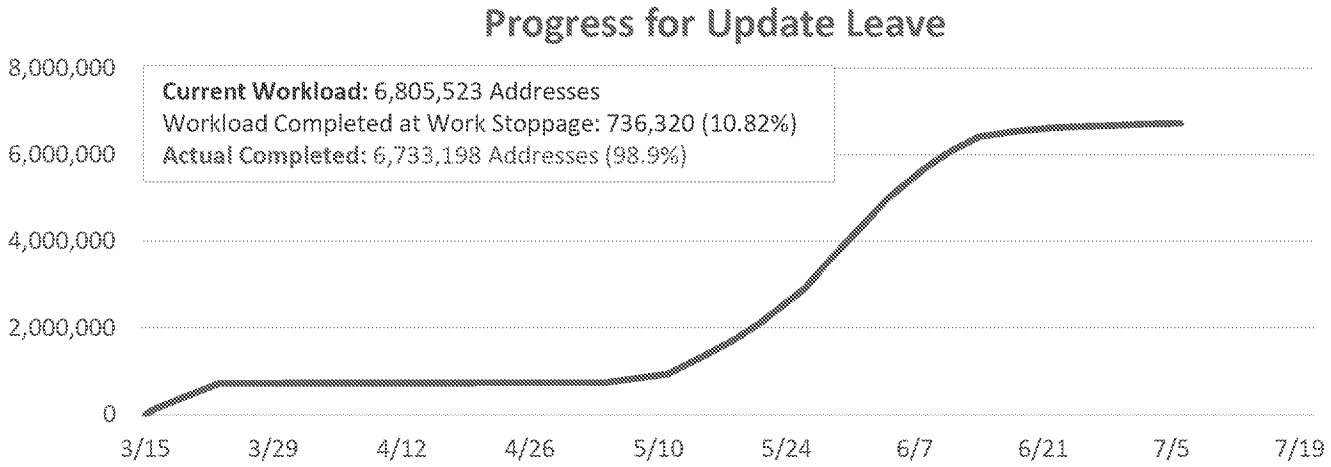
Start Date:
March 15, 2020

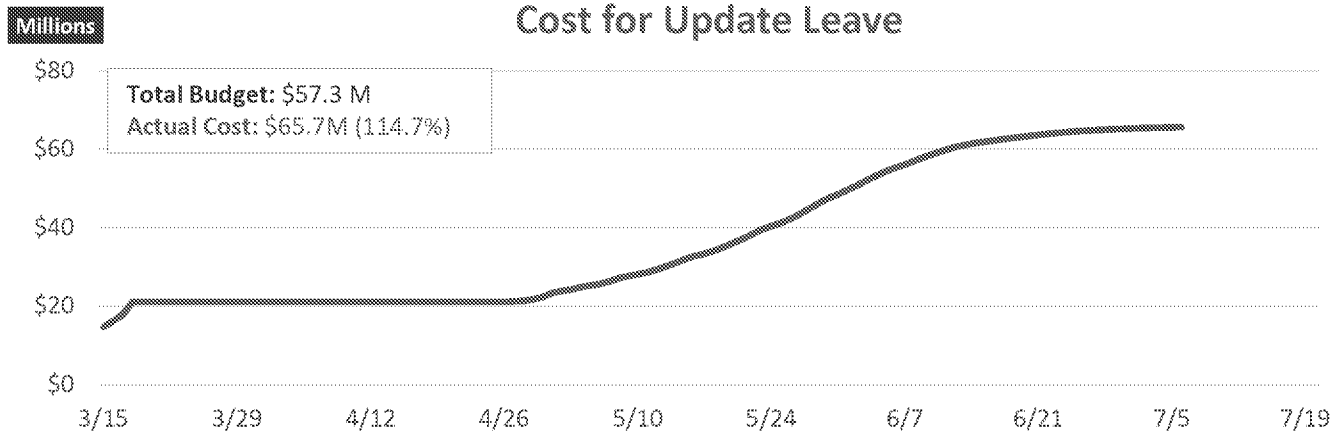
Completion Date:
July 20, 2020*

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

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

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





Source: Unified Tracking System

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Periodic Performance Management Reports

2020 Census: Update Leave – Status Update

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

Operation:

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

Workload:

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

Response Rates:

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

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Periodic Performance Management Reports

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

Status:
On Track

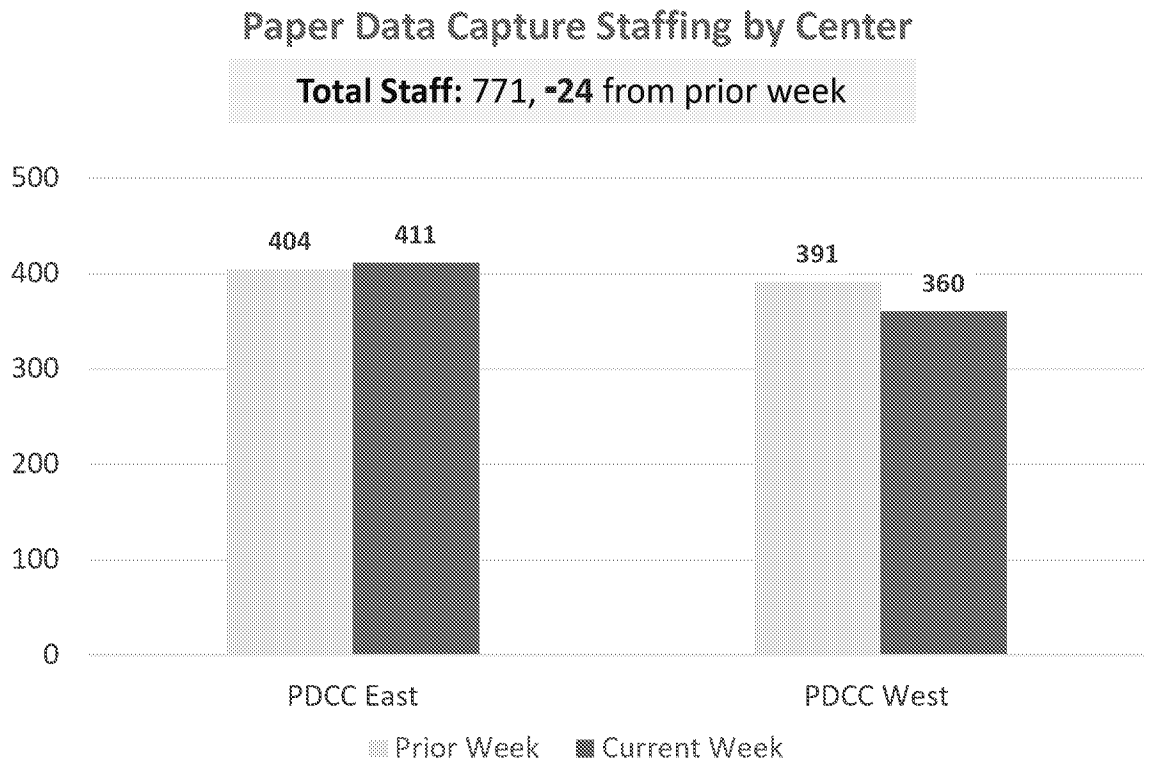
Data current as of:
July 1, 2020

Start Date:
January 21, 2020

Completion Date:
November 30, 2020

Notes:

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



Source: National Processing Center

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Periodic Performance Management Reports
2020 Census: Phased Restart Fingerprinting Status

Status:
● *On Track*

Data current for the week of:
July 6, 2020

Start Date:
January 21, 2020

Completion Date:
October 31, 2020

Notes:

Overall Fingerprinting Status

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

Source: Unified Tracking System, Automated Tracking and Control

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Periodic Performance Management Reports

2020 Census: NRFU Tip Sheet

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

Cycle 1A NRFU Soft Launch

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

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

Key Dates

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

CFS/Enumerator Training and Deploy Goals by Office

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

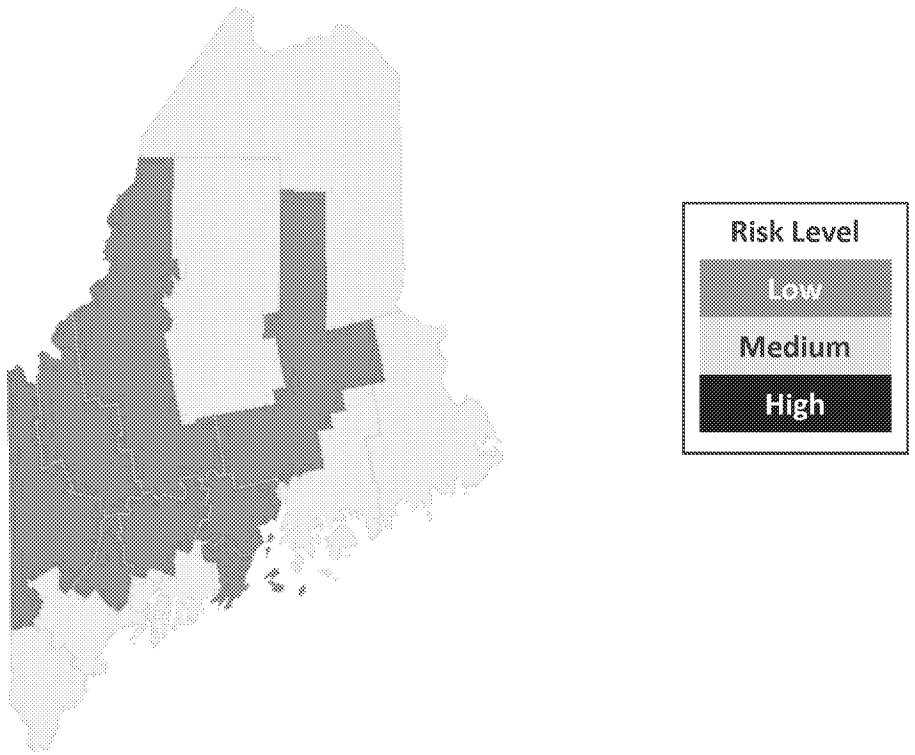
ACO Name	Current Self-Response Rate (6/29)	NRFU CFS Goal to Train	NRFU CFS Goal to Deploy	NRFU Enums Goal to Train	NRFU Enums Goal to Deploy
Gardiner	53%	78	71	2,078	1,870
Beckley	53%	87	80	2,717	2,454
Kansas City	62%	110	99	2,529	2,225
New Orleans	56%	58	52	1,341	1,181
Oklahoma County	59%	73	66	1,740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

Periodic Performance Management Reports

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

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

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



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

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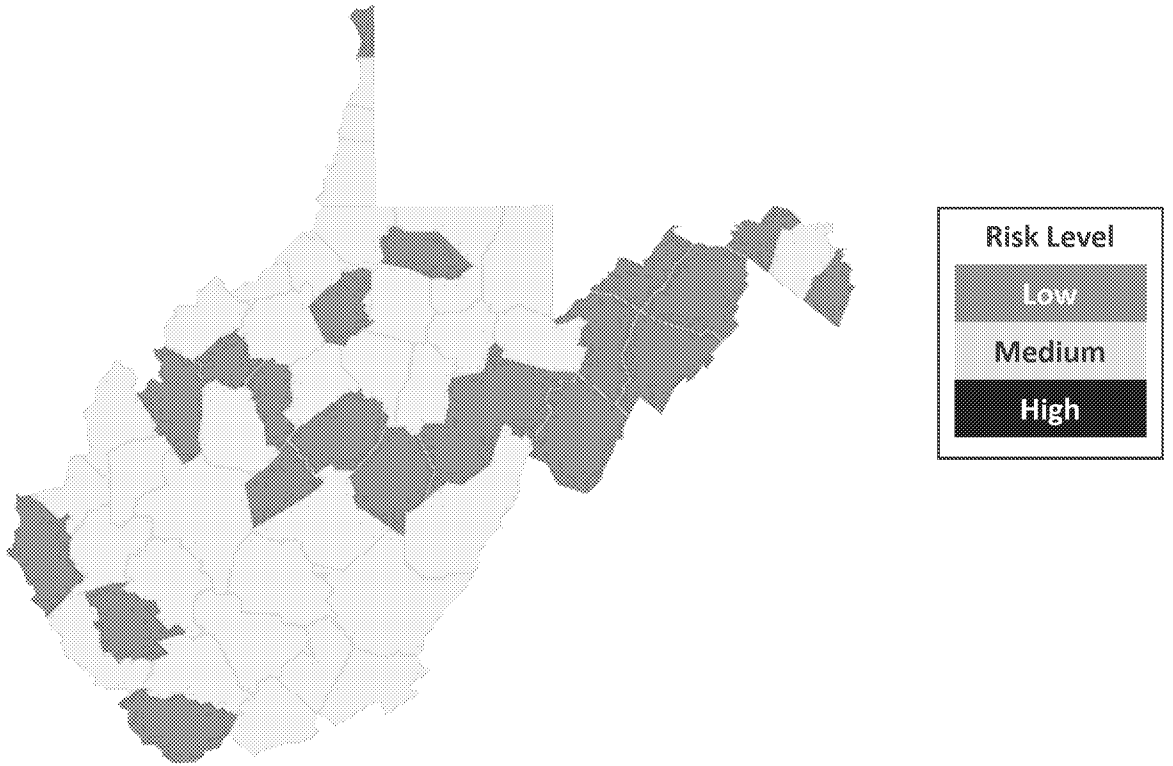
Periodic Performance Management Reports

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

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

Beckley, West Virginia Area Census Office

RCC: Philadelphia RCC	
ACO: 2390	
Key Dates • 6/18: Census Field Supervisor (CFS) Training • 7/7: Enumerator Training • 7/16: Production	
Self-Response Rate:	53%
NRFU CFS Goal to Deploy:	80
NRFU Enumerator Goal to Deploy:	2,454



Note:
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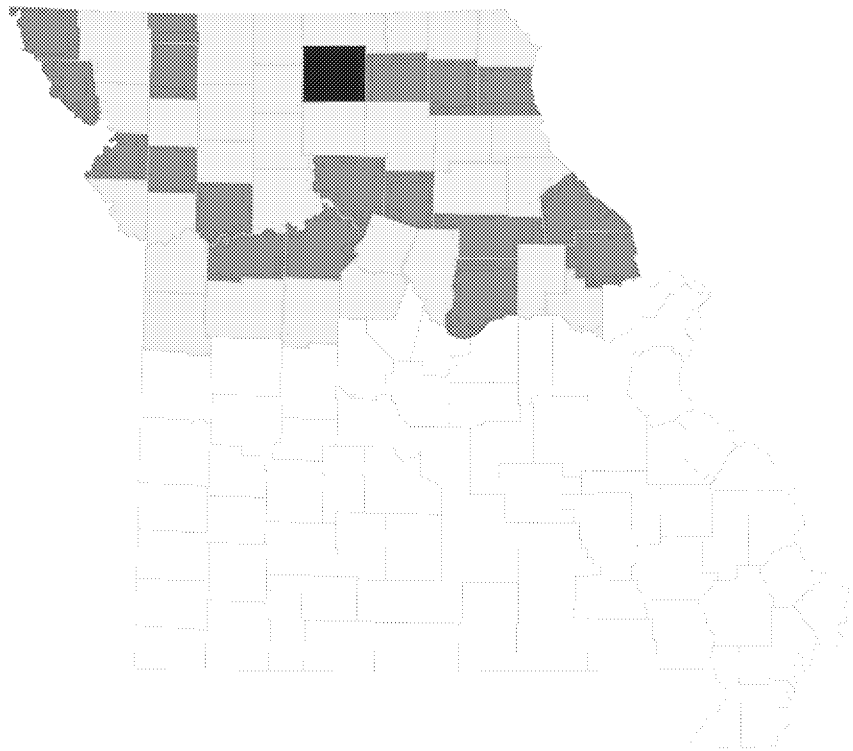
Periodic Performance Management Reports

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

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

Kansas City, Missouri Area Census Office

RCC: Chicago RCC	
ACO: 2581	
Key Dates • 6/18: Census Field Supervisor (CFS) Training • 7/7: Enumerator Training • 7/16: Production	
Self-Response Rate:	62%
NRFU CFS Goal to Deploy:	99
NRFU Enumerator Goal to Deploy:	2,225



Note:
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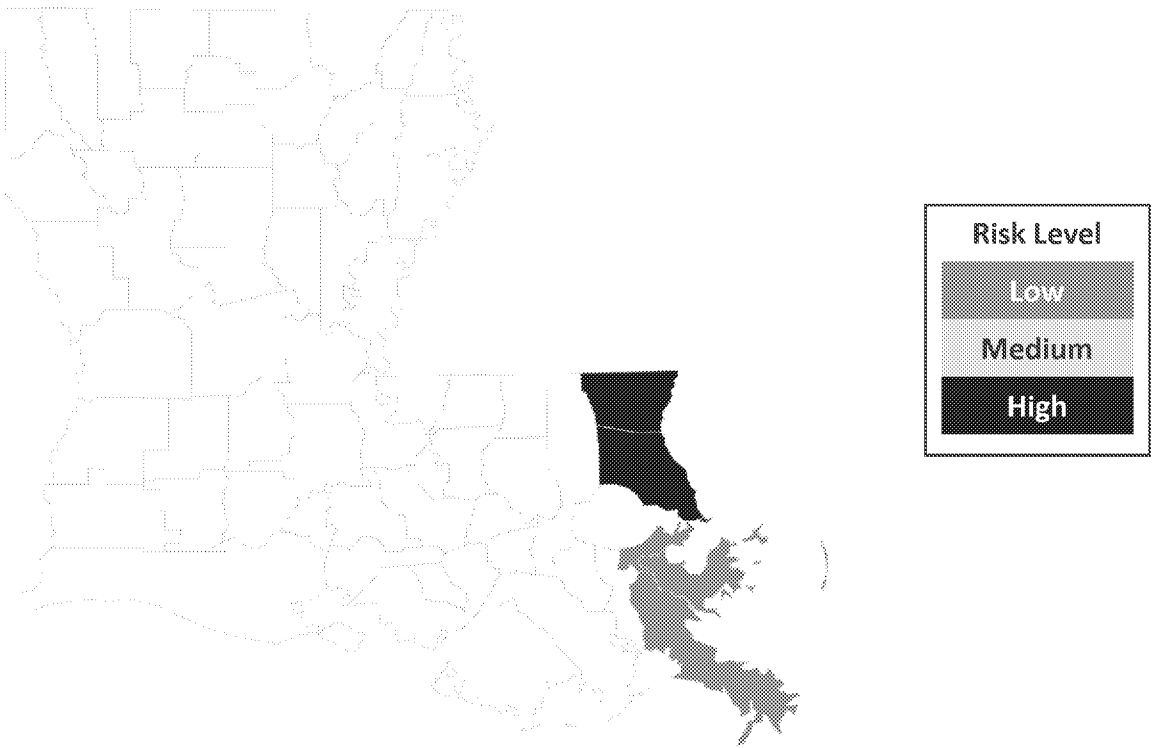
Periodic Performance Management Reports

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

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

New Orleans, Louisiana Area Census Office

RCC: Atlanta RCC	
ACO: 2990	
Key Dates • 6/18: Census Field Supervisor (CFS) Training • 7/7: Enumerator Training • 7/16: Production	
Self-Response Rate:	56%
NRFU CFS Goal to Deploy:	52
NRFU Enumerator Goal to Deploy:	1,181



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

BC-DOC-0000028845

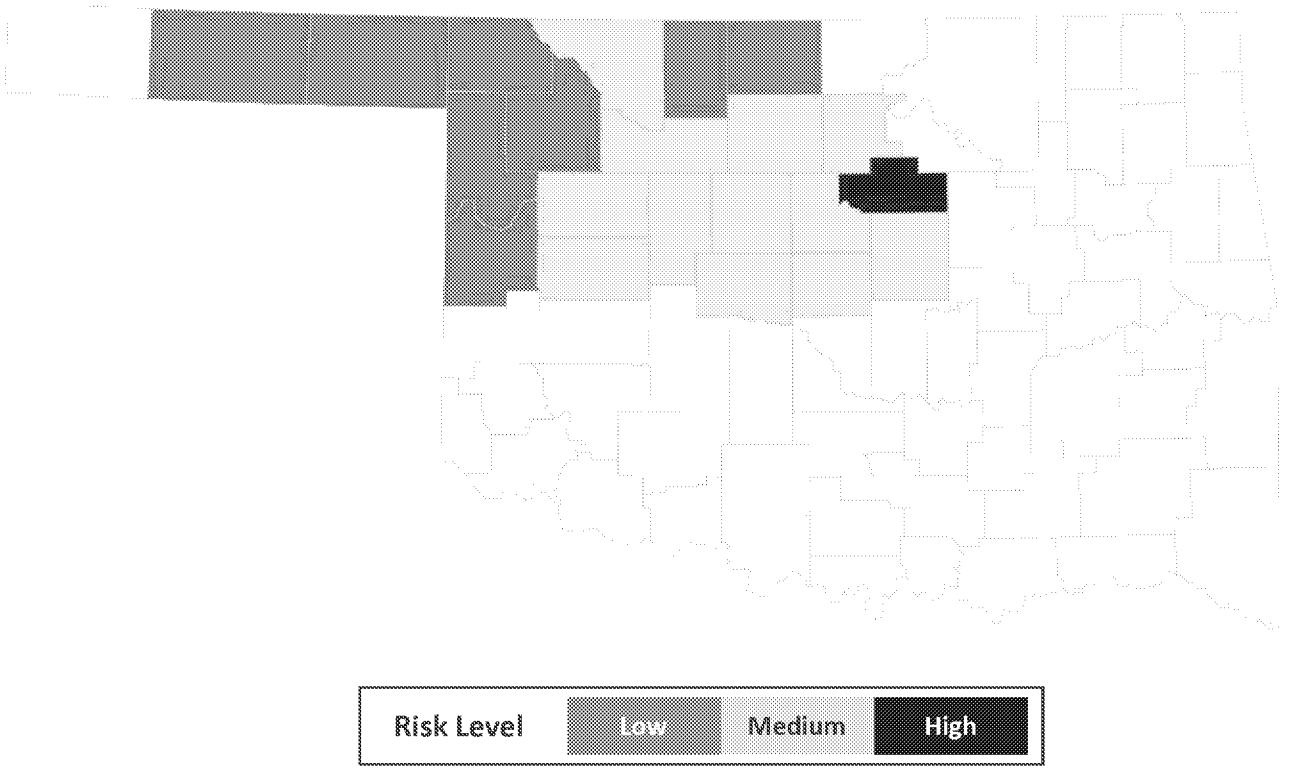
Periodic Performance Management Reports

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

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

Oklahoma County, Oklahoma Area Census Office

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



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

Periodic Performance Management Reports

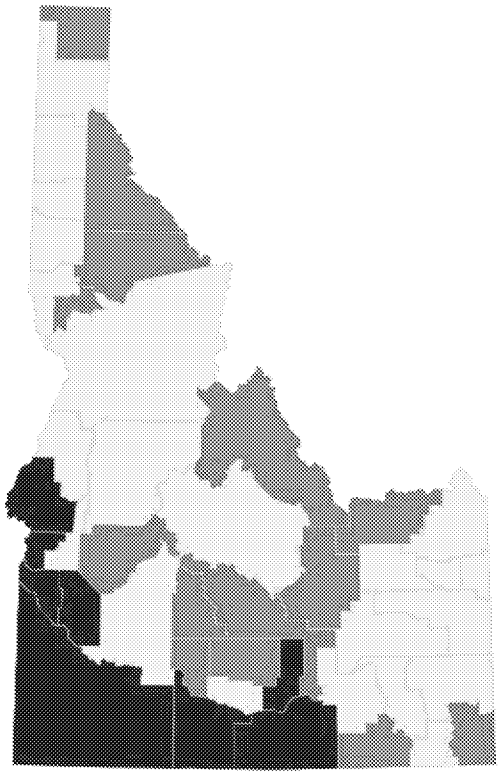
2020 Census: County- Level COVID-19 Risk Level Map – Boise, Idaho Area Census Office

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

Boise, Idaho Area Census Office

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

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



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

Periodic Performance Management Reports

2020 Census: NRFU Soft Launch – Cycle 1 ACOs

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

Cycle 1A ACOs

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

Cycle 1B ACOs

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

BC-DOC-0000028848

Periodic Performance Management Reports

2020 Census: NRFU Soft Launch – Cycle 2 ACOs

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

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

BC-DOC-0000028849

Periodic Performance Management Reports

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

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

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

BC-DOC-0000028850

Status Reporting: 2020 Decennial Census

Periodic Reporting: Release for July 6, 2020

BC-DOC-0000028851

Periodic Performance Management Reports

Release for July 6, 2020

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

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

BC-DOC-0000028852

Periodic Performance Management Reports

Release for July 6, 2020

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

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

BC-DOC-0000028853

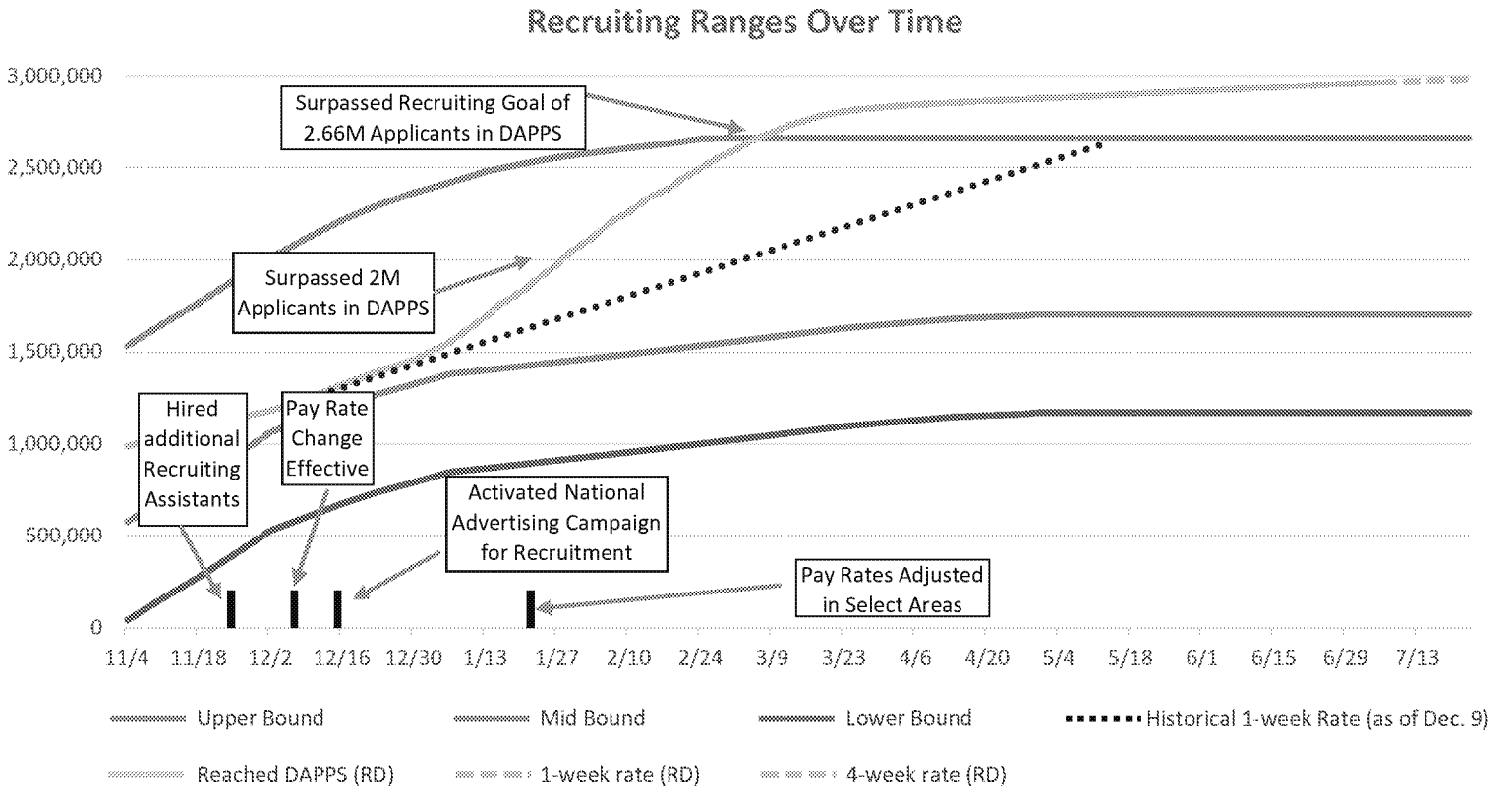
Periodic Performance Management Reports

2020 Census: Recruiting Ranges Over Time

Data current as of:
July 6, 2020

Completion Date:
August 15, 2020

Notes:



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

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

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

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

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

BC-DOC-0000028854

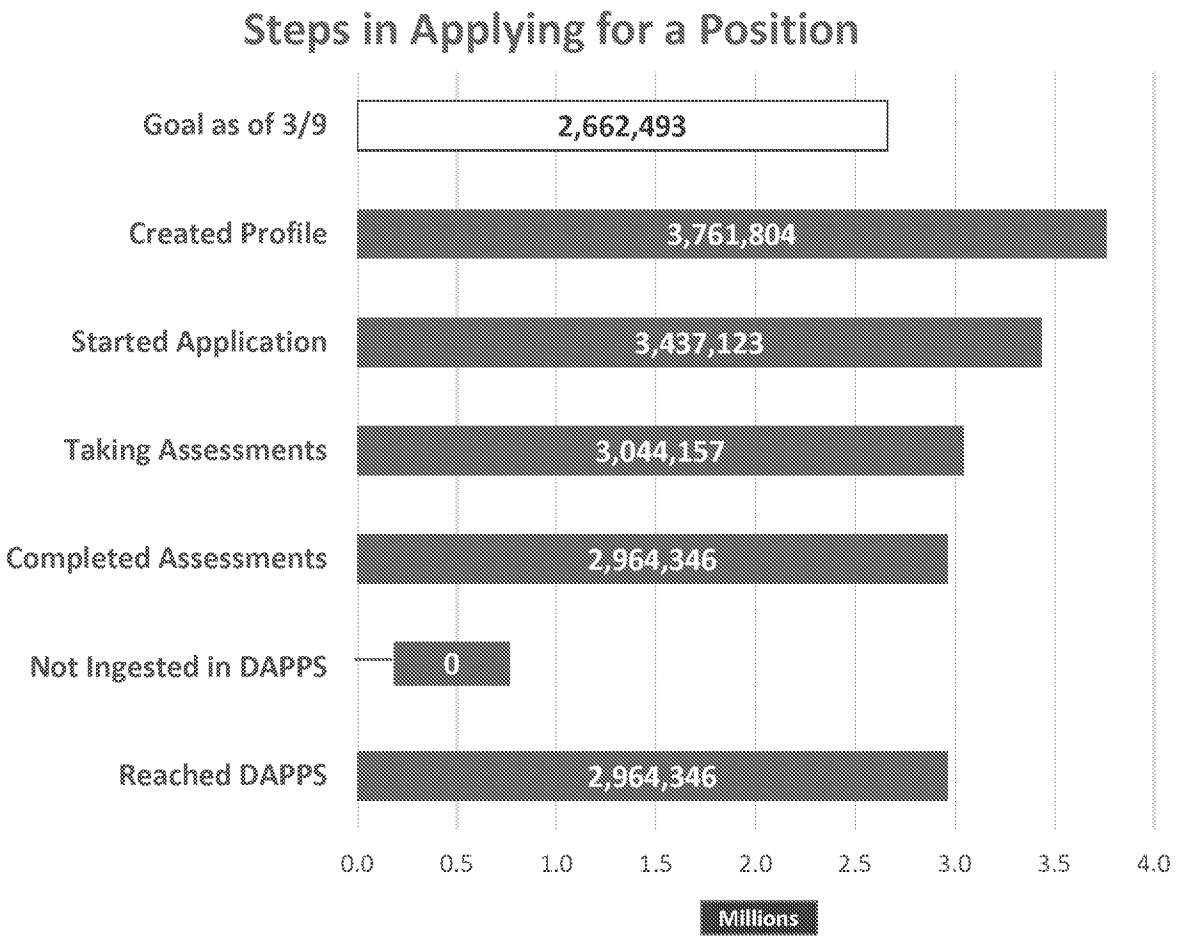
Periodic Performance Management Reports
2020 Census: Applicant Status

Status:
On Track

Data current as of:
July 6, 2020

Completion Date:
January 5, 2021

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



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

BC-DOC-0000028855

Periodic Performance Management Reports

2020 Census: Remote Alaska Progress & Cost

Status:
On Track

Data current as of:
July 6, 2020

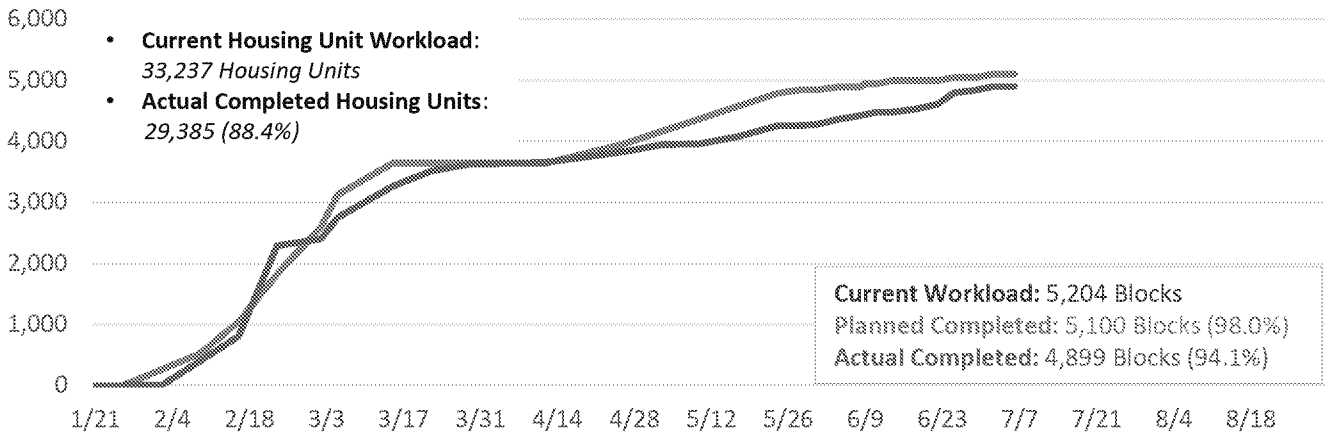
Start Date:
January 21, 2020

Completion Date:
August 31, 2020

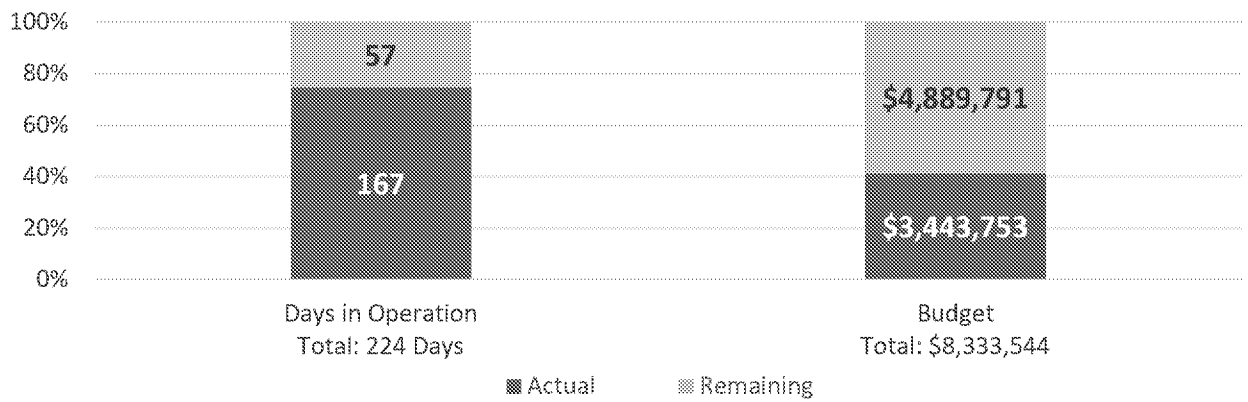
Notes:

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

Progress for Remote Alaska Production



Key Performance Indicators for Remote Alaska



Source: Unified Tracking System, Automated Tracking and Control

BC-DOC-0000028856

Periodic Performance Management Reports

2020 Census: Self-Response of Housing Units

Status:
On Track

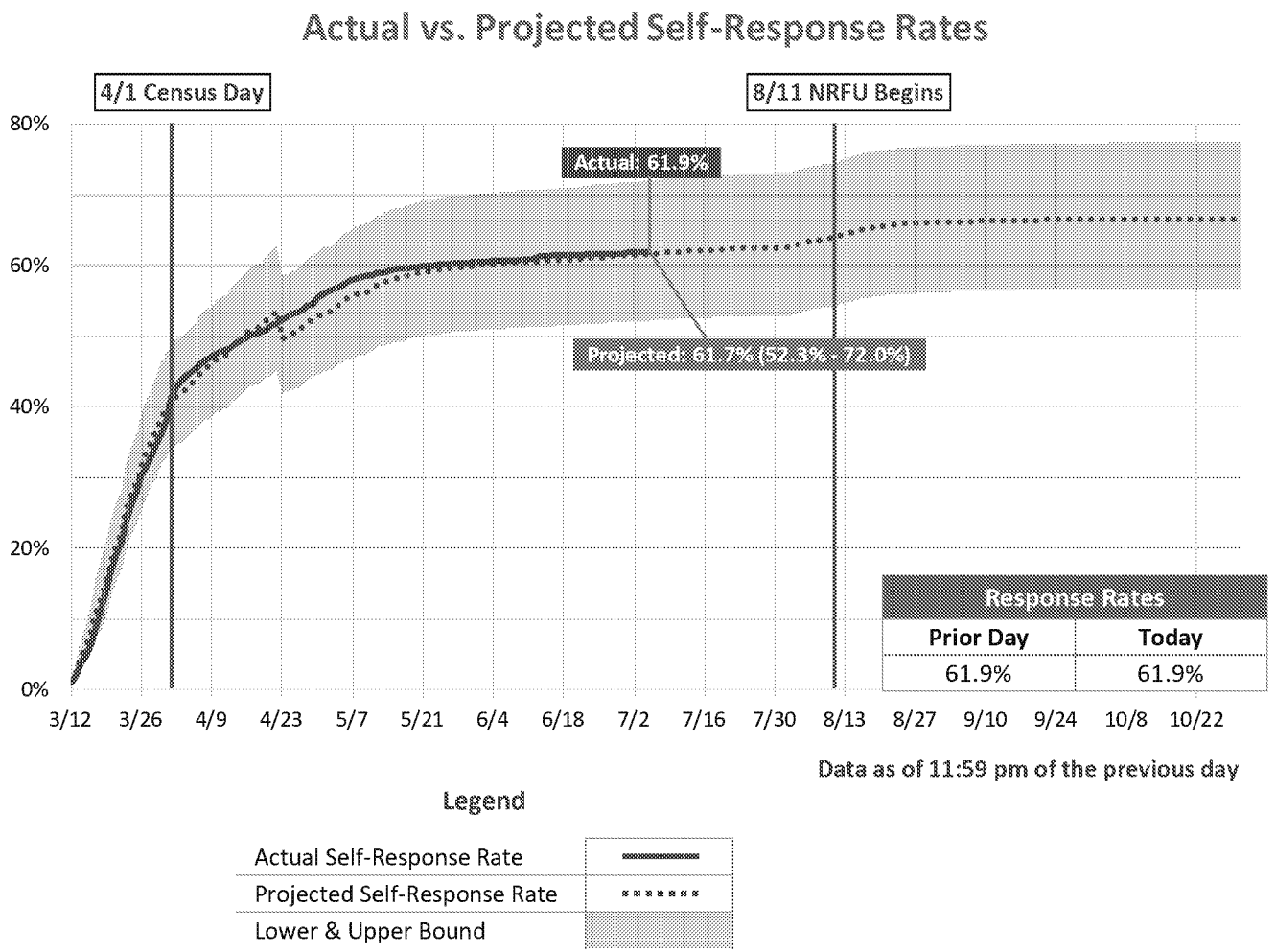
Data current as of:
July 6, 2020

Start Date:
March 12, 2020

Completion Date:
*October 31, 2020**

Notes:

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



Source: Census Data Lake & Decennial Statistical Studies Division

BC-DOC-0000028857

Periodic Performance Management Reports

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

Status:
On Track

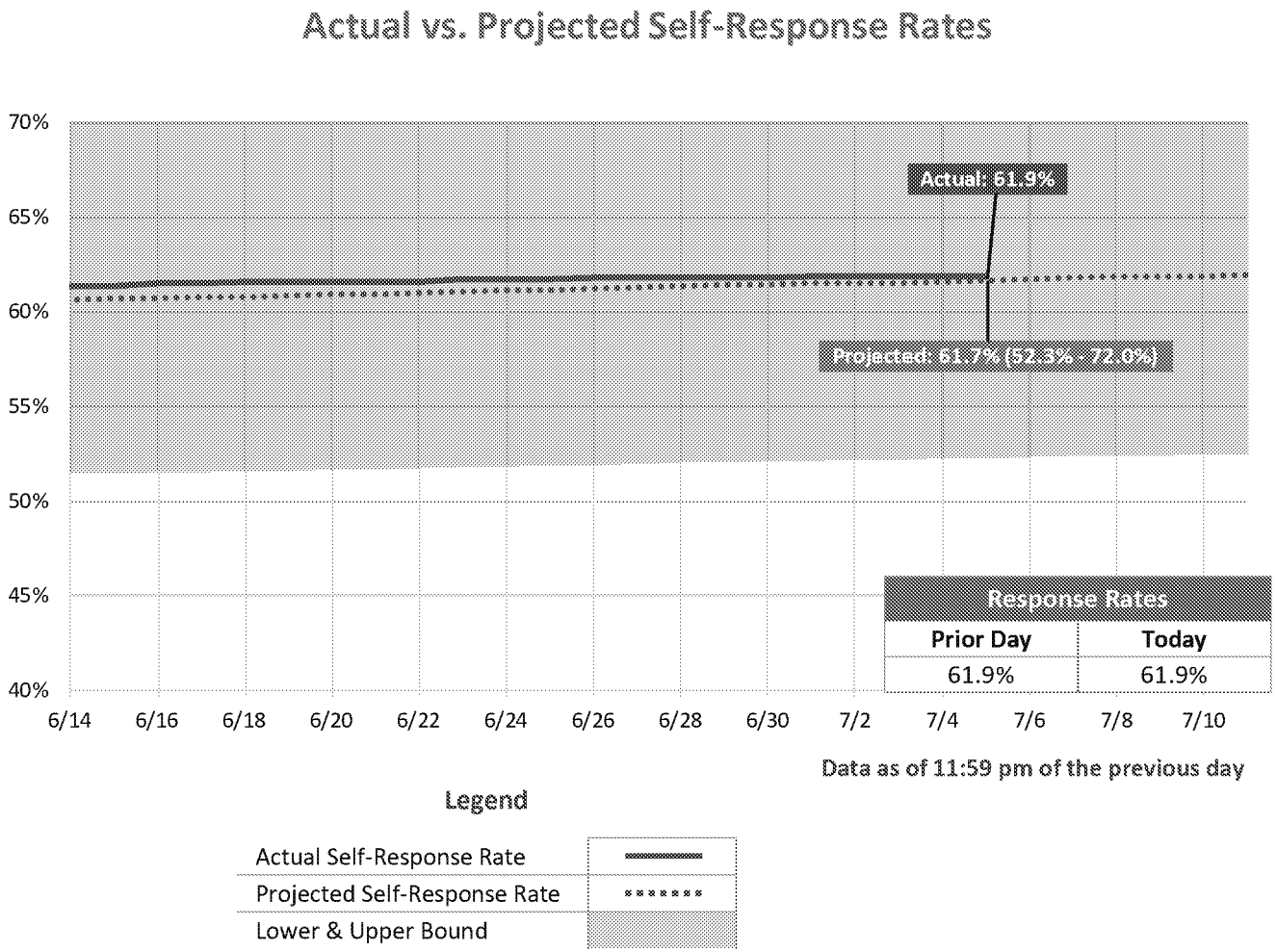
Data current as of:
July 6, 2020

Start Date:
March 12, 2020

Completion Date:
*October 31, 2020**

Notes:

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



Source: Census Data Lake & Decennial Statistical Studies Division

United States Census Bureau | U.S. Department of Commerce
Economics and Statistics Administration
U.S. CENSUS BUREAU
census.gov

BC-DOC-0000028858

Periodic Performance Management Reports

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

Status:

◯ *Management Focus*

Data current as of:

July 6, 2020

Start Date:

March 12, 2020

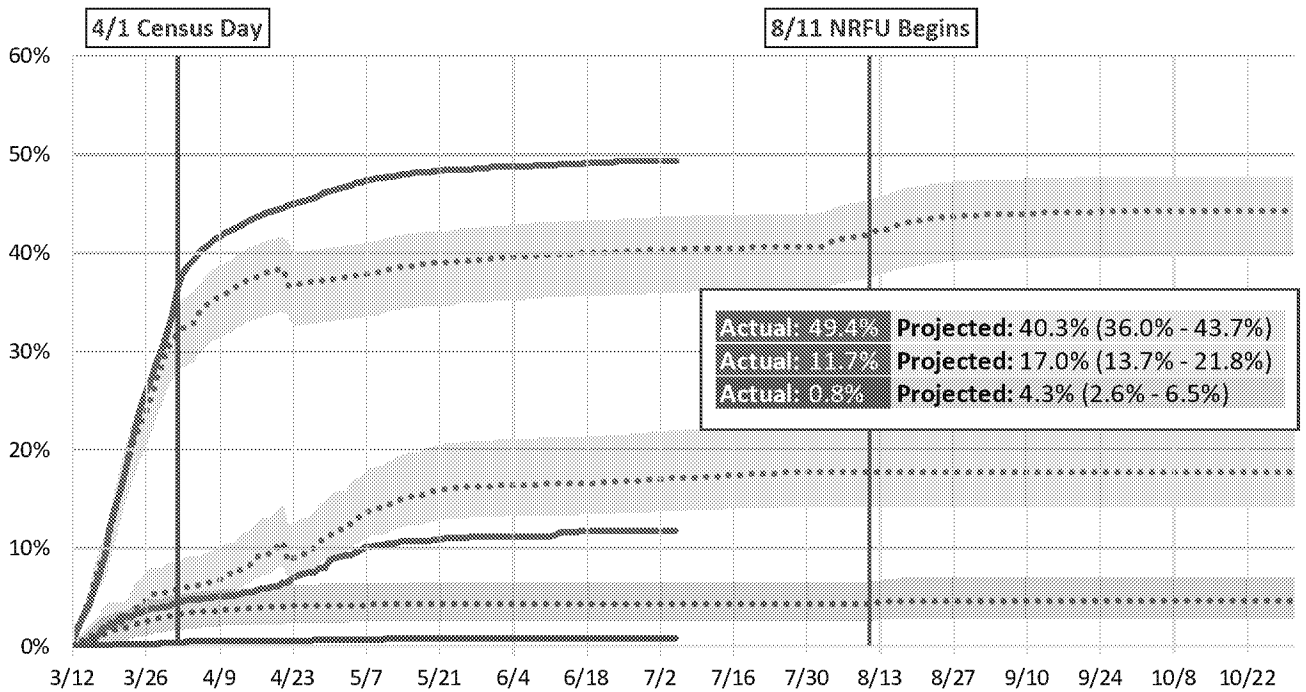
Completion Date:

*October 31, 2020**

Notes:

- As of April 22, the projected Self-Response rates have been revised to account for re-planned operational timing and a sixth mailing prior to the August 11 start of Nonresponse Followup.
- The paper counts include inbound mail.
- * Internet, Paper, and Phone response options remain available throughout the data collection timeframe to offer maximum flexibility for respondents.

Actual vs. Projected Self-Response Rates by Mode



Data as of 11:59 pm of the previous day

Legend

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

Source: Census Data Lake & Decennial Statistical Studies Division

BC-DOC-0000028859

Periodic Performance Management Reports

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

Status:
◯ *Management Focus*

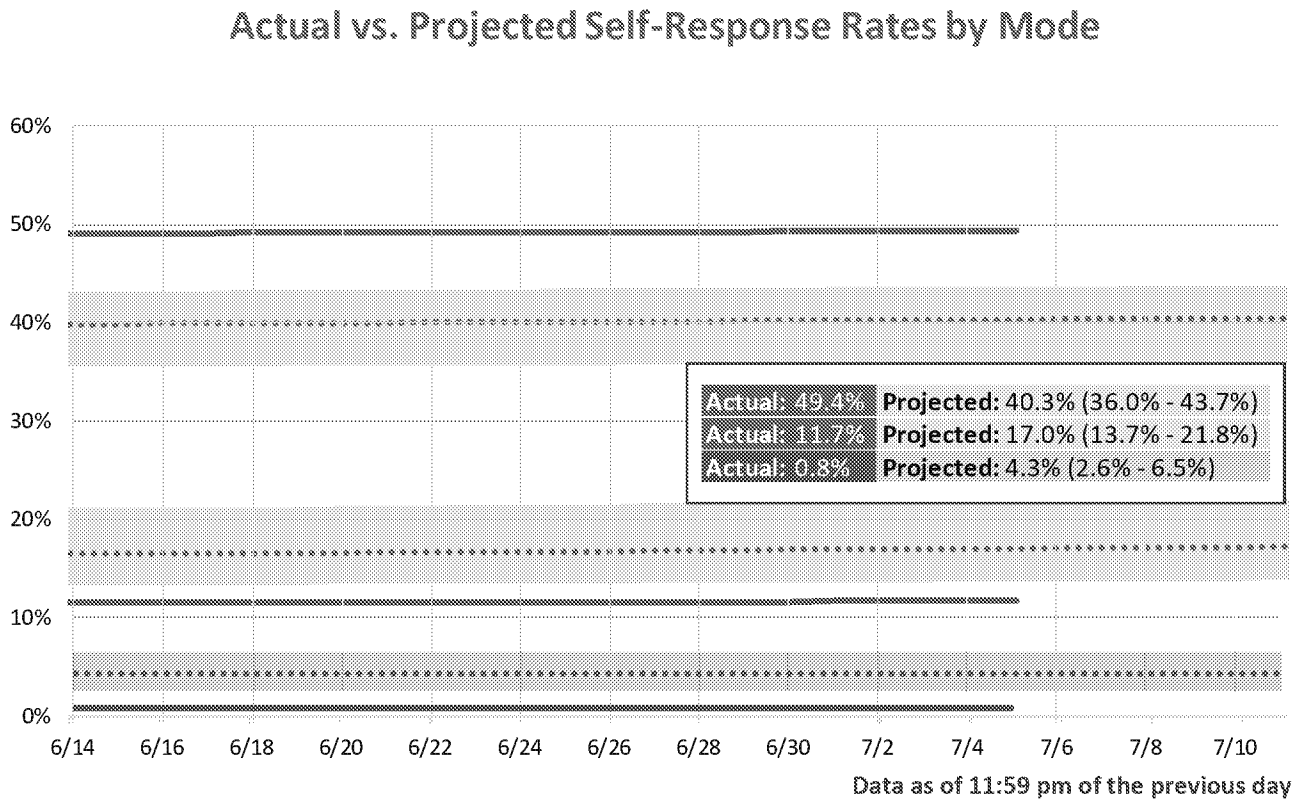
Data current as of:
July 6, 2020

Start Date:
March 12, 2020

Completion Date:
*October 31, 2020**

Notes:

- As of April 22, the projected Self-Response rates have been revised to account for re-planned operational timing and a sixth mailing prior to the August 11 start of Nonresponse Followup.
- The paper counts include inbound mail.
- * Internet, Paper, and Phone response options remain available throughout the data collection timeframe to offer maximum flexibility for respondents.



Legend

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

Source: Census Data Lake & Decennial Statistical Studies Division

BC-DOC-0000028860

Periodic Performance Management Reports

2020 Census: Self-Response of Housing Units by State

Source: *Decennial Statistical Studies Division*

Data Current as of: *July 6, 2020*

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

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

Data as of 11:59 pm of the previous day

BC-DOC-0000028861

Periodic Performance Management Reports
2020 Census: Questionnaire Assistance Inbound Calls

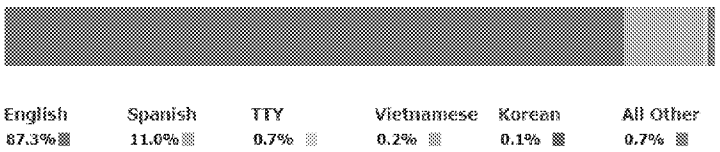
Status:
On Track

Data current as of:
July 4, 2020

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

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

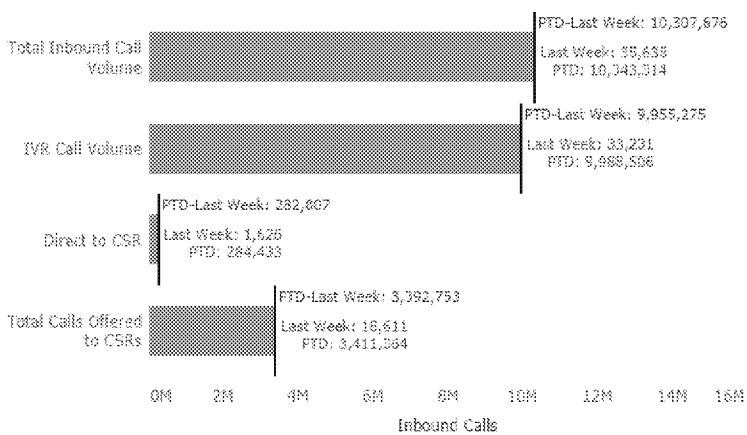
Total Inbound Call Volume % (PTD)



Key Performance Metrics (PTD)

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

Inbound Call Volume



Calls Offered to CSRs by Language

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

Source: *Daily Briefing Deck: Census Questionnaire Assistance*

Periodic Performance Management Reports
2020 Census: Partners & Participating Organizations

Status:
On Track

Data current as of:
July 2, 2020

Completion Date:
March 2020

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

Participating Organizations by Sector

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

Participating Organizations by Audiences Served*

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

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

Completed Community Partnership Events: 397,282

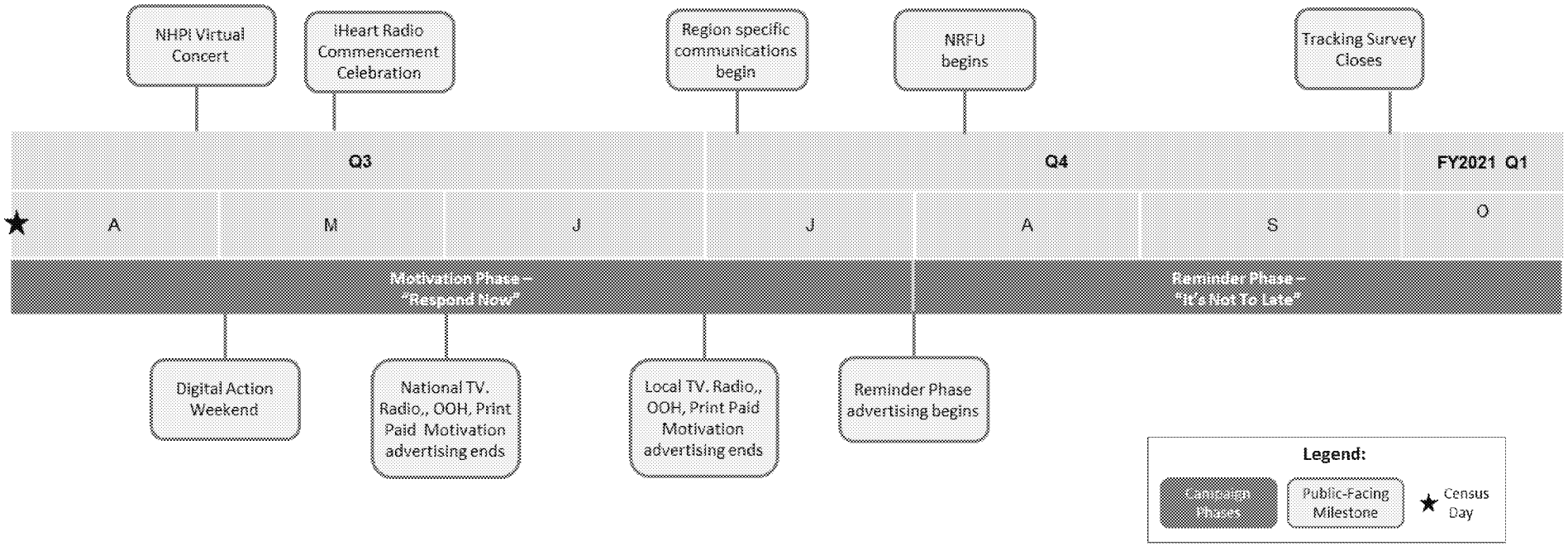
Source: *Customer Relationship Management Database*

BC-DOC-0000028863

Periodic Performance Management Reports

2020 Census: Integrated Communications Campaign Weekly Report Timeline

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



Significant Accomplishments

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

BC-DOC-0000028864

Periodic Performance Management Reports

2020 Census: Monthly FY 2020 Budget Execution Report

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

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

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

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

High-Level Variance Explanations:

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

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

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

BC-DOC-0000028865

Policy Committee Meeting Agenda

July 8, 2020

10:15am – 11:00am

b(6)

Participants: All bureaus have been included on the invitation for this meeting

Welcome/Introduction	Blair	2 minutes
BIG Initiative – Update/Final Steps		40 minutes
• Update	Blair/Gilman	
Wrap Up	Blair	3 minutes

White House Liaison Meeting 7/8/2020

EOD DATE 7/20/2020

b(6)

TENATIVE PROMOTIONS 7/20/2020

b(6)

To Discuss

PPO Interviews

Bureau Leadership Meeting
July 8, 2020
11:00am – 11:45am
b(6)

Agenda:

1. Secretary's Schedule – Tala G.

2. Phase #1 Update – KDK
   - Mask Requirement Reminder

3. Around the Horn
   - Invitees:
     i. NIST – Walt Copan
     ii. USPTO – Andrei Iancu
     iii. OBL – Patrick Wilson
     iv. NOAA – Neil Jacobs
     v. MBDA – David Byrd
     vi. OLIA – Anthony Foti
     vii. CENSUS – Steve Dillingham
     viii. BIS – Jeremy Pelter
     ix. ITA – Diane Farrell
     x. EDA – Dana Gartzke
     xi. Space Commerce – Kevin O'Connell
     xii. CFO/ASA – Tom Gilman, Kevin Preskenis
     xiii. OS – Mike Walsh, James Rockas
     xiv. OGC – Stephanie Olson
     xv. OPA – Meghan Burris
     xvi. OWHL – Anthony LaBruna
     xvii. OPSP – Rob Blair
     xviii. OSP – Sean Brebbia
     xix. PTO – Andrei Iancu

Topics for Bureau Leadership b(5) - DP

b(5) - DP

DRAFT

Organizer: Kelley, Karen (Federal) : KKelley@doc.gov

Subject: Check in: White House Liaison Office

Location: b(6)

Start Time: 2020-06-02T14:00:00-04:00

End Time: 2020-06-02T15:00:00-04:00

Attendees: Risko, Daniel (Federal) : DRisko@doc.gov, Walsh, Michael (Federal) : MWalsh@doc.gov, Preskenis, Kevin (Federal), KPreskenis@doc.gov, Gilman, Thomas (Federal) : TGilman@doc.gov, LaBruna, Anthony (Federal), ALaBruna@doc.gov, McLean, Sean (Federal) : SMcLean@doc.gov, DepSec Conference Room Calendar b(6) @doc.gov, Rafiekian, Christine (Federal) : invalid:nomail, Oscarson, Alexandra (Federal), AOscarson@doc.gov

Dial-in information:

b(6)

Participant: b(6)

Organizer: Kelley, Karen (Federal) : KKelley@doc.gov

Subject: FirstNet Review Group Meeting

Location: b(6)

Start Time: 2020-06-02T15:00:00-04:00

End Time: 2020-06-02T16:30:00-04:00

Attendees: Gilman, Thomas (Federal) : TGilman@doc.gov, Rockas, James (Federal) : JRockas@doc.gov, McClelland, Michelle O (Federal), mMcClelland@doc.gov, Preston, Robert (Federal) : RPreston@doc.gov, Brodian, David (Federal), DBrodian@doc.gov, Berkowitz, Barry (Federal) : BBerkowitz@doc.gov, Preskenis, Kevin (Federal), KPreskenis@doc.gov, Guenther, John (Federal) : JGuenther@doc.gov, Sweet, Jon (Federal) : JSweet@doc.gov, Parkinson, Edward : invalid:nomail, Casias, Lisa : invalid:nomail, Bratcher, Jeffrey : invalid:nomail, Greten, Erin : invalid:nomail, Zollo, Jeremy : invalid:nomail, Farington, Kim : invalid:nomail, Smith, Janell, invalid:nomail, Kinkoph, Douglas : DKinkoph@ntia.gov, Mitchell, Maggie : MMitchell@ntia.gov, Smith, Kathy, KSmith@ntia.gov, 'May,Timothy' : TMay@ntia.gov, Dame, Michael : MDame@ntia.gov, Ding, Michael (Federal), invalid:nomail, Walsh, Michael (Federal) : invalid:nomail, Adkins, Byron (Federal) : BAdkins@doc.gov, Bradley, Olivia (Federal) : OBradley@doc.gov, Brockett, Del : del.brockett@nist.gov, Cabrera, William, william.cabrera@firstnet.gov, Friedman, Benjamin (Federal) : benjamin.friedman@noaa.gov, Jarmin, Ron S : ron.s.jarmin@census.gov, Kunze, Stephen (Federal) : SKunze@doc.gov, Mendes, Andre (Federal) : AMendes@doc.gov, Phelps, Michael (Federal) : MPhelps@doc.gov, Schiller, Matt : matt.schiller@firstnet.gov, Palmer, Scott : Scott.Palmer@Firstnet.gov, Shore, Justin, justin.shore@firstnet.gov, Wiles, Donald : Donald.Wiles@Firstnet.gov, Candeub, Adam : acandeub@ntia.gov, Blair, Robert (Federal) : RBlair@doc.gov, Moesle, Albert (Federal) : AMoesle@doc.gov, Ed Horowitz, b(6) Horowitz, Edward : edward.horowitz@firstnet.gov, Shaughnessy, Chuck : chuck.shaughnessy@firstnet.gov, FirstNet Executive Office : b(6) @firstnet.gov, Reed, Richard, richard.reed@firstnet.gov, Boney, Virginia (Federal) : VBoney@doc.gov

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

Conference ID: b(6)

All,

The below link can be used to access the presentation slides:

b(6)

Organizer: Kelley, Karen (Federal) : KKelley@doc.gov

Subject: Prep Call

Location: b(6)

Start Time: 2020-06-02T08:45:00-04:00

End Time: 2020-06-02T09:00:00-04:00

Attendees: Olson, Stephanie (Federal) : SOlson@doc.gov, Walsh, Michael (Federal) : MWalsh@doc.gov, Gorey, Lauren (Federal), LGorey@doc.gov, Blair, Robert (Federal) : RBlair@doc.gov, Preskenis, Kevin (Federal) : KPreskenis@doc.gov, Rafiekian, Christine (Federal) : CRafiekian@doc.gov, Lane, Jennifer (Federal) : JLane@doc.gov, Schnare, Nicholas (Federal) : NSchnare1@doc.gov, Kornegay, Nick (Federal) : NKornegay@doc.gov, Brebbia, Sean (Federal) : SBrebbia@doc.gov, Coggins, Wynn (Federal) : WCoggins@doc.gov, LaBruna, Anthony (Federal) : ALaBruna@doc.gov, Overbaugh, Melinda (Federal) : MOverbaugh@doc.gov, Burris, Meghan (Federal) : MBurris@doc.gov, Paranzino, Anthony (Federal) : AParanzino@doc.gov, Martin, Nicole (Federal) : NMartin1@doc.gov, Guenther, John (Federal) : JGuenther@doc.gov, Risko, Daniel (Federal) : DRisko@doc.gov, Mendes, Andre (Federal) : AMendes@doc.gov, Gilman, Thomas (Federal) : TGilman@doc.gov, Rockas, James (Federal) : JRockas@doc.gov, McLean, Sean (Federal) : SMcLean@doc.gov, Townsend, Richard (Federal) : RTownsend@doc.gov, Armstrong, Darlene (Federal) : DArmstrong@doc.gov, Foti, Anthony (Federal) : AFoti@doc.gov, Washington, Harold (Federal) : hwashington@doc.gov, Oscarson, Alexandra (Federal) : AOscarson@doc.gov, Boney, Virginia (Federal) : VBoney@doc.gov

b(6)

Participant: b(6)

Organizer: Rafiekian, Christine (Federal) : CRafiekian@doc.gov

Subject: CoS Check-In

Location: Room 58044 or Dial-In

Start Time: 2020-06-02T08:30:00-04:00

End Time: 2020-06-02T09:00:00-04:00

Attendees: Risko, Daniel (Federal) : DRisko@doc.gov, Campbell, Mara (Federal) : MCampbell@eda.gov, Curyto, Jessica, Jessica.Curyto@bis.doc.gov, DeVore, Ja'Nelle (Federal) : jdevore@doc.gov, Foti, Anthony (Federal), AFoti@doc.gov, Glacken, Meredith (Federal) : MGlacken@doc.gov, Hill, Joann (Federal) : Jhill@mbda.gov, Hitt, Lucas : Lucas.Hitt@bea.gov, Jones, Christa D : christa.d.jones@census.gov, Kimball, Kevin A., kevin.kimball@nist.gov, Kurland, Kevin : Kevin.Kurland@bis.doc.gov, Ganoe, Donna : Donna.Ganoe@bis.doc.gov, Krauk, Jamie (Federal) : jkrauk@doc.gov, Matthews, Franklyn (Federal) : FMatthews@doc.gov, McKinney, Bradley : Bradley.McKinney@trade.gov, Neuhaus, Chelsey (Federal) : CNeuhaus@doc.gov, Paranzino, Anthony (Federal) : AParanzino@doc.gov, Preskenis, Kevin (Federal) : KPreskenis@doc.gov, Shipp, Christopher : Christopher.Shipp@USPTO.GOV, Wasilewski, Jim : JWasilewski@ntia.doc.gov, Wyvill, Robin L : robin.l.wyvill@census.gov, Rockas, James (Federal) : JRockas@doc.gov, Teague, Anne (Federal) : ATeague@doc.gov, Brebbia, Sean (Federal) : SBrebbia@doc.gov, Luce, John (Federal) : john.luce@noaa.gov, Lane, Jennifer (Federal) : JLane@doc.gov, Frushone, Joel (Federal), JFrushone@eda.gov, Van Meter, Garth (Federal) : GVanMeter@eda.gov, Bell, Pamela (Federal), PBell@eda.gov, Kelley, Karen (Federal) : KKelley@doc.gov, Walsh, Michael (Federal) : MWalsh@doc.gov, Stewart, Coke : Coke.Stewart@uspto.gov, Burkett, Robert (Federal) : RBurkett@doc.gov, DepSec Conference Room Calendar, b(6) @doc.gov, Olson, Stephanie (Federal) : SOlson@doc.gov, Meredith, Ethan (Federal) : EMeredith@doc.gov, Yang, Joe (Federal) : jyang@doc.gov

Dial: b(6) | User Code: b(6) | Leader Code b(6)

CoS meetings will follow the format of each bureau/office reporting out on 3 hot topics (i.e., policy, mgmt., legal, personnel, budget, etc.).

We will also use this time to identify the topics to put in front of the weekly Policy Committee meeting.

Bureau/Office representation will include the following:
BEA
BIS
Census
EDA
ITA
MBDA
NIST
NOAA
NTIA
USPTO
OS Front Office
Dep Sec
OLIA
OGC
OSP
OWHL
CFO/ASA
Enterprise Services

Subject:	KDK DESK TIME
Start Time:	2020-06-02T07:00:00-04:00
End Time:	2020-06-02T13:00:00-04:00

Organizer: Kelley, Karen (Federal) : KKelley@doc.gov

Subject: NEPA Follow-up

Location: b(6)

Start Time: 2020-06-02T16:00:00-04:00

End Time: 2020-06-02T16:30:00-04:00

Attendees: Kinkoph, Douglas : DKinkoph@ntia.gov, Candeub, Adam : acandeub@ntia.gov, Blair, Robert (Federal) : RBlair@doc.gov, Rockas, James (Federal) : JRockas@doc.gov, Walsh, Michael (Federal) : invalid:nomail, Luce, John (Federal), john.luce@noaa.gov, Jacobs, Neil (Federal) : neil.jacobs@noaa.gov, Burris, Meghan (Federal), MBurris@doc.gov, Goldman, Jason : jgoldman@ntia.gov, Risko, Daniel (Federal) : DRisko@doc.gov, Boney, Virginia (Federal) : VBoney@doc.gov

b(6)

Participant: b(6)

Leader: b(6) - Dan

Start Time: 2020-06-02T20:30:00Z

End Time: 2020-06-02T21:00:00Z

b(6)

Participant: b(6)

Leader: b(6) - Dan

Iran

Reuters – 1 June 2020

Iran says it is ready to continue fuel shipments to Venezuela

DUBAI, June 1 (Reuters) - Iran will continue fuel shipments to Venezuela if Caracas requests more supplies, the Iranian Foreign Ministry spokesman said on Monday, despite Washington's criticism of the trade between the two nations, which are both under U.S. sanctions.

"Iran practices its free trade rights with Venezuela and we are ready to send more ships if Caracas demands more supplies from Iran," Abbas Mousavi told a weekly news conference broadcast live on state TV. Defying U.S. threats, Iran has sent a flotilla of five tankers of fuel to the South American oil-producing nation, which is suffering from a gasoline shortage.

Seeking to deter further shipments of Iranian fuel to Venezuela, Washington is monitoring the supply. It has warned governments, seaports, shippers and insurers that they could face measures if they aid the tankers.

According to Refinitiv Eikon on Sunday, two Iranian tankers that delivered fuel to Venezuela as part of the flotilla have begun to sail back, as the government in Caracas prepares stations to begin charging for the gasoline.

Tensions have spiked between longtime foes Tehran and Washington since 2018, when President Donald Trump exited Iran's 2015 nuclear deal with six major powers and reimposed sanctions on the country that has battered its economy. (Writing by Parisa Hafezi; Editing by Edmund Blaira and Jan Harvey)

http://www.msn.com/en-us/news/world/iran-says-it-is-ready-to-continue-fuel-shipments-to-venezuela/ar-BB14Ri6Y?li=BBnbfcL&ocid=iehp

Census

Over 60 Percent of U.S. Households Have Responded to 2020 Census

Internet Response Option Preferred by Majority of Households

May 27, 2020 03:01 PM Eastern Daylight Time

WASHINGTON--(BUSINESS WIRE)--Responses to the 2020 Census are on track as more than 60% of U.S. households have responded to the 2020 Census, with approximately four out of every five households that responded on their own choosing to do so online at 2020census.gov. Current internet self-response rates are 9.2 percentage points above Census Bureau projections, as households continue to favor online to phone and mail in responding to the census.

In a video message, Census Bureau Director Dr. Steven Dillingham thanked people for responding to reach this milestone and encouraged those who have not responded to help shape their future for the next 10 years.

In mid-March, most households received an invitation in the mail to respond to the 2020 Census, followed by multiple reminders and a paper questionnaire. Census takers are scheduled to visit households that have not yet responded to the 2020 Census beginning in August.

Beginning the week of May 4, in coordination with federal, state and local health officials, the Census Bureau began a phased restart of some 2020 Census field operations in select geographic areas. As part of this phased restart, the Census Bureau resumed dropping off 2020 Census invitation packets at front doors in areas where the majority of households do not receive mail at their home. About 5% of households are counted during this operation, known as Update Leave, where census workers confirm or update a household's physical location address and then leave a census questionnaire packet.

The health and safety of Census Bureau staff and the public is of the utmost importance. All returning staff will receive safety training on social distancing protocols and be provided personal protective equipment before restarting operations.

The Census Bureau's online response rates map shows response rates by state, city, county and census tract. As of May 25, 2020:

• Madison, Wis., is the city with the highest internet self-response rate.

• Minnesota and Utah have the highest internet response rates among states.

The 10 states with the highest self-response rates are:

1. Minnesota

70.0%

2. Wisconsin

67.4%

3. Iowa

66.9%

4. Michigan

66.7%

5. Nebraska

66.5%

6. Washington

65.4%

7. Ohio

65.3%

8. Illinois

65.2%

9. Virginia

65.2%

10. Indiana

64.9%

The 10 cities/municipalities with 250,000 or more population with the highest self-response rates are:

1. Lincoln, Neb.

72.8%

2. Louisville/Jefferson County Metro, Ky.

71.6%

3. Madison, Wis.

70.6%

4. Seattle, Wash.

69.8%

5. Henderson, Nev.

69.3%

6. St. Paul, Minn.

69.2%

7. San Jose, Calif.

68.5%

8. Portland, Ore.

67.8%

9. Virginia Beach, Va.

67.6%

9. Minneapolis, Minn.

67.6%

9. Colorado Springs, Colo.

67.6%

2020 Census Response Rate Challenge

To increase response to the 2020 Census across the country, the Census Bureau is challenging communities nationwide to complete the census online, by phone or by mail. The online toolkit includes ideas for community leaders to encourage people to beat their 2010 Census self-response rate.

It has never been easier to respond on your own, whether online, over the phone or by mail —all without having to meet a census taker.

The Census Bureau strongly encourages the public to respond online at 2020census.gov. Households can respond online or by phone in English or 12 other languages. Households can also respond by mail using the paper questionnaire mailed to nonresponding address. For more information, call 844-330-2020 or visit 2020census.gov. To see a revised timeline for the census, visit the 2020 Census operational adjustments page.

The U.S. Constitution mandates a census of the population every 10 years. The goal of the 2020 Census is to count everyone who lives in the United States as of April 1, 2020 (Census Day). Census statistics are used to determine the number of seats each state holds in the U.S. House of Representatives and informs how hundreds of billions of dollars in federal funds will be allocated by state, local and federal lawmakers annually for the next 10 years.

https://www.businesswire.com/news/home/20200527005869/en/

China

China tells state firms to halt purchases of major U.S. farm products:

1 June 2020

BEIJING/SINGAPORE (Reuters) - China has told state-owned firms to halt purchases of soybeans and pork from the United States, two people familiar with the matter said, after Washington said it would eliminate special treatment for Hong Kong to punish Beijing.

Large volume state purchases of U.S. corn and cotton have also been put on hold, one of the sources said.

China could expand the order to include additional U.S. farm goods if Washington took further action, the people said.

“China has asked main state firms to suspend large scale purchases of major U.S. farm products like soybeans and pork, in response to U.S. reaction to Hong Kong,” the source said.

“Now we will watch and see what the U.S. does next.”

U.S. President Donald Trump said on Friday he was directing his administration to begin the process of eliminating special treatment for Hong Kong, ranging from extradition treatment to export controls, in response to China’s plans to impose new security legislation in the territory.

China is ready to halt imports of more agriculture products from the United States if Washington takes more action on Hong Kong, the sources said.

Chinese importers have cancelled 10,000 to 20,000 tonnes of American pork shipments - equivalent to roughly one week’s orders in recent months - following Trump’s comments on Friday, the source said.

State purchases of bulk volumes of U.S. corn and cotton have also been suspended but the details were not clear.

In a worst case scenario, if Trump continues to target China, Beijing will have to scrap the Phase 1 trade deal, a second source familiar with the government plan said.

"There's no way Beijing can buy goods from the U.S. when receiving constant attacks from Trump," the person said.

China pledged to buy an additional $32 billion worth of U.S. agriculture products over two years above a baseline based on 2017 figures, under the initial trade deal the two countries signed in January.

China has bought soybeans, corn, wheat and soyoil from the United States this year, to fulfil its commitment under the trade deal. Beijing also stepped up purchases of U.S. pork, after the deadly African swine fever decimated its pig herd.

The U.S. Department of Agriculture reported that China bought $1.028 billion worth of soybeans and $691 million of pork in the first quarter of 2020.

Private importers haven't received a government order to suspend buying of U.S. farm produce, according to a third source with a major trading house, but commercial buyers are very cautious at the moment, the person added.

"A certain scale of trade will be halted," given rising tensions between China and the U.S. in other areas, but it is not a full stop, said a fourth source familiar with government plan.

However, China would be able to find other sellers easily (of the farm products), he added.

The sources all declined to be named due to the sensitivity of the matter.

https://www.reuters.com/article/us-usa-trade-china-agriculture/china-tells-state-firms-to-halt-purchases-of-major-u-s-farm-products-sources-idUSKBN238264

Factbox: China's numerous diplomatic disputes

1 June 2020

BEIJING (Reuters) - China is engaged in diplomatic disputes on numerous fronts, from acrimony with the United States to a backlash over its clampdown on Hong Kong, a border dispute with India and criticism over its handling of the novel coronavirus.

Following are some of the main points of contention between China and other countries:

UNITED STATES

From disputes over trade and technology, to U.S. criticism over the coronavirus outbreak and China's accusation of U.S. backing for protests in Hong Kong, ties between the world's two biggest economies are at their lowest point in decades.

HONG KONG

China's plan to impose national security legislation on Hong Kong provoked U.S. retaliation and disapproval from other Western capitals. The city's former colonial ruler Britain said it would offer extended visa rights to British national overseas (BNO) passport holders from Hong Kong.

CORONAVIRUS

Several countries, including the United States and Australia, have called for China to be held to account for its early handling of the coronavirus, which emerged late last year in the city of Wuhan. China has also faced criticism for what some have characterised as heavy-handed "virus diplomacy".

TAIWAN

China has stepped up diplomatic and military pressure on Chinese-claimed but democratically ruled Taiwan, trying to coax it into accepting Chinese rule. Taiwan President Tsai Ing-wen, re-elected by a landslide in January, has rejected that, saying only Taiwan's people can decide its future.

INDIA

China and India are engaged in the most serious military standoff on their disputed border since 2017, with soldiers in the remote Ladakh region accusing each other of encroachment.

XINJIANG

China has been criticised in Washington and elsewhere over its treatment of ethnic Uighur Muslims in its western Xinjiang region. Last month, the U.S. House of Representatives overwhelmingly approved legislation calling for sanctions on officials responsible for oppression of Uighurs.

HUAWEI

The United States has raised security concerns over equipment provided by Chinese telecoms gear giant Huawei, warning that allies that use it in their networks risked being cut off from valuable intelligence-sharing feeds. Last month, the United States moved to block global chip supplies to Huawei, which denies that its equipment poses a security risk.

CANADA

Ties have been strained since Canada arrested Huawei executive Meng Wanzhou, daughter of the firm's founder, in late 2018. Soon after, China detained two Canadians and blocked imports of some canola seed. Meng lost a court ruling last month in her fight against extradition to the United States.

EUROPEAN UNION

EU foreign ministers agreed last week to toughen their strategy on China to counter its increasingly assertive diplomacy against a backdrop of concern about Hong Kong. The bloc has been frustrated over market access for its companies in China, which has sought to block an EU report alleging that China was spreading disinformation about the coronavirus outbreak, according to diplomatic sources.

AUSTRALIA

China last month imposed tariffs on barley imports from Australia, the latest escalation between them. Relations soured in 2018 when Australia banned Huawei from its 5G broadband network, and China has been angered by Australia's call for an independent enquiry into the coronavirus.

SOUTH CHINA SEA

China has overlapping claims in the energy-rich South China Sea, which is also an important trade route, with the Philippines, Brunei, Vietnam, Malaysia and Taiwan. The United States has accused China of taking advantage of the distraction of the coronavirus to advance its presence in the waters.

https://www.reuters.com/article/us-china-diplomacy-factbox/factbox-chinas-numerous-diplomatic-disputes-idUSKBN2381ZT

Status Reporting: Phased Restart for the 2020 Decennial Census

Periodic Reporting: Release for June 1, 2020

BC-DOC-0000028891

Periodic Performance Management Reports

Report Title	Slide Number
2020 Census: States Restarting Work – Week of May 4, 2020	3
2020 Census: States Restarting Work – Week of May 11, 2020	4
2020 Census: States Restarting Work – Week of May 18, 2020	5
2020 Census: States Restarting Work – Week of May 25, 2020	6
2020 Census: States Restarting Work – Week of June 1, 2020	7
2020 Census: Phased Restart Update Leave Status by State	8
2020 Census: Update Leave Progress & Cost	9
2020 Census: Update Leave – Status Update	10
2020 Census: Phased Restart Area Census Office Status	11
2020 Census: Status of National Processing Center's Paper Data Capture Centers (PDCCs)	12
2020 Census: Phased Restart Paper Data Capture Center Staffing Status	13
2020 Census: Phased Restart Fingerprinting Location Status by State	14
2020 Census: Phased Restart Fingerprinting Status	15

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

BC-DOC-0000028892

Periodic Performance Management Reports

2020 Census: States Restarting Work – Week of May 4, 2020

Data Current as of: *May 4, 2020*

State	Number of ACOs	Number of ACOs Opened	Number of ACOs Remaining to Open	Total Update Leave Workload (Housing Units)	Update Leave Workload in Opened ACOs (Housing Units)
Total: 13 states	**23**	**23**	**0**	**1,297,866**	**1,297,866**
Alabama	3	3	0	81,964	81,964
Alaska	1	1	0	110,022	110,022
Arkansas	2	2	0	77,716	77,716
Idaho	1	1	0	70,780	70,780
Maine	1	1	0	111,689	111,689
Mississippi	2	2	0	54,499	54,499
Montana	1	1	0	112,978	112,978
North Dakota	1	1	0	40,051	40,051
Oklahoma	3	3	0	187,921	187,921
Tennessee	4	4	0	9,010	9,010
Utah	2	2	0	90,972	90,972
Vermont	1	1	0	61,075	61,075
West Virginia	1	1	0	289,189	289,189

BC-DOC-0000028893

Periodic Performance Management Reports

2020 Census: States Restarting Work – Week of May 11, 2020

Data Current as of: *May 11, 2020*

State	Number of ACOs	Number of ACOs Opened	Number of ACOs Remaining to Open	Total Update Leave Workload (Housing Units)	Update Leave Workload in Opened ACOs (Housing Units)
Total: 9 states	**54**	**54**	**0**	**1,006,755**	**1,066,755**
Florida	15	15	0	171,871	171,871
Georgia	8	8	0	111,905	111,905
Kansas	2	2	0	32,178	32,178
Kentucky	2	2	0	78,593	78,593
Missouri	3	3	0	131,018	131,018
North Carolina	7	7	0	164,775	164,775
Oregon	3	3	0	27,198	27,198
Pennsylvania	9	9	0	197,124	197,124
Washington	5	5	0	92,093	92,093

BC-DOC-0000028894

Periodic Performance Management Reports

2020 Census: States Restarting Work – Week of May 18, 2020

Data Current as of: *May 18, 2020*

State	Number of ACOs	Number of ACOs Opened	Number of ACOs Remaining to Open	Total Update Leave Workload (Housing Units)	Update Leave Workload in Opened ACOs (Housing Units)
Total: 11 states & PR	**50**	**28**	**22**	**2,920,476**	**2,535,488**
Arizona	6	5	1	214,291	176,269
Colorado	4	4	0	195,895	195,895
Indiana	4	4	0	39,142	39,142
Iowa	1	1	0	14,050	14,050
Louisiana	4	4	0	91,447	91,447
Nebraska	1	1	0	30,670	30,670
Nevada	2	2	0	47,778	47,778
New Mexico	2	1	1	167,661	56,667
New York	21	1	20	270,545	34,573
Rhode Island	1	1	0	5,657	5,657
Wyoming	1	1	0	67,114	67,114
Puerto Rico	3	3	0	1,776,226	1,776,226

BC-DOC-0000028895

Periodic Performance Management Reports

2020 Census: States Restarting Work – Week of May 25, 2020

Data Current as of: *May 26, 2020*

State	Number of ACOs	Number of ACOs Opened	Number of ACOs Remaining to Open	Total Update Leave Workload (Housing Units)	Update Leave Workload in Opened ACOs (Housing Units)
Total: 12 states	**111**	**51**	**60**	**1,676,988**	**1,415,674**
California	30	13	17	348,797	272,539
Connecticut	3	3	0	5,868	5,868
Massachusetts	6	6	0	69,244	69,244
Maryland	4	1	3	NA	NA
Michigan	5	2	3	106,770	100,219
Minnesota	3	3	0	86,706	86,706
New Mexico*	2	2	0	167,661	167,661
New York*	21	4	17	270,545	200,350
South Dakota	1	1	0	51,715	51,715
Texas	26	10	16	441,668	333,358
Virginia	6	2	4	34,615	34,615
Wisconsin	4	4	0	93,399	93,399

**Values in the 'Number of ACOs Opened' and 'Update Leave Workload in Open ACOs' columns are cumulative across weeks*

BC-DOC-0000028896

Periodic Performance Management Reports

2020 Census: States Restarting Work – Week of June 1, 2020

Data Current as of: *June 1, 2020*

State	Number of ACOs	Number of ACOs Opened	Number of ACOs Remaining to Open	Total Update Leave Workload (Housing Units)	Update Leave Workload in Opened ACOs (Housing Units)
Total: 13 states & DC	**125**	**89**	**36**	**1,511,036**	**1,459,803**
California*	30	18	12	348,797	324,924
District of Columbia‡	1	1	0	NA	NA
Delaware‡	1	1	0	NA	NA
Hawaii‡	1	1	0	63,303	63,303
Illinois‡	10	10	0	42,827	42,827
Maryland*	4	3	1	NA	NA
Michigan*	5	5	0	106,770	106,770
New Hampshire‡	1	1	0	65,936	65,936
New Jersey‡	8	6	2	40,514	40,514
New York*	21	8	13	270,545	269,960
Ohio‡	8	8	0	34,686	34,686
South Carolina‡	3	3	0	61,375	61,375
Texas*	26	19	7	441,668	414,893
Virginia*	6	5	1	34,615	34,615

**Values in the 'Number of ACOs Opened' and 'Update Leave Workload in Open ACOs' columns are cumulative across weeks*

‡ Indicates a newly opened state

Summary of States Restarting Work *Since Week of May 4, 2020*				
States	**Number of ACOs Opened**	**Opened ACOs with Update Leave Workload**	**Total Update Leave Workload**	**Update Leave Workload in Opened ACOs**
50, DC, & Puerto Rico	211	163	6,805,523 (Housing Units)	6,683,265 (Housing Units)

BC-DOC-0000028897

Periodic Performance Management Reports

2020 Census: Phased Restart Update Leave Status by State

Source: *Unified Tracking System*
Data Current as of: *June 1, 2020*

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

State	% Update Leave	HUs in UL Workload	% HUs Complete		Change
			Prior Week	Current Week	
U.S. Total	**4.5%**	**6,805,523**	**42.9%**	**63.4%**	**20.4%**
Alabama	3.2%	81,964	99.8%	99.8%	0.0%
Alaska	34.1%	110,022	75.7%	80.9%	5.2%
Arizona	6.6%	214,291	25.4%	40.2%	14.8%
Arkansas	5.0%	77,716	100.0%	100.0%	0.0%
California	2.3%	348,797	13.4%	37.4%	24.1%
Colorado	7.5%	195,895	47.4%	73.8%	26.5%
Connecticut	0.4%	5,868	32.8%	59.6%	26.8%
Florida	1.7%	171,871	95.6%	98.7%	3.1%
Georgia	2.3%	111,905	99.9%	100.0%	0.1%
Hawaii	10.8%	63,303	10.3%	10.4%	0.1%
Idaho	9.0%	70,780	97.6%	99.9%	2.3%
Illinois	0.8%	42,827	16.5%	16.7%	0.1%
Indiana	1.3%	39,142	79.2%	99.5%	20.4%
Iowa	0.9%	14,050	62.5%	100.0%	37.5%
Kansas	2.4%	32,178	79.1%	97.3%	18.1%
Kentucky	3.7%	78,593	73.0%	98.9%	25.9%
Louisiana	4.0%	91,447	59.0%	91.9%	32.9%
Maine	14.2%	111,689	46.4%	71.8%	25.3%
Massachusetts	2.2%	69,244	16.4%	46.6%	30.2%
Michigan	2.2%	106,770	8.4%	24.0%	15.5%
Minnesota	3.4%	86,706	7.2%	22.9%	15.7%
Mississippi	3.7%	54,499	99.1%	100.0%	0.9%
Missouri	4.3%	131,018	74.2%	95.1%	20.9%
Montana	19.2%	112,978	65.4%	76.5%	11.1%

State	% Update Leave	HUs in UL Workload	% HUs Complete		Change
			Prior Week	Current Week	
Nebraska	3.5%	30,670	55.4%	80.0%	24.7%
Nevada	3.6%	47,778	55.3%	82.7%	27.4%
New Hampshire	9.9%	65,936	9.7%	10.1%	0.4%
New Jersey	1.1%	40,514	20.2%	20.2%	0.0%
New Mexico	19.2%	200,664*	16.4%	29.5%	13.1%
New York	3.0%	270,545	18.0%	35.5%	17.5%
North Carolina	3.3%	164,775	83.7%	92.8%	9.1%
North Dakota	9.9%	40,051	71.8%	81.8%	10.0%
Ohio	0.6%	34,686	21.0%	21.1%	0.1%
Oklahoma	9.8%	187,921	76.6%	99.5%	22.9%
Oregon	1.4%	27,198	93.5%	99.7%	6.2%
Pennsylvania	3.3%	197,124	95.4%	100.0%	4.6%
Rhode Island	1.1%	5,657	80.9%	96.0%	15.1%
South Carolina	2.4%	61,375	18.3%	18.5%	0.2%
South Dakota	12.4%	51,715	23.8%	42.6%	18.9%
Tennessee	0.3%	9,010	100.0%	100.0%	0.0%
Texas	3.6%	441,668	17.0%	45.0%	28.0%
Utah	7.6%	90,972	77.8%	87.5%	9.7%
Vermont	17.2%	61,075	69.0%	91.4%	22.4%
Virginia	0.9%	34,615	13.8%	54.0%	40.2%
Washington	2.8%	92,093	78.1%	91.0%	12.9%
West Virginia	28.8%	289,189	100.0%	100.0%	0.0%
Wisconsin	3.3%	93,399	12.7%	36.2%	23.5%
Wyoming	22.9%	67,114	26.1%	44.0%	17.8%
Puerto Rico	100.0%	1,776,226	19.9%	55.7%	35.8%

Includes housing units covered by an ACO that crosses state boundaries where work has not resumed.

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

BC-DOC-0000028898

Periodic Performance Management Reports

2020 Census: Update Leave Progress & Cost

Status:
● *On Track*

Data current as of:
June 1, 2020

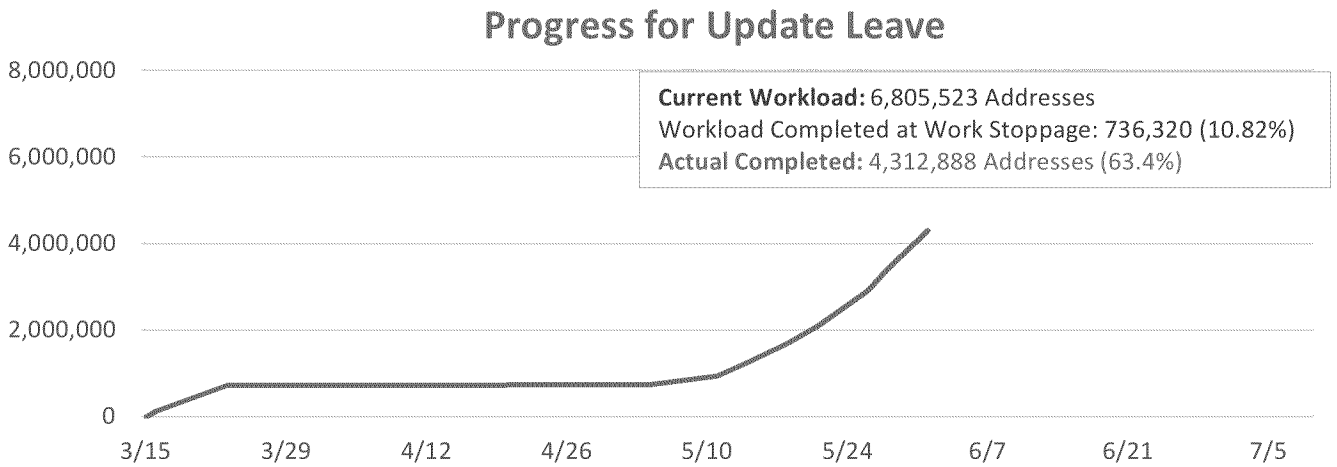
Start Date:
March 15, 2020

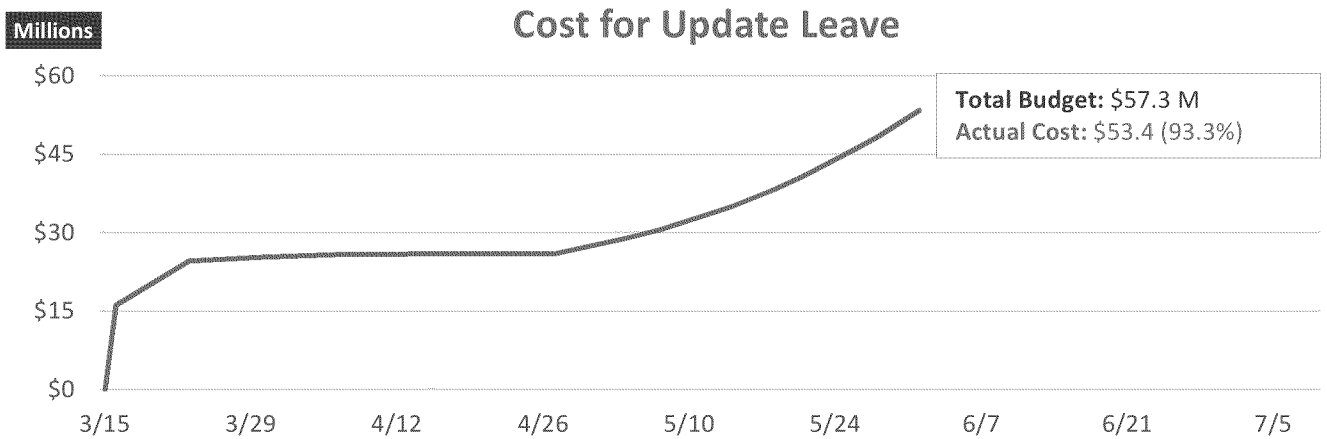
Completion Date:
July 9, 2020*

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

- **Current Block Workload**: *311,358 Blocks*
- **Actual Completed Blocks**: *212,110 Blocks (68.1%)*

Lister Productivity
- **Addresses per Hour**: *7.6*
- **Life Cycle Cost Model Estimate for Addresses per Hour**: 5.3





Source: Unified Tracking System

BC-DOC-0000028899

Periodic Performance Management Reports

2020 Census: Update Leave – Status Update

Source: Unified Tracking System, *Census Data Lake, Decennial Statistical Studies Division*
Data Current as of: *June 1, 2020*

Operation:

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

Workload:

- Update Leave Original Workload (does not change): 6,805,523
- Workload Completed March 18 (date field operations were suspended): 736,320
    - Percentage Completed at suspension: 10.82%
- Workload Completed as of June 1: 4,312,888
    - Percentage Completed: 63.37%

Response Rates:

- UL Total Responses (as of March 18): 139,825
    - Internet: 12,478 (8.92%)
    - Paper: 127,189 (90.96%)
    - Phone: 158 (0.11%)
- UL Total Responses (as of June 1): 1,325,388
    - Internet: 788,348 (59.48%)
    - Paper: 510,627 (38.53%)
    - Phone: 26,413 (1.99%)

BC-DOC-0000028900

Periodic Performance Management Reports

2020 Census: Phased Restart Area Census Office Status

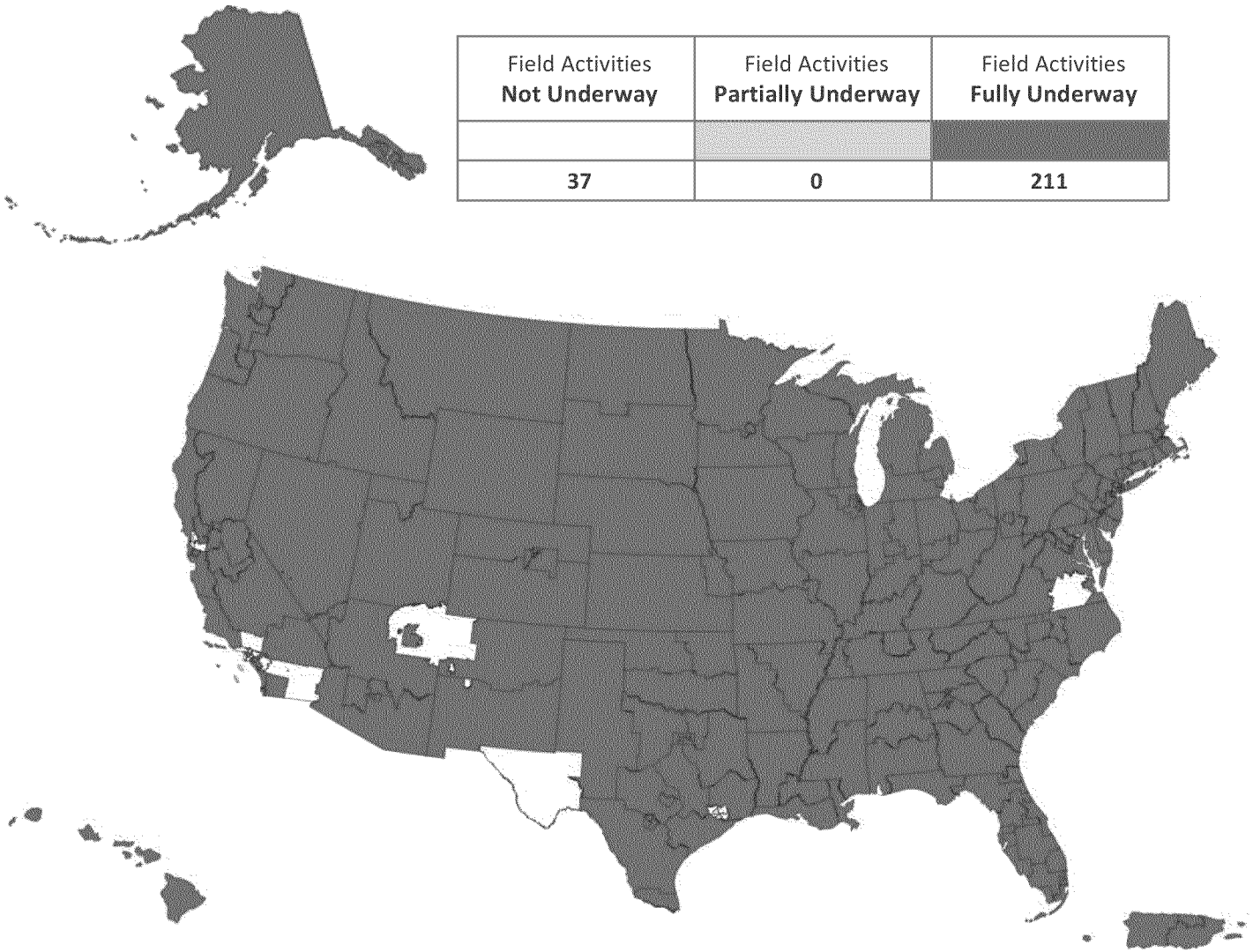
Status:
On Track

Data current as of:
June 1, 2020

Target Completion:
June 30, 2020

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

Field Activities **Not Underway**	Field Activities **Partially Underway**	Field Activities **Fully Underway**
37	**0**	**211**



United States Census Bureau | U.S. Department of Commerce
Economics and Statistics Administration
U.S. CENSUS BUREAU
census.gov

Source: Decennial and Field Directorates

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

BC-DOC-0000028901

Periodic Performance Management Reports

2020 Census: Status of National Processing Center's Paper Data Capture Centers (PDCCs)

Source: *National Processing Center*
Data Current as of: *May 28, 2020*

- Staffing Status:
  - Current: 200-220 staff working at each facility to keep essential mail, warehouse, and PDCC systems functioning.
  - First line supervisors, team leads and lead clerks reported back at work
  - Phased return of staff not in a CDC-defined high risk group; May 26 – June 8, 2020
  - High risk group staff scheduled to return in July 2020
    - Physical distancing and PPE in place
- Personnel Protective Equipment (PPE) Status:
  - Adequate supply of disposable gloves, hand sanitizer, and face coverings on hand.
  - NPC distributing hand sanitizer and face coverings to support field operations
- Stay Home Order Status:
  - Indiana: Entered Stage 3 of 5; Stage 4 scheduled for June 14 if health data remains stable
  - Arizona: Expired May 15, 2020; not renewed by Governor Ducey but physical distancing and personal protective measures still in pace; businesses reopening

BC-DOC-0000028902

Periodic Performance Management Reports

2020 Census: Phased Restart Paper Data Capture Center Staffing Status

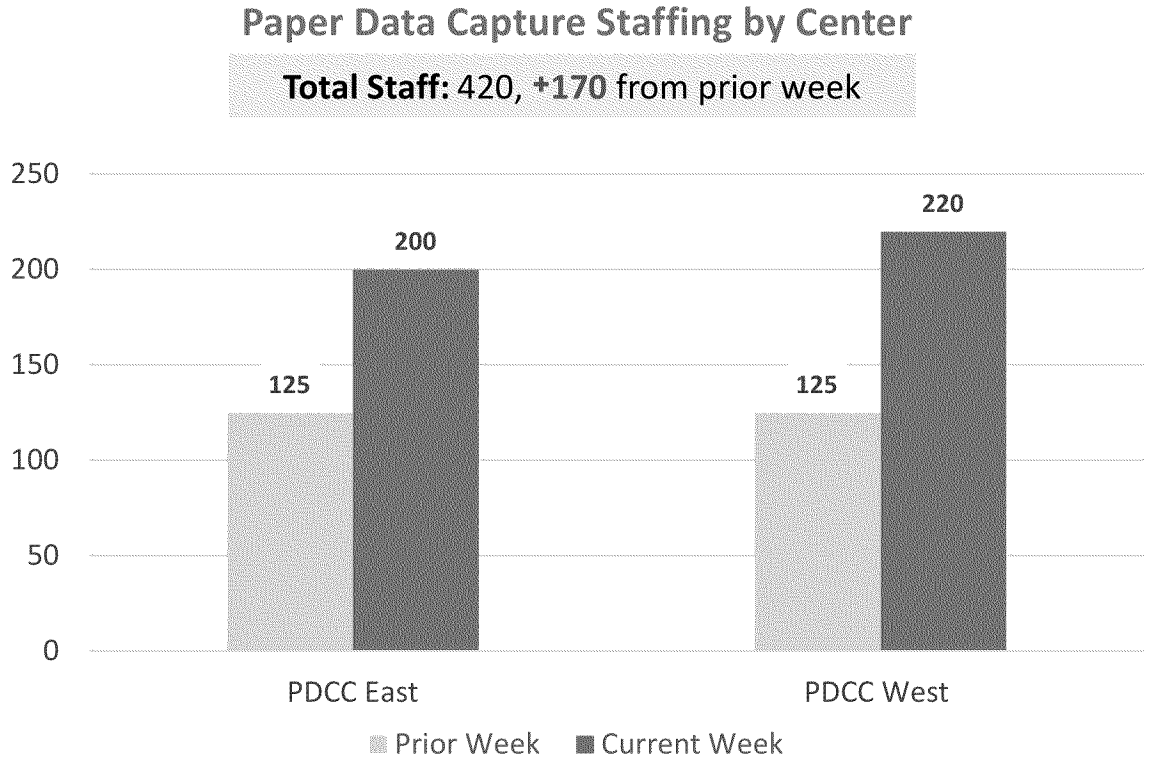
Status:
● *On Track*

Data current as of:
May 28, 2020

Start Date:
January 21, 2020

Completion Date:
November 30, 2020

Notes:
Phased return of non-high risk group staff: May 26 - June 8, 2020



Source: National Processing Center

BC-DOC-0000028903

Periodic Performance Management Reports

2020 Census: Phased Restart Fingerprinting Location Status by State

Source: 2020 R&A and DAPPS
Data current for the week of: *June 1, 2020*

State	Number of ACOs	Fingerprint Sites	Sites Open		Change
			Prior Week	Current Week	
U.S. Total	**245**	**817**	**476**	**796**	**320**
Alabama	3	19	13	19	6
Alaska	1	3	3	3	0
Arizona	6	13	9	12	3
Arkansas	2	14	13	14	1
California	30	60	12	58	46
Colorado	4	22	13	22	9
Connecticut	3	6	6	6	0
Delaware	1	1	0	1	1
Florida	15	49	49	49	0
Georgia	8	22	22	22	0
Hawaii	1	7	0	7	7
Idaho	1	6	6	6	0
Illinois	10	17	0	17	17
Indiana	4	20	15	20	5
Iowa	1	13	9	13	4
Kansas	2	13	7	13	6
Kentucky	2	17	14	17	3
Louisiana	4	12	12	12	0
Maine	1	6	6	6	0
Maryland	4	8	1	8	7
Massachusetts	6	11	11	11	0
Michigan	5	25	3	22	19
Minnesota	3	14	10	10	0
Mississippi	2	12	11	12	1
Missouri	3	16	12	16	4
Montana	1	16	12	16	4

State	Number of ACOs	Fingerprint Sites	Sites Open		Change
			Prior Week	Current Week	
Nebraska	1	11	5	11	6
Nevada	2	6	6	6	0
New Hampshire	1	4	0	4	4
New Jersey	8	13	0	13	13
New Mexico	2	15	5	15	10
New York	21	26	8	26	18
North Carolina	7	32	12	32	20
North Dakota	1	11	7	11	4
Ohio	8	34	0	34	34
Oklahoma	3	11	10	11	1
Oregon	3	12	12	12	0
Pennsylvania	9	25	25	25	0
Rhode Island	1	3	3	3	0
South Carolina	3	13	0	13	13
South Dakota	1	10	3	5	2
Tennessee	4	17	14	17	3
Texas	26	65	36	62	26
Utah	2	10	6	10	4
Vermont	1	4	4	4	0
Virginia	6	15	6	14	8
Washington	5	20	20	20	0
Washington DC	1	0*	0	0	0
West Virginia	1	8	7	8	1
Wisconsin	4	18	15	16	1
Wyoming	1	12	3	12	9
Puerto Rico	3	7	2	7	5

Legend: All ACOs Have Restarted | Some ACOs Have Restarted

BC-DOC-0000028904

Periodic Performance Management Reports

2020 Census: Phased Restart Fingerprinting Status

Status:
● *On Track*

Data current for the week of:
June 1, 2020

Start Date:
January 21, 2020

Completion Date:
October 31, 2020

Notes:

Overall Fingerprinting Status

Status	Prior Week	Change from Prior Week	Current Week
Total Number of Applicants that Reached DAPPS	2,911,402	+8,021	**2,919,423**
Total Number Selected	949,685	+20,466	**970,151**
Total Number Fingerprinted	566,788	+26,419	**593,207**
Total Pending Fingerprinting	382,897	-5,953	**376,944**
Total Remaining Applicant Pool	1,961,717	-12,445	**1,949,272**

Source: Unified Tracking System, Automated Tracking and Control

BC-DOC-0000028905

Status Reporting: 2020 Decennial Census

Periodic Reporting: Release for June 1, 2020

BC-DOC-0000028906

Periodic Performance Management Reports

Release for June 1, 2020

Status	Report Title	Summary	Slide Number
○	2020 Census: Recruiting Ranges Over Time		4
●	2020 Census: Applicant Status	Actions taken to achieve our recruiting target were successful. We have achieved our applicant goal.	5
◐	2020 Census: Remote Alaska Production Progress & Cost	To ensure a count of everyone before the ice melts and residents disperse, enumerations have resumed via self-enumeration in most of the remaining Alaska Native villages and a few other areas included in this operation. A new operational end date has been set and revised expectations for workload completion have been determined.	6
●	2020 Census: Self-Response of Housing Units	Self-Response to the 2020 Census is tracking within the projected range. The projected Self-Response rate has been revised to account for re-planned operational timing and a sixth mailing prior to the August 11 start of Nonresponse Followup.	7
●	2020 Census: Self-Response of Housing Units – Zoomed in View		8
◐	2020 Census: Self-Response of Housing Units by Response Mode	Internet response is exceeding expectations. The projected Self-Response rates by mode have been revised to account for re-planned operational timing and a sixth mailing prior to the August 11 start of Nonresponse Followup.	9
◐	2020 Census: Self-Response of Housing Units by Response Mode – Zoomed in View		10
○	2020 Census: Self-Response of Housing Units by State		11

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

BC-DOC-0000028907

Periodic Performance Management Reports

Release for June 1, 2020

Status	Report Title	Summary	Slide Number
○	2020 Census: States with the Highest and Lowest Self-Response Rates Relative to Projections		12
●	2020 Census: Questionnaire Assistance Inbound Calls	Inbound call support continues. A return call option is available to callers who leave a message requesting this option.	13
●	2020 Census: Partners & Participating Organizations	Progress to establish relationships with National and community organizations is ongoing. The number of partnering organizations at the national-level has grown to 950. The 2020 Census exposure at the local and community level continues; the number of active community partners is over 369,000. We have exceeded the 2010 Census numbers for both national and community partners.	14
●	2020 Census: Integrated Communications Campaign Weekly Report Timeline	Steady progress continues on Integrated Communications Campaign efforts. The program is rapidly preparing new messages and delivery vehicles in light of the our current environment.	15
●	2020 Census: Monthly FY 2020 Budget Execution Report	Fiscal Year 2020 budget execution is managing budget to address critical program needs.	16

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

BC-DOC-0000028908

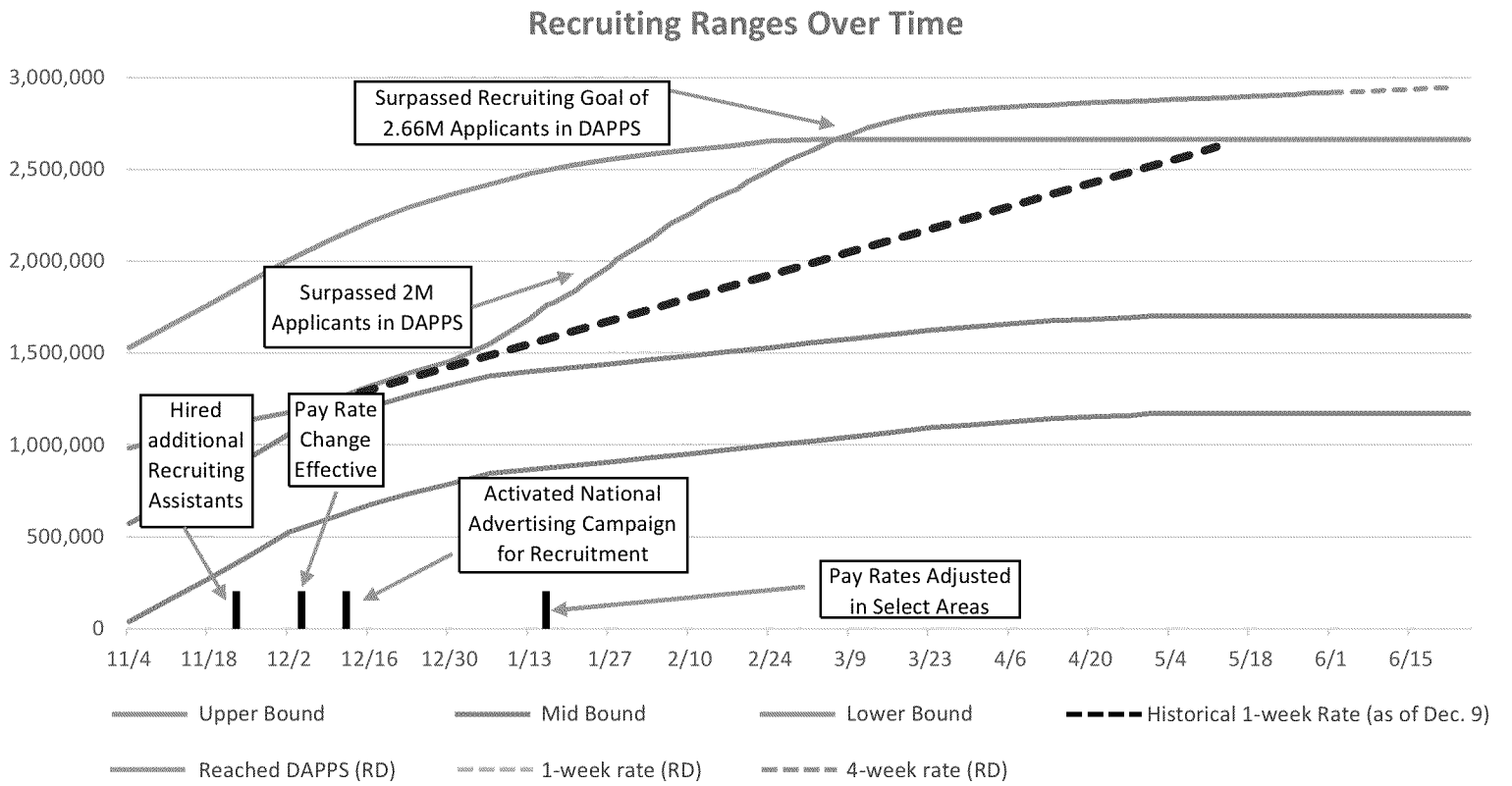
Periodic Performance Management Reports

2020 Census: Recruiting Ranges Over Time

Data current as of:
June 1, 2020

Completion Date:
August 15, 2020

Notes:



1-week averages
As of June 1:
Daily Rate: 1,337 reached DAPPS/day
As of May 26:
Daily Rate: 1,424 reached DAPPS/day
As of May 18:
Daily Rate: 1,427 reached DAPPS/day

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

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

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

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

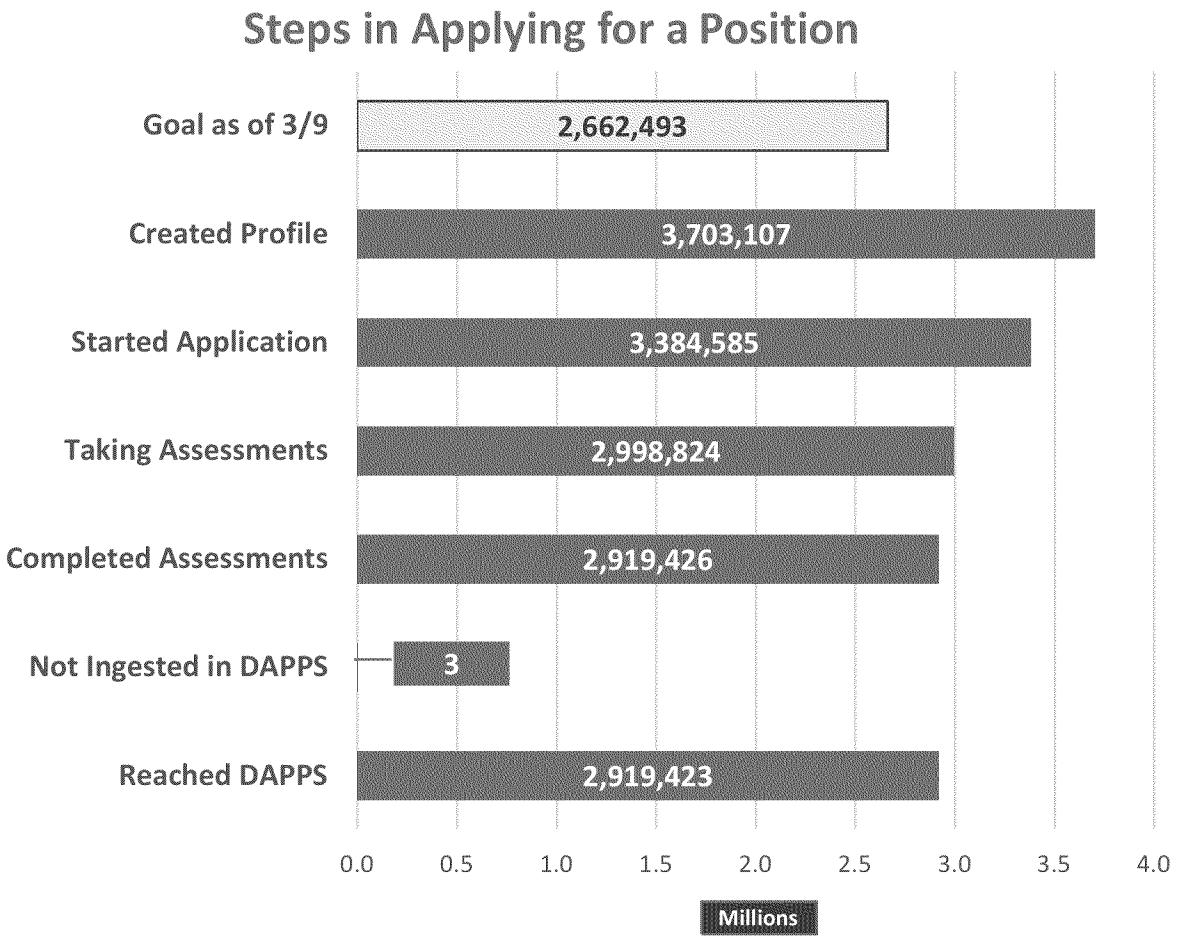
Periodic Performance Management Reports
2020 Census: Applicant Status

Status:
● *On Track*

Data current as of:
June 1, 2020

Completion Date:
January 5, 2021

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



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

BC-DOC-0000028910

Periodic Performance Management Reports

2020 Census: Remote Alaska Progress & Cost

Status:

Management Focus

Data current as of:

June 1, 2020

Start Date:

January 21, 2020

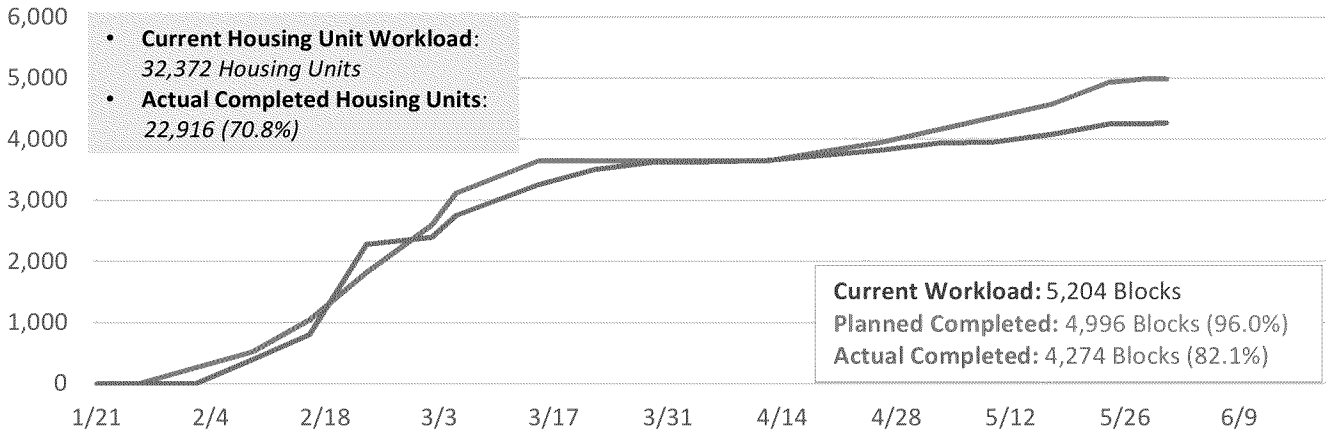
Completion Date:

June 19, 2020

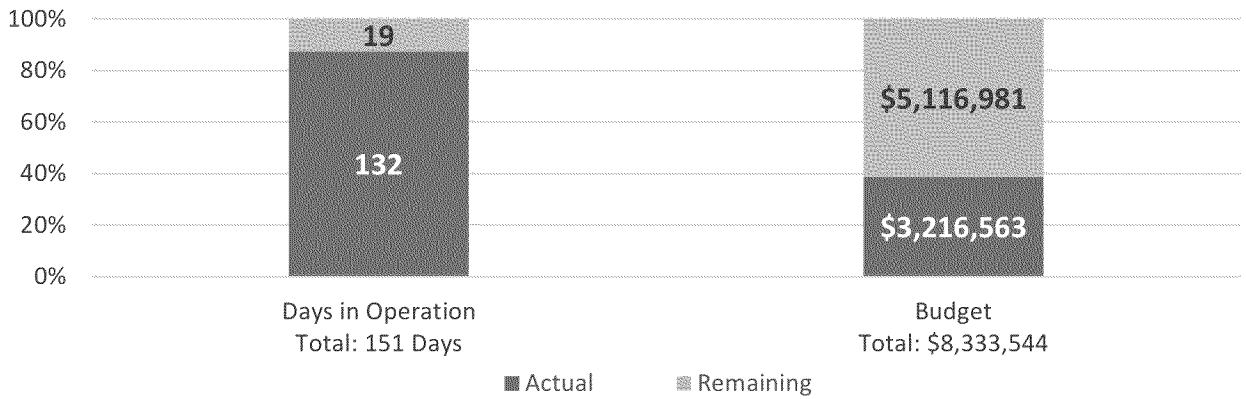
Notes:

To ensure a count of everyone before the ice melts and residents disperse, enumerations have resumed via self-enumeration in most of the remaining Alaska Native villages and a few other areas included in this operation. A new operational end date has been set and revised expectations for workload completion have been determined.

Progress for Remote Alaska Production



Key Performance Indicators for Remote Alaska



Source: Unified Tracking System, Automated Tracking and Control

BC-DOC-0000028911

Periodic Performance Management Reports

2020 Census: Self-Response of Housing Units

Status:

● *On Track*

Data current as of:

June 1, 2020

Start Date:

March 12, 2020

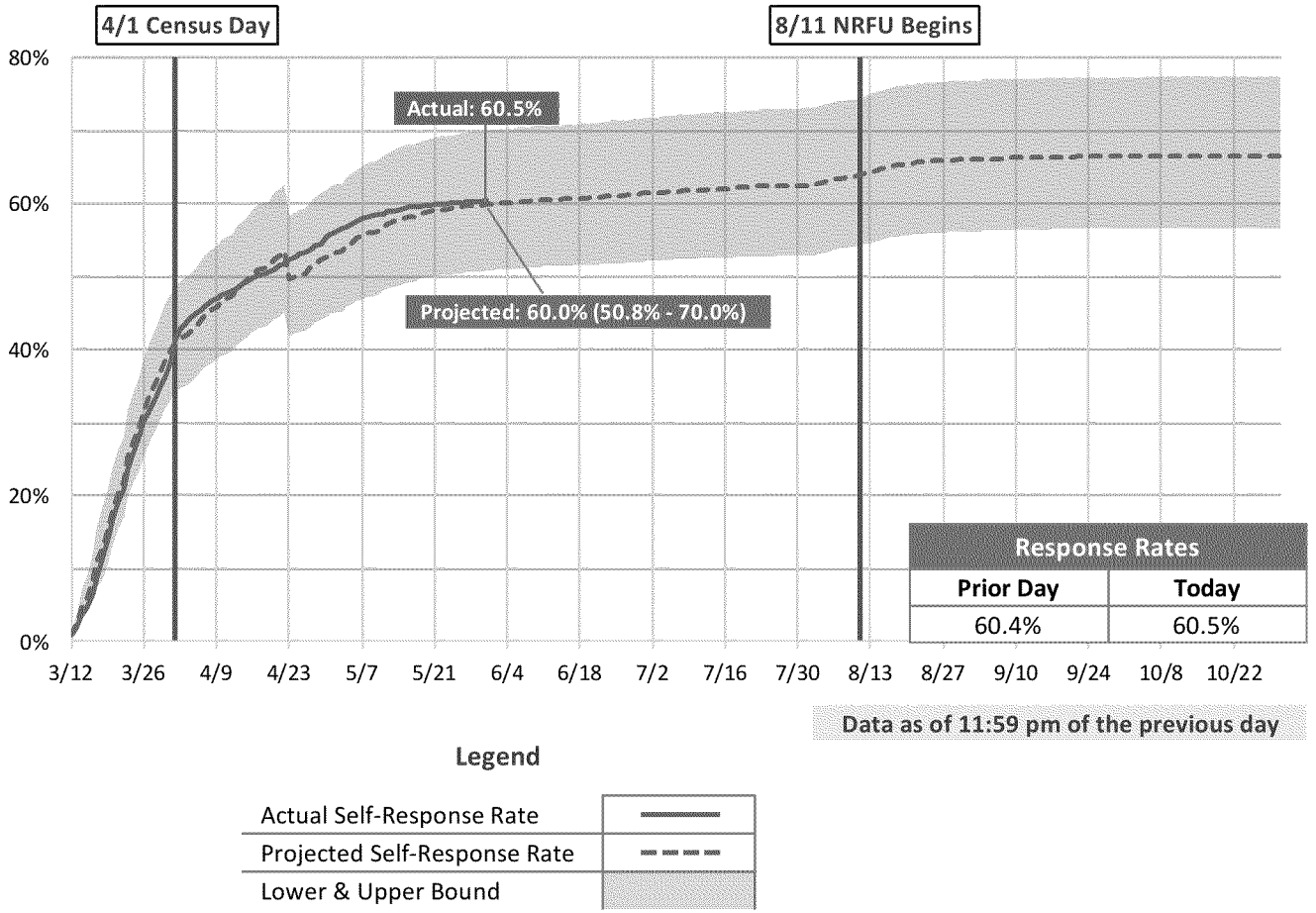
Completion Date:

*October 31, 2020**

Notes:

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

Actual vs. Projected Self-Response Rates



Source: Census Data Lake & Decennial Statistical Studies Division

BC-DOC-0000028912

Periodic Performance Management Reports

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

Status:
● *On Track*

Data current as of:
June 1, 2020

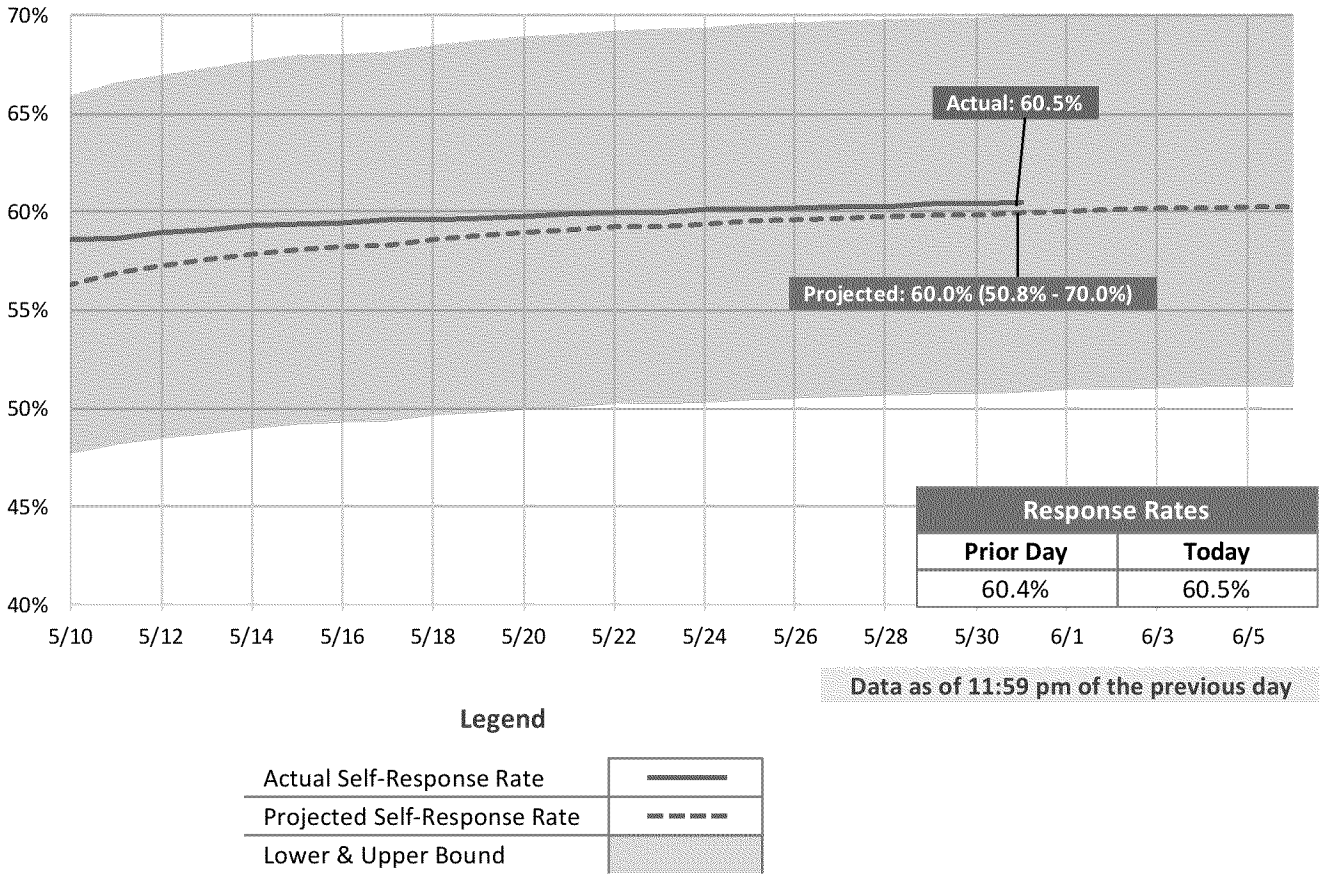
Start Date:
March 12, 2020

Completion Date:
*October 31, 2020**

Notes:

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

Actual vs. Projected Self-Response Rates



Source: Census Data Lake & Decennial Statistical Studies Division

BC-DOC-0000028913

Periodic Performance Management Reports

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

Status:

Management Focus

Data current as of:

June 1, 2020

Start Date:

March 12, 2020

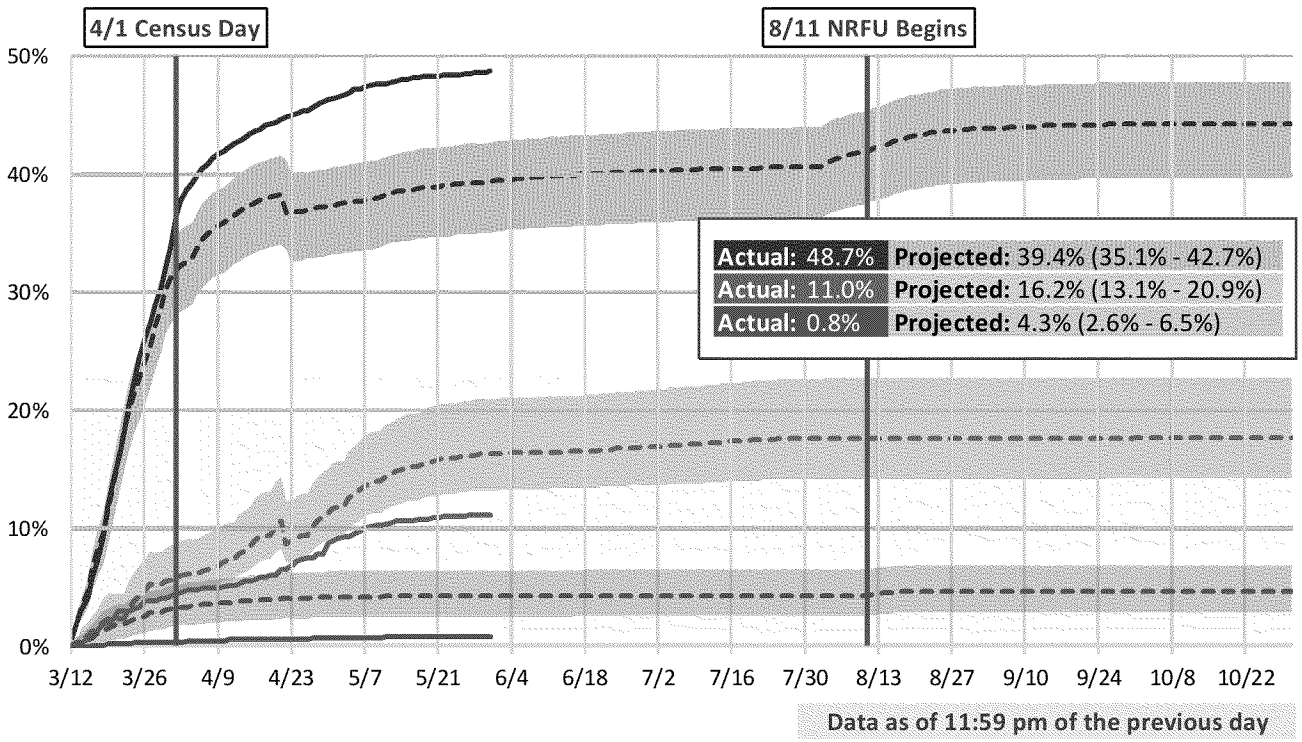
Completion Date:

*October 31, 2020**

Notes:

- **As of April 22, the projected Self-Response rates have been revised to account for re-planned operational timing and a sixth mailing prior to the August 11 start of Nonresponse Followup.**
- The paper counts include inbound mail.
- * Internet, Paper, and Phone response options remain available throughout the data collection timeframe to offer maximum flexibility for respondents.

Actual vs. Projected Self-Response Rates by Mode



Legend

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

Source: Census Data Lake & Decennial Statistical Studies Division

BC-DOC-0000028914

Periodic Performance Management Reports

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

Status:

Management Focus

Data current as of:

June 1, 2020

Start Date:

March 12, 2020

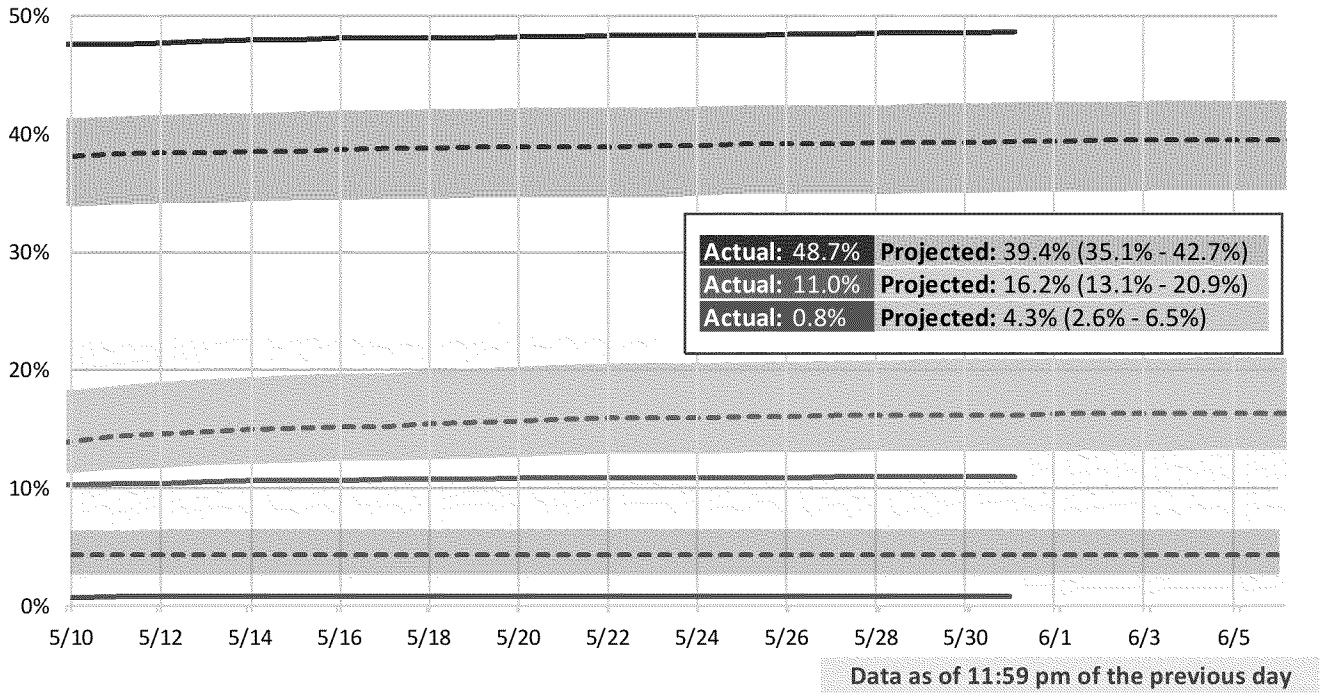
Completion Date:

*October 31, 2020**

Notes:

- **As of April 22, the projected Self-Response rates have been revised to account for re-planned operational timing and a sixth mailing prior to the August 11 start of Nonresponse Followup.**
- The paper counts include inbound mail.
- * Internet, Paper, and Phone response options remain available throughout the data collection timeframe to offer maximum flexibility for respondents.

Actual vs. Projected Self-Response Rates by Mode



Legend

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

Source: Census Data Lake & Decennial Statistical Studies Division

BC-DOC-0000028915

Periodic Performance Management Reports

2020 Census: Self-Response of Housing Units by State

Source: *Decennial Statistical Studies Division*

Data Current as of: *June 1, 2020*

State	Actual	2010 Rate (start of NRFU)	2010 Rate (Final)
U.S. Total	**60.5%**	**63.5%**	**66.5%**
Minnesota	70.2%	71.6%	74.1%
Wisconsin	67.7%	71.2%	73.5%
Iowa	67.2%	71.0%	73.0%
Michigan	67.0%	65.4%	67.7%
Nebraska	66.7%	68.8%	71.1%
Washington	65.8%	63.7%	67.2%
Virginia	65.6%	66.2%	69.0%
Ohio	65.6%	66.2%	69.0%
Illinois	65.5%	67.7%	70.5%
Indiana	65.3%	67.0%	69.6%
Maryland	64.7%	66.5%	69.5%
Kansas	64.5%	67.4%	70.0%
Connecticut	64.2%	66.3%	69.5%
Kentucky	64.1%	63.0%	65.7%
Utah	64.0%	65.4%	68.6%
Pennsylvania	63.5%	67.8%	70.2%
Oregon	63.3%	63.9%	66.9%
Colorado	63.1%	64.4%	67.2%
Idaho	62.7%	64.6%	67.1%
Massachusetts	62.6%	65.6%	68.8%
New Jersey	62.6%	64.4%	67.6%
California	61.6%	64.7%	68.2%
Missouri	60.7%	65.3%	67.5%
Tennessee	60.5%	63.8%	67.1%
South Dakota	60.0%	65.0%	67.1%
Nevada	59.6%	58.7%	61.4%

State	Actual	2010 Rate (start of NRFU)	2010 Rate (Final)
North Dakota	59.5%	66.8%	68.8%
New Hampshire	59.3%	61.5%	64.4%
Delaware	58.8%	60.8%	64.1%
Rhode Island	58.6%	62.8%	65.7%
Alabama	58.5%	59.5%	62.5%
Florida	57.9%	59.6%	63.0%
Arizona	56.8%	58.5%	61.3%
North Carolina	56.8%	62.1%	64.8%
District of Columbia	56.7%	62.2%	66.0%
Georgia	56.6%	59.5%	62.5%
Mississippi	55.7%	58.1%	61.3%
New York	55.5%	61.3%	64.6%
South Carolina	55.3%	62.2%	64.7%
Hawaii	55.3%	60.7%	64.1%
Texas	55.2%	60.3%	64.4%
Arkansas	55.2%	59.5%	62.3%
Louisiana	54.7%	57.9%	61.0%
Oklahoma	54.0%	58.9%	62.3%
Montana	51.5%	62.3%	64.6%
Vermont	51.2%	58.1%	60.3%
Maine	50.6%	55.3%	57.4%
Wyoming	50.5%	61.1%	63.4%
New Mexico	48.0%	56.9%	60.0%
West Virginia	48.0%	56.8%	59.1%
Alaska	41.2%	51.6%	55.6%
Puerto Rico	8.8%	51.2%	53.8%

Data as of 11:59 pm of the previous day

BC-DOC-0000028916

Periodic Performance Management Reports

2020 Census: States with the Highest and Lowest Self-Response Rates Relative to Projections

Source: *Decennial Statistical Studies Division*
Data Current as of: *June 1, 2020*

Highest			
State	Actual	Projection	Actual/ Projection
Nevada	59.6%	54.8%	1.0877
California	61.6%	57.1%	1.0789
Hawaii	55.3%	51.3%	1.0782
Mississippi	55.7%	51.7%	1.0780
New Mexico	48.0%	44.8%	1.0722

Lowest			
State	Actual	Projection	Actual/ Projection
Rhode Island	58.6%	64.6%	0.9062
Maine	50.6%	55.4%	0.9124
New York	55.5%	59.4%	0.9359
Vermont	51.2%	54.7%	0.9361
Delaware	58.8%	62.1%	0.9466

Data as of 11:59 pm of the previous day

Periodic Performance Management Reports
2020 Census: Questionnaire Assistance Inbound Calls

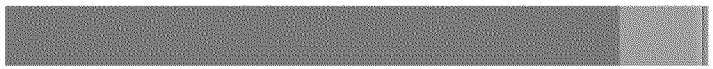
Status:
● *On Track*

Data current as of:
May 30, 2020

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

Notes:
- To date, 13,438 callers have requested the callback option. These callbacks have resulted in 5,532 completed interviews and 3,542 callers being provided assistance.

Total Inbound Call Volume % (PTD)

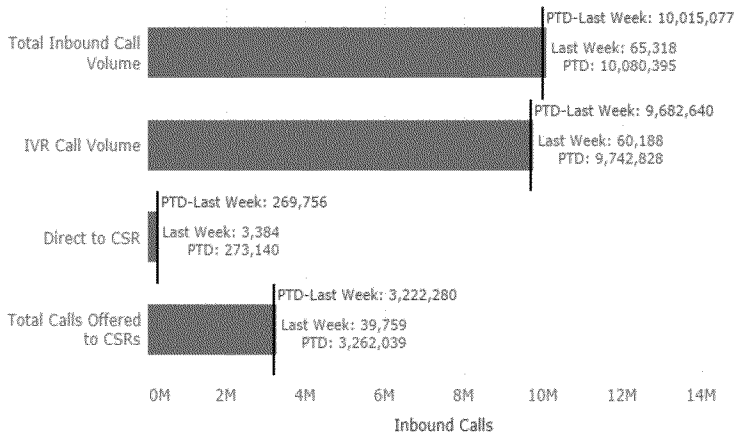


English	Spanish	TTY	Vietnamese	Korean	All Other
87.4%	10.9%	0.7%	0.2%	0.1%	0.6%

Key Performance Metrics (PTD)

	Planned	Actual
Total Inbound Call Volume	8,040,191	10,080,395
Deflection Rate	47.0%	68.0%
Service Level - 30 Seconds	80.0%	60.7%
Average Handle Time	9:43	9:18

Inbound Call Volume



Calls Offered to CSRs by Language

	5/17 - 5/23	5/24 - 5/30	PTD	PTD %
English	45,699	32,255	2,890,669	88.6%
English Puerto Rico	71	166	1,805	0.1%
Spanish	5,598	3,628	245,851	7.5%
Spanish Puerto Rico	680	2,771	19,614	0.6%
Chinese Mandarin	156	108	9,878	0.3%
Chinese Cantonese	191	126	8,363	0.3%
Vietnamese	104	61	12,425	0.4%
Korean	75	60	12,056	0.4%
Russian	62	47	6,123	0.2%
Arabic	45	41	3,821	0.1%
Tagalog	11	14	2,469	0.1%
Polish	17	11	2,306	0.1%
French	14	10	1,091	0.0%
Haitian Creole	40	24	2,321	0.1%
Portuguese	21	10	1,655	0.1%
Japanese	14	8	2,159	0.1%
TTY	134	122	36,126	1.1%
Group Quarters	281	297	3,307	0.1%
Total	**53,213**	**39,759**	**3,262,039**	**100.0%**

Source: *Daily Briefing Deck: Census Questionnaire Assistance*

Periodic Performance Management Reports

2020 Census: Partners & Participating Organizations

Status:

● *On Track*

Data current as of:

May 28, 2020

Completion Date:

March 2020

Notes:

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

Participating Organizations by Sector

Sector	National	Community
Nonprofit	359	69,381
Business	121	78,347
Chamber of Commerce/Trade or Professional Association	103	10.178
Education	91	82,607
Government	87	69,124
Faith-Based Organizations	63	37,429
Media	44	7,725
Healthcare	43	13,999
Technology	32	350
International Governmental/ Consulate/ Embassy	7	335
Grand Total	950	369,475

Participating Organizations by Audiences Served*

Audiences Served	National	Community
Mass Appeal	399	215,729
Black/African American	85	16,588
Young Children	85	5,552
Rural	77	11,815
Hispanic/Latino	75	24,315
Asian	73	9,681
Native Hawaiian Pacific Islander	46	637
Veterans	41	3,131
Young and Mobile	40	7,058
LGBTQ	24	1,207
Elderly	23	8,503
Individuals with Disabilities	23	3,103
Persons Experiencing Homelessness and Highly Mobile	21	5,276
American Indian/ Alaskan Native	18	3,539
MENA	15	29

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

Completed Community Partnership Events: 364,756

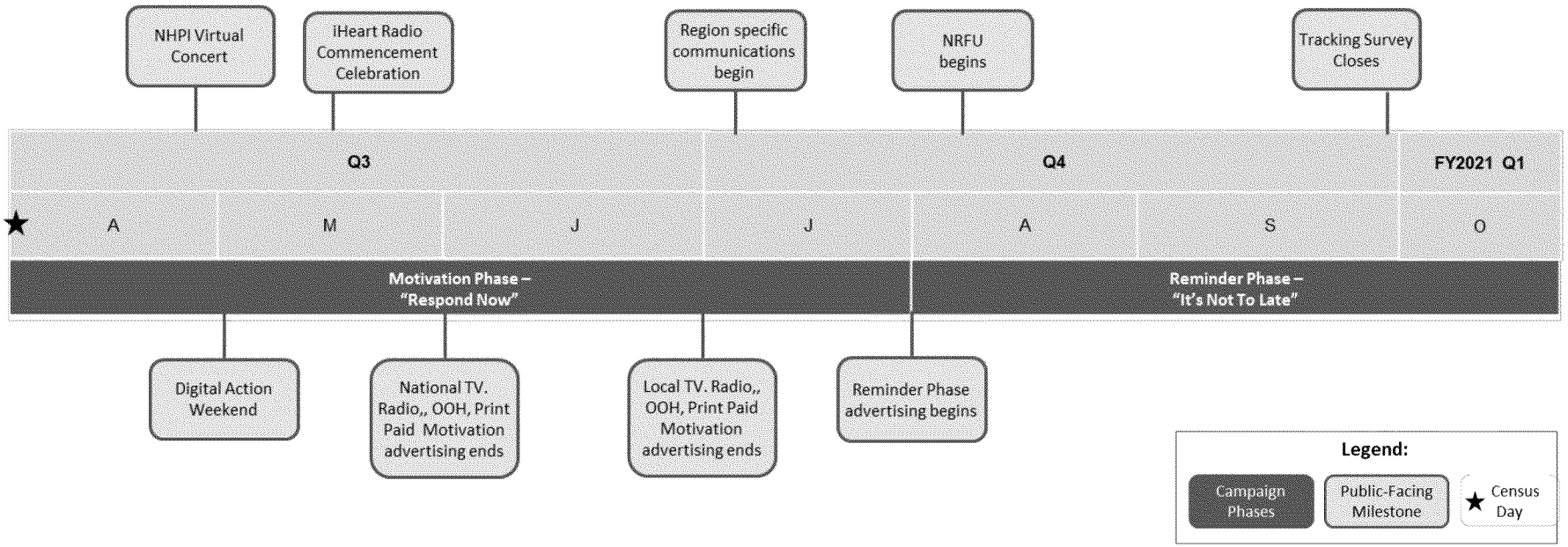
Source: *Customer Relationship Management Database*

BC-DOC-0000028919

Periodic Performance Management Reports

2020 Census: Integrated Communications Campaign Weekly Report Timeline

Source: *Integrated Partnerships and Communication*
Data Current as of: *May 28, 2020*



Significant Accomplishments

- An AIAN webinar was held in conjunction with NCAI on 5/26.
- A satellite and radio media tour targeting rural communities was held 5/27-5/28.
- Gold House's "Shaping Tomorrow's Economy & Politics" Asian Event took place on 5/28.
- Advertising (TV, radio, print, digital) in Puerto Rico resumed on 5/29.

BC-DOC-0000028920

Periodic Performance Management Reports

2020 Census: Monthly FY 2020 Budget Execution Report

Status: ● On Track **Data current as of:** April 30, 2020 **Completion Date:** September 30, 2020

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

FY 2020 Actual Budget Execution for the 2020 Census Program - Commitments and Obligations through 4/30/2020

$ Amounts in Millions	IT	Non-IT	Total
Total Planned through April	$1,625.682	$3,525.753	$5,151.436
Available contingency and add'l appropriations through April	$247.942	$1,432.008	$1,679.950
Planned Programmatic through April	$1,377.740	$2,093.746	$3,471.486
Total Actual Commitments and Obligations through April	$1,309.023	$1,777.592	$3,086.615
Unplanned commitments/obligations through April related to adjusted 2020 Census operations due to COVID-19 (risk-based contingency)	$80.674	$169.400	$250.074
Actual Programmatic Commitments and Obligations through April	$1,228.349	$1,608.192	$2,836.541
Total Plan Variance ($/%)	$316.659 (19.5%)	$1,748.162 (49.6%)	$2,064.821 (40.1%)
Remaining contingency and add'l appropriations planned through April	$167.268	$1,262.608	$1,429.876
Delayed Field Operation Spending through April	$0	$534.592	$534.592
Non-Field Operational Programmatic Variance through April	$149.391	($49.038)	$100.353

High-Level Variance Explanations:

In light of the COVID-19 pandemic, the U.S. Census Bureau adjusted 2020 Census operations in order to protect the health and safety of the American public and Census Bureau employees, implement guidance from Federal, State, and local authorities regarding COVID-19, and ensure a complete and accurate count of all communities. These adjustments resulted in positive variances due to schedule adjustments, offset by additional obligations needed to support operational adjustments through the usage of planned contingency funding. The total variance for the resources planned to be available through April is $2.065 billion, or 40 percent. Below outlines the breakdown:

- The positive variance through April against the original plan in 2020 Census IT systems and operations is $317 million, or 19.5 percent. This variance consists of relatively minor timing adjustments in contract actions and other IT purchases to later months in the fiscal year, totaling $149 million. The remaining $167 million represents a portion of contingency funding planned in April that has not yet been obligated.
- The positive variance through April against the original plan in 2020 Census non-IT operations is $1.748 billion, or 50 percent. This variance consists of $535 million delayed spending in the field operations as a result of schedule adjustments, and $1.263 billion representing a portion of contingency and additional appropriations planned in April that has not yet been obligated. This variance is partially offset by a -$49 million non-Field variance, primarily from a prior decision to increase funding above the original plan for the ICC contract to facilitate additional media purchases ahead of Census Day.
- While contingency contributes to the overall positive variance, this is a function of a budget decision last October to make all risk-based contingency available for peak operations. Decisions were made in April to use risk-based contingency funds to support $250 million in unplanned obligations or commitments through April as the result of the operational adjustments. The funds used to date include funding field staff salaries during to the suspension of field operations, IT purchases for additional devices and licenses, additional media purchases to encourage self response throughout the spring, and additional costs for the extension of the Fingerprint Contract as the result of the operational timing adjustments.

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

BC-DOC-0000028921

Status Reporting: 2020 Decennial Census – Executive Order 13880

Release for June 1, 2020

BC-DOC-0000028922

Periodic Performance Management Reports

Release for June 1, 2020

Status	Report Title	Summary	Slide Number
●	2020 Census: Federal Administrative Records Supporting Executive Order 13880	Work to reach agreements and receive data for Federal Administrative Records sources in support of Executive Order 13880 is progressing.	3
●	2020 Census: EO 13880 State Administrative Records Status for TANF	Work to reach agreements and receive state data on the Temporary Assistance for Needy Families (TANF) program in support of Executive Order 13880 is progressing.	4
●	2020 Census: EO 13880 State Administrative Records Status for WIC	Work to reach agreements and receive state data on the Supplemental Nutrition Program for Women, Infants, and Children (WIC) in support of Executive Order 13880 is progressing.	5
●	2020 Census: EO 13880 State Administrative Records Status for SNAP	Work to reach agreements and receive state data on the Supplemental Nutrition Assistance Program (SNAP) in support of Executive Order 13880 is progressing.	6
●	2020 Census: EO 13880 State Administrative Records Status for Driver's License	Work to reach agreements and receive state data on State Driver's Licenses in support of Executive Order 13880 is progressing.	7
	Acronyms for Administrative Records		8

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

BC-DOC-0000028923

Periodic Performance Management Reports

2020 Census: Federal Administrative Records Supporting Executive Order 13880

Status:
● *On Track*

Data current as of:
June 1, 2020

Target Completion for Delivery of April 1, 2020 Vintage Data:
July 31, 2020

Notes:

Source: File	Under Negotiation	Agreement in Place/ Approved for Use	Initial Data Received	April 1, 2020 Vintage Data Received
Completed Agreements				
HUD: FHA, PIC, TRACs, CHUMS, LIHTC	●	●	●	●
Renewal Agreements				
SSA: Numident	●	●	●	●
IRS: 1040 & 1099	●	●	●	●
CMS: Medicare	●	●	●	●
CMS: Medicaid/CHIP	●	●	●	●
New Agreements				
SSA: MBR	●	●	●	●
IHS: Patient Registration	●	●	●	●
State: Passport Services	●	●	●	●
State: Worldwide Refugee Admissions Processing System (WRAPS)	●	●	●	●
DHS: USCIS	●	●	●	●
DHS: CBP	●	●	●	●
DHS: ICE	●	●	●	●
DOJ: US Marshals	●	●	●	●
DOI: Citizenship & Immigration Data Collection	●	●	●	●
BOP: Federal Incarceration Data	●	●	●	●
BJS: National Corrections Reporting Program (NCRP)	●	●	●	○

Legend | Not Started | Completed | On Track | Management Focus | Requires Attention

United States Census Bureau | U.S. Department of Commerce
Economics and Statistics Administration
U.S. CENSUS BUREAU
census.gov

Source: Economic Reimbursable Surveys Division Spreadsheet

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

BC-DOC-0000028924

Periodic Performance Management Reports

2020 Census: EO 13880 State Administrative Records Status for TANF

Status:
On Track

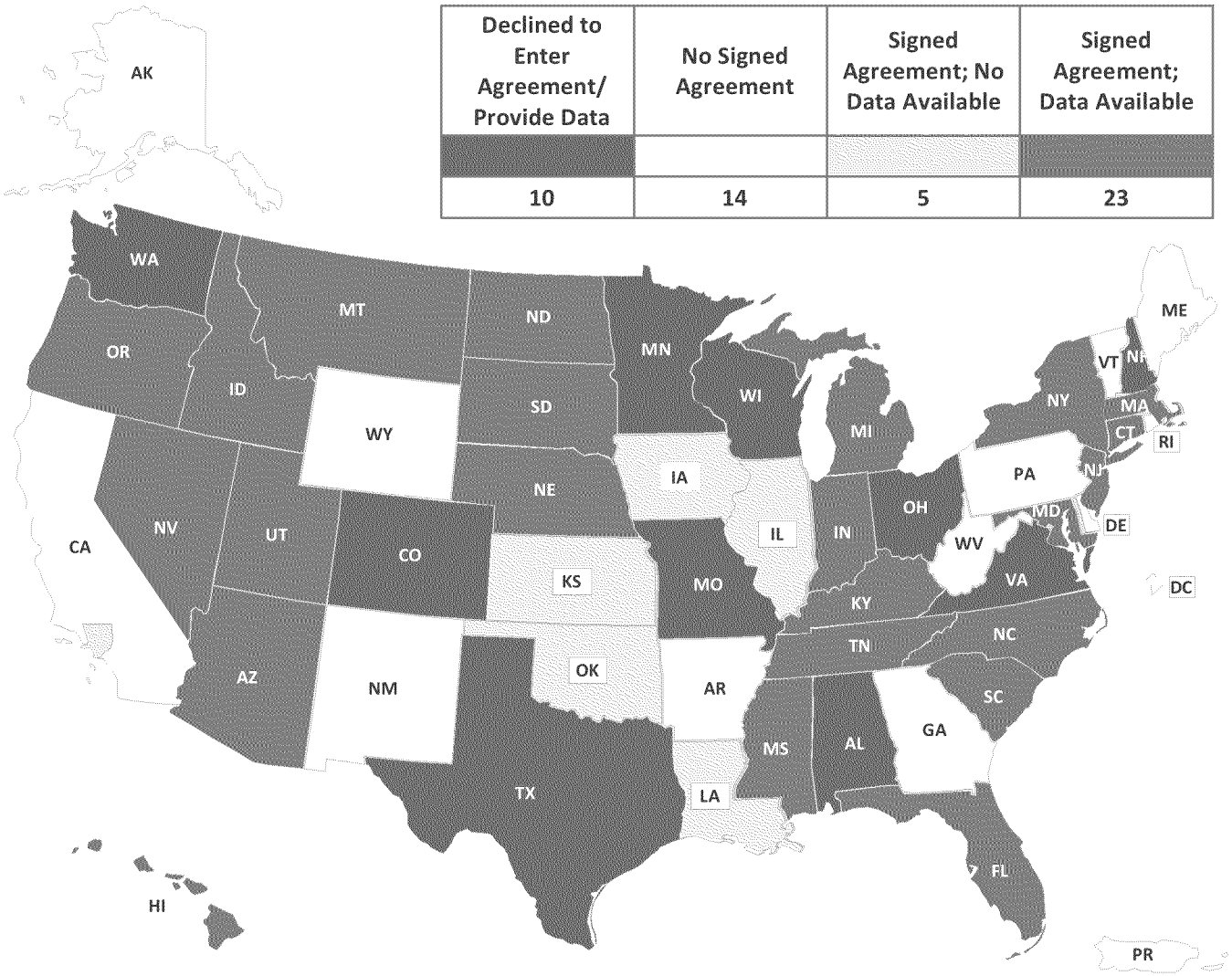
Data current as of:
June 1, 2020

Target Completion:
December 31, 2019

Notes:

- The Temporary Assistance for Needy Families (TANF) program is designed to assist families with children when parents or other responsible relatives cannot provide for the family's basic needs.
- The target date for signed agreements was November 15, 2019.
- Los Angeles county, CA has signed an agreement for the provision of TANF data.

Declined to Enter Agreement/ Provide Data	No Signed Agreement	Signed Agreement; No Data Available	Signed Agreement; Data Available
10	14	5	23



United States Census Bureau | U.S. Department of Commerce
Economics and Statistics Administration
U.S. CENSUS BUREAU
census.gov

Source: Economic Reimbursable Surveys Division Spreadsheet

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

BC-DOC-0000028925

Periodic Performance Management Reports

2020 Census: EO 13880 State Administrative Records Status for WIC

Status:
● *On Track*

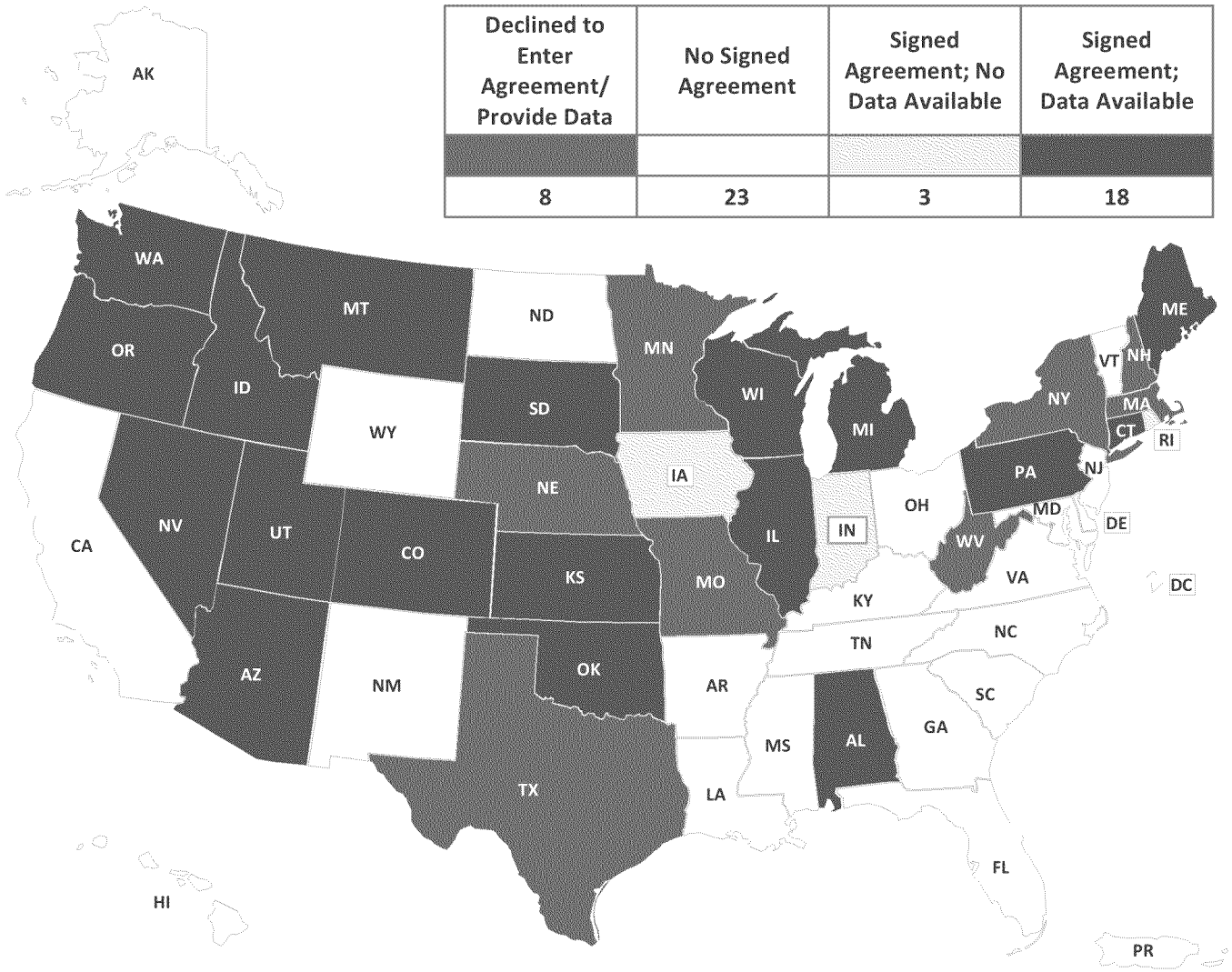
Data current as of:
June 1, 2020

Target Completion:
December 31, 2019

Notes:

- The Women, Infants, and Children (WIC) program provides federal grants to states for supplemental foods, health care referrals, and nutrition education for low-income pregnant, breastfeeding, and non-breastfeeding postpartum women and to infants and children up to age five who are found to be at nutritional risk.
- The target date for signed agreements was November 15, 2019

Declined to Enter Agreement/ Provide Data	No Signed Agreement	Signed Agreement; No Data Available	Signed Agreement; Data Available
8	23	3	18



Source: Economic Reimbursable Surveys Division Spreadsheet

BC-DOC-0000028926

Periodic Performance Management Reports

2020 Census: EO 13880 State Administrative Records Status for SNAP

Status:
● *On Track*

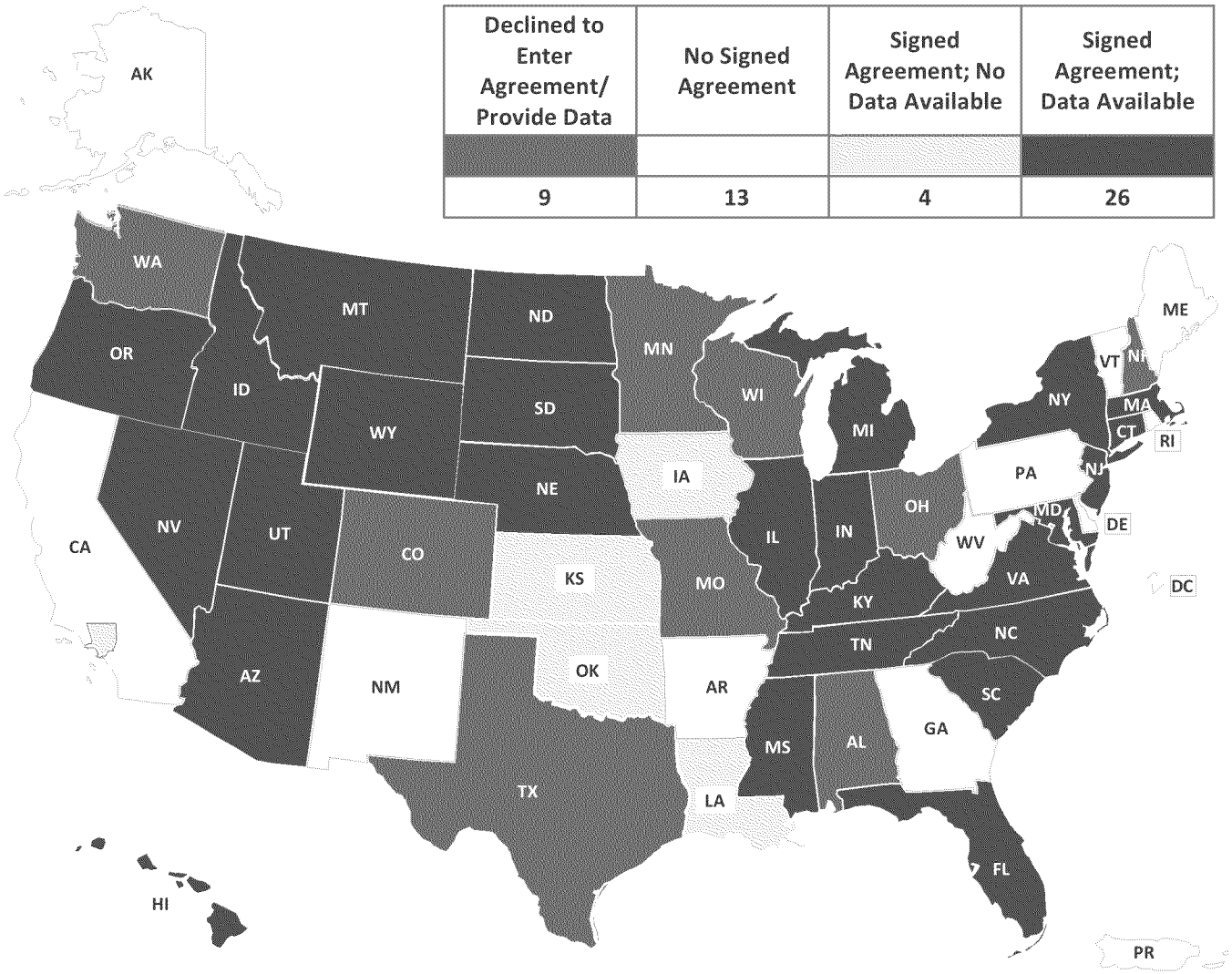
Data current as of:
June 1, 2020

Target Completion:
December 31, 2019

Notes:

- The Supplemental Nutrition Assistance Program (SNAP) provides nutritional benefits to supplement the food budget of needy families so they can purchase healthy food and move toward self-sufficiency.
- The target date for signed agreements was November 15, 2019
- Los Angeles county, CA has signed an agreement for the provision of SNAP data.

Declined to Enter Agreement/ Provide Data	No Signed Agreement	Signed Agreement; No Data Available	Signed Agreement; Data Available
9	13	4	26



United States Census Bureau | U.S. Department of Commerce
Economics and Statistics Administration
U.S. CENSUS BUREAU
census.gov

Source: Economic Reimbursable Surveys Division Spreadsheet

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

BC-DOC-0000028927

Periodic Performance Management Reports

2020 Census: EO 13880 State Administrative Records Status for Driver's License

Status:
● *On Track*

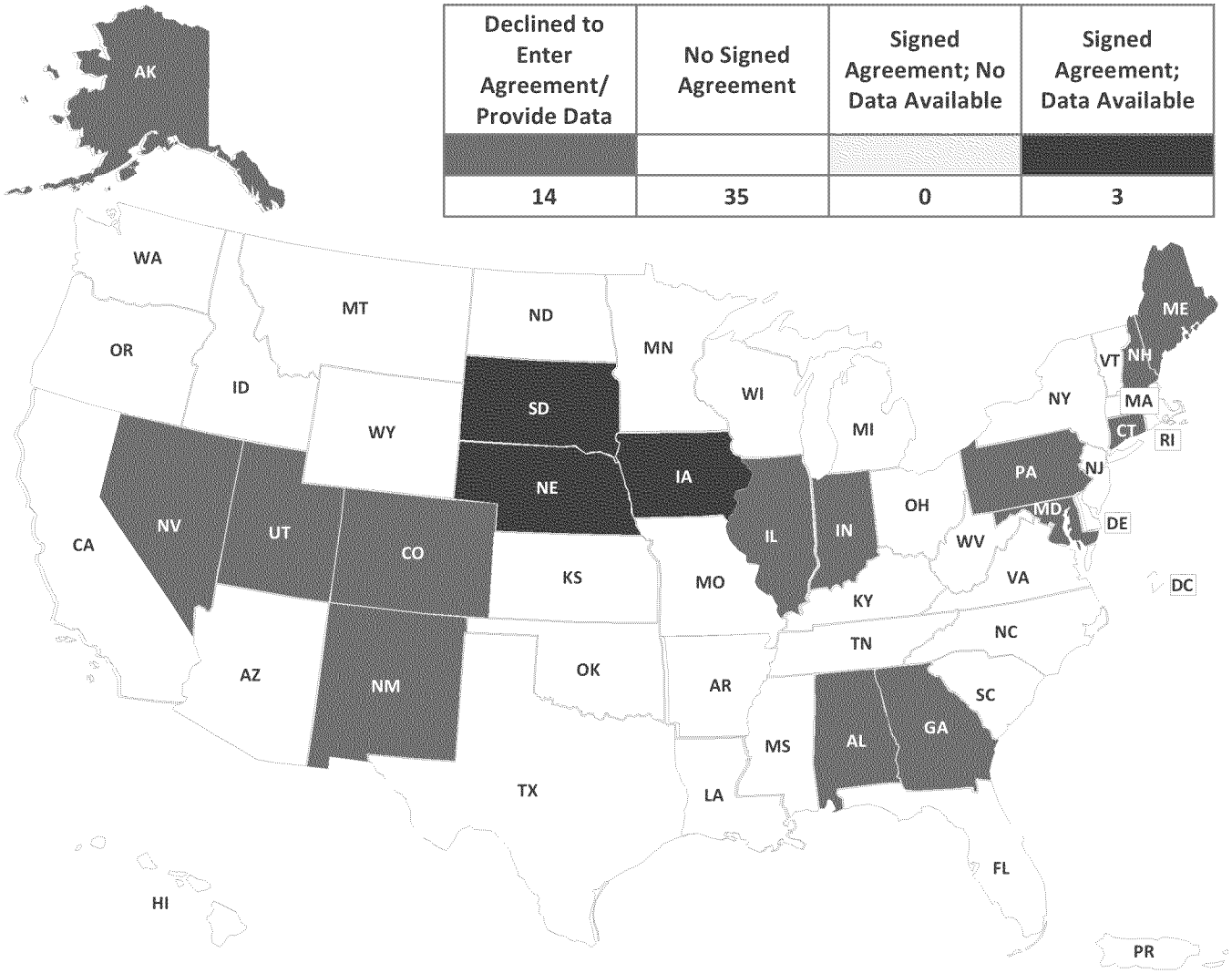
Data current as of:
June 1, 2020

Target Completion:
December 31, 2019

Notes:

- State Driver's License data files provide information pertaining to persons within a state who have met state requirements to drive a motor vehicle.
- The target date for signed agreements was November 15, 2019.

Declined to Enter Agreement/ Provide Data	No Signed Agreement	Signed Agreement; No Data Available	Signed Agreement; Data Available
14	35	0	3



United States Census Bureau | U.S. Department of Commerce
Economics and Statistics Administration
U.S. CENSUS BUREAU
census.gov

Source: Economic Reimbursable Surveys Division Spreadsheet

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

BC-DOC-0000028928

Periodic Performance Management Reports

Acronyms for Administrative Records

Federal	
BOP: Bureau of Prisons	**ICE:** Immigration and Customs Enforcement
BJS: Bureau of Justice Statistics	**IHS:** Indian Health Service
CBP: Customs and Border Patrol	**IRS:** Internal Revenue Service
CHIP: Children's Health Insurance Program	**LITC:** Low-Income Housing Tax Credits
CHUMS: Computerized Homes Underwriting Management System	**MBR:** Master Beneficiary Record
CMS: Centers for Medicare & Medicaid Services	**NCOA:** National Change of Address
DHS: Department of Homeland Security	**PIC:** Public and Indian Housing Information Center
DMDC: Defense Manpower Data Center	**SSA:** Social Security Administration
DOD: Department of Defense	**SSS:** Selective Service System
DOI: Department of Interior	**TRACS:** Tenant and Rental Assistance Certification System
DOJ: Department of Justice	**UAA:** Undeliverable As Addressed
DSF: Delivery Sequence File	**USCIS:** United States Citizenship and Immigration Services
FHA: Federal Housing Administration	**USPS:** United States Postal Service
HUD: Housing and Urban Development	**WRAPS:** Worldwide Refugee Admissions Processing System

State
LIHEAP: Low-Income Home Energy Assistance Program
SNAP: Supplemental Nutrition Assistance Program
TANF: Temporary Assistance for Needy Families
WIC: Supplemental Nutrition Program for Women, Infants and Children

Source: Economic Reimbursable Surveys Division Spreadsheet

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To: Kelley, Karen (Federal)[KKelley@doc.gov]
From: U.S. Census Bureau[census@subscriptions.census.gov]
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Subject: U.S. Census Bureau Daily News - Thursday, April 2, 2020

Census Daily News Digest

Apr. 2, 2020

Full Daily Digest

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2020 Census in the News

Summary

Outlets in 49 states, Puerto Rico, and the District of Columbia wrote about Census Day 2020. ABC's "Good Morning America" interviewed Director Dillingham for a segment highlighting why the 2020 Census is important that encouraged people to respond now via online, mail, or phone. USA Today, Essence, and Variety reported on efforts by trusted voices and influencers such as Tom Hanks, Michelle Obama, Selena Gomez, Janelle Monaé, and Kerry Washington to encourage people to respond to the 2020 Census. A story in The New York Times examining key challenges facing the Census Bureau in light of COVID-19 noted that the Census Bureau's efforts encouraging people to respond online "has gone well." Chief Administrative Officer Laura Furgione was interviewed by the Weather Channel's "Weather Underground" for a feature exploring how census data is utilized in disaster preparedness efforts. A segment on NPR's "All Things Considered" highlighted efforts by the Census Bureau and partners to implement creative, but socially distant, ways to promote the count. TBS' Full Frontal with Samantha Bee aired a segment highlighting why filling out the 2020 Census "is incredibly important to fill out" and "easy to

2020 Census Spotlight

AdWeek highlighted census promotions on Facebook, noting that "over 11 million people have clicked through" census notifications on Facebook and Instagram. California's The Santa Barbara Independent stressed that "nothing stops the census, not even the coronavirus." Rolling Stone and The Hill covered Univision's release of a Spanish-language census "anthem" to promote Hispanic and Latino responses to the 2020 Census. MSNBC and The Atlanta Journal Constitution interviewed Stacey Abrams about her work to promote the census count. Abrams also wrote an op-ed promoting census participation in Cosmopolitan. Ohio's Dayton Daily News reported that the city is launching a bus equipped with free WiFi to encourage people to fill out the 2020 Census

complete." The segment also included a rap song by TT The Artist on the benefits of the census.

National & Top-Tier News

View today's national broadcast report.

How to participate in the 2020 Census

ABC's "Good Morning America" – April 1

April 1 is Census Day and you can participate right from home.

Michelle Obama, Tom Hanks, Selena Gomez and other celebs urge Americans to fill out Census 2020 USA Today – Deborah Barfield Berry, April 1

Amid the coronavirus outbreak, grassroots groups, faith leaders and national voting rights organizations have shifted gears in their Census outreach campaigns, abandoning plans to host block parties, leave pamphlets at front doors and set up information tables at community colleges.

It's the Official Start to the 2020 Census. But No One Counted On a Pandemic. The New York Times – Michael Wines, April 1

This was the year the Census Bureau was primed for a gargantuan task — remaking the census of nearly 330 million Americans for the digital age at a time of enormous national division and obstacles to an accurate count.

How The Census Is Promoting The Count At A Distance During The Epidemic

NPR – Hansi Lo Wang, April 1

Stay-at-home orders have upended plans by community groups to promote the 2020 census at in-person events. Census advocates are now trying out creative but socially distant ways to promote the count.

How The Epidemic Is Affecting The 2020 Census NPR – Hansi Lo Wang, April 1

NPR's census correspondent takes questions about how COVID-19 is impacting the federal

online.

Census Bureau Spokespeople in the News

Axios quoted Michael Cook in a story noting how response rates for the 2020 Census are on track as well as a separate piece on the importance of Census Day in the outlet's AM Newsletter. Politico's Morning Tech quoted Stephen Buckner about the online response option and efforts to combat misinformation and disinformation. Nextgov quoted Chief Scientist John Abowd in an article about how the Census Bureau is collecting data in response to the executive order of last summer. Ohio's The Time-Gazette interviewed Philadelphia Regional Director Fernando Armstrong for a story about the work being done to ensure a complete count across the country. Washingtonian featured comments from an unnamed spokesperson about how the Census Bureau is addressing the counting of college students. A story in Diginomica featured comments from the Adobe Summit by

count of everyone in the United States of America.

Stacey Abrams: We had to adapt census outreach amid coronavirus pandemic MSNBC – April 1

Stacey Abrams spoke to Craig Melvin about her organizations census outreach efforts and the importance of getting accurate responses as the coronavirus outbreak continues.

How the coronavirus pandemic has affected the 2020 census PBS Newshour – Saher Khan, April 1

The COVID-19 outbreak that is rapidly growing across the U.S. could also hinder how many people the U.S. census bureau can reach in its once-a-decade count — and, along with it, how funding is distributed to state and local communities for years to come.

California Census Czar Shifts Tactics to Prevent Undercount

Bloomberg – Romy Varghese, April 1

California warned bond investors two years ago that the 2020 Census may put the state at a disadvantage if the population count isn't accurate. Now, the coronavirus not only poses a threat to its finances but makes it even harder to compel responses to the federal survey that determines how aid is apportioned.

Census Data in the News

Rural Areas Fear Spread of Virus as More Hospitals Close New York Times

Rent's due. Now what? Experts warn a housing crisis shadows the health crisis. NBC News

Crime in the city: These American cities have the most property crimes in their state USA Today

Regional 2020 Census News

Atlanta Region

View today's broadcast report for the Atlanta Christina Stoehr, who explained the research that informed the design of the online census response option. CNET interviewed Michael Thieme for a story examining the technology behind the response systems census takers will use in the field. Additional spokespeople were quoted in the following regions: Atlanta (Florida, Florida, Louisiana, North Carolina, South Carolina), Chicago (Indiana, Missouri, Wisconsin), Denver (Arizona, Arizona, Montana, Wyoming, Oklahoma, Texas), Los Angeles (California, California, Nevada, Idaho), New York (Maine, New York, Massachusetts, New Jersey), and Philadelphia (Ohio, Kentucky, Kentucky).

Beltway & Other Online News

Census Day is here Politico "Morning Score" – Zach Montellaro, April 1

Today is April 1, otherwise known as Census Day. The hugely important decennial count of every person in America soldiers on, even as the coronavirus

Region.

On Census Day, Stacey Abrams advocates for a 'fair count' The Atlanta Journal-Constitution [GA] – Tia Mitchell, April 1

Stacey Abrams kicked off National Census Day by participating in a wide-ranging interview that focused on her multi-state Fair Count campaign but also touched on Georgia's upcoming elections, the death of Joseph Lowery and, of course, whether she is still interested in serving as the eventual Democratic nominee's vice president.

Fill out that Census -- win Candler Cash! Metter Advertiser [GA] – Selby Cody-Voss, April 1

The April 1 Candler County Census event and all other planned events have been canceled. Due to COVID-19, the events were canceled to uphold social distancing efforts in attempts to slow the spread of the virus.

April 1 Is "Census Day 2020": ATL Officials Urging Citizen Response Amid Coronavirus Crisis

CBS Atlanta [GA] – Staff Writer, April 1

ATL Counts, an effort spearheaded by Atlanta Mayor Keisha Lance Bottoms to count every Atlanta resident, posted a friendly reminder on Twitter today, indicating the census is vital "to secure funding for our schools, our hospitals, and our future."

Census follow-up delayed, but all can still respond and be counted

Statesboro Herald [GA] – Al Hackle, April 1

Census questionnaires were mailed to homes March 12, and many households have since received a reminder card. The local Complete Count Committee is encouraging all households who have not completed the census online or mailed in a census form to do so.

A new coronavirus worry: causing long-term damage to Miami-Dade's Census stats

Miami Herald [FL] – Douglas Hanks, April 1

runs rampant through the country. Today is not the deadline for when the census is due (it is the day data is supposed to reflect), but it is a good reminder for what's at stake with the census.

Politico's Morning Tech: 2020 Census, starring the internet Politico "Morning Tech" – Alexandra S. Levine, April 1

2020 Census Day: The U.S. Census Bureau expects a majority of Americans to complete the decennial survey online, the first time responding by internet has been an option — and a saving grace in the age of Covid-19.

Census self-reporting on track despite coronavirus disruptions

Axios – Kim Hart, April 1

Despite the disruptions from the coronavirus outbreak, the Census Bureau says its self-reporting numbers for 2020 are on track.

Axios AM Axios – Mike Allen, April 1

7. Today is Census Day. This is the official kickoff, and the Census Bureau says its self-reporting numbers are on track despite the virus, Axios Cities

Since last year, Miami-Dade has been planning for Census Day to be the kick-off for an intense effort to get as many residents as possible to fill out the government survey and prevent the kind of under-counting that can leave a community getting less than its fair share of federal dollars that are allocated on the basis of population.

U.S. Census Bureau making operational changes to adjust to the Covid-19 pandemic WWSB-TV [FL] – Noel Rehm, April 1

The Covid-19 pandemic has forced the U.S. Census Bureau to suspend field operations for a month, from mid-March to mid-April. That's when the hiring process would be ramping up for an estimated 500,000 temporary census takers nationwide.

Why Filling Out the Census Will Help Hospitals WJXT-TV [FL] – Staff Writer, April 1

The coronavirus has touched nearly every part of our lives--- With all of the changes happening in everyday life - the 2020 census may have dropped to the bottom of your to-do list. Joining us this morning--- on Census Day--- is Marilyn Stephens--- the Assistant Atlanta Regional Census Manager.

Completing The 2020 Census Helps The Community

WCJB-TV [FL] – Dylan Lyons, April 1

The Census is taken once every 10 years and helps determine the number of representatives and funding for a community. The Census Coordinator for the City of Gainesville Jessica Turner-Evans said the form only takes 10 minutes to fill out and you can even submit it online.

Today is Census Day 2020 -- have you responded? WKMG-TV [FL] – Dawn Jorgenson, April 1

We've been living in a world with a LOT going on lately, so we get it if you've forgotten about the 2020 Census. But it's officially Census Day, and the response rates are alarmingly low,

author Kim Hart reports.

Facebook Updates Its Efforts to Protect and Promote the 2020 Census AdWeek – David Cohen, April 1

Facebook used the occasion of Census Day in the U.S. to provide an updates on steps it has taken to protect and promote the 2020 Census.

"Make us count": Taiwanese and Iranian Americans are fighting for recognition in the 2020 census Quartz – Frances Hui, April 1

For the first time in the US census, Americans will be allowed to write in their nationality of origin under the race category they identify with, and ethnic groups are using the chance to to get their communities recognized.

Regional Mexican Stars Drop 2020 U.S. Census Anthem 'Cuenta Conmigo' Rolling Stone – Suzy Exposito, April 1

Uforia, the music wing of Spanish-language network Univision, has announced the release of "Cuenta Conmigo," or "Count With Me," an original, cumbia-driven anthem compelling

according 2020census.gov.

Everyone Counts – Please Complete Your 2020 Census! Boca Raton Tribune [FL] – Robert S. Weinworth, April 1

Florida is the third largest state in the United States and Palm Beach County is the third largest county in the State of Florida. It is imperative that we account for every person in a household within our county as well as the state.

Gov. Kay Ivey: Census 2020 now more important than ever

WBRC-TV [AL] – Staff Writer, April 1

Gov. Kay Ivey said she wants everyone in Alabama to understand the importance of filling out the 2020 Census online, by phone or in the mail.

Census 2020: Asheville still must prepare for national head count

Asheville Citizen Times [NC] – Elizabeth Anne Brown, April 1

By general consensus, April Fool's Day is canceled in light of fallout from the novel coronavirus. But it's still a holiday — April 1 is Census Day.

Cooper To Declare National Census Day To Help Push Count WUNC-FM [NC] – Leoneda Inge, April 1

Governor Roy Cooper will issue a proclamation today declaring it National Census Day in North Carolina. There is an extra push to get the state's more than 10 million residents counted while also dealing with COVID-19.

Be counted: April 1 is 'Census Day' so fill out your form

WSOC-TV [NC] – Anthony Kustura, April 1

Government officials are hoping to get an accurate population count for the United States and are urging residents to complete the 2020 survey by mail or online.

Hispanic people to participate in the 2020 U.S. Census.

Completing The Census Matters More Than Ever Forbes – Grace Birnstengel, April 1

The United States has conducted a census count every 10 years since 1790, and the 2020 census count is arguably its most important one yet. America is more diverse than ever. In order to better accommodate and serve 330 million people in the U.S., the nation must first understand who exactly lives where, with whom they live and a bit about what their lives might look like.

Univision releases Spanish-language Census 'anthem' The Hill – Rafael Bernal, April 1

Uforia, Univision's Latin music multimedia channel, launched a Spanish-language Census "anthem" on Wednesday to persuade U.S. Hispanics to participate in the decennial count.

"It couldn't have snowballed at a worse time." Coronavirus playing havoc with America's 2020 census could have damaging

How COVID-19 will impact the 2020 Census
WCNC-TV [NC] – Lana Harris, April 1

April 1st isn't just April Fool's day, this year it's also Census Day. The census counts every person living in the United States and US territories, and the US Census Bureau says 50 million households have already responded.

Jacksonville marking Census Day in the grips of COVID-19

WITN-TV [NC] – Staff Writer, April 1

Once every 10 years, April 1st marks Census Day, but this year there are added concerns for those counting residents.

New origin options for 2020 census could provide useful Cajun, Creole data The Advocate [LA] – Megan Wyatt, April 1

Wednesday isn't just April Fools' Day or another day to practice social distancing. It's also Census Day — the reference date used for the decennial population count — and not even a pandemic will postpone it.

U.S Census marches on, new methods of reporting a huge plus during social distancing

The Advocate [LA] – Ellyn Couvillion, April 1

The U.S. census, taken every 10 years and designed to count every person in the country, introduced two new ways this year for people to respond: online or by phone.

Billions of dollars at stake for S.C. in 2020 census

WMBF-TV [SC] – Staff Writer, April 1

Close to $13 million is on the line for South Carolinians based on participation in the 2020 census.

It's Census Day and citizens can take the national survey online for the first time
Charleston City Paper [SC] – Heath Ellison, April 1

April 1 is Census Day in America and thanks to a brand new online response feature, citizens can

effects for years The Hill – Anagha Srikanth, April 1

The pandemic is upending the massive, complicated plans to conduct America's 2020 census--which could have damaging consequences for minority communities for the next decade.

How Census Is Building a Citizenship Database Covering Everyone Living in the U.S.
Nextgov – Aaron Boyd, April 1

While the 2020 Decennial Count is underway, the Census Bureau is working on a separate effort to identify the percentage of the U.S. population that has legal citizenship. The result will be a Census-owned database of every person living in the U.S. with a statistical "citizenship estimate" linked to each individual.

2020 U.S. Census response rate is far below 2010—here's how to fix that Fortune – Chris Morris, April 1

Americans aren't filling out their 2020 Census questionnaires with any sense of urgency this year. Responses to the

take the survey while staying indoors. The self-response period ends on Aug. 14. Census undergoes changes amid coronavirus pandemic; key timeline extended

WYFF TV [SC] – Matt Prichard, April 1

The 2020 census is pressing forward despite the coronavirus pandemic, but it, like so many others, is having to adjust its process as a result. The unfolding pandemic has changed the bureau's approach — starting with its normal door-to-door operations.

Today is Census day, don't forget to be counted
Y'all Politics [MS] – Sarah Ulmer, April 1

Every 10 years, the U.S. Census Bureau is tasked with counting all the people residing in the United States.

Chicago Region

View today's broadcast report for the Chicago Region.

As Chicago households fill out 2020 census during coronavirus pandemic, some Latino neighborhoods are falling behind in participation

Chicago Tribune [IL] – Elvia Malagon, April 1

A video posted on Facebook shows a small boy retrieving a letter marked "Census 2020." "Make a difference in your community," the video tells viewers in Spanish as Cesar Nuñez explains to a small boy and girl that the U.S. Census Bureau wants them to fill out the census.

Rick Renteria has a laugh at Cubs' expense in census PSA

NBC Sports Chicago [IL] – Vinnie Duber, April 1

"Even that team up in Wrigleyville counts." White Sox fans probably have some varying opinions on that statement, but it was an unexpected laugh-worthy line in Rick Renteria's public service announcement encouraging folks to participate in this year's U.S. census.

Census Day jump-start goes on despite COVID-

constitutionally mandated count of the country's population are only at 36.2% as we go into Census Day—the questionnaire asks where you live on April 1, 2020, even if responses are collected before or after.

Census Day 2020: Armed with the iPhone 8, canvassers go all-in with tech CNET – Lynn La, April 1

Michael Thieme, the man who oversees the US Census Bureau's software and IT teams, knows the bureau has a target on its back. This year's national decennial census, the first of which began after the Revolutionary War, is plunging full-force into the 21st century thanks to a multimillion-dollar upgrade project.

US Census 2020 - Using Adobe to help deliver the 'first digital census'
Diginomica – Derek du Preez, April 1

It only takes place once a decade, but the US Census is one of the most important and extensive data collection activities across the US. April 1st 2020 is Census Day, which marks the snapshot point for the

19 concerns: 'Stakes are too high'

Chicago Sun-Times [IL] – Manny Ramos, April 1

A convoy of cars paraded around Little Village on Wednesday, blasting music and shouts from a bullhorn urging residents to complete their census forms on the nationally recognized "Census Day." Under normal circumstances, these organizers would be knocking on doors to raise awareness about the 2020 Census, but these aren't normal times.

As Census Day Arrives, State And Local Officials Worry Some Communities Will Be Under-Counted

WBBM-TV [IL] – Staff Writer, April 1

Today is Census Day, and state and local authorities are reminding people why it's more important than ever to make sure you are counted. "If we fail to count everyone in Illinois, it could result in the state losing over $195 million per year in federal funds for every 1% we undercount ourselves," Gov. JB Pritzker said Wednesday afternoon.

US Census continues 2020 count despite coronavirus outbreak WEHT-TV [IN] – Kellie Meyer, April 1

April 1 marks Census Day – the day the United States Census Bureau wants to make sure you count. And despite the ongoing global coronavirus pandemic, the bureau wants to continue the count. "This census is different from previous censuses," U.S. Census Bureau Director Dr. Steven Dillingham said Wednesday.

On Census Day, about 44% of Minnesota households have said: We're here

StarTribune [MN] – MaryJo Webster, April 1

It's Census Day, the reference date for the federal government's once-a-decade count of every American. That doesn't mean you're going to get your Census 2020 form in the mail today. In fact, very few paper forms have gone out because there's a push this time around to get as many people as possible to fill out the next decade about who lives where and with whom across the country.

Nervous System: How Punch Cards Brought Us to Our Census Law.com - David Kalat, April 1

Today is Census Day, with the ability to submit information online and the use of sophisticated database technology to derive statistics from raw counts.

You—Yes, You—Need to Make Sure You're Counted in the 2020 Census Cosmopolitan – Stacey Abrams, April 1

Right now, as our nation battles the COVID-19 pandemic and its havoc on our everyday lives, a cornerstone of America's democracy is under serious threat: the 2020 Census. But this unprecedented challenge does not lessen our responsibility to make sure that every person is counted and encourage our family, friends, and communities to do the same.

Stacey Abrams wants you in the census fight with her MTV – Yoonj Kim, April 1

Stacey Abrams is fighting for her vision of

first-ever online form.

Census Day Serves as a Reminder to Fill Out Household Information Online KIMT [MN] – Jessica Bringe, April 1

April 1st is Census Day. It's a day to promote participation in the 2020 Census. The effort is particularity important as the coronavirus is disrupting the count across the country. This is the first year the census is being conducted online and that's a positive thing as door-to-door census deliveries are on hold to millions of home in rural areas due to COVID-19.

Census Day: Local update on survey and COVID-19 impact WDIO-DT [MN] – Staff Writer, April 1

April 1 is Census Day, which is a important reminder to get your 2020 Census done since it helps bring needed federal funding to the local community. Census Day is also helpful to people who split their time evenly at home, so on this day, people count themselves based on where they are on Census Day.

Make Your Voice Count: April 1st is Census Day

KWIT [IA] – Sheila Brummer, April 1

April 1st is more than April Fools' Day, it's also known as Census Day with the U.S. Census Bureau. The current census is underway and Siouxland Public Media's Sheila Brummer talked to Erica DeLeon the Director of One Siouxland, about the impact of COVID-19 and the importance of taking part in this once-in-a-decade count.

Reply To Your 2020 Census Questionnaire Today The Detroit News [MI] – Staff Writer, April 1

Nearly 42% of Michigan households have responded to the 2020 Census as of late last month, according to the U.S. Census Bureau. That's above the national response rate of 36%. The deadline to respond is Aug 14.

Firearms, crossbow stolen from home; Pair allegedly posing as census workers Ludington Daily News [MI] – Cheryl Higginson, April 1

an equitable America — and it starts with making sure the youngest among us are seen by those in power.

Tom Hanks, Selena Gomez, Janelle Monáe and More Promote 2020 Census in New Video (WATCH) Variety – Todd Spangler, April 1

Amid the nationwide coronavirus pandemic, six celebrities have come together for a PSA to urge Americans to be counted in the 2020 Census. The new video features Tom Hanks, Selena Gomez, Janelle Monáe, Megan Rapinoe, Faith Hill and Liza Koshy explaining the importance of participating in the U.S. Census.

Getting An Accurate Census Count Is Vital. First, Muslim Americans Need To Trust It's Safe.

HuffPost – Rowaida Abdelaziz, April 1

Like many Muslim Americans, Hidaya Assaf, a 27-year-old mother of two, was initially skeptical of the census. She's Palestinian American, and many of her friends on Facebook were discussing whether it was worth filling out the 2020 survey. She could

Firearms and a crossbow were reported stolen from a Branch Township residence Tuesday after the homeowner had been approached earlier in the day by two men claiming to be from the U.S. Census Bureau.

What you need to know for National Census Day WLUC-TV [MI] – Paige Spisak, April 1

For the state of Michigan, Gov. Gretchen Whitmer has declared Wednesday, April 1, "Take a Break and Be Counted" Day to encourage Michiganders to take 10 minutes out of their day to complete the 2020 Census.

April 1 is Census Day, here's how many Michiganders have responded The News-Herald [MI] – Natalie Broda, April 1

By April 1, every household in the U.S. should have received an invitation to complete the 2020 Census. Nationally, only 36% of households have so far been counted. In Michigan, that number is slightly higher at 41%. Oakland County is just ahead of the state's response rate by 5%.

No April Fool: Today is Census Day Monroe News [MI] – Paula Wethington, April 1

A database on census.gov shows Michigan has 40.2 percent response as of March 29, with most of them Internet replies.

Money and political power at stake as COVID-19 threatens census Wisconsin Examiner [WI] – Allison Stevens, April 1

It's National Census Day. Organizations across the country are marking the occasion with webinars, virtual rallies, Twitter chats and other digital events throughout the week.

Census Bureau outlines how the state of Wisconsin looks so far in this year's census Spectrum News [WI] – Megan Hedstrom, April 1

It happens once every ten years-- the US census. But this year, things are being done a bit differently. "It's the first time ever that everyone can respond online. So it's something

understand their reasons for concern.

A Brief History of the Census—and How Covid-19 Could Change It

WIRED – Andrew Whitby, April 1

The United States is currently undertaking its population census, the once-a-decade effort to count every single person living here. More than 150 other countries will join in this world census round—the 10-year period centered on 2020, and around 90 percent of the world's population has already been or will be counted.

Here's How to Be Counted During the Pandemic

RealClearPolitics – Sheryl Sanberg, April 1

Today is National Census Day and it comes at a time when many people are worried about the safety of their loved ones, losing their jobs, keeping their homes, or even just putting food on the table, so being asked to fill out a questionnaire might seem like an unnecessary undertaking. And with the advice for us all to keep a safe distance

you can do from the safety of your own home with social distancing to go online to 2020census.gov," Census Bureau Assistant Director of Communication, Stephen Buckner said.

Census 2020 pushing social media efforts amid COVID-19 pandemic KNEO-FM [MO] – Mike Jimenez, April 1

Census officials have suspended filed operations due to the pandemic. They are now relying on social media to spread the word. U.S. Census Deputy Regional Director, Cathy Lacy, tells CBS4/ Local23 they are adapting by putting a bigger push into social media and asking for the public's help with billions of dollars at stake.

2020 census offers an online option for all households for the first time

KOLR-TV [MO] – Jacob Blount, April 1

The 2020 census will be different than any other count done before. This year, there is a self-response option. Today is census day, which means households should report where they live and who usually lives and sleeps in that home as of Wednesday, April 1.

2020 U.S. Census start has been delayed for two weeks, advocates say it's up to the community to make sure everyone gets counted KTVE-TV [AR] – Staff Writer, April 1

Today is Census Day and just like many operations, The United States Census Bureau is seeing some delays of their own.

Denver Region

View today's broadcast report for the Denver Region.

Texas census response lags, constrained by coronavirus and lack of state assist

Houston Chronicle [TX] – Taylor Goldstein, April 2

Local governments and nonprofits knew they already had their work cut out for them when apart, the normal teams of census takers knocking on people's doors will be understandably limited.

Facebook's Sheryl Sandberg urges people to complete the US census online

CNET – Queenie Wong, April 1

Facebook COO Sheryl Sandberg urged people to complete the 2020 US census online even during the coronavirus pandemic, noting that tech companies also have a responsibility to encourage participation.

Multicultural & Non-English News

On Census Day, Fil-Ams are reminded to be counted Asian Journal – Asian Journal Press, April 1

With Census Day on April 1, community organizations are reminding Filipino Americans across the country to fill out their questionnaire. 1, 2020 is significant because respondents will answer based on where they are living on this day.

Preliminary Census response by Latinos 'very concerning' to national organization promoting the count

Texas — in keeping with many other Republican-led states — declined to approve funding for grassroots census outreach.

Census going forward despite coronavirus delays

AZPM-FM [AZ] – Jake Steinberg, April 2

Feeling cooped up? Bored of social distancing? Well, here's something to do today: Help the federal government decide how to spend nearly $700 billion dollars. That's how much is on the line every single year, and it will be guided by the results of the 2020 census.

After COVID-19 spoils Utah's big census events, officials go to Plan B

The Salt Lake Tribune [UT] – Lee Davidson, April 1

This week surrounding the official April 1 Census Day was when groups statewide planned mass events to help Utahns fill out census forms — from a festival in West Valley City with mariachi bands and dancers (and computers to complete forms) to gatherings at libraries and colleges. It isn't happening.

Dallas County lags in national census response rate, but is ahead of statewide rate The Dallas Morning News [TX] – María Méndez, April 1 Under the pandemic, the long-awaited Census Day today looked a lot different than what the U.S. Census Bureau had planned.

Travis County encourages community response on census day as outreach efforts go virtual

Community Impact Newspaper [TX] – Olivia Aldridge, April 1

April 1 is census day in the United States—and in Travis County. Because the spread of COVID-19 has altered census outreach efforts over the past two weeks with the U.S. Census Bureau halting in-field operations, the census self-response period has been extended to Aug. 14.

Judge Hidalgo: COVID-19 Is Hindering Census Count Houston Public Media [TX] – Andrew Schneider, April 1

Vida en el valle – Juan Esparza Loera, April 1

When Arturo Vargas glances at the 13 percent self-response rates to the Census from a zip code in Fresno that is 98 percent Latino, he is concerned. When he sees the same low rates from other places throughout the country with heavily Latino populations, he is alarmed.

Speak Up & Be Counted in the 2020 Census.

Better to Speak – Staff Writer, April 1

One major thing the coronavirus is affecting is the 2020 census which is a headcount of everyone living in the United States that happens every 10 years. The number one thing to know about the census is that it'll be online for the first time ever. You can also complete it by mail or on the phone.

The 2020 Census Is Critical For Black People. Here's Why We Need to 'Make Black Count' The Root – Felice Leon, April 1

April 1 marks Census Day, and the resounding message is clear: Go fill out the Census, y'all. As

Harris County Judge Lina Hidalgo has been pushing hard to make sure there's an accurate census count, so that the county gets its fair share of federal funding. But the coronavirus has thrown a wrench into the works.

Census Day: Wichita Falls schools pass out reminders with meals supplied amid coronavirus

Wichita Falls Times Record News [TX] – Torin Halsey, April 1

The City of Wichita Falls is working with the school district to get the word out and let everyone be counted in the 2020 U.S. Census.

Today is Census Day: What you need to know KTSM-TV [TX] – Erin Coulehan, April 1
Communities are struggling from the COVID-19 pandemic and expressing rightful concern regarding limited resources that are available. Today is Census Day, and an opportunity to make our community count(ed).

COVID-19 complicating college student census count

Lincoln Journal Star [NE] – Chris Dunker, April 1

The goal of the 2020 U.S. Census is to "count everyone once, only once and in the right place," the bureau's marketing materials say, with the right place being where each person was living April 1.

It's National Census Day — And Here's How Many Arizonans Have Been Counted So Far

KJZZ-FM [AZ] – Kathy Ritchie, April 1

Wednesday is National Census Day, which means Arizonans should have received an invitation to participate in the 2020 census. And despite everything that's happening in the world, the U.S. Census Bureau is still counting residents.

Make yourself count: Fill out your U.S. Census form today Northern Arizona University News [AZ] – Staff Writer, April 1

All homes in Flagstaff, including apartments,

black people, I'd argue that we have a particularly strong motivation to fill out the (approximately 10-question) survey: African Americans have been historically undercounted in America.

Janelle Monae Provides Strong Case For Taking Census: $650B Are At Stake Essence – Tanya A. Christian, April 1

Be seen, be heard, be counted. That's the message that a new PSA featuring Janelle Monaé is sending to everyone living in the United States and its territories on Census Day. The star-studded video developed by Michelle Obama's voting initiative, When We All Vote, and news media company ATTN: gets to the meat of why participating in the decennial survey is so important.

Why the US keeps getting the census wrong Al Jazeera – Staff Writer, April 1

Despite the coronavirus pandemic, the 2020 United States census is still taking place.

Why is there no MENA category on the 2020 US census? Al Jazeera –

should have received several notifications in March from the U.S. Census Bureau. These include a Census ID unique to each dwelling. For the first time, you can fill out your Census form online. Everyone in the household needs to be counted at the same time, so if you have roommates, get them all together to fill out your form.

Arizona behind national average in Census completion The Center Square [AZ] – Cole Lauterbach, April 1

U.S. Census officials say Arizonans aren't submitting their information online or via mail to the decennial Census as well as the nation as a whole.

New Mexico Hosts Virtual Census Day Fiesta Today Los Alamos Daily Post [NM] – Carol A. Clark, April 1

The New Mexico Statewide Complete Count Commission is celebrating national Census Day today, Wednesday, April 1, with a virtual fiesta to encourage all New Mexicans to participate in the 2020 count without leaving home.

Almost 30% of Montana households respond to Census

Helena Independent Record [MT] – Holly Michaels, April 1

The U.S. Census Bureau said Wednesday 29.3% of Montana households have already responded to the 2020 census, slightly behind the national rate of 36.2%.

Montana lags most states in U.S. 2020 Census reporting

Sidley Herald [MT] – Eric K. Gill, April 1

At 31 percent, Montana currently lags behind most states in self-response rate estimates, according to recent census data. The national average self-response rate among states is 38.4%.

Lawmakers Push Residents To Fill Out Forms On Census Day

Yousef H Alshammari, April 1

The United States Census Bureau says the 2020 census is an "opportunity to shape the future of your community", but for many Arabs, Iranians and others of the Middle East and North Africa (MENA) descent, the decennial count is only a reminder of the lack of recognition.

Census makes adjustments on the Island

El Vocero-Melissa Correa [PR] – Melissa Correa Velazquez, April 1

The coronavirus pandemic (Covid-19) caused changes in the operations of the United States Census Bureau, reported the agency's spokesperson, María Olmedo."Puerto Rico has been one of the biggest changes, if not the biggest. Our operation in Puerto Rico changed to count and confirm that we have the correct addresses. Instead of sending the questionnaires or invitations online - as is done in most places in the United States - we would be doing an 'Update List' operation, in which we will send

KCNC-TV [CO] – Staff Writer, April 1

April 1 is Census Day as public officials urged everyone to fill out their census forms even though the deadline is now in August. Governor Jared Polis took time at his COVID-19 response briefing to encourage everyone to fill out their form at census.gov.

Wednesday is Census Day. Here's how to complete your questionnaire online

KDVR [CO] – Eric Ruble, April 1

As of Tuesday, 38% of Colorado households had completed the 2020 Census. Wednesday is Census Day, when people are encouraged to complete their census questionnaire and be counted.

Stand up and be counted; U.S. Census underway

Capital Journal [SD] – Casey Junkins, April 1

With a whopping 181,883 residents, Sioux Falls continues to distance itself from the rest of South Dakota's cities in terms of population. However, those in Pierre and throughout the rest of the state have the opportunity to make their voices heard via the 2020 Census.

Census response numbers looking good for Minot KX News [ND] – PJ Walker, April 1

The city of Minot got off to a slow start with responses, but now the numbers are looking up. During the first 12 days, only 17 percent of households in the city responded to the survey. Since then, those numbers have turned around and as of Wednesday, the response rate is above the state and national average, at 39 percent.

2020 census invites all households to be counted

Jackson Hole News & Guide [WY] – Cody Cottier, April 1

Wyoming has among the lowest response rates so far, at about 28%, and Teton County has the second worst rate in the state, at just over 6%.

the enumerator to the house to confirm that the residence exists and leave a package or questionnaire with a letter to indicate people to answer by mail, internet or phone, "said the official.

Changes announced to conclude Census 2020 process

Univision [PR] – N/A March 31, 2020

Maria Olmedo was interviewed regarding changes in operations for Puerto Rico and the different alternatives to complete the Census questionnaire for those who received or received the letter on the mail.

In the last census, conducted in 2010, just under 50% of Teton County households responded, again the second lowest in the state.

Tulsans urged complete 2020 Census online, by phone or mail despite pandemic concerns Tulsa World [OK] – Curtis Killman, April 1

Census Day arrived Wednesday to a nation gripped by COVID-19, begging the question, how does the government conduct a complete count of its population during a pandemic? Dennis Johnson, U.S. Census Bureau Deputy Regional Director, said while some field work has been suspended, work on the 2020 Census continues despite the pandemic.

Q&A: City planner explains 2020 Census, discusses necessity of accuracy The Collegian [KS] – Peter Loganbill, April 1

Peter Loganbill, Collegian news editor: "On the census forms that are mailed out, it says April 1 is an important date for that. Can you explain, is that a deadline or is it a question of accounting for who lives where on that day?"

Los Angeles Region

View today's broadcast report for the Los Angeles Region.

Census response is on track despite the coronavirus. Here's why it matters now

The Sacramento Bee [CA] – Theodora Yu, April 1

Census Day is observed nationwide April 1. By then, every home will have received an invitation to participate in the 2020 Census.

Nothing Stops the Census, Not Even the Coronavirus

The Santa Barbara Independent [CA] – Tyler Hayden, April 1

While the coronavirus outbreak has put most of American society on ice, one government function marches on — the 2020 Census. The decadal head count started on time in mid-

March, but the response deadline has been extended from July 31 to August 14.

COVID-19 Response Emphasizses Importance of Census 2020 Noozhawk [CA] – Julia McHugh, April 1

Local Census 2020 representatives urge Santa Barbara County residents to respond to the census today, April 1, which is National Census Day, especially as the community is currently sheltering in place due to the COVID-19 crisis.

The 2020 Census Questionnaire — What's On It? LAist [CA] – Caitlin Hernandez, April 1

It's April 1. Happy Census Day!

Census Day: How to Fill Out Forms Amid Coro-n-avirus Spectrum News [CA] – Em Nguyen, April 1

April 1 is Census Day which is not a deadline but the key reference day for this year's census. The U.S. Census Bureau just announced an extension to suspend all field operations for another two weeks due to coronavirus in hopes of keeping their employees and everyone at home safe.

Census Day: San Mateo County employs non-contact tactics to achieve accurate count Climate Magazine [CA] – Staff Writer, April 1

Today is Census Day – a highly atypical one given that in-person promotional events and critical door-to-door visits by Census workers have been suspended due to the COVID-19 pandemic.

It's Census Day. What Happens Now? KPBS [CA] – Jade Hindmon and Pat Finn, April 1

Wednesday is officially Census Day. April 1 begins the massive job of counting every person living in the United States. But the Census has actually been in progress since January when the U.S. Census Bureau began the count in the native village of Toksook Bay, Alaska and opened regional offices across the U.S.

San Diego community groups pivot on census

outreach efforts amid COVID pandemic San Diego Union-Tribune [CA] – Charles T. Clark, April 1

After a year of knocking on doors, hosting workshops, and planning social events to get people jazzed about the 2020 census, the San Diego groups and agencies urging you to fill out your census forms now have to pivot.

Hey Seattle, it's Census Day. Here's what that means Seattle Post-Intelligencer [CA] – Becca Savransky, April 1

Wednesday is Census Day. That means when you fill out the 2020 census, you need to put your information and the number of people in your household as of April 1. Data from the census -- conducted every 10 years -- helps inform how hundreds of billions of dollars in federal funding is allotted to states and determines how many seats each state has in Congress.

Census Day arrives in Contra Costa County Danville San Ramon [CA] – Ryan J. Degan, April 1

It's Census Day in the United States, which means it is time for residents to stop putting off filling out their Census form and make sure that everyone counts. County officials say that while the recent spread of the novel coronavirus has made counting particularly challenging, the ongoing crisis has shown exactly why an accurate count is so vitally important.

Census undergoes changes amid coronavirus pandemic; key timeline extended KCRA-TV [CA] – Matt Prichard, April 1

The 2020 census is pressing forward despite the coronavirus pandemic, but it, like so many others, is having to adjust its process as a result.

The U.S. Census is adapting to the changes brought by COVID-19 KRCR-TV [CA] – Yarazeth Tapia, April 1

The novel coronavirus (COVID-19) has affected

every aspect of our lives including the Census.

Nevada elected, community leaders go online for Census Day The Associated Press [NV] – Staff Writer, April 1

Nevada is marking Census Day on Wednesday with a livestream question-and-answer marathon featuring local, state and federal elected officials and community organization representatives stressing the importance of the every-10-years count of people living in the U.S.

Census Bureau spokesman talks importance of being counted KSNV-TV [NV] – Staff Writer, April 1

Stephen Buckner, assistant director for communications with the U.S. Census Bureau, joined us via satellite to explain why it's so important for Nevada residents to be counted.

Census response rate on track as of Census Day despite setbacks from COVID-19 Idaho Press [ID] – Rachel Spacek, April 1

Wednesday was Census Day, a reference day for the 2020 census. Wherever a person is living on April 1, is where they should be counted on the census.

There's still a 2020 census. Pandemic necessitates creativity in state promotion KUOW-FM [WA] – Tom Banse, April 1

Give yourself a pat on the back if you have already responded to the 2020 census. Residents of Pacific Northwest states are doing an above average job fulfilling their civic duty. But there is still a long way to go amid a virus pandemic that has forced many adjustments.

Fill out your census forms, Oregon–here's how to do it online

KPTV-TV [OR] – Staff Writer, April 1

It's April 1, and more than likely, you've received mail from the U.S. Census Bureau reminding you to fill out your census forms.

Opinion: Census drives federal funds to Hawaii Honolulu Star Advertiser [HI] – Rep. Ed Case,

April 1

In this very difficult time, we must sustain the institutions of our country that will see us through and beyond together.

Opinion: Be counted Homer News [AK] – Cathleen Rolph, April 1

Census activities in Alaska have started. Please take the small amount of time that being counted requires.

New York Region

View today's broadcast report for the New York Region.

Reply To Your 2020 Census Questionnaire Today WVIT-TV [CT] – Staff Writer, April 1

April 1st, 2020 is National Census Day. Shape your future and reply to the 2020 Census today online, by phone or mail. Questionnaires take about 10 minutes to complete and are safe, secure and confidential.

With Big Implications for Connecticut, the Census Moves Forward Even as Field Operations Suspended by Coronavirus Connecticut Examiner [CT] – Christopher McDermott

Over a third of Connecticut households have already been counted, but federal, state, and local officials acknowledge that the coronavirus and social distancing are adding extra challenges to the decennial count of every person in the United States.

What Census Day looks like during the coronavirus pandemic WCSH-TV [ME] – Chloe Teboe, April 1

In a period of a lot of unknowns, April 1 represents a normal -- that is, one that happens every 10 years. It's U.S. Census Day, and amidst the coronavirus pandemic, officials want to make sure people still understand how important their census responses are.

Mass. Census Response Rate Above Average State House News Service [MA] – Katie Lannan

and Colin A. Young, April 1

Wednesday marks Census Day across the United States, a day typically marked by public events encouraging residents to fill out their Census forms and ensure their place in a count. With Massachusetts under a stay-at-home advisory for the rest of the month — and similar precautions in place in other states to help slow the spread of the coronavirus — the state's Census overseer is recommending cities and towns get creative in how they reach their residents remotely.

Census Bureau Issues Guidelines for College Students Amid Campus Closures The Heights [MA] – Scott Baker, April 1

Students who normally live in on-campus housing will still be counted in the 2020 census through their universities, even if they are temporarily living in another place due to the COVID-19 pandemic, according to a release from the U.S. Census Bureau. Students who normally live off campus are still responsible for responding to the census manually.

Editorial: COVID-19 ups the ante for census The Recorder [MA] – Editorial Board, April 1

The county's route to a complete count in the 2020 census hit a road bump with COVID-19.

On Census Day, Burlington County coordinator touts high response rate

Burlington County Times [NJ] – David Levinsky, April 1

Census Day — the date used to reference where a person lives for the once-a-decade count — arrived Wednesday amid the crippling coronavirus outbreak, which scuttled plans for outreach events and door-to-door canvassing across Burlington County.

Got questions about the 2020 Census? Tune in to ask an expert (virtually) NJ.com [NJ] – J. Dale Shoemaker, April 1

Today, April 1, 2020, is "Census Day." Census Day, as it's called, is the point in time the

Census Bureau uses to collect data on the U.S. population.

Happy Census Day! Here's how you can be counted in Camden TAPintoCamden [NJ] – Steven Rodas, April 1

Call 212-882-7100. Or visit 2020census.gov/en.html. Both take a few minutes and both will make sure you're counted on Census Day 2020 while simultaneously adhering to social distancing rules in place during the COVID-19 pandemic.

COVID-19 Slowing Down 2020 Census The Sandpaper.net [NJ] – Rick Mellerup, April 1

The U.S. Constitution requires a census be conducted every 10 years, and one has been taken every decade since 1790. Recessions, even the Great Depression, haven't brought the census to a halt.

Coronavirus May Have Changed How And Where You're Counted Spectrum News [NY] – Monica Manney, April 1

Census 2020 is officially underway. Mayor Ben Walsh and County Executive Ryan McMahon, named April 1 Census Day, in their first ever virtual proclamation.

It's Census Day! Still Not Sure Why You Should Be Counted?

TAPintoPaterson [NY] – Steve Lenox, April 1

Coronavirus may have postponed baseball's Opening Day, interrupted student's school schedules, and caused other chaos in our day-to-day lives, but it hasn't stopped Census Day. For more than 18 months city and county officials have been talking about April 1, 2020, the day that every man, woman, and child in the United States is to be counted as part of the nation's once a decade census.

Coronavirus presents 'massive hurdles' to NYC's 2020 Census efforts

New York Daily News [NY] – Shant Shahrigian, April 1

New York City spent more than a year getting ready for the 2020 Census, with leaders vowing not to repeat the mistakes of the past, when the response rate for Big Apple residents was below the national average. Then coronavirus struck.

Chiuaano: bringing the census to colorful, creative life Newsday [NY] – Mark Chiusano, April 1

Patchogue community organizer Jen Brady Cotter was trying to think of a way to spread word about the census, the all-important decennial count of all people living in the United States. Rather than a dry pamphlet quickly discarded, she and a collection of local groups called the Patchogue Complete Count Coalition landed on a comic book: a colorful eight-page document with both Spanish and English versions released this week and making the rounds on social media.

It's Census Day: Don't let Brooklyn get cheated, again! Brooklyn Daily Eagle [NY] – Staff Writer, April 1

Throughout March, invitations landed in the mailboxes of residents across the country, reminding people to get counted for the 2020 Census. Now it's Census Day and everybody should have received their notices.

Fill out the Census, officials urge, amid fears pandemic will subdue participation VT Digger [VT] – Erin Petenko, April 1

This year, for the first time, the Census form is online. It has only a handful of questions and takes most households only a few minutes to fill out.

Philadelphia Region

View today's broadcast report for the Philadelphia Region.

Newborns at Jefferson Hospital offer cute census reminder TribLive [PA] – Katie Green, April 1 Babies born recently at Jefferson Hospital in Jefferson Hills donned "I Count" onesies to remind parents that every child

counts in the census.

Baltimore City lags in responding to census; Baltimore, Anne Arundel and Howard counties have much higher rates

The Baltimore Sun [MD] – Jeff Baker, April 1

Baltimore City lags behind the rest of the state and nation in responding to the census, despite continuing pleas by elected officials concerned that an undercount would cost the city millions of dollars in federal aid.

Colleges Sent Students Home. Will That Hurt DC's Census Numbers?

Washingtonian [DC] – Luke Mullins, April 1

It's Census Day in America. And since the COVID-19 pandemic has precipitated a dramatic outflow of college students from the region, some locals have grown concerned that the federal government's official population tally will undercount the DMV's residents.

The Task Force's "Queer the Census" is designed to ensure all LGBTQ Americans are counted Metro News [DC] – John Riley, April 1

Today, Wednesday, April 1, the National LGBTQ Task Force is joining in the celebration of Census Day, a day meant to urge Americans to "stand up and be counted" by the U.S. Government. The Task Force is vigorously engaging its followers on social media, and has set up a virtual phone bank (stay at home!) for those with questions about filling out the massive nationwide survey.

Don't Forget to Take the Census and Be Counted!!

PoPville [DC] – Staff Writer, April 1

Today is National Census Day. With census promotional activities curtailed due to the virus there's a real need to get the word out so that DC gets a proper count. If our count comes in low, the District will be shortchanged when it comes to federal dollars.

RTA offering free WIFI on bus to encourage

Census participation

Dayton Daily News [OH] – Bonnie Meibers, April 1

The Dayton RTA rolled out a bus this week equipped with free WiFi to encourage people to fill out a Census questionaire online.

Coronavirus: 2020 census was to begin field operations April 1, but pandemic delaying count Columbus Dispatch [OH] – Sheridan Hendrix, April 1

Wednesday, April 1, was supposed to be the day U.S. Census Bureau field operations were to begin for the 2020 census, already having been pushed back two weeks because of precautions to prevent the spread of COVID-19.

Census 2020 return rates lag in Cleveland, but top U.S. pace elsewhere in Greater Cleveland

Cleveland.com [OH] – Rich Exner, April 1

While each of the seven counties in Greater Cleveland is beating the national rate in completing census forms so far, the return rates have been lower in Cleveland.

Director: 2020 census will be done on schedule

The Times-Gazette [OH] – McKenzie Caldwell, April 1

Though the U.S. Census Bureau has postponed its fieldwork operations and extended the deadlines for the 2020 census, Philadelphia Regional Census Bureau Director Fernando Armstrong told The Times-Gazette that he feels comfortable and confident that the 248 census offices across the country can produce thorough and accurate census data.

Officials concerned census may get lost amid coronavirus worries WSYX-TV [OH] – Tom Bosco, April 1

Between worries over the coronavirus, working and going to school from home, jobs, and the economy, Central Ohioans have a lot on their minds right now. Officials worry that completing the census is not one of them. But

they say, there is a lot of riding on an accurate count.

Stuck at home? Delaware plans to flood your social media with reminders to do the Census

Delaware News Journal [DE] – Jeanne Kuang, April 1

When she was hired to help boost Census responses among southern Delaware's Haitian community, Withzarre Janvier planned to do the bulk of her work in churches.

Census Day gives families something to do as they 'stay at home'

The Tennessean [TN] – Kerri Bartlett, April 1

After the U.S. Census operations were suspended during the coronavirus pandemic, April 1 marks Census Day, a day when "Everyone Counts" in Williamson County. Tennessee residents are encouraged to grab a phone, laptop or tablet and fill out a Census 2020 form on April 1. Citizens can also respond by phone or email.

County Holding Twitter Town Hall As Part of 'Census Day' Push ARL Now [VA] – Staff Writer, April 1

It's Census Day and Arlington County will be holding a Twitter town hall as it encourages all residents to get counted.

City Urges Residents to Participate in Census ALXnow [VA] – James Cullum, April 1

An accurate count of residents helps Alexandria receive federal aid, redistrict jurisdictions, gather statistics for grant applications and apportion congressional seats.

It's Census Day Loudon Now [VA] – Staff Writer, April 1

An accurate count of residents helps Alexandria receive federal aid, redistrict jurisdictions, gather statistics for grant applications and apportion congressional seats.

Officials stress census participation The Ledger Independent [KY] – Christy Howell-Hoots, April

1

Local officials are encouraging people to fill out the 2020 Census form. According to Mason County Judge-Executive Joe Pfeffer, currently only about 36 percent of Mason County residents have filled out the census.

Getting counted in Census is a patriotic act, officials say The Register-Herald [WV] – Jessica Farrish, April 1

The amount of federal aid to help southern West Virginia recover from the COVID-19 crisis will depend on local residents being counted in the 2020 U.S. Census, a local economic expert and county and city officials reported Tuesday.

About Census Daily News Digest

Census media monitoring is a daily compendium of articles about the Census Bureau and a representative sampling of the most important and relevant news coverage and commentary. Opinions expressed above do not belong to the Census Bureau, or its staff. English translations, in summary form, have been provided for all in-language articles included in this report.

This is an official email from the U.S. Census Bureau. If you have any questions or comments, please contact us (http://www.census.gov/about/contact-us.html).

From: Rafiekian, Christine (Federal) [CRafiekian@doc.gov]
Sent: 2/23/2020 10:43:13 AM
To: Kelley, Karen (Federal) [KKelley@doc.gov]
CC: Brooke, Beatrice E. (Federal) [BBrooke1@doc.gov]; Paranzino, Anthony (Federal) [AParanzino@doc.gov]; Lane, Jennifer (Federal) [JLane@doc.gov]
Subject: Additional Briefing Materials
Attachments: Re: Revision to 2/24 KDK Sr. Management Meeting agenda; Egypt paper; DMC Draft Agenda for Briefing Book; b(5) - DP Update 2-21-20-FINAL.pdf; 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 b(5) - DP February 24 2020 ver 1_202.02.24.pdf; 4.c b(5) - DP 20.02.18_2020.02.24.pdf; 5.a_DRAFT b(5) - DP DOC Exec Slides for Feb 24 2020 ver 1 (4)_2020.02.24.pdf; 5.b_DRAFT b(5) - DP DOC Exec Slides for Feb 24 2020 ver 1_2020.02.24.pdf; KDK Briefing Paper_PAC-DBIA mtg Feb 26 2020 OA MEA OGC.docx

Ma'am,

Attached please find some additional briefing materials for the upcoming week.

Briefing materials for the following meetings are attached:

Monday:
- Census Meetings
- DMC Pre-Brief (Agenda)

Tuesday
- Pre-brief for PAC-DBIA
- Pre-brief for meeting with Egyptian Minister of Int'l Cooperation

The team will be working on revising the remarks for the PAC-DBIA, and, as I mentioned yesterday, the PAC's report is due tomorrow (Sunday), so there may be additional information that comes after we get that.

Please let us know if you have any questions!

With my very best regards,
Christine

Christine Rafiekian
Office of the Deputy Secretary
U.S. Department of Commerce
crafiekian@doc.gov
Cell: b(6)

From: Wyvill, Robin L [robin.l.wyvill@census.gov]
Sent: 2/21/2020 3:28:30 PM
To: Rafiekian, Christine (Federal) [CRafiekian@doc.gov]
CC: Jones, Christa D [christa.d.jones@census.gov]; Brooke, Beatrice E. (Federal) [BBrooke1@doc.gov]
Subject: Re: Revision to 2/24 KDK Sr. Management Meeting agenda
Attachments: 2. Sr Management Agenda 2020.02.24.docx

Hi Christine,
Attached is the revised agenda. I hope to have the materials soon. Thanks

Thanks,

Robin L. Wyvill
Office of the Director
U.S. Census Bureau | U.S. Department of Commerce
Direct: 301-763-8239

From: Rafiekian, Christine (Federal) <CRafiekian@doc.gov>
Sent: Friday, February 21, 2020 2:54 PM
To: Robin Wyvill (CENSUS/DEPDIR FED) <Robin.L.Wyvill@census.gov>
Cc: Christa D Jones (CENSUS/DEPDIR FED) <Christa.D.Jones@census.gov>; Brooke, Beatrice E. (Federal) <BBrooke1@doc.gov>
Subject: Revision to 2/24 KDK Sr. Management Meeting agenda

Hi Robin,

I just spoke to Christa re: the agenda, so wanted to give you a heads up as well.

KDK asked that we b(5) - DP

b(5) - DP

Could you send along an updated agenda with the other materials as soon as they are available?

Thank you!

With my very best regards,
Christine

Christine Rafiekian
Office of the Deputy Secretary
U.S. Department of Commerce
crafiekian@doc.gov
Cell: b(6)

From: Robin Wyvill (CENSUS/DEPDIR FED) <Robin.L.Wyvill@census.gov>
Sent: Thursday, February 20, 2020 5:16 PM
To: Brooke, Beatrice E. (Federal) <BBrooke1@doc.gov>; Rafiekian, Christine (Federal) <CRafiekian@doc.gov>

Cc: Jones, Christa D <christa.d.jones@census.gov>
Subject: 2/24 KDK Sr. Management Meeting agenda

Hi all,
Attached is Monday's (2/24) Sr. Management Meeting agenda. We are finalizing the briefing materials and should have them to you midday on Friday.

We apologize for the delay.

Thanks,

Robin L. Wyvill
Office of the Director
U.S. Census Bureau ¦ U.S. Department of Commerce
Direct: 301-763-8239

Senior Management Agenda

Monday, February 24, 2020

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

From: Elouaradia, Lesley [Lesley.Elouaradia@trade.gov]
Sent: 2/21/2020 1:31:52 PM
To: Rafiekian, Christine (Federal) [CRafiekian@doc.gov]; Brooke, Beatrice E. (Federal) [BBrooke1@doc.gov]; Paranzino, Anthony (Federal) [AParanzino@doc.gov]
CC: McNeill, Valerie [Valerie.McNeill@trade.gov]; Traurig, Nathan [Nathan.Traurig@trade.gov]; Capehart, Jason [Jason.Capehart@trade.gov]; Calvert, Mike [Mike.Calvert@trade.gov]; Brandon, Pamela [Pamela.Brandon@trade.gov]; Phan, Tu-Trang [Tu-Trang.Phan@trade.gov]; Farrell, Diane [Diane.Farrell@trade.gov]; Kessler, Robyn [Robyn.Kessler@trade.gov]; Boyd, Kevin [Kevin.Boyd@trade.gov]; Lewis-Khanna, Sherry [Sherry.Lewis-Khanna@trade.gov]
Subject: Egypt paper
Attachments: Egypt- Minister Mashat_ds_02202020.docx

Please see the attached paper for the D/S. Thanks.

Lesley Elouaradia
Office of the Deputy Under Secretary
For International Trade
Department of Commerce
202-482-4093
Please include my job-share partner on all emails. She can be reached at Valerie.McNeill@trade.gov.

February 20, 2020

BRIEFING MEMORANDUM FOR DEPUTY SECRETARY KELLEY

FROM: Mike Calvert, Egypt Desk Officer, (202) 482-1677; **b(6)**

RE: Deputy Secretary Bilat with H.E. Egyptian Minister of International Cooperation Dr. Rania al-Mashat
Wednesday, February 26, 2020, from 3:00pm to 3:30pm
Commerce Department, Room TBC

You are meeting with Minister al-Mashat **b(5) - DP**
b(5) - DP The Egyptians would like to raise two key topics: Prosper Africa and SelectUSA. **b(5) - DP**

b(5) - DP

BIOGRAPHY



Her Excellency Dr. Rania Al-Mashat
Minister of International Cooperation

Appointed in December 2019 as the Minister of International Cooperation, Dr. Rania El-Mashat had previously served as the first woman minister of tourism in Egypt's history. Al-Mashat earned her MA and PhD in economics from the University of Maryland, College Park, in the United States. A well-known economist in local and international circles with wide expertise in economics and monetary policies, she was appointed in 2005 as deputy head of the Central Bank of Egypt. She was also a member of the stock market board and worked in 2016 as an advisor with the International Monetary Fund.

BACKGROUND

b(5) - DP

- **Recent Commerce Engagement**: Last October, Secretary Ross met with the Egyptian Prime Minister in Washington D.C. where they discussed the Egyptian's interest in attracting greater U.S. investment. b(5) - DP

b(5) - DP

During a trip to Cairo in November 2019, Assistant Secretary Ian Steff spoke with Minister al-Mashat's predecessor regarding SelectUSA and our desire to recruit Egyptian companies to attend b(5) - DP

b(5) - DP In addition, A/S Steff encouraged the minister to attend SelectUSA to learn best practices and to personally lead the Egyptian business delegation.

b(5) - DP

b(5) - DP; b(4)

b(5) - DP

ATTACHMENT(S)

1. Participant Biographies
2. Meeting Participants/Key Points to Raise
3. Egypt Country Fact Sheet

BC-DOC-0000028974

ATTACHMENT 1: Participant Biographies



His Excellency Yasser Reda
Egyptian Ambassador to the United States

Ambassador Yasser Reda is Egypt's ambassador to the United States of America. He is a senior career diplomat that has served, twice, as the Assistant minister of Foreign Affairs and chief of the Minister's Cabinet, from October 2013 to August 2015, and from June 2006 to August 2008. Ambassador Reda was Egypt's Ambassador to Israel from September 2008 to August 2012, and deputy chief-of-mission in Egypt's embassy in Berlin, Germany. He has also served, during his 33-year career in the Egyptian diplomatic service, in Egypt's embassies in Italy, Iraq, Cyprus and China.

Born in 1958, Ambassador Reda received a B.A. in Commerce from Cairo University, and speaks Arabic, English and French. He is married.

ATTACHMENT 2: Meeting Participants/Talking Points

LIST OF PARTICIPANTS

Embassy of Egypt

- Minister Rania Al-Mashat (Ran-YA al-Ma-shot)
- Ambassador Yasser Reda
- Others TBC

DOC

- Deputy Secretary Kelley
- Diane Farrell, Acting Deputy Under Secretary for International Trade
- Mike Calvert, Egypt Desk Officer

TALKING POINTS

b(5) - DP

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From: Lane, Jennifer (Federal) [JLane@doc.gov]
Sent: 2/21/2020 12:59:53 PM
To: Brooke, Beatrice E. (Federal) [BBrooke1@doc.gov]; Rafiekian, Christine (Federal) [CRafiekian@doc.gov]
Subject: DMC Draft Agenda for Briefing Book
Attachments: 02.26.2020 DMC Agenda v1.3.docx

Beatrice,

Per your request, please find a draft agenda for next week's DMC meeting.

Best,
Jennifer

Jennifer S. Lane
Acting Senior Advisor to the Deputy Secreraty
U.S. Department of Commerce
Telephone: (202) 482-2469
Cell: b(6)
JLane@doc.gov

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DMC Agenda 02.26.2020 (Draft)

2:00-2:05 **Housekeeping**

- Review and adopt minutes from 02/05/20 Meeting.

2:05-2:45

2:45-3:15

3:15-3:45

3:45-4:15

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Upcoming Reminders & Topics:

Next DMC – March 25:

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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-0000028983

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.

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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.

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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-0000028986

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.

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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

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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

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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.

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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		

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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			

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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			

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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-0000028995

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			

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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			

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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-0000028998

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-0000028999

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-0000029000

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.

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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-0000029002

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-0000029003

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-0000029004

February 20, 2020

BRIEFING MEMORANDUM FOR DEPUTY SECRETARY KAREN DUNN KELLEY

FROM: Giancarlo Cavallo, Desk Officer and Designated Federal Officer for the PAC-DBIA, Office of Africa, (202) 482-2091
Ashley Bubna, Desk Officer and Designated Federal Officer for the PAC-DBIA (202) 482-5205

RE: Meeting of the President's Advisory Council on Doing Business in Africa on Wednesday, February 26, 2020, from 11:00 AM to 12:30 PM

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ATTACHMENT(S)

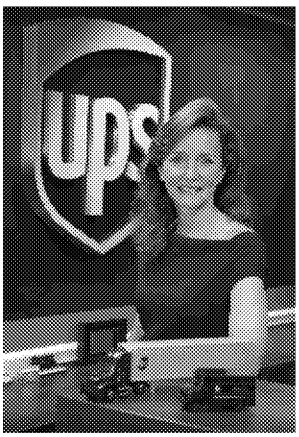
1. Participant Biographies

BC-DOC-0000029011

2. Meeting Participants
3. Draft Meeting Agenda
4. Draft Meeting Run of Show
5. Draft Meeting Remarks

ATTACHMENT 1: Participant Biographies

PAC-DBIA MEMBERS



Laura Lane (Co-Chair)
President of Global Public Affairs, UPS

Laura Lane serves as President of Global Public Affairs for UPS, where she is responsible for all worldwide government affairs activities. Prior to joining UPS, Laura was Managing Director and Head of International Government Affairs at Citigroup and Vice President for Global Public Policy with Time Warner. In her government career, Ms. Lane served in the Office of the U.S. Trade Representative and was involved in the negotiations on China's entry to the World Trade Organization (WTO), the WTO Financial Services Agreement and the WTO Basic Telecommunications Agreement. Before joining USTR, Ms. Lane was a diplomat in the U.S. Foreign Service from 1990-1997, including serving at the American Embassy in Kigali, Rwanda from 1993-1994. She led the evacuation effort of American citizens in April 1994 with the outbreak of civil war and returned as political advisor to U.S. forces providing humanitarian relief to Rwandan refugees in the aftermath of the genocide. She shared her perspectives on the Rwandan genocide in her TED Talk "When to Follow your Heart and Write your own Rules" and in the PBS/Frontline documentary "Ghosts of Rwanda." Ms. Lane also served as consular/economic officer in Bogota, Colombia from 1990-1992. Ms. Lane served as the Vice Chair of the President's Advisory Council on Doing Business in Africa (PAC-DBIA) during the 2016-2018 term and was reappointed as Co-Chairman for the 2019-2021 term. Ms. Lane is also Vice Chairman of the German-American Business Council, and a Member of the Boards of the Atlantic Council, the U.S. Chamber of Commerce, the US-ASEAN Business Council, the Girl Scouts of the National Capitol Region, and UNHCR-USA. Additionally, she serves as Alternate U.S. Delegate for the APEC Business Advisory Council. Ms. Lane holds a BA from Loyola University and a Master's Degree in Foreign Service with a Certificate in International Business Diplomacy from Georgetown University. She and her husband, an engineer and former U.S. Marine, have two daughters.



Farid Fezoua (Co-Chair)
President and Chief Executive Officer, GE Africa

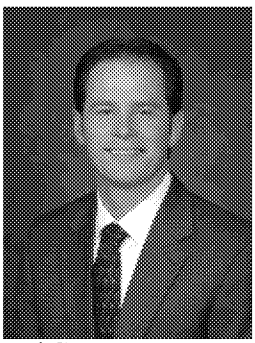
Prior to assuming his current position as President and CEO for GE Africa, Mr. Fezoua has led GE Healthcare's business in Africa since 2012. While driving the core GE Healthcare business portfolio and Africa footprint growth, he has overseen the development of large-scale modernization programs with public and private sector project development/partnerships across Africa. Mr. Fezoua joined GE in 2003 to drive customer

financing efforts for GE Healthcare's Middle East, Africa, and Turkey Region. In 2005, he was appointed Regional Executive for GE Capital Markets Corporate, leading customer and project finance for all GE businesses in the Middle East and Africa. Prior to joining GE, Farid held several senior positions in international banks. He started his career at BCEN-Eurobank, Paris. He then went on to serve as Deputy Head of Commodity and Trade Finance at B.A.I.I. (Banque Arabe et Internationale d'Investissement, a subsidiary of BNP specialized in trade and investment in the Middle East/North Africa region). He was also the Assistant General Manager & Head of Correspondent Banking and Trade Finance at the Arab Banking Corporation, Paris Branch. Mr. Fezoua has extensive experience in financing of trade and investment flows across the Middle East, Africa, and Europe. He has developed a strong track record of infrastructure project development and financing in the power, transportation, and healthcare sectors, as well as business operations and management.



Susan Silbermann (Vice Chair)
Global President for Emerging Markets, Pfizer

Ms. Silbermann serves as the Global President for Emerging Markets for Pfizer, one of the world's largest biopharmaceutical enterprises. She oversees the company's $6.9 billion USD Emerging Markets business which includes the $700 million USD business in Africa. In this capacity, Ms. Silbermann leads nearly 10,000 Pfizer employees across markets serving more than 5.7 billion people. Until 2018, Susan served as President / General Manager of Pfizer Vaccines, leading major initiatives to ensure the delivery of crucial medicines to communities across Africa. She visited the continent numerous times in that position and continues to serve an instrumental role in improving product access for Africa's rural communities. Ms. Silbermann is responsible for Pfizer's work to shape the health regulatory environment across Africa as the continent pursues greater harmonization. She also manages Pfizer's counterfeit prevention and intellectual property initiatives in Africa, which serve as vital components to enabling market access for U.S. health products and strengthening health systems. Ms. Silbermann is also a leading advocate for the implementation of high-standard ethical business practices in healthcare markets around the world, including in Africa, driving a level playing field for U.S. companies.



Jason Andringa
President and Chief Executive Officer, Vermeer Corporation

Mr. Andringa is President & CEO at Vermeer Corporation, a global industrial and agricultural equipment manufacturing company headquartered in Pella, Iowa. Mr. Andringa's former roles with Vermeer were President & COO; President – Forage and Environmental Solutions; Vice President – Dealer Distribution and Global Accounts; Managing Director for Europe, Middle East and Africa (based in the Netherlands); and Segment Manager – New Products and Markets in the Environmental business segment. Mr. Andringa serves on the Vermeer Board of Directors, the Board of Raven Industries and the

Board of Advisors for Camcraft, Inc. and serves on the Board of Directors of the following associations and organizations: National Association of Manufacturers (NAM), Association of Equipment Manufacturers (AEM), the Iowa Cultivation Corridor, The Nature Conservancy of Iowa, and Central College. Before joining Vermeer in 2005, he was an engineer at NASA's Jet Propulsion Laboratory. Mr. Andringa holds a Bachelor of Science degree in Mechanical Engineering from Calvin College, Master of Science in Aeronautics and Astronautics from the Massachusetts Institute of Technology (MIT) and a Master of Business Administration from the University of Southern California (USC Marshall School of Business).



Jason Brantley
Director for Sales and Marketing, Agriculture and Turf Division, Africa and Asia, John Deere

Over his 26-year career with John Deere, Mr. Brantley has held leadership positions in sales, marketing, product development, innovation and strategy in the agricultural and construction businesses. These experiences have provided him a broad perspective and deep business experience. He is well versed in the requirements needed to create a strong economic environment where companies can thrive, understands the impact of cross-cutting issues such as trade and investment, and is experienced in understanding the African context and the opportunities the African market Deere & Company provides. He lived in Johannesburg from 2015-2018 where he led John Deere's agricultural business in sub-Saharan Africa. In his current role, he is responsible for sales and marketing for John Deere's agriculture and turf business in Africa and Asia. Since 2016, he has served on the board of directors of the US-Africa Business Center, where he is actively involved in supporting and expanding US-Africa commercial ties. Mr. Brantley is committed to meeting the requirements of Council membership by active engagement and initiation of action in support of Council activities.



Jake Cusack
Founding and Managing Partner, CrossBoundary Group

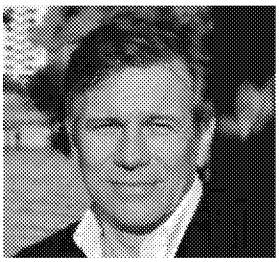
Jake Cusack is Managing Partner of the CrossBoundary Group. He co-leads the firm's advisory business as well as its adjunct investment platforms, CrossBoundary Energy, CB Energy Access, and CB Educational Infrastructure. Mr. Cusack holds joint Master of Public Policy and Master of Business Administration degrees from the Harvard Kennedy School and Harvard Business School and a B.A. from the University of Notre Dame – Honors Program. Mr. Cusack has written for the New York Times, Wall Street Journal, Financial Times, Forbes, Harvard Business Review, Stanford Social Innovation Review, The New Republic, and Inc. Magazine. Mr. Cusack leads CrossBoundary's investment facilitation and investment advisory activities and oversees the services delivered by the company across Africa. He has led the execution of multiple investment advisory engagements on the continent including market analysis and due diligence for private equity, and debt funds, development finance institutions and global and African companies. He led the design of the Mali Investment Platform and guided its implementation,

resulting in nine transactions completed and the investment of more than US$ 50 million in an exceptionally fragile market. In 2015, Mr. Cusack launched CrossBoundary Energy, an investment vehicle for distributed solar energy generation in Africa that now has commercial solar projects operating in Kenya and Rwanda, and under construction in Ghana. He has led on-the-ground due diligence in Mali, Liberia, Rwanda, Kenya, Ghana, Sierra Leone, Malawi, and many other markets.



Takreem El-Tohamy
General Manager for Middle East and Africa, IBM

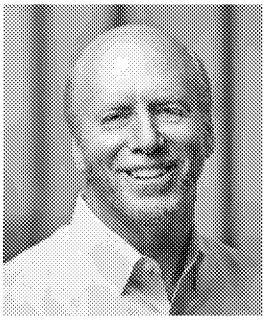
Mr. El-Tohamy is the General Manager of IBM Middle East and Africa. Based in Dubai, he is responsible for IBM's operations in the Middle East, Turkey and Africa. Since Mr. El-Tohamy took on this leadership role, IBM Middle East and Africa operations have grown significantly. He has expanded IBM's geographical footprint by opening multiple offices in the region and two IBM Research facilities in Kenya and South Africa which are driving innovation by developing commercially-viable solutions to transform lives and spark new business opportunities in Africa. In addition, he has established a strong network of business partners, who are working together with IBM, to solve complex issues for clients and further progress in the region. Mr. El-Tohamy has been focused on continuous innovation in business and has built local capabilities by helping launch global delivery and client centers in Egypt, Kenya, Morocco, Nigeria, Pakistan, Saudi Arabia, South Africa and the United Arab Emirates. He has led many key initiatives boosting skills, technology infrastructure, human welfare, and advancing scientific research in the African continent. This includes IBM's work in helping contain the outbreak of Ebola in Africa, a $70 million investment to develop the next generation of technical talent on the continent, an internet of things solution helping small-scale farmers in Kenya better manage water resources, and the launch of a crowdsourcing 'WaterWatchers' project to help analyze and share information about the water distribution system in South Africa.



Bruce Hanson
President and Chief Executive Officer, Credence ID

Mr. Hanson has over 35 years of senior executive operating experience in biometrics, new media and information technology distribution companies. He has successfully grown and operated organizations from entrepreneurial start-ups to large scale business units within public entities. His experience and proven successes include senior executive leadership in operational management, sales and marketing, business development, business process maturity, high tech manufacturing, supply chain management, purchasing, various stage capital raising, mergers and acquisitions, corporate development and strategic planning. Mr. Hanson has held US Government security clearances and maintains strong, long-term customer, partner and supplier

relationships with various US Government agencies and other government and commercial entities worldwide.



Bill Killeen
Chief Executive Officer and Chairman, Acrow Bridge

Mr. Killeen is the CEO and Chairman of the Acrow Bridge, which is a leading manufacturer of prefabricated modular steel bridges based in the United States of America with its headquarters in Parsippany, NJ, a manufacturing facility in Milton, PA, warehousing in Lafayette, NJ, domestic sales offices in Golden, CO, Mobile, AL, Seattle, WA, and Richmond, VA, and Canadian offices in Toronto, Ontario, Vancouver, British Columbia, Montreal, Quebec, and international offices headquartered in New York City, and sales offices in Johannesburg, South Africa, Rome, Italy, and Rydzyna, Poland. Mr. Killeen's career started at Acrow in 1977 after working in the public sector for a few years. He worked his way through the organization and became president in 1995. In 1999 Mr. Killeen led a group that includes his brother Charles Killeen in the acquisition of Acrow. Today, Acrow Bridge remains privately held by 11 of its senior managers. Mr. Killeen received his Bachelor's degree from New Jersey Institute of Technology in 1983. He then obtained a professional engineering license in 1987 from the State of New Jersey.



Raghu Malhotra
President, Middle East and Africa, Mastercard

Raghu Malhotra is the president of Middle East and Africa for Mastercard and sits on the company's global management committee. In this position, Malhotra is responsible for driving the company's global strategy across 69 markets and has led the company's transition to being a pioneer in bringing new digital payment solutions and services to the region and helping to advance its social progress and inclusive growth. Under his leadership, Mastercard has expanded its collaboration with Central Governments and public sector authorities across the region, partnering to enhance the region's infrastructure and digital ecosystem. In Africa, Mastercard has developed and launched a number of technology 'global-firsts' that are impacting the lives of millions of people: empowering citizens and businesses by creating interoperable mobile ecosystems; launching lending platforms which digitize and revolutionize supply chain management; and introducing new energy and agriculture digital solutions to enable greater access and financial inclusion. Prior to joining the company, he served in a variety of senior leadership roles at Citicorp, American Express and ANZ Grindlays Bank. In addition to being a member of the US President's Advisory Council on Doing Business in Africa (PAC-DBIA), Malhotra sits on the board of directors of both the US-Africa Business Center (part of the US Chamber of Commerce in Washington) and INJAZ (Junior Achievement Worldwide). He also sits as an observer on the board of directors for Network International, a company publicly listed on

the London Stock Exchange and is a member of the World Economic Forum Africa Business Council. He holds an honors degree in Commerce from the University of Delhi and an MBA from the Melbourne Business School, University of Melbourne. He also has participated in management training at IMD, Lausanne.



Frank Mosier
Chief Executive Officer, Rendeavour Inc.

Mr. Mosier is an American investor with a 25-year track record across the emerging and frontier markets of Africa and Central & Eastern Europe. Mr. Mosier is the CEO of Rendeavour, Inc., the U.S. affiliate of Rendeavour Holding Limited (RHL), Africa's largest new city builder, with more than 30,000 acres of land under development near the fastest-growing cities in Kenya, Ghana, Nigeria, Zambia and Democratic Republic of the Congo. Supported by Rendeavour, Inc., RHL builds master-planned satellite communities for hundreds of thousands of residents, easing the burdens of urbanization and demographic growth on Africa's largest metropolises. As CEO of Rendeavour, Inc., Mr. Mosier manages U.S. investor relations, sources financing from U.S. institutions and seeks partnerships with U.S. firms in order to provide direct access for American goods and services to markets in Africa. Originally from Pennsylvania, Mr. Mosier holds a B.A. in International Politics & Economics from Middlebury College.



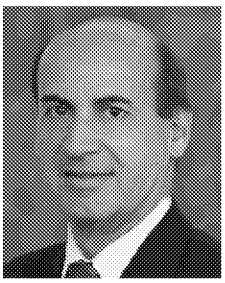
John Nevergole
Chief Executive Officer, ABD Group

Mr. Nevergole is co-founder and CEO of the ABD Group. Mr. Nevergole has led investments and projects in 21 countries in Africa resulting in over $2 billion USD of investment across the continent. Over his 13 years doing business on the ground he's built a reputation among African Heads of State, Ministers and private sector leaders as someone who continually delivers results. Mr. Nevergole's experience expands across sectors including ICT, energy, transport and logistics, agri-business, financial services, industry, mining and healthcare. Investments and projects Mr. Nevergole have led are creating tens of thousands of African jobs. Mr. Nevergole prides himself on ensuring every investment or project he undertakes results in positive economic and social benefit for African economies. He understands that long-term success requires true economic partnerships where the local economies and people benefit.



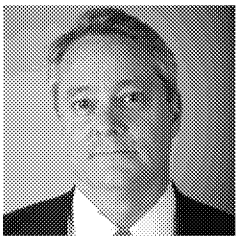
Andrew Patterson
Global Manager for Strategy and Marketing and Business Development for Infrastructure, Bechtel

Mr. Patterson is the Global Head of Strategy and Marketing & Business Development for Bechtel's Infrastructure business, and Bechtel's Region President - Africa, and responsible for Bechtel's overall business interest across the continent. Throughout his 18-year career at Bechtel, Mr. Patterson has served various management roles in business development, commercial services, design, construction, and contracts/procurement across the company's global infrastructure, Mining & Metals, and Power businesses. From 2012 to 2015, Mr. Patterson was the global sector manager for roads, bridges, and industrial cities for the Infrastructure business line, focusing on executing projects and structuring new projects around the world. In 2010, Mr. Patterson was the commercial manager for the $1 billion Kosovo motorway project. Prior to that he worked in business development to support projects in Latin America and Europe. He was also part of the construction management team for Bechtel's first project in Iceland, an aluminum smelter, and supported telecommunication projects in the United States. In 2017, Mr. Patterson was appointed to the U.K. Government Infrastructure Board for Africa.



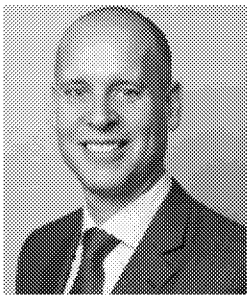
Olivier Puech
Executive Vice President and President, Latin America and EMEA, American Tower Corporation

Mr. Puech joined ATC in April 2013 as Senior Vice President and CEO, Latin America after more than ten years with Nokia where he held several leadership positions including Vice President Latin America, Senior Vice President Asia Pacific and Senior Vice President Americas. In his present role as Executive Vice President and President, Latin America and EMEA, Mr. Puech leads ATC's Africa operations and am responsible for continuing the company's expansion in the region, including important strategic entries into new markets and lines of business, and enhancing its industry leadership position. ATC operates in a niche but critical industry which will experience significant growth in Africa for the foreseeable future as wireless service providers seek to increase the quality, coverage area, and capacity of their existing networks, while also investing in next generation data networks. This growth presents tremendous opportunities for ATC given historical relative under-investment in the continent and a pervasive lack of necessary infrastructure in many countries.



Peter Sullivan
Managing Director and Head of the Public Sector Group for Africa, Citi

The Public Sector Group facilitates global best practices and success transfer among its clients including Central banks, Multilateral Development Banks and Sovereigns. Peter is responsible for developing business and structuring and delivering product solutions for sovereigns, state-owned enterprises and multilateral institutions in Sub-Sahara and North Africa. He has 29 years of customer relationship and industry experience with Citi including the coverage of Global Financial Institutions, Industrials and Sovereigns. His product background extends from trade and structured finance to fixed income and credit-based structures. Subsequently, he worked as a Financial Analyst for the US Federal Energy Regulatory Commission before receiving his MBA from Columbia University in 1989.



Arjan Toor
Chief Executive Officer, International Organizations, Africa, and Global Individual Private Medical Insurance, Cigna

Mr. Toor is CEO of Cigna's International Organizations (IO), Africa, Global Individual Private Medical Insurance (GIPMI) and Business-to-Government (B2G) business lines. In this portfolio management role, he has full P&L accountability for Cigna's business segment that looks after the health, well-being and peace of mind of expatriate and local employees of multinational corporations based in Sub-Saharan Africa. In addition, Mr. Toor oversees Cigna's market-leading business that serves customers who work for intergovernmental and non-profit organizations across the world. Finally, he is responsible for all government-sponsored health services that Cigna offers across Europe, Middle East and Africa. Before taking this role in early 2018, Mr. Toor was Managing Director of Cigna's Global Individual Private Medical Insurance business, responsible for the continued profitable expansion of Global IPMI, targeting high net-worth globally mobile individuals. Mr. Toor championed this growth through a multi-channel approach: enhancing an already best in class DTC customer journey, while building out a network of strategic partners to strengthen the position in the broker market across the globe.



Andrew Torre
Regional President for Central and Eastern Europe, Middle East and Africa, Visa Inc.

Mr. Torre is Visa Inc.'s Regional President for Central and Eastern Europe, Middle East and Africa (CEMEA), leading the company's operations in 90 countries, including the entire African continent. He is a member of Visa's Global Operating Committee. Mr. Torre served on the President's Advisory Council on Doing Business in Africa (PAC-DBIA) from 2016-2018. Prior to assuming responsibility for CEMEA, Mr. Torre served as President for Sub-Saharan Africa. In that role, he was responsible for Visa's operations in the region and oversaw the development and

implementation of Visa's business development strategy, coordination of partner projects with client banks and merchants, and rollout of innovative products and solutions. Previously, Mr. Torre was Country Manager for Visa in Russia, where he oversaw significant growth to the business. He was integral to the smooth transition to a new domestic processing model and successful introduction of new innovations in the market. Mr. Torre has also held senior leadership positions at Visa's global headquarters in San Francisco, including most recently as Head of Global Pricing and Interchange, where he was responsible for setting Visa's pricing, interchange and revenue optimization strategies for current and future Visa products and service offerings across all relevant customer and market segments.



Chris Toth
President, Oncology Sytems, Varian Medical Systems

Christopher A. Toth is President, Oncology Systems for Varian Medical Systems. He joined Varian as an intern in 1999, then full time in 2001, and has held multiple cross-functional and executive positions during his nearly two-decade tenure with the company. In October of 2018, Mr. Toth was named president of Varian Oncology Systems. Prior to this appointment, he served as president of Global Commercial and Field Operations, where he was responsible for global sales strategy and execution for Varian's Oncology and Proton Therapy businesses. Additionally, he was responsible for global field service, applications training, market access and regional marketing for Varian's Oncology business. Under his leadership, net promoter scores reached all-time highs and Varian grew global market share—the results of which will benefit millions of cancer patients and providers for years to come. Mr. Toth holds a BA in Business Administration with a concentration in Marketing from the Lundquist College of Business at University of Oregon.



Rahama Wright
Founder and Chief Executive Officer, Shea Yeleen

Ms. Wright is a social entrepreneur working to innovate the shea butter supply chain in West Africa. Her social enterprise, Shea Yeleen, markets and distributes high-quality body care products, while providing living wages to cooperative members in Northern Ghana. Her shea butter products are distributed at select Whole Foods Markets, MGM Resorts, Amazon.com, and SheaYeleen.com. Shea Yeleen has been featured in various publications and media outlets including O, The Oprah Magazine, Forbes Woman Africa, Voice of America, and CNBC Africa. A leading voice on African women's economic and business development she has presented at the United Nations, World Bank, and Global Entrepreneurship Summits. She received her BA in International Relations from the State University of New York at Geneseo and served as a Peace Corps Volunteer in Mali. An avid traveler, she has visited and worked in 36 countries.

U.S. GOVERNMENT



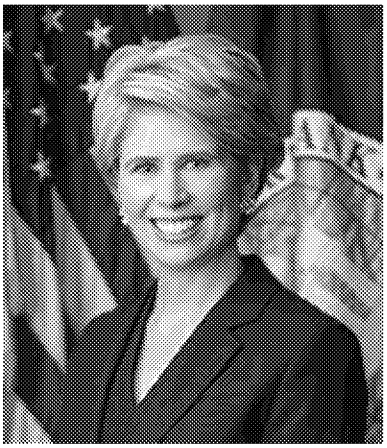
Adam Boehler
Chief Executive Officer
U.S. International Development Finance Corporation

Adam Boehler serves as the first Chief Executive Officer of the new U.S. International Development Finance Corporation (DFC). He was appointed by the President and unanimously confirmed by the Senate on September 26, 2019.

Mr. Boehler has extensive experience in investment, entrepreneurship, and innovation both in and outside of the U.S. Government. Prior to his confirmation, he led healthcare innovation for the United States. He served as Senior Advisor to the Secretary, Deputy Administrator of the Centers for Medicare & Medicaid Services, and Director of the Innovation Center at the U.S. Department of Health and Human Services (HHS). In this role, Mr. Boehler oversaw 600 people focused on innovation in the American healthcare system to create better outcomes for patients, healthier communities, and lower the cost of healthcare.

Prior to his government service, Mr. Boehler founded three successful businesses and was widely regarded as a leader in the healthcare and private investment sectors. Most recently, he served as CEO of Landmark Health, a company he founded that delivers round-the-clock medical care to chronically ill patients in their homes. During Mr. Boehler's tenure, Landmark grew to be the largest home-based medical group in the country, with over 1,000 employees serving 80,000 patients. This first half of Mr. Boehler's career focused on domestic and international investing in the United States and Israel. Mr. Boehler also worked for the Financial and Fiscal Commission in South Africa where he focused on advocating for fiscal responsibility in the provinces.

Mr. Boehler was born and raised outside of Albany, New York and earned his degree from the Wharton School of the University of Pennsylvania. He is married and has four young children.



Kimberly A. Reed
President and Chairman
Export-Import Bank of the United States

Kimberly A. Reed was sworn in as President and Chairman of the Board of Directors of the Export-Import Bank of the United States (EXIM) on May 9, 2019. She is the first woman and first West Virginian to lead EXIM, an independent federal agency that supports American jobs – nearly 1.5 million jobs in all 50 states over the past decade – by facilitating the export of U.S. goods and services.

Reed has spent her 20-plus-year career working in the public and private sectors and has led efforts focused on American job creation, trade, economic development, food and agriculture, and government reform.

Reed most recently served as President of the International Food Information Council (IFIC) Foundation where she collaborated with the U.S. Departments of Agriculture and State to increase acceptance of U.S. exports in emerging market countries. At the U.S. Department of the Treasury, Reed headed the Community Development Financial Institutions Fund, where she oversaw the award of $4 billion in tax credits, loans, and grants to financial institutions and economic development groups investing in distressed communities across the nation. She also served as Senior Advisor to U.S. Treasury Secretaries John Snow and Henry Paulson. As counsel to three committees in the U.S. House of Representatives – Ways and Means, Government Reform and Oversight, and Education and the Workforce Committees – she focused on oversight and reform of federal agencies. Reed was also Vice President for Financial Markets Policy Relations at Lehman Brothers in New York.

Recognized as one of the "100 Women Leaders in STEM" and Washingtonian's "Most Powerful Women in Washington," Reed previously served as a Member of the Boards of the Alzheimer's Association, Alzheimer's Impact Movement, American Swiss Foundation, National Coalition for Food and Agriculture Research, Tax Coalition, and West Virginia Wesleyan College. She was the first woman elected as Chair of the Republican National Lawyers Association.

Originally from Buckhannon, West Virginia, Reed earned her J.D. from West Virginia University College of Law and B.S. from West Virginia Wesleyan College. She is a Certified Association Executive (CAE), earned a Professional Certificate in Finance from the New York Institute of Finance, and has spent time in more than one hundred countries.



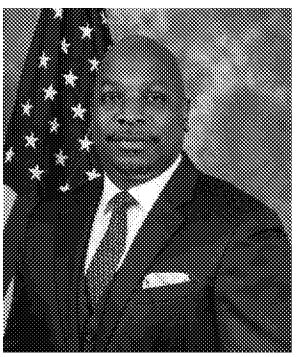
Elizabeth Erin Walsh
Senior Director for African Affairs
National Security Council

Elizabeth Erin Walsh serves on the National Security Council as the Deputy Assistant to the President and Senior Director for African Affairs.

Prior to this appointment, Ms. Walsh served as the Assistant Secretary of Commerce for Global Markets (GM) and Director General of the U.S. and Foreign Commercial Service (CS). Ms. Walsh will oversee a global network of trade promotion and policy professionals located in more than 75 countries and over 100 U.S. cities.

Ms. Walsh earned a bachelor's degree in International Relations and American Government from Georgetown University, and a master's degree from the London School of Economics and Political Science. She brings more than 25 years of management experience to the Department of Commerce, including over a decade at the Department of State, with international organizations and the private sector. Ms. Walsh has traveled or worked in 100 countries and has extensive knowledge of foreign and economic affairs in Asia, Middle East, and Africa.

In 2017, Ms. Walsh was employed at the White House as Special Assistant to President Trump. Prior to that she was an executive director at Goldman Sachs in Asia Pacific.



C.D. Glin
President and CEO
U.S. African Development Foundation

C.D. Glin is the President and CEO of the U.S. African Development Foundation, a U.S. government agency dedicated to supporting African-led, African-driven development solutions via catalytic financial investments in and local technical assistance to African grassroots communities and local enterprises. Prior to joining USADF, from 2011-2016 Glin was based in Nairobi, Kenya as the Associate Director for Africa for the Rockefeller Foundation, and previously served as a White House appointee at the U.S. Peace Corps as the first Director of Intergovernmental Affairs and Global Partnerships.

Glin was Vice President for Business Development at PYXERA Global where he managed international business advisory and corporate responsibility programs for Fortune500 companies and earlier consulted for the State Department, USAID and the World Bank while living in Ghana and Nigeria. He served as volunteer in the first Peace Corps South Africa group during the Presidency of Nelson Mandela. Glin holds a B.A. in Political Science from Howard University; a Master's Certificate in Business Management from Tulane University and Postgraduate Diploma in Strategy and Innovation from Oxford University's Saïd Business School. He was a term member of the Council on Foreign Relations and in 2011, was designated by the White House as a

"Champion of Change" for his commitment and contributions to international service and civic participation.



Christopher Maloney
Acting Assistant Administrator
USAID

Chris Maloney is the Acting Assistant Administrator in the Bureau for Africa. In this capacity, he oversees 47 countries and 8 regional programs in sub-Saharan Africa with a USAID and U.S. Department of State budget of $8.5 billion of assistance in Fiscal Year 2018. Prior to assuming this role, Mr. Maloney was the Assistant to the Administrator in USAID's Bureau for Policy, Planning, and Learning, where he led the development of the Agency's new strategic approach focused on building countries' abilities to plan, finance, and implement solutions to solve their own development challenges -- known as "the Journey to Self-Reliance." He continues to provide overall oversight on this initiative as the Agency operationalizes this new approach.

Prior to joining USAID, Mr. Maloney spent five years at the Millennium Challenge Corporation (MCC), where he was the Managing Director for Country Selection and Eligibility. In this capacity, he oversaw the management of MCC's annual country selection process, and all issues related to country eligibility. Additionally, he led numerous strategy-related efforts, including thinking through the continued evolution of MCC's unique development assistance model.

Mr. Maloney also spent five years with McKinsey & Company in Johannesburg, South Africa and Washington, D.C., where he focused primarily on agriculture, mining, and pharmaceutical clients in both the public and private sectors, including consulting on numerous Feed the Future strategies at various USAID Missions in Africa. Prior to McKinsey, he worked with Genesis Analytics, a South African economics consultancy based in Johannesburg, as well as in the Office of African Nations at the U.S. Department of the Treasury in Washington, DC.

Mr. Maloney holds an MBA from the Harvard Business School, an MPA in International Development from the Harvard Kennedy School of Government, and a bachelor's degree in Economics and African/African-American Studies from Stanford University.

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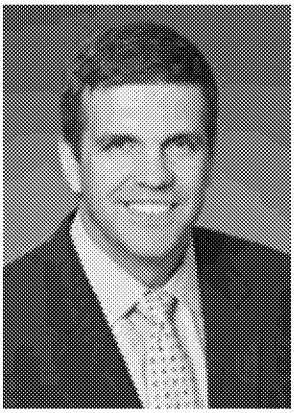
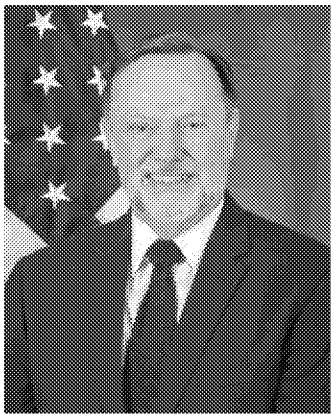


Thomas R. Hardy
Director of Congressional and Public Affairs
U.S. Trade and Development Agency (USTDA)

Thomas R. Hardy was appointed on July 11, 2017 to lead the U.S. Trade and Development Agency, a U.S. government agency that helps U.S. businesses create jobs through the export of their goods and services for priority development projects in emerging economies. USTDA links U.S. companies to global export opportunities by providing early project preparation assistance that matches U.S. technological expertise with overseas infrastructure development needs – creating lasting business partnerships between the United States and emerging market economies.
As the Agency's Director for Congressional and Public Affairs he also leads the agency's outreach to Capitol Hill, the business community and press to amplify the success USTDA achieves through its commercially oriented foreign assistance program. Earlier, Mr. Hardy served as the Chief of Staff and as a Country Manager for East Asia and sub-Saharan Africa where he brought a trade policy background that led to a more active program in support of creating U.S. jobs through exports.

Prior to joining USTDA, Mr. Hardy served as an advisor to Commissioner Thelma J. Askey at the U.S. International Trade Commission and as a staff member of the Committee on Ways and Means in the U.S. House of Representatives.



Ambassador Tibor P. Nagy, Jr.
Assistant Secretary, Bureau of African Affairs
U.S. Department of State

Ambassador Nagy, a retired career Foreign Service Officer, spent 32 years in government service, including over 20 years in assignments across Africa. He served as the United States Ambassador to Ethiopia (1999-2002), United States Ambassador to Guinea (1996-1999) as well as the Deputy Chief of Mission in Nigeria (1993-1995), Cameroon (1990-1993), and Togo (1987-1990). Previous assignments include Zambia, the Seychelles, Ethiopia, and Washington, DC.

Ambassador Nagy has received numerous awards from the U.S. Department of State in recognition of his service, including commendations for helping prevent famine in Ethiopia; supporting the evacuation of Americans from Sierra Leone during a violent insurrection; supporting efforts to end the Ethiopian-Eritrean War; and managing the United States Embassy in Lagos, Nigeria during political and economic crises.

Following his retirement from the Foreign Service, Ambassador Nagy served as Vice Provost for International Affairs at Texas Tech University from 2003 – 2018. During that time he lectured

nationally on Africa, foreign policy, international development, and U.S. diplomacy, in addition to serving as a regular op-ed contributor to the Lubbock Avalanche-Journal newspaper on global events. He co-authored "Kiss Your Latte Goodbye: Managing Overseas Operations," nonfiction winner of the 2014 Paris Book Festival.

Ambassador Nagy arrived in the United States in 1957 as a political refugee from Hungary; he received his B.A. from Texas Tech University and M.S.A. from George Washington University.

ATTACHMENT 2: Meeting Participants

PAC-DBIA Members

1. **Laura Lane**, President of Global Public Affairs, UPS *(Co-Chair)*
2. **Farid Fezoua**, President & Chief Executive Officer, GE Africa *(Co-Chair)*
3. **Susan Silbermann**, Global President for Emerging Markets, Pfizer *(Vice Chair)*
4. **Jason Andringa**, President and Chief Executive Officer, Vermeer Corporation
5. **Jason P.H. Brantley**, Director for Sales and Marketing, Agriculture and Turf Division, Africa and Asia, John Deere
6. **Jake Cusack**, Founding and Managing Partner, CrossBoundary Group
7. **Takreem El-Tohamy**, General Manager, Middle East and Africa, IBM
8. **Bruce Hanson**, President and Chief Executive Officer, Credence ID
9. **Bill Killeen**, Chief Executive Officer and Chairman, Acrow Bridge
10. **Raghu Malhotra**, President, Middle East and Africa, Mastercard
11. **Frank Mosier**, Chief Executive Officer, Rendeavour, Inc.
12. **John Nevergole**, Chief Executive Officer, ABD Group
13. **Andrew Patterson**, Global Manager for Strategy and Market and Business Development, Infrastructure, Bechtel Overseas Corporation
14. **Olivier Puech**, Executive Vice President and President, Latin America and EMEA, American Tower Corporation

15. **Peter Sullivan**, Managing Director and Citi Head of the Public Sector Group for Africa
16. **Arjan Toor**, Chief Executive Officer, International Organizations, Africa, and Global IPMI, Cigna
17. **Andrew Torre**, Regional President for Central and Eastern Europe, Middle East and Africa, Visa Inc.
18. **Chris Toth**, President, Oncology Systems, Varian Medical Systems
19. **Rahamatu Wright**, Founder and Chief Executive Officer, Shea Yeleen

U.S. Government

1. **Karen Dunn Kelley**, Deputy Secretary, U.S. Department of Commerce
2. **Joseph Semsar**, Acting Under Secretary, U.S. Department of Commerce
3. **Erin Walsh**, Senior Director, African Affairs, National Security Council
4. **Kimberly Reed**, President and Chairman of the Board of Directors, Export-Import Bank of the United States
5. **Adam Boehler**, Chief Executive Officer of the U.S. International Development Finance Corporation and Executive Chairman of Prosper Africa
6. **C.D. Glin**, President and Chief Executive Officer, U.S. African Development Foundation
7. **Tom Hardy**, Acting Director, U.S. Trade and Development Agency
8. **Chris Maloney**, Acting Assistant Administrator for Africa, U.S. Agency for International Development
9. **Tibor Nagy**, Assistant Secretary for African Affairs, U.S. Department of State
10. **Michael Nemelka,** Senior Advisor to the United States Trade Representative, Office of the U.S. Trade Representative
11. **Eric Meyer**, Deputy Assistant Secretary for Africa and the Middle East, U.S. Department of the Treasury
12. **Victoria Whitney**, Chief Operating Officer for the Prosper Africa Initiative
13. **TBD**, U.S. Department of Agriculture
14. **TBD**, U.S. Department of Transportation
15. **TBD**, Millennium Challenge Corporation
16. **TBD**, U.S. Small Business Administration
17. **TBD**, U.S. Department of Homeland Security, Customs and Border Protection
18. **Fred Stewart**, Director, Office of Africa
19. **Giancarlo Cavallo**, Designated Federal Officer for the President's Advisory Council on Doing Business in Africa
20. **Ashley Bubna**, Designated Federal Officer for the President's Advisory Council on Doing Business in Africa

ATTACHMENT 3: Draft Meeting Agenda

PRESIDENT'S ADVISORY COUNCIL ON DOING BUSINESS IN AFRICA

February 26, 2020
11:00 AM – 12:30 PM
Eisenhower Executive Office Building, Room 350

Agenda

I. Welcome and Opening Remarks

- Laura Lane, Co-Chair
- Farid Fezoua, Co-Chair

BC-DOC-0000029029

- Erin Walsh, Senior Director for African Affairs, National Security Council
- Adam Boehler, Chief Economic Officer of the U.S. International Development Finance Corporation and Executive Chairman of Prosper Africa
- Karen Dunn Kelley, Deputy Secretary of Commerce

II. Presentation of Keys to Success Report

- PAC-DBIA Members
- Administration Officials

Keys to Success for APPROACHING African Markets

- Speakers TBD

Keys to Success for COMPETING in African Markets

- Speakers TBD

Keys to Success for OPERATING in African Markets

- Speakers TBD

III. Adoption of Keys to Success Report

- Susan Silbermann, Vice Chair

IV. Presentation of Recommendations

- PAC-DBIA Members
- Administration Officials

U.S. Government High-Level Engagement with African Heads of State

- Farid Fezoua, Co-Chair

PAC-DBIA Fact-Finding Trip to Africa

- Susan Silbermann, Vice Chair

V. Adoption of Recommendations

- Farid Fezoua, Vice Chair

VI. Closing Remarks and Adjournment

- Susan Silbermann, Vice Chair
- Karen Dunn Kelley, Deputy Secretary of Commerce
- Laura Lane, Chair

ATTACHMENT 4: Draft Meeting Run of Show

PRESIDENT'S ADVISORY COUNCIL ON DOING BUSINESS IN AFRICA
MEETING RUN-OF-SHOW
FEBRUARY 26, 2020 ~ 11:00am - 12:30am

ARRIVAL

10:30 – 11:00 AM: Attendees enter EEOB and proceed to room 350.

WELCOME AND OPENING REMARKS

11:00 – 11:02 AM: Chair Laura Lane calls the session to order and gives opening remarks.

11:03 – 11:05 AM: Chair Farid Fezoua gives opening remarks and introduces NSC Senior Director for African Affairs, Erin Walsh.

11:05 – 11:07 AM: Erin Walsh provides opening remarks and introduces DFC CEO and Prosper Africa Executive Chairman Adam Boehler.

11:07 – 11:09 AM: Adam Boehler provides opening remarks.

11:09 – 11:10 AM: Chair Lane introduces Deputy Secretary Kelley.

11:10 – 11:17 AM:	Deputy Secretary Kelley provides opening remarks.
11:17 – 11:18 AM:	Vice Chair Silbermann introduces deliberation on Keys to Success.

PRESENTATION OF PAC-DBIA KEYS TO SUCCESS REPORT

11:17 – 11:19 AM:	Vice Chair Silbermann introduces the PAC-DBIA Keys to Success report.
	APPROACHING: "Know Before You Go"
11:19 – 11:21 AM:	TBD presents section on "Know your customer, know your capabilities".
11:21 – 11:23 AM:	TBD presents section on "Engage in the local market".
11:23 – 11:25 AM:	Chris Toth presents section on "Due diligence".
11:25 – 11:31 AM:	Vice Chair Silbermann opens discussion among Council members and USG officials.
	COMPETING: "A Long Term, National Agenda-Aligned Approach"
11:31 – 11:32 AM:	Vice Chair Silbermann introduces Olivier Puech to begin discussion of "COMPETING" chapter of report.
11:32 – 11:34 AM:	Olivier Puech presents section on "Long-term view".
11:34 – 11:36 AM:	Andrew Torre presents section on "Prioritize/align with government objectives".
11:36 – 11:38 AM:	Andrew Patterson presents section on "Invest in local talent and skills development".
11:38 – 11:40 AM:	TBD presents section on "Invest in training for the broader community".
11:40 – 11:46 AM:	Vice Chair Silbermann opens discussion among Council members and USG officials.
	SUCCEEDING: "Leveraging American Strengths"
11:46 – 11:48 AM:	Vice Chair Silbermann introduces Takreem El-Tohamy to begin discussion of "SUCCEEDING" chapter of report.
11:48 – 11:50 AM:	Takreem El-Tohamy presents section on "Sell innovation".
11:50 – 11:52 AM:	Peter Sullivan presents section on "Use USG tools".
11:52 – 11:58 AM:	Vice Chair Silbermann opens discussion among Council members and USG officials.
	INVESTING: "Activating American Capital"
11:58 – 12:00 PM:	Vice Chair Silbermann introduces Jake Cusack to begin discussion of "INVESTING" chapter of report.
12:00 – 12:02 PM:	Jake Cusack presents chapter on "Investing".

12:02 – 12:08 PM: Vice Chair Silbermann opens discussion among Council Members and USG officials.

ADOPTION OF KEYS TO SUCCESS REPORT

12:08 – 12:09 PM: At the conclusion of the discussion, Chair Lane asks if there are any objections to adopting the Council's report, noting any changes to be made as a result of the meeting's deliberation. Hearing none, he moves to adopt the report. A PAC-DBIA member seconds the motion, Chair Lane asks for a voice vote, after which Chair Lane proclaims the report adopted by the Council.

PRESENTATION OF PAC-DBIA RECOMMENDATIONS

12:09 – 12:14 PM: Chair Fezoua introduces PAC-DBIA Recommendations and presents first and second recommendations.

12:14 – 12:22 PM: Vice Chair Silbermann presents third recommendation and opens discussion among Council Members and USG Officials.

ADOPTION OF RECOMMENDATIONS

12:22 – 12:23 PM: At the conclusion of the discussion, Chair Fezoua asks if there are any objections to adopting the Council's report, noting any changes to be made as a result of the meeting's deliberation. Hearing none, he moves to adopt the report. A PAC-DBIA member seconds the motion, Chair Fezoua asks for a voice vote, after which Chair Fezoua proclaims the report adopted by the Council.

CLOSING REMARKS AND ADJOURNMENT

12:23 – 12:25 PM: Vice Chair Silbermann gives closing remarks.

12:25 – 12:27 PM: Deputy Secretary Kelley gives closing remarks.

12:27 – 12:30 PM: Chair Lane gives closing remarks and calls the session to adjournment.

ATTACHMENT 5: Draft Meeting Remarks

b(5) - DP

BC-DOC-0000029034

b(5) - DP

BC-DOC-0000029035

b(5) - DP

b(5) - DP

- Thank you.

From: Martin, Nicole (Federal) [NMartin1@doc.gov]
Sent: 9/18/2020 6:09:44 PM
To: Kelley, Karen (Federal) [KKelley@doc.gov]
CC: Risko, Daniel (Federal) [DRisko@doc.gov]; Brooke, Beatrice E. (Federal) [BBrooke1@doc.gov]; Lane, Jennifer (Federal) [JLane@doc.gov]; Johnston, Dane (Federal) [DJohnston@doc.gov]
Subject: Schedule: Monday, September 21, 2020
Attachments: Kelley Karen (Federal) Calendar.ics; 1C) DITDE Concept Notes - 09-21-2020.pdf; 3B) Final WGTEF Agenda 2020 07 28 - 2020 09 22.docx; 1D) DRAFT Diaspora Remarks ap bb dr.docx; 2) DRAFT 2020 Census Program Update 09212020 ver 2 (4).pdf; 0C) Fwd_ AP Exclusive_ Census layoffs ordered despite judge's ruling.pdf; 0A) FY 2022 Decision Memo - b(5) - DP 18 Sept 2020 CLEAN.doc; 1A) DITDE- Program Agenda - As of 09-21-2020.pptx; 0B) b(5) - DP 1B) DITDE Africa Trade Summit - Executive Summary for KDK - September 21, 2020.docx; 3A) DRAFT WGTEF 3_v5 - MG edits.docx

Ma'am,

Please see Monday's schedule below. Meeting materials are attached and the attachment numbers are listed in the annotated schedule.
I have also included **ATTACHMENT 0A, 0B, 0C** for you to review. I have also included **ATTACHMENT 3A, 3B** for you to review prior to Tuesday's engagement with WGTEF. Remarks are forthcoming.

Have a great weekend,
Nicole

Nicole Martin
Office of the Deputy Secretary
NMartin1@doc.gov
O: 202-482-0504
C b(6)

Karen Dunn Kelley Calendar
Monday, September 21, 2020

Mon, Sep 21

■	8:00 AM – 8:30 AM	Check in b(6)
■	8:45 AM – 9:00 AM	Prep Call b(6)
□	**11:30 AM – 1:00 PM**	**Free**
■	1:00 PM – 1:10 PM	DIDTE Event Ashley/Nicole will Connect via laptop **ATTACHMENT 1A, 1B, 1C, 1D**
□	**1:10 PM – 1:30 PM**	**Free**
■	1:30 PM – 3:00 PM	Senior Management Decennial Committee b(6) **ATTACHMENT 2**
■	3:00 PM – 3:30 PM	b(6) & b7(C) b7(E)

▩	3:30 PM – 4:30 PM	b(6) & b7(C) b7(E)
▩	4:30 PM – 5:00 PM	b(6) & b7(C) b7(E)
▩	5:00 PM – 5:30 PM	b(6) & b7(C) b7(E)
▩	5:30 PM – 6:00 PM	Census b(6)
□	**After 6:00 PM**	**Free**

Organizer: Kelley, Karen (Federal) : KKelley@doc.gov

Subject: b(6) & b7(C)

Location: b7(E)

Start Time: 2020-09-21T16:30:00-04:00

End Time: 2020-09-21T17:00:00-04:00

Attendees: b(6) & b7(C)

Organizer: Kelley, Karen (Federal) : KKelley@doc.gov

Subject: Check in

Location: b(6)

Start Time: 2020-09-21T08:00:00-04:00

End Time: 2020-09-21T08:30:00-04:00

Attendees: Risko, Daniel (Federal) : DRisko@doc.gov, Dillingham, Steven : steven.dillingham@census.gov, Cogley, Nathaniel, nathaniel.cogley@census.gov, Overholt, Benjamin A : benjamin.a.overholt@census.gov, Kourkoumelis, Aristidis (Federal), AKourkoumelis@doc.gov

b(6)

P b(6)

L b(6) Dan

Organizer: b(6) & b7(C)
Subject:
Location: b7(E)
Start Time: 2020-09-21T15:30:00-04:00
End Time: 2020-09-21T16:30:00-04:00
Attendees:

b(6) & b7(C)

This call will be at the Top Secret Level. The dial in is b7(E)

Scheduling POC: Nicole Martin NMartin1@doc.gov Cell: b(6)

Subject: DIDTE Event

Location: Ashley/Nicole will Connect via laptop

Start Time: 2020-09-21T13:00:00-04:00

End Time: 2020-09-21T13:10:00-04:00

Organizer: Kelley, Karen (Federal) : KKelley@doc.gov

Subject: b(6) & b7(C)

Location: b7(E)

Start Time: 2020-09-21T15:00:00-04:00

End Time: 2020-09-21T15:30:00-04:00

Attendees: b(6) & b7(C)

Subject: Deputy Secretary's Office Weekly Check-In

Start Time: 2020-09-21T08:00:00-04:00

End Time: 2020-09-21T11:30:00-04:00

Women's Global Trade Empowerment Virtual Forum
Expanding Trade in North America and Beyond
July 28, August 11, 18 and 25, September 1, 10 and 22, 2020
All times in EST, speakers in order of appearance

Agenda

Session 1 – July 28

12:00 pm – 12:15 pm *Welcome and Framing the Discussion*
Ana M. Guevara, U.S. Commercial Service, Deputy Assistant Secretary for U.S. Field,
Joann Hill, Minority Business Development Agency (MBDA), Chief, Office of Business Development
Angela Hofmann, Organization of Women in International Trade (OWIT), Co-Vice President for Partnerships
Elizabeth A. Vazquez, WEConnect International, President, CEO & Co-Founder

12:15 pm to 12:55 pm *Women in International Trade and Opportunities in the USMCA - A Government Perspective*
Diane Farrell, U.S. Department of Commerce, Acting Deputy Under Secretary for International Trade
Ian Saunders, U.S. Department of Commerce, Deputy Assistant Secretary for Western Hemisphere
Martha Bárcena Coqui, Government of Mexico, Mexican Ambassador to the United States
Kirsten Hillman, Government of Canada, Ambassador to the United States

12:55 pm to 01:25 pm *USMCA and the Future of Trade in North America - Expanding and Diversifying Sales Throughout the Region - A Private Sector Perspective*
Ana M. Guevara, U.S. Commercial Service, Deputy Assistant Secretary for U.S. Field,
Peggy Alford, PayPal, Executive Vice President, Global Sales
Tania Ortiz Mena, IEnova, Chief Executive Officer
Romaine Seguin, UPS, President, UPS Global Freight Forwarding

01:25 pm to 01:30 pm *Closing and Overview of Upcoming Program Curriculum and Tools*
Elyse Eriksson, Export Connector, Managing Director

Session 2 – August 11

12:00 pm to 12:10 pm *Welcome and Framing the Discussion*
Elyse Eriksson, Export Connector, Managing Director
Ana M. Guevara, U.S. Commercial Service, Deputy Assistant Secretary for U.S. Field
Kimberly Reed, Export-Import Bank of the United States, President and

Chairman

12:10 pm to 12:55 pm *Symposium: Financing the Deal and Getting Paid*
Kathy Jiang, Regions Bank, Vice President, Global Trade Finance
Maria Ariza, Institutional Stock Exchange (BIVA), General Director
Dyanne Carenza, Scotiabank, Vice-President, Head of Trade Finance & Supply Chain
Darcy Kuran, Waterstone Faucets, Co-Founder
Paula Swain, Export-Import Bank of the United States, Managing Director - Global Energy, Project Finance Division

12:55 pm to 01:00 pm *Closing and Overview of Upcoming Program Curriculum*
Virginia Arteaga, Dallas County Community College District, Managing Director, Global Business Development

SelectUSA Session – August 18
10:00 am to 11:00 am *For Canadian and Mexican Companies - Expanding your Business into the United States*
Neda Riskin, David Wright Tremaine (DWT), Program Manager
Nita Tandon, Dalcini Inc., Founder and CEO
Blanca Treviño, Softtek, President and CEO

Session 3 – August 25
12:00 pm to 12:10 pm *Welcome and Framing the Discussion*
Jessica Gordon, U.S. Commercial Service – North Texas, Director
Joann Hill, Minority Business Development Agency (MBDA), Chief, Office of Business Development
Cristina Duran, Accenture Mexico, Technology Associate Director
Laura Messerschmitt, GoDaddy, Vice President of Global Customer Experience

12:05 pm to 12:55 pm *Symposium: Thriving in the New Digital Economy Under USMCA*
James Bledsoe, U.S. Commercial Service, Director, eCommerce Innovation Lab (EIL)
Alexis Gallivan, eBay, Head, SMB Marketing & Engagement
Cindy Harling, Lucky Foods, LLC, Sales Director
Paulette Hernandez, Office of Digital Services Industries, U.S. Department of Commerce, Senior Policy Advisor
Rosalva Rivera, UPS Mexico, Marketing Manager

12:55 pm to 01:00 pm *Closing and Overview of Upcoming Program Curriculum*
Theresa Flores, Mary Kay, Inc., Senior Manager, Public Affairs

Session 4 – September 1
12:00 pm to 12:05 pm *Welcome and Framing the Discussion*

Angela Hofmann, Organization of Women in International Trade (OWIT), Co-Vice President for Partnerships
Laura Lane, UPS, Chief Corporate Affairs and Communications Officer

12:05 pm to 12:30 pm *How to Make USMCA Work for You – Changes in Customs and Rules of Origin*
Ana M. Guevara, U.S. Commercial Service, Deputy Assistant Secretary for U.S. Field
Katrice Kelly, Office of Trade Negotiations and Analysis, U.S. Department of Commerce, Senior International Trade Specialist
Kelly Wilton, UPS, Customs Brokerage Compliance Manager.

12:30 pm to 12:55 pm *Hear from SMEs*
Meredith Bond, U.S. Commercial Service - Omaha, Nebraska, Director
Beri Fox, Marble King, CEO and Owner
Mo -D, LA Metal Stamping, Director New Business Development

12:55 pm to 01:00 pm *Closing and Overview of Upcoming Program Curriculum*
Olga Torres, Managing Member, Torres Law, PLLC

Session 5 – September 10
12:00 pm to 12:05 pm *Welcome and Framing the Discussion*
Nyamusi Igambi, U.S. Commercial Service - Houston, Director
Susan Segal, Americas Society/Council of the Americas, President and CEO
Elizabeth A. Vazquez, WEConnect International, President, CEO & Co-Founder

12:05 pm to 12:55 pm *Strategies for Global Success: Compliance, Contracts and Corporate Governance*
Cathy Feig, U.S. Commercial Service Montreal, Principal Commercial Officer
Maria Jose Hernandez, Accenture Mexico, Legal Manager
Stephanie Lemieux, Libellule Monde (LBM), Founder
Blanca Treviño, Softtek, President and CEO
Arezo Yazd, Commercial Law Development Program, U.S. Department of Commerce, Senior Counsel

12:55 pm to 01:00 pm *Closing and Overview of Upcoming Program Curriculum*
Lani Tito, Bureau of Industry and Security, U.S. Department of Commerce, Senior Export Administration Specialist
Adrienne Braumiller, Braumiller Law Group PLLC, Partner/North Texas DEC Member

Session 6 – September 22
12:00 pm to 12:05 pm *Welcome and Framing the Discussion - SMEs and USMCA*

Ana M. Guevara, U.S. Commercial Service, Deputy Assistant Secretary for U.S. Field, U.S. Commercial Service
Jovita Carranza, U.S. Small Business Administration, Administrator

12:05 pm to 12:45 pm *Protecting the Most Important Asset – Your IP*
Cynthia Henderson, U.S. Embassy, Mexico City, Intellectual Property Attaché
May Cheng, Osler Hoskin & Harcourt LLP, Partner, Intellectual Property
Lindsey Laurain, Ezpz, Founder
Stevan Mitchell, U.S. Department of Commerce, Director, Office of Standards and Intellectual Property

12:50 pm to 01:20 pm *Woman-Owned Company Success Stories*
Carmela Mammas, U.S. Commercial Service - New York City, Director
Marisa Jiménez, Air Care de México, CEO
Natalie Kaddas, Kaddas Enterprises, Inc., President/CEO
Diane Reko, Reko International Group, Chief Executive Officer

01:20 pm to 01:30 pm *Closing Remarks*
Elyse Eriksson, Export Connector, Managing Director
Jessica Gordon, U.S. Commercial Service - North Texas, Director
Karen Dunn Kelley, U.S. Department of Commerce, Deputy Secretary

From: Risko, Daniel (Federal)
To: Martin, Nicole (Federal)
Subject: Fwd: AP Exclusive: Census layoffs ordered despite judge's ruling
Date: Friday, September 18, 2020 2:27:43 PM

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 18, 2020 at 2:08:21 PM EDT
To: "Walsh, Michael (Federal)" <MWalsh@doc.gov>, "Risko, Daniel (Federal)" <DRisko@doc.gov>, "Burris, Meghan (Federal)" <MBurris@doc.gov>, "Davis, Caitlin (Federal)" <CDavis4@doc.gov>, "Ambrosini, Vanessa (Federal)" <VAmbrosini@doc.gov>, "Kourkoumelis, Aristidis (Federal)" <AKourkoumelis@doc.gov>, "Cannon, Michael (Federal)" <MCannon@doc.gov>
Subject: AP Exclusive: Census layoffs ordered despite judge's ruling

AP Exclusive: Census layoffs ordered despite judge's ruling
The Associated Press – Mike Schneider, September 18

Two weeks after a federal judge prohibited the U.S. Census Bureau from winding down the 2020 census, a manager in Illinois instructed employees to get started with layoffs, according to an audio of the conversation obtained by The Associated Press.

During a conference call Thursday, the Chicago area manager told supervisors who report to him that they should track down census takers who don't currently have any cases, collect the iPhones they use to record information, and bid them goodbye. The manager did not respond to an email from the AP.

"I would really like to get a head start on terminating these people," he said. "All of these inactives that we have, we need to get rid of them. So hunt down your inactives, collect their devices, get them terminated and off of our lists."

It was unclear whether such actions would violate U.S. District Judge Lucy Koh's temporary

restraining order prohibiting the Census Bureau from winding down field operations while she considers a request to extend the head count by a month.

Earlier this week, the judge, who is in San Jose, California, held a hearing on other possible violations of the order, but no action was taken after a Census Bureau official said in a declaration that they were unsubstantiated or the result of miscommunication. The judge extended the order for another week on Thursday.

Government attorneys told the judge earlier this month that the Census Bureau would refrain from laying off workers who were in the later stages of door knocking at the homes of residents who hadn't yet answered the census questionnaire. They said workers could still be terminated for performance reasons, however.

While the Chicago area manager told his supervisors they couldn't lay people off for lack of work, he suggested they could encourage census takers who haven't had an assignment in a while to resign or fire them for poor performance.

"It doesn't have to be their performance is poor. It just means it's not good enough," he said. "If you are going to terminate someone for performance, I want you to consult me first. But I'm pretty much going to be on your side, no matter what."

The census taker also suggested that supervisors should unofficially plan on wrapping up their work by Saturday, 11 days short of the Sept. 30 deadline for ending the 2020 census.

Census Bureau spokesman Michael Cook said in a statement Friday that the agency was investigating.

"In the meantime, the U.S. Census Bureau continues to focus on conducting a complete 2020 Census count while instructing field personnel of their continuing obligation to comply with court orders," Cook said.

The once-a-decade head count of every U.S. resident helps determine how $1.5 trillion in federal funding is distributed annually and how many congressional seats each state gets — a process known as apportionment. The census takers are sent out to knock on the doors of homes that have not yet responded to the census on their own, either online, by phone or by mail.

Before the coronavirus pandemic hit in March, the bureau had planned to complete the 2020 census by the end of July. In response to the pandemic, it extended the deadline to the end of October. That changed to the end of September after the Republican-controlled Senate failed to take up a request from the Census Bureau to extend the deadline for turning over the numbers used for apportionment. As a result, government attorneys told the judge, the Census Bureau has no choice but to finish the count by Sept. 30.

The temporary restraining order was requested by a coalition of cities, counties and civil rights groups that had sued the Census Bureau, demanding it restore the October deadline. The coalition had argued the earlier deadline would cause the Census Bureau to overlook

minority communities in the census, leading to an inaccurate count.

Attorneys for the coalition said Friday that they didn't want to comment on the Chicago case.

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Executive Summary Notes for
Karen Dunn Kelley, Deputy Secretary, U.S. Department of Commerce
Monday, September 21, 2020

Event Title: **"DIASPORA TRADE AND INVESTMENT DEAL EVENT"**

b(5) - DP

Participants List:
Is inclusive of notable Heads of State, Leadership of the Chicago Minority Supplier Development Council and its corporate members, trade associations, chambers of commerce, Africa Diaspora network affiliates, minority business enterprises and stakeholders who support bilateral trade and investment opportunities between the U.S. and Africa

- J. Vincent Williams, President, Chicago Minority Supplier Development Council (CMSDC)
- Kenya President H.E. Uhuru Kenyatta
- Ghana President H.E. Nana Akufo-Addo
- H.E. Ambassador Dr. Arikana Chihombori-Quao, CEO, African Diaspora Development Institute (ADDI)
- NJ Ayuk, Executive Chairman, Africa Energy Chamber
- Kwasi Donkor, Chief Strategy Officer, U.S. African Development Foundation
- Kyle McCarter, U.S. Ambassador – Kenya, *National and State Investment and Trade Opportunities; US-Kenya Free Trade Agreement*
- Dr. Wilfred Marubi, CEO, Kenya Export Promotion and Branding Agency
- Maxwell Okello, American Chamber of Commerce, Kenya
- Dr. Wilmot Allen, CEO, VentureLift Africa
- Dr. Eric Rutto, Vice President, Kenya Chamber of Commerce and Industry, *Diaspora Dividend*
- Fiat Chrysler Automobiles
- Nicole Woods, Client Care Manager, U.S. EXIM Bank
- William Fanjoy, Managing Director for Domestic Commercial Engagement, Prosper Africa Executive Secretariat
- Bailey Rowell, International Trade Specialist, U.S. Commercial Service- Chicago, U.S. Department of Commerce, International Trade Administration (ITA)
- Laila Macharia, Chairwoman, Africa Digital Media Group
- Pauline Fischer, CEO, PMF Media Group
- Narendra Reddy, EVP, The Africa Channel
- Milan Selassie, CEO, Intelligent Media Productions
- Timothy Owase, CEO, Kenya Film Commission
- Ronald Parker, CEO, National Association of Security Professionals (NASP)
- Uche Orji, CEO and MD, NSIA
- Alex Canfor-Dumas, Head of West Africa, BlackIvy Group
- Opuiyo Oforiokuma, Senior Director of Strategy and Investor Relations, Africa50; Fundo Soberana de Angola (FSDEA)
- Dr. Eric Rutto, VP, KNCCI
- Vanessa Adams, Vice President, AGRA
- Katherine Kigaraba, MD, Tanzania Traders and Merchants
- Claude Tellis, CEO, Naturade.
- Dr. Bimal Kantaria, Chairman, Agriculture Sector Network (ASNET)
- Chris Isaacs, CEO, Bella Canna
- Eddie Mandhry, Director for Africa and Middle East, Yale University
- Dr. Lynsey Farrell, Director of Africa, Wharton Business School – Lauder
- Dr. Vincent Ogutu, Vice-Chancellor Designate, Strathmore University
- Kwabena Boateng, Chair, HBCU, Africa Homecoming
- Sid Chatterjee, UN Resident Coordinator
- Bernard Chiira, Chairman, ASSE
- Shay Gillespie, Regional Manager of Business Development, Worldwide Technology

- Peter Njojo, CEO and Co-Founder Twiga Foods
- Dr. Bernard Haifuku, Founder, Africa Public Health Foundation, Moderator
- Kaakpema Yelpaala, CEO and Founder, access.mobile Intl
- Don Williams, CEO, Princeton Healthcare Inc
- Dr. Stephen Samuels, CEO, Metavisions
- Quinton Zunga, CEO, RH Bophelo
- Andy Ingraham, Founder and CEO, NABHOOD, Moderator
- Chris Osore, Director, DLR Group Africa/TA Plus D54
- Carlos Bonner, Vice President of Development, Jair Lynch Real Estate Partners
- Kofi Anku, CEO, Mercury Estates
- Preston Mendenhall, EVP, Rendeavour
- Curtis Thompson, President, National Association of Minority Contractors Chicago (NAMCC)
- Phyllis Wakiaga, CEO, Kenya Association of Manufacturers, Moderator
- Chid Liberty, CEO, Liberty & Justice; Mr. Edward Hightower, Managing Director, Motoring Ventures LLC
- Ikenna Nzewi, CEO and Co-Founder, Releaf
- Ciara May, Founder and CEO, Rebundle
- Greg Marchand, Partner, Avencion, Moderator
- Salma Okonkwo, Founder, Blue Power Energy
- Tamarind Murietta, Senior Commercial Officer, US Dept of Commerce (Mozambique)
- Michael Sudarkasa, CEO, Africa Business Group
- Nicole Poindexter, Founder and CEO, Energici
- Bob Green, CEO, NAIC, Moderator
- Angela Miller-May, CIO, Chicago Teachers Pension Fund
- Tracy Gray, Managing Partner and Founder, The 22 Fund
- George Odo, Senior Partner, AfricInvest
- Hosea Kili, Group MD, CPK Financial Services (Pension Fund Administrator)
- Aniko Szigetvari, Founding Partner, Atlantica Ventures, Moderator
- Tesi Rusagara, MD, Kigali Innovation City
- David Hall, Partner, Revolution
- Greg Bush, CEO, KFA Inc.
- Mary Spio, CEO and Founder, CEEK VR
- Terik Tidwell, Executive Director, Smith-Tech Innovation Center, Johnson C Smith University, Moderator
- Dr. Karl Reid, ED, National Society of Black Engineers,
- Sam Gikandi, CEO, Africa's Talking Group
- Freddie Figgers, CEO, Figgers Communication
- Simone Williams, Chairwoman, International Law Section, National Bar Association
- Christal Jackson, CEO, Mosaic, Moderator
- Kojo Annan, Kofi Annan Foundation
- Graca Machel Trust
- Sue Toigo, Co-Founder, Robert Toigo Foundation
- Arif Neky, Senior Advisor-Coordinator, UN SDG Partnership Platform

- Oluwafemi Adefeso Founder Balls Activating Literacy and Leadership Foundation (Moderator);
- Farad Ali President and CEO Asociar, LLC
- Gregory Michel, Associate Vice President, National Basketball Association (NBA)
- Stephen Ross, Founder, The Black Racers Academy
- Hillary Andoh, Founder and CEO, HSA PR
- Jidenna, Recording Artist and Entrepreneur
- Troy White, MD, Digitalself and Kifaru Studios
- Seyi Shay, Recording Artist and Actress
- Peter Tega Oghenejobo, COO, Mavin Records

b(5) - DP

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.

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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.



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References

Abowd, John. September 4, 2018. Protecting the Confidentiality of America's Statistics: Ensuring Confidentiality and Fitness-for-Use. Blog Post at U.S. Census Bureau. https://www.census.gov/newsroom/blogs/research-matters/2018/08/protecting_the_confi0.html.

Anderson, M., & Fienberg, S. E. (1999). *Who counts?: The politics of census-taking in contemporary America*. Russell Sage Foundation.

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.

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.

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. https://www.census.gov/content/dam/Census/library/working-papers/2015/adrm/carra-wp-2015-02.pdf.

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/.

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.

Brown, J, Heggeness, M, Dorinski, S, Warren, L & Yi, M (2018). *Understanding the Quality of Alternative Citizenship Data Sources for the 2020 Census*, Center for Economic Studies, U.S. Census Bureau Working Paper 18-38. Available at https://www2.census.gov/ces/wp/2018/CES-WP-18-38.pdf.

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.

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.

BC-DOC-0000029118

Cohn, D'vera. (May 4, 2011). "Imputation: Adding People to the Census," Pew Research Center. https://www.pewsocialtrends.org/2011/05/04/imputation-adding-people-to-the-census/.

Cohn, D'Vera. (January 11, 2011). "Census 2010: The Last Seat in Congress." https://www.pewsocialtrends.org/2011/01/11/census-2010-the-last-seat-in-congress/.

Collecting Information About Citizenship Status in Connection With the Decennial Census, 84 Fed. Reg. 33,821 (July 11, 2019).

Crocker, Royce (Oct 30, 2015). Apportioning Seats in the U.S. House of Representatives Using the 2013 Estimated Citizen Population. Congressional Research Service. 7-5700. R41636. https://crsreports.congress.gov/product/pdf/R/R41636.

Costanzo et al. (June 2002). Evaluating Components of International Migration: The Residual Foreign Born. https://www.census.gov/content/dam/Census/library/working-papers/2001/demo/POP-twps0061.pdf.

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.

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.

Department of Commerce v. U.S. House of Representatives (1999).

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

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.

Department of Homeland Security. (April 16, 2019). Alien Incarceration Report Fiscal Year 2018, Quarter 2. https://www.justice.gov/opa/page/file/1154711/download.

Department of Homeland Security. (May 2019). Population Estimates. https://www.dhs.gov/sites/default/files/publications/lpr_population_estimates_january_2015.pdf.

Deposition of Dudley L. Poston, Jr., Ph.D. (Feb. 27, 2020). *Alabama et al. v. United States Department of Commerce et al.*, No. 2:18-cv-00772-RDP (N.D. Al. 2018).

Deposition Transcript of Karen Battle. (Jan. 16, 2020). *Alabama et al. v. United States Department of Commerce et al.*, No. 2:18-cv-00772-RDP (N.D. Al. 2018).

BC-DOC-0000029119

Deposition Transcript of Karen Battle. (Mar. 2, 2020). *Alabama et al. v. United States Department of Commerce et al.*, No. 2:18-cv-00772-RDP (N.D. Al. 2018).

Election Data Services. Montana Gains California's Seat With New 2019 Census Estimates; But Alabama & Ohio to also lose by 2020. https://www.electiondataservices.com/wp-content/uploads/2019/12/NR_Appor19wTablesMaps.pdf.

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).

Frost, Amanda. (June 19, 2016). The Overlooked Pathways to Legal Status. The Atlantic. https://www.theatlantic.com/politics/archive/2016/06/the-overlooked-pathways-to-legal-status/487682/.

Griffin, Richard (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.

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.

Hillygus, DS, Nie, NH, Prewitt, K & Pals, H (2006). *The hard count: The political and social challenges of census mobilization*, Russell Sage Foundation, New York.

Hyndman, R. J., & Athanasopoulos,G. (2018). Forecasting: principles and practice. OTexts.

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/.

Joint Appendix in *Department of Commerce, et al. v. State of New York, et al.*, No. 18-966 (Jan. 25, 2019), https://www.supremecourt.gov/DocketPDF/18/18-966/91016/20190306200155135_18-966%20Commerce%20J.A.pdf.

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/

Keane, John G. (Sept. 18, 1985). Statement of the Director of the Bureau of the Census Before the Subcommittee on Energy, Nuclear Proliferation, and Government Processes.

Keyfitz, Nathan. (1979). Information and Allocation: Two Uses of The 1980 Census," The American Statistician, 33.

BC-DOC-0000029120

Layne, M., Wagner, D., & Rothhaas, C. (2014). Estimating record linkage false match rate for the Person Identification Validation System. Center for Administrative Records Research and Applications Working Paper.

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.

Marcelli, Enrico. (2000). "2000 Census Coverage of Foreign-born Mexicans in Los Angeles County: Implications for Demographic Analysis," presented at the 2000 Annual Meeting of the Population Association of American, Atlanta GA.

Massey, D. S., & Singer, A. (1995). New estimates of undocumented Mexican migration and the probability of apprehension. Demography, 32(2), 203-213.

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.

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).

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

Michigan Population Studies Center: Institute for Social Research. (2020). Expect the Unexpected: Apportionment Projections based on the Census Bureau Estimates. https://www.psc.isr.umich.edu/dis/census/Features/apportionment/apportion_estimates.html.

Michigan Institute for Social Research. (2020). Disclaimer for Census 2000 Adjusted Data. https://www.icpsr.umich.edu/icpsrweb/ICPSR/themes/census2000/disclaimer.jsp.

More About Census Blocks. (Mar. 6, 2015). https://transition.fcc.gov/form477/Geo/more_about_census_blocks.pdf.

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.

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.

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.

Office of Immigration Statistics, Homeland Security (December 2018). Population Estimates: Illegal Alien Population Residing in the United States: January 2015, 11.
Office of the Inspector General. https://oig.ssa.gov/sites/default/files/audit/full/pdf/A-07-04-24094.pdf.

O'Hare, W. P. (2019). Differential undercounts in the US Census: Who is missed?. Cham: Springer Open.

Passel JS, Clark RL. (March 1997). 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.

Passel, J. S., & Cohn, D. (2018). US Unauthorized immigrant total dips to lowest level in a decade. Pew Research Center. https://observatoriocolef.org/wp-content/uploads/2018/11/Pew-Research-Center_U.S.-Unauthorized-Immigrants-Total-Dips_2018-11-27.pdf.

Pew Research Center. (June 12, 2019). Unauthorized immigrant population trends for states, birth countries and regions. https://www.pewresearch.org/hispanic/interactives/unauthorized-trends/.

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

Puckett, Carolyn. (2009). "The Story of the Social Security Number," *Social Security Bulletin*, Vol. 69, No. 2.

Public Policy Institute of California. (March 2017). Undocumented Immigrants in California. https://www.ppic.org/publication/undocumented-immigrants-in-california/.

Rappaport, Nolan. (June 9, 2019). "Illegal immigration, by the numbers: Visa violators and border crossers." The Hill. https://thehill.com/opinion/immigration/447607-illegal-immigration-by-the-numbers-visa-violators-and-border-crossers.

Rastogi, S., & O'Hara, A. (2012). Census match study. 2010 census program for evaluations and experiments. Center for Administrative Records Research and Applications.

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.

BC-DOC-0000029122

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.

Skerry, P. (2000). Counting on the census? Race, group identity, and the evasion of politics (Vol. 56). Brookings Institution Press, 131.

Social Security Administration Office of the Inspector General (July 2004). Enumeration of Children Under Age 1: Opportunity to Reduce the Risk of Improper Social Security Number Attainment, A-08-04-14043.

Social Security: Office of Retirement and Disability Policy. (2009). The Story of the Social Security Number. https://www.ssa.gov/policy/docs/ssb/v69n2/v69n2p55.html.

Supplement to Sworn Declaration & Expert Report of Dudley L. Poston, Jr., Ph.D. (Jan. 28, 2020). *Alabama et al. v. United States Department of Commerce et al.*, No. 2:18-cv-00772-RDP (N.D. Al. 2018).

Sworn Declaration & Expert Report of Dudley L. Poston, Jr., Ph.D. (January 23, 2020). *Alabama et al. v. United States Department of Commerce et al.*, No. 2:18-cv-00772-RDP (N.D. Al. 2018).

Tourangeau, R., Edwards, B., Johnson, T. P., Wolter, K. M., & Bates, N. (2014). Hard-to-survey populations. Cambridge University Press.

U.S. Census Bureau. Background Sheet 2: Creating an Interagency Working Group and Established Agreement for New Data.

U.S. Census Bureau. Congressional Apportionment. Frequently Asked Questions. https://www.census.gov/population/apportionment/about/faq.html.

U.S. Census Bureau. Congressional Apportionment. Computing Apportionment. https://www.census.gov/population/apportionment/about/computing.html.

U.S. Census Bureau. Idaho is Nation's Fastest-Growing State: Population Change from July 1, 2016 to July 1, 2017. https://www.census.gov/content/dam/Census/library/visualizations/2017/comm/popest-idaho.pdf.

U.S. Census Bureau. (July 2013). Statistical Quality Standards https://www.census.gov/content/dam/Census/about/about-the-bureau/policies_and_notices/quality/statistical-quality-standards/Quality_Standards.pdf.

U.S. Census Bureau. (December 2018). 2020 Census Operational Plan: A New Design for the 21st Census, v. 4. https://www2.census.gov/programs-surveys/decennial/2020/program-management/planning-docs/2020-oper-plan4.pdf.

BC-DOC-0000029123

U.S. Census Bureau (Feb. 2020). Post-2020 Census Citizen Voting Age Population by Race and Ethnicity (CVAP) Special Tabulation. https://www2.census.gov/programs-surveys/decennial/rdo/technical-documentation/special-tabulation/CVAP_Post2020_Census_documentation_v5.pdf?

U.S. Census Bureau (Feb. 2020). Post-2020 Census Citizen Voting Age Population by Race and Ethnicity (CVAP) Special Tabulation. https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap/Post-2020-CVAP.html.

U.S. Census Bureau. (2018). Methodology For The United States Population Estimates: Vintage 2018. https://www2.census.gov/programs-surveys/popest/technical-documentation/methodology/2010-2018/2018-natstcopr-meth.pdf?.

U.S. Census Bureau, Privacy Research in Census 2000, Census 2000 Topic Report No. 1 (2003).

U.S. Census Bureau. (June 08, 2018). Proposed Information Collection; Comment Request; 2020 Census. Federal Register. https://www.federalregister.gov/documents/2018/06/08/2018-12365/proposed-information-collection-comment-request-2020-census.

U.S. Census Bureau. (July 1, 2019). Quick Facts. https://www.census.gov/quickfacts/geo/chart/US/PST120219.

U.S. Census Bureau. (Dec. 30, 2019). Slower Growth for Nation's Population. https://www.census.gov/library/visualizations/2019/comm/slower-growth-nations-pop.html.

U.S. Census Bureau. (Dec. 30, 2019): State Population Totals and Components of Change: 2010-2019. https://www.census.gov/data/tables/time-series/demo/popest/2010s-state-total.html.

U.S. Census Bureau. (May 8, 2015). Statistical Quality Standard C2: Editing and Imputing Data. https://www.census.gov/about/policies/quality/standards/standardc2.html.

U.S. Census Bureau. (Oct. 28, 2019). Why We Conduct the Decennial Census. https://www.census.gov/programs-surveys/decennial-census/about/why.html.

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

U.S. Census Monitoring Board. (Mar. 21, 2001). Statistical Adjustment of the 2000 Census: What We Know. https://govinfo.library.unt.edu/cmb/cmbc/articles-archive/031201.asp.

U.S. GAO Report. (January 2005). Actions Needed to Strengthen Processes for Issuing Social Security Numbers to Children. GAO-05-115.

https://www.govinfo.gov/content/pkg/GAOREPORTS-GAO-05-115/html/GAOREPORTS-GAO-05-115.htm.

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).

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.

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/.

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.

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.

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.

Yowell, Tiffany and Jason Devine. (July 2013, Revised May 2014). Evaluating Current and Alternative Methods to Produce 2010 County Population Estimates, U.S. Census Bureau, Population Division Working Paper.

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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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.

BC-DOC-0000029128

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.

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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

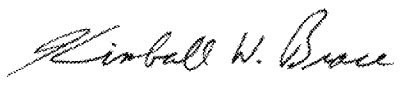
Dr. Poston compares his apportionment results in his first report to the 2019 EDS, Inc. Report results, presumably in support of his conclusions. But this comparison is not appropriate because the calculations are based on different inputs. Thus, any consistency between the two reports is as much the 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.



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BC-DOC-0000029153

EXHIBIT A

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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

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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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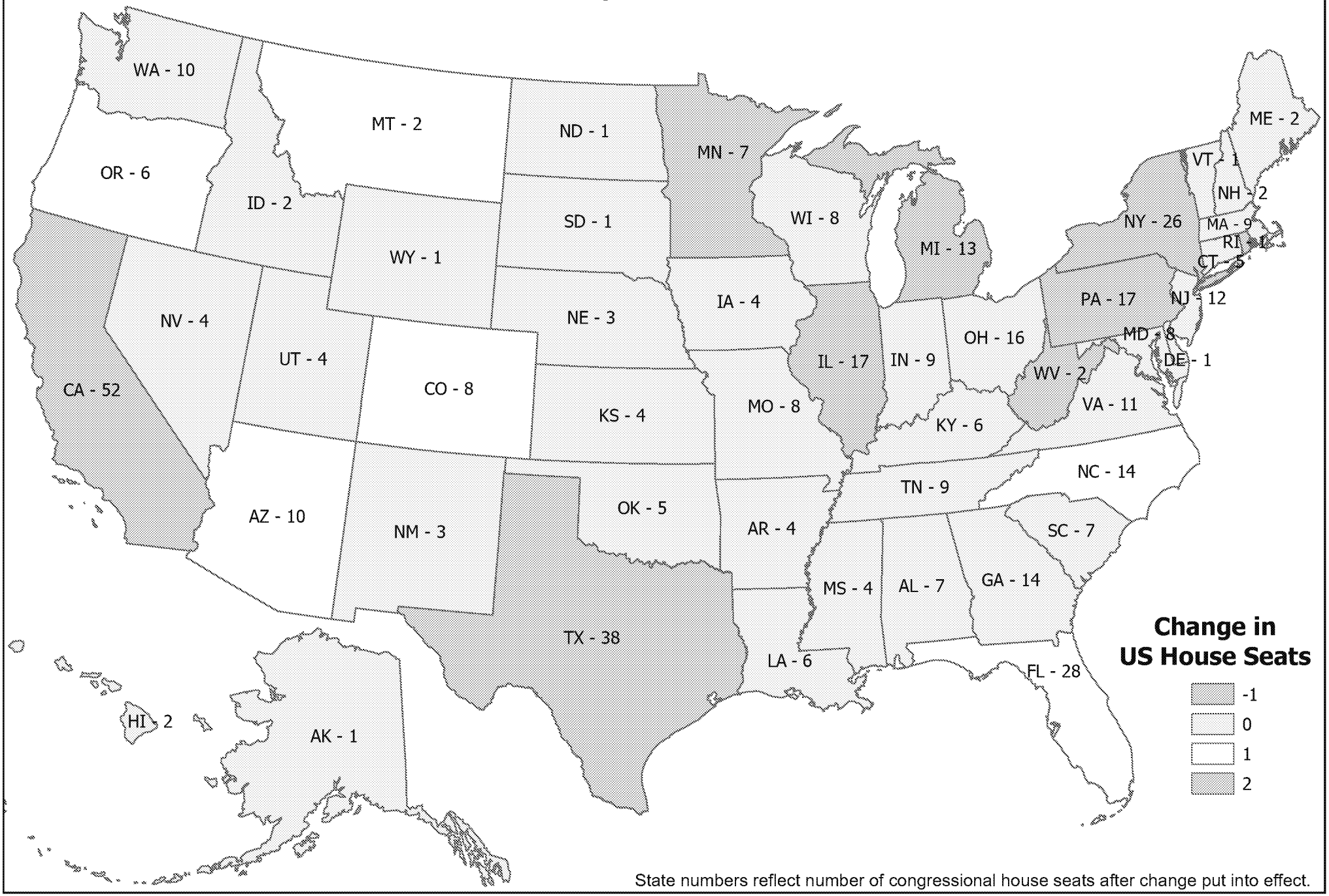
[i] National Conference of State Legislatures reports 26 states have appropriated funds for Census counting. http://www.ncsl.org/research/redistricting/2020-census-resources-and-legislation.aspx

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										

BC-DOC-0000029171

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

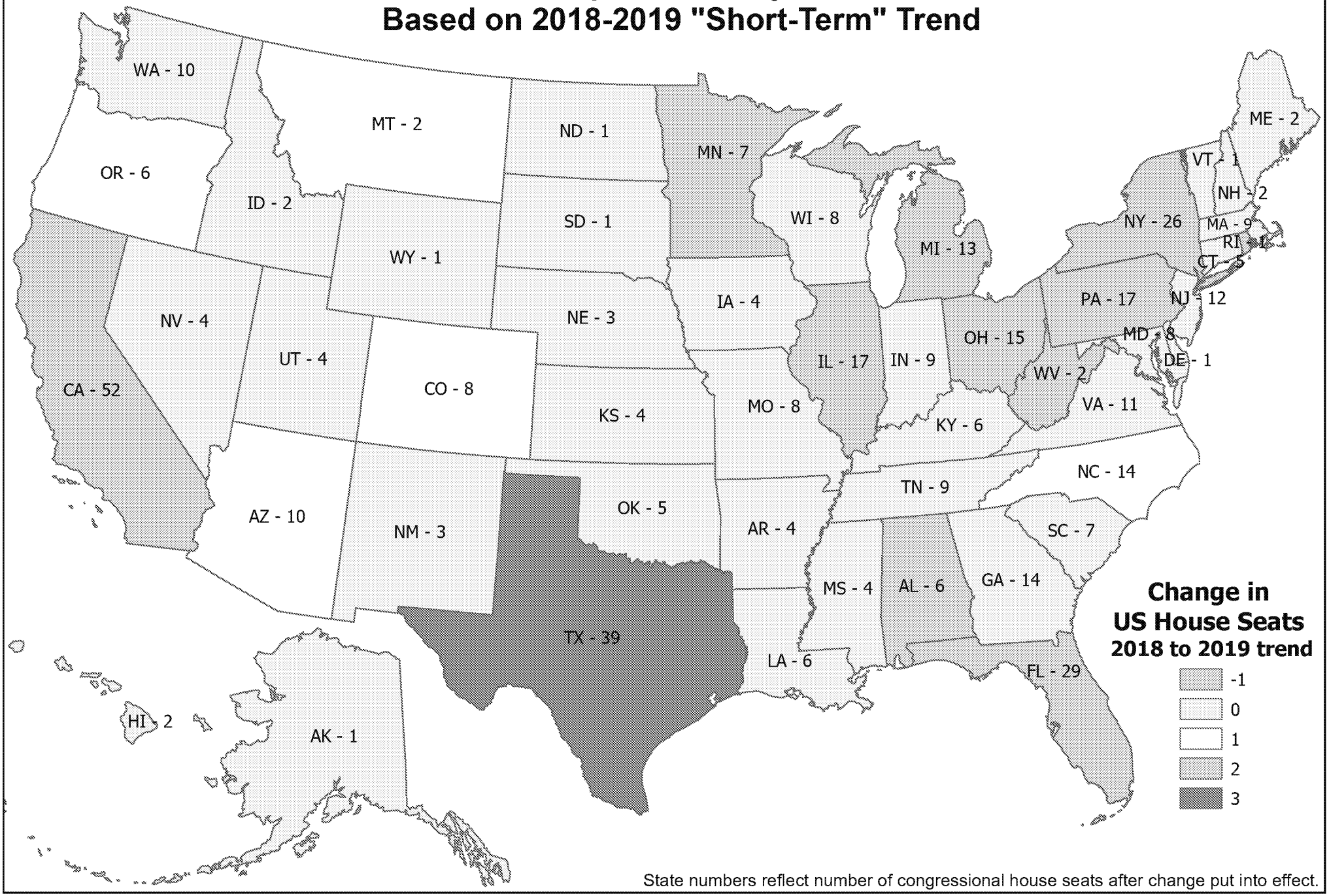
BC-DOC-0000029172

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

BC-DOC-0000029174

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										

BC-DOC-0000029176

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										

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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%

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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
Brad P. Rosenberg
Attorneys for Defendants

b(6)

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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-

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

Baker, Bryan. 2018. "Estimates of the Illegal Alien Population Residing in the United States: January 2015." Washington, DC: Office of Immigration Statistics, U.S. Department of Homeland Security. https://www.dhs.gov/immigration-statistics/population-estimates/unauthorized-resident

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.

BC-DOC-0000029201

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

BC-DOC-0000029204

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

BC-DOC-0000029206

(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.

BC-DOC-0000029207

(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-0000029211

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-0000029212

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-0000029213

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.

2009 The Moynihan Report Revisited: Lessons and Reflections after Four Decades. Thousand Oaks, CA: Sage Publications. Special issue of the *Annals of the American Academy of Political and Social Science*. (Co-edited with Robert J. Sampson and co-author of introductory chapter).

2008 New Faces in New Places: The Changing Geography of American Immigration. New York: Russell Sage Foundation.. (Edited with an introduction, conclusion, and contributed chapter).

BC-DOC-0000029214

2006 Chronicle of a Myth Foretold: The Washington Consensus in Latin America. Thousand Oaks, CA: Sage Publications. Special issue of the *Annals of the American Academy of Political and Social Science*. (Co-edited with and introduction by Jere R. Behrman and Magaly Sanchez R.)

2004 Crossing the Border: Research from the Mexican Migration Project. New York: Russell Sage Foundation. (Co-edited with Jorge Durand)

2004 International Migration: Prospects and Policies in a Global Market. Oxford: Oxford University Press. (Co-edited with J. Edward Taylor)

2001 Problem of the Century: Racial Stratification in the United States. New York: Russell Sage Foundation. (Co-edited with Elijah Anderson)

Scholarly Articles and Book Chapters (* indicates refereed publication):

2020 "The Ethnosurvey Revisited: New Migrations, New Methodologies?"' Central and Eastern European Migration Review, forthcoming.

2020 "Still the Linchpin: Segregation and Stratification in the United States." Race and Social Problems, forthcoming.

2020 "America's Unequal Metropolitan Geography: Segregation and the Spatial Concentration of Affluence and Poverty" Forthcoming in Frances Rosenbluth and Margaret Weir, eds., The New Politics of Insecurity. New York: Cambridge University Press.

2020 "What were the paradoxical consequences of militarizing the border with Mexico?." Chapter 2 in Edward E. Telles and Raul Hinojosa, eds., Equitable Globalization? Migration, Trade and Race in US-Mexico Relations. Berkeley: University of California Press, forthcoming.

2020 "Immigration Policy Mismatches and Counterproductive Outcomes: Unauthorized Migration to the U.S. in Two Eras." Comparative Migration Studies, forthcoming.

2020 "Creating the Exclusionist Society: From the War on Poverty to the War on Immigrants." Ethnic and Racial Studies 43(1):18-37

2019 "Debacles at the Border: Five Decades of Fact-Free Immigration Policy." Annals of the American Academy of Political and Social Science 684: 6-20. (with Jorge Durand)

2019 "Evolution of the Mexico-U.S. Migration System: Insights from the Mexican Migration Project." Annals of the American Academy of Political and Social Science 684:21-42. (with Jorge Durand)

2019* "Humans Adapt to Social Diversity Over Time." Proceedings of the National Academy of Sciences 116 (25) 12244-12249. (with Miguel R. Ramos, Matthew R. Bennett, and Miles Hewstone)

BC-DOC-0000029215

2018* "Undocumented and Unwell: Legal Status and Health among Mexican Migrants." International Migration Review 53(2):571–601. (with Amanda Cheong)

2018* "The Perils of Seeing 21st Century Migration through a 20th Century Lens." International Social Science Journal 68(227-228):101-104.

2018* "Scientific Communication in a Post-Truth Society." Proceedings of the National Academy of Sciences 116 (16) 7656-7661. (with Shanto Iyengar)

2018 "The Great Recession and the Destruction of Minority Wealth." Current History 117(802):298-304. (with Jacob S. Rugh)

2018 "Segregation in 21st Century America." Journal of Catholic Social Thought 15(2):2325-260.

2018* The Social Structure of Mortgage Discrimination: A Qualitative Analysis. Housing Studies 33:(5):759-776. (with Justin P. Steil, Len Albright, Jacob S. Rugh).

2018 "Finding the Lost Generation: Identifying Second Generation Immigrants in Federal Statistics." Annals of the American Academy of Political and Social Science 677:96-104.

2018 "The Intersection of Race and Class: Zoning, Affordable Housing, and Segregation in U.S. Metropolitan Areas." Pp. 245-265 in Gregory Squires, ed., The Fight for Fair Housing: Causes, Consequences and Future Implications of the 1968 Federal Fair Housing Act. New York: Taylor and Francis. (with Jacob Rugh)

2018* "Neighborhood Disadvantage and Telomere Length: Results from the Fragile Families Study." RSF: Russell Sage Foundation Journal of the Social Sciences 4(4):38-42. (with Brandon Wagner et al.)

2017* "Suburbanization and Segregation in the United States." Ethnic and Racial Studies 41(9):1594-1611. (with Jonathan Tannen). http://dx.doi.org/10.1080/01419870.2017.1312010

2017 "Migration and Categorical Inequality." Pp. 26-43 in Ernesto Castaneda, ed., Immigration and Categorical Inequality: Migration to Cities and the Birth of Race and Ethnicity. New York: Routledge.

2017 "Segregation, Stigma, and Stratification: A Biosocial Model." Pp. 147-162 in Brenda Major, John Dovidio, and Bruce Link, eds., The Oxford Handbook of Stigma, Discrimination, and Health.York: Oxford University Press. (with BrandonWagner).

2017 "The Origins and Future of Global Latinos." Pp. 1-16 in Mark Overmyer-Velázquez and Enrique Sepúlveda, eds., Global Latin(o) Americanos: Transoceanic Diasporas and Regional Migrations. New York: Oxford University Press.

BC-DOC-0000029216

2017* "Why Death Haunts Black Lives." Proceedings of the National Academy of Sciences 114(5): 800-802. www.pnas.org/cgi/doi/10.1073/pnas.1620083114

2016 "La Migración Mexicana en la era de los Indocumentados" Pp. 261-276 in Alanís Enciso, Fernando Saúl and Rafael Alarcón Acosta, (Eds.). El Ir y Venir de los Norteños. La Historia de la Migración Mexicana a Estados Unidos (S. XIX-S. XXI). Mexico: El Colegio de la Frontera Norte, El Colegio de San Luis A.C. y El Colegio de Michoacán..

2016 "Incidencia de la Violencia y las Redes Sociales en la Migración de Colombianos." Pp.89-114 in María Gertrudis Roa Martínex, ed., Migración Internacionales: Patrones y Determinantes. Bogotá: Universidad del Valle.

2016 "The Mexico-U.S. Border in the American Imagination." Proceedings of the American Philosophical Society 160(2):160-177.

Winner of the 2017 Henry Allen Moe Prize of the American Philosophical Society. For the best paper in humanities or jurisprudence read at a meeting of the Society.

2016* "Segregation by race and income in the United States 1970-2010." Social Science Research 60:445-60. (with Jake Intrator and Jonathan Tannen)

2016* "El Proyecto de Migración Mexicana (Mexican Migration Project, MMP), Monitoreo y análisis del proceso migratorio entre México y Estados Unidos." Coyuntura Demográfica 10:105-113. (with Jorge Durand, Karen Pren, Silvia Giorguli and David Lindstrom)

2016* "'Riding the Stagecoach to Hell:' A Qualitative Analysis of Racial Discrimination in Mortgage Lending." City and Community 15(2):118-136. (with Len Albright, Justin Steil, and Jacob S. Rugh)

2016 "Twenty-First Century Globalization and Illegal Migration." Annals of the American Academy of Political and Social Science 666:7-26. (with Katharine M. Donato)

2016 "Double Disadvantage: Unauthorized Mexicans in the U.S. Labor Market." Annals of the American Academy of Political and Social Science 666:78-90. (with Jorge Durand and Karen A. Pren)

2016 "The Precarious Position of Latino Immigrants in the United States: A Comparative Analysis of Ethnosurvey Data."Annals of the American Academy of Political and Social Science 666:91-109. (with Jorge Durand and Karen A. Pren)

2016* "Residential Segregation is the Linchpin of Racial Stratification." City and Community 15(1):4-7.

2016* "International Migration Under the Microscope." Science 352(6288) 897-899. (with Frans Willekens, James Raymer, and Cris Beauchemin)

2016* "Why Border Enforcement Backfired." American Journal of Sociology 121 (5): 1557–1600. (with Jorge Durand and Karen A. Pren)

BC-DOC-0000029217

2016 "Segregation, Race, and the Social Worlds of Rich and Poor."Pp. 13-33 in Henry Braun and Irwin Kirsch, eds., The Dynamics of Opportunity in America: Evidence and Perspectives. New York: Springer. (with Jonathan Tannen)

2016 "Segregation and the Perpetuation of Disadvantage." Pp. 369-393 in Linda Burton and David Brady, eds., The Oxford Handbook of the Social Science of Poverty. Oxford: Oxford University Press.

2016 "Confronting the Legacy of American Apartheid."Pp. 91-101 in Susan Wachter and Lei Ding , eds., Building Shared Prosperity in America's Communities. Philadelphia: University of Pennsylvania Press.

2016 "Globalización, Inmigración y Migración Ilegal: La construcción de un Problema Social Estadonidense." Pp. 159-174 in Antonio Trinidad Requena, and Mariano Sánchez Martínez, eds., eds., Marcos de Análisis de los Problemas Sociales: Una Mirada desde la Sociología . Madrid: Los Libros de la Catarata.

2015* "A Missing Element in Migration Theories." Migration Letters 12(3:263-274 .

2015 "Threat Evasion as a Motivation for Migration." World on the Move 22(1):1, 3-5).

2015 "Militarization of the Mexico-U.S. Border and its Effect on the Circularity of Migrants." Pp. 23-33 in Diego Acosta and Anja Wiesbrock, eds., Global Migration: Old Assumptions and New Dynamics, Volume 1. NewYork: Praeger.

2015* "Race, Space, and Cumulative Disadvantage: A Case Study of the Subprime Lending Collapse." Social Problems 62:186–218. (with Jacob Rugh and Len Albright)

Winner of the 2016 John Hope Franklin Award for exceptional scholarship in the field of Race, Racism and the Law, from the Law and Society Association.

Honorable mention for the 2016 Kimberlé Crenshaw Outstanding Article Award from the Society for the Study of Social Problems..

2015* "A Research Note on Trends in Black Hypersegregation." Demography 52:1025-1034. (with Jonathan Tannen)

2015* "Border Enforcement and Return Migration by Documented and Undocumented Mexicans." Journal of Ethnic and Migration Studies 41(7): 1015-1040, DOI: 10.1080/1369183X.2014.986079. (with Jorge Durand and Karen A. Pren)

2015* "The Legacy of the 1968 Fair Housing Act." Sociological Forum 30(S1):91-108

BC-DOC-0000029218

2015 "Threat Evasion as Motivation for Migration: New Results on the Effect of Violence in Latin America." Pp. 40-44 in Robert Stojanov, Zdenek □alud, Pavel Cudlín, Aleš Farda, Otmar Urban, and Miroslav Trnka, eds., Global Change and Resilience: From Impacts to Responses. Brno: Global Change Research Centre, Academy of Sciences of the Czech Republic. http://www.czechglobe.cz/wp-content/uploads/conference-proceedings.pdf

2015* "The Brave New World of Biosocial Science." Criminology 53(1):127-131.

2015 "Uninformed Policies and Reactionary Politics: A Cautionary Tale from the United States." Pp. 118-137 in Christian Dustmann, ed., Migration: Economic Change, Social Challenge. Oxford, UK: Oxford University Press.

2015* "Geographic Effects on Intergenerational Income Mobility." Economic Geography 91(1): 83-106. (with Jonathan Rothwell)

2014* "Violence, Networks, and International Migration from Colombia." International Migration 54(5):162-178. (with Carolina Silva)

2014* "Explaining Undocumented Migration to the U.S." International Migration Review 48(4):1028-1061. (with Jorge Durand and Karen A. Pren)

2014* "Intermarriage among New Immigrants to the United States." Ethnic and Racial Studies 38(5): 734-758. (with Pratikshya Bohra-Mishra)

2014* "Filling the Meso-Level Gap in Stratification Theory." Socio-Economic Review12(3): 610-614

2014* "Segregation in Post-Civil Rights America: Stalled Integration or End of the Segregated Century?" The DuBois Review: Social Science Research on Race 11(2):202-232. Published online 3/1/13 at DOI:10.10170S1742058X13000180 (with Jacob S. Rugh)

2014* "Beyond English Proficiency: Rethinking Immigrant Integration." Social Science Research 45:200-210. (with Ilana Redstone Akresh and Reanne Frank)

2014 "Migradollars and Development in Eight Latin American Nations." Pp.43-68 in Enrique Contreras Suárez, ed., Los Que Se Quedan: Una Imagen de la Mitración Internacional desde el Ámbito Local y del Hogar. México, DF: Universidad Nacional Autónomo de México. (With Jorge Durand and Karen Pren)

2014 "Migracion de talento y profesionales cualificados: El caso reciente de inmigrantes Venezolanos a EEUU." Pp. 31-56 in Rubén Darío Peralta, Cristina Lares Vollmer, Francisco Kerdel Vargas, eds., Diáspora de Talento, Migración, y Educación en Venezuela. Caracas: Fundación de Talento Venezolano en el Exterior. (with Sánchez).

2014 "Contrasting Patterns of Migration and Settlement." Pp.30-54 in Andreu Domingo i Valls, Albert Sabater Coll, Richard Ruiz Verdugo, eds., Demographic Analysis of Latin

BC-DOC-0000029219

American Immigrants in Spain: From Boom to Bust? London: Springer. (with Albert Sabater)

2014 "Moroccan Immigrants in Spain and the United States: A Comparative Analysis." Pp. 15-130 in Emigración, Identidad y Países Receptores. Sevilla, Spain: Tirant Humanidades. (with Monica Espinoza)

2014 "Why Migrate? Theorizing Undocumented Migration." Pp. 53-70 in Lois A. Lorentzen, ed., Hidden Lives and Human Rights in the United States: Understanding the Controversies and the Tragedies of Undocumented Immigration, Volume 1—History, Theories, and Legislation. New York: Praeger.

2014* "Undocumented Migration and the Wages of Mexican Immigrants in the United States." International Migration Review 48(2): 482–499. (with Kirsten Gentsch)

2014 "How Arizona Became Ground Zero in the War on Immigrants." Pp 40-62 in G. Carissa B. Hesdick and Gabriel J. Chin, eds., Strange Neighbors: The Role of States in Immigration Policy. New York: New York University Press.

2014 "The Racialization of Latinos in the United States." Pp. 21-40 in Michael Tonry and Sandra Bucerius, eds., The Oxford Handbook on Ethnicity, Crime, and Immigration. New York: Oxford University Press.

2013 "Inheritance of Poverty or Inheritance of Place? The Emerging Consensus on Neighborhoods and Stratification." Contemporary Sociology 42: 690-97.

2013* "Do Affordable Housing Projects Harm Suburban Communities? Crime, Property Values and Taxes in Mount Laurel, New Jersey" City and Community 12(2):89-112. (with Len Albright and Elizabeth Derickson)

2013* "Mediators of Stereotype Threat among Black College Students." Ethnic and Racial Studies 37(3):557-575. (with Jayanti Owens)

2013 "Immigration Enforcement as a Race-Making Institution." Pp. 357-81 in David Card and Steven Raphael, eds., Immigration, Poverty, and Socioeconomic Inequality. New York: Russell Sage Foundation.

2013 "Challenges to Surveying Immigrants." Pp. 270-293 in Roger Tourangeau, Brad Edwards, Timothy P. Johnson, Kirk M. Wolter, and Nancy Bates, eds., Interviewing Hard-to-Survey Populations. Cambridge: Cambridge University Press.

2013* "Building a Comprehensive Model of International Migration." Eastern Journal of European Studies 3(2):9-35

BC-DOC-0000029220

2013 "America's Immigration Policy Fiasco: Learning from Past Mistakes." Daedalus 142(3):5-15.

2013 "Immigration and Language Diversity in the United States." Daedalus 142(3)141-154. (with Rubén Rumbaut)

2013* "La Guerra de los Estados Unidos Contra la Inmigración: Efectos Paradójicos." Documents d'Anàlisi Geogràfica 59(2):209-237. (with Karen A.)

2013 "New Challenges to Social Measurement." Annals of the American Academy of Political and Social Science 645: 6-22. (with Roger Tourangeau)

2013 "Where Do We Go from Here? Nonresponse and Social Measurement." Annals of the American Academy of Political and Social Science 645: 222-236. (with Roger Tourangeau.

2012* "Fitting In: Segregation, Social Class and Life on Campus for Black College Students." Race and Social Problems 4:171-192 (with Kimberly Torres) PMC3614416

2012* "Reflections on the Dimensions of Segregation." Social Forces 91(1): 39-43.

2012 "Hispanics in 21st Century America: A Review Essay." Contemporary Sociology: A Journal of Reviews 2012 41: 602-605.

2012* "Neighborhood Disorder and Anxiety Symptoms: New Evidence from a Quasi-Experimental Study." Health and Place 18(2):180-190. (with Rebecca Casciano)

2012* "Origins of the New Latino Underclass." Race and Social Problems 4(1):5-17. (with Karen A. Pren)

2012 "Neighborhood Disorder and Individual Economic Self-sufficiency: New Evidence from a Quasi-Experimental Study." Social Science Research 41(4):801-819 (with Rebecca Casciano)

2012 "Location Matters." Review Essay on Robert J. Sampson's *Great American City*. Science 336 (April 6):35-36.

2012* "Pathways to El Norte: Origins, Destinations, and Characteristics of Mexican Migrants to the United States." International Migration Review 46(1):3–36. (with Fernando Riosmena)

2012* "Unintended Consequences of US Immigration Policy: Explaining the Post-1965 Surge from Latin America." Population and Development Review 38:1-29. (with Karen A. Pren)

BC-DOC-0000029221

Reprinted in Carol Swain, ed., *Debating Immigration, Second Edition* (Cambridge University Press, 2018).

2012* "School Context and Educational Outcomes: Results from a Quasi-Experimental Study." Urban Affairs Review 48:180-204. (with Rebecca Casciano)

2012 "Migradollars in Latin America: A Comparative Analysis." Pp. 243-64 in Alfredo Cuecuecha and Carla Pederzini, eds., Migration and Remittances: Trends, Impacts, and New Challenges. Lanham, MD: Rowman and Littlefield. (with J. Durand and K.A.)

2011* "The New Immigrant Survey and Research on American Stratification." Social Science Research 40(5): 1287-91.

2011* "The Effect of Immigration on Religious Belief and Practice: A Theologizing or Alienating Experience?" Social Science Research 40(5):1371-89. (with Monica Espinoza Higgins) PMC3629734

Reprinted in James Beckford, ed., *Migration and Religion*. Cheltenham, UK: Edward Elgar Publishing.

2011* "Labor Market Outcomes for Legal Mexican Immigrants under the New Regime of Immigration Enforcement." Social Science Quarterly 92(3):875-93. (with Kerstin Gentsch)

2011* "Emigration from Two Labor Frontier Nations: A Comparison of Moroccans in Spain and Mexicans in United States." Papers: Revista de Sociología 96(3):781-803. (with Phillip Connor and Jorge Durand)

2011 "The Past and Future of American Civil Rights." Daedalus 140(2): 37-54.

2011 "Environmental Degradation and Out-Migration: New Evidence from Nepal." Pp. 74-101 in Etienne Piguet, Antoine Pécoud, and and Paul de Guchteneire, eds., Migration and Climate Change. Cambridge: Cambridge University Press. (with Pratikshya Bohra-Mishra)

2011* "Healthier Before They Migrate, Less Healthy When They Return? The Health of Returned Migrants in Mexico." Social Science and Medicine 73: 421-428. (with Heidi Norbis Ullmann and Noreen Goldman)

2011* "Stereotype Threat and College Academic Performance: A Latent Variables Approach." Social Science Research 40(1):150-166. (with Jayanti Owens)

2011* "Social Capital and International Migration from Latin America.." International Journal of Population Research Volume 2011, Article ID 834145, 18 pages. http://www.hindawi.com/journals/ijpr/2011/834145/ (with María Aysa-Lastra)

BC-DOC-0000029222

2011* "Individual Decisions to Migrate During Civil Conflict." Demography 48(2):401-424. with Pratikshya Bohra-Mishra.

2011* La Inserción en el Mercado de Trabajo de los Inmigrantes Latinos en España y en los Estados Unidos: Diferencias por País de Origen y Estatus Legal. Revista Internacional de Sociología 79(M1):189-217. (with Philip Connor)

2011* "New Migration Streams between Mexico and Canada." Migraciones Internacionales 6(1);119-144. (with Amelia E. Brown)

2011 "Epilogue: The Past and Future of Mexico-U.S. Migration." Pp. 241-265 in Beyond la Frontera: The History of Mexico-U.S. Migration, edited by Mark Overmyer-Velázquez. New York: Oxford University Press.

Spanish Edition: "Epílogo: El Pasado y el Futuro de la Migración Mexicana-Estadonidense." En Construyendo el Gran México: La Emigración a Estado Unidos. Mexico City: Editorial Fondo de Cultura Económica & Colegio de la Frontera Norte, 2017.

2011* La inserción en el Mercado Laboral de los Inmigrantes Latinos en España y en los Estados Unidos: Diferencias por País de Origen y Estatus Legal. Revista Internacional de Sociología, Monográfico nº 1, 189-217. (with Phillip Connor)

2010* "Environmental Change and Out-Migration: Evidence from Nepal." Population and Environment 32(2-3):109-136.. (with William G. Axinn and Dirgha J. Ghimire)

2010* "What Happened to the Wages of Mexican Immigrants? Trends and Interpretations." Latino Studies 8:328-54. (with Julia Gelatt)

2010* "Economic Outcomes Among Latino Migrants to Spain and the United States: Differences by Source Region and Legal Status." International Migration Review, 44:802-29. (with Phillip Connor)

2010* "Density Zoning and Class Segregation in U.S. Metropolitan Areas." Social Science Quarterly 91(5):1123-43. (with Jonathan Rothwell) PMC3632084

2010* "Racial Segregation and the American Foreclosure Crisis." American Sociological Review 75(5):629-51. (with Jacob S. Rugh)

2010 "Miracles on the Border: The Votive Art of Mexican Migrants to the United States." Pp. 214-228 in Paul DiMaggio and Patricia Fernandez Kelly, eds., Art in the Lives of Immigrant Communities in the United States. New Brunswick, NJ: Rutgers University Press.

BC-DOC-0000029223

2010 "Immigration Statistics for the 21st Century." Annals of the American Academy of Political and Social Science 631:124-40..

2010* "Divergent Streams: Race-Gender Achievement Gaps at Selective colleges and Universities." The DuBois Review: Social Science Research on Race 7(1): 219-246. (with LiErin Probasco) PMC3640568

2010 "Migration in the Americas: Mexico and Latin America in Comparative Context" Annals of the American Academy of Political and Social Science 630(1):6-17. (with Katharine M. Donato, Jonathan Hiskey, and Jorge Durand)

2010 "New World Orders: Continuities and Changes in Latin American Migration" Annals of the American Academy of Political and Social Science 630(1):20-52. (with Jorge Durand)

2010 "Undocumented Migration from Latin America in an Era of Rising U.S. Enforcement." Annals of the American Academy of Political and Social Science 630(1):137-161. (with Fernando Riosmena)

2010 "In Search of Peace: Structural Adjustment, Violence, and International Migration." Annals of the American Academy of Political and Social Science 630(1): 294-321. (with Steven E. Alvarado)

2010* "Community Services and Out-Migration." International Migration 48:1-41. (with William G. Axinn, Nathalie Williams, and Dirgha J. Ghimire).

2010* "The Geography of Undocumented Mexican Migration." Mexican Studies/Estudios Mexicanos 26:120-52. (with Jacob Rugh and Karen A.)

2009 Muros o Puentes? Visiones Alternativas de la Integración Regional en Norteamérica y Europa." Revista de Ciencias y Humanidades de la Fundación Ramón Areces 10(1):75-89. (Madrid, Spain)

2009* "Nuevos Escenarios de la Migración México-Estados Unidos: Las Consecuencias de la Guerra Antiinmigrante." Papeles de Población 61:101-28. (with Jorge Durand and Karen A.)

2009 "The Political Economy of Migration in an Era of Globalization." Pp. 25-43 in Samuel Martinez, ed., International Migration and Human Rights: The Global Repercussions of US Policy. Berkeley: University of California Press.

2009 "Changing Bases of Segregation in the United States." Annals of the American Academy of Political and Social Science 626:74-90. (with Thurston Domina and Jonathan Rothwell)

BC-DOC-0000029224

2009 "Restrictive Immigration Policies and Latino Immigrant Identity in the United States." UNDP Human Development Research Papers 43. New York: United Nations Development Program. (with Magaly Sanchez)

2009* "Processes of Internal and International Migration from Chitwan, Nepal" International Migration Review 43:621-51. (with Pratikshya Bohra)

2009* "Racial Formation in Theory and Practice: The Case of Mexicans in the United States." Race and Social Problems 1:12-26.

2009* "The Effect of Density Zoning on Racial Segregation in U.S. Urban Areas." Urban Affairs Review 44:799-806. (with Jonathan Rothwell)

2009 "Moynihan Redux: Legacies and Lessons." Annals of the American Academy of Political and Social Science 621:6-27. (with Robert J. Sampson).

2009* "Globalization and Inequality: Explaining American Exceptionalism." European Sociological Review 25:9-24.

2008 "Immigration and Democratization in Latin America: Crossing the Mexico-U.S. Border." Pp. 259-280 in Jose V. Ciprut, ed., Democratizations: Comparisons, Confrontations, Contrasts. Cambridge: The MIT Press. (with S. Mara Pérez)

2008* "La Racialización de Mexicanos en Los Estados Unidos: Estratificación Social en la Teoría y la Práctica." Migración y Desarrollo 10:65-95.

2008* "From Illegal to Legal: Estimating Previous Illegal Experience among New Legal Immigrants to the United States." International Migration Review 42:803-843. (With G. Jasso, M. Rosenzweig, and J. Smith).

2008* "Structural Economic Change and International Migration from Mexico and Poland" Kölner Zeitschrift für Soziologie und Sozialpsychologie 60:134-62. (with Frank Kalter and Karen Pren)

2008* "Neighborhood Effects on Economic Self-Sufficiency: A Reconsideration of the Moving to Opportunity Experiment." American Journal of Sociology 114:107-43. (with Susan Clampet-Lundquist)

2008 "Origins of Economic Disparities: Historical Role of Housing Segregation" in Segregation: The Rising Costs for America." Pp. 37-78 in James H. Carr, Nandinee K. Kutty, and Shanna Smith, eds., Segregation: The Rising Costs for America. New York: Routledge.

2008 "Migración, Cooperación, y Desarrollo en Norte América: Lecciones desde Europa." Pp. 423-46 in Alfonso Guerra and José Félex Tezanos, eds., La Inmigración y Sus Causas. Madrid: Editorial Sistema.

BC-DOC-0000029225

2008* "Neighborhoods, Employment, and Welfare Use: Assessing the Influence of Socioeconomic Composition." Social Science Research 37:544-58. (with Rebecca Casciano)

2008 "Immigration and Equal Opportunity." Pp. 112-45 in Elijah Anderson, ed., Against the Wall: Poor, Young, Black, and Male. Philadelphia: University of Pennsylvania Press.

2008* "How Neighborhood Disadvantage Reduces Birth Weight: The Mediating Effects of Neighborhood Danger and Negative Coping Behaviors." International Journal of Conflict and Violence 2(1). Online journal: http://www.ijcv.org/. (with Emily Moiduddin)

2008 "The Legacy of Robin Williams in the Short 21st Century." Sociological Forum 23:328-332.

2008 "People and Places: The New American Mosaic." Pp. 1-22 in Douglas S. Massey, ed., New Faces in New Places: The Changing Geography of American Immigration. New York: Russell Sage. (with Charles Hirschman)

2008 "The Geographic Diversification of U.S. Immigration." Pp. 25-50 in Douglas S. Massey, ed., New Faces in New Places: The Changing Geography of American Immigration. New York: Russell Sage. (with Chiara Capoferro)

2008 "Assimilation in a New Geography." Pp. 343-54 in Douglas S. Massey, ed., New Faces in New Places: The Changing Geography of American Immigration. New York: Russell Sage.

2008* "Gender-Specific Effects of Ecological Segregation on College Achievement." Social Science Research 37: 220–38. (with Nicholas Ehrmann)

2007 "Las Peculiaridades de un Modelo: La Migración México-Estados Unidos." Pp. 109-26 in Víctor Zúñiga, ed., Identidad y Diversidad. Monterrey: Fondo Editorial de Nuevo León. (with Jorge Durand)

2007 "Capital Social y Migracion Internacional de America Latina." Pp. 469-518 in Paula Leite, Susana Zamora, and Luis Acevedo, eds. Migracion Internacional y Desarrollo en America Latina y el Caribe. México, DF: Consejo Nacional de Poblacion (with María Aysa).

2007 "Understanding America's Immigration Crisis." Proceedings of the American Philosophical Society 151(3):309-27.

2007* "Toward a Comprehensive Model of International Migration." Pp. 126-148 in Migration and Development: International Migration of Population–Russia and Contemporary World. Moscow: MAX Press.

BC-DOC-0000029226

2007* "The Effects of Affirmative Action in Higher Education." Social Science Research 36: 531-49. (with Mary J. Fischer)

2007 "Borderline Madness: America's Counterproductive Immigration Policy." Pp. 129-38 in Carol M. Swain, ed., Debating Immigration. New York: Cambridge University Press.

2007* "Latino and American Identities as Perceived by Immigrants." Qualitative Sociology 30:81-108. (with Magaly Sanchez R.)

Spanish language version. 2008. "La Percepción de la Identidad Latina y Americana por Parte de los Inmigrantes Latinos en Estados Unidos." Pp. 391-422 in Marina Ariza and Alejandro Portes, eds., El País Transnacional: Migración Mexicana y Cambio Social a Través de la Frontera. Mexico City: Universidad Nacional Autónomo de México, Instituto de Investigaciones Sociales.

2007* "Black Immigrants and Black Natives Attending Selective Colleges and Universities in the United States." American Journal of Education 113:243-71. (with Margarita Mooney, Camille Charles, and Kimberly Torres)

2007* "The Effects of America's Three Affirmative Action Programs on Academic Performance." Social Problems 54:99-117. (with Margarita Mooney)

2007 "Borders for Whom? The Role of NAFTA in Mexico-U.S. Migration." Annals of the American Academy of Political and Social Science 610:98-119. (with Patricia Fernández Kelly)

2006* "Capital Social, Política Social y Migración Desde Comunidades Tracionales y Nuevas Comunidades de Orgien en México." (Social Capital, Social Policy, and Migration from Traditional and New Sending Communities in Mexico.) Revista Española de Estudios Sociológicos 116:97-122. (with Jorge Durand and Fernando Riosmena)

2006* "Doing Social Science in Anti-Scientific Times." American Sociologist 37:87-95. Special Issued edited by Bruce Keith on Perspectives on Sociological Knowledge.

2006* "Linguistic Life Expectancies: Immigrant Language Retention in Southern California." Population and Development Review 32:447-60. (with Ruben Rumbaut and Frank D. Bean)

2006 "Sálvese Quien Pueda: Structural Adjustment and Emigration from Lima." Pp. 116-27 in Douglas S. Massey, Magaly Sánchez R., and Jere R. Behrman, eds., Chronicle of a Myth Foretold: The Washington Consensus in Latin America, *Annals of the American Academy of Political and Social Science* 606:116-27. (with Chiara Capoferro)

2006 "Assessing Racial Discrimination: Methods and Measures." Pp. 61-80 in John Goering, ed., Fairness in the Housing Market. Lanham, MD: Rowman and Littlefield. (with Rebecca M. Blank)

BC-DOC-0000029227

2006* "International Migration and Gender in Latin America: A Comparative Analysis." International Migration 44:1-29. (with Mary Fischer and Chiara Capoferro)

2006 "Patterns and Processes of International Migration in the 21st Century: Lessons for South Africa." Pp. 38-70 in Marta Tienda, Sally Findley, Steve Tollman, and Eleanor Preston-Whyte, eds, African Migration and Urbanization in Comparative Perspective. Johannesburg: Witts University Press.

2006* "Immigrant Intentions and Mobility in a Global Economy: The Attitudes and Behavior of Recently Arrived U.S. Immigrants." Social Science Quarterly 87:30-47. (with Ilana Redstone Akresh)

2006* "Social Background and Academic Performance Differentials: White and Minority Students at Selective Colleges." American Law and Economics Review 8(2):1-20.

2006 "Why Housing Segregation Still Matters." Journal of Catholic Social Thought 3:97-114.

2006* "The Effect of Childhood Segregation on Minority Academic Performance at Selective Colleges." Ethnic and Racial Studies 29:1-26. (with Mary J. Fischer)

2005 "The Continuing Reality of Racial Segregation." The Next American City 9:1-5.

2005* "Labor Market Segmentation and the Earnings of German Guestworkers." Population Research and Policy Review 24:489-512. (with Amelie Constant)

2005 "Immigration, Health, and New York City: Early Results Based on the U.S. New Immigrant Cohort of 2003. Federal Reserve Bank of New York Economic Policy Review 11(2):127-52. (with Guillermina Jasso, Mark R. Rosenzweig, and James P. Smith)

2005* "The Changing Legal Status Distribution of Immigrants: A Caution." International Migration Review 34:469-84. (with Katherine Bartley)

2005* "Stereotype Threat and Academic Performance: New Data from the National Longitudinal Survey of Freshmen." The DuBois Review: Social Science Research on Race 2:45-68.. (with Mary J. Fischer).

2005 "Race, Class, and Markets: Social Policy in the 21st Century." Pp. 117-32 in David B. Grusky and Ravi Kanbur, eds., Conceptual Challenges in Understanding Poverty and Inequality. Stanford: Stanford University Press.

2005* "Household Composition, Family Migration, and Community Context. Migrant Remittances in Four Countries." Social Science Quarterly 86:509–28 (with Mariano Sana)

BC-DOC-0000029228

2005* "Racial Discrimination in Housing: A Moving Target." Social Problems 52:148-51.

2005 "Social and Economic Aspects of Immigration." Pp. 206-212 Stephen G. Kaler and Owen M. Rennert, eds., in Understanding and Optimizing Human Development: From Cells to Patients to Populations, Annals of the New York Academy of Sciences, Volume 1038. New York: New York Academy of Sciences.

2005 "The New Geography of Mexican Immigration." Pp. 1-20 in Rubén Hernández León and Victor Zúñiga, eds New Destinations of Mexican Migration in the United States: Community Formation, Local Responses and Inter-Group Relations. New York: Russell Sage Foundation. (with Jorge Durand and Chiara Capoferro)

2005* "Politics or Economics? International Migration During the Nicaraguan Contra War.." Journal of Latin American Studies 37:29-53. (with Jennifer H. Lundquist)

2004* "The Continuing Consequences of Segregation." Social Science Quarterly 85:1353-74. (with Camille Charles and Gniesha Dinwiddie)

2004* "Measuring Undocumented Migration." International Migration Review 38:1075-1102. (with Chiara Capoferro)

Reprinted in Joshua DeWind and Alejandro Portes, eds. 2007. Rethinking Migration: New Theoretical and Empirical Perspectives. New York: Berghahn Press
Spanish Translation. "La Medida de Migración Indocumentada." In Alejandro Portes, ed., Repensando las Migraciones. México, D.F.: Editorial Porrúa, 2006.

2004* "Coming to Stay: An Analysis of the Census Question on Year of Arrival." Demography 41:721-38. (With Ilana Redstone)

2004 ""The New Geography of Inequality in Urban America." Pp. 173-87 in C. Michael Henry, ed., Race, Poverty and Domestic Policy. New Haven: Yale University Press.

2004* "The Ecology of Racial Discrimination." City and Community 3:221-43. (with Mary J. Fischer)

2004* "Patterns of U.S. Migration from Mexico, the Caribbean, and Central America." Migraciones Internacionales 2(2):1-39. (with Mariano Sana)

2004* "Segregation and Stratification: A Biosocial Perspective." The DuBois Review: Social Science Research on Race 1:1-19.

Reprinted in Kevin M. Beaver and Anthony Walsh, eds., Library of Essays in Theoretical Criminology: Biosocial Theories of Crime. Famham, UK: Ashgate, 2010.

BC-DOC-0000029229

2004* "The Limits to Cumulative Causation: International Migration from Mexican Urban Areas." Demography 41:151-71. (with Elizabeth Fussell)

2004* "Social Capital and the Wages of Mexican Migrants: New Hypotheses and Tests." Social Forces 82:671-702. (with Michael B. Aguilera)

2004 "Immigrant Health - Selectivity and Acculturation." In Norman B. Anderson, Randy A. Bulatao, and Barney Cohen (eds.), Critical Perspectives on Racial and Ethnic Differences in Health in Late Life. Washington, DC: National Academy Press. (with Guillermina Jasso, Mark R. Rosenzweig, and James P. Smith).

2004 "Trends in Mexican Migration to the United States, 1965-1995." Pp. 17-44 in Jorge Durand and Douglas S. Massey, eds., Crossing the Border: Research from the Mexican Migration Project. New York: Russell Sage. (with Marcela Cerrutti)

2004 "Wives Left Behind: The Labor Market Behavior of Women in Migrant Communities." Pp. 131-46 in Jorge Durand and Douglas S. Massey, eds., Crossing the Border: Research from the Mexican Migration Project. New York: Russell Sage. (with María Aysa)

2004 "Social Capital and Emigration from Rural and Urban Communities." Pp. 184-200 in Jorge Durand and Douglas S. Massey, eds., Crossing the Border: Research from the Mexican Migration Project. New York: Russell Sage. (with Nadia Flores and Rubén Hernández León)

2003 "Exploring the Religious Preference of Recent Immigrants to the United States: Evidence from the New Immigrant Survey Pilot." Pp. 217-253 in Yvonne Haddad, ed. et al., eds., Religion and Immigration: Christian, Jewish, and Muslim Experiences in the United States. Walnut Creek, CA: AltaMira Press. (with Guillermina Jasso, Mark R. Rosenzweig, and James P. Smith).

2003* "Self-Selection, Earnings, and Out-Migration: A Longitudinal Study of Immigrants to Germany." Journal of Population Economics 16: 630-533 (with Amelie Constant)

Reprinted in Klaus F. Zimmermann and Amelie Constant, eds., How Labor Migrants Fare. Berlin: Springer-Verlag, 2004, pp. 73-96.

2003 "The Geography of Inequality in the United States 1950-2000." Pp. 1-40 in William G. Gale and Janet Rothenberg Pack, eds., Brookings-Wharton Papers on Urban Affairs 2003. Washington, D.C.: Brookings Institution. (with Mary Fischer)

2003* "The Costs of Contradiction: U.S. Immigration Policy 1986-1996." Latino Studies 1:233-52. (with Jorge Durand)

BC-DOC-0000029230

2003 "A Synthetic Theory of International Migration." Pp. 142-52 in World in the Mirror of International Migration: International Migration of Population—Russia and Contemporary World. Moscow: MAX Press.

2003* "Pathways to Legalization." Population Research and Policy Review 21:473-504. (with Nolan J. Malone)

2003 "The U.S. in the World Community: The Limits of National Sovereignty." Pp. 143-54 in Jonathan Rieder and Stephen Steinlight, eds., The Fractious Nation? Unity and Division in American Life. Berkeley: University of California Press.

2002* "Return Migration by German Guestworkers: Neoclassical versus New Economic Theories." International Migration 40(4):5-38. (with Amelie Constant)
Winner, Senior Prize, Vereinigung der Freunde des Deutschen Institut für Wirtschaftsforschung (Association of Friends of the German Institute for Social Research–Berlin)

2002* "A Brief History of Human Society: The Origin and Role of Emotions in Social Life." American Sociological Review 67:1-29 (2001 Presidential Address to the American Sociological Association).

Reprinted in in Carolyn Neel, ed., *World History Encyclopedia: An Introduction to World History*. Santa Barbara, CA: ABC-CLIO, pp. 77-110.

2002 "La Ricerca sulle Migrazioni nel XXI Secolo." Pp. 5-24 in Colombo di Asher and Giuseppe Sciortino, eds., Stranieri in Italia: Assimilati ed Esclusi. Bologna: Instituto Cattaneo.

2002* "The Culture of Mexican Migration: A Theoretical and Empirical Analysis." Social Forces 80:981-1004. (with William Kandel)

Reprinted in Robin Cohen and Gunvor Jonsson, eds., Migration and Culture. London: Edward Elgar, 2011.

BC-DOC-0000029231

2001* "Segregation of Asians in U.S. Metropolitan Areas: 1980-1990." EurAmerica 31:1-30. (With Mary J. Fischer)

2001* "On the Auspices of Female Migration between Mexico and the United States." Demography 38:187-200. (with Marcela Cerrutti)

2001 "Segregation and Violent Crime in Urban America." Pp. 317-346 in Elijah Anderson and Douglas S. Massey, eds., *Problem of the Century: Racial Stratification in the United States*. New York: Russell Sage Foundation.

2001* "Social Capital and International Migration: A Test Using Information on Family Networks." American Journal of Sociology 106:1262-99. (with Miguel Ceballos, Kristin Espinosa, Alberto Palloni, and Mike Spittel)

Reprinted in Lawrence W. Wu, ed., Event History Analysis. Thousand Oaks, CA: Sage Publications.

2001* "Use of Black English and Racial Discrimination in Urban Housing Markets: New Methods and Findings." Urban Affairs Review 36:470-96. (with Garvey Lundy)

2001 "Migrantes agradecidos." Artes de México 53:74-80.. (with Jorge Durand)

2001* "Mexican Immigration to the United States: Continuities and Changes." Latin American Research Review 36:107-27. (with Jorge Durand and René Zenteno)

2001 "The Prodigal Paradigm Returns: Ecology Comes Back to Sociology." Pp. 41-48 in Alan Booth and Ann C. Crouter, eds., Does it Take a Village? Community Effects on Children, Adolescents, and Families. Mahwah, N.J.: Lawrence Erlbaum Associates.

2000 "Residential Segregation and Neighborhood Conditions in U.S. Metropolitan Areas." Pp. 389-482 in Neil Smelser, William Julius Wilson, and Faith Mitchell, eds., America Becoming: Racial Trends and Their Consequences.Washington, D.C.: National Academy Press.

Reprinted in Elizabeth Higginbotham and Margaret L. Andersen, eds., Race and Ethnicity in Society: The Changing Landscape. Belmont, CA: Thomson Wadsorth.

2000* "Seeking Social Security: An Alternative Motivation for Mexico-U.S. Migration." International Migration 38: 3-24.(with Mariano Sana)

2000* "Residential Segregation and Ethnic Enterprise in U.S. Metropolitan Areas." Social Problems 47:407-24. (with Mary J. Fischer)

BC-DOC-0000029232

2000 "Higher Education and Social Mobility in the United States, 1940-1998" Pp. 45-55 in Ann Leigh Speicher, Editor, America's Research Universities: Quality, Innovation, Partnership. Washington, D.C.: Association of American Universities.

2000 "The Ecology of Violence in Urban America." Urbana 4(26):37-46. (Journal published by the Instituto de Urbanismo, Facultad de Arquitectura y Urbanismo, Universidad Central de Venezuela).

2000* "How Segregation Concentrates Poverty." Ethnic and Racial Studies 23:670-91. (with Mary J. Fischer)

2000 "International Migration." Pp. 156-87 in John Bongaarts and Rodolfo A. Bulatao, Eds., Beyond Six Billion: Forecasting the Worlds Population. Washington, D.C.: National Academy Press. (with Sharon Russell and Michael Teitelbaum)

2000* "A Validation of the Ethnosurvey: The Case of Mexico-U.S. Migration." International Migration Review 34:765-92. (with René Zenteno)

2000 "Family, Schooling, Religiosity, and Mobility among New Legal Immigrants to the United States: Evidence from the New Immigrant Pilot Survey." (with G. Jasso, M. Rosenzweig, and J. Smith). Pp. 52-81 in Lydio F. Tomasi and Mary G. Powers, eds., Immigration Today: Pastoral and Research Challenges. New York: Center for Migration Studies.

2000* "Assortative Mating among married New Legal Immigrants from the United States: Evidence from the New Immigrant Pilot Survey." International Migration Review 34:443-59. (with Guillermina Jasso, Mark Rosenzweig and James P. Smith)

2000 "The Residential Segregation of Blacks, Hispanics, and Asians: 1970 to 1990." Pp 44-73 in Gerald D. Jaynes, ed., Immigration and Race: New Challenges for American Democracy. New Haven: Yale University Press.

2000* "The Changing Geography of Mexican Immigration to the United States: 1910-1996" Social Science Quarterly 81:1-15. (with Jorge Durand and Fernando Charvet)

2000* "The New Immigrant Survey Pilot Study: Overview and New Findings About U.S. Legal Immigrants at Admission." Demography 37:127-38 (with Guillermina Jasso, Mark Rosenzweig, and James P. Smith)

2000* "Engines of Immigration: Stocks of Human and Social Capital in Mexico." Social Science Quarterly 81:33-48. (with Julie Phillips)

1999* "Does Rising Income Bring Integration? New Results for Blacks, Hispanics, and Asians in 1990." Social Science Research 28:316-26. (with Mary J. Fischer)

1999* "International Migration at the Dawn of the Twenty-First Century: The Role of the State."

BC-DOC-0000029233

Population and Development Review 25:303-23.

1999 "American Apartheid." Perspectives, Primus Online Publishing, McGraw-Hill. Web address: www.mhhe.com/primis/online.

1999 "Why Does Immigration Occur? A Theoretical Synthesis." Pp. 34-52 in Charles Hirschman, Josh DeWind, and Philip Kasnitz, eds., Handbook of International Migration: the American Experience. New York: Russell Sage.

1999* "The New Era of Mexican Migration to the United States." Journal of American History 86:518-36. (with Jorge Durand and Emilio Parrado).

1999 "Miracles on the Border: Retablos of Mexican Migrants to the United States." Pp. 203-28 in Edna Acosta and Liliana Golden, ed., Identities on the Move: Transnational Processes in North American and the Caribbean Basin. Austin: University of Texas Press. (with Jorge Durand)

1999* "The New Labor Market: Immigrants and Wages After IRCA." Demography 36:233-46. (with Julie Phillips)

1999* "The Dynamics of Mass Migration." Proceedings of the National Academy of Sciences 96(8):5328-335. (with René Zenteno)

1999 "When Surveys Fail: An Alternative Approach to Studying Illegal Migration." Pp. 145-60 in Arthur A. Stone et al., eds., The Science of the Self-Report: Implications for Research and Practice. New York: Erlbaum Press.

1999* Especifidad versus Representatividad: Enfoques Metodológicos para el Estudio de la Migración Internacional." Estudios Demográficos y Urbanos 40:75-116. (with René Zenteno)

1998 "Dinámica Migratoria entre México y Estados Unidos." Pp. 49-68 in René Zenteno, editor, Población, Desarrolo, y Globalización: V Reunión de Investigación Sociodemográfica en México, Volumen 2. México, D.F.: Sociedad Mexicana de Demografía y El Colegio de la Frontera Norte. (with Jorge Durand and Kristin Espinosa)

1998 "Back to the Future: Rediscovering Neighborhood Context." Review Essay on Neighborhood Poverty, Volumes I and II, edited by Jeanne Brooks-Gunn, Greg J. Duncan, and Lawrence Aber. Contemporary Sociology 27:570-73.

1998* "The Social Process of Undocumented Border Crossing." International Migration Review 32:561-92. (with Audrey Singer)

1998* "From Escalator to Hourglass: Changes in the U.S. Occupational Wage Structure: 1949-1989." Social Science Research 27:51-71. (with Deborah Hirst)

BC-DOC-0000029234

1998* "International Migration and Business Formation in Mexico." Social Science Quarterly 79:1-20. (with Emilio Parrado)

1997* "Undocumented Migration and the Quantity and Quality of Social Capital." Soziale Welt 12:141-62. (with Kristin Espinosa)

Reprinted in Ludger Pries, ed., Migration and Transnational Social Spaces (Aldershot, U.K.: Ashgate, 1999), pp. 106-37.

1997* "Migración y Pequeña Empresa ." Ciudades 35:34-40. (with Emilio A. Parrado)

1997 Review Essay on When Work Disappears: The World of the New Urban Poor by William Julius Wilson. Contemporary Sociology 26:416-18.

1997 "The Retablo Art of Mexican Migrants to the United States." Latino Review of Books 3(1-2):22-24. (with Jorge Durand)

1997* "What's Driving Mexico-U.S. Migration? A Theoretical, Empirical and Policy Analysis." American Journal of Sociology 102:939-999. (with Kristin Espinosa)

1997* "Determinants of English Proficiency Among Mexican Migrants to the United States." International Migration Review 31:28-50. (with Kristin E. Espinosa)

1996* "The Age of Extremes: Concentrated Affluence and Poverty in the 21st Century." Demography 33:395-412 (1996 Presidential Address, Population Association of America)

Reprinted in Otis Scott, ed, Readings in Ethnic Studies. Dubuque: Kendall/Hunt Publishing.

Reprinted in Crime and Criminals: Opposing Viewpoints. San Diego, Ca.: Greenhaven Press, 1999.

Reprinted in The Political Economy: Frontiers of Economic Thought, Volume 5. Medford, Mass.: Global Development and Environmental Institute, Tufts University.

Reprinted in Jeff Manza and Michael Sauder, eds., Inequality and Society, W.W. Norton, 2009.

1996* International Migration and National Development." Population Index 62-181-212. (with J. Arango, G. Hugo, A. Kouaouci, A. Pellegrino, and J.E. Taylor)

Reprinted in Migration and Development, edited by Oliver Bakewell. Cheltenham, UK: Edward Elgar Publishing, Ltd.

1996* "The Dimensions of Segregation Revisited." Sociological Methods and Research 25:172-206 (with Michael White and Voon-Chin Phua)

BC-DOC-0000029235

Reprinted in Migration and Development, edited by Oliver Bakewell. Cheltenham, UK: Edward Elgar Publishing, Ltd.

1996* "International Migration and Community Development." Population Index 63:397-418. (with Joaquin Arango, Graeme Hugo, Ali Kouaouci, Adela Pellegrino, and J.Edward Taylor)

1996* "International Migration and Development in Mexican Sending Communities." Demography 33:249-64. (with Jorge Durand, Emilio Parrado, and William Kandel)

Reprinted in Migration and Development, edited by Oliver Bakewell. Cheltenham, UK: Edward Elgar Publishing, Ltd.

1996* "Migradollars and Development: A Reconsideration of the Mexican Case." International Migration Review 30:423-44 (with Jorge Durand and Emilio Parrado)

1995* "Unraveling the Tangle of Pathology: The Effect of Spatially Concentrated Joblessness on the Well-Being of African Americans." Social Science Research 24:352-66. (with Kumiko Shibuya).

1995 Review Essay on The Bell Curve: Intelligence and Class Structure in American Life, by Richard J. Herrnstein and Charles Murray." American Journal of Sociology 101:747-53.

1995* "The New Immigration and Ethnicity in the United States." Population and Development Review 21:631-52.

Reprinted Chapter 3 in American Diversity: A Demographic Challenge for the Twenty-First Century, edited by Stewart E. Tolnay and Nancy A. Denton. Albany: State University of New York Press, 2002, pp. 75-98.

1995* "New Estimates of Undocumented Mexican Migration and the Probability of Apprehension." Demography 32:203-13. (with Audrey Singer)

1995* "The Changing Geographic Structure of Black-White Segregation in the United States." Social Science Quarterly 76:527-42. (with Zoltan Hajnal)

1995 "Getting Away with Murder: Segregation and Violent Crime in Urban America." University of Pennsylvania Law Review 143(5):1203-1232.

1995 "The New Geography of Inequality in Urban America." Pp. 27-37 in Suburbs and Cities: Changing Patterns in Metropolitan Living. Washington, D.C.: The Aspen Institute.

1995 "Contemporary Issues in Latino Families: Future Directions for Research, Policy, and Practice" Chapter 10 in Ruth E. Zambrana, ed., Understanding Latino Families: Scholarship, Policy, and Practice. (with Ruth E. Zambrana and Sally Alonzo Bell). Newbury Park, Ca.: Sage.

BC-DOC-0000029236

1994* "An Evaluation of International Migration Theory: The North American Case." Population and Development Review 20:699-752. (with J. Arango, A. Koucouci, A. Pelligrino, and J.E. Taylor)

1994* "Selective Emigration, Cohort Quality, and Models of Immigrant Assimilation." Social Science Research 23:315-49. (with David Lindstrom)

Reprinted in M Suarez-Orozco and D.B. Qin-Hilliard (eds.), The New Immigration: Interdisciplinary Perspectives Vol. 2. Hamden, CT: Garland Publishing.

1994 "America's Apartheid and the Urban Underclass" Social Service Review 68:471-87.

Reprinted in Civil Rights and Social Wrongs: Black-White Relations Since World War II, edited by John Higham. State College, PA: Penn State University Press, pp. 102-118.

Reprinted in Fred Pincus and Howard Ehrlich, eds., Race and Ethnic Conflict: Conflicting Views on Prejudice, Discrimination, and Ethnoviolence. Boulder: Westview.

Reprinted in The Making and Unmaking of Urban Communities, edited by Scott Chazdon. Boston: Allyn and Bacon, 1999.

1994* "Disentangling the Causes of Concentrated Urban Poverty." International Journal of Group Tensions 24:267-316. (with Nancy Denton and Mitchell Eggers)

1994* "Migradollars: The Remittances and Savings of Mexican Migrants to the United States." Population Research and Policy Review 13:3-30. (with Emilio Parrado)

1994* "Continuities in Transnational Migration: An Analysis of 19 Mexican Communities." American Journal of Sociology 99:1492-1533 (with Luin Goldring and Jorge Durand)

1994 "The Methodology of an Ethnosurvey." Chapter 24 in Donald J. Bogue, ed., Readings in Population Research Methodology. New York: United Nations Fund for Population Activities.

1994* "Migration, Segregation, and the Spatial Concentration of Poverty." American Sociological Review 59:425-45. (with Andrew Gross and Kumiko Shibuya)

1993* "Theories of International Migration: A Review and Appraisal." Population and Development Review 19:431-66. (with J. Arango, G. Hugo, A. Kouaouci, A. Pellegrino, and J.E. Taylor)

Reprinted in Turkish as "Uluslararasý göç kuramlarýnýn bir deðerlendirmesi." *Göç Dergisi, Makale tarihçesi: 1 Temmuz 2014'de Tercüme Edildi*

Reprinted as Chapter 23 in Frank Trovato, ed., Population and Society: Essential Readings. Oxford: Oxford University Press (2001).

BC-DOC-0000029237

Reprinted in Spanish as "Teorías sobe la Migración Internacional: Una Reseña y una Evaluación." Trabajo: Migraciones y Mercados de Trabajo 2(3):5-50.

Reprinted in International Migration, edited by Andrew Geddes. Los Angeles: Sage Publications (2011).

1993* "The Spatial Concentration of Affluence and Poverty During the 1970s." Urban Affairs Quarterly 29:299-315. (with Mitchell Eggers)

1993* "Latinos, Poverty, and the Underclass: A New Agenda for Research." Hispanic Journal of Behavioral Sciences 15:449-75.

1993* "Effect of the Immigration Reform and Control Act on the Wages of Mexican Migrants." Social Science Quarterly 74:523-41. (with Katharine Donato)

1993* "Public Housing and the Concentration of Poverty." Social Science Quarterly 74:109-23. (with Shawn M. Kanaiaupuni)

1992* "Racial Identity and the Segregation of Mexicans in the United States." Social Science Research 21:235-60 (with Nancy A. Denton)

1992* "The Residential Segregation of Asian Origin Groups in U.S. Metropolitan Areas." Sociology and Social Research 76:170-77. (with Nancy A. Denton)

1992* "Changing Conditions in the U.S. Labor Market: Effects of the Immigration Reform and Control Act of 1986." Population Research and Policy Review 11:93-116. (with Katharine Donato and Jorge Durand)

1992* "A Longitudinal Analysis of Urban Poverty: Blacks in U.S. Metropolitan Areas Between 1970 and 1980." Social Science Research 21:175-203. (with Mitchell Eggers)

1992* "Mexican Migration to the United States: A Critical Review." Latin American Research Review 27:3-43. (with Jorge Durand)

1992* "Stemming the Tide? Assessing the Deterrent Effects of the Immigration Reform and Control Act." Demography 29:139-57. (with K. Donato and J. Durand)

1992* "Determinants of Savings, Remittances, and Spending Patterns among Mexican Migrants to the United States." Sociological Inquiry 62:186-207. (with Lawrence Basem)

1991* "Segregation, the Concentration of Poverty, and the Life Chances of Individuals." Social Science Research 20:397-420. (with Andrew Gross and Mitchell Eggers)

1991* "The Structural Determinants of Urban Poverty: A Comparison of Whites, Blacks, and Hispanics." Social Science Research 20:217-55. (with Mitchell Eggers)

BC-DOC-0000029238

1991* "Explaining Trends in Residential Segregation 1970-1980." Urban Affairs Quarterly 27:13-35. (with Andrew B. Gross)

1991* "Segregation in the Second Ghetto: Racial and Ethnic Segregation in American Public Housing, 1977." Social Forces 69:1011-1038. (with Adam Bickford)

1991* "Spatial Assimilation Models: A Micro-Macro Comparison." Social Science Quarterly 72:347-61. (with Andrew B. Gross)

1990* "Patterns of Neighborhood Transition in a Multiethnic World." Demography 28:41-64. (with Nancy A. Denton)

1990 "Effects of the Immigration Reform and Control Act of 1986: Preliminary Data from Mexico." Pp. 183-210 in Frank D. Bean, Barry Edmonston, and Jeffrey S. Passel, eds., Illegal Immigration to the United States: The Experience of the 1980s. Washington, D.C.: Urban Institute Press. (with Zai Liang)

1990* "Segregation and Neighborhood Quality: Blacks, Hispanics, and Asians in the San Francisco Metropolitan Area." Social Forces 69:15-32. (with Eric Fong)

1990* "American Apartheid: Segregation and the Making of the Underclass." American Journal of Sociology 95:1153-88.

Reprinted in David B. Grusky and Szonja Szelényi, eds., The Inequality Reader: Contemporary and Foundational Readings in Race, Class, and Gender. Boulder, CO: Westview Press, 2006.

Reprinted in David Inglis and John Bone, ed., Social Stratification: Critical Concepts in the Social Sciences. London: Routledge, 2006

Reprinted in Jessie P.H. Poon, Kenneth Button, and Peter Nijkamp, eds., Social Planning. Cheltenham, UK: Edward Elgar Publishing, 2005.

Reprinted in Double Exposure: Poverty and Race in America, New York and London: M.E. Sharpe, pp. 135-40.

Reprinted in The Sociology of Race and Ethnicity, edited by Malcom Cross. Cheltenham, UK: Edward Elgar Publishing, Ltd.

1990* "Social Structure, Household Strategies, and the Cumulative Causation of Migration." Population Index 56:3-26.

Reprinted in Victor Piché, ed., Les Théories de la Migration. Paris: INED Editions.

1990 "The Social and Economic Origins of Immigration." Annals of the American Academy of Political and Social Science 510:60-72.

BC-DOC-0000029239

Reprinted in Spanish as: "Los Orígenes Sociales y Econonómicos de la Inmigración," Bolotín: Grupo Parlamentario Inter-Americano Sobre Población y Desarrollo, Vol. 8(2).

1990* "The Ecology of Inequality: Minorities and the Concentration of Poverty 1970-1980." American Journal of Sociology 95:1153-1188. (with Mitchell L. Eggers)

1989* "The Long-Term Consequences of a Temporary Worker Program: The U.S. Bracero Experience." Population Research and Policy Review 8:199-226. (with Zai Liang)

1989* "Racial Identity among Caribbean Hispanics: The Effect of Double Minority Status on Residential Segregation." American Sociological Review 54:790-808. (with N.A. Denton)

Reprinted in Thomas Shapiro, ed., Great Divides: Readings in Social Inequality in the United States. New York: McGraw Hill, 2004.

1989* "Hypersegregation in U.S. Metropolitan Areas: Black and Hispanic Segregation along Five Dimensions." Demography 26:373-93. (with N.A. Denton)

1989* "Residential Segregation of Mexicans, Puerto Ricans, and Cubans in U.S. Metropolitan Areas." Sociology and Social Research 73:73-83. (with N.A. Denton)

1988* "Residential Segregation of Blacks, Hispanics, and Asians by Socioeconomic Status and Generation." Social Science Quarterly 69:797-817. (with N.A. Denton)

1988* "International Migration and Economic Development in Comparative Perspective." Population and Development Review 14:383-414. Prepared for the U.S. Commission for the Study of International Migration and Cooperative Economic Development.

Reprinted in Sergio Díaz-Briquets and Sidney Weintraub, eds., Determinants of Emigration from Mexico, Central America, and the Caribbean, pp. 14-47. Boulder, Co.: Westview Press.

Reprinted in The Sociology of Development, edited by Bryan Roberts, Charles Wood, and Robert Cushing. London: Edward Elgar Publishing.

1988* "The Dimensions of Residential Segregation." Social Forces 67:281-315. (with N.A. Denton)

Reprinted in Donald J. Bogue, ed. 1994. Readings in Population Demography. New York: United Nations.

1988* "Suburbanization and Segregation in U.S. Metropolitan Areas." American Journal of Sociology 94:592-626. (with N.A. Denton)

1987* "The Ethnosurvey in Theory and Practice." International Migration Review 21:1498-1522.

BC-DOC-0000029240

1987* "The Effect of Residential Segregation on Black Social and Economic Well-Being." Social Forces 66:29-56. (with G.A. Condran and N.A. Denton)

1987* "The Social Process of International Migration." Science 237:733-8. (with Felipe García España)

1987* "Trends in the Residential Segregation of Blacks, Hispanics, and Asians." American Sociological Review 52:802-25. (with N.A. Denton)

Reprinted in Norman R. Yetman, ed., Minority and Majority: The Dynamics of Race and Ethnicity in American Life, pp. 352-78. Boston: Allyn and Bacon, 1991 (Fifth Edition).

Reprinted in Kenneth L. Kusmer, ed., Black Communities and Urban Development in America, 1720-1990, Volume 8, Progress versus Poverty: 1970 to Present, pp. 344-68.

1987* "Do Undocumented Migrants Earn Lower Wages than Legal Immigrants? New Evidence from Mexico." International Migration Review 21:236-74.

1987* "Understanding Mexican Migration to the United States." American Journal of Sociology 92:1372-1403.

1987 "Geographic Distribution, Internal Migration, and Residential Segregation of Hispanics." Chapter 5 in The Hispanic Population of the United States. New York: Russell Sage. (with Frank D. Bean and Marta Tienda)

1986* "The Settlement Process Among Mexican Migrants to the United States." American Sociological Review 51:670-85.

1986* "The Social Organization of Mexican Migration to the United States." Annals, American Academy of Political and Social Science 487:102-13.

Reprinted in Norman R. Yetman, ed., Minority and Majority: The Dynamics of Race and Ethnicity in American Life, pp. 469-76. Boston: Allyn and Bacon, 1991 (Fifth Edition).

Reprinted in David Jacobson, ed., Immigration to the United States: A Reader, pp 200-16. Cambridge: Blackwell, 1998.

1985* "Ethnic Residential Segregation: A Theoretical Synthesis and Empirical Review." Sociology and Social Research 69:315-350.

1985* "Explaining the Paradox of Puerto Rican Segregation." Social Forces 64:306-331. (with Brooks Bitterman)

1985* "A Comparison of Patterns of U.S. Migration in Two Mexican Sending Communities." Latin American Research Review 20: 104-123. (with Richard Mines)

BC-DOC-0000029241

1985* "Spatial Assimilation as a Socioeconomic Outcome." American Sociological Review 50:94-105. (with Nancy A. Denton)

1985 "The Settlement Process Among Mexican Migrants to the United States: New Methods and Findings." Pp. 255-292 in Daniel B. Levine, Kenneth Hill, and Robert Warren, eds. Immigration Statistics: A Story of Neglect. Washington, D.C.: National Academy Press.

1984* "Processes of Hispanic and Black Spatial Assimilation." American Journal of Sociology 89:836-73. (with Brendan P. Mullan)

Reprinted in Norman R. Yetman, ed., Minority and Majority: The Dynamics of Race and Ethnic Relations, Fourth Edition, pp. 352-369. Boston: Allyn and Bacon.

1984* "A Demonstration of the Effect of Seasonal Migration on Fertility." Demography 21:501-18. (with Brendan P. Mullan)

1983* "Recent Trends in Hispanic Immigration to the United States." International Migration Review 17:212-244. (with Kathleen M. Schnabel)

1983 "Background and Characteristics of Undocumented Hispanic Migrants to the United States." Migration Today 11(1):6-13. (with Kathleen M. Schnabel)

1982 "The Undergraduate Curriculum in Sociology: An Immodest Proposal." Teaching Sociology 9:423-434. (with G. Edward Stephan)

1982* "Guestworker Programs: Evidence from Europe and the United States and Some Implications for U.S. Policy." Population Research and Policy Review 1:1-17. (with Joshua S. Reichert)

1981* "Social Class and Ethnic Segregation: A Reconsideration of Methods and Conclusions." American Sociological Review 46:641-650.

1981 "Dimensions of the New Immigration to the United States and the Prospects for Assimilation." Annual Review of Sociology 7:57-85.

Edited version reprinted in David Martin and T. Alexander Aleinikoff, eds., Immigration: Process and Policy. San Francisco: West Publishing, 1985.

1981* "Hispanic Residential Segregation: A Comparison of Mexicans, Cubans, and Puerto Ricans." Sociology and Social Research 65:311-322.

1980* "History and Trends in U.S.-Bound Migration from a Mexican Town." International Migration Review 14:475-491. (with Joshua S. Reichert)

1980* "Residential Segregation and Spatial Distribution of a Non-Labor Force Population: The Needy Elderly and Disabled." Economic Geography 56:190-200.

1979* "Effects of Socioeconomic Factors on the Residential Segregation of Blacks and Spanish

BC-DOC-0000029242

Americans." American Sociological Review 45:1015-1022.

1979* "Patterns of Migration from a Central Mexican Town to the United States: A Comparison of Legal and Illegal Migrants." International Migration Review 13:599-623. (with Joshua S. Reichert)

Reprinted in R.C. Jones, ed., Patterns of Undocumented Migration: Mexico and the United States, Pp. 93-109. Totawa, N.J.: Rowman and Allanheld.

1979* "Residential Segregation of Spanish Americans in U.S. Urbanized Areas." Demography 16:553-563.

1977* "The Size-Density Hypothesis in Great Britain: Analysis of a Deviant Case." Demography 14:351-361. (with G. Edward Stephan)

1976* "Economic Development and Fertility: A Methodological Reevaluation." Population Studies 30:429-437. (with Lucky M. Tedrow)

Opinion Pieces:

2019 "Confederate Revisionist History." In Eric Klinenberg, Caitlin Zaloom, and Sharon Marcus, eds., Antidemocracy in America: Truth, Power, and the Republic at Risk. New York: Columbia University Press

2019 Episode 4: The Paradox of the Mexico-U.S. Border. Great Talks at the American Philosophical Society. Philadelphia, PA: American Philosophical Society. https://www.amphilsoc.org/museum/exhibitions/great-talks-american-philosophical-society/episode-4-paradox-mexico-us-border

2018 "La Escuela Woodrow Wilson de Asuntos Públicos e Internacionales responde acerca del Censo de 2020 en EUA. Entrevista a Douglas Massey." Coyuntura Demográfica 14: 103-105. http://www.somede.org/coyuntura-demografica/pdf/numero14/kelly-rose.pdf

2018 "Trump's Obsession with Border Wall Has Little to do with Immigration Control." *The Globe Post*, December 20. https://theglobepost.com/2018/12/20/trump-border-wall/

2018 Massey, Douglas S., and Jennifer Van Hook. "Questionable? Why an Untested Citizenship Question Threatens the 2020 Census." Population Reference Bureau Webinar organized by the Population Association of America, December 5. https://attendee.gotowebinar.com/recording/606849449965934338

2018 "Mexico-US migration: What can data tell us?"International Organization of Migration Statistics Blog, Talking Migration Data, https://migrationdataportal.org/blog/ talking-migration-data-mexico-us-migration-what-can-data-tell-us

BC-DOC-0000029243

2018 Ask the Experts: Douglas S. Massey. In Adam McCann, "2018's States with the Most Underprivileged Children." WalletHub, August 8, 2018. https://wallethub.com/edu/best-worst-states-underprivileged-children/5403/#expert=douglas-s-massey

2018 "Today's U.S.-Mexico Border 'Crisis' in Six Charts." The Conversation, June 28, 2018. http://theconversation.com/todays-us-mexico-border-crisis-in-6-charts-98922

2018 "How Segregation Persists." Jacobin Magazine, Feb. 18. https://www.jacobinmag.com/2018/02/cycle-of-segregation-review-krysan-crowder-racism

2018 "The Gendered Consequences of Immigration Enforcement." The Gender Policy Report. http://genderpolicyreport.umn.edu/the-gendered-consequences-of-immigration-enforcement/

2018 "Cuando las Políticas Ignoran la Realidad." Otros Diálagos. http://otrosdialogos.colmex.mx/cuando-las-politicas-ignoran-la-realidad
English version:
http://otrosdialogos.colmex.mx/what-happens-when-policies-ignore-reality

2017 "The Big Picture: Confederate Revisionist History." Public Books, November 11. http://www.publicbooks.org/big-picture-confederate-revisionist-history/

2017 "Why Border Enforcement Backfired." Lecture at the City Club of Cleveland for the David Ralph Hertz Memorial Forum on Civil Liberties, October 20. https://www.cityclub.org/events/why-border-enforcement-backfired

2017 "The Counterproductive Consequences of Border Enforcement." Cato Journal 37(3):539-554. https://object.cato.org/sites/cato.org/files/serials/files/cato-journal/2017/9/cato-journal-v37n3-11-updated.pdf

2017 "The International Migration of Highly Skilled and Educated Venezuelans to the United States." Georgetown Journal of International Affairs, June 16. http://journal.georgetown.edu/the-international-migration-of-highly-skilled-and-educated-venezuelans-to-the-united-states/

2017 "The Border Wall as a Policy Option and Political Symbol. Princeton Citizen Scientists Teach-in. March 4, Princeton University. https://www.youtube.com/watch?v=WsISVQrYaCM&feature=youtu.be

2017 "The Real Purpose of the Border Wall." Pp. 107-110 in Robert Schenkkan,, Building the Wall. New York: Arcade Publishing.

2017 Adam Ruins Everything Podcast, Episode 20: "Doug Massey Gives Us the Facts on Immigration." http://www.maximumfun.org/adam-ruins-everything/adam-ruins-everything-episode-20-doug-massey-gives-us-facts-immigration

BC-DOC-0000029244

2017 Politics & Polls Woocast #30: "Immigration & Border Control with Doug Massey." http://bit.ly/PoliticsAndPolls30 .

2017 "Trump's Plan for a Massive Deportation Is Cruel, Unjust, and Economic Suicide." Foreign Policy, January 25, 2017. http://foreignpolicy.com/2017/01/24/trumps-plan-for-a-massive-deportation-is-cruel-unjust-and-economic-suicide/

2017 Migración, desigualdad y políticas públicas. Conversación con Douglas Massey y Claudia Masferrer, El Colegio de México, January 12, 2017. https://www.youtube.com/watch?v=Ru8Kg0wMoNg

2016 Historical background and expert commentary provide in "Beyond Borders: Undocumented Mexican Americans," a PBS documentary produced by Enrique Krauze and directed by Micah Fink. https://vimeo.com/181639061

2016 "Nadar contra la corriente demográfica: Desmontando a Trump." Letras Libres, October 26, 2016. http://www.letraslibres.com/mexico/politica/nadar-contra-la-corriente-demografica-desmontando-trump

2016 "Why a Wall Won't Stop Immigration." Adam Ruins Everything, September 28, 2016. https://www.youtube.com/watch?v=K_P9PR5ckFk

2016 Breaking News Consumer's Handbook: Migration Edition. NPR's On the Media, July 29, 2016. http://www.wnyc.org/story/bnch-migration-doug-massey/

2016 "U.S. Border Patrol Policy." Academic Minute, Tuesday, June 21, 2016. https://www.insidehighered.com/audio/2016/06/21/us-border-patrol-policy

2016 "Donald Trump will build a Mexican wall to solve a problem that doesn't actually exist," Market Watch, April 20, 2016 http://www.marketwatch.com/story/donald-trump-will-build-a-mexican-wall-to-solve-a-problem-that-doesnt-actually-exist-2016-04-20

2015 "Does a US-Mexico Border Wall Make Sense?" Parallax World News, October 20. http://pxw.news/does-a-us-mexico-border-wall-make-sense/#2

2015 "Ending the Cycle of Racial Isolation." *New York Times* Editorial, October 17. Featuring work published in Massey et al. Climbing Mount Laurel.

2015 Interview on Racial Segregation and Predatory Lending with Glenn Ellis Program "Information is the Best Medicine, WURD Philadelphia, September 26.

2015 "America's Immigration Policy Needs Less Emotion and More Reason." Zocalo Public Square, September 25. http://time.com/4048840/us-immigration-policy/

2015 "How a 1965 Immigration Reform Created Illegal Immigration." Washington Post, September 25, 2015. https://www.washingtonpost.com/posteverything/wp/2015/09/25/how-a-1965-immigration-reform-created-illegal-immigration/

BC-DOC-0000029245

2015 "How Segregation Destroys Black Wealth." New York Times Editorial, September 15. Featuring work by Massey and Tannen in Braun and Kirsch, eds., The Dynamics of Opportunity in America. http://www.nytimes.com/2015/09/15/opinion/how-segregation-destroys-black- wealth.html?_r=0

2015 "The Truth About Illegal Migration." Harris Online, September 9. http://paulharrisonline.blogspot.com/2015/09/the-truth-about-illegal-immigration.html

2015 "Donald Trump's Mexican Border Wall Is a Moronic Idea." Foreign Policy, August 18. http://foreignpolicy.com/2015/08/18/donald-trump-immigration-border/

2015 "The Real Hispanic Challenge." Pathways, Winter 2015, pp. 3-7. http://web.stanford.edu/group/scspi/_media/pdf/pathways/spring_2015/Pathways_Spring_2015_Massey.pdf

2015 "Border Enforcement as Political Theater." Blogpost on Border Criminologies, April 8. http://bordercriminologies.law.ox.ac.uk/border-enforcement-as-political-theater/

2015 "The Social Science of Affordable Housing." Housing Policy Debate 25(3):634-639. http://dx.doi.org/10.1080/10511482.2015.1039860

2014 "Children of Central American Turmoil and the U.S. Reform Impasse." Scholars' Strategy Network Forum on the Immigration Impasse. http://www.scholarsstrategynetwork.org/page/children-central-american-turmoil-and-us-reform-impasse

2014 "How to Create a More Integrated Society." MetroTrends Blog, Urban Institute. http://blog.metrotrends.org/2014/05/create-integrated-society/

2014 "Lessons from Mount Laurel: The Benefits of Affordable Housing for All Concerned." Pp. 351-54 in Chester Hartman, ed., America's Growing Inequality: The Impact of Poverty and Race. Lanham, MD: Lexington Books.

2013 "From Immigration Restriction to Immigration Management." UN Chronicle Vol. 50(3):16-17. http://unchronicle.un.org/article/migration-restriction-migration-management/

2013 Who're you going to believe on immigration? Mark Krikorian or your lying eyes?" *Washington Post* Wonkblog. http://www.washingtonpost.com/blogs/wonkblog/wp/2013/08/14/whore-you-going-to-believe-on-immigration-mark-krikorian-or-your-lying-eyes/

2013 "The Third Wave of Immigration." Bulletin of the American Academy of Arts & Sciences, Summer 2013, pp. 30-33.

2013 "Lessons from Suburbia." Pathways, Spring 2013, pp. 19-23.

BC-DOC-0000029246

2012 "Climbing Mount Laurel." *New Jersey Law Journal*, November 13, 2012. http://www.law.com/jsp/nj/PubArticleNJ.jsp?id=1202578252308&slreturn=20130230115938

2012 "The Great Decline in American Immigration?" Pathways, Fall 2012, pp. 9-13.

2012 "Adiós a la Migra." Nexos, September 1, 2012. Nexos en Línea. http://www.nexos.com.mx/?P=leerarticulo&Article=2102905

2012 "Do-it-yourself Immigration Reform. New York Times, June 2. (with Jorge Castañeda) http://www.nytimes.com/2012/06/02/opinion/do-it-yourself-immigration-reform.html

2012 "Lessons from Mount Laurel: The Benefits of Affordable Housing for All Concerned" Poverty and Race 21(3):7-8.

2102 "Learning from Mount Laurel." *Shelterforce: The Journal of Affordable Housing and Community Building*, Summer 2012, pp. 34-35.

2012 "America is Losing as Many Illegal Immigrants as It's Gaining." Reuters Blog: The Great Debate, April 12, 2012. http://blogs.reuters.com/great-debate/2012/04/12/america- is-losing-as-many-illegal-immigrants-as-its-gaining/

2011 "The Truth About Undocumented Migration. Scholars Strategy Network Blog, December. http://www.scholarsstrategynetwork.org/sites/default/files/ssn_basic_facts_massey_on_undocumented_migration.pdf

2011 "Immigration Turn Over the Page." Interview with Giuseppe Terranova for West: Welfare, Society, Territory, August 31, 2011. http://www.west-info.eu/douglas-massey-mexican-immigration-turn-over-the-page/

2011 Isolated, Vulnerable, and Broke." New York Times, August 5, 2011

2011 "It's Time for Immigration Reform." CNN Global Public Square, July 7, 2011. http://globalpublicsquare.blogs.cnn.com/tag/douglas-s-massey/

2011 "Race and the Stunted Growth and Rapid Decline of American Liberalism." Logos: A Journal of Modern Society and Culture 10(2). http://logosjournal.com/2011/race-and-the-stunted-growth-and-rapid-decline-of-american-liberalism/

2011 "Surcharge Doesn't Erode Tax Base." Newsday, March 10, 2011 (with Howard Chernick)

2010 "Segregation: The Invisible Elephant in the Foreclosure Debate." Huffington Post, November 1, 2010. (with Gregory D. Squires) http://www.huffingtonpost.com/ douglas-s-massey/segregation-the-invisible_b_777323.html

BC-DOC-0000029247

2010 "What Was He Thinking? Obama and Immigration Reform." World on the Move 17(1):8.

2010 "Immigration Today." The Wilson Quarterly 34(4):11-12.

2010 Massey, Douglas S. 2010. "Anchor Babies Aweigh!" The Nation 291(16):1,26.

2009 "Criminalizing Immigrants in the Post 9/11 Era." Points of Migration, September 1. Center for Migration and Development, Princeton University.

2009 "The Realities of North American Economic Integration." Boston Review 34(3):16, May/June.

Reprinted in Joseph Carens, ed., Immigrants and the Right to Stay. Cambridge, MA: MIT Press, 2010, pp. 73-81.

2009 "Battlefield: El Paso." The National Interest, July/August 2009, pp. 44-51.

2009. "Unsolicited Advice for the New President: Pay More Attention to Our Own Backyard." Miller-McCune Magazine 2(1): 39.

2008 "The Fence: Deconstructing America's 'Immigration Crisis.'" Pp. 259-73 in David Elliot Cohen, ed., What Matters: The World's Preeminent Photojournalists and Thinkers Depict Essential Issues of Our Time. New York: Sterling Publishers.

2008 "La Inmigración y las Elecciones." Vanguardia Dossier 20:56-59, Octubre/Diciembre (Barcelona, España).

2008 "Caution: NAFTA at Work." Miller-McCune Magazine 1(1):2-9.

2008 "Deconstructing America's Immigration Crisis.'" Pp. 258-73 in David Cohen, ed., What Matters. New York: Sterling Publications.

2008 "At Issue: Would Tighter Border Security Curb Undocumented Migration? No." CQ Researcher: A Publication of Congressional Quarterly 18(5): 113.

2008 "America's Unfolding Human Rights Crisis." Pp. 6-7 in Many Voices, One Dream: A Collection of Insights and Recommendations for Achieving Immigration Reform. Washington, DC: The Reform Institute. http://www.reforminstitute.org/DetailPublications.aspx?pid=130&cid=7&tid=2&sid=0

2007 "International Migration in a Globalizing Economy." Great Decisions 2007: Journal of the Foreign Policy Association, pp. 41-52

2007 "The Strength of Weak Politics." PP. 145-57 in Dan Clawson, Robert Zussman, Joya Misra, Naomi Gerstel, Randall Stokes, Douglas L. Anderton, and Michael Buruwoy, eds.,

BC-DOC-0000029248

Public Sociology: Fifteeen Eminent Sociologists Debate Politics and the Profession in the Twenty-First Century. Berkeley: University of California Press.

2006 "Getting Emotional About Mexicans." Cato Unbound, Online Magazine of the Cato Institute, http://www.cato-unbound.org/

2006 "Seeing Mexican Immigration Clearly." Cato Unbound, Online Magazine of the Cato Institute, http://www.cato-unbound.org/

2006 "Borderline Madness." Must Read Column, Chronicle of Higher Education Review, June 30, B11.

2006 "Illegal Immigrants: Are they Freebies or Freeloaders?" Op-Ed, San Diego Union-Tribune, June 2.

2006 "The Wall That Keeps Illegal Workers In." Op-Ed, New York Times, April 4, 2006.

2005 "Foolish Fences." Washington Post, Op-Ed, November 30, 2005.

2005 "A 'Free Market' Includes Labor." Los Angeles Times Op-Ed, July 31, 2005.

2005 "Five Myths About Immigration: Common Misconceptions Underlying U.S. Border-Enforcement Policy." Immigration Policy IN FOCUS 4(6). Washington, DC: Immigration Policy Center, American Immigration Law Foundation, August 2005.

2005 "Beyond the Border Buildup: A New Approach to Mexico-U.S. Migration." Immigration Policy IN FOCUS 4(7). Washington, DC: Immigration Policy Center, American Immigration Law Foundation, September 2005.

2005 "Backfire at the Border: Why Enforcement without Legalization Cannot Stop Illegal Immigration." Cato Institute Trade Policy Analyses, No. 29. Washington, DC: Center for Trade Policy Studies, Cato Institute.

2004 "Migrants Need a Way to Go Home." Los Angeles Times Op-Ed, January 15.

2004 "An Exercise in Self-Deception." Newsweek International Edition, January 19.

2003 "The Race Case." The American Prospect 14(2):22.

2003 "Mondialisation et Migrations: L'Exemple des Etat-Unis." Futuribles 284:1-9.

2003 "Una Política de Inmigración Disfuncional." Letras Libres 53:16-21.

2003 "How Stereotypes Sabotage Minority Students." Chronicle of Higher Education Review, January 10, pp. B10-11.

BC-DOC-0000029249

2003 "Closed-Door Policy: Mexico Vividly Illustrates How U.S. Treatment of Immigrant Workers Backfires." American Prospect 14(7):26-29.

2003 "The American Side of the Bargain." Pp. 81-91 in Tamar Jacoby, ed., Reinventing the Melting Pot: The New Immigrants and What it Means to be American. New York: Basic Books.

2001 "Borderline Sanity." American Prospect, September 15, 2001. (with Jorge Durand)

2001 "Etats-Unis: La Peur du Mexicain." Le Monde des Debats, Numéro 21, Janvier.

2000 Free Trade and the Economic Underpinnings of Mexico-U.S. Migration." Borderlines Vol. 8, No. 5:1-4. Inter-Hemispheric Resource Center, Albuquerque, NM.

2000 "Einwanderungspolitick für ein neues Jahrhundert" ("Immigration Policies for a New Century"). Pp 53-76 in Karl Husa, Christof Parnreiter, and Irene Stacher, eds., Internationale Migration: Die Globale Herausforderung des 21 Jahrhunderts? Frankfurt: Brandes & Apsel Südwind.

2000 "To Study Migration Today, Look to a Parallel Era." Chronicle of Higher Education Review, August 18, pp. B4-B5.

1999 "Un Nuevo Espacio para la Migración Mexicana en Chicago." Tropel, Num. 0, p. 6 (Chicago).

1999 "Where We Live in Black and White." In The Nation, October 26, 1998. (with Mary J. Fischer)

1998 "March of Folly: U.S. Immigration Policy Under NAFTA." The American Prospect, 37:22-33.

1996 "Roots of Urban Underclass Linked to High-Density Projects." Dallas Morning News, Sunday, September 15, 1996, J1-J2.

1995 "Regards sur L'Apartheid Américain" Le Monde Diplomatique, Février 1995, p. 3.

1995 "Sguardi sull'Apartheid Americano." Il Manifesto, Febrero 1995, p. 3.

1992 "Shrugging Off Racism." The Washington Post, Sunday, May 17.

1989 "Racial Segregation Itself Remains a Corrosive Force: Blacks Held Back by Isolation within Cities." Los Angeles Times, August 13.

1988 "Immigration Adjustments Ignore Chain Effect of Family Eligibility." Los Angeles Times, April 6.

BC-DOC-0000029250

1979 "Hordes of Illegals? No." New York Times Op-Ed, May 31.

Book Reviews, Research Notes, and Comments:

2015 "The Social Science of Affordable Housing." Housing Policy Debate 25:3, 634-638

2014 "Manufacturing Marginality among Women and Latinos in Neoliberal America." Ethnic and Racial Studies 37(10): 1747-52.

2013 "Comment: Building a Better Underclass." Demography 50(3):1093-1095.

2007 "Family and Migration in Comparative Perspective: Reply to King." Social Science Quarterly 89: 908-911. (with Mariano Sana)

2006 "Diversity's Blind Spot or the Data's Blind Spot?" Review Essay on Richard Alba's article "Diversity's Blind Spot: Catholic Ethnics on the Faculties of Elite American Universities." Ethnicities, forthcoming.

2006 "America's Never Ending Debate." Review Essay on *A Nation by Design: Immigration Policy in the Fashioning of America* by Aristide R. Zolberg (Harvard University Press and Russell Sage Foundation 2006). Population and Development Review 32, pp. 573-84.

2006 "The Power of Comparison." Review Essay on In a New Land: A Comparative View of Immigration by Nancy Foner. Contexts 5(3):57-59..

2005 "Long Day's Journey into Night: One Person's Experience of International Migration." Review Essay on The Suffering of the Immigrant by Abdelmalek Sayad. Qualitative Sociology 29:111-16.

2005 "Commentary on Trajectories for the Immigrant Second Generation by John Mollenkopf" Federal Reserve Bank of New York Economic Policy Review 11(2):121-123.

2004 Review of Who Are We? by Samuel P. Huntington. Population and Development Review 30:543-48.

2004 "Revenge of the Chicago School." Review Essay on Remaking the American Mainstream: Assimilation and Contemporary Immigration by Richard D. Alba and Victor Nee. Contemporary Sociology 33:408-10.

2002 Comments on Jacob L. Vigdor's "Does Gentrification Harm the Poor?". Pp. 174-76 in William G. Gale and Janet R. Pack, eds., Brookings-Wharton Papers on Urban Affairs 2002. Washington, D.C.: Brookings Institution Press.

2002 Review of Thinking the Unthinkable: The Immigration Myth Exposed by Nigel Harris. Population and Development Review 28:358-59.

BC-DOC-0000029251

2002 Review of At the Dawn of Modernity: Biology, Culture, and Material Life in Europe after the Year 1000 by David Levine. American Journal of Sociology 107:847-48.

2001 Review of Heaven's Door: Immigration Policy and the American Economy by George J. Borjas, Contemporary Sociology 30:66-67.

2000 Review of The Age of Mass Migration: Causes and Economic Impact by Timothy J. Hatton and Jeffrey G. Williamson, The Journal of Modern History 72:497-98.

1997 The Elusive Quest for the Perfect Index of Concentration: Reply to Egan, Anderton, and Weber. Social Forces 76:1123-32. (with Nancy A. Denton)

1995 "Beyond the Technical Details: Reply to St. John." American Journal of Sociology 100:1333-35. (with Mitchell L. Eggers)

1994 Review of Immigrants and the American City by Thomas Muller. American Journal of Sociology 99:1346-48.

1991 Review of Regional and Sectoral Development in Mexico as Alternatives to Migration, edited by Sergio Díaz-Briquets and Sidney Weintraub. Journal of American Ethnic History.

1991 Review of The New Chosen People by Guillermina Jasso and Mark R. Rosenzweig. American Journal of Sociology 97:865-6.

1991 Review of Immigrant America: A Portrait by Alejandro Portes and Rubén G. Rumbaut. Population and Development Review 16:783-4.

1990 Review of Land of Hope: Chicago, Black Southerners, and the Great Migration by James R. Grossman. Ethnic and Racial Studies 13:304-5.

1989 Review of International Migration Today, Volume 1: Trends and Prospects; Volume 2: Emerging Issues edited by Reginald Appleyard and Charles Stahl. Population and Development Review 15:568

1990 Review of Searching for Rural Development: Labor Migration and Employment in Mexico by Merilee S. Grindle. American Journal of Sociology 95:515-16.

1989 Review of The New American Immigration: Selected Patterns of Legal and Illegal Emigration, By Francisco Cordasco. Journal of American Ethnic History 9:133-4.

1987 Review of Migration Surveys in Low-Income Countries, by R.E. Bilsborrow, A.S. Oberai, and G. Standing. Journal of Development Economics.

1986 Review of Clamor at the Gates: The New American Immigration. Edited by Nathan Glazer. Population and Development Review 12:350-51.

BC-DOC-0000029252

1984 "Reply to Goldstein and White." American Journal of Sociology 89:396-99.

1983* "A Research Note on Residential Succession: The Hispanic Case." Social Forces 61:825-833.

1980* "Regional Population Density and County Size: A Note on the Problem of Tautology in Size-Density Relationships." Geographical Analysis 12:184-188. (with G.E. Stephan and L.M. Tedrow)

1978* "On the Measurement of Segregation as a Random Variable." American Sociological Review 43:587-590.

Other Publications:

2019 "Forward." Pp. *xvii-xxii* in Immigration and the Remaking of Black America by Tod Hamilton. New York: Russell Sage Foundation.

2017 "How Rising Minority Income Does (or Does Not) Lead to Residential Integration in the US." Atlas of Science, June 15, 2017. http://atlasofscience.org/how-rising-minority-income-does-or-does-not-lead-to-residential-integration-in-the-us/

2015 "Who will the Common Core Standards Serve and How do they Reflect 21st Century Demographic Realities?" Pp. 9-10 in Guadalupe Valdés, Kate Menken, and Mariana Castro, eds., Common Core Bilingual and English Language Learners: A Resource for Learners. Philadelphia, PA: Caslon Publishing.

2015 "Retablos." Oxford Bibliographies in Latino Studies. Oxford, UK: Oxford University Press. DOI: 10.1093/obo/9780199913701-0093 (with Jorge Durand)

2015 Preface: The Great Divide between Spain and the United States. Pp. i-iv María Aysa-Lastra and Lorenzo Cachón, eds., *Immigrant Vulnerability and Resilience: Comparative Perspectives on Latin American Immigrants During the Great Recession*. New York: Springer.

2015 "Segregation Indices." Pp. 411-413 in James Wright, ed., The International Encyclopedia of Social and Behavioral Sciences, Second Edition. London: Elsevier

2015 "Urban Violence."Pp. 949-952 in James Wright, ed., The International Encyclopedia of Social and Behavioral Sciences, Second Edition. London: Elsevier.

2015 "Migration to and From Latin America." Pp. 462-465 in James Wright, ed., The International Encyclopedia of Social and Behavioral Sciences, Second Edition. London: Elsevier.

2015 "Theory of Migration." Pp. 466-471 in James Wright, ed., The International Encyclopedia of Social and Behavioral Sciences, Second Edition. London: Elsevier.

BC-DOC-0000029253

2015 "Social Inequality." Pp. 908-913 in James Wright, ed., The International Encyclopedia of Social and Behavioral Sciences, Second Edition. London: Elsivier.

2015 "Migration Motivations." Pp. 452-456 in James Wright, ed., The International Encyclopedia of Social and Behavioral Sciences, Second Edition. London: Elsevier.

2014 "The Spatial Foundations of Social Stratification." Community and Urban Sociology Newsletter 27(1):1.

2013 "Preface: Undoing the Bitter Legacy of Segregation and Discrimination." Pp. ix-xii in Chester Hartman and Gregory D. Squires, eds., From Foreclosure to Fair Lending: Advocacy, Organizing, Occupy, and the Pursuit of Equitable Access to Credit. New York: New Village Press.

2012 "Preface." Handbook of Neurosociology, edited by David Franks and Jonathan Turner. Berlin: Springer, pp. i-iv..

2012 "Capitalism and Immigration." Oxford Encyclopedia of Business, Labor, and Economic History.

2011 "A Brief History of Human Society." Pp. 77-110 in Carolyn Neel, Ed., World History Encyclopedia, Volume 1: An Introduction to World History. Santa Barbara, CA: ABC-CLIO.

2010 "Teologia Delle Migrazioni." Pp. 1016-1037 in Graziano Battistella, ed., Migrazioni: Dizionario Socio-Pastorale. Milano: Edizioni San Paolo.

2009 "Mexico on the Move: How the Mexican Migration Project Came About." International Innovation 20-23.

2009 "Securing America's Borders" Testimony of Douglas S. Massey Before the Senate Judiciary Committee, May 20, Congressional Record.

2008 "Migration Theories." Social-Pastoral Dictionary of Migration. Rome: Scalabrini International Migration Institute..

2007 "Affordable Housing Reform in New Jersey." Testimony before the Housing and Local Government Committee of the New Jersey General Assembly, December 10, 2007.

2007 "When Less is More: Border Enforcement and Undocumented Migration." Testimony before the Subcomittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Committee on the Judiciary, U.S. House of Representatives, April 20, 2007, Congressional Record, Serial 110-25.

BC-DOC-0000029254

2007 "Forward." Pp. xi-xii in Latinas/os in the United States: Changing the Face of América, edited by Havidán Rodríguez, Rogelio Sáenz, and Cecilia Menjívar. New York: Springer.

2007 "American Apartheid." Forthcoming in Richard T. Schaefer, ed., Encyclopedia of Race, Ethnicity, and Society. Thousand Oaks, CA: Sage Publications.

2006 "Education, Skills, and U.S. Immigration Policy" Testimony before the U.S. Senate Committee on Health, Education, Labor, and Pensions, Congressional Record, September 14, 2006.

2006 "On the Origins of Stratification." Evolution and Sociology 3(1):1-5.

2006 "Blackballed." Contexts 5(1):40-43.

2006 "Building a Comprehensive Model of International Migration." Pp. 4-28 in *Annex* of Neil Howe and Richard Jackson, eds., Long-Term Immigration Projection Methods: Current Practice and How to Improve It.. Boston: Center for Retirement Research, Boston College

2005 "Immigration and North American Economic Integration." Testimony before the Senate Judiciary Committee, Congressional Record, October 18, 2005.

2005 "The Consequences of Affirmative Action at Selective Institutions." Pp. 59-69 in Refocusing on the Common Good: Advancing Equity and Access in Higher Education. New York: The College Board.

2005 "From Social Sameness, a Fascination With Differences." Chronicle of Higher Education Review, April 12, 2005, B11-B12.

2005 "The Case for Immigration Reform." Testimony Before Immigration Subcommittee, enate Committee on the Judiciary, Congressional Record, May 26, 2005.

2003 "The American Dilemma Revisited: Remarks from a Social Scientist." Black Renaissance 5(1):51-55.

2003 "The Two Social Psychologies." American Psychological Society Observer16(3):1-2.

2003 "Doing Race with a White Face." Contexts 2(1):70.

2003 "Preface." The Methods and Materials of Demography edited by David Swanson and Jacob Siegel. San Diego: Academic Press. (With Linda Gage)

2003 "The New Immigrant Survey in the US: The Experience over Time." Migration Information Source (http://www.migrationinformation.org/USfocus/display.cfm?id=81), Migration Policy Institute, Washington, D.C. (with Guillermina Jasso, Mark R. Rosenzweig, and James P. Smith).

BC-DOC-0000029255

2002 "Migration: International Migration." In Paul Demeny and Geoffrey McNichol, eds., The Encyclopedia of Population . New York: Macmillan

2002 "Theory of Migration." Pp. 9828-34 in Neil J. Smelser and Paul B. Baltes, eds., International Encyclopedia of the Social and Beahvioral Sciences. London: Elsevier Science.

2002 "Residential Segregation." Pp. 348-55 in John Solomos and David Theo Goldberg, eds., The Blackwell Companion to Racial and Ethnic Studies. London: Blackwell.

2001 "El Norte: Vida y Milagros de la Migración Hispana." Generación Chicago: La Cultura Hispana No. 33 (March):5-6.

2000 "Residential Segregation." In Neil J. Smelser and Paul B. Baltes, eds., International Encyclopedia of the Social and Beahvioral Sciences. London: Elsevier Science.

2000 "What I Don't Know About My Field But Wish I Did." Annual Review of Sociology 26:699-701.

2000 "Housing Discrimination 101." Population Today 28(6):1,4.

2000 "Forward" to Human Snakes: Smuggled Chinese Immigrants in America by Ko-lin Chin. Philadelphia: Temple University Press, pp. ix-xvii.

1999 "The Immigration Experience for Families and Children." Issue Series in Social Research and Social Policy. Washington, D,C,: American Sociological Association (with Richard Alba and Rubén Rumbaut).

1998 "Undocumented Migration in the Context of NAFTA." LASA Forum 39(2):17-18. Pittsburgh: Latin American Studies Association.

1994 "American Apartheid: Housing Segregation and Persistent Urban Poverty." Distinguished Lecture Series, Northern Illinois University, DeKalb, Illinois.

1993 "The 1986 Immigration Reform and Control Act and its Aftermath." Mexico Policy News 9:45-46.

1993 "Latino Poverty Research: An Agenda for the 1990s." Items 47(1):7-12. New York: Social Science Research Council

1992 "American Apartheid." Poverty and Race Research Action Council, Vol. 1, No. 4. Washington, D.C.: Poverty and Race Action Council.

1992 "Overview." Pp. 92-96 in Studs Terkel, Race: How Blacks and Whites Think and Feel About the American Obsession. New York: The New Press.

BC-DOC-0000029256

1991 "Census Data Needs for the 21st Century." Testimony before the U.S. House of Representatives, Subcommittee on Census and Population of the Committee on Post Office and Civil Service, March 20, 1991, Congressional Record.

1991 "Segregation Indices." The Encyclopedia of Sociology. New York: Macmillan, 1738-43.

1988 "Residential Segregation of Blacks in American Cities." Testimony before the U.S. House of Representatives Subcommittee on Housing and Community Development, Congressional Record, January 27, 1988.

1987 "Los Angeles as an Immigrant City." Pp. 192-99 in M. Mark Stolarik, ed., The Other Ports of Entry. Philadelphia: Balch Institute of Ethnic Studies Press.

1984 "Comments on Statistical Data and Public Policy." Pp. 133-38 in V.M. Briggs and M. Tienda, eds., Immigration: Issues and Policies. Washington, D.C.: National Council on Employment Policy.

1983 "A Summary and Evaluation of Local Area Statistics on Hispanics." Report of the Ford Foundation Task Force on Statistical Policy and Data Needs for Hispanics. New York: Ford Foundation.

1979 "Migration from a Rural Mexican Town to the United States: Research Report." Intercom 7:6-7. (with Joshua S. Reichert)

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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

CITY OF SAN JOSE, CALIFORNIA; KING COUNTY, WASHINGTON; ARLINGTON COUNTY, VIRGINIA; HARRIS COUNTY, TEXAS; BLACK ALLIANCE FOR JUST IMMIGRATION, a California nonprofit corporation; SAM LICCARDO; RODNEY ELLIS; ZERIHOUN YILMA; LOVETTE KARGBO-THOMPSON; and SANTCHA ETIENNE,

Plaintiffs,

vs.

DONALD J. TRUMP, in his official capacity as President of the United States; 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,

Defendants.

CASE NO. 5:20-cv-05167-LHK

FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

THREE-JUDGE COURT REQUESTED PURSUANT TO 28 U.S.C. § 2284

INTRODUCTION

1. On July 21, 2020, President Donald J. Trump issued a Presidential Order titled "Memorandum Excluding Illegal Aliens From the Apportionment Base Following the 2020 Census" (the "Apportionment Exclusion Order"). The Apportionment Exclusion Order states that, for the first time in this country's history, undocumented immigrants will not be treated as "persons" under the Constitution. In spite of the Constitution's plain text and drafting history, in spite of precedent, in spite of statutory command, and in spite of the unbroken practice of every administration since 1790, the President has declared that he will "exclude from the apportionment base aliens who are not in a lawful immigration status." To accomplish this, he has ordered the Secretary of Commerce to provide him with 2020 decennial census information "to carry out" his objective. 85 Fed. Reg. 44679 (July 23, 2020) (Attachment 1). The President's stated justification for reversing our country's democratic tradition is his personal view of a nation "more consonant with the principles of representative democracy."

2. The Apportionment Exclusion Order is illegal. It violates the Constitution and the Census Act, and it discriminates against people based on race, ethnicity, and national origin in violation of the Due Process and Equal Protection Clauses. By this Complaint, Plaintiffs seek declaratory and injunctive relief invalidating the Order and ensuring that it does not taint or subvert the ongoing 2020 Census or the apportionment process.

3. The Apportionment Exclusion Order violates the plain text of the Constitution. The Constitution's Apportionment Clause, as amended by the Fourteenth Amendment, states that Representatives "shall be apportioned among the several States . . . according to their respective Numbers," U.S. Const. art. I, § 2, cl. 3; *id.* amend. XIV, § 2, which requires "counting the whole number of persons in each State," U.S. Const. amend. XIV, § 2. When the drafters meant to exclude certain classes of persons, they said so expressly, e.g., "excluding Indians not taxed." *Id.* No provision excludes undocumented immigrants residing in the United States. And regardless of their immigration status, the Supreme Court has squarely held that undocumented immigrants are *persons* under the Constitution. *See, e.g.*, *Plyler v. Doe*, 457 U.S. 202, 210 (1982)

("Whatever his status under the immigration laws, an alien is surely a 'person' in any ordinary sense of that term.").

4. The Apportionment Exclusion Order also violates the plain text of the Census Act. 13 U.S.C. § 141; *see also* 2 U.S.C. § 2a(a). The Census Act directs the Secretary of Commerce to administer the census and to report to the President "the tabulation of total population by States . . . as required for the apportionment of Representatives in Congress among the several States." 13 U.S.C. § 141(b). The President is then required to transmit to Congress "a statement showing the whole number of persons in each State, excluding Indians not taxed, as ascertained under the . . . decennial census of the population, and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions." 2 U.S.C. § 2a(a). The Order violates the Act by directing the Secretary (and by extension the Department of Commerce and its officials), in the decennial census report, to transmit information that does not actually include the correct population for apportionment, so that the President can exercise his purported "discretion" to miscount persons.

5. Defendants' own statements make clear their intent to effectuate the Apportionment Exclusion Order by determining the number of undocumented persons in each State through the use of statistical sampling or reliance on incomplete administrative records. Use of either of these methods will violate the Census Act and the Constitution. The use of statistical sampling to estimate the population of undocumented immigrants in each State violates the Constitution's and the Census Act's prohibitions against the use of statistical sampling in connection with the apportionment of congressional representatives. U.S. Const. art. I, § 2, cl. 3; 13 U.S.C. § 195. And relying in the alternative on a patchwork of administrative records that the Administration has admitted are inaccurate will lead to an unlawfully and unconstitutionally inaccurate population count for apportionment.

6. By excluding undocumented immigrants from the definition of persons for apportionment purposes, the Apportionment Exclusion Order abandons over two hundred years of consensus among all three branches of government, through Republican and Democratic

administrations alike. Since the Nation's founding, every administration has understood that requirement to mean what it says: "person" means "person." And every administration that has addressed the issue, including those of Ronald Reagan and George H.W. Bush, has rejected any claim that undocumented immigrants are not among the "whole number of persons in each State." U.S. Const. amend. XIV, § 2. But under this Apportionment Exclusion Order, all "persons" somehow becomes "all persons *except* those the sitting president in any given census year may deem unworthy of inclusion." No President has ever been granted, and no President has, unfettered discretion to rewrite the Constitution and 200 years of history through such personal fiat.

7. One year ago, the United States Supreme Court held that the Secretary of Commerce's claimed justification for inserting a question about citizenship in the census was "a distraction" and "contrived." *Dep't of Commerce v. New York*, 139 S. Ct. 2551, 2575-76 (2019). Here, once again, the stated reason for defining undocumented immigrants as non-persons is contrived. The Order itself reveals that the President's intent is to reapportion congressional seats away from disfavored States such as California and to dilute the congressional representation of ethnic and racial minorities. That plan follows a consistent history of actions and statements by the President and his advisors showing that the Apportionment Exclusion Order is motivated by an intent to discriminate against these ethnic and racial minorities.

8. The Apportionment Exclusion Order advances an unprecedented effort to alter the basis of our representative democracy, heedless of the plain constitutional and statutory text, precedent, and unbroken historical practice. Plaintiffs seek declarative and injunctive relief to ensure that it does not succeed.

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1346(a), and 1361.

10. 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.

11. This Court may grant declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202.

12. The proper intradistrict assignment for this action is the San Jose Division, in light of the location of Plaintiffs City of San Jose, Santa Clara County, and the Mayor of San Jose, Sam Liccardo.

REQUEST FOR THREE-JUDGE COURT

13. Plaintiffs respectfully request that a three-judge court be convened to hear this case.

14. Section 2284(b)(1) specifically requires that:

> Upon the filing of a request for three judges, the judge to whom the request is presented shall, unless he determines that three judges are not required, immediately notify the chief judge of the circuit, who shall designate two other judges, at least one of whom shall be a circuit judge.

28 U.S.C. § 2284(b)(1). This action warrants a three-judge court for two reasons.

15. First, pursuant to 28 U.S.C. § 2284(a), a "district court of three judges shall be convened . . . when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body." 28 U.S.C. § 2284(a). Plaintiffs challenge the constitutionality of the Apportionment Exclusion Order, which by excluding from the apportionment base all persons who are not in a lawful immigration status, will misapportion congressional districts.

16. Second, Plaintiffs challenge Defendants' use of any statistical method for enumerating the total undocumented population to determine the population for purposes of the apportionment of Representatives in Congress, in violation of 13 U.S.C. § 195, in connection with the 2020 Census. Pursuant to Public Law No. 105-119, § 209(e)(1), 111 Stat. 2440 (1997) (13 U.S.C. § 141 note(e)(1)), consideration of this claim "shall be heard and determined by a district court of three judges in accordance with section 2284 of title 28, United States Code."

PARTIES

A. Plaintiffs

17. Plaintiff City of San Jose is a municipal corporation in the County of Santa Clara, California. It is the tenth-largest city in the United States, with an estimated population of 1,927,852. Since its founding, San Jose has always been a home to immigrant communities. Today, nearly 40 percent of its population was born in another country, and nearly one-third of its population is of Hispanic, Latinx, Black, or African American origin. San Jose is part of California's 17th congressional district. It brings this action on its own behalf as a municipal corporation.

18. Plaintiff King County is a municipal corporation organized as a home rule charter county and political subdivision under the laws of the State of Washington. It is the most populous county in Washington, encompassing the cities of Seattle, Bellevue, Kent, Redmond, among others. In 2019, the Census Bureau estimated that King County's population was 2,252,782. Approximately 21 percent of its population is made up of immigrants, a large majority of whom come from Asia, Latin America, and Africa. King County is represented in Washington's 1st, 7th, 8th, and 9th congressional districts. It brings this action on its own behalf as a municipal corporation.

19. Plaintiff Arlington County is a political subdivision of the Commonwealth of Virginia. The 2010 Census reported that Arlington County had a population of 207,627. In 2019, the Census Bureau estimated that Arlington's population was 236,842. Approximately 23 percent of Arlington County's population is made up of immigrants, most of whom are Hispanic. Arlington County is part of Virginia's 8th congressional district. It brings this action on its own behalf as a political subdivision of the Commonwealth of Virginia.

20. Plaintiff Harris County is a political subdivision of the State of Texas, existing under the Texas Constitution and the laws of the State of Texas. Harris County is the most populous county in Texas and the third most populous county in the United States. In 2019, the Census Bureau estimated that Harris County's population was 4,713,325, of which 26.1 percent was foreign born. Approximately 43.7 percent of Harris County's population is Hispanic or

Latinx and 20 percent of its population is Black or African American. Harris County is represented in Texas' 2nd, 7th, 9th, 10th, 18th, 22nd, 29th, and 36th congressional districts. It brings this action on its own behalf as a political subdivision of the State of Texas.

21. Plaintiff Black Alliance for Just Immigration ("BAJI") is a nonprofit organization organized and existing under the laws of California, with offices in California, Florida, Georgia, and New York. 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.

22. Plaintiff Sam Liccardo is the Mayor of the City of San Jose. He is a resident and citizen of Santa Clara County, California, where he is registered to vote and regularly exercises his right to vote.

23. Plaintiff Rodney Ellis is a Harris County Commissioner and former Texas State Senator for the 13th State Senate District in Texas. He is a resident and citizen of Houston, Texas in Harris County, where he is registered to vote and regularly exercises his right to vote.

24. Plaintiff Zerihoun Yilma is the Board Chair of BAJI. He is a resident and citizen of Los Angeles County, California, where he is registered to vote and regularly exercises his right to vote.

25. Plaintiff Lovette Kargbo-Thompson is an Organizer and Member of BAJI. She is a resident and citizen of Lawrenceville, Georgia, where she is registered to vote and regularly exercises her right to vote.

26. Plaintiff Santcha Etienne is an Organizer and Member of BAJI. She is a resident and citizen of North Miami, Florida, where she is registered to vote and regularly exercises her right to vote.

B. Defendants

27. Defendant Donald J. Trump is the President of the United States and is sued in his official capacity.

28. President Trump issued the Apportionment Exclusion Order that announced that undocumented immigrants will not be counted in the apportionment for the House of Representatives, contrary to the Constitution and 2 U.S.C. § 2a(a). The Apportionment Exclusion Order directs the Secretary of Commerce to aid the President in carrying out this determination. It orders the Secretary (and by extension, the Department of Commerce and the Census Bureau/Census Bureau officials who are within the Department of Commerce), in preparing the decennial census report, to provide the President with information that excludes all undocumented immigrants and therefore does *not* include the correct population for apportionment, tainting and subverting the census and apportionment process. Declaratory relief against the President is needed to prevent the unconstitutional and unlawful conduct directed by the Order.

29. 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, the Census Bureau, the decennial census, and the census tabulations reported to the President.

30. Defendant U.S. Department of Commerce is a cabinet agency within the Executive Branch responsible for administering the decennial census and transmitting its tabulations to the President.

31. Defendant Census Bureau is an agency within the Department of Commerce responsible for planning and administering the decennial census.

32. Defendant Steven Dillingham is the Director of the Census Bureau and is sued in his official capacity.

33. As an agency within the Department of Commerce, the Census Bureau is under Secretary Ross's supervision, but is directly headed by Director Dillingham.

34. The Apportionment Exclusion Order requires Secretary Ross, the Department of Commerce, the Census Bureau, and Director Dillingham to take "all appropriate action" to

provide the President with a census decennial report that excludes undocumented immigrants from the apportionment calculation. There is no reason to believe that these Defendants have refused to comply with the Order or subsequent directives related to the Order. Relief against Secretary Ross, the Department of Commerce, the Census Bureau, and Director Dillingham is necessary to ensure that the apportionment process is conducted lawfully.

ALLEGATIONS

A. The Constitution Requires Apportioning Members of the House of Representatives Based on the Total Number of Persons Residing in Each State

35. A plain text reading of the Constitution provides a sufficient basis to resolve this matter in plaintiffs' favor. Article I, Section 2, Clause 3 (the "Apportionment Clause") expressly addresses the apportionment of Representatives:

> Representatives . . . shall be apportioned among the several States . . . according to their respective Numbers, which shall be determined by adding to the whole Number of free *Persons*, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct.

U.S. Const. art. I, § 2, cl. 3 (emphasis added).

36. The Fourteenth Amendment, enacted in the wake of the Civil War, eliminated the Apportionment Clause's three-fifths component and provided that Representatives must be apportioned based on "the whole number of *persons* in each State, excluding Indians not taxed." U.S. Const. amend. XIV, § 2 (emphasis added).

37. The Constitution "was written to be understood by the voters; its words and phrases were used in their normal and ordinary as distinguished from technical meaning." *Dist. of Columbia v. Heller*, 554 U.S. 570, 576 (2008) (citation omitted). And when that ordinary meaning is clear, "there is no room for construction and no excuse for interpolation or addition." *United States v. Sprague*, 282 U.S. 716, 731 (1931). Here, the meaning of constitutional provisions specifying "persons" is unambiguous and thus controlling.

38. The ordinary meaning of "person" remains the same today as it was when the Constitution and the Fourteenth Amendment were ratified. "Person" means a human being. *See, e.g.*, *Person*, Samuel Johnson, A Dictionary of the English Language (6th ed. 1785) ("A general loose term for a human being; one; a man."); *Person*, Noah Webster, American Dictionary of the English Language (1865) ("[A] living human being; a man, woman, or child; an individual of the human race."); *Person*, Merriam-Webster Online Dictionary ("1. Human, Individual"), https://www.merriam-webster.com/dictionary/person (last visited July 27, 2020)[https://perma.cc/S58J-7F97]. That ordinary meaning of person does not exclude persons who are undocumented immigrants.

39. The broader text of the Constitution also makes clear that the Framers knew that the word "person" encompasses all human beings. When the Framers sought to exclude certain *classes* of persons residing in the United States, they did so expressly: They excluded "Indians not taxed," and they discounted the value for enumeration purposes of persons who were not "free"—*i.e.*, slaves—by forty percent. U.S. Const. art. I, § 2, cl. 3. The drafters of the Fourteenth Amendment, in turn, retained the exclusion of "Indians not taxed," but abolished the three-fifths clause. *See* U.S. Const. amend. XIV, § 2. Under basic interpretative principles, the drafters' choice to "explicitly enumerate[] certain exceptions" to the general rule that all persons are to be included means that "additional exceptions are not to be implied, in the absence of evidence of a contrary . . . intent." *Class v. United States*, 138 S. Ct. 798, 808 (2018) (quoting *Andrus v. Glover Constr. Co.*, 446 U.S. 608, 616-17 (1980)). *Cf. Pine Grove Tp. v. Talcott*, 86 U.S. 666, 674-75 (1873) (applying to the Constitution the canon that when one or more things of a class are expressly mentioned, others of the same class are excluded).

40. The intended inclusive meaning of "persons" in the Apportionment Clause and Section 2 of the Fourteenth Amendment is confirmed further by binding precedent interpreting the meaning of the same word used elsewhere in the Constitution and, specifically, the Fourteenth Amendment. "When seeking to discern the meaning of a word in the Constitution, there is no better dictionary than the rest of the Constitution itself." *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 135 S. Ct. 2652, 2680 (2015) (Roberts, C.J., dissenting)

(collecting cases); *see also Hurtado v. California*, 110 U.S. 516, 534-35 (1884) ("due process" had the same meaning in the Fourteenth and Fifth Amendments because "the same phrase was employed"); *Martin v. Hunter's Lessee*, 14 U.S. 304, 329, 1 Wheat. 304, 329 (1816) (examining the use of the phrase "shall be vested" in locations across the Constitution to determine its consistent meaning).

41. In *Yick Wo v. Hopkins*, 118 U.S. 356 (1886), the Supreme Court held that the "persons" protected by Section 1 of the Fourteenth Amendment and the Fifth Amendment's Due Process Clause include everyone in the United States: "The fourteenth amendment to the constitution is not confined to the protection of citizens. . . . [Its due process and equal protection] provisions are universal in their application, to all persons within the territorial jurisdiction, without regard to any differences of race, of color, or of nationality." *Id.* at 369. The Court reiterated this principle in *Zadvydas v. Davis*, 533 U.S. 678 (2001), stating that "persons" under the Due Process Clause includes everyone "within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 693 (collecting cases). There is a strong presumption that the word carries the same comprehensive meaning in the Apportionment Clause and Section 2 of the Fourteenth Amendment.

42. The Framers of the Constitution reflected their understanding of the breadth of the term "persons" in another provision too. *See* U.S. Const. art. I, § 9, cl. 1 (using "persons" to refer to slaves who could be "[i]mport[ed]" into the United States until 1808). And, when the drafters of the Fourteenth Amendment intended to describe a narrower class than *all* persons, they chose a narrower term. Section 1, for instance, differentiates between "persons" in the Citizenship, Equal Protection, and Due Process Clauses, and "citizens" in the Privileges and Immunities Clause. U.S. Const. amend. XIV, § 1. When the drafters of the Fourteenth Amendment sought to qualify "persons" by whether they are citizens of the United States and of the State wherein they reside, they did so explicitly. *See* U.S. Const. amend. XV, § 1 ("*All persons born or naturalized in the United States and subject to the jurisdiction thereof*, are citizens of the United States and of the State wherein they reside.") (emphasis added).

43. Section 2 of the Fourteenth Amendment likewise differentiates between "persons" and "citizens." The first sentence requires "counting the whole number of persons in each State, excluding Indians not taxed." U.S. Const. amend. XIV, § 2. By contrast, the second sentence is limited to "citizens": "But when the right to vote at any election . . . is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, . . . the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State." *Id.* The use of these two different words in Section 2 is not accidental. To the contrary, "[f]rom [a] difference of phraseology, . . . a difference of constitutional intention may, with propriety, be inferred. It is hardly to be presumed that the variation in the language could have been accidental. It must have been the result of some determinate reason." *Martin*, 14 U.S. at 334 (Story, J.).

44. The Framers would have been aware that choosing the word "persons" would include at least women, children, bound servants—and aliens, since the same article of the Constitution grants Congress the power "to establish an uniform Rule of Naturalization." U.S. Const. art. 1, § 8, cl. 4; *see also Garza v. Cty. of Los Angeles*, 918 F.2d 763, 774 (9th Cir. 1990) ("The framers were aware that this apportionment and representation base would include categories of persons who were ineligible to vote—women, children, bound servants, convicts, the insane, and, at a later time, aliens."). And ultimately the Framers adopted without comment or debate the term "persons" in place of the phrase "free citizens and inhabitants" as the basis for apportionment in the House. *See* 2 Records of the Federal Convention of 1787, pp. 571, 590-91 (M. Farrand ed. 1911).

45. Interpreting "person" according to its ordinary, inclusive meaning is also the reading most consistent with the Framers' theory of representative democracy. In the Federalist Papers, James Madison explained that it "is a fundamental principle of the proposed constitution that as the aggregate number of representatives allotted to the several states, is to be . . . founded on the aggregate number of inhabitants; so, the right of choosing this allotted number in each state, is to be exercised by such part of the inhabitants, as the state itself may designate." The

Federalist No. 54, p. 284 (James Madison) (G. Carey & J. McClellan eds. 2001). This means that "the basis of *representation* in the House was to include all inhabitants—although slaves were counted as only three-fifths of a person—even though States remained free to deny many of those inhabitants the right to participate in the selection of their representatives." *Evenwel v. Abbott*, 136 S. Ct. 1120, 1127 (2016). "Endorsing apportionment based on total population, Alexander Hamilton declared: 'There can be no truer principle than this—that every individual of the community at large has an equal right to the protection of government.'" *Id.* (citing 1 Records of the Federal Convention of 1787, p. 473 (M. Farrand ed. 1911)).

46. The drafting history of the Fourteenth Amendment likewise confirms that the word "persons" does not exclude undocumented immigrants. The 39th Congress, which enacted the Fourteenth Amendment, began its first session on December 4, 1865, shortly after the Civil War (and two days before ratification of the Thirteenth Amendment). Cong. Globe, 39th Cong., 1st Sess. 1, 3 (Dec. 4, 1865). Because recently freed slaves had become "free Persons" and not "other Persons" under the Enumeration Clause, they had greater weight in apportionment, and Southern representation in Congress was expected to increase significantly. *See* William W. Van Alstyne, *The Fourteenth Amendment, the "Right" to Vote, and the Understanding of the Thirty-Ninth Congress*, 1965 Sup. Ct. Rev. 33, 46 ["Van Alstyne, *The Fourteenth Amendment*"]; Gregory E. Maggs, *A Critical Guide to Using the Legislative History of the Fourteenth Amendment to Determine The Amendment's Original Meaning*, 4 Conn. L. Rev. 1069, 1089-90 (2017); *Oregon v. Mitchell*, 400 U.S. 112, 157 (1970) (Harlan, J., concurring in part and dissenting in part).

47. The 39th Congress actively debated several different methods for calculating apportionment, including whether to base apportionment on the population of voters, citizens, or all persons residing in a State. *See generally* Van Alstyne, *The Fourteenth Amendment*, 1965 Sup. Ct. Rev. at 45-48; *Fed'n for Am. Immigration Reform (FAIR) v. Klutznick*, 486 F. Supp. 564, 576 (D.D.C. 1980). At the time of the debate, non-citizens were counted in determining representation in Congress. *See, e.g.*, Cong. Globe, 39th Cong., 1st Sess. 353 (Jan. 22, 1866) (statement of Rep. Rogers) ("Every man in this House knows perfectly well in the several States

a person under the age of twenty-one years cannot vote, unnaturalized citizens cannot vote, and the whole class of females, constituting nearly one half of the population of this country, cannot vote; yet for these persons the States are entitled to representation.").

48. Some in Congress advocated apportionment based on the number of voters instead of the number of persons, for two reasons: to deal with the changing composition of Congress that would occur were the then-current population-based apportionment to continue, and to encourage expansion of the franchise to the freed slaves. *See* Van Alstyne, *The Fourteenth Amendment*, 1965 Sup. Ct. Rev. at 46-47. But the voter-based apportionment proposal was met with the objection that "population is the true basis of representation," Cong. Globe, 39th Cong., 1st Sess. 141 (Jan. 8, 1866) (statement of Rep. Blaine), and practical concerns about States with roughly the same population but vastly different number of voters. *Id.*

49. Both houses of the 39th Congress extensively discussed continued inclusion of non-citizens in apportionment in the debate over whether it would be equitable to stop using population as the basis for apportionment. *See, e.g.*, *id.* at 359 (Jan. 22, 1866) (statement of Rep. Conkling) ("Many of the large States now hold their representation in part by reason of their aliens, and the Legislatures and people of these States are to pass upon the amendment. It must be acceptable to them.").

50. This drafting history demonstrates that congressional supporters and opponents of population-based apportionment knew that the outcome of the debate would affect the counting of non-citizens. And ultimately both the Senate and the House roundly rejected the proposal to base representation on the voting population rather than the total population. *See* Cong. Globe, 39th Cong., 1st Sess. 2991 (June 6, 1866) (proposal defeated 31-7 in the Senate); *id.* at 535, 538 (Jan. 31, 1866) (proposal defeated 131-29 in the House). Instead, the 39th Congress retained the Constitution's principle of apportioning Representatives based on total population.

B. Uniform Historical Practice Confirms That The Constitution Means What It Says

51. Unbroken historical practice confirms what the constitutional text and drafting history make plain: the apportionment must be based on the enumeration of *all* persons residing in each State, regardless of legal status.

52. When interpreting the Constitution, courts consistently turn to historical practice for guidance. *See, e.g.*, *Evenwel*, 136 S. Ct. at 1132 ("What constitutional history and our prior decisions strongly suggest, settled practice confirms."); *see generally* William Baude, *Constitutional Liquidation*, 71 Stan. L. Rev. 1 (2019). And that historical sword cuts both ways—it can condone or condemn. For instance, in *NLRB v. Noel Canning*, the Court upheld the constitutionality of certain types of recess appointments based in large part on the "longstanding 'practice of the government.'" 573 U.S. 513, 525 (2014) (quoting *McCulloch v. Maryland*, 4 Wheat. 316, 401 (1819)). This year, by contrast, the Supreme Court invalidated the structure of an independent agency, noting that sometimes "the most telling indication of [a] severe constitutional problem . . . is a lack of historical precedent to support it." *Seila Law LLC v. Consumer Fin. Prot. Bureau*, 140 S. Ct. 2183, 2201 (2020) (internal quotation marks omitted).

53. Historical practice has played a particularly salient role in cases involving the census, like this one. Just last year the Supreme Court noted in a census case that its "interpretation of the Constitution is guided by a Government practice that has been open, widespread, and unchallenged since the early days of the Republic." *Dep't of Commerce v. New York*, 139 S. Ct. at 2567 (citation omitted). That same theme is recurrent in the Supreme Court's other cases addressing the census. *See, e.g.*, *Wisconsin v. City of New York*, 517 U.S. 1, 21 (1996) (emphasizing "the importance of historical practice in" understanding the Enumeration Clause); *Franklin*, 505 U.S. at 806 (examining the history of the administration of the census to determine whether the Secretary had violated the Enumeration Clause); *United States Dep't of Commerce v. Montana*, 503 U.S. 442, 465 (1992) (examining the historical practice of apportionment under Article I, Section 2 to inform its meaning).

54. Here, the exclusion of undocumented persons from the census's apportionment base would contradict over two centuries of consistent practice. From the very first census, the population base for purposes of apportionment has always included all persons residing in the United States, including undocumented persons.

55. Close historical analogues to undocumented persons demonstrate that the census must count all persons residing in a State, regardless of whether they are residing in that State with the right papers or not. For example, in the 1860 Census—the only one conducted after Congress enacted the Fugitive Slave Act of 1850 (which required free States to cooperate with the capture and return of escaped slaves within their borders, who were deemed to have no lawful presence there, *see* 9 Stat. 462-65 (1850)) but before ratification of the Thirteenth Amendment—the census explicitly counted fugitive slaves in Northern States as part of the "free colored population," despite their unlawful residence in those States. *See* Bureau of the Census, *Population of The United States in 1860*, at vi-vii, xi, xv-xvi (Gov't Printing Office 1864) (discussing changes in the fugitive slave population from 1850 to 1860), [https://perma.cc/H5GS-3M8V].

56. Throughout the two-hundred-year history of the United States, the census has always reflected the settled understanding that *all* persons residing in the United States—citizens and non-citizens alike—must be counted to fulfill the Constitution's "actual Enumeration" mandate. U.S. Const., art. I, § 2, cl. 3; *Klutznick*, 486 F. Supp. at 576; *see also Plyler*, 457 U.S. at 210 (holding that the Equal Protection Clause applies to persons who are in the country without proper authorization because "[w]hatever his status under the immigration laws, an alien is surely a 'person' in any ordinary sense of that term").

57. During the first half of the 20th century, a variety of proposals were made in Congress to exclude aliens from the apportionment base, but it was recognized that such a result would require a constitutional amendment. For example, in 1929, the Senate Legislative Counsel concluded that, without a constitutional amendment, "statutory exclusion of aliens from the apportionment base would be unconstitutional." *Klutznick*, 486 F. Supp. 564, 576-77

(D.D.C.) (three-judge court), appeal dismissed, 447 U.S. 916 (1980) (citing 71 Cong. Rec. 1821 (1929)).

58. Again in 1940, Congress considered whether "aliens who are in this country in violation of law have the right to be counted and represented." *Id.* (quoting 86 Cong. Rec. 4372 (1940)). Representative Celler of New York explained:

> The Constitution says that all persons shall be counted. I cannot quarrel with the founding fathers. They said that all should be counted. We count the convicts who are just as dangerous and just as bad as the Communists or as the Nazis, ***as those aliens here illegally***, and I would not come here and have the temerity to say that the convicts shall be excluded, if the founding fathers say they shall be included. The only way we can exclude them would be to pass a constitutional amendment.

Id. (quoting 86 Cong. Rec. 4372 (1940)) (emphasis added). On this basis, Congress rejected a proposal to exclude "aliens" from the apportionment base. *See id.*

59. More recently, in the 111th Congress, Joint Resolution 11 proposed an amendment to the Constitution to apportion based only on citizenship. *See* H.R.J. Res. 11, 111th Cong. (2009). Other than being referred to committees, no action was taken.

60. The Executive Branch, too, has repeatedly recognized—under Presidents of both parties—that the Constitution requires congressional apportionment based on total population, irrespective of citizenship or immigration status.

61. For example, in 1980, under President Jimmy Carter, private plaintiffs filed a lawsuit in the District of Columbia seeking to exclude "illegal aliens" from the census and the congressional apportionment base. *Klutznick*, 486 F. Supp. at 565. Opposing the suit, the U.S. Department of Justice ("DOJ") told the court that the plaintiffs "s[ought] a radical revision of the constitutionally mandated system for allocation of Representatives to the States of the Union and an equally radical revision of the historic mission of the decennial census." Federal Defs.' Post-Arg. Mem. at 1, *Klutznick*, No. 79-3269 (D.D.C. filed Feb. 15, 1980).

62. "[F]or 200 years," DOJ told courts, "the decennial census has counted all residents of the states irrespective of their citizenship or immigration status," and those numbers were used for apportionment. *Id.* Given "the clear and unequivocal language of Section 2 of the

Fourteenth Amendment," DOJ argued that the "radical revision" that the plaintiffs sought could come only from "a constitutional amendment." *Id.* DOJ also explained that such a revision would be "patently unfair" to residents of communities in which undocumented immigrants live, as undocumented immigrants "demand[] precisely the same level of the services from the municipalities and states in which [they] reside as do all other citizens." *Id.* at 12.

63. In 1988, under President Ronald Reagan, the Director of the Office of Management and Budget sought the views of DOJ on yet another proposal to exclude "illegal aliens" from congressional apportionment base. DOJ concluded that the proposed legislation was "unconstitutional." Letter from Thomas M. Boyd, Acting Assistant Attorney General, dated June 29, 1988, at 5 (included in 1990 Census Procedures and Demographic Impact on the State of Michigan: Hearing Before the Committee on Post Office and Civil Service, House of Representatives, One Hundredth Congress, Second Session, June 24, 1988 at 240 (United States: U.S. Government Printing Office 1988)). In DOJ's view, it was "clear" that, under the Fourteenth Amendment, "all persons, *including aliens residing in this country*, [must] be included" in the congressional apportionment base. *Id.* at 2 (emphasis added). In fact, DOJ noted, the Reconstruction Congress "rejected arguments that representation should be based on people with permanent ties to the country" and "consciously chose to include aliens." *Id.* at 2-3.

64. In its 1988 opinion, DOJ explained that, for apportionment purposes, the Fourteenth Amendment does not distinguish between "aliens" who are and are not lawfully present in the United States. Furthermore, DOJ explained, in analyzing the Fourteenth Amendment, "the Supreme Court . . . has read the word 'person' to include illegal aliens." *Id.* at 3-4 (citing *Plyler*, 457 U.S. at 210).

65. In 1989, under President George H. W. Bush, DOJ issued a similar opinion. Once again, a Senator had "requested the views of the Department of Justice concerning the constitutionality of proposed legislation excluding illegal or deportable aliens from the decennial census count." Letter from Carol T. Crawford, Assistant Attorney General, dated Sept. 22, 1989, at 1, 135 Cong. Rec. S12235 (1989). DOJ responded that "section two of the Fourteenth Amendment which provides for 'counting the whole number of persons in each state' and the

original Apportionment and Census Clauses of Article I section two of the Constitution *require that inhabitants of States who are illegal aliens be included* in the census count." *Id.* (emphasis added). At that time, current Attorney General William Barr was the head of DOJ's Office of Legal Counsel. In that position, he would be expected to have reviewed and approved the DOJ opinion.

66. In 2015, under President Barack Obama, DOJ again concluded that Article I, § 2 and the Fourteenth Amendment "were purposely drafted to refer to 'persons,' rather than to voters, and to include people who could not vote"—specifically including "aliens." Br. for the United States as *Amicus Curiae*, *Evenwel v. Abbott*, No. 14-940, at 18 (quoting Cong. Globe, 39th Cong., 1st Sess. 141, 359), 2015 U.S. S. Ct. Briefs LEXIS 3387. In DOJ's words, this is because "the federal government act[s] in the name of (and thereby represent[s]) all people, whether they [are] voters or not, and whether they [are] citizens or not." *Id.* at 19.

67. In preparation for the 2020 Census, the Bureau solicited and received two rounds of public comment on the Census Residence Rule and Residence Situations "to allow the public to recommend any changes they would like to be considered for the 2020 Census" with respect to "where people are counted." Final 2020 Census Residence Criteria and Residence Situations, 83 Fed. Reg. 5525, 5526 (2018). As with the residence rules governing prior censuses, the Census Bureau's 2020 Residence Rule requires that "[c]itizens of foreign countries living in the United States" be "[c]ounted at the U.S. residence where they live and sleep most of the time." *Id.* at 5533.

68. This aligns with the census concept of "usual residence," which "is grounded in the law providing for the first census, the Act of March 1, 1790, expressly specifying that persons be enumerated at their 'usual place of abode.'" 83 Fed. Reg. at 5526. The Census Bureau promulgates such criteria as to every decennial census. *See* U.S. Census, 2020 Census Residence Criteria and Residence Situations (Feb. 25, 2020), https://www.census.gov/programs-surveys/decennial-census/2020-census/about/residence-rule.html [https://perma.cc/5W42-NCQ7].

69. Until now, no President of any political party has deviated from the understanding of the Framers and drafters of the Fourteenth Amendment that congressional apportionment must be based on total population, irrespective of citizenship or immigration status. Nor, until now, has any President sought to exclude from the apportionment base any class of persons residing in the United States, regardless of whether they are eligible to vote, are U.S. citizens, or undocumented immigrants.

70. The judiciary, too, has consistently shared this understanding. For over fifty years, the Supreme Court has found it "abundantly clear . . . that in allocating Congressmen the number assigned to each state should be determined solely by the number of the State's inhabitants." *Wesberry v. Sanders*, 376 U.S. 1, 13 (1964). Just four years ago, the Supreme Court stated that the Constitution "select[s] . . . total population as the basis for allocating congressional seats, . . . *whether or not [individuals] qualify as voters*." *Evenwel*, 136 S. Ct. at 1129 (emphasis added). No court in the United States has ever held otherwise.

C. The Census Act Likewise Requires Apportionment Based on the Total Number of Persons Residing in Each State

71. The Enumeration Clause and Fourteenth Amendment empower Congress to enact legislation governing administration of the census and apportionment. In the Census Act of 1954, Congress delegated to the Secretary of Commerce responsibility for administering the census, including supervision of the Census Bureau. 13 U.S.C. §§ 1, 2, 4; 68 Stat. 1012 (1954); 90 Stat. 2459 (1976); *see also* 32 Stat. 51 (1902) (creating "Census Office"); 32 Stat. 825 (1903) (housing "Census Office" within the Department of Commerce and Labor).

72. The Census Act mandates that "[t]he Secretary shall, in the year 1980 and every 10 years thereafter, take a decennial census of population as of the first day of April of such year." It authorizes the Secretary to conduct the census "in such form and content as he may determine." 13 U.S.C. § 141(a). Under the direction of the Secretary and the Bureau Director, the Bureau conducts the constitutionally required census every ten years by counting all U.S. residents in the place where they live. The Census Bureau's rules state that its enumeration procedures "are guided by the constitutional and statutory mandates to count *all residents* of the

several states," including "[c]itizens of foreign countries living in the United States." U.S. Census Bureau, *Residence Criteria and Residence Situations for the 2020 Census of the United States* at 1-2 (emphasis added), https://www.census.gov/content/dam/Census/programs-surveys/decennial/2020-census/2020-Census-Residence-Criteria.pdf (last accessed July 27, 2020).

73. The Census Act also sets forth the procedure and timeline for distribution and use of the results of the decennial census, instructing the Secretary to submit to the President "[t]he tabulation of *total population* by States . . . as required for the apportionment of Representatives in Congress among the several States." 13 U.S.C. § 141(b) (emphasis added).

74. Thereafter, the President must "transmit to the Congress a statement showing the *whole number of persons in each State* excluding Indians not taxed, *as ascertained under the . . . decennial census of the population*, and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions, no State to receive less than one Member." 2 U.S.C. § 2a(a) (emphasis added).

75. The "method of equal proportions" is a method of apportionment based on each State's population designed to minimize disparities in "population per Representative" among States. 71 Cong. Rec. at 4965 (Mar. 2 1929) ("Memorandum on the Method of Equal Proportions" by Professor Edward Huntington noting unanimous adoption of method by Advisory Committee of the Census); 67 Cong. Rec. at 7078 (Apr. 7, 1926) (Advisory Committee report describing method as providing "an apportionment in which the ratios between the representation and the population of the Several States are as nearly alike as possible"). The Department of Justice has recognized that the method of equal proportions relies on each State's total population. Br. for Appellants, *Dep't of Commerce v. Montana*, 503 U.S. 442 (1992), 1992 WL 672939, at *9-11 ("Under all of the methods, the formula for establishing each State's priorities has as its numerator the population of the State.").

76. "Each State shall be entitled . . . to the number of Representatives shown in the [President's] statement" and "no State to receive less than one Member." 2 U.S.C. § 2a(b). "It

shall be the duty of the Clerk of the House of Representatives, within fifteen calendar days after the receipt of such statement, to send to the executive of each State a certificate of the number of Representatives to which such State is entitled under this section." *Id.*

D. The Census Act and Enumeration Clause of the Constitution Require an Accurate Enumeration and Prohibit the Use of Statistical Sampling to Determine the Total Population for Congressional Apportionment

77. The Census Act expressly prohibits "the use of the statistical method known as 'sampling' in carrying out" "the determination of population for purposes of apportionment of Representatives in Congress among the several States[.]" 13 U.S.C. § 195.

78. The Supreme Court has held squarely that 13 U.S.C. § 195 "prohibits the use of sampling in calculating the population for purposes of apportionment." *Dep't of Commerce v. U.S. House of Representatives*, 525 U.S. 316, 340 (1999).

79. The Supreme Court explained further that 13 U.S.C. § 195 prohibits the use of statistical sampling for apportionment purposes, "[w]hether used as a 'supplement' or as a 'substitute.'" *Id.* at 342.

80. Likewise, the Constitutional mandate to make an "actual Enumeration" requires the Census Bureau to make an actual count. The use of statistical sampling to estimate "the whole number of persons in each State" . . . in lieu of any effort to actually count such persons violates the constitutional requirement of an "actual Enumeration." U.S. Const. art. I, § 2, cl. 3; *see U.S. House of Representatives*, 525 U.S. at 346-47 (Scalia, J. concurring in part) ("Dictionaries roughly contemporaneous with the ratification of the Constitution demonstrate that an 'enumeration' requires an actual counting, and not just an estimation of number.").

81. The Supreme Court has recognized that the Enumeration Clause embodies a "strong constitutional interest in accuracy," and observed that "the Framers expected census enumerators to seek to reach each individual household" when making determinations that bear on apportionment. *Utah v. Evans*, 536 U.S. 452, 477-78 (2002). To the extent other "methods substitute for any such effort, it may be argued that the Framers did not believe that the Constitution authorized their use." *Id.*

82. Defendants recently conceded these points. When Secretary Ross issued his memorandum reinstating a citizenship question on the 2020 Census, he repeatedly emphasized the importance of "*complete and accurate data*" and stated that "it is [] incumbent upon the Department [of Commerce] and Census Bureau to make every effort to provide a complete and accurate decennial census" in order to secure the "foundational elements of our democracy," "including apportionment of Congressional seats among states." Memorandum to Karen Dunn Kelley, Under Secretary for Economic Affairs, from the Sec'y of Commerce on Reinstatement of a Citizenship Question on the 2020 Decennial Census Questionnaire, at 1, 8 (Mar. 26, 2018), https://www.commerce.gov/sites/default/files/2018-03-26_2.pdf.

83. Thereafter, when the State of New York and others challenged the addition of a citizenship question to the 2020 Census as a violation of (*inter alia*) the Enumeration Clause, the Department of Justice—on behalf of Defendants—recognized that "the Constitution's reference to 'actual Enumeration' is simple: population [for purposes of apportionment] is to be determined *through a person-by-person headcount, rather than through estimates or conjecture*." Br. in Support of Defendants' Mot. to Dismiss (ECF No. 155) at 30, *New York v. Dep't of Commerce*, No. 1:18-cv-02921-JMF (S.D.N.Y. filed May 25, 2018) (emphasis added); *see also id.* at 25 (stating that the Enumeration Clause "provides a simple judicial standard for determining the constitutionality" of a practice used in creating data used for apportionment: "the Secretary must perform a *person-by-person headcount*, rather than an estimate of population" (emphasis added)).

84. Consistent with the Constitution's demand for an "actual Enumeration," starting "[f]rom the very first census" in 1790, "Congress has prohibited the use of statistical sampling in calculating the population for purposes of apportionment." *House of Representatives*, 525 U.S. at 335. Instead, it has required that "enumeration . . . be made by an *actual inquiry at every dwelling-house . . . and not otherwise*." *Id.* (emphasis added) (quoting Act of Mar. 26, 1810, § 1, 2 Stat. 565-66).

E. President Trump's Unlawful Apportionment Exclusion Order

85. Despite the Constitution's unambiguous command and two centuries of consistent practice, President Trump, on July 21, 2020, issued the Apportionment Exclusion Order, excluding undocumented persons from the apportionment base following the 2020 Census and ordering the Secretary of Commerce to use the census reporting process to facilitate that exclusion. Contemporaneously, the President issued a statement that he is "directing the Secretary of Commerce to exclude illegal aliens from the apportionment base following the 2020 census." *See* Statement from the President Regarding Apportionment (July 21, 2020), https://www.whitehouse.gov/briefings-statements/statement-president-regarding-apportionment/.

86. Although the Apportionment Exclusion Order is styled a "Memorandum," that label has no legal significance—because the Order's language and its publication in the Federal Register confirm that it has binding legal force and effect. *See* 44 U.S.C. § 1505(a) (requiring executive documents with "general applicability and legal effect" to be published in the Federal Register); *Excluding Illegal Aliens From the Apportionment Base Following the 2020 Census*, 85 Fed. Reg. 44679 (July 23, 2020) ("order[ing]" that action be taken). And "there is no substantive difference in the legal effectiveness of an executive order and a presidential directive that is styled other than as an executive order." *Legal Effectiveness of a Presidential Directive, as Compared to an Executive Order*, 24 Op. O.L.C. 29 (2000); *see also Medellin v. Texas*, 552 U.S. 491, 524 (2008) (analyzing presidential memorandum's legal effects under *Youngstown* tripartite framework for executive action).

87. Section 1 of the Apportionment Exclusion Order provides the purported authority for the President's action. It states that "Congress has charged the Secretary of Commerce (the Secretary) with directing the conduct of the decennial census in such form and content as the Secretary may determine (13 U.S.C. 141(a))." Apportionment Exclusion Order § 1. It also states that "[t]he President, by law, makes the final determination regarding the 'whole number of persons in each State,' which determines the number of Representatives to be apportioned to each State, and transmits these determinations and accompanying census data to the Congress (2

U.S.C. 2a(a))." *Id.* The Apportionment Exclusion Order then asserts that the President has "discretion to settle the apportionment." *Id.*

88. Section 1 of the Apportionment Exclusion Order observes that the Constitution's requirement that "persons in each State, excluding Indians not taxed" be enumerated in the census "has been interpreted to mean that only the 'inhabitants' of each State should be included." *Id.* The Order then claims that the President has discretion "to determine who qualifies as an 'inhabitant.'" *Id.*

89. Purportedly in the exercise of that discretion, the Apportionment Exclusion Order announces that the President has "determined that respect for the law and protection of the integrity of the democratic process warrant the exclusion of illegal aliens from the apportionment base," without regard to whether they reside in the United States. *Id.* § 2. The Apportionment Exclusion Order also sets forth the President's motivation: he wants to punish States like California and Washington that, he says, have adopted "policies that encourage illegal aliens to enter this country" by diminishing their "representation in the House of Representatives." *Id.* Indeed, the Order specifically identifies "one State [that] is home to more than 2.2 million illegal aliens, constituting more than 6 percent of the State's entire population," and states that "two or three" congressional seats would be allocated in this State than would otherwise be allocated not counting those undocumented persons. On information and belief, that "one State" is California, where Plaintiffs City of San Jose, BAJI, Sam Liccardo, and Zerihoun Yilma are located. *See* Pew Research Center, *U.S. unauthorized immigrant population estimate by state, 2016* (Feb. 5, 2019), https://www.pewresearch.org/hispanic/interactives/u-s-unauthorized-immigrants-by-state/.

90. To implement the Apportionment Exclusion Order, the President orders the Secretary of Commerce, "[i]n preparing his report to the President under section 141(b) of title 13 . . . to provide information permitting the President, to the extent practicable, to exercise the President's discretion to carry the policy . . . ." Apportionment Exclusion Order § 3. In other words, the Secretary is directed to provide information in the census report he is statutorily

required to transmit to the President that will enable the President to categorize undocumented immigrants as "non-persons" and thereby exclude them from the apportionment calculation.

91. The President's stated legal justification for this action is that the Constitution's requirement that "persons in each State, excluding Indians not taxed" be enumerated in the census "has never been understood to include in the apportionment base every individual physically present within a State's boundaries at the time of the census. Instead, he notes, the term 'persons in each State' has been interpreted to mean that only the 'inhabitants' of each State should be included." *Id.* § 1. The Apportionment Exclusion Order states that "[d]etermining which persons should be considered 'inhabitants' for the purposes of apportionment requires the exercise of judgment," and it defends excluding undocumented persons as an exercise of that judgment. *Id.*

92. That rationale is contrived. Under the Constitution, Representatives are apportioned among the States by "counting the whole number of persons in each State." U.S. Const. amend. XIV, § 2. Accepting that this means persons who actually reside in the United States, and that tourists are not included for these purposes, millions of undocumented persons in fact reside in California and the United States. They are not just tourists passing through. *See, e.g.*, Brian Baker, *Estimates of the Illegal Alien Population Residing in the United States: January 2015*, Office of Immigration Statistics, Dep't of Homeland Security (Dec. 2018), https://www.dhs.gov/sites/default/files/publications/18_1214_PLCY_pops-est-report.pdf (estimating 12 million undocumented immigrants living in the United States, and estimating 2.9 million living in California).

93. The Order's focus on "inhabitants" is immaterial. To begin, the Constitution speaks of "persons," not "inhabitants." But even if the term used were "inhabitants," the result would be the same. The meaning of "inhabitant" (now, in 1787, and in 1865) is persons who reside in a place—without any overlay or additional requirement of legal documentation or status. *See, e.g.*, *Inhabitant*, Samuel Johnson, A Dictionary of the English Language (6th ed. 1785) ("Dweller; one that lives or refides [sic] in a place."); *Inhabitant*, Noah Webster, American Dictionary of the English Language (1865) ("1. One who dwells or resides

permanently in a place, or who has a fixed residence, as distinguished from an occasional lodger or visitor"); *Inhabitant*, Merriam-Webster Online Dictionary ("one that occupies a particular place regularly, routinely, or for a period of time"), https://www.merriam-webster.com/dictionary/inhabitant (last visited July 27, 2020). "Inhabitant" is not restricted to "citizen," which connotes a particular relationship with the government, and which lawmakers in 1787, again in 1865, and again now, know very well how to use when they want to limit the scope of persons to the smaller class of citizens of the United States alone. *See, e.g.*, 2 Records of the Federal Convention of 1787, pp. 182-83 (M. Farrand ed. 1911) (draft of Constitution providing "proportions of direct taxation shall be regulated by the whole number of white and other free citizens and inhabitants, of every age, sex and condition, including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description, (except Indians not paying taxes) . . . ."); U.S. Const. art. I, § 2, cl. 2 & § 3, cl. 2 (qualifications to be a Representative or Senator include "be[ing] nine years a Citizen of the United States" as well as "an inhabitant of that State [in or for] which he shall be chosen"); U.S. Const. amend. XIV, § 2 (referring to "male inhabitants of [a] State, being twenty-one years of age, and citizens of the United States").

F. The Apportionment Exclusion Order Will Necessitate Reliance on Wholly Incomplete and Inaccurate Data or the Use of Statistical Sampling

94. No Government agency has ever undertaken a person-by-person enumeration of undocumented immigrants in each State.

95. Following the Supreme Court's decision last year enjoining Secretary Ross from including a citizenship question on the 2020 Census in *Department of Commerce v. New York*, 139 S. Ct. at 2575-76, the President issued Executive Order Executive Order 13880 on July 11, 2019, directing all executive agencies instead to provide the Department of Commerce with access to administrative records that may be useful in accomplishing the President's objective of determining the number of citizens and non-citizens in the country.

96. On August 3, 2020, the Census Bureau announced that it is "continu[ing] its work on meeting the requirements of Executive Order 13880 issued July 11, 2019 and the Presidential

Memorandum issued July 21, 2020." U.S. Census Bureau, Statement from U.S. Census Bureau Director Steven Dillingham: Delivering a Complete and Accurate 2020 Census Count (Aug. 3, 2020), https://www.census.gov/newsroom/press-releases/2020/delivering-complete-accurate-count.html.

97. Without a 2020 Census question regarding immigration status, the Census Bureau lacks the means to accurately enumerate the population of undocumented immigrants in each State in order to exclude them from the total population apportionment count. The Department of Commerce has expressly conceded that it "lack[s] . . . accurate estimates of the resident undocumented population on a state-by-state basis." Defs' Supp. Rule 26(a)(1) Disclosures and Rule 26(a)(2)(C) Disclosures, *State of Alabama v. Dep't of Commerce*, Case No. 2:18-cv-00772-RDP (N.D. Ala. March 13, 2020).

98. The administrative records, which the President has directed are to be the basis for the Department of Commerce's enumeration of the undocumented population, are riddled with inaccuracies and inconsistencies. Jeffrey Mervis, *Why the U.S. Census Bureau could have trouble complying with Trump's order to count citizens*, Science Mag. (Sept. 16, 2019), https://www.sciencemag.org/news/2019/09/why-us-census-bureau-could-have-troublecomplying-trump-s-order-count-citizens (detailing the "formidable challenge" in relying on administrative records); Ruth Greenwood, et al, Collection of State Administrative Records Data, OMB Control Number 0607-0995 (Jan. 17, 2020), https://campaignlegal.org/sites/default/files/2020-01/Final%20Campaign%20Legal%20Center%20Comment%20OMB%20Control%20No%200607-0995.pdf (noting that "[s]tate administrative data on individual citizenship status are notoriously riddled with errors and outdated information" and "records misidentify naturalized U.S. citizens as non-U.S. citizens"); Jennifer Van Hook, *Counting 11 million undocumented immigrants is easier than Trump thinks*, The Conversation (July 17, 2019, 7:22 AM EDT), https://theconversation.com/counting-11-million-undocumented-immigrants-is-easier-than-trump-thinks-120459 (observing that administrative records provide "inconsistent information about the same person," have "limited value for describing those who fall outside of the

administrative records system," and will require researchers to "make assumptions about coverage error"). Moreover, administrative records do not provide information as to lawful immigration status, as opposed to citizenship, and cannot therefore be used to determine whether census respondents are undocumented, as opposed to lawful, immigrants.

99. In the absence of a means to accurately enumerate the total population *excluding* undocumented immigrants, the Census Bureau will have no choice but to rely either on statistical sampling to estimate the number of undocumented persons in each State or on inaccurate administrative records regarding citizenship in order to deliver to the President an apportionment base that excludes undocumented immigrants from the "whole number of persons in each State."

100. The Government has already admitted that Defendants may use statistical modeling to estimate the undocumented population and thereby calculate an apportionment population that excludes undocumented immigrants. In separate litigation, Department of Justice attorney Stephen Ehrlich recently stated that there may be a need for "some statistical modeling" in order to effectuate the Apportionment Exclusion Order, though the Government had not yet "formulated a methodology." Hansi Lo Wang, *Trump Sued Over Attempt To Omit Unauthorized Immigrants From A Key Census Count*, N.P.R. (July 24, 2020, 10:11 AM ET), https://www.npr.org/2020/07/24/894322040/trump-sued-for-attempt-to-omitunauthorized-immigrants-from-a-key-census-count.

101. When asked at a recent congressional hearing how the Census Bureau intends to calculate the number of undocumented immigrants in each State, the Bureau's current Director, Defendant Dillingham, responded that its "experts" would "look at our administrative data and any [other] data that we have," including data obtained from outside sources, then "determine . . . the [President's desired] statistic" by "appl[ying]" unspecified "methodologies" to that data. Oversight Committee, *Counting Every Person: Hearing on Safeguarding the 2020 Census Against the Trump Administration's Unconstitutional Attacks*, YouTube (July 29, 2020), https://www.youtube.com/watch?v=SKXS8e1Ew7c.

102. Because actual enumeration of undocumented immigrants is not possible, any quantification of undocumented immigrants that the Secretary of Commerce would provide to

the President pursuant to the Apportionment Exclusion Order, or that the President would thereafter rely upon in preparing the apportionment base for transmission to Congress, would violate 13 U.S.C. § 195 or 2 U.S.C. § 2a(a) and the Enumeration Clause of the U.S. Constitution.

G. Harm to Plaintiffs

103. Plaintiffs incorporate by reference the above allegations in this Complaint.

104. Millions of undocumented immigrants reside in California and the United States.

105. The voting power of Plaintiffs Sam Liccardo, Rodney Ellis, Zerihoun Yilma, Lovette Kargbo-Thompson, and Santcha Etienne will be diluted by the Apportionment Exclusion Order because, by excluding millions of persons from the apportionment count, it will likely cause their home states of California, Texas, Florida, and possibly Georgia to have fewer Representatives. *See Dep't of Commerce v. U.S. House of Representatives*, 525 U.S. 316, 330-33 (1999) (state's expected loss of a Representative following reapportionment conferred standing on the state's voters).

106. BAJI is harmed because the Apportionment Exclusion Order already has caused, and absent relief in this action will continue to cause, BAJI to divert resources—including time and money—from other important matters that it ordinarily would be addressing through presentations, workshops, publications, technical assistance, and trainings. As another federal court has already found, and the Supreme Court upheld on review, undocumented immigrants already have a high nonresponse rate to the census. *See New York v. United States Dep't of Commerce*, 351 F. Supp. 3d 502, 578-85 (S.D.N.Y. 2019), aff'd in relevant part, rev'd in part and remanded *sub nom. Dep't of Commerce v. New York*, 139 S. Ct. 2551 (2019). The Administration's announced decision to exclude all undocumented persons from the apportionment calculations, and to require that the Department of Commerce and by extension the Census Bureau report such information to the President, will further discourage undocumented immigrants from responding to the ongoing 2020 Census, because of fear that the government will identify and retaliate against undocumented persons who fill out the census. BAJI has spent and, absent relief in this action will continue to spend, additional time and

resources educating and encouraging its partners and constituents to appropriately fill out the census in order to counteract the chilling effect of the Apportionment Exclusion Order.

107. The exclusion of undocumented persons from the Representatives apportionment among the States also will frustrate and undermine BAJI's core mission of promoting equal and just laws through building coalitions and initiating campaigns with African Americans and Black immigrants, and fostering racial, economic, and social equality for the communities it serves. *See Havens Realty Corp. v. Coleman*, 455 U.S. 363 (1982); *see also Fair Hous. of Marin v. Combs,* 285 F.3d 899, 905 (9th Cir. 2002); *E. Bay Sanctuary Covenant v. Barr*, No. 19-16487, 2020 WL 3637585, at *9 (9th Cir. July 6, 2020).

108. In addition, BAJI is indirectly harmed by the injuries to its individual members, including Plaintiffs Yilma, Kargbo-Thompson, and Etienne set forth above, and thus has associational standing to sue on behalf of those injured members. Just as Plaintiffs Yilma, Kargbo-Thompson, and Etienne have standing to sue in their own right, other BAJI members are similarly situated. The interests sought to be protected by this Complaint are germane to BAJI's purpose as an organization, including having legal apportionment in the House to build coalitions and initiate campaigns with African Americans and Black immigrants. The claims and relief requested here do not require participation of BAJI's individual members. *See Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977); *Am. Diabetes Ass'n v. United States Dep't of the Army*, 938 F.3d 1147, 1155 (9th Cir. 2019).

109. Finally, all Plaintiffs—Sam Liccardo, Rodney Ellis, Zerihoun Yilma, Lovette Kargbo-Thompson, Santcha Etienne, BAJI, the City of San Jose, King County, Arlington County, and Harris County—will be harmed by the chilling effect of the Apportionment Exclusion Order on the response rate to the ongoing 2020 Census, as discussed above. As noted, the Order's announcement that undocumented immigrants will not be counted in the apportionment base is likely to disproportionately suppress the response rate from undocumented immigrants. And the lower response rate from undocumented immigrants caused by the Order will harm all Plaintiffs by diminishment of political representation, loss of federal funds, degradation of census data, and diversion of resources.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF
Violation of Apportionment and Enumeration Clauses, and Fourteenth Amendment (U.S. Const., art. I, § 2; amend. XIV, § 2)

110. Plaintiffs incorporate by reference the above allegations in this Complaint.

111. The Apportionment and Enumeration Clauses provide that "Representatives . . . shall be apportioned among the several States . . . according to their respective Numbers, which shall be determined" based on the number of "persons" in each state according to an "actual Enumeration." U.S. Const. art. I, § 2.

112. The Fourteenth Amendment requires the apportioning of Representatives among the States based on "the whole number of persons in each State." U.S. Const., amend. XIV, § 2.

113. Constitutional text, history, and precedent recognize undocumented immigrants as persons, and millions of them reside in the United States.

114. The Apportionment Exclusion Order denies that undocumented immigrants are "persons" for purposes of apportionment and directs that they all be excluded from the apportionment base following the 2020 Census.

115. These constitutional violations have caused, are causing, and absent relief in this action 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 the Fifth and Fourteenth Amendments—Malapportionment (U.S. Const., amend. V, XIV)

116. Plaintiffs incorporate by reference the above allegations in this Complaint.

117. The Due Process Clause of the Fifth Amendment prohibits the federal government from denying equal protection of the law.

118. The Equal Protection Clause of the Fourteenth Amendment, made applicable to the federal government by the Due Process Clause of the Fifth Amendment, provides that the government may not "deny to any person within its jurisdiction the equal protection of the laws." U.S. Const., amend. XIV, § 1, cl. 2.

119. The Equal Protection Clause prohibits malapportioned congressional districts. *See Evenwel*, 136 S. Ct. at 1123-24; *Wesberry v. Sanders*, 376 U.S. 1 (1964); *Reynolds v. Sims*, 377 U.S. 533 (1964).

120. The Apportionment Exclusion Order adopts an apportionment scheme that excludes all undocumented immigrants, and therefore will lead to malapportionment by providing fewer Representatives to States with higher populations of such persons.

121. These constitutional violations have caused, are causing, and absent relief in this action 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 Census Act—Ultra Vires
(2 U.S.C. § 2a; 13 U.S.C. § 141)

122. Plaintiffs incorporate by reference the above allegations in this Complaint.

123. The Census Act, 13 U.S.C. § 141(b), requires the Secretary to administer the decennial census and thereafter report to the President a "tabulation of total population by States . . . as required for apportionment of Representatives in Congress."

124. Title 2 U.S.C. § 2a(a) requires the President to transmit to Congress "a statement showing the whole number of persons in each State, excluding Indians not taxed, as ascertained under the . . . decennial census of the population, and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions."

125. The Apportionment Exclusion Order violates these statutory mandates by directing the Secretary to report to the President apportionment data that is not based on the "total population" or the actual Enumeration of each State.

126. The Apportionment Exclusion Order violates these statutory mandates by determining that the President will transmit to Congress apportionment data that is not based on "the whole number of persons in each State" or "the method known as the method of equal proportions" and directing the Secretary of Commerce and other Defendants to facilitate this unlawful course of action.

127. Defendants' actions beyond the scope of statutory authority are *ultra vires* pursuant to 2 U.S.C. § 2a(a) and 13 U.S.C. § 141, and thereby unlawful.

128. These *ultra vires* violations have caused, are causing, and absent relief in this action will continue to cause harm to Plaintiffs as alleged above, and there is a substantial likelihood that the requested relief will redress this harm.

FOURTH CLAIM FOR RELIEF
Violation of Apportionment and Enumeration Clauses—
Prohibition on Use of Inaccurate and Incomplete Data and Statistical Sampling
(U.S. Const. art. I, § 2, cl. 3)

1. Plaintiffs incorporate by reference the above allegations in this Complaint.

2. The Apportionment and Enumeration Clauses provide that "Representatives . . . shall be apportioned among the several States . . . according to their respective Numbers, which shall be determined" based on the number of "persons" in each state according to an "*actual Enumeration*." U.S. Const. art. I, § 2 (emphasis added).

3. The Supreme Court has recognized that the Enumeration Clause embodies a "strong constitutional interest in accuracy," and that to the extent methods other than a person-by-person headcount are used, "it may be argued that the Framers did not believe that the Constitution authorized their use." *Utah*, 536 U.S. at 478-77.

4. Because it has no means to accurately enumerate the total population *excluding* undocumented immigrants, the Apportionment Exclusion Order will necessitate the use of incomplete and inaccurate administrative records or statistical sampling to estimate the number of undocumented immigrants in order to exclude such persons from the "actual Enumeration" that forms the basis for apportionment of Representatives among the several States.

5. Reliance on incomplete and inaccurate administrative records or statistical sampling to exclude undocumented immigrants from the "the whole number of persons in each State" violates the Constitution's requirement that an "*actual* Enumeration shall be made." U.S. Const. art. I, § 2, cl. 3 (emphasis added).

6. These constitutional violations have caused, are causing, and absent relief in this action will continue to cause harm to Plaintiffs as alleged above, and there is a substantial likelihood that the requested relief will redress this harm.

FIFTH CLAIM FOR RELIEF
Violation of Census Act—Prohibition on Statistical Sampling
(13 U.S.C. § 195)

7. Plaintiffs incorporate by reference the above allegations in this Complaint.

8. The Apportionment Exclusion Order also violates the Census Act's prohibition on the use of statistical sampling for the determination of population for purposes of apportionment of Representatives in Congress. *See* 13 U.S.C. § 195.

9. The Census Act states, "*Except for the determination of population for purposes of apportionment of Representatives in Congress among the several States*, the Secretary shall, if he considers it feasible, authorize the use of the statistical method known as 'sampling' in carrying out the provisions of this title." 13 U.S.C. §195 (emphasis added).

10. The Supreme Court has interpreted this language to prohibit the use of statistical sampling in determining the population count for purposes of apportionment. *See U.S. House of Representatives*, 525 U.S. 316.

11. Pursuant to federal law, "Any person aggrieved by the use of any statistical method in violation of the Constitution or any provision of law (other than this Act), in connection with the 2000 or any later decennial census, to determine the population for purposes of the apportionment or redistricting of Members in Congress, may in a civil action obtain declaratory, injunctive, and any other appropriate relief against the use of such method." Pub. L. No. 105-119, § 209(b), 111 Stat. 2440, 2481 (1997) (13 U.S.C. § 141 note(b)). An "aggrieved person" is defined to include "any resident of a State whose congressional representation or district *could* be changed as a result of the use of a statistical method." *Id.* § 209(d)(1) (emphasis added).

12. Neither the Census Bureau nor any other Government agency has ever undertaken an actual enumeration of undocumented immigrants in each State. And the Census Bureau is not inquiring as to citizenship status in the 2020 Census, having been permanently enjoined from

doing so. Accordingly, the only way Defendants could exclude undocumented immigrants from the enumerated count of the "the whole number of persons in each State" is by relying on incomplete and inaccurate data or extrapolating the characteristics of the entire population from a sample.

13. Any such "sampling," which seeks to extrapolate the features of an entire population from a small segment thereof, is distinguishable from "imputation," which simply seeks to fill in missing data as part of an effort to count individuals one by one. *See Utah*, 536 U.S. at 466-73.

14. Excluding undocumented immigrants from the "the whole number of persons in each State" on the basis of statistical sampling violates the statutory prohibition against use of "the statistical method known as 'sampling'" for "purposes of apportionment of Representatives in Congress." 13 U.S.C. § 195.

15. Congress has directed that challenges to use to sampling for purposes of the apportionment should be heard and resolved as soon as possible, including prior to the actual apportionment of the House of Representatives: "It shall be the duty of a United States district court hearing an action brought under this section and the Supreme Court of the United States to advance on the docket and to *expedite to the greatest possible extent the disposition of any such matter*." Pub. L. No. 105-119, § 209(e)(2), 111 Stat. 2440, 2481 (1997) (13 U.S.C. § 141 note(e)(2)) (emphasis added).

16. These statutory violations have caused, are causing, and absent relief in this action will continue to cause harm to Plaintiffs as alleged above, and there is a substantial likelihood that the requested relief will redress this harm.

SIXTH CLAIM FOR RELIEF
Violation of the Fifth and Fourteenth Amendments—Intentional Discrimination (U.S. Const., amend. V, XIV)

17. Plaintiffs incorporate by reference the above allegations in this Complaint.

18. The Apportionment Exclusion Order is also unlawful because it violates the core constitutional protections against unlawful discrimination enshrined in the Due Process and Equal Protection Clauses of the Fifth and Fourteenth Amendments.

19. The Due Process Clause of the Fifth Amendment prohibits the federal government from denying any person "equal protection of the laws" and, co-extensive with the equal protection guarantee of the Fourteenth Amendment, prevents the federal government from discrimination on the basis of race, ethnicity, national origin, and citizenship. U.S. Const. amend. V.

20. These protections apply to every person within the jurisdiction of the United States—regardless of citizenship status, "documentation," or any other attempted classification criteria. *See, e.g.*, *Plyler*, 457 U.S. at 210-12.

21. Under these principles, applicable to undocumented immigrants, "invidious discriminatory purpose" cannot be "a motivating factor" in government action. *Vill. of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252, 266 (1977).

22. Contrary to these guarantees of Due Process and Equal Protection, the Apportionment Exclusion Order is motivated by an intent to discriminate against Black and Latinx people (generally, and, in particular, Black and Latinx immigrants), as demonstrated by the President's consistent conduct disparaging members of these communities and seeking to dilute their political power.

23. The history here—culminating in the Apportionment Exclusion Order—is extensive. There is widespread public coverage of the President making numerous statements indicating animosity toward communities of color. *See, e.g.*, Josh Dawsey, *Trump derides protections for immigrants from 'shithole' countries [Haiti, El Salvador, African countries]*, Washington Post (Jan. 12, 2018, 4:52 AM PST), https://www.washingtonpost.com/politics/trump-attacks-protections-for-immigrants-from-shithole-countries-in-oval-office-meeting/2018/01/11/bfc0725c-f711-11e7-91af-31ac729add94_story.html; Donald J. Trump Statement on Preventing Muslim Immigration (Dec. 7, 2015) https://web.archive.org/web/20160204082711/https:/www.donaldjtrump.com/press-releases/donald-j.-trump-statement-on-preventing-muslim-immigration; Eugene Scott, *Trump's History of Making Offensive Comments about Nonwhite Immigrants*, Washington Post, Jan. 11, 2018; Julia Hirschfeld Davis et al, *Trump Alarms Lawmakers with Disparaging Words for Haiti*

and Africa, NY Times (Jan. 11, 2018), https://www.nytimes.com/2018/01/11/us/politics/trump-shithole-countries.html; Matthew Choi, *Trump focuses on white people killed by police, defends Confederate flag*, Politico (July 14, 2020, 5:45 PM EDT), https://www.politico.com/news/2020/07/14/trump-racism-confederate-flag-police-361205.

24. The general statements then turned to attempts by President Trump to weaken these communities. For example, in 2018, the President referred to Sanctuary laws and policies as a "ridiculous, crime infested & *breeding* concept," likening undocumented immigrants protected by such laws and policies to animals. Z. Byron Wolf, *Trump blasts 'breeding' in sanctuary cities. That's a racist term* (last updated, April 24, 2018, 11:58 PM ET), https://www.cnn.com/2018/04/18/politics/donald-trump-immigrants-california/index.html (emphasis added); *see also* Remarks by President Trump at a California Sanctuary State Roundtable (May 16, 2018), https://www.whitehouse.gov/briefings-statements/remarks-president-trump-california-sanctuary-state-roundtable/. And President Trump repeatedly tried to withhold federal funding from such states and cities, and continues to do so today, even in the midst of a global pandemic that has significantly harmed undocumented immigrants. *See, e.g.*, Keya Vakil, Trump to States: Crack Down on Sanctuary Cities or I'll Hold Back Coronavirus Aid (last updated, May 12, 2020, 9:14 AM EDT), https://couriernewsroom.com/2020/04/30/trump-to-states-crack-down-on-sanctuary-cities-or-ill-hold-back-coronavirus-aid/; Louise Radnofsky & Rebecca Ballhaus, *Trump Revives Idea on 'Sanctuary Cities' Amid Stepped Up Immigration Push*, Wall Street Journal (Apr. 12, 2019), https://www.wsj.com/articles/trump-giving-strong-considerations-to-proposal-to-place-immigrants-who-enter-u-s-illegally-in-sanctuary-cities-only-11555087547.

25. In 2019, the President's focus turned to limiting and diluting the voting power of these groups—by seeking to add a question about citizenship to the 2020 Census. When challenged about the propriety of this sudden addition, Secretary Ross claimed it was necessary to enforce the Voting Rights Act. But the courts saw through this. Secretary Ross's decision was enjoined by three district courts, and one of those cases ended up before the Supreme Court, which vacated Secretary Ross's decision because his stated rationale was "contrived" and

"pretextual." *Dep't of Commerce v. New York*, 139 S. Ct. at 2575-76.

26. It was later revealed that Thomas Hofeller, a prominent redistricting strategist for the Republic Party, was involved in drafting portions of the letter from DOJ seeking to add the citizenship question, including portions related to the pretextual basis. *See* NYIC Pls.' Mot. for Sanctions, *N.Y. Immigration Coalition v. U.S. Dep't of Commerce,* No. 1:18-cv-2921-JMF, ECF No. 635-1 at 124-136 (S.D.N.Y. July 16, 2019); Def's Opp. to Ltr. Mot. to Compel, *N.Y. Immigration Coal. v. U.S. Dep't of Commerce*, 1:18-cv-2921-JMF, ECF No. 451 at 3 (S.D.N.Y. Oct. 30, 2018). This was the same Thomas Hofeller who, in 2015, prepared a study titled "The Use of Citizen Voting Age Population in Redistricting," in which he recommended adding a citizenship question to the Census so that states could use citizen voting age population rather than total population to redistrict. According to Hofeller, this change would be "advantageous to Republicans and non-Hispanic Whites," while diluting the political power of Hispanics. *See* https://www.commoncause.org/wp-content/uploads/2019/05/2015-Hofeller-Study.pdf (last accessed July 27, 2020).

27. President Trump himself weighed in, so as to leave no question about what had driven him to add the census question struck down by the Supreme Court. On July 5, 2019, just eight days after the Supreme Court's decision, the President publically confirmed that he had sought to add the citizenship question *not* to enforce the Voting Rights Act, but rather "for districting" and "for appropriations," consistent with his attempts to withhold funding from Sanctuary states and cities. Remarks by President Trump Before Marine One Departure (July 5, 2019), https://www.whitehouse.gov/briefings-statements/remarks-president-trump-marine-one-departure-51/.

28. Taken together, the volume and consistency of the President's statements and action demonstrate discriminatory intent. Indeed, based on the President's own statements, this Court has itself previously concluded that there is "evidence that Defendant Trump harbors an animus against non-white, non-European aliens." *See* Order Granting Plfs.' Mot. for Prelim. Inj., *Ramos v. Nielsen*, No. 18-cv-01554-EMC, ECF No 128 at 30 (N.D. Cal. Oct. 3, 2018).

29. That leads to the present. In the last two weeks alone, President Trump has noted

that "many" immigrants from Central America "are in prison for rape, murder, lots of other things," and blamed Mexican immigrants for the increased number of COVID-19 cases in the United States, claiming that "sharing a 2,000-mile border with Mexico" has caused a surge in cases. *See* Remarks by President Trump in Press Conference (July 14, 2020), https://www.whitehouse.gov/briefings-statements/remarks-president-trump-press-conference-071420/; Daniel Dale, et al., *Fact check: Trump falsely suggests kids don't transmit coronavirus and that US case surge is due in part to protests and Mexican migration* (last updated, July 22, 2020, 9:48 PM ET), https://www.cnn.com/2020/07/22/politics/fact-check-trump-coronavirus-briefing-july-22/index.html.

30. And then—on July 21, 2020—President Trump issued the Apportionment Exclusion Order at issue here. It was a sudden decision, with little or no explanation, and one that departs from the long-standing policy and practice of the United States. And it was made before the Census Bureau even developed, let alone tested a technical means to provide the required information, was made without input from the public, and was made without following typical agency process. This "specific sequence of events," especially given the "historical background" involving the pretext of his initial census attempt, is strong indicia of discrimination and demonstrate improper motive. *Arlington Heights*, 429 U.S. at 267.

31. But there is direct evidence, too. The motivation is laid out in the Apportionment Exclusion Order itself, which states point blank that it seeks to punish States that the President says have adopted "policies that encourage illegal aliens to enter this country." And there is no question that the Apportionment Exclusion Order disproportionately impacts Black and Latinx communities. *Id.* at 266 (citing to *Washington v. Davis*, 426 U.S. 229, 242 (1976)). States and communities that will suffer adversely from Defendants' decision are those with large populations of undocumented immigrants. Undocumented immigrants are disproportionately located in States, like California and Texas, that also have large Latinx and Black populations. Those States are most likely to be disadvantaged by Defendants' action.

32. In light of the above, the Apportionment Exclusion Order issued by President Trump is predicated on intentional discrimination against non-white, non-European

undocumented immigrants and has caused, is causing, and absent relief in this action will continue to cause harm to Plaintiffs as alleged above. The acts of the other Defendants have been and will be necessarily tainted by the President's animosity toward communities of color. *Ramos v. Nielsen*, 321 F. Supp. 3d 1083, 1123-24 (N.D. Cal. 2018).

33. There is a substantial likelihood that the requested relief will redress this harm.

PRAYER FOR RELIEF

Plaintiffs respectfully request that this Court:

1. Declare that the Apportionment Exclusion Order's directive to exclude undocumented persons from the apportionment base violates the U.S. Constitution;

2. Declare that the Apportionment Exclusion Order's directive to exclude undocumented persons from the apportionment base is *ultra vires* and violates 2 U.S.C. § 2a(a) and 13 U.S.C. § 141;

3. Declare that any statement from the President to the Congress under 2 U.S.C. § 2a(a) that excludes undocumented persons residing in the United States from the apportionment base is null and void;

4. Declare that the use of statistical sampling and/or other incomplete or inaccurate methods for calculating the population for purposes of apportionment of Representatives among the States is not an "actual Enumeration" and thus violates the U.S. Constitution;

5. Declare that the use of statistical sampling to determine the population for purposes of apportionment of Representatives among the several States violates 13 U.S.C. § 195;

6. Enjoin Defendants Department of Commerce, Census Bureau, Ross, and Dillingham from excluding undocumented persons from the apportionment base following the 2020 Census, or from acting in any capacity to assist the President in excluding undocumented persons from the apportionment base following the 2020 Census;

7. Enjoin Defendants Department of Commerce, Census Bureau, Ross, and Dillingham from modeling, using, or relying on statistical sampling and/or other incomplete or inaccurate methods for calculating the population for purposes of apportionment of Representatives among the States, or from acting in any capacity to assist the President in doing

so;

8. Award Plaintiffs costs, expenses, and reasonable attorneys' fees;

9. Award any other relief the Court deems just and proper;

10. Maintain jurisdiction and monitorship over the action until such time as the statement set forth in 2 U.S.C. § 2a(a), which appropriately counts undocumented persons as persons and is otherwise consistent with the mandates of the Constitution and relevant statutes, is provided to Congress.

Dated: August 18, 2020

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NATIONAL URBAN LEAGUE; LEAGUE OF WOMEN VOTERS; BLACK ALLIANCE FOR JUST IMMIGRATION; HARRIS COUNTY, TEXAS; KING COUNTY, WASHINGTON; CITY OF LOS ANGELES, CALIFORNIA; CITY OF SALINAS, CALIFORNIA; CITY OF SAN JOSE, CALIFORNIA; RODNEY ELLIS; and ADRIAN GARCIA,

Plaintiffs,

v.

WILBUR L. ROSS, JR., in his official capacity as Secretary of Commerce; U.S. DEPARTMENT OF COMMERCE; STEVEN DILLINGHAM, in his official capacity as Director of the U.S. Census Bureau; and U.S. CENSUS BUREAU,

Defendants.

CASE NO. 20-cv-5799

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. This lawsuit challenges the unconstitutional and illegal decision by Secretary of Commerce Wilbur Ross, and Census Bureau (the "Bureau") Director Steven Dillingham, to sacrifice the accuracy of the 2020 Census by forcing the Census Bureau to compress eight and a half months of vital data-collection and data-processing into four and a half months, against the judgment of the Bureau's staff and in the midst of a once-in-a-century pandemic.

2. The Census Bureau's staff spent most of the past decade developing a final operational plan for the 2020 Census that reflected the Bureau's understanding of the best methods for counting everyone once and in the right place (the "Final Operational Plan"). In April 2020, as the COVID-19 pandemic spread throughout the country, the Census Bureau revised its plan to account for both the difficulties of census-taking during a pandemic and the Bureau's constitutional and statutory obligation to achieve a fair and accurate count (the "COVID-19 Plan"). To achieve both ends, the Department of Commerce and the Census Bureau delayed the counting process, shifted the timeframe for conducting and completing its data-collection operation, and increased the time for conducting data-processing, while, crucially, preserving the same amount of time for each step of those operations.

3. On August 3, 2020, the Department of Commerce and the Census Bureau suddenly and without explanation reversed course and replaced the Bureau's COVID-19 Plan with a new one (the "Rush Plan"). The Bureau's Rush Plan requires the Bureau to complete eight and a half months of data-collection and data-processing in half the time. It ignores the multi-month delay in census data-collection that the COVID-19 pandemic caused. It compels a final date for delivering apportionment data to the President that Bureau officials have repeatedly asserted they cannot meet. And it threatens a massive undercount of the country's communities of color and the municipalities, cities, counties, and states where they live. Under these circumstances, the Bureau's new plan to rush the 2020 Census violates, among other things, the federal government's legal obligations to secure an accurate count and statutory prohibitions on arbitrary, capricious, and pretextual federal government action.

4. The federal government's attempt to rush the census count poses a grave threat to

all the vital functions that rely on census data, from reapportioning the United States House of Representatives and redrawing state and local electoral districts, to equitably distributing over $1.5 trillion annually in federal funds that support basic needs such as food, health care, and education. Undercounted cities, counties, and municipalities will lose representation in Congress and tens of millions of dollars in funding. And communities of color will lose core political power and vital services. In contrast to these dire stakes, the immediate solution to this problem is simple: set aside and enjoin implementation of the impossibly-shortened Rush Plan, which is based on an unexplained change of position, and allow the Census Bureau to implement the plan that it had designed to fulfill its constitutional duties during the pandemic.

5. The COVID-19 pandemic upended all 2020 Census field operations, many of which the Census Bureau designed to enumerate populations that it has long struggled to count, including racial and ethnic minorities, non-English speakers, and undocumented persons. Among the disrupted census operations was the largest, most time-consuming operation undertaken to count the country's hard-to-count communities—the "Non-Response Follow Up" operation. During Non-Response Follow Up, the Bureau sends its employees to knock on the doors of households that have not yet responded to the census and perform other vital data-collecting functions.

6. The Bureau's staff responded to the pandemic—and the impossibility of conducting house visits during widespread lockdowns—by making necessary adjustments to the timeline in the Final Operational Plan. This revised operational plan, the COVID-19 Plan issued on April 13, 2020, was intended to ensure that hard-to-count communities would be enumerated and the health and safety of Bureau employees and the public would be protected. This plan adjusted the deadlines of, but did not shorten the time for, critical operations. Under this plan—which experts and census stakeholders alike endorsed as a scientifically sound approach for minimizing the pandemic's potential damage to the accuracy of the count—the Bureau extended its data-collection deadlines to October 31, 2020 and its data-processing deadlines into the second quarter of 2021. Critically, the COVID-19 Plan delayed door-knocking by three months, pushing it from May–July 2020 to August–October 2020. But the COVID-19 Plan

acknowledged that the Bureau must spend the same amount of time—around eleven and a half weeks—on door-knocking, just as it had planned to do before the pandemic. The COVID-19 Plan also incorporated the same methods and techniques contemplated in the Final Operational Plan that the Bureau had spent years developing. Indeed, the only respect in which the COVID-19 Plan altered the amount of time devoted to operations set out in the Final Operational Plan was a requirement that the Bureau spend *more* time than originally planned *processing* the data it collected—that is, performing the necessary work to transform over 100 million individual census forms into high-quality, reliable, and legitimate data. This additional investment in data-processing reflected daunting new challenges the COVID-19 pandemic posed to an accurate count, including massive displacements of people that would introduce problems of duplicate responses, responses without unique census identifiers, and other complex data issues.

7. The Department of Commerce and the Census Bureau also recognized that the impact of COVID-19 had made it impossible to meet certain statutory deadlines for reporting census results to Congress. Commerce Secretary Wilbur Ross and Census Bureau Director Steven Dillingham announced that the Bureau was seeking relief from Congress to formally extend two statutory deadlines: first, the deadline for reporting the state-population totals used to calculate the congressional apportionment to the President, which Congress was asked to extend from December 31, 2020 to April 30, 2021; and, second, the deadline for reporting redistricting data to the states, which Congress was asked to extend from March 31, 2021, to July 31, 2021. Commenting on the statutory-deadline extensions, President Trump publicly stated on April 13, 2020, "I don't know that you even have to ask [Congress]. This is called an act of God. This is called a situation that has to be. They have to give in. I think 120 days isn't nearly enough." Hansi Lo Wang, *Trump Officials Ask to Delay Census Data for Voting Districts, House Seats*, NPR (Apr. 13, 2020), https://www.npr.org/2020/04/13/833546675/trump-officials-ask-to-delay-census-data-for-voting-districts-house-seats.

8. Recognizing that more time was necessary to complete an accurate census, and consistent with the President's statement, the Bureau proceeded immediately under its COVID-19 Plan. The Bureau delayed its door-knocking operation to late summer, with the declared

intention of completing it by October 31, 2020. And recognizing that a successful census is dependent on all levels of government working together, the Bureau publicized this plan to the public, as well as to government and non-profit partners involved in the years-long and multi-million-dollar public education campaign to ensure public trust and encourage public participation in the census.

9. Throughout the summer, Bureau officials repeatedly stated that the pandemic had rendered it impossible for the Bureau to complete a reasonably accurate count by December 31, 2020. But to comply with its constitutional obligations, the Bureau continued collecting data on the timelines set in the COVID-19 Plan, which itself extended the Bureau's data-processing timelines into 2021.

10. On August 3, 2020—in the face of a pandemic that has only grown worse and in disregard of the Census Bureau's constitutional and statutory duties to conduct an actual enumeration of the entire population—Secretary Ross and Director Dillingham abruptly abandoned the COVID-19 Plan. Without explanation, they announced the new Rush Plan for the 2020 Census, including shortening the Bureau's data-collection operation by one month to September 30, 2020, and requiring the Bureau to process and report the apportionment data to President Trump by December 31, 2020. The Rush Plan cuts a crucial four weeks from the data-collection operation. And it disregards the Bureau's own prior conclusions that such rushed processing renders it impossible to fulfil its constitutional obligation to ensure reasonable quality and accuracy of 2020 Census data.

11. Defendants' decision to abandon the COVID-19 Plan in favor of the Rush Plan does not satisfy the Supreme Court's clear command that any decision relating to the census bear a "reasonable relationship" to producing an accurate count. *See Wisconsin v. City of N.Y.*, 517 U.S. 1, 20 (1996). As demonstrated by Defendants' own prior statements, the challenged decision cannot be justified by any legitimate interest in conducting an accurate census, and in fact will introduce several inaccuracies in the count, chief among them major undercounts of communities of color.

12. The reason for this abrupt change of position is not apparent on the face of the

press release announcing the Rush Plan or any other subsequently issued statements or publications from the federal government. The Bureau has refused requests from Congress and at least one Plaintiff in this action to provide one.

13. The announcement of the Rush Plan did reference two developments that occurred between the adoption of the COVID-19 Plan and the announcement of the Bureau's intent to adopt the Rush Plan. But neither of these developments can justify Defendants' actions. First, the announcement refers to the Secretary of Commerce's direction to the Bureau to comply with the statutory deadline of December 31, 2020 for completing the apportionment count. But this statutory deadline cannot justify an unconstitutional decision to cut short crucial operations and fail to satisfy its constitutional obligation. A statutory deadline, particularly one that was set without a global pandemic in mind, cannot override the federal government's constitutional duty to accomplish an accurate census; there is "nothing sacred in the due date of the filing [of apportionment data], especially when the work of the Census Bureau . . . is incomplete." *Carey v. Klutznick*, 637 F. 2d 834, 837 (2d Cir. 1980). Moreover, the Bureau was cognizant of this deadline even as it designed and implemented the COVID-19 Plan, including delaying crucial field operations by several months. And Bureau officials have repeatedly made clear that because of the impediments introduced by COVID-19, together with the multi-month delay, it is *already* too late to satisfy these pre-COVID-19 deadlines.

14. Second, both the text of the Rush Plan announcement and the timing of the decision suggest that the federal government's motivation for the Rush Plan is to facilitate another illegal act: suppressing the political power of communities of color by excluding undocumented people from the final apportionment count. On July 21, 2020—just a few weeks earlier—President Trump issued a Presidential Order titled "Memorandum Excluding Illegal Aliens From the Apportionment Base Following the 2020 Census" (the "Apportionment Exclusion Order")—which expressly stated the President's determination to exclude undocumented people from the population count used for apportionment. To increase the chance that the President can fully effectuate the Apportionment Exclusion Order, he must receive the population totals while he is still in office, and he ordered the Secretary of Commerce to provide

him with 2020 decennial census information by December 31, 2020 to carry out his objective.

15. The President's Apportionment Exclusion Order (currently being challenged as unconstitutional and unlawful in a number of lawsuits filed in jurisdictions around the country, including in this District) represents only the most recent of Defendants' serial attempts to manipulate the 2020 Census to suppress the political power of communities of color. These attempts started with a campaign to introduce a historically unprecedented and untested citizenship question onto the 2020 Census questionnaire to advantage—in the words of a deceased Republican redistricting consultant—"Republicans and non-Hispanic whites." Michael Wines, *Deceased G.O.P. Strategist's Hard Drives Reveal New Details on the Census Citizenship Question*, N.Y. Times (May 30, 2019), https://www.nytimes.com/2019/05/30/us/census-citizenship-question-hofeller.html. Since the Supreme Court blocked the question, Defendants have looked for other means to achieve that same end, including collecting data on citizenship from administrative records and, now, cutting the census short.

16. Plaintiffs are local governments, civil rights and civic organizations, and individuals whose communities will almost certainly be inaccurately represented and underrepresented in the final census count if the administration succeeds in truncating census data-collection and data-processing.

17. Plaintiffs seek declaratory relief affirming that Defendants' actions violate the Enumeration Clause and the Administrative Procedure Act. Plaintiffs additionally seek to set aside and enjoin implementation of the illegal Rush Plan, thereby permitting the Bureau to implement the preexisting COVID-19 Plan it carefully designed to ensure a complete and accurate count. This relief will allow the Bureau to conduct the 2020 Census on the timeline it has repeatedly asserted is necessary to complete a full, fair, and accurate count.

18. Without such relief, Plaintiffs and the communities they represent will suffer irreparable harm for at least another decade, until the next census is conducted.

JURISDICTION AND VENUE

19. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1346(a), and 1361.

20. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(2) and (e)(1). Defendants are United States officers or agencies sued in their official capacities, a substantial part of the events or omissions giving rise to this action have occurred or will occur in this district, and one or more Plaintiffs reside in this district.

21. This Court may grant declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202.

22. The proper intradistrict assignment for this action is the San Jose Division, in light of the location of Plaintiffs City of San Jose and members of the League of Women Voters.

PARTIES

I. Plaintiffs

23. The National Urban League ("Urban League") is a civil-rights organization with over 90 affiliates serving 300 communities in 37 states and the District of Columbia. Founded in 1910, the National Urban League is headquartered in New York City. The mission of the National Urban League is to help African Americans and others in underserved communities achieve their highest human potential and secure economic self-reliance, parity, power, and civil rights.

24. For the 2020 Census, the Urban League has expended substantial resources developing programs designed to encourage self-response and cooperation with Census Bureau offices in historically undercounted communities. Specifically, the organization has engaged in efforts to educate the public about the census through various methods, including virtual town halls, production and distribution of toolkits, workshops for locally based get-out-the-count organizations, and publication and upkeep of a website, www.MakeBlackCount.org, to disseminate critical information about the census. The Urban League has also worked with Census Bureau regional offices to encourage enumerator recruitment, and the organization uses social media to encourage 2020 Census participation.

25. Plaintiff Black Alliance for Just Immigration ("BAJI") is a nonprofit organization organized and existing under the laws of California, with offices and members across the country, including in Oakland, California, Miami, Florida, Atlanta, Georgia, and New York City.

BAJI collaborates with African Americans and Black immigrants to organize and advocate for equal and just laws in their communities. BAJI campaigns to advance racial justice and provides partner organizations with varied assistance—particularly on immigration policy—and it spends significant resources educating its partner organizations, individuals, and other constituents through presentations, workshops, publications, technical assistance, and trainings. BAJI is a membership organization, and its members either pay dues or volunteer their time to support the organization. Members also actively participate in BAJI's self-governance and decision-making at the local level.

26. For the 2020 Census, BAJI has worked to ensure non-responsive households in Black and immigrant communities are counted. BAJI has hired additional staff dedicated to engaging local communities on the census, and has engaged in outreach using social media and mailers to bolster self-response. In addition, since the outbreak of the COVID-19 pandemic, BAJI staff regularly participate in webinars and virtual events to provide the public more information about the census, with a specific focus on encouraging participation in Black and immigrant communities.

27. The League of Women Voters is a nonprofit civic organization that encourages informed and active participation in government. Founded in 1920, the League of Women Voters is headquartered in Washington, D.C. The League of Women Voters has over 800 state and local affiliates, located in all 50 states and in 764 specific communities, including affiliates with members in San Francisco and Monterey County, California, Detroit, Michigan, Miami, Florida, Philadelphia, Pennsylvania, and New York City. The League of Women Voters seeks to empower voters and defend democracy. The League of Women Voters has over 65,000 members nationwide, and its members either pay dues or volunteer their time to support the organization.

28. The League of Women Voters has engaged in significant efforts to ensure historically undercounted communities are enumerated during the 2020 Non-Response Follow Up operation. Prior to the outbreak of COVID-19 in the United States, the League of Women Voters and its affiliates participated in public events across the country aimed at providing information about the census to undercounted communities. Since March of this year, the League

of Women Voters has shifted to a digital public-education campaign, encouraging education and participation through social media, email listservs, webinars, and blog posts. Affiliates in Kansas, South Carolina and Maine are also participating in state Complete Count Committees that seek to increase awareness of the 2020 Census, improve participation, and coordinate with Census Bureau officials.

29. Harris County, Texas is a political subdivision of the State of Texas. With over 4.7 million residents, Harris County is the third largest county in the United States. The county's population is over 43% Latino, 20% Black, over 7% Asian, and over 28% non-Hispanic White. During the 2010 Census, 65.1% of households in Harris County self-responded to the census. As of August 14, 2020, 58.3% of households in Harris County had self-responded to the 2020 Census. This response rate in Harris County was well below the national response rate on that date, 63.6%.

30. For the 2020 Census, officials in Harris County engaged in extensive efforts to encourage participation in the County. County officials formed a Complete Count Committee with city officials in Houston that engaged in public education about the census, and built partnerships with local Census Bureau officials to coordinate outreach efforts. In addition, in 2019, the County approved a budget of nearly $4 million dollars to conduct outreach during the 2020 Census. To that end, the County has contracted with vendors to conduct surveys about the opinions and attitudes of non-responsive populations and develop a digital advertising campaign on Facebook and Instagram to encourage 2020 Census participation. And the County receives substantial federal funding tied to census data.

31. King County is a political subdivision of the State of Washington. Over 2.2 million people live in King County, making it the most populous county in Washington. As of August 14, 2020, 26.1% of households in King County had not responded to the 2020 Census. The county has large populations of historically undercounted communities. For instance, according to the Department of Housing and Urban Development, King County had nearly 12,000 residents experiencing homelessness, the third highest total of any locale in the country. The Seattle metro area, which includes King County, is estimated to have 140,000

undocumented immigrant residents.

32. King County worked in partnership with local cities to provide $1.17 million to community-based organizations serving historically undercounted communities. Specifically, King County sought to fund organizations that work with communities that are Limited English Proficient. Through this funding, these organizations produced public education materials related to the 2020 Census, and developed campaigns to get-out-the-count. And King County, too, receives substantial federal funding tied to census data.

33. The City of Los Angeles, California is a municipal corporation organized and existing under the laws of the State of California, and is a charter city pursuant to Article XI of the California Constitution. The City is home to roughly 4 million people, and is located in the county recognized by the Census Bureau as the hardest to count in the nation. The city's population is a large contributor to the County's hard-to-count status as more than half of the City's residents live in census tracts that are hard to count. As of August 14, 2020, only 53.8% of the City's households had responded to the 2020 Census—well below the statewide average of 65.1% and even further below the City's own 2010 self-response rate of 68 percent.

34. As a result of its hard-to-count status, Los Angeles has engaged in years of planning and devoted significant resources to developing a strategy for an accurate count, tailored to the unique challenges of the City's population. To fund these efforts, the City has overseen distribution of roughly $2 million dollars to community-based organizations and the investment of almost $1.5 million of both City general fund and grant money in its own efforts. And the City of Los Angeles also receives substantial federal funding tied to census data.

35. The City of Salinas, California is a political subdivision of the State of California. Salinas is the most populous city in and the government seat of the County of Monterey. The city is home to more than 150,000 people, including 38.5% of the county's "hard-to-count" population. As of August 14, 2020, 57.2% of all households in Salinas have responded to the 2020 Census, which is 422nd out of all 482 California cities. The current response rate is 7.9 percentage points below California's statewide average for self-responses and more than 10 percentage points below Salinas's self-response rate from the 2010 Census.

36. Salinas has dedicated significant resources to funding and staffing its "Census Action Team," which is composed of city staff and representatives from the County of Monterey's "Complete Count Committee," as well as community-based organizations, school districts, and local businesses. The city's population is more than 75% Latino, and more than 1 in 5 households have limited English-language proficiency. As part of its outreach, the Salinas Census Action Team engages religious and community organizations, such as local food banks, to assist with enumeration efforts in the Latino community and all communities of color as these organizations are able to assist with trust and communication barriers that can make these groups hard to count. The City of Salinas also receives substantial federal funding tied to census data.

37. The City of San Jose is a political subdivision of the State of California. San Jose has over 1 million residents, making it the largest city in Northern California, and the tenth largest city in the United States. San Jose's population is 32% Latino, and 35% Asian, and nearly 40% of residents are foreign born. As of August 14, 2020, 28% of households in San Jose had not responded to the census. San Jose has large populations of historically undercounted communities. For instance, according to the Department of Housing and Urban Development, in 2019, San Jose had over 6,000 residents experiencing homeless. In addition, the San Jose metro area is estimated to have over 150,000 undocumented immigrant residents.

38. The City of San Jose has engaged in extensive public-education and get-out-the-count efforts during the 2020 Census. San Jose has formed a Complete Count Committee with Santa Clara County, and nearly 90 community-based organizations. The Committee focuses on raising awareness of the census in historically undercounted communities. San Jose also disseminates information about the census to the public through city departments and offices. San Jose also worked closely with the Census Bureau to recruit qualified bilingual enumerators. The City of San Jose receives substantial federal funding tied to census data.

39. Plaintiff Rodney Ellis is the Commissioner for Precinct One on the Harris County Commissioners Court. He is a resident and citizen of Harris County, where he is registered to vote and regularly exercises his right to vote. Commissioner Ellis regularly drives on roads and highways in Harris County.

40. Plaintiff Adrian Garcia is the Commissioner for Precinct Two on the Harris County Commissioners Court. He is a life-long resident and citizen of Harris County, where he is registered to vote and regularly exercises his right to vote. Commissioner Garcia also regularly drives on roads and highways in Harris County.

II. Defendants

41. Defendant Wilbur L. Ross is the Secretary of the U.S. Department of Commerce and is sued in his official capacity. Secretary Ross oversees the U.S. Department of Commerce and the Census Bureau. Congress has delegated the responsibility for carrying out the decennial census to the Secretary of Commerce. 13 U.S.C. § 141(a).

42. Defendant U.S. Department of Commerce is a cabinet agency within the Executive Branch responsible for administering the decennial census.

43. Defendant Steven Dillingham is the Director of the U.S. Census Bureau and is sued in his official capacity.

44. Defendant U.S. Census Bureau is an agency within the Department of Commerce responsible for planning and administering the decennial census. 13 U.S.C. § 2.

FACTUAL ALLEGATIONS

I. Defendants' Constitutional and Statutory Obligations.

45. Under the United States Constitution, the federal government must conduct an "actual Enumeration" of the population once every ten years. U.S. Const. art. I, § 2.

46. The population totals produced by the decennial enumeration are used to apportion congressional representatives to the various states. *Id.* Census figures are also used in state and local redistricting and in the distribution of federal funds to communities across the United States.

47. The Enumeration Clause requires that decisions relating to the census bear a "reasonable relationship" to the constitutional purpose of the enumeration. *Wisconsin*, 517 U.S. at 20.

48. Similarly, the Census Act imposes a mandatory duty on the Secretary of Commerce to "conduct a census that is accurate and that fairly accounts for the crucial

representational rights that depend on the census and the apportionment." *Dep't of Commerce v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

49. Consequently, the Secretary of Commerce and the Census Bureau are constitutionally obligated to make decisions in conducting the census that are reasonably related to achieving a fair and accurate calculation of the population of the United States.

II. The Census Bureau's Pre-COVID-19 Operational Plans for the 2020 Census.

50. For the 2020 Census, the Census Bureau spent the better part of a decade designing operations to fulfill its constitutional and statutory mandate, including: soliciting and incorporating feedback from seasoned experts, advisors, and community groups; testing various features of its data-collection and data-processing operations; and ensuring that its decisions for conducting the census reflected sound, scientifically based judgment.

51. To this end, the Bureau created an operational plan to guide its efforts, including its efforts to collect data from census respondents and to process that data into usable forms for constitutionally and statutorily mandated purposes, including reapportionment and redistricting.

52. On December 31, 2018, the Bureau promulgated the final version of its operational plan, which the Bureau called "Version 4.0" (hereinafter referred to as the "Final Operational Plan"). *See* U.S. Census Bureau, Final Operational Plan (Dec. 2018), https://www2.census.gov/programs-surveys/decennial/2020/program-management/planning-docs/2020-oper-plan4.pdf. In the Final Operational Plan, the Census Bureau stated that its goal for the 2020 Census is to "count everyone once, only once, and in the right place."

53. Under the Paperwork Reduction Act, the Office of Management and Budget must review and approve the plans for any federal survey, including the decennial census, to ensure that those surveys meet government standards, minimize respondent burden, and maximize the utility of the collected information. 44 U.S.C. § 3504(c).

54. The Office of Management and Budget formally reviewed and approved the Census Bureau's pre-COVID-19 plans for the decennial census, including the Final Operational Plan.

55. The Final Operational Plan includes over 200 pages of detailed and transparent

conclusions for achieving the 2020 Census's objective of an accurate count.

56. The Final Operational Plan reflects the conclusions of various experts including survey methodologists, statisticians, demographers, geographers, linguists, and mathematicians.

57. The Final Operational Plan states that it "reflects and supports evidence-based decision-making" about the operations necessary to gather and process census responses from every household in the country.

58. The Final Operational Plan states that it was "informed through research, testing, and analysis conducted from 2012 through 2018."

59. The Bureau conducted at least fifteen tests between 2012 and December 31, 2018, when it published its Final Operational Plan.

60. Career Bureau staff developed the Final Operational Plan following substantial consultation with outside experts and census stakeholders, including members of the Census Scientific Advisory Committee and the National Advisory Committee.

61. The Census Bureau also produced a series of "detailed operational plans," which supplement the Final Operational Plan, and provide more parameters for the individual operations that, together, comprise the 2020 Census.

62. The detailed operational plans likewise reflect the conclusions of various subject-matter experts regarding how to complete an accurate count.

63. The Bureau's Final Operational Plan contains several major categories of operations. Two of those categories are particularly important for purposes of this lawsuit: data-collection and data-processing.

64. "Data-collection" refers to operations through which the Bureau obtains information from and about all the people living in the United States.

65. "Data-processing" refers to operations through which the Bureau fills in any gaps in the personal information that it collects from people, transforms the resulting data into usable forms, checks those results for accuracy and other aspects of data quality, and publishes those results, among other things.

66. The Bureau must thoroughly, fully, and correctly perform both categories of

operations—collection and processing—to achieve its stated goal of counting everyone once, only once, and in the right place.

A. Census Data Collection

67. During the census, the Bureau attempts both to determine the number of people in the country and their characteristics, such as their race and ethnicity.

68. Although the Census Bureau planned to deploy many methods during the 2020 Census to collect counts and characteristics from households around the country, the Bureau contemplated, in both the Final Operational Plan, and in the supplemental detailed operational plans, that three methods would account for the overwhelming majority of census responses: the "Self-Response" method; the "Update Leave" method; and the "Non-Response Follow Up" method. *See* U.S. Census Bureau, *2020 Census Detailed Operational Plan for: 18. Non-Response Follow Up Operation* (July 15, 2019), https://www2.census.gov/programs-surveys/decennial/2020/program-management/planning-docs/NRFU-detailed-operational-plan_v20.pdf.

69. The Self-Response method was the "primary methodology for the 2020 Census." Under this method, heads of households would provide their 2020 Census responses directly to the Census Bureau by mailing back a paper census form, filling out a digital form on the Bureau's online census portal, or calling into telephone hotlines to provide their responses to Bureau employees operating those hotlines.

70. The Update Leave method was the methodology for reaching housing units that could not receive physical mail or did not have verifiable mailing addresses. Under this method, Bureau employees would travel throughout both rural and urban areas, leaving invitations to participate and paper census questionnaires at these housing units, so that the people living in those locations could respond themselves.

71. The Self-Response method and the Update Leave method are crucial for obtaining accurate information about the number of people in the country and their characteristics, because data people report about themselves and the members of their housing units is the highest quality data that the census collects.

72. But for the tens of millions of households that do not report their personal data through the Self-Response or Update Leave method, the Bureau's next-best source of personal data is data it collects directly from people through the Non-Response Follow Up method.

73. As part of the Non-Response Follow Up method, the Bureau sends its employee enumerators directly to housing units so that they can attempt to speak with a person occupying each unit and obtain information about everyone who should be counted in that unit.

74. The Bureau requires enumerators to record their responses for each household through iPhones that the Bureau specifically contracted and customized for this purpose. The enumerators' iPhones include software designed to lead enumerators consistently and reliably to solicit information from people at their doors. The enumerators' iPhones also include software to ensure that any data collected from housing units remains confidential as it is being transmitted to the Bureau. The limited supply of these customized iPhones places a limit on the number of enumerators that the Bureau can deploy in the field.

75. The Bureau's Detailed Operational Plan for Non-Response Follow Up, which supplements the Final Operational Plan, sets out a specific protocol for conducting Non-Response Follow Up.

76. Under the Detailed Operational Plan, each housing unit assigned for a visit from an enumerator was eligible for up to six "contact days." A "contact day" could include more than one attempted contact per day.

77. The Bureau concluded it could pursue less than six contact days only under certain scenarios.

78. One scenario that would allow the Bureau to pursue fewer than six contact days was the existence of high-quality administrative records for the housing unit. The Census Bureau has collected data from federal administrative agencies, such as the Social Security Administration, the Internal Revenue Service, and the Department of Housing and Urban Renewal, among others, as well as data from states, which it uses to provide information about the count and characteristics of non-responsive households.

79. If the Bureau had located administrative data from federal and/or state

administrative records and concluded that those records contained accurate demographic data for the occupants of a housing unit, the Bureau's enumerators would attempt only one contact with that unit. If—during that contact attempt—the enumerator did not succeed in finding a live person at the unit, then the Bureau would use the information in the administrative records to fill in the census responses for that unit during the data-processing phase of the 2020 Census.

80. A second scenario that would allow the Bureau to pursue less than six contact days would arise if the Bureau identified a proxy—a person such as a neighbor or landlord that the enumerator could ask for information about the occupants of the housing unit in question. After a third failed contact attempt, a unit would become eligible for being counted through proxy.

81. Proxies can produce many types of data. For instance, proxies are useful for helping the Bureau identify whether a housing unit is vacant—and thus should be marked "vacant" in the Master Address File that the Bureau uses to keep track of the overwhelming majority of housing units that it must enumerate—or non-existent—and thus should be deleted from the Master Address File. For the 2020 Census, the Bureau is planning to use administrative records, such as the United States Postal Service's directory of non-deliverable addresses, to identify vacant housing, but proxies are generally more accurate for this purpose. Finally, proxies provide vital data for other operations that the Bureau undertakes during its data-processing phase, described further below.

82. If the Bureau is unable to enumerate a household after six contact days, in most cases, it will resort to less accurate methods for determining the count and characteristics of the household during its data-processing phase, described below.

83. The Bureau performs several other vital operations in addition to door-knocking during the Non-Response Follow Up period, including a series of operations to ensure the quality of the data that it collects in the field.

84. During the Non-Response Follow Up process, the Bureau: follows up with people who self-responded to the census online but did not enter their unique census identification number to ensure that they are counted in the right place (a process known as "Field

Verification"); and corrects information reported erroneously or omitted from previously submitted census forms (a process known as "Coverage Improvement").

85. In addition, the Bureau re-collects census responses in select instances to ensure that the original submissions were accurate (a process known as "Self-Response Quality Assurance"). This operation protects against enumerators falsifying the information that they provide to the Bureau. Specifically, the Bureau conducts quality control reinterviews of a sample of households. This component is designed to deter and detect cases where enumerators have provided false information about the housing units they are assigned to canvass.

86. Quality control reinterviews are part of a broader set of protocols that the Bureau has developed to guard against factors that endanger the accuracy of the count. Non-Response Follow Up is thus important not only for collecting information, but also for ensuring that the information that is collected is accurate. These two components—gathering data and ensuring its accuracy—must both occur for the Bureau to get a fair and accurate count.

87. The Bureau anticipated that approximately 60% of housing units nationally would respond to the 2020 Census through Self-Response and Update Leave, potentially making up to 40% of housing units targets for Non-Response Follow Up.

88. A Non-Response Follow Up universe of 40% of the housing units in the country would have been the largest follow up universe on a percentage basis since at least 1970.

89. The Census Bureau did not anticipate that the Non-Response Follow Up universe in 2020 would mirror the demographic makeup of the nation's population as a whole.

90. Instead, the Census Bureau anticipated that the Non-Response Follow Up universe in 2020 would contain a disproportionate number of people who belong to communities that the Bureau calls "hard-to-count."

91. The Final Operational Plan describes hard-to-count populations as including, but not limited to, the following populations: young children; highly mobile persons; racial and ethnic minorities; non-English speakers; low-income persons; persons experiencing homelessness; undocumented immigrants; persons who have distrust in the government; lesbian, gay, bisexual, transgender, and questioning/queer (LGBTQ) persons; persons with mental and

physical disabilities; and persons who do not live in traditional housing.

92. Historically, these populations have had low self-response rates and have, thus, made up disproportionate shares of households that must receive contact days during Non-Response Follow Up.

93. Consequently, the Final Operational Plan acknowledges, "[t]he NRFU Operation is entirely about hard-to-count populations."

94. The Final Operational Plan also acknowledges that hard-to-count populations may require more outreach than the Non-Response Follow Up method would normally provide, and the Bureau designed its Final Operational Plan accordingly.

95. The Final Operational Plan states that "[w]hile most cases receive a maximum of six attempts, cases in hard-to-count areas may receive more than six attempts to achieve a consistent response rate for all geographic areas."

96. Accurate data about the size, location, and characteristics of communities of color is necessary to equitably distribute political power through congressional reapportionment and redistricting at the state and local levels, enforce civil-rights laws that affect basic needs like housing and employment, and conduct effective research, including on pressing issues like public health.

B. Census Data-Processing

97. After collection activities are complete, the Census Bureau must process the data.

98. Census data-processing cannot begin until census data-collection concludes.

99. Census data is unusable for its intended purposes until it has been processed.

100. The Census Bureau's data-processing operations transform tens of millions of census responses into usable products, including the population totals used to reapportion seats in the U.S. House of Representatives and to create electoral districts.

101. The Bureau uses its data-processing operations to, among other things, ensure that data received from different data-collection methods are all in a single format allowing them to be processed together.

102. The Bureau uses its data-processing operations to "unduplicate responses"—

meaning to resolve conflicts of information among multiple forms attributable to the same housing unit.

103. The Bureau uses its data-processing operations to determine the final status of a housing unit—such as vacant or inhabited—and determine the total number of people that should be attributed to any apparently inhabited unit that was not counted through Self-Response, Update Leave, or Non-Response Follow Up.

104. The Bureau also uses its data-processing operations to ensure that Bureau data products accurately report respondents' characteristics, such as age, race, and ethnicity.

105. The Bureau uses administrative records and statistical imputation during the data-processing phase to fill in both missing people and their characteristics. But administrative records—especially low-quality administrative records—and statistical imputation are generally less accurate than self-response data.

106. For many households, administrative data provides only low quality information, replete with inaccuracies and incomplete information. This is especially the case for particular communities that are underrepresented in administrative records, including communities of color, immigrants, and low-income families. Use of this low-quality data to fill in missing information for non-responsive households produces less accurate information.

107. Imputation involves the Bureau using information from surrounding responsive households to infer the count and characteristics of a non-responsive household. Imputation thus assumes the existence of other data points gathered through other data-collection methods—such as self-response, proxies, and administrative records—and generates more accurate results when it can be triangulated against those data points. The processes that the Bureau uses to collect and process self-response data, proxy data, and administrative records are thus critical and inextricably linked to the Bureau's ability to impute data accurately.

108. At various phases of the Bureau's data-processing operations, Census Bureau personnel must review the quality of files in-process before those files can be sent to the subsequent steps in the data-processing operation. These reviews include personnel with subject-matter expertise from several different divisions of the Bureau.

109. The Bureau's data-processing operations help ensure that people are not missed, that other people are not counted multiple times, and that people's characteristics are accurately reported. These processes help eliminate or reduce undercounts, among other kinds of data-quality issues.

C. The Final Operational Plan's Original Timeline for the 2020 Census

110. The Bureau's Final Operational Plan called for data-collection to run from January 21, 2020, to July 31, 2020, for a total of more than six months.

111. In that window, the Self Response method was scheduled to run from March 12, 2020 to July 31, 2020, and the Update Leave method was scheduled for March 15, 2020 to April 17, 2020.

112. The Bureau also scheduled several special operations to occur early in its census taking process. The Service-Based Enumeration, which counts people experiencing homelessness, was scheduled for March 30, 2020 to April 1, 2020, and Group Quarters Enumeration, which counts people living in group housing such as nursing homes, was scheduled from April 2, 2020 to June 5, 2020.

113. The Bureau scheduled the Non-Response Follow Up method to run from May 13, 2020 to July 31, 2020, for a total of approximately eleven and a half weeks.

114. The Bureau scheduled up to five months—from July 31, 2020 to December 31, 2020—to process census data for the congressional reapportionment report.

115. The Bureau also scheduled an additional three months—from January 1, 2021 to March 30, 2021—to process census data for redistricting.

116. The Bureau's timelines for implementing the Final Operational Plan reflect the Bureau's scientifically informed understanding of the time necessary to complete its operations and generate an accurate count.

III. The Census Bureau's COVID-19 Plan.

A. COVID-19 Disrupts the 2020 Census

117. On January 21, 2020, the Bureau began 2020 Census data-collection in remote Alaska.

118. On March 10, 2020, the Bureau began to accept self-responses on its website.

119. Shortly thereafter, many parts of the nation rapidly began to shut down due to the COVID-19 pandemic.

120. The Census Bureau quickly concluded that it could not continue to engage in operations safely. On March 18, 2020, the Bureau announced that it would suspend all field operations for two weeks in order to "help protect the health and safety of the American public." Press Release, U.S. Census Bureau, *U.S. Census Bureau Director Steven Dillingham on Operational Updates* (Mar. 18, 2020), https://www.census.gov/newsroom/press-releases/2020/operational-update.html.

121. On March 28, 2020, the Bureau announced yet another two-week suspension until April 15, 2020, as the coronavirus pandemic made it impossible to engage in operations.

122. The suspension disrupted several field operations, including Update/Leave method, the Service Based Enumeration counting people experiencing homelessness, and the Group Quarters Enumeration counting people living in group housing.

123. In addition, the Bureau halted all hiring and training of the hundreds of thousands of enumerators it needs to conduct Non-Response Follow Up. This included halting any and all background checks and fingerprinting of enumerators that were conditionally hired at that time.

124. The Bureau also decreased office staff at regional centers responsible for processing mail-in self-response forms and at the Bureau's call centers.

B. Changes to the Final Operational Plan in the COVID-19 Plan

125. On April 13, 2020, the Bureau issued an adjustment to its Final Operational Plan to account for the long-term impact of the COVID-19 pandemic. The new plan included a shifted timeline for data-collection and data-processing operations that corresponded with the delays in operations that the pandemic has caused (the "COVID-19 Plan").

126. Adjustments to plans approved by the Office of Management and Budget under the Paperwork Reduction Act must be re-submitted for approval. 44 U.S.C. § 3507(h)(3). The Census Bureau submitted the COVID-19 Plan to the Office of Management and Budget on April 30, 2020. The changes were approved on May 11, 2020.

127. The COVID-19 Plan was designed to "[e]nsure a complete and accurate count of all communities," "[p]rotect the health and safety of the American public and Census Bureau employees," and "[i]mplement guidance from federal, state, and local authorities regarding COVID-19." Press Release, U.S. Census Bureau, *2020 Census Operational Adjustments Due to COVID-19 Fact Sheet* (Apr. 27, 2020).

128. The COVID-19 Plan reflected the conclusions of various experts for how best to proceed with completing an accurate count during the current pandemic. These experts include survey methodologists, statisticians, demographers, geographers, linguists, and mathematicians.

129. Under the COVID-19 Plan, the Bureau suspended 2020 Census field operations for several months, including those operations that were designed to ensure a full count of traditionally undercounted communities.

130. The COVID-19 Plan provided that the Bureau would start the nationwide Non-Response Follow Up operation on August 11, 2020, and continue the door-knocking process through October 31, 2020.

131. Thus, the COVID-19 Plan delayed the start of most door-knocking by three months while maintaining the same amount of time spent undertaking the process—approximately eleven and a half weeks—as the Final Operational Plan had required.

132. Under the COVID-19 Plan, the Bureau also delayed the start of other operations that enumerate traditionally undercounted populations, including the enumeration of the country's homeless population, which the Bureau shifted from March 30, 2020 to September 22, 2020.

133. And the COVID-19 Plan permitted households to submit self-response data to the Bureau until October 31, 2020, extending the deadline under which private persons were able to submit their responses to be counted by more than one month.

134. The Bureau also granted itself one additional month to process data under its COVID-19 Plan, extending the data-processing leg of its operations to nine months given the pandemic. Under this plan, the Bureau would have up to six months to process the data for the apportionment count (between October 31, 2020 and April 30, 2021) and three months to process

the data for redistricting (between April 30, 2021 and July 31, 2021).

135. The Bureau's timelines for implementing the COVID-19 Plan reflect a scientifically informed understanding of the time necessary to appropriately and fully complete its operations and generate an accurate count.

C. Expert and Stakeholder Response to the COVID-19 Plan

136. The Census Bureau solicited feedback on the COVID-19 Plan from relevant area experts and interested stakeholders, including state and local governments and national and community-based non-profit partners.

137. For instance, four former Census Bureau Directors—who served under both Democratic and Republican administrations—issued a statement saying that they had "discussed these operational and schedule adjustments with senior career leadership at the Census Bureau." Press Release, Vincent Barabba et al., *Statement by Former U.S. Census Bureau Directors* (Apr. 14, 2020), https://www.documentcloud.org/documents/6838166-Statement-by-Former-Census-Bureau-Directors-04.html.

138. These four former Census Bureau Directors further asserted: "Based on (1) our extensive experience in planning, executing, and often adjusting operations of previous decennial censuses, and (2) our firm conclusion that the extension of the field operations reflect careful analysis by the technical, scientific, and operational staff at the Census Bureau, we support the decision and urge Congress to act in concert with it." Press Release, Vincent Barabba et al., *Statement by Former U.S. Census Bureau Directors* (Apr. 14, 2020), https://www.documentcloud.org/documents/6838166-Statement-by-Former-Census-Bureau-Directors-04.html.

139. Prominent civil-rights groups endorsed the COVID-19 Plan. Vanita Gupta, President and CEO of The Leadership Conference on Civil and Human Rights and The Leadership Conference Education Fund, stated that her organization "support[ed] the Census Bureau's updated timeline." Press Release, Leadership Conference Education Fund, *Census Timeline Must Protect Health, Ensure Fair Count* (Apr. 13, 2020), https://civilrights.org/edfund/2020/04/13/census-timeline-must-protect-health-ensure-fair-count/.

D. Implementation of the COVID-19 Plan

140. When announcing the COVID-19 Plan, Secretary Ross and Director Dillingham issued a statement indicating that the Bureau requested that Congress extend by 120 days the December 31, 2020 statutory deadline for reporting the state-population totals to the President for purposes of calculating the state apportionments, and extend by 120 days the March 30, 2021 statutory deadline for delivering redistricting data to the states.

141. That same day, President Trump suggested this request was unnecessary, stating:

142. "I don't know that you even have to ask them. This is called an act of God. This is called a situation that has to be. They have to give in. I think 120 days isn't nearly enough." Hansi Lo Wang, *Trump Officials Ask to Delay Census Data for Voting Districts, House Seats*, NPR (Apr. 13, 2020), https://www.npr.org/2020/04/13/833546675/trump-officials-ask-to-delay-census-data-for-voting-districts-house-seats.

143. Indeed, the Census Bureau did not wait for Congress to act before beginning implementation of the COVID-19 Plan. And the Bureau continued implementation of the COVID-19 Plan for over three months through the end of July 2020.

144. For instance, the Census Bureau field operations remained suspended through May 2020.

145. The Bureau only began re-opening a few limited operations, such as the Update Leave method, on a phased basis through mid-June 2020, over two months after the operation was originally planned to occur in the Final Operational Plan.

146. The Bureau did not undertake any Non-Response Follow Up operations in most of the country between May 13, 2020 and July 31, 2020, the timeframe originally set out in the Final Operational Plan.

147. Instead, while the Bureau "soft-launched" door-knocking in select regions of the country in mid-July 2020, the COVID-19 Plan did not call for door-knocking across the country until August 11, 2020, at the earliest.

148. The Bureau ultimately opened six area census offices for Non-Response Follow Up on July 16, 2020, six more on July 23, 2020, thirty-five on July 30, 2020, and forty additional

offices on August 6, 2020.

149. The remaining 161 stateside offices remained unopened until August 9, 2020, including offices in many states and localities with relatively low response rates such as the entire southeastern United States, Texas, New Mexico, Arizona, and Southern California.

150. All along the Bureau continually communicated to the public, and to important local partners, including local governments and national and community based non-profit organizations, that self-responses would be accepted until October 31, 2020, and that Non-Response Follow Up would continue until at least that date.

151. Census partners, stakeholders, and state and local governments relied on the new deadlines set forth in the COVID-19 Plan to redirect their outreach efforts.

152. For example, Plaintiffs Urban League and BAJI, publicized the October 31, 2020 deadline, letting their constituents, members and local organizations know that households had until that time to self-respond. Urban League representatives informed coalition partners participating in the Black Census Roundtable of the new deadlines, and spoke of the deadlines on webinars and other public events. Officials at BAJI publicized the deadlines at public events, including webinars in July 2020, and as part of the organization's social media campaign.

153. Similarly, officials in City of Los Angeles, Harris County, King County, City of San Jose, and City of Salinas, publicized the new deadline while conducting 2020 Census outreach efforts.

154. These public education efforts were significant because they were directed at the general public and at local non-profits that do not primarily work on census issues. The latter often rely on information about the census provided by Plaintiff national non-profits and local governments when communicating with their constituents. Plaintiffs, by disseminating the October 31, 2020 deadline for nearly three months to the public, were largely successful in spreading the understanding that communities had until at least that time to complete the count.

155. For example, the City of Los Angeles announced this date on its own social media platforms and in a social media toolkit that it developed for partner organizations. Los Angeles is deeply concerned that residents have already received information about the October 31, 2020

self-response date and, as a result, will fail to respond before the newly shortened deadline, especially given the Bureau's own minimal efforts at explanation and outreach around the new deadline.

156. Finally, the level of self-response during the 2020 Census, and the ongoing COVID-19 pandemic, provided further evidence for the necessity of continued implementation of the COVID-19 Plan.

157. Under its Final Operational Plan, for example, the Census Bureau had planned to spend eleven and a half weeks canvassing a Non-Response Follow Up universe comprised of 39.5% of households nationally.

158. As of August 9, 2020, the first date of nationwide Non-Response Follow Up, the national self-response rate was 63.2%, meaning that nearly 37% of households nationwide had not yet responded to the census.

159. Several cities with large percentages of traditionally undercounted populations, have even lower response rates. For instance, as of August 14, 2020, the response rate in the City of Detroit was 48.9%, Miami was 49.9%, Philadelphia was 52.3%, Los Angeles was 53.8%, Houston was 54.4%, and New York City was 55.6%.

160. The United States had 24,156 new coronavirus cases on April 13, 2020, the day the Bureau announced its COVID-19 Plan. On August 3, 2020, the United States had approximately 50,000 new coronavirus cases.

161. With COVID-19 limiting the willingness of people to apply for enumerator positions, the areas where the Bureau can safely send enumerators to knock on doors, and the willingness of the public to interact with enumerators, the Non-Response Follow Up operation continues to face far more complications than the Final Operational Plan anticipated.

162. Given these conditions of low response rates and increased coronavirus spread, the Bureau can reasonably expect that it will need to engage in a Non-Response Follow Up operation at least as comprehensive and time-consuming as the operation laid out in the Final Operational Plan.

163. Due to significant delays in operations resulting from the implementation of the

COVID-19 Plan, the Bureau itself has recognized that it would be impossible to produce fair and accurate apportionment numbers to the President by December 31, 2020.

164. On May 27, 2020, Tim Olson, head of field operations for the 2020 Census, stated during a May 26, 2020 webinar organized by the National Congress of American Indians that, "[w]e have passed the point where we could even meet the current legislative requirement of December 31st. We can't do that anymore." Nat'l Conf. of Am. Indians, *2020 Census Webinar: American Indian/Alaska Native*, YouTube (May 26, 2020), https://www.youtube.com/watch?v=F6IyJMtDDgY&feature=youtu.be&t=4689.

165. On July 8, 2020, Al Fontenot, Jr., Associate Director for Decennial Census Programs and a top Census Bureau official, affirmed that the Bureau is "past the window of being able to get" accurate counts to the President by December 31, 2020. U.S. Census Bureau, *Operational Press Briefing – 2020 Census Update* at 21 (July 8, 2020), https://www.census.gov/content/dam/Census/newsroom/press-kits/2020/news-briefing-program-transcript-july8.pdf.

IV. The Census Bureau's New Rush Plan.

A. The Announcement of the Rush Plan

166. On August 3, 2020, at the behest of the Secretary of Commerce, Director Dillingham abruptly and without explanation abandoned the COVID-19 Plan and announced the Rush Plan.

167. The Rush Plan drastically shortens the timelines for multiple operations set out in the COVID-19 Plan.

168. The Rush Plan took the form of a short press release on the Census Bureau's website. The press release included a statement from Director Dillingham, which did not provide an explanation for Defendants' decision to suddenly abandon the COVID-19 Plan that the Bureau had adopted and implemented for approximately three and a half months. Nor did it provide any specifics as to why the Bureau no longer believed the timelines called for in the COVID-19 Plan were necessary to ensure an accurate count.

169. The statement noted that the Bureau was taking this action at the direction of the

Secretary of Commerce. But the Secretary made no statement explaining his reason for giving this directive.

170. The Director's statement was largely silent on specific adjustments the Bureau would need to make in order to reengineer its field operations to meet its new, artificially compressed schedule. The statement included proposals for enumerator "awards" and maximizing enumerators' phone and tablet usage, but it did not provide any details about adjustments to the detailed operations provided in the Final Operational Plan.

171. The only adjustments announced under the Rush Plan were severely truncated timelines for conducting data-collection and data-processing operations.

172. Under the Rush Plan, data-collection is now set to end on September 30, 2020, one month earlier than contemplated in the Bureau's COVID-19 Plan.

173. While the Bureau's pre-COVID-19 Final Operational Plan provided 79 days for the nationwide door-knocking stage of the census, and the COVID-19 Plan provided 81 days, the Rush Plan provides just 52 days of nationwide door-knocking.

174. The Rush Plan also cuts post-collection data processing for the apportionment report from up to 6 months as provided in the COVID-19 Plan, and up to 5 months as originally provided in the Final Operational Plan, to less than 3 months.

175. The Rush Plan also shortened the time under which households can self-respond, providing that self-responses delivered after September 30, 2020—which previously would have been timely under the October 31, 2020 deadline—will no longer be counted.

176. While the Rush Plan requires the Bureau to accelerate its operations to complete the 2020 Census by the same deadline contemplated in the Final Operational Plan, it ignores the multiple-month pause in operations, beginning in mid-March 2020, caused by the initial outbreak of COVID-19 in the United States.

177. The decision to rescind the COVID-19 Plan and adopt the Rush Plan was announced without consultation with important stakeholders.

178. As noted above, as late as July 8, 2020, senior Bureau officials were still confirming that it was impossible to complete an accurate count by December 31, 2020.

179. In addition, until July 30, 2020, just four days before the Bureau announced its decision to abandon the COVID-19 Plan, the Bureau was informing respondents on its website that it would engage in Non-Response Follow-Up until October 31, 2020 and that non-responsive households would have until that date to self-respond. Those references were deleted from the website on or about July 31, 2020 and were replaced with the shortened timeframe after the August 3, 2020 announcement.

180. An official at the Government Accountability Office confirmed that Bureau officials told his office that they were given "hours rather than days or weeks" to adjust their plans to finish counting by September 2020. Hansi Lo Wang, *'Not Enough Time': Census Workers Fear Rushing Count Could Botch Results*, NPR (Aug. 11, 2020), https://www.npr.org/2020/08/11/901202892/not-enough-time-census-workers-fear-rushing-count-could-botch-results.

181. While the Census Bureau's decisions, even during the COVID-19 emergency, have often involved consultations with scientific advisory committees, the Committee on National Statistics in the National Academies of Science, other external experts and local government officials, and the thousands of organizations partnering with the Bureau to conduct crucial outreach to historically undercounted communities, no such consultation was made before the Bureau announced its abandonment of the COVID-19 Plan.

182. Census stakeholders immediately denounced the Rush Plan, including stakeholders who had endorsed the COVID-19 Plan.

183. The same four former Census Bureau Directors who endorsed the COVID-19 Plan issued a statement saying that "our expert opinion is that failing to extend the deadlines to April 30, 2021 will result in seriously incomplete enumerations in many areas across our country." Press Release, Former Census Bureau Directors, *On the Importance of Extending the 2020 Census Statutory Deadlines to Achieve a Fair and Accurate Enumeration of the United States* (Aug. 4, 2020), https://www.documentcloud.org/documents/7013550-Aug-4-2020-Statement-By-Former-U-S-Census-Bureau.html.

184. These four former Census Bureau Directors further asserted: "The Census Bureau

will not be able to carry out the NRFU fully and will be forced to take steps such as fewer in-person visits and rely instead on the use of administrative records or statistical techniques on a much larger scale tha[n] in previous census. The end result will be under-representation of those persons that NRFU was expected to reach and, at even greater rates for traditionally hard-to-count populations and over-representation of all other populations with potentially extreme differential undercounts." Press Release, Former Census Bureau Directors, *On the Importance of Extending the 2020 Census Statutory Deadlines to Achieve a Fair and Accurate Enumeration of the United States* (Aug. 4, 2020), https://www.documentcloud.org/documents/7013550-Aug-4-2020-Statement-By-Former-U-S-Census-Bureau.html.

185. The President of the American Statistical Association, the world's largest professional organization of statisticians, issued a statement saying "[t]here is no scientific rationale to curtail the data-collection period for this constitutionally mandated activity, and the premature cessation of census enumeration will produce flawed counts." Letter from Rob Santos, President of the American Statistical Association, to Mitch McConnell, U.S. Senate Majority Leader (Apr. 5, 2020), https://www.amstat.org/asa/files/pdfs/POL-CensusSenateAugust.pdf.

186. Nearly 450 nonpartisan philanthropic organizations who "rely on accurate census data to help identify community needs and to prioritize grantmaking" issued a letter to Secretary Ross and Director Dillingham urging the Bureau to revert to its COVID-19 Plan. Letter from U.S. Philanthropy Leaders to Wilbur Ross, Secretary of the U.S. Dep't of Commerce (Aug. 5, 2020), https://funderscommittee.org/wp-content/uploads/2020/08/Letter-Philanthropic-Leaders-on-Census-Being-Cut-Short-8-5.pdf.

187. Prominent civil-rights groups condemned the Rush Plan. Vanita Gupta, President and CEO of The Leadership Conference on Civil and Human Rights and The Leadership Conference Education Fund, stated that "[c]urtailing operations is an obvious ploy to guarantee the Census Bureau won't be able to finish counting millions of people—especially those hit hardest by the pandemic." Press Release, Leadership Conference on Civil and Human Rights, *Trump Plans to Sabotage 2020 Census by Cutting Short Operations* (July 31, 2020),

https://civilrights.org/2020/07/31/trump-plans-to-sabotage-2020-census-by-cutting-short-operations/.

188. And the Census Bureau's own field workers have confirmed the impossibility of this new timeline, explaining that the Rush Plan means that it will not be an accurate count for the next 10 years.

B. The Rush Plan Fails to Appropriately Account for Key Factors Affecting the 2020 Census

189. The Rush Plan fails to account for several important factors that affect the 2020 Census Non-Response Follow Up operation.

190. *First*, the Rush Plan does not adequately account for the large number of households in the Non-Response Follow Up universe.

191. Under the Rush Plan, the Census Bureau must attempt to count approximately the same number of households during Non-Response Follow Up as it anticipated counting in its pre-COVID-19 Final Operational Plan, but the Bureau will have four weeks less than provided in that plan to complete the operation. In other words, the Bureau must now try to complete the same amount of work in just 65% of the time it had originally scheduled to complete that work.

192. Over 37% of households nationwide are non-responsive, and several states have even higher percentages of households in the Non-Response Follow Up universe, including New Mexico (46.1%), South Carolina (42.4%), Texas (41.3%), and Georgia (40.8%).

193. While soft-launches of Non-Response Follow Up began in select locations in mid-July 2020, the operation did not begin in any of these states, with large amounts of non-responsive households, until August 9, 2020.

194. Within states, and in particular cities and localities, there are even higher Non-Response Follow Up workloads. For instance, in Plaintiff Harris County, enumerators must still visit over 41% of households. In the City of Los Angeles, over 46% of households remain to be enumerated. The self-response rate in Los Angeles is approximately 14 percentage points below the final self-response rate the City attained during the 2010 Census. Counting in these jurisdictions also did not begin until August 9, 2020.

195. Moreover, given the time constraints placed by the Rush Plan, counting will need to be conducted while these jurisdictions, in many places, struggle to control a surge in COVID-19 cases.

196. While the Bureau announced on August 11, 2020 that it is now "training census takers to follow up with households by phone" in light of the pandemic, that change in Non-Response Follow Up operations was not anticipated in the Final Operational Plan. Press Release, U.S. Census Bureau, *Door-to-Door Visits Begin Nationwide for 2020 Census* (Aug. 11, 2020), https://www.census.gov/newsroom/press-releases/2020/door-to-door-visits-begin-nationwide.html.

197. Given the traditionally low response rates for phone surveys in the wireless era, following up by phone is unlikely to materially increase response rates.

198. A recent Census Bureau survey running in parallel with the 2020 Census demonstrates the difficulty in obtaining responses via phone or email. This spring, the Bureau began conducting a "Household Pulse Survey" to measure household experiences under the COVID-19 pandemic. This survey solicited participation through emails and text messages. Over the first twelve weeks of this survey, response rates were meager, ranging from 1.3% to 3.8%.

199. *Second*, the Rush Plan does not account for the staffing challenges that the Bureau is currently experiencing, many of which are directly related to the ongoing pandemic.

200. As demonstrated in the soft-launch of Non-Response Follow Up in select locales, the Bureau is already experiencing staffing shortages and retention problems with enumerators.

201. In the midst of the ongoing pandemic, prospective enumerators, many of whom are elderly and at high risk of contracting a severe COVID-19 related illness, are less willing to engage in the required door-to-door canvassing.

202. Indeed, Tim Olson, head of field operations for the 2020 Census, stated at a July 8, 2020 press briefing that "[a]bout a third of our [enumerator] applicants [are] older persons considered high risk of the virus." U.S. Census Bureau, *Operational Press Briefing – 2020 Census Update* at 21 (July 8, 2020), https://www.census.gov/content/dam/Census/newsroom/press-kits/2020/news-briefing-program-transcript-july8.pdf.

203. And Deborah Stempowski, the Census Bureau's Assistant Director for Decennial Programs, noted the Bureau's difficulty retaining enumerators in early August 2020, confirming that potential enumerators were "a little hesitant because of the COVID environment." Mike Schneider, *Census Bureau Drop-Outs Complicate Door-Knocking Efforts*, Associated Press (Aug. 8, 2020), https://www.usnews.com/news/us/articles/2020-08-08/census-bureau-drop-outs-complicate-door-knocking-efforts.

204. In testimony before Congress on July 28, 2020, Director Dillingham confirmed that the Bureau believed that "the pandemic is estimated to increase the number of no shows to training sessions, as well as the number of employees who complete training but decline to show up for work." *Id.*

205. According to reports from census-operations staff working in the field, these predictions have come to pass. One census field supervisor working in the mid-Atlantic noted that, given the new rushed timeline and lack of sufficient staff, "[w]e're just sending bodies out regardless of whether they're ready or not." Hansi Lo Wang, *'Not Enough Time': Census Workers Fear Rushing Count Could Botch Results*, NPR (Aug. 11, 2020), https://www.npr.org/2020/08/11/901202892/not-enough-time-census-workers-fear-rushing-count-could-botch-results.

206. In addition to enumerator low-count and hesitancy, another source of staffing issues involves delays in processing background checks on enumerator applicants and in enumerator onboarding.

207. A June 2020 GAO report on the 2020 Census delays COVID-19 has caused, and the risks the pandemic has exacerbated, noted that the Bureau "will have to quickly hire and onboard sufficient staff to conduct its operations" to reach adequate staffing levels. U.S. Gov't Accountability Office, *COVID-19 Presents Delays and Risks to Census Count* (June 2020), https://www.gao.gov/assets/710/707456.pdf.

208. That same report also noted that, once potential enumerators accept a job offer from the Bureau, the new hires "must wait a minimum of 60 days before they can begin training, a time period during which they must complete fingerprinting and a background check." *Id.*

209. Reports from recently hired enumerators confirm that the Bureau is facing these

technical challenges as well, under the compressed timeline. One recent hire in Boulder, Colorado noted that he lost six potential days of door-knocking because he was unable to complete the Bureau's online training module.

210. Thus, under the Rush Plan, the Bureau will not be able to hire and train sufficient enumerators.

211. Even if it were possible for the Bureau to hire all of the enumerators it will need, the Bureau would also need time and funding to obtain additional equipment for any additional enumerators it hires beyond its initial estimates of equipment. For example, the Bureau would need more of the iPhones discussed above that the Bureau specifically contracted and customized for 2020 Census enumerators.

212. With fewer enumerators in the field, in addition to training and equipment issues, the Bureau cannot ensure that non-responsive households receive the requisite number of visits, as contemplated in the Final Operational Plan.

213. While the Bureau had a $2 billion contingency fund prior to the existence of the COVID-19 pandemic, it has already used $1.5 billion of that fund addressing pandemic-related issues. The remaining $500 million will be needed to further respond to the pandemic, and, in any event, is nowhere near the $1 billion that the administration claims that the Bureau would need to conduct adequate Non-Response Follow Up operations under the Rush Plan.

214. Thus, instead of providing additional enumerators, the Bureau's Rush Plan will likely result in a smaller number of enumerators shouldering larger-than-planned workloads. Increasing workloads for enumerators over a short period of time can result in errors and inaccuracies in counting but it cannot make up for the time lost to the Rush Plan.

215. *Third*, the Rush Plan fails to account for factors relevant to efficient enumeration, such as the time when enumerators visit households.

216. For instance, under the Final Operational Plan, enumerators visit households at specific times of day and on specific days of the week, depending on when residents are likely to answer.

217. Under the Rush Plan, enumerators will be under pressure to complete their work

in a tightly constrained timeframe. As a result, ensuring that non-responsive households receive the requisite number of enumerator visits at the most opportune times for enumeration may become exceedingly difficult, if not impossible. Instead, the Rush Plan increases the likelihood that households will either receive visits at less opportune times, or simply receive fewer visits altogether.

218. *Fourth*, the Rush Plan fails to account for the additional crucial operations that enumerators must conduct, as contemplated in the Bureau's final plans for the 2020 Census. Apart from visiting households upwards of six times, enumerators also engage in a host of additional quality control activities.

219. As noted above, enumerators are expected to visit the households of persons that self-responded to the census online but did not enter the unique identifier provided on census mailers. This "non-ID processing" is necessary to verify the address information provided by respondents. While this process only requires a single visit to a household, it nevertheless must be completed in the compressed timeline provided for under the Rush Plan.

220. Similarly, the Bureau must conduct quality control reinterviews of a sample of households during Non-Response Follow Up. This operation is designed to deter and detect enumerator falsification. Detecting such falsifications will be especially important under the Rush Plan where individual enumerators must shoulder a heavier workload. The use of enumerators to conduct these reinterviews will, under the Rush Plan, place additional strain on the Bureau's already stretched labor resources.

221. Cutting any one of these functions will cause errors and inaccuracies to affect the final 2020 Census data. By reversing the COVID-19 Plan and shortening the timeframe for conducting Non-Response Follow Up by a month, the Bureau will likely need to make cuts to one or more of these operations.

222. By reducing the amount of time and resources necessary to perform the kinds of quality-control measures that the Bureau originally planned for Non-Response Follow Up, the Rush Plan actively dismantles processes that the Bureau has specifically developed over the course of time as checks against falsified census responses. The Rush Plan thus threatens census

accuracy not only by reducing the Bureau's time to *collect* data, but also by reducing the Bureau's time to ensure that the data it has collected has been collected *properly* and *truthfully*.

223. *Fifth*, the Rush Plan fails to account for the other field operations enumerators will need to conduct at the same time as they attempt to speed through door-knocking operations.

224. Under the Final Operational Plan, the Bureau planned to finish specialized operations for counting people experiencing homelessness, and people living in group housing in April 2020, before engaging in nationwide door-knocking. After suspending operations due to COVID-19, the Bureau moved these operations to September 2020, well-before the October 31, 2020 deadline the Bureau set for completing the Non-Response Follow Up operation.

225. The new Rush Plan requires the Bureau to conduct these specialized operations at the same time as it is scrambling to complete Non-Response Follow Up. This will further stretch the Bureau's limited resources and increase the likelihood of missing information.

C. The Rush Plan Also Fails to Appropriately Account for Factors that Will Affect Post-Collection Data Processing

226. The Rush Plan fails to account for the additional strain on data-processing operations resulting from the consequences of the COVID-19 pandemic.

227. Following the outbreak of COVID-19 in the United States in mid-March 2020, colleges and universities across the country closed, and students moved out of campus and off-campus housing. Similarly, many residents of cities, especially those living in COVID-19 hotspots, moved to locations where the virus was less prevalent. In a recent study, three percent of people surveyed reported that they had moved permanently or temporarily as a result of the pandemic.

228. This significant movement of people coincided with Census Day, April 1, 2020, and will lead to confusion about what residence should be listed on responses.

229. It is likely that the Bureau will receive an increased amount of duplicate responses, which will, in turn, require more time and Bureau resources to review and correct.

230. The Rush Plan also fails to account for the Bureau's inability to timely obtain and process all the administrative-records data crucial for completing an accurate count.

231. The Bureau relies principally on Title 26 data—that is, tax returns that individuals file with the Internal Revenue Service ("IRS")—for the administrative records it uses to fill in missing people and their characteristics.

232. Because this year's tax filing deadline was July 15, 2020, and the IRS generally requires three months to transfer Title 26 data to the Census Bureau, the Bureau will not possess all the Title 26 data it is planning to use until mid-October 2020, at the earliest. Once the Bureau has possession of that Title 26 data, it will have to undertake a time-consuming round of additional review and processing, further delaying its ability to use the data for its planned purposes. These delays will compel the data-processing phase of 2020 Census operations to proceed more slowly than the Rush Plan contemplates or would allow.

233. Ultimately, the solution to alleviate each of these problems was articulated in the COVID-19 Plan: provide the Bureau's limited number of enumerators with additional time to conduct the data-collection operations necessary to ensure a complete and accurate census, and provide Bureau staff with additional time to conduct the data-processing operations necessary to ensuring the same. The Rush Plan fails to address these issues or explain why the Bureau's prior conclusions were incorrect..

D. The Rush Plan Does Not Account for Federal Statistical Guidelines

234. In replacing the COVID-19 Plan with the Rush Plan, Defendants departed from federal government statistical standards that promote the accuracy of information collected and disseminated by the agencies.

235. The Bureau's failure to follow these standards further emphasizes its inability to conduct an adequate count in the time and under the conditions that the Rush Plan provides.

236. Under the Paperwork Reduction Act, the Office of Management and Budget is responsible for coordinating the federal statistical system, including the development and implementation of "Governmentwide policies, principles, standards, and guidelines" "concerning [] statistical collection procedures and methods." 44 U.S.C. § 3504(e)(3) (A).

237. The Office of Management and Budget is responsible for issuing guidelines that provide "procedural guidance to Federal agencies for ensuring and maximizing the quality,

objectivity, utility and integrity of information (including statistical information) disseminated by Federal agencies." Consolidated Appropriations Act, FY 2001, Pub. L. No. 106-554, § 515, 114 Stat. 2763 (2000).

238. One such guideline issued by the Office of Management and Budget provides specific standards to agencies like the Census Bureau, in ensuring the quality and utility of federal statistical surveys, such as the decennial census. Office of Mgmt. & Budget, Standards and Guidelines for Statistical Surveys § 2 (2006).

239. Under these standards, agencies are required to develop "realistic timetable[s]" for surveys. *Id.* § 1.2.

240. The Bureau failed to take this basic requirement into account when it decided to implement the Rush Plan. The Rush Plan compresses the timeline for counting operations despite evidence of staffing shortages and heavier workload. The Plan attempts to accomplish a task—speedy delivery of results by December 31, 2020—that the Bureau has already deemed "impossible."

241. The standards also require agencies, including the Census Bureau, to "[e]ncourage respondents to participate to maximize response rates and improve data quality." Office of Mgmt. & Budget, Standards and Guidelines for Statistical Surveys § 2.3.2. This standard requires that the Census Bureau "[e]nsure that the data collection period is of adequate and reasonable length."

242. Again, the Rush Plan does not account for this standard. The Final Operational Plan and the COVID-19 Plan provided for over eleven weeks of Non-Response Follow Up, and up to five and six months, respectively, of post-collection data processing for the apportionment report. The Rush Plan, on the other hand, cuts the time allotted for counting by four weeks, without explaining how it will encourage more efficiency in collecting responses than the plan it reversed.

243. The standards also require the Bureau to plan for "an adequate number of contact attempts" to the respondent and to establish protocols for minimizing enumerator falsification, including "reinterviewing respondents." Office of Mgmt. & Budget, Standards and Guidelines

for Statistical Surveys, Directive No. 2, § 2.3.3.

244. With the Rush Plan significantly cutting the time available to conduct Non-Response Follow Up, it is expected that the Bureau will need to cut particular Non-Response Follow Up processes. This includes reducing the number of housing unit visits it earlier deemed necessary to enumerate a non-responsive household, or cutting back on enumerator reinterviews. Either decision will conflict with the Bureau's obligation to abide by federal statistical standards.

E. The Rush Plan Will Produce Low Quality and Inaccurate Data

245. Ultimately, Defendants' decision to rush completion of the 2020 Census will produce a significantly less accurate census than the COVID-19 Plan.

246. By cutting down the time allotted for door-knocking, the Rush Plan will result in fewer contact days by enumerators to non-responsive households, and less data collected by enumerators about those households.

247. The concerns about inaccuracy resulting from shortening time for Non-Response Follow Up are real and verified. A GAO review of the 2010 Non-Response Follow Up operation determined that local census offices with "higher percentages" of "less complete house-hold data" were more likely to have completed their Non-Response Follow Up in 53 days or less as compared to those offices that took a longer period of time. U.S. Gov't Accountability Office, *2010 Census: Data Collection Operations Were Generally Completed as Planned, but Long-Standing Challenges Suggest Need for Fundamental Reforms* (Dec. 2010), https://www.gao.gov/new.items/d11193.pdf.

248. As noted above, after the Bureau exhausts attempts to enumerate households through methods that render more accurate results, such as self-response and enumerator interviews, the Bureau turns to less accurate sources of data and statistical methods as a last resort to fill in missing information.

249. By curtailing Non-Response Follow Up, the Rush Plan will force the Bureau to resort to less accurate methods of data collection, well before the exhaustion of more accurate methods. Consequently, the Rush Plan will lead to the production of lower-quality information.

250. For instance, under the Final Operational Plan, the Bureau would not consider

low-quality administrative data before conducting the requisite number of contact days for a particular type of housing unit. By reducing the number of enumerator contact days, the Rush Plan will lead to reliance on these types of lower-quality data sources prior to exhausting the more accurate methods contemplated in the Final Operational Plan. Consequently, the Rush Plan will lead to more inaccuracies in the data.

251. Based upon past practices, the Bureau may also use whole-count imputation to calculate missing household data but to an extent and in ways not used previously. Imputation involves the Bureau using information from surrounding responsive households to infer the count and characteristics of a non-responsive household.

252. In previous censuses, the Bureau imputed upwards of 2.0% of households left over after exhausting its Non-Response Follow Up efforts. Under the time constraints of the Rush Plan, the Bureau will need to turn to imputation before exhausting its in-person enumeration efforts. One former Census Bureau Director estimates that, under the Rush Plan, the Bureau may end up imputing up to 10% of households.

253. Since data produced through the Bureau's current imputation methods are less accurate than data collected from enumerator interviews, Defendants' decision to rush completion of the 2020 Census will result in significantly less accurate total-population data than would have been produced under the COVID-19 Plan. This decline in accuracy will affect both the census's calculations of the total number of people living in the country and the census's recording of the characteristics of those people, and such inaccurate data will not meet the constitutional minimum for conducting the decennial enumeration or satisfy the "strong constitutional interest in accuracy" of the Census. *Utah v. Evans*, 536 U.S. 452, 478 (2002).

254. The Rush Plan will likely exacerbate the quality problems associated with imputation by compromising the Bureau's ability to collect the other kinds of data—such as self-responses, proxies, and administrative records—that it requires to impute most accurately. As noted above, imputation does not occur in isolation from the Bureau's other data sources, but in concert with them. With less data drawn from these other sources and less accurate data drawn from these other sources, the quality of the Bureau's imputation will decline.

255. The Rush Plan will also disrupt the post-collection data processing operations, described above. As noted by Secretary Ross and Director Dillingham in mid-April 2020, following Non-Response Follow Up the Bureau engages in "lengthy, thorough and scientifically rigorous" data processing, which is essential to ensuring an accurate census.

256. In announcing the new plan to rush the completion of the 2020 Census, Director Dillingham stated that the Bureau would "streamline" these operations in order to meet the December 31, 2020 deadline.

257. While the Director has not specified what this "streamlining" means for post-collection operations, the bottom line is that the Bureau cannot fully engage in the operations as contemplated in its Final Operational Plan on the shortened timeframe. As a result, the Bureau will have to cut or reduce its efforts to review and process collected data to ensure accuracy.

F. The New "Rush" Plan Will Create Confusion that Plaintiffs Will Be Forced to Spend Time and Money Counteracting

258. The new plan to rush completion of the 2020 Census also creates additional confusion about census operations at a critical moment in the census-taking process.

259. The Census Bureau's abrupt change will require groups and local governments engaging in Get Out the Count campaigns, including Plaintiff localities and Plaintiff organizations, to expend resources to correct confusion about the last date for counting in the 2020 Census.

260. As noted above, Plaintiff organizations and localities engaged in extensive public information campaigns that publicized the October 31, 2020 deadline.

261. The Rush Plan requires Plaintiffs to expend additional resources in order to update existing public materials, distribute new materials, and engage in more public-facing efforts to educate the public, their constituents, their members and/or constituents, and local organizations that the self-response period for the census ends on September 30, 2020.

262. For instance, in Harris County, officials ordered a mailing to constituents informing them that they had until October 31, 2020 to respond to the census. That order occurred before the August 3, 2020 decision to implement the Rush Plan. In light of the new

plan, the officials were forced to order stickers to cover the reference to October 31, 2020 on the mailer and to dedicate office staff to spend time affixing those stickers and updating the mailer. Similarly, Plaintiffs the City of Los Angeles, BAJI, and Urban League must update advertisements on social media to correct previous communications that referenced the October 31, 2020 deadline.

263. Apart from correcting misinterpretations arising from earlier statements Plaintiffs made in reliance on the Bureau's COVID-19 Plan, Plaintiffs must now also engage in more, unanticipated outreach to educate the public about the Census Bureau's Rush Plan decision. With one month less of counting, there is now increased urgency for non-responsive households to self-respond. As a result, Plaintiffs are developing new plans to reach more households and encourage more census participation.

G. The New "Rush" Plan Will Lead to Undercounting of Minorities

264. The new plan to rush completion of the 2020 Census will exacerbate undercounting of Black, Latino, and Native American communities.

265. As noted above, Non-Response Follow Up, is specifically designed to ensure that traditionally hard-to-count communities, including Black, Latino, and Native American communities are fully counted. By cutting Non-Response Follow Up short, the administration is disrupting the operation most essential to ensuring an accurate count for these communities.

266. For the 2020 Census, Black, Latino and Native American populations make up a disproportionate share of the population in tracts with the lowest self-response rates in the United States. For instance, as of July 23, 2020, one in five residents living in census tracts with the lowest self-response rates was Black, and one in four was Hispanic, far larger proportions than Black and Hispanic shares of the general population.

267. Consequently, Black, Latino, and Native American households will make up a disproportionate share of the Non-Response Follow Up universe.

268. Given the challenges of the shortened Non-Response Follow Up timeline, Black, Latino, and Native American households have a high likelihood of being missed, or inaccurately enumerated through administrative records and imputation. As noted above, these alternative

methods for enumeration will result in lower quality data for these groups.

269. The problem, however, is even more serious because it replicates and exacerbates problems the Census Bureau has found in prior censuses and has striven to correct in subsequent censuses. Data from previous censuses shows that Black, Latino, and Native Americans have historically been undercounted. Over-reliance on alternative methods of data to enumerate a disproportionate share of the population in these groups will further exacerbate potential undercounting in these groups during the 2020 Census.

270. Accurate data about the size, location, and characteristics of communities of color is necessary to equitably distribute political power through congressional reapportionment and redistricting at the state and local levels, enforce civil-rights laws that affect basic needs like housing and employment, and conduct effective research, including on pressing issues like public health.

271. Truncating Non-Response Follow Up will exacerbate undercounts of communities of color in at least two ways: first, by missing members of those communities entirely; or, second, by recording their characteristics incorrectly, such that the census results will not register them as members of communities of color. In either instance, data regarding communities of color will be inaccurate. This inaccuracy then deprives communities of color of federal funding, all the material support that flows from federal funding, the protections of the law, and political power at the federal, state, and local levels.

H. The New Rush Plan Has No Legitimate Justification

272. In announcing the Rush Plan, Defendants provided no express justification. Defendants stated in passing, however, that reporting of apportionment data to the President by December 31, 2020 is required by statute.

273. But there is "nothing sacred in the due date of the filing [of apportionment data], especially when the work of the Census Bureau . . . is incomplete." *Carey v. Klutznick*, 637 F. 2d 834, 837 (2d Cir. 1980).

274. The Supreme Court thus determined that the government can and should substitute apportionment counts that have already been filed and certified with "newer, more

accurate version[s]." *Utah v. Evans*, 536 U.S. 452, 462 (2002).

275. Defendants have also recognized that, in the event of a conflict between the two, the constitutional requirement of a fair and accurate enumeration, rather than the statutory deadline, is the controlling legal requirement. With the COVID-19 pandemic threatening the health and safety of communities across the country, Defendants adjusted 2020 Census operations in the COVID-19 Plan, shifting the timeline by several months. Defendants did not wait for Congress to act to implement this plan, recognizing that the Plan was necessary to protect enumerators and respondents, and to ensure an accurate count.

276. Because of those delays, as the Bureau itself recognized, it was no longer possible for Defendants to produce data by December 31, 2020 that fulfilled their constitutional and statutory mandate. Specifically, the Bureau could not simultaneously pursue an accurate 2020 Census, and speed through completion of census-taking in order to report numbers to the President by the end of the year.

277. Several senior officials charged with actually conducting the 2020 Census confirmed the impossibility of this task throughout the summer, including approximately four weeks before Defendants' abruptly announced their decision to adopt the Rush Plan.

278. The statutory deadline at issue is not mandated by the Constitution. Taking the modest additional time necessary to ensure an accurate census, should not prevent a timely reapportionment, as elections for congressional seats impacted by reapportionment will not occur until 2022.

279. Ultimately, Defendants cannot sacrifice their mandatory *constitutional* obligation to make decisions reasonably related to producing an accurate count in order to comply with a pro forma *statutory* deadline. Congress clearly could not, for instance, satisfy its constitutional obligations by providing the Census Bureau with a single week in which to conduct the census. Strictly adhering to the December 31, 2020 deadline, as applied in extraordinary circumstances of the ongoing pandemic, would be equally unconstitutional.

I. Implementation of the Apportionment Exclusion Order

280. Defendants have not yet sought to justify their motivation for adopting the Rush

Plan, and it cannot be justified on the basis of artificial statutory deadlines. Instead, the timing of the abandonment suggests that the decision was influenced by a desire to implement the President's Executive Memorandum excluding undocumented immigrants from the apportionment count, thereby undercutting the contribution of communities of color to the calculations for equal representation for purposes of congressional apportionment (the "Apportionment Exclusion Order").

281. In late June 2020, the White House took the unprecedented step of adding two political appointees to Census Bureau staff with unspecified job duties. Neither appointee had an expertise in statistics, and both had a demonstrated history of partisan activity. These unusual appointees had previously engaged with the Census Bureau on questions about changing operations and methodology.

282. In mid-July 2020, White House officials reportedly asked congressional appropriators to include $1 billion in the next coronavirus stimulus bill for the purpose of completing the 2020 Census by the December 31, 2020 deadline.

283. This abrupt change in policy coincided with and was motivated by the President's July 21, 2020 issuance of the unconstitutional Apportionment Exclusion Order declaring that it is the policy of the United States to remove undocumented persons from the apportionment count, and requiring the Secretary of Commerce to produce estimates of the number of undocumented persons in the United States when reporting total population counts to the President. As noted, the Apportionment Exclusion Order is currently being challenged as unconstitutional and unlawful in a number of lawsuits filed in jurisdictions around the country, including in this District.

284. Shortening the census timeline increases the likelihood that, regardless of the outcome of the November 2020 election, this President will have the opportunity to implement his Apportionment Exclusion Order. Delaying reporting until spring—as the COVID-19 Plan issued by the Census Bureau and Department of Commerce previously did—leaves open the possibility that the President will no longer be in office when data is provided, and thus will be unable to effectuate the Apportionment Exclusion Order.

285. Defendants did not justify their sudden, unexplained reversal of position with any evidence that Bureau officials had been wrong in stating, repeatedly, that it would be impossible to produce accurate counts by December 31, 2020. There is also no evidence that the decision to cut short counting operations was driven by the scientifically based judgment of Bureau personnel or external experts.

286. To the extent that Defendants' are motivated by a desire to implement the President's Apportionment Exclusion Order, that motivation is improper. It bears no reasonable relationship to the achievement of a fair and accurate census, and, under the circumstances currently facing the count, implementing the Apportionment Exclusion Order will undermine that goal.

287. Moreover, that Memorandum is just the latest attempt by the President and Secretary Ross to manipulate the census along racial and ethnic lines. Beginning in 2017, Secretary Ross attempted to add an untested citizenship question to the 2020 Census, claiming that the question was necessary to better enforce the Voting Rights Act. In reality, the administration was seeking block-level citizenship data so states could draw district lines in a manner that would disadvantage Black and Latino communities.

288. Defendant Ross's decision was litigated, and enjoined by three district courts. One of those cases ultimately ended up before the Supreme Court. There the Court found that Defendant Ross's stated Voting Rights Act rationale to support the addition of a citizenship question to the 2020 Census was "contrived" and vacated Defendant Ross's decision. *Dep't of Commerce v. New York*, 139 S. Ct. 2551, 2575-76 (2019).

289. On July 5, 2019, following the Supreme Court's decision, President Trump confirmed the real rationale—and fully justified the Supreme Court's holding that the administration's rationale for this census decision was pretextual—when he stated that the administration sought a citizenship question, not to enforce the Voting Rights Act, but rather "for districting" and "for appropriations." Remarks by President Trump Before Marine One Departure (July 5, 2019), https://www.whitehouse.gov/briefings-statements/remarks-president-trump-marine-one-departure-51/.

290. Indeed, further evidence that Defendants' actions were pretextual arose from files of a prominent redistricting strategist, Thomas Hofeller. In 2015, Hofeller prepared a study titled "The Use of Citizen Voting Age Population in Redistricting." In the study, Hofeller recommended adding a citizenship question to the census so that states could use citizen voting-age population rather than total population to redistrict. This change in the redistricting base, in Hofeller's words, would be advantageous to "Non-Hispanic Whites" and would undercut the political power of Hispanics.

291. It was later revealed that Hofeller was involved in drafting portions of the memorandum from the Department of Justice to Defendant Commerce seeking addition of a citizenship question on the 2020 Census, including sections relating to the pretextual reason for requesting the question. *See* Ex. 8 to NYIC Pls.' Mot. for Sanctions at 124-31, *New York v. U.S. Dep't of Commerce*, No. 1:18-cv-2921-JMF (S.D.N.Y. July 16, 2019), ECF No. 635-1; Defs.' Opp. to Letter Mot. to Compel at 3, *New York v. U.S. Dep't of Commerce*, No. 1:18-cv-2921-JMF (S.D.N.Y. Oct. 30, 2018), ECF No. 451.

292. Shortly after the Supreme Court's decision, President Trump issued an executive order, demanding executive agencies provide the Census Bureau with administrative records sufficient to allow the Bureau to determine "the number of citizens and noncitizens in the country." Exec. Order No. 13,880, § 1, 84 Fed. Reg. 33,821, 33,821 (July 16, 2019). The Executive Order explicitly states that the reason this data is necessary is to design "legislative districts based on the population of voter-eligible citizens," instead of total population. *Id.* at 33,823-84.

293. In light of that history, the Apportionment Exclusion Order, and the near-contemporaneous decision to cut counting operations short represent yet another attempt by the administration to manipulate the 2020 Census and potentially undercut the political power of communities of color. Defendants cannot rely on this memorandum as justification to support their decision to undermine the accuracy of the census.

V. Harm to Plaintiffs.

294. Plaintiffs and Plaintiff non-profits' members and/or constituents reside in locales

that will suffer harm as a result of Defendants' decision because that decision is very likely to cause these locales to be more disproportionately undercounted in the 2020 Census than they otherwise would have been.

295. On August 9, 2020, at the beginning of the Non-Response Follow Up operation, Plaintiff City of Los Angeles, had a response rate of just 53.1%, which was significantly lower than the 64.5% statewide response rate in California on that same date.

296. The Urban League, League of Women Voters, and BAJI have affiliates, constituents, and members in major cities across the United States. This includes cities where response rates were lower than their corresponding statewide response rates on the first day of Non-Response Follow Up including San Francisco (61.4%) and Monterey (60.5%) as compared to California (64.5%), Miami (49.6%) as compared to Florida (60.1%), Philadelphia (52%) as compared to Pennsylvania (65.5%), Detroit (48.7%) as compared to Michigan (68.9%), and New York City (54.9%) as compared to New York State (58.9%).

297. Plaintiffs Ellis and Garcia are residents of Houston, Texas. The response rate in Houston at the beginning of Non-Response Follow Up was 54%, which was lower than the statewide response rate for Texas on that date, 58.2%.

298. As noted above, Defendants' decision will result in fewer enumerations through Non-Response Follow Up, increased reliance on low-quality administrative data, and increased imputation. Consequently, Defendants' decision will result in cities' with higher rates of non-response (1) having less accurate data; and (2) experiencing higher rates of undercounting.

299. Because these cities have a higher proportion of households in the Non-Response Follow Up universe than their corresponding states, these cities have a substantially higher likelihood of being undercounted because of Defendants' decision than surrounding communities in their states. These disproportionate undercounts will cause Plaintiffs to suffer both fiscal and representational harm.

A. Funding Harms

300. The Rush Plan will result in loss of federal funding for Plaintiffs Harris County, City of Salinas, and the City of Los Angeles and the communities where members of Plaintiff

non-profits reside, including Miami, Detroit, Philadelphia and New York.

301. Over 130 programs and 675 billion dollars are allocated to states and localities on the basis of census-derived information. This includes funding to states for federal transportation planning purposes, education, and healthcare.

302. Many important federal programs, including Title I Grants under the Every Student Succeeds Act, require states to distribute funds to localities on the basis of census-derived information.

303. State Education Agencies must allocate Title I Grants, at least in part, on the number of children aged 5-17 living in poverty in a local education agency's jurisdiction.

304. Given that members of Plaintiff non-profits reside in cities that are likely to be more undercounted under the Rush Plan relative to surrounding communities in their states, including San Francisco, Miami, Detroit, Philadelphia, and New York City, Defendants' decision will likely deprive the communities where these members reside of Title I Grant funding they would have otherwise received. Similarly, Defendants' decision places Plaintiffs Ellis and Garcia's community at higher risk of deprivation of Title I Grant funding.

305. Several additional federal programs require states to use census-derived information to distribute funds directly to cities and counties, based on their share of a relevant population. For instance, the Low Income Home Energy Assistance Program, the Workforce Innovation and Opportunity Act program, and the Community Services Block Grant Program, all require states to distribute funds to cities and counties, at least in part, on the proportion of a state's low-income residents living in those cities and counties. This data is derived from information collected during the decennial census.

306. Both Harris County and the City of Los Angeles receive funds under these programs. Consequently, disproportionate undercounting of Harris County and the City of Los Angeles, as compared to their states, is likely to result in loss of funds under these and similar programs.

307. Several federal funding programs provide funding directly to cities and counties based on census-derived information. For instance, the Community Development Block Grant

program, and the Emergency Solutions Grant, allocate funding to cities and counties based, at least in part, on their share of the overall population count relative to other metropolitan areas.

308. Of cities with over 500,000 people, the City of Los Angeles had the fourth lowest response rate in the country, just behind Detroit and Philadelphia. Consequently, Los Angeles will likely lose Community Development Block Grant funds because of Defendants' decision.

309. Similarly, members of Plaintiff non-profits live in major metropolitan areas with some of the lowest response rates in the country, such as Miami, Detroit and Philadelphia. Defendants' decision will likely deprive these members' communities of funding under the Community Development Block Grant program.

310. Finally, the allocation of federal transportation including the Surface Transportation Block Grant Program, and the Metropolitan and Statewide Nonmetropolitan Transportation Planning Programs are based on the population of urbanized areas in a state compared to those of other states, as determined by the decennial census.

311. Plaintiffs Ellis and Garcia regularly drive on highways and roads in Texas. Disproportionate undercounting of urbanized areas in Texas during the 2020 Census will result in reduced transportation funding for Texas under federal transportation programs.

B. Representational Harm

312. Defendants' decision will also likely result in representational harm to individual Plaintiffs and to the members of Plaintiff organizations.

313. Plaintiffs Ellis and Garcia reside in Houston, Texas. In terms of self-response rates, Texas ranks 39th in the United States. Approximately four million Texas households are in the Non-Response Follow Up universe, which is more households than any state other than California.

314. Consequently, Defendants' decision will not only cause a substantial undercount in Texas, but that undercount will likely be disproportionate as compared to other states. Texas will likely be deprived of its fair share of representation in the next congressional apportionment.

315. As a result, Defendants' decision is likely to result in reduction of voting power and representation for Plaintiffs Ellis and Garcia, because it will likely cause the loss of a seat in

Texas, and will result in fewer Representatives spread out over the state of Texas.

316. As for Plaintiff City of Los Angeles, at least one study has predicted that, were California to lose a congressional seat because of the final census count, that seat is very likely to come from a district that includes portions of South Los Angeles, thus reducing the city's representational delegation.

317. Defendants' decision will also cause Plaintiff Ellis and members of Plaintiff non-profits to experience a loss of intrastate voting power.

318. By causing disproportionate undercounting of communities in Houston, Detroit, Philadelphia, and Miami, as compared to their corresponding states, Defendants' decision will result in drawing of district lines that do not accurately represent the population of the state, and disadvantage Plaintiffs Ellis and Garcia, and members of Plaintiff organizations that live in undercounted communities.

C. Inaccurate Data

319. Plaintiff local governments will suffer harm from the adverse impact Defendants' decision will have the accuracy of population counts produced by the Census Bureau. Plaintiff local governments often rely on accurate information collected by the Census Bureau for crucial public planning purposes, including planning for how to respond to emergencies.

320. For example, local governments often rely on a Social Vulnerability Index to identify communities that are at high risk during a particular emergency. Government officials rely on this index to determine where to allocate resources before and during emergencies. A Social Vulnerability Index use census data to identify specific populations that may be vulnerable to a particular emergency, including data relating to age, housing density, income status, and race and ethnicity. Inaccurate census data would make disaster planning and emergency response more difficult, and could disrupt important public programs.

321. In Harris County, officials used the Center for Disease Control's Social Vulnerability Index to inform decisions about proper distribution of COVID-19 Relief Funds. The funds were allocated to provide relief to Harris County residents most impacted by the global pandemic. That Social Vulnerability Index, which was based on census data, was used to

identify census tracts with the most vulnerable residents, and applications from residents from those tracts were prioritized and given higher chances of acceptance for funds. Without accurate census data, Harris County would struggle to ensure that crucial relief funds were reaching the communities most in need of them.

322. Similarly, King County relies on accurate census data to inform its public-policy decision making. For instance, the county uses census data to plan public-transit service, and to ensure priority populations have transit access, and to site public health clinics.

323. The low-quality data and undercounting that Defendants' decision will cause will also harm Plaintiffs. For instance, undercounting of Black, Latino, Native American, and immigrant communities will negatively affect the Urban League, League of Women Voters and BAJI by undermining these organizations' core missions of promoting equal and just laws and empowering vulnerable communities through building coalitions and initiating campaigns with African Americans and Black immigrants, and fostering racial, economic, and social equality for the communities they serve.

D. Expending Additional Resources

324. Plaintiff organizations, the Urban League, the League of Women Voters, and BAJI, and Plaintiff local governments, City of San Jose, Harris County, King County, City of Salinas, and City of Los Angeles will need to expend additional resources and divert resources from planned programs and projects in order to address the adverse consequences of Defendants' decision to abandon the COVID-19 Plan, and implement the Rush Plan.

325. Plaintiffs' planned efforts to ensure the effective enumeration of historically undercounted communities were based on the understanding that the Census Bureau would implement the Non-Response Follow Up operation contemplated in the Final Operational Plan and adjusted in the COVID-19 Plan.

326. The abrupt reversal of the COVID-19 Plan, and the implementation of curtailed Non-Response Follow Up in the Bureau's Rush Plan will adversely affect Plaintiffs' plans.

327. Plaintiff organizations and local governments will likely need to adjust plans, and divert resources from other planned activities and programs in order to ensure the communities

they serve are adequately counted. Specifically, Plaintiffs will need to recruit and train staff to engage in increased and expanded outreach to potential non-responsive households in order to make up for fewer enumerator visits, or to other aspects of the Non-Response Follow Up program, such as the reinterview process.

328. For instance, Plaintiff BAJI is planning significant adjustments to its 2020 Census outreach plans in light of Defendants' decision, that include diversion of resources from other sources, and significant expenditures. In order to engage in effective outreach, BAJI needs organizing staff dedicated to civic engagement. With Non-Response Follow Up occurring from August 11, 2020 through October 31, 2020, BAJI anticipated that it could spread its staffing resources over that timeframe to ensure it was meeting its goals within the organization's budget. However, on a shorter timeframe, BAJI needs additional staff on a shorter timeframe, which will require adjusting the organization's budget and priorities for the next several months.

329. The adjustment is also challenging for BAJI as the organization caters to immigrant communities with a variety of language needs. Increasing staffing on a short timeframe poses significant challenges for the organization, because it must locate staff that can communicate with the particular community that the organization is targeting for outreach efforts.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF
Violation of the Enumeration Clause, and Fourteenth Amendment
(U.S. Const. art. I, § 2; U.S. Const. amend. XIV, § 2)

330. Plaintiffs incorporate by reference the allegations set forth in the preceding paragraphs.

331. Under the Enumeration Clause of the U.S. Constitution, Congress, and, by delegation, the Secretary of Commerce, must conduct an "actual Enumeration" of the population. This clause requires that decisions relating to census-taking "bear a reasonable relationship to the accomplishment of an actual enumeration of the population." *Wisconsin v. City of N.Y.*, 517 U.S. 1, 20 (1996).

332. The COVID-19 pandemic severely disrupted the 2020 Census, resulting in

months of suspended operations and significant delays in crucial counting processes. Moreover, the public-health crisis continues to impact census operations, as the Bureau struggles to retain enumerators and engage in door-knocking in communities experiencing surges of the virus.

333. To navigate this emergency, the Bureau took necessary action to adjust its operational timelines in the COVID-19 Plan while seeking to maintain the operations and processes included in the Final Operational Plan that had been designed to help ensure a complete and accurate count.

334. Abruptly and without explanation, on August 3, 2020, Defendants abandoned the COVID-19 Plan and implemented the Rush Plan. The Rush Plan does not "bear a reasonable relationship to the accomplishment of an actual enumeration of the population." After delaying all operations for months, the Bureau and its staff repeatedly recognized that it was impossible to produce counts consistent with their duties to ensure a full, fair, and accurate count by December 31, 2020. Indeed, current conditions demonstrate that it is infeasible to obtain a fair and accurate count by the end of the year. Nevertheless, the Defendants abandoned their constitutionally mandated pursuit of fair and accurate data, in favor of the speed of the Rush Plan, and the inaccurate data it will produce.

335. Under these circumstances, the decision to curtail crucial 2020 Census operations violates the Enumeration Clause of the United States Constitution.

336. These constitutional violations have caused, are causing, and will continue to cause harm to Plaintiffs as alleged above, and there is a substantial likelihood that the requested relief will redress this harm.

SECOND CLAIM FOR RELIEF
Violation of Administrative Procedure Act—Arbitrary and Capricious
(5 U.S.C. § 706(2)(A))

337. Plaintiffs incorporate by reference the allegations set forth in the preceding paragraphs.

338. The APA, 5 U.S.C. § 706(2), provides that a court shall hold unlawful and set aside agency action found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. The Rush Plan is final agency action because it marks the consummation

of the agency's decision-making process, and it is one by which rights or obligations have been determined, or from which legal consequences will flow. *Bennett v. Spear,* 520 U.S. 154, 177-78 (1997).

339. In determining whether an action violates the APA, courts consider whether the agency examined relevant data and articulated a satisfactory explanation for its decision, including formulating a rational connection between the facts found and the choice made. *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). Where an agency wishes to depart from an earlier decision, it must acknowledge that change and any reliance interests its previous actions engendered. *See Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 105-06 (2015).

340. The Bureau spent several years developing its Final Operational Plan for the 2020 Census. That plan carefully determined the required length of each operation, including the appropriate length for data-collection and data-processing. It also included details about the implementation of the various operations.

341. The COVID-19 pandemic disrupted census operations, and the Bureau responded by adjusting its operations in its COVID-19 Plan. That plan involved retaining the details and the length of time of various operations laid out in the Final Operational Plan, but shifting the timeline for counting several months into the future to account for both the necessity of those operations and the public-health emergency.

342. The Bureau began implementing the plan, and critical operations were suspended and delayed through the summer. Bureau officials publicly and expressly recognized that it was no longer possible to comply with the December 31, 2020 deadline if the Bureau intended to fulfill its constitutional and statutory obligation of producing reasonably accurate population counts.

343. Without explanation and without citing any evidence, Defendants suddenly changed their position and issued a new plan with shortened timelines. Among other things, that change conclusively changed the legal rights and obligations of private households, who now have substantially less time to respond if they wish to be counted in the 2020 Census. Defendants

have provided no evidence to support rescinding the COVID-19 Plan, have failed to acknowledge or explain their departure from their previous conclusions as to the length of time necessary for an accurate census, and have cited no evidence that they could obtain accurate counts on the shortened timeframe. Defendants' unexplained and unjustifiable reversal is precisely the sort of arbitrary and capricious agency action that the Administrative Procedure Act forbids.

344. Defendants' decision also fails to account for several factors relevant to the decision, including the multiple-month long suspension in operations and delay of crucial census operations, the staffing shortages facing the Bureau, the meticulously designed and tested technical requirements for effective enumeration included in the Bureau's Final Operational Plan, and the various quality-control measures the Bureau must engage in to ensure that its reported data is accurate.

345. Consequently, Defendants' action is arbitrary and capricious.

346. This unlawful action has caused, is causing, and will continue to cause harm to Plaintiffs as alleged above, and there is a substantial likelihood that the requested relief will redress this harm.

THIRD CLAIM FOR RELIEF
Violation of Administrative Procedure Act—Pretext
(5 U.S.C. § 706)

347. Plaintiffs incorporate by reference the allegations set forth in the preceding paragraphs.

348. Under the Administrative Procedure Act, agencies are required to disclose the "genuine justification[] for important decisions." *Dep't of Commerce*, 139 S. Ct. at 2569, 2575-76. Courts will not accept "contrived reasons" provided by agencies as that would defeat the purpose of judicial review. *Id.* at 2576. Moreover, agencies cannot simply avoid providing reasoning for their decision-making altogether.

349. Defendants have decided to cut crucial operations in order to produce 2020 Census population results to the President by December 31, 2020. In announcing that decision, Defendants provided no legitimate justification for abandoning the COVID-19 Plan and

implementing the Rush Plan.

350. Any attempt by the Defendants to rely on the reporting deadline provided under the Census Act as justification for their decision is mere pretext. 13 U.S.C § 141(b).

351. For months, Defendants implemented the COVID-19 Plan, the timeline for which necessarily assumed the statutory deadlines could not defeat the constitutional duty to conduct an accurate enumeration, as applied to the extraordinary circumstances at hand. Defendants made significant adjustments, including months-long delays of census operations, on the assumption that the Bureau could and would conduct a full and robust count through the end of October 31, 2020. Since mid-April 2020, Defendants have expressly and publicly recognized that the Bureau could not provide a complete and accurate count by December 31, 2020. And President Trump maintained that the statutory deadlines need not be followed.

352. Defendants' reversal of position on the 2020 Census timeline appears driven by Defendants' efforts to ensure implementation of the President's unconstitutional Apportionment Exclusion Order, which attempts to exclude undocumented persons from the apportionment count and continues a long-running pattern of racially discriminatory and improperly politically motivated conduct of the 2020 Census.

353. In light of these considerations, Defendants' purported justification is pretextual and, thus, arbitrary and capricious under the Administrative Procedure Act.

354. Defendants' unlawful action has caused, is causing, and will continue to cause harm to Plaintiffs as alleged above, and there is a substantial likelihood that the requested relief will redress this harm.

PRAYER FOR RELIEF

355. Plaintiffs respectfully request that this Court:

356. Declare that Defendants' promulgation of the Rush Plan, and corresponding revocation of the COVID-19 Plan is unconstitutional under the Enumeration Clause, and unlawful under the Administrative Procedure Act.

357. Vacate the Rush Plan, thereby reinstating the COVID-19 Plan.

358. Enjoin Defendants from implementing the Rush Plan or otherwise unlawfully

interfering with the COVID-19 Plan.

359. Award Plaintiffs costs, expenses, and reasonable attorneys' fees.

360. Award any other relief the Court deems just and proper.

Dated: August 18, 2020

LATHAM & WATKINS LLP

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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

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

(b) County of Residence of First Listed Plaintiff New York City, NY
(EXCEPT IN U.S. PLAINTIFF CASES)

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.

(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

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

Sent: Tue 2/25/2020 2:03:51 PM (UTC-05:00)
Subject: FW: Tri-Caucus Letter to Commerce Secretary Ross and Census Bureau Director on EO-13880
Tri-Caucus Letter to Commerce Secretary Ross and Census Bureau Director Dillingham on EO 13880_February.21.2020.pdf
ATT00001.htm

Congress of the United States
Washington, DC 20515

February 21, 2020

The Honorable Wilbur Ross
Secretary of Commerce
United States Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Dr. Steven Dillingham
Director
United States Census Bureau
4600 Silver Hill Road
Washington, DC 20233

Dear Commerce Secretary Ross and Census Bureau Director Dillingham,

As Chairs of the Congressional Tri-Caucus Chairs – composed of the Congressional Asian Pacific American Caucus (CAPAC), Congressional Black Caucus (CBC), and Congressional Hispanic Caucus (CHC) – we write to express our profound concerns regarding the implementation of President Trump's Executive Order 13880 (EO), dated July 11, 2019.[1] The President issued the EO after the Supreme Court ruled that the Administration could not place a citizenship question on the 2020 Census. President Trump's EO directs all federal and state executive departments and agencies to provide the Department of Commerce with access to administrative records in order to determine the number of citizens and non-citizens living in the United States. The EO directs the Department of Commerce to collect this information concurrently with the execution of the 2020 Census. We respectfully urge the Department of Commerce to delay the implementation of the Executive Order and invite Secretary Ross and Census Director Dillingham to meet with our Members to discuss our questions and concerns. The Tri-Caucus would also like to request a Member-level briefing on the EO and its underlying efforts.

President Trump singles out the Department of Homeland Security (DHS), Department of State, and the Department of Health and Human Services (HHS) to comply and to share access to its administrative records on citizenship and immigration data with the Department. In the EO, President Trump also directs the Commerce Department to instruct the Census Bureau Director to organize an inter-agency working group to help facilitate access to this administrative citizenship data. The Census Bureau Director is to act as chair of the working group, and each agency must designate a representative to handle requests from the chair. The EO also directs state governments to share their citizenship administrative records with the department. Lastly, the EO directs the Commerce Secretary to develop strategies to ensure a citizenship question is included in the 2030 Census.

Given that the President's EO is a direct response to the Supreme Court's decision to block the citizenship question from the 2020 Census, and given recent evidence that the effort to add a citizenship question was motivated by a desire to disadvantage communities of color in the redistricting process, the Tri-Caucus Chairs have the following concerns:

1. Although the EO's request is comprehensive, the time provided to collect this data and to develop a statistical model of this scope is alarmingly rushed, lacks transparency, relies on stale and notoriously

[1] https://www.federalregister.gov/documents/2019/07/16/2019-15222/collecting-information-about-citizenship-status-in-connection-with-the-decennial-census

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inaccurate citizenship data, and may be in violation of federal law and regulation under the Privacy Act of 1974. For example, the disclosure of the personally identifiable information of individuals with pending or approved immigration applications for victim-based immigration benefits is prohibited under 8 U.S.C. § 1367.[2] Ultimately, this process may inhibit the Bureau from achieving a complete and accurate count in the 2020 Census.

2. While the Bureau has strong data protection policies in place for all respondents to the census questionnaire, it has failed to mitigate the various significant data privacy risks and concerns that this process raises. DHS outlines these privacy risks in its Privacy Impact Assessment (PIA) dated December 20, 2019. This PIA includes eight major concerns, most notably the lack of transparency on the privacy policies in place to protect personally identifiable information, the training in place for Census and employees granted Special Sworn Status (SSS) to properly handle sensitive DHS data, the length of time that the Commerce department will house DHS data, the process for destroying the data safely, and lastly, the risk of integrating inaccurate immigration data.[3]
3. The EO has the potential to function as a continuation of the Administration's efforts to alienate non-citizens and disenfranchise communities of color through the redistricting process.
4. The overall lack of transparency in the data-collection process, and questions related to the integrity of the creation of a data product that may inform important policies at the national, state, and local level, including long term changes to our nation's immigration policies.

Given these concerns, the Tri-Caucus Chairs invite Commerce Secretary Ross and Census Bureau Director Dillingham to respond to the following questions via letter and to meet with our Members to discuss our questions and concerns.

Document Requests and Questions

1. Could you please provide all copies of the Memorandum of Understanding (MOU) reached on data-sharing between the Department of Commerce and the Department of Homeland Security in compliance with the President's EO from this decennial cycle?
2. Can the Commerce Secretary provide a complete update and timeline for the data-collection process being developed to determine the number of citizens and non-citizens currently living in the United States per the President's EO? Could you also please provide a copy of the data already received and set to be received, including from all state and county entities, not just data from the executive branch?
    a. Which Department of Commerce political appointee(s) advised or are advising the Secretary on how the Department and Bureau will implement the EO?
    b. Who at the Department of Commerce will be responsible for integrating the administrative immigration data received from federal and state agencies?
        i. How many employees will have access to this data?
        ii. Which divisions do these employees work for in the department?
    c. When can we expect the design of this data collection model to be complete? Will the Department of Commerce announce this information publicly? We understand there is a public announcement planned for March 31st, 2020 related to the EO; can you confirm or deny this? When can we expect this data collection process to be completed?
3. Has the Secretary or any Commerce official spoken with any official at the Department of Justice (DOJ) and DHS regarding the implementation of the EO?
    a. If so, who and when? What was discussed?
4. Has the Secretary spoken with any official at DOJ regarding the apportionment of congressional seats?
5. If so, who and when? What was discussed? Has the Secretary or any Commerce official spoken with any official in the White House regarding the apportionment of congressional seats?

[2] https://www.law.cornell.edu/uscode/text/8/1367

[3] https://www.dhs.gov/sites/default/files/publications/privacy-pia-dhs079-sharingwithcensus-december2019.pdf

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a. If so, who and when? What was discussed?

6. Has the Secretary or any Commerce official spoken with any official at the Department of Homeland Security regarding the apportionment of congressional seats?
    a. Is so, who and when? What was discussed?
7. What portion of the Department's workforce and the funds appropriated through Congress will be directed towards collecting this immigration data and what portion will go towards the completion of the 2020 Census?
8. Can the Commerce Secretary and Bureau Director address concerns that these simultaneous efforts will discourage people from participating in the 2020 Census?
9. Can the Commerce Secretary provide a full list of which federal and state executive agencies it has requested citizenship data from, and which have agreed to share their data?
10. Can the Commerce Secretary share information on the data protection policies in place to ensure the safety of this sensitive data during the collection process and once the statistical model is complete?
    a. How long will the Department of Commerce house this data? What is the process for safely destroying this data?
    b. Will individuals be notified that their information has been shared as part of this process? Will individuals be notified once their information is no longer housed by the Department?
11. Can the Commerce Secretary and the Census Bureau Director speak to how both are working to ensure that this statistical model meets the standard for statistical accuracy and integrity of all Census Bureau products? Can you provide a copy of the Bureau's data quality policies for evaluating the integrity of data sets?
    a. How can we be assured that disclosure avoidance does not impact the accuracy and integrity of the statistical file that will be available for states to use?
12. Can the Commerce Secretary assure our Members that the updated immigration data will not be used for immigration enforcement like expedited deportations in contravention of the privacy protections and requirements found in Title 13?
13. Can the Bureau Director provide an update on the inter-agency working group ordered by the President to meet this goal?
    a. Which federal and state agencies and/or departments are part of this inter-agency working group? Of those agencies, can the Bureau Director provide a list of the representatives for each of the departments and agencies?
14. Can the Bureau Director address concerns that this statistical model will affect census participation among Hard-to-Count communities like Latino, African American, and Asian American and Pacific Islander communities?
    a. Can the Bureau Director speak to its outreach and messaging to ensure that this model does not reduce participation in the decennial census among Hard-to-Count populations?

We look forward to your response by Wednesday March 4th and to engaging with you on this important matter.

Sincerely,

Joaquin Castro
Member of Congress
CHC Chair

Karen Bass
Member of Congress
CBC Chair

Judy Chu
Member of Congress
CAPAC Chair

BC-DOC-0000029396

Sent: Tue 2/11/2020 6:54:55 PM (UTC-05:00)
Subject: FW: Census Final SWR Hearing Q&As
CENSUS Section edits from Census.docx

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

STATE OF ALABAMA, et al.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF COMMERCE, et al.,

Defendants,

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

DEFENDANT-INTERVENORS' NOTICE OF DEPOSITION OF CENSUS BUREAU PURSUANT TO RULE 30(b)(6)

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, the State of New York, State of California, State of Colorado, State of Connecticut, District of Columbia, State of Illinois, State of Massachusetts, State of Minnesota, State of Nevada, State of New Jersey, State of New Mexico, State of Oregon, State of Rhode Island, State of Vermont, State of Virginia, State of Washington, Cities and Counties of Cameron County, Texas, Central Falls, Rhode Island, Chicago, Illinois, Hidalgo County, Texas, Monterey County, California, New York, New York, Philadelphia, Pennsylvania, Providence, Rhode Island, Seattle, Washington, the United States Conference of Mayors (collectively, the "State and

Other Government Intervenors"), and the City of Atlanta, Georgia, City of San José California, Arlington County, Virginia, County of Santa Clara, California, and King County, Washington (collectively, the "Local Government Intervenors") (together with the State and Other Government Intervenors, the "Defendant-Intervenors") hereby notice the deposition upon oral examination of the United States Census Bureau ("Census Bureau"), through the officers, directors, agents, or other persons with the most knowledge concerning the topics listed in Exhibit A annexed to Defendant-Intervenors' Notice of Deposition of Census Bureau, dated January 8, 2020, which is incorporated by reference as if set forth fully herein. The deposition will commence at 9:00 a.m. on February 26, 2020 at Census Bureau Headquarters, 4600 Silver Hill Road, Hillcrest Heights, Maryland, or at such date, time, and place as is otherwise agreed to by the parties or ordered by the Court.

The topics identified in Exhibit A are an initial list that is being offered for purposes of coordination only, and without prejudice to Defendant-Intervenors' addition of new topics or revision of existing topics based on their receipt of additional discovery in this case. While Defendant-Intervenors have attempted to coordinate topics with the other parties in this case, none of the Defendant-Intervenors is waiving any rights with respect to propounding additional 30(b)(6) notices covering different or additional topics, or any other rights.

PLEASE TAKE FURTHER NOTICE that the deposition will be taken before a notary public or other officer duly authorized to administer oaths, will be recorded by stenographic and videographic means, and will continue from day to day until completed. You are invited to attend and participate in the manner provided for in the Federal Rules of Civil Procedure. The Census Bureau is requested to provide counsel for Defendant-Intervenors with written notice, at least two business days prior to the date of the deposition, of the name(s) and position(s) of the

BC-DOC-0000029402

designee(s) who will testify on behalf of the Census Bureau and to identify the matters on which each designee will testify.

Dated: New York, New York
January 8, 2020

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Attorney General of the State of New York

By: */s/ Matthew Colangelo*
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BC-DOC-0000029403

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BC-DOC-0000029405

CERTIFICATE OF SERVICE

This is to certify that on the 8th day of January, 2020, a copy of the foregoing and attached Exhibit A were served electronically to counsel of record agreed to by the parties.

/s/ Elena Goldstein

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EXHIBIT A

DEFINITIONS

A. "Apportionment Count" means the process by which the Census Bureau counts the population for purposes of calculating the number of representatives in the House of Representatives that each state is entitled to have.

B. "Census Bureau" or the "Bureau" means the United States Census Bureau, including its agents, employees, representatives, and assigns, inclusively.

C. "Decennial Census" means each and every census conducted every ten years by the Census Bureau pursuant to Article I, § 2 of the United States Constitution.

D. "2020 Apportionment Count" means the process that will be conducted in the year 2020, including all studies, surveys, analyses, and testing conducted in preparation for such Apportionment Count.

E. "2020 Decennial Census" means the Decennial Census that will be conducted in the year 2020, including all studies, surveys, analyses, and testing conducted in preparation for such Decennial Census.

F. "Defendants" means the United States Department of Commerce, Wilbur L. Ross in his official capacity as Secretary of Commerce, the Census Bureau, and Ron S. Jarmin, in his capacity as performing the non-exclusive functions and duties of the Director of the Census Bureau.

G. "Executive Order 13880" means the Executive Order issued by President Donald J. Trump on July 11, 2019, and published in the Federal Register on July 16, 2019, at 84 FR 33,821.

H. "Plaintiffs" means the State of Alabama and Morris J. Brooks, Jr.,

BC-DOC-0000029407

Representative for Alabama's 5th Congressional District.

TOPICS OF EXAMINATION

1. The compilation and completeness of the Administrative Record, as produced on November 1, 2019.

2. The practices for logging, memorializing, or otherwise documenting conversations with anyone outside the Census Bureau regarding the census.

3. The Census Bureau's coordination with its advisory committees, including the role of advisory committees in Bureau decision-making and planning, and the effect of advisory committee recommendations on the Bureau's determinations.

4. The Census Bureau's historical practice to determine and/or count the number of documented or undocumented immigrant residents in the United States in the Decennial Census and/or the Apportionment Count.

5. The Census Bureau's efforts to determine and/or count the number of documented or undocumented immigrant residents in the 2020 Decennial Census and/or the 2020 Apportionment Count.

6. The Census Bureau's general practices, policies, and procedures for developing methodologies and/or standards applicable to the Decennial Census and/or the Apportionment Count, including but not limited to standards with respect to accuracy.

7. Any consideration or analysis conducted by the Census Bureau on gathering information to determine and/or count the number of documented or undocumented immigrant residents in the United States since 1990, and the outcomes of any such consideration or analysis.

8. Any methodology and/or standards the Census Bureau has used, developed,

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plans to use, or plans to develop to determine the number of citizens, non-citizens, documented or undocumented immigrant residents of the United States with respect to the 2020 Decennial Census and/or the 2020 Apportionment Count, including but not limited to standards with respect to accuracy of such methodologies and/or data.

9. The ability of the Census Bureau to accurately exclude undocumented immigrants from the population count in the 2020 Decennial Census and/or the 2020 Apportionment Count.

10. Any evaluation that the Census Bureau has conducted or intends to conduct concerning the feasibility and/or accuracy of using any administrative records in the possession of any federal agency to determine the number of documented or undocumented immigrant residents of the United States.

11. Any plans the Census Bureau has to address situations in which the Census Bureau possesses conflicting information relating to an individual's immigration status.

12. Any plans the Census Bureau has for determining the citizenship and immigration status for households that do not respond to the 2020 Decennial Census.

13. Any evaluation that the Census Bureau has conducted or intends to conduct concerning the feasibility and/or accuracy of using the Department of Homeland Security's records of Lawful Permanent Residents to determine the number of documented or undocumented immigrant residents of the United States.

14. Any evaluation that the Census Bureau has conducted or intends to conduct concerning the feasibility and/or accuracy of using the Department of Homeland Security's data elements that the Department of Homeland Security committed to share, and/or that the Census Bureau has requested it to share, including but not limited to the data elements identified in the

BC-DOC-0000029409

document: U.S. Department of Homeland Security, DEPARTMENT OF HOMELAND SECURITY (DHS) IMMIGRATION-RELATED INFORMATION SHARING WITH U.S. CENSUS BUREAU (Dec. 20, 2019), https://www.dhs.gov/sites/default/files/publications/privacy-pia-dhs079-sharingwithcensus-december2019.pdf to determine the number of citizens, non-citizens, and undocumented immigrants in the United States.

15. Any evaluation that the Census Bureau has conducted or intends to conduct concerning the feasibility and/or accuracy of using the National-Level file of Lawful Permanent Residents, Naturalizations ("LPR File"), records relating to F1 & M1 Nonimmigrant Visas, the National-level file of Customs and Border Arrival/Departure transaction data, the Worldwide Refugee and Asylum Processing System, the National-level passport application data, the Master Beneficiary Records, and/or the CMS Medicaid and Chip Information System to determine the number of citizens, non-citizens, and undocumented immigrants in the United States.

16. The Census Bureau's general adherence to the following standards:

a) OMB Statistical Policy Directive No. 1;

b) OMB Statistical Policy Directive No. 2;

c) The Census Bureau Statistical Quality Guidelines;

d) The Census Bureau Statement of Commitment to Scientific Integrity; and

e) The Census Bureau's Disclosure Avoidance policies, procedures, and methodologies.

17. The Census Bureau's adherence to the following standards in conjunction with any efforts, methodology, or evaluation that the Census Bureau has undertaken, is planning to

BC-DOC-0000029410

undertake, uses, is developing, or is planning to use to determine the number of documented or undocumented immigrant residents of the United States:

a) OMB Statistical Policy Directive No. 1;

b) OMB Statistical Policy Directive No. 2;

c) The Census Bureau Statistical Quality Guidelines;

d) The Census Bureau Statement of Commitment to Scientific Integrity; and

e) The Census Bureau's Disclosure Avoidance policies, procedures, and methodologies.

18. Any testing the Census Bureau has conducted at any time in the past, or intends to conduct concerning the feasibility and/or accuracy of determining the number of documented or undocumented immigrant residents of the United States.

19. Any efforts the Census Bureau has taken at any time in the past, or intends to take to fulfill the President's order to "determin[e] the number of citizens, non-citizens, and illegal aliens in the country" pursuant to Section 3(a) of Executive Order 13880, including but not limited to any coordination with other federal departments.

20. Each topic identified in Exhibit A of Plaintiffs' Notice of Deposition Pursuant to Rule 30(b)(6), served on October 1, 2019, as narrowed by Plaintiffs and Defendants in the Letter from Brad P. Rosenberg to Jim Davis, Esq., dated December 27, 2019.

BC-DOC-0000029411

From: SOlson@doc.gov [SOlson@doc.gov]
Sent: 1/22/2020 5:11:09 PM
To: Nowell, Laura (Federal) [LNowell@doc.gov]
Subject: Fwd: Battle deposition transcript
Attachments: 30b6KarenRBattle_COND.pdf; ATT00001.htm; 30b6KarenRBattle_PDFTran.pdf; ATT00002.htm

Sent from my iPhone

Begin forwarded message:

From: "Sverdlov, Alexander V." <b(6)
To: "Sharma, Sapna (Federal)" <SSharma@doc.gov>, "Olson, Stephanie (Federal)" <SOlson@doc.gov>, "Cannon, Michael (Federal)" <MCannon@doc.gov>
Cc: "Rosenberg, Brad (CIV)" <b(6)
Subject: Battle deposition transcript

Mike, Stephanie, Sapna,

Attached please find the official deposition transcript. b(5) - AC/WP

b(5) - AC/WP

I have copies of the exhibits separately, but they are too big to send over email. I will get you a copy on a disc.

Thanks,
Aleks



Deposition of:

30(b)(6) Karen R. Battle

January 16, 2020

In the Matter of:

State Of Alabama, Et Al. Vs. United States Department Of Commerce, Et Al.

Freedom Court Reporting
877.373.3660 | calendar-al@veritext.com | 205.397.2397

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF ALABAMA

SOUTHERN DIVISION

STATE OF ALABAMA; and,	:	
MORRIS J. BROOKS, JR.,	:	
Representative for Alabama's	:	
5th Congressional District,	:	
Plaintiffs,	:	
vs.	:	Civil Action No.:
UNITED STATES DEPARTMENT	:	2:18-cv-00772-RDP
OF COMMERCE, et al.,	:	
Defendants.	:	

Rule 30(b)(6) Deposition of

U.S. BUREAU OF THE CENSUS

Washington, D.C.

Thursday, January 16, 2020

9:00 a.m.

Job No. AL-3846101

Pages 1 - 179

Reported by: Robert M. Jakupciak, RPR

Deposition of KAREN R. BATTLE, held at the offices of:

U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Pursuant to Notice, before Robert Michael Jakupciak, RPR, a Notary Public in and for the District of Columbia, when were present on behalf of the respective parties:

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ALEXANDER V. SVERDLOV, ESQUIRE
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U.S. Department of Justice
b(6)

A P P E A R A N C E S (Cont'd.)

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Miles Ryan, Esquire
Stephanie Olson, Esquire

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Winfield Sinclair
Bryan Kusmin
Ming Ming Yang
Don Lewis
Julia Gomez
Sean Brebbia

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(Exhibits attached to transcript.)

PROCEEDINGS

Whereupon,

KAREN R. BATTLE,

called as a witness, and having been first duly sworn, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR PLAINTIFF

BY MR. DAVIS:

Q Good morning.

A Good morning.

Q Would you state your name, please?

A My name is Karen Battle.

Q Ms. Battle, my name is Jim Davis. First off, is it Ms., Mrs., Doctor?

A Mrs.

Q I represent the State of Alabama in a lawsuit against the Department of Commerce. You are familiar with that litigation; correct?

A Yes.

Q And you have been identified as a representative of the Department of Commerce for purposes of that deposition; correct?

A Yes.

Q Have you ever given a deposition before?

A Yes.

Q How many times? More than five?

A Once.

Q Once. Okay. How long ago was that?

A Three months ago.

Q What kind of case was that?

A A human resources case.

Q I have some questions about the lawsuit today. If at any point you don't understand my question, let me know. If you need a break, let me know. Where do you work?

A I work in the Population Division at the U.S. Census Bureau.

Q What is your title?

A Division Chief, Chief of the Population Division.

Q How long have you held that position?

A I have been the Division Chief for five years.

Q Did you have any positions in the Division before you were Chief?

A Yes.

Q What were those, and approximately for what term?

A Prior to becoming the Division Chief I served as the Assistant Division Chief for Special Population Statistics, and I served in that position from 2007 to 2014.

Prior to that I served as the Branch Chief over the Sex and Age Statistics Branch, and I served in that position from 2004 to 2007.

Prior to that I served as the Special Assistant to the Division Chief from approximately 2004 -- 2000 to 2004. And prior to that I served as a Data Analyst in the Racial Statistics Branch and the Ethnicity and Ancestry Branch. And prior to that I was a summer intern in 1998.

Q So have you been employed by the Census Bureau since 1998?

A Yes.

Q Tell me about your education background, please.

A I have a Master's Degree in Sociology from

the Western Michigan University.
Q Did you work -- did you have any employment before you were employed by the Bureau of Census?
A I held research positions at universities.
Q Which universities?
A The Western Michigan University, and after leaving Western Michigan University, I spent several years working at the University of Wisconsin in Madison in a research position.
Q I have a notebook here, Mrs. Battle, with some documents that we are going to be discussing during the deposition. They are behind tabs so that everyone can find it easily, but the ones we will be marking as an exhibit probably won't correspondence to the tab numbers.
Would you look at Tab 18 in the notebook, please?
MR. DAVIS: And we will mark that as Exhibit 1, if you please.
(Battle Exhibit Number 1 was marked for identification.)

BY MR. DAVIS:
Q Have you reviewed this Notice of Deposition that has been marked as Exhibit 1, Mrs. Battle?
MR. SVERDLOV: Objection. Vague.
BY MR. DAVIS:
Q Have you seen it before this morning?
A Yes.
Q Are you familiar with the topics that are listed?
A Yes.
Q And there have been discussions following issuing of the deposition between counsel, some of these topics have been narrowed. But are you prepared today to speak on behalf of the Department of Commerce for the topics listed on this deposition notice as narrowed through further discussions by counsel?
MR. SVERDLOV: Objection. Misleading. The deposition notice is for a representative of the Census Bureau to testify, not the Department of Commerce.

MR. DAVIS: You are correct. I misspoke.
BY MR. DAVIS:
Q Same question, except substitute "census bureau" for "commerce"?
A Could you repeat that?
Q Yes, ma'am. Are you prepared today to speak on behalf of the Census Bureau for the topics listed on this deposition notice as those topics have been narrowed through discussions between counsel?
MR. SVERDLOV: Objection. Compound.
A Yes.
Q Mrs. Battle, just some preliminaries. There is a census every ten years; correct?
A Yes.
Q And after each census the Bureau of Census releases population statistics?
MR. SVERDLOV: Objection. Vague.
A Yes.
Q Okay. And part of the data the Census Bureau releases is population totals for the United States and for each state; is that correct?

MR. SVERDLOV: Objection. Vague.
A Yes.
Q Are there known under-counts in the census?
MR. SVERDLOV: Objection. Vague.
A Yes.
Q Are any particular populations more likely to be subject to under-counts than other populations in the country?
A The Census Bureau does assess the coverage on the population after the decennial census, and there are two methods that the Census Bureau uses to do that, and those methods have identified certain subpopulations that are under-counted.
Q What subpopulations tend to be under-counted?
MR. SVERDLOV: Objection. Vague.
A We know from our analyses that young children, children under the age of five, tend to be under-counted in the decennial census. In addition, there are other racial and ethnic populations that may be under-counted in the decennial census; for

example, young black males or the Hispanic population or the American Indian or Alaskan Native population.

Q Are there over-counts in the census?

A Yes.

Q How does that work? Who is over-counted?

MR. SVERDLOV: Objection. Vague and compound.

A Well, our analyses have showed that there may be populations, such as the white population, that may be over-counted.

(Joining the phone conference is Congressman Mo Brooks.)

A So there are some populations that might be over-counted. For example, it could be the white population or some different components along those lines.

Q The Census Bureau again knows that when it releases a count say of the total population for the State of Alabama, would that total population count, could that be characterized as an estimate?

MR. SVERDLOV: Objection. Vague, compound

and misleading.

A The decennial census publishes enumerated population counts, not estimates.

Q Okay. Say after the 2010 census the population for the State of Alabama was reported to be 4,779,736. Is that as of a particular date?

MR. SVERDLOV: Objection. Vague and assumes facts not in evidence.

A Yes. The decennial census reference date is April 1st of the census year.

Q But your assessments following the census have shown that some populations are under-counted; correct?

A Yes.

Q And there may be over-counts as well; is that correct?

A Yes.

Q So the total population of the State of Alabama, assuming its 4,779,000 and change, that may not mean that there were exactly that number of residents in Alabama as of April 1, 2010?

MR. SVERDLOV: Objection.

BY MR. DAVIS:

Q Would you agree with that?

MR. SVERDLOV: Objection. Compound and argumentative.

A The state population counts that come out from the decennial census represent the population that was enumerated as of that census reference date.

Q Okay. Let's talk, Mrs. Battle, about how the Bureau gets to that number. The decennial census starts with questionnaires; correct?

A Yes.

Q Okay. And how do you know who to send the questionnaires too?

A The Census Bureau maintains what's called a master address file which contains the addresses for all of the housing units and group quarters facilities in the United States.

Q And you send a questionnaire to all of those addresses?

A There are different types of enumeration approaches for different areas within the United

States, but about 95 percent of the housing units do receive a mailing to either instruct them to go online to respond to the decennial census or they can fill out a paper response. There are other sections of the country where the Census Bureau may go out and just enumerate those areas that may be more rural or hard to enumerate, for example.

Q Okay. And when you say that they go out and enumerate those areas, what do you mean?

A I mean that an enumerator will have their device to be able to collect the information on the decennial census form and will go out to the housing unit or location and attempt to collect the data at that point.

Q For people to whom the Bureau sends a questionnaire, I assume you don't get a hundred percent response rate from those questionnaires; is that correct?

MR. SVERDLOV: Objection. Compound.

A That is correct.

Q What happens then? What does the Census Bureau do if you do not receive a response from a

particular household?
A The Census Bureau has a contact strategy where there are a series of attempts to contact a household through mailings. If those contacts do not result in a returned questionnaire, then the Census Bureau will have that particular housing unit that has not responded go into what's called the non-response follow-up universe, and then the Census Bureau will actually have enumerators go out and start knocking on the doors to try to collect the data.
Q And if you reach the point where you are sending enumerators to go to the household to try to collect the data, let's say they go once and no one is there, they get no response; are there follow-up visits?
A Well, for the 2020 census the Census Bureau is employing a new strategy for the non-response follow-up operation. And what we are doing is using statistical models to determine if the housing units within the non-response follow-up universe are indeed occupied. And if we have

information that indicates that that housing unit is indeed occupied, and we also have administrative records available that are associated or linked to that particular housing unit, then we would only make one attempt to have an individual out there knocking on the door to try to collect that information. And if they are not successful, then we would utilize the administrative records to enumerate that household.
Q Okay. What administrative records would you use to enumerate that household?
A We actually have a reference sheets.
Q Sure. Your counsel gave us some documents before the deposition. Would one of those documents help you respond to this question?
A Yes.
Q I'm going to just give you the stack and you tell me which one would be helpful to you.
A This one.
Q Okay.
MR. DAVIS: Then let's mark this as our next exhibit, please.

(Battle Exhibit Number 2 was marked for identification.)
BY MR. DAVIS:
Q All right. Mrs. Battle, as I understand your testimony, you said if there is a household you send a questionnaire and you get no response, if you have administrative records related to that household that suggests that household is occupied, you would send a enumerator only a single time; is that correct?
A The Census Bureau will be using statistical models that incorporate data from administrative records to identify households in the non-response follow-up universe that are occupied, and if we have administrative records that have information on the characteristics of those individuals, then we can use that to enumerate the household after one attempt.
Q Okay. I want to come back to the statistical models, but first deal with the question I asked previously. If you get to the point where you use administrative records to enumerate that

household, what administrative records does the Census Bureau use? And at this point you are referring to Exhibit 2.
A Yes. So what you'll see in this chart, in the left column are data sources that are used. We have administrative records from the Internal Revenue Service, the 1040, 1099 returns; we have data on the Medicare enrollment, we have data from the Census Numident, which is actually the numerical identification file that we receive from the Social Security Administration that contains data on every Social Security Number that's ever been issued.
We also have information from the Census Household Composition Key, we have information from HUD which reflects data on public and Indian housing, as well as tenant rental assistance information.
We have data from the Indian Health Service Patient Registration. We have data from the United States Postal Service. They have information on addresses that where they attempt to deliver but they are undeliverable as addressed. That's the

UAA.

So for the NRFU or the non-response follow-up portion of things we focus on that information. We also have data down below where it says Best Rates and Ethnicity, we have data on Medicaid enrollment, as well as data from the TANF program, the Temporary Assistance for Needy Families.

And we also use CoreLogic Black Knight, which provides information on property taxes and deeds of, along those lines.

So we are able to utilize some of this information to help us determine if this household is occupied and how many people are living there, and we can also use some data from these administrative records to determine age, sex, race, ethnicity and tenure, whether they own or rent that property, and that's what we utilize to help do the enumeration.

Q What is the last item listed, Group Quarters Records?

A Well, the Group Quarters Records, it's not

part of the non-response follow-up universe, but we have an operation to enumerate individuals who are residing in group quarters, like prisons and college dormitories and nursing homes.

And in those instances much of the data that we collect for those residing in group quarters come from the office's administrative records, as opposed to the census going out to interview each resident in a prison cell or someone who might be in a nursing home bed that's not cognitively functioning.

Q Okay.

A So we use administrative records in that sense.

Q All right. So if this -- say you are trying to enumerate a nursing home. Would you get records from the group or organization that operates that nursing home, a list of residents, for example?

MR. SVERDLOV: Objection. Compound.

A The Census Bureau works with a, an administrator for that particular nursing home.

Q Okay.

A And that administrator will pull upon their records from their office to provide us with a listing of the residents and their demographic characteristics; age, date of birth, sex and race and ethnicity if possible.

Q Okay. And still looking at Exhibit 2, could you tell me what these columns indicate?

A Yes. So the first two columns describe the non-response follow-up administrative records enumeration. So this is the instance where we have used statistical models to determine that a housing unit is occupied, and if we are not able to get a response via the enumerator, then we are able to utilize data from these administrative records to determine how many people are in that household and then to fill in their characteristics. So that's really what the NRFU AR Enumeration columns reflect.

Next to that we have Count Imputation, and this may take into, occur when we do not have information that would allow us to do a NRFU actual enumeration. So we don't have administrative records that could provide necessarily at first

glance characteristics, so we have a special operation for count imputation where we utilize administrative records to help us determine the count of people in that household, similar to the NRFU.

And then later in the processing we will work to assign the characteristics. So it's a similar process, but the count imputation takes place when at first we don't know that we have the information, the characteristics for that household, but we do have information on the count.

Q Okay. So in that case there may be a household where you have administrative records suggesting that four people reside in that household, but you don't have administrative records that tell you their age, gender, those sorts of things? Am I understanding you correctly?

A We would have to do further processing to try to determine that.

Q Okay. And what further processing would you do?

A That is when we have an operation called

the edit and -- edit and imputation characteristics operation, and at that point we will make another attempt to see if we have administrative records that can be used to fill in the missing characteristics.

And if we are not able to, then we utilize what's called a hot deck methodology where you are basically looking for the nearest neighbor and they will be donating their characteristics to the household.

Q Let's go back, Mrs. Battle, to the statistical modeling. What do you mean by statistical modeling?

MR. SVERDLOV: Objection. Vague.

A So when I say statistical models, what I'm basically saying is that there is a mathematical approach where you are developing an equation that is trying to assess the relationship amongst a group of variables to help you predict an outcome.

So in this case the Census Bureau would be utilizing administrative records for the NRFU, a non-response follow-up, to assess different data

sources to help us predict whether that household is occupied. So using data from the Postal Service, using data from the IRS, using data from the Social Security Administration to help us predict whether that household is occupied.

Q And we are talking about a household where, that did not respond to the questionnaire; correct?

A Yes.

MR. SVERDLOV: Objection. Vague.

BY MR. DAVIS:

Q So you got no response, you use the statistical model to determine the likelihood that that household is occupied. So when you say that, are you looking at records from the Postal Service as an example that suggests that mail isn't being returned as undeliverable that's addressed to that household?

A Yes. That's exactly right. That's one of the components into the model. When we have data from the Postal Service, do they have this address marked as undeliverable as addressed. So that's a

piece of information that goes into helping us determine whether or not we think that household is occupied, for example.

Q And you mentioned IRS records if I understood you correctly. What type of information might you receive from the Internal Revenue Service to be a clue as to whether or not that household is occupied?

MR. SVERDLOV: Objection. Compound.

A Well, definitely the address and just understanding that there has been someone who filed taxes recently from that address again provides more information to help us determine whether or not that household is occupied.

Q Okay. Tell me -- look, if you would, Mrs. Battle, at the document that's behind Tab 7 of the notebook.

MR. DAVIS: Let's mark that as Exhibit 3, please.

(Battle Exhibit Number 3 was marked for identification.)

BY MR. DAVIS:

Q Are you familiar with the document that's been marked as Exhibit 3, Mrs. Battle?

A I believe I have seen this document.

Q Does it describe the process that we were just discussing of the steps that the Census Bureau goes through?

MR. SVERDLOV: Objection. Vague.

A It does talk about the steps that we follow for the 2018 End-to-End Test in terms of non-response follow-up, it talks about different administrative records that could be utilized, it talks about the imputation of the count of the household as well as the characteristics of the household. So, yes, it is similar to what we were just discussing.

Q Okay. What did you mean, Mrs. Battle, when you discussed the editing process?

A So after the census data has been collected, we know that not everyone answers every question, and so we have a process that we create where we specify how we are to fill in missing data.

And so that's our edit and imputation process.

And so we begin by taking a look at an individual record for a particular housing unit and we assess are there missing responses? And, for example, if there is a missing race response, the first thing we would do is then look to the other questions for that particular individual and see if responses to those other questions might help us fill in the race information.

So, for example, if race is blank, but they reported they are Hispanic origin and wrote in something like white or along with their Hispanic ethnicity, we can use that to help us fill in their race and make their race white, for example.

Q Okay.

A So we look to see if there is other information provided in that form to help us fill in missing information.

If there is no other information provided in that form to help us, then our next effort to try to fill in missing data is to see are we able to link up that household with our administrative

records, which would include the 2010 census responses. Did this household respond to the 2010 Census? If so, was information provided for this person and can bring forward and assign for 2020?

We also are going to be checking administrative records such as the Numident file, the Social Security Administration file. That file might be able to provide data on age or date of birth or sex for that individual.

So but if we are not able to match up with administrative records, then the next attempt to try to fill in missing information involves taking a look at others in that same household.

So if there is a child of the householder who is missing data, let's say race, and we know that their parent is in that household and they do have a race, then we can use that and assign that to their biological child. So we are looking within the household to see if there is anywhere else we can grab information to fill in.

And if that fails, then one of our last resorts is to use this hot deck methodology where we

then look for the nearest neighbor and try to match up the household on certain characteristics and then the nearest neighbor can donate that missing information. So there is a series of business tools and steps we go through.

Q I see. Let's say you get to the point where you use the hot deck methodology. What does "hot deck" mean?

A Really it's a statistical procedure where as we are collecting data through the decennial census and people are reporting fully their information, we store that fully-reported information up in this, it's called a hot deck. And then as we come across households that are missing information and we aren't able to be fill it in anywhere else, we take from that deck and assign data from the nearest neighbor. So that's the idea behind this.

Q Why is it called hot deck?

A Well, just that you are using live data on the spot and you are trying to use as fresh of information as possible to fill in the missing

information.

Q Okay. And give me an example of what type of characteristic might be imputed using the hot deck methodology.

A Race, ethnicity, and age and sex.

Q Would you use hot deck imputation to assign a count to a household?

A Earlier on when we were talking about count imputation, if there is a household where we really don't have any information available to us from administrative records to help us determine how many people are in that household to start, because we have zero information and we are not able to utilize any administrative records, so the last resort, similar to the characteristics, is to use a hot deck methodology where again you are pulling information from the nearest neighbors to assign a count, a population count.

Q Okay. Why does the Census Bureau believe that that would make the census more accurate; if you have no information about a household, to impute characteristics from a neighboring household?

MR. SVERDLOV: Objection. Vague and compound and assumes facts not in evidence.

A This has been a standard methodology that the Census Bureau has relied on for a number of decades and has relied on this methodology. This is the chosen methodology.

But, again, as we are experimenting with administrative records, and again that's a huge focus for the 2020 census, we are working to use administrative records as our, kind of one of our first attempts. But if we are not able to do that, then we do need to rely on other statistical methods to fill in characteristics, et cetera.

Q I assume that the Census Bureau uses this methodology because it believes that to result in a more accurate census?

MR. SVERDLOV: Same objection.

BY MR. DAVIS:

Q Do you agree?

A Yes. We need to provide information and we need to make sure that we have complete information for every housing unit counted in the

decennial census.

Q Okay. And if you get to a household where even using administrative records and questionnaires and enumerators the Bureau just has no information about that household, you will use hot deck imputation and a neighbor will donate characteristics to the household; correct?

A There is one other step I need to talk about.

Q Please.

A For the non-response follow-up operation for those housing units where I mentioned earlier where we determine that those housing units are occupied and that we have administrative records that we can use to assign their characteristics, that's one type of housing unit outcome.

However, there are going to be other housing units where again we don't have that information, and so the Census Bureau will continue to visit that housing unit up to six times trying to get the information.

For the 2020 census, after the third visit

if we still are not able to get information, then the Census Bureau will tell the enumerator to attempt to get a proxy interview, which means the enumerator will then try to reach out to a neighbor to see if they have information about how many people are living there and if they have any information on the characteristics. If the proxy interviews are not possible, then we move to the imputation aspect of it.

Q Okay. And how does the Census Bureau determine what type of household to donate characteristics to this other hypothetical household about which you have no information?

MR. SVERDLOV: Objection. Vague.

A I would need to examine the detailed methodology to answer that, but the general approach is that the Census Bureau will rely on the nearest neighbor, information that we have been collecting from the nearest neighbor to try to fill in information for that housing unit.

Q I'm thinking of my neighborhood, and you have in our household, my wife and I are empty

nesters, I have an across the street neighbor who is a single retired man, a next door neighbor who is a very young single man, another next door neighbor who is an African-American woman who is living withing extended family, including both grandparents and young children. It's a very diverse neighborhood.

So if you went through all these steps, the Census Bureau went through all these steps and could not get any information about my household, who would donate characteristics to my household?

MR. SVERDLOV: Objection. Calls for speculation. Vague.

BY MR. DAVIS:

Q It may be -- I'm just trying to understand, Mrs. Battle. It may be that it would be easier for you to simply describe the steps that the Bureau would go through under those circumstances.

A Well, again I would need to examine the detailed methodology to explain exactly how that would transpire.

Q Okay. Where would you go to examine the

detailed methodology? Is there a particular manual or document in the Census Bureau that you would use to educate yourself on that point?

A I would need to first consult with the area that's responsible for developing that operation.

Q What would that area be?

A That would be the Decennial Statistical Studies Division.

Q Is there a particular person in that division that you would speak to to better understand the process?

A I would start with the Division Chief, Patrick Cantwell.

Q And do you know, Mrs. Battle, why the Census Bureau uses hot deck imputation to assign characteristics to a household instead of just writing down a zero for that household?

MR. SVERDLOV: Objection. Vague.

A Well, the Census Bureau does determine through the use of staff whether they believe a household to be non-existent, the address is, you

know, it's not a habitable address, and those, of course, are deleted.

But if we can tell that this is a habitable address, the Census Bureau will then want to take further steps to make sure that they are, that household is included in the decennial census.

Q Does using imputation then help to ensure that as many inhabitants as possible are counted?

MR. SVERDLOV: Objection. Vague.

A Imputation helps us to ensure that if there is a housing unit where we believe there are people living there but we do not have information for them, that we are including those units in the decennial census.

Q And the goal of the Census Bureau is to have as accurate a census as possible. Would you agree?

MR. SVERDLOV: Objection. Form.

A The Census Bureau strives to have a complete and accurate count.

Q Of course. And in this case the Census Bureau has determined that imputation results in a

more accurate census than not using imputation. Would you agree with that?

MR. SVERDLOV: Objection. Argumentative.

A The Census Bureau is continually working to develop statistical approaches and other types of approaches to improve upon our methodology.

Q Of course.

A And while we are making improvements through the use of administrative records, we still need to rely on traditional methods when we need to assign characteristics, if there is nothing else that we can utilize to help.

Q Would you look, please, Mrs. Battle, at the document that is behind Tab 11 of the notebook?

MR. DAVIS: And let's mark this as Exhibit 4, please.

(Battle Exhibit Number 4 was marked for identification.)

BY MR. DAVIS:

Q This is a list of frequently asked questions, Mrs. Battle, from the Bureau's website. And I'll represent to you that it may not be in this

exact form on the website today, but it serves our purposes to help me understand the process a little better.

Have you reviewed this document before today?

A Yes.

Q A lot of these deal with apportionment, and I want to understand the process of apportionment and the role that the Census Bureau plays in apportionment.

First, would you agree with the first question and response there on the first page; that apportionment is the process of dividing the 435 memberships or seats in the U.S. House of Representatives among the 50 states?

A Yes.

Q And who is included in the apportionment counts?

A So the apportionment population counts contain two components. First, we include what's called the resident population. This reflects the population that was residing in a particular state

as of census day. That's their usual residence.

The second component of the apportionment population count includes the federally affiliated overseas. These are military and civilian employees of the federal government whose home state of record is that particular state.

So for a state you have the resident population and then the federally affiliated population, and together that equals the apportionment population counts.

Q Okay. After the 2020 census the Census Bureau will release a total population count for the United States of America; correct?

A Yes.

Q The count for apportionment purposes will differ from that, will it not?

MR. SVERDLOV: Objection. Vague.

A The results of the decennial census, the first results from a decennial census include the apportionment population counts, which includes the resident pop, people enumerated as usually residing in these states, plus the federally affiliated. So

that is the only data product that comes out of a decennial census where you have the federally affiliated population included.

Q Okay.

A All remaining data products from the redistricting data file, the PL-94171, all the remaining data products only include the resident population, not the federally affiliated.

Q And the PL-94 --

A 171.

Q -- 171 file, tell me what that is.

A That is a data product that the Census Bureau publishes that is for the use of states in their redistricting process.

Q And that data product does not include people, this population living overseas that you described; correct?

A That is correct.

Q Okay. In the apportionment count, and that's -- let me start over. Does the apportionment count, for example, include residents of the District of Columbia or Puerto Rico?

MR. SVERDLOV: Objection. Compound.

A The apportionment population counts do not include data for the District of Columbia or Puerto Rico.

Q It's only for the 50 states plus this overseas population?

A Correct.

Q Okay. And how -- this person who is living overseas, as part of the overseas population, how does the Census Bureau determine which state to count them in?

MR. SVERDLOV: Objection.

BY MR. DAVIS:

Q In the apportionment count?

A So the Census Bureau has an operation that's called the Federally Affiliated Americans Operation. And that operation entails the Census Bureau working with different federal agencies, and we first start by working with the U.S. Office of Personnel Management to get a list of those agencies that have employees stationed overseas.

And once we have that list, the Census

Bureau reaches out to those agencies and establishes a contact and informs them of the special federally affiliated overseas operation. The Census Bureau works with these agencies and explains what is needed, and these particular agencies will then go and through their records provide counts for everyone in their agency whose stationed overseas or deployed overseas and they will give us a count by state.

And we ask that they provide the information for employees' home state of record. So the agencies find that information and they deliver the state counts to us for the employees.

Q Okay. And one of those agencies may be, for example, the State Department?

A Yes.

Q So somebody whose home state of record is Alabama, is employed by the State Department and is stationed oversees, the State Department would report to the Census Bureau that that person has listed Alabama as the home state of record?

MR. SVERDLOV: Objection.

BY MR. DAVIS:
Q Did I understand you correctly?
A Yes. The State Department will then provide to us the home state of record, they will take a look at for all of their employees the home state of record and give us a count; for all of their employees who have a home state of record of Alabama, a count for all of their employees that had a home state of record of California, and so on.
Q Okay. And so for the state of Alabama you have a count for the residents of the state of Alabama and you add in all of these other overseas people who are reported by the various agencies as having Alabama as their home state of record and you add that to Alabama's total for apportionment purposes; is that right?
A That information results in the federally affiliated overseas count for a state, yes, and that is added to the state's resident population and that equals the apportionment population.
Q And this apportionment population count is something the Census Bureau provides to the

President; correct?
A Yes.
Q And when does that happen?
A The Census Bureau is mandated to deliver the apportionment population counts to the President within nine months of the census day, which turns out to be before December 31st of census year.
Q So that will be provided no later than December 31st of 2020 to the President?
MR. SVERDLOV: Objection.
BY MR. DAVIS:
Q Is that right?
A That is correct.
Q Okay. Does the apportionment count provided to the President include non-U.S. citizens?
A The apportionment population counts that we develop includes the resident population as enumerated in the decennial census as well as the federally affiliated overseas, and both of those will include citizens and non-citizens.
Q Obviously then if it includes both citizens and non-citizens, it includes non-citizens

who are lawfully present and non-citizens who are not lawfully present?
MR. SVERDLOV: Objection. Assumes facts not in evidence.
A It includes all types of people who are non-citizens.
Q Yes. It includes everyone regardless of citizenship and regardless of lawful presence; is that correct?
MR. SVERDLOV: Objection. Vague.
A Yes.
MR. DAVIS: We haven't been going that long, but this actually might be a good time for a breather.
MR. SVERDLOV: Okay.
MR. DAVIS: Do you want to take 15 minutes? Is that okay with you, Mrs. Battle?
THE WITNESS: Yes.
(Recessed at 10:03 a.m.)
(Reconvened at 10:26 a.m.)
BY MR. DAVIS:
Q Mrs. Battle, going back to the hot deck

imputation, do you know what the Census Bureau would do if my household is eligible for hot deck imputation, but I happen to live in the neighborhood where all of the residents of the neighborhood are very different from me, different race and all the other neighbors have kids and I don't; do you know what the Census Bureau would do in that instance?
MR. SVERDLOV: Objection. Vague and calls for speculation.
A Well, again the premise of the hot deck methodology would be to go to that nearest neighbor and we can use that.
Q Okay.
A Now, when we do have some information about the household, we do try to match up those characteristics when we do the hot deck imputation.
So, for example, if we know that the householder who does not have information, if they have a Spanish surname, then we look for nearest neighbor with a Spanish surname to try to perhaps impute race or ethnicity. So if we do have some information, we try to match up those

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characteristics and then take what we need to have donated.

Q And do you have a division that tries to determine which household is the best source of the donated information?

MR. SVERDLOV: Objection. Vague.

A Again when it comes to the characteristic imputation using a hot deck, there is this standard approach, and I would have to look at the details of the methodology to --

Q Okay.

A -- address that further.

Q Okay. Is the Census Bureau trying to enumerate the total number of people who are physically present within the State of Alabama on April 1, 2020 or residents of the State of Alabama?

MR. SVERDLOV: Objection. Compound.

A The core concept that the Census Bureau utilizes in doing its enumeration is the concept of usual residence, so we are looking to enumerate individuals where they usually reside, where they live and sleep most of the time.

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Q Okay. So someone simply driving through the state on that date would not be counted if their usual residence is in some other state; correct?

A Yes.

Q Okay. And a tourist who happens to be within the state on April 1 wouldn't necessarily be included in the population count if their usual residence is some other state; is that correct?

A The idea is, yes, we want to count people at their usual residence where they live and sleep most of the time.

Now, I need to say that the residence criteria is based on three core principles. So the first one is that of usual residence, where we want to count people where they reside and live and sleep most of the time.

Secondly, there are people who are in certain types of facilities on census day that will be counted at that facility, such as prisons, et cetera.

And then, thirdly, if we cannot determine the usual residence for an individual or they don't know, they don't have one, then we count them where they are on census day. So those are the three principles.

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Q Okay. Will the Bureau report a count of U.S. citizens as a result of the 2020 census?

MR. SVERDLOV: Objection. Vague.

A The Census Bureau is working to develop what's called the citizen voting age population by race and ethnicity special tabulation, which would be based on data from the decennial census. And as you can tell by the name, it will include citizen information; citizenship voting age population.

Q Okay. So will there be within any of the products that the census releases after the 2020 census, will there be a total count of United States citizens?

MR. SVERDLOV: Objection. Vague.

A The specific data product that I mentioned for citizen voting age population by race and ethnicity will be limited to citizens that are 18 years and older. So that would be the extent of the publication of citizens.

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Q Does the Census Bureau have any intention of attempting to count the citizens who are under the age of 18?

MR. SVERDLOV: Same objection.

A Well, all usual residents are to be counted in a decennial census.

Q I see the problem with the question I just asked. Okay. You are certainly going to try to count everyone, all residents who, regardless of age; correct?

A Yes.

Q Okay. Of those who are under 18, does the Census Bureau intend to attempt to determine how many of those people are U.S. citizens?

MR. SVERDLOV: Objection. Vague.

A In terms of the publication of statistics, the Census Bureau is finalizing the exact format of the citizen voting age by race and ethnicity special product, but in the efforts to develop that information and using administrative records, I am -- the information on citizenship for those who are under the age of 18 would be involved in the

process. While we have not finalized the specific methodology to produce those data, we will be utilizing information on citizenship status for the population.

Q Okay. How does the Census Bureau currently plan to develop the citizen voting age population data?

MR. SVERDLOV: Objection. Vague.

A Well, the Census Bureau has not finalized the specific methodology and approach or the final table share, but of course the Census Bureau does produce a citizen voting age population special tabulation annually currently, but it's not based on the decennial census, it's based on the American Community Survey. So they are still determining that final methodology for the citizen voting age population product based on the decennial census.

Q So in the past the Census Bureau has released citizen voting age population data that was based on the American Community Survey; correct?

A Yes.

Q Okay. After the 2020 census do I

understand you right that the Census Bureau intends to release citizen voting age population based on the 2020 census itself?

A For the product that we are planning to release in year 2021, the citizen voting age population data product would be based on the decennial census.

Q And when it comes to how exactly the Bureau plans to do that, is that what you say is still under consideration?

A Yes.

Q Okay. Has the Census Bureau determined that whatever the final method is, that it will use any particular subsets of data?

MR. SVERDLOV: Objection. Vague. And I will also say that as you can tell from the witness' answer, the methods haven't been determined, so we are sort of veering into areas where we might assert deliberative process privilege. So instruct the witness to answer in general terms.

BY MR. DAVIS:

Q The way I phrased the question is although

final methodology hasn't been determined, have you at least determined that, for example, yes, we will use this particular set of administrative data?

MR. SVERDLOV: I'm not convinced that that cures my objection, but if you can answer in a general way, please do.

A So the Census Bureau is looking to utilize administrative records in combination with decennial census data, so that is the general idea, but in terms of specifically which administrative records, that has not been determined yet.

Q Will you attempt for each person that you count, and let's start first with people who are voting age and older. Will the Census Bureau attempt to determine whether or not that individual is a citizen or a non-citizen?

MR. SVERDLOV: Objection. Vague.

A The Census Bureau is developing methodologies that would help us determine the citizenship status for everyone counted in the decennial census.

Q For everyone regardless of age?

A For the purposes of developing the data product in and of itself, the methodology is not finalized, but the Census Bureau will be collecting information on, through administrative records and that information will be utilized to help us produce the final product which is focused on the population 18 years and older. It's because the methodology is not determined, I cannot say for sure at this time exactly to what extent we would be collecting the data on citizenship.

Q Would you look at the document that is behind Tab Number 8 in the notebook, please, Mrs. Battle?

MR. SMITH: Can you repeat the tab number?

MR. DAVIS: Tab Number 8.

MR. SMITH: Thank you.

MR. DAVIS: Can we mark this?

(Battle Exhibit Number 5 was marked for identification.)

MR. SVERDLOV: Can you state for the record what you've marked?

MR. DAVIS: Yes. We've marked as Exhibit

5 this January 19, 2018 memorandum from John M. Abowd to Wilbur Ross. And it's Bates marked as P-001.

BY MR. DAVIS:

Q Have you seen this memorandum before today, Mrs. Battle?

A Yes.

Q Can you summarize the recommendations in the memorandum? Let me see if I can make that quicker.

Do you understand the author to be discussing three different methods for attempting to determine citizenship or imputing citizenship for the people that they count and making a recommendation as to which of those three methods would be better?

MR. SVERDLOV: Objection. Vague and compound.

A Yes.

Q Okay. And am I reading it correctly that they recommended that, as it says in the second paragraph, we consider three alternatives in

response to the request from the Department of Justice, and one of those is Option C, obtaining citizenship status from administrative records for the whole 2020 census population?

A Yes.

Q Okay. Is that, in fact, the goal of the Census Bureau, to obtain citizenship status from administrative records for the whole 2020 census population?

MR. SVERDLOV: Objection. Vague.

A Well, the Census Bureau would need to obtain that information. While the CVAP data product is focusing on the 18 and plus older population, we do need the foundational information. So, yes, the Census Bureau is trying to ascertain from administrative records citizenship status for the 2020 enumerated population.

Q This is a slightly different topic. There are questions and answers towards the back of the memorandum, Mrs. Battle. On the page that's Bates numbered P-11, there is a Q and A about the response rates for the 2000 census long form and short form,

and it says the mail response rate in 2000 was 66.4 percent for the short form and 53.9 percent for the long forms.

Do you know what the response rate was for surveys for the 2010 census?

A I do not know that off the top of my head.

Q Okay. In the 2010 census there was no long and short form, there was just one form; correct?

A Correct.

Q And is that going to be true for the 2020 census as well?

A Yes.

Q Do you know where I could go to look up the response rate for the 2010 census?

MR. SVERDLOV: Objection. Vague.

A That information must be in an assessment report on our website.

Q Okay. Do you think that's likely to be something that was publicly reported?

A Yes.

Q A few pages over on the page that's Bates

Numbered P-15, question 12 asked about other data that may be available, other administrative data that may be available to impute citizenship.

The response says the Census Bureau is in discussion with the U.S. Citizen and Immigration Services, USCIS, staff to acquire additional citizenship data. Do you know the status of the discussions with the U.S. Citizen and Immigration Services to acquire administrative data?

A This might be a good time to use our additional reference sheet. We have reference sheets.

Q Yes. You are looking at some of the documents that your counsel brought today?

A Uh-huh.

Q If at any point a document would help you respond to the question, please just refer to it.

A Background sheet number 2. Background sheet number 2.

MR. DAVIS: And before we continue, let's go ahead and mark it as an exhibit so that after the fact we will all know which document we are talking

about. And let's mark that as Exhibit 6, please.

(Battle Exhibit Number 6 was marked for identification.)

BY MR. DAVIS:

Q And what is this document that's been marked as Exhibit 6, Mrs. Battle?

A Well, the first page of the document lays out the members of the Interagency Working Group that the Census Bureau created per Executive Order 13880 and lists the departments who are participants as well as the representatives.

The second page begins the listing of the administrative records that the Census Bureau has received from a number of agencies, and it actually provides some information on the status.

Your question was about data from the Citizen and Immigration Services?

Q Correct.

A And so if you look on page 2, what you will see is a listing of the types of data that we have requested from the, received from the Department of Homeland Security, and you will see it

mentions that the lawful permanent resident file and naturalization data have been obtained from the Citizen and Immigration Services.

Q Okay. Okay. So I see in that row of the document, page 2 of Exhibit 6?

A Yes.

Q The source agency is the Department of Homeland Security, and you finalized an agreement with the Department of Homeland Security on December 23, 2019. Am I reading that correctly?

A Yes.

Q You began negotiations with the Department of Homeland Security on January 2018?

A Yes.

Q And data type I see, there the rows begins to be broken down into two different rows. So you have the lawful permanent resident file and naturalization data, paren, Citizen and Immigration Services; correct?

A Yes.

Q Okay. And under Variables it says: "46 variables consisting of person identifiers and

citizenship status. All variables will potentially be used for the citizenship project."

So do I understand this to mean that what you received is a database, and so for each person there are 46 fields in that database?

MR. SVERDLOV: Objection. Vague. Assumes facts not in evidence.

A We requested a data file from the Department of Homeland Security, and so the expectation is that each of the records for individuals will contain data in each of those 46 variables.

Q Okay.

A Yeah.

Q And under Status it says: "Fitness for use determination." What does that mean?

A So the Census Bureau is acquiring new sources of administrative records, and once those new sources arrive, the first thing we have to do is evaluate those data to help us determine if we can use the data, and if we can use the data, then we begin to think through how best can we use the data

to comply with the executive order.

So the first thing that has to happen is when we acquire these data sets, we need to make sure we can read the files that have been given to us and we need to make sure that all 46 of those variables are present in the data, just to make sure nothing went awry in the agency developing the data for us.

But once we have that covered, we then need to dig deeper and start taking a look at the variables that we have requested. We want to take stock of how complete are those data. If we have one of those variables that says address, well, is address missing for 60 percent of the records in the file? And for addresses that are reported, are they complete addresses, are they partial? So we need to evaluate the kind of data that we have in each of those variables.

And that's really important because we need to be able to assess if we can make record linkages, and so we need identifiers like name, age, date of birth, sex, address. And, of course, the

citizenship variable itself, we need to assess how complete are those data, et cetera.

Q Okay. And you are trying to -- if you -- if you get this database from Homeland Security, just stick with that example, you are trying to link it to some other database, is that right? To connect it so that you can compare the two databases?

MR. SVERDLOV: Objection. Vague and misleading.

A Yes.

Q Okay. And what is the other database? Is it -- what is the other database?

A So the Census Bureau, number one, has reference files, and the primary source of these reference files include the Numident file, the numerical identification file that we get from the Social Security Administration.

That's a huge database that has all of these data, data on all Social Security numbers ever issued. In addition to that we have a file that contains what's called ITI, income tax

identification numbers. These are unique identifiers that are assigned by the Internal Revenue Service to individuals who are not eligible for a Social Security Number.

So we have this database that has all of this unique identifiable information. So our goal is to see if these newly acquired administrative records, if we can match individuals up, whereas we have in the Social Security Administration information on citizenship. So that's one way that we are doing linkages.

In addition to that, we also want to see if we can link people across these different administrative record data sets that we are acquiring to compare and see what information do we have, are they differing for individuals, have people updated their addresses. So there is an element of that to it.

So we are really looking to see how we can make linkages, not only with our internal reference files, but across the newly acquired data sets as well.

Q If I look at this chart on Exhibit 6 and I see the words under, "Status; Fitness for use determination," does that mean that the Census Bureau has already determined that the data is usable?

MR. SVERDLOV: Objection.

BY MR. DAVIS:

Q Or that it has not made a determination yet?

A It has not made a determination yet. It's in that process.

Q Okay. What group or division in the Census Bureau has the responsibility of determining whether a database or performing the fitness for use determination?

A Well, most of this work is going to be done through the Research and Methodology Directorate, as well as utilizing staff from the Center for Economic Studies.

Q I'm sorry, Mrs. Battle. You said the Center of Economic Studies, but you also said the research?

A The Research and Methodology Directorate.

Q And is the Research and Methodology Directorate a division of the Census Bureau?

A It is an organizational unit that contains multiple divisions.

Q Okay. Does it -- is it part of the Census Bureau?

A Yes.

Q Okay. And who heads the Research and Methodology?

A John Abowd. Dr. John Abowd.

Q Now, back at Exhibit 6, and I see under Department of Homeland Security that there is a second data set, which is under Data Type it says Arrival Departure Information System and Visa Data.

And there under Status it says, "Awaiting Data Transfer from DHS." I take it that just means you haven't received the data yet from Homeland Security?

A That particular data, that's correct, we are waiting to receive that.

Q Yeah. Is there any data where the fitness

for use determination process has been completed?
MR. SVERDLOV: Objection. Vague.
A For the administrative records that we've acquired we are still in the process, either we are waiting for the data or we are beginning to do that evaluation.
Q Okay. Is there any administrative data that you are aware of that the Census Bureau has requested for these purposes that is not listed on this chart that's been marked as Exhibit 6?
MR. SVERDLOV: Objection. Vague.
A One thing I call your attention to is on page 5. At the bottom you'll see the source agency is Nebraska.
Q Yes.
A So what I would say is that we have put out requests to all 50 states to obtain driver's license data, but the only one listed here is Nebraska as we have received those data. So I will mention that.
MR. SVERDLOV: Counsel, can I pause for one second?

MR. DAVIS: Yes.
MR. SVERDLOV: I want to go back to my prior objection. The reason I objected is because it was unclear whether the question asked for the witness to testify on behalf of the Census Bureau or in her personal capacity when you said whether she is aware.
MR. DAVIS: Fair. But let me clear that up. I could and almost certainly will get sloppy with some of the language I use. That's not intentional. I recognize Mrs. Battle is produced as a representative of the department. Unless I very clearly state otherwise, I'm intending to seek the department's knowledge and information.
MR. SVERDLOV: Thank you.
BY MR. DAVIS:
Q So there is data, Mrs. Battle, that the Census Bureau has requested that is not on the chart. At least we know that it's requested driver's license data from all other states; correct?
A Correct.

Q Are you aware of any other data that the Census Bureau has requested that is not listed on this chart?
A The Census Bureau has also reached out to states to request data on WIC, and TANF, and SNAP. So that would be SNAP would be the Supplemental Nutrition Assistance Program data. WIC is the Women, Infants and Children's Program. And TANF is the Temporary Assistance for Needy Families Program. So we are working to obtain those data from states as well.
Q Do you know if any states have declined to provide driver's license information, if they have responded to the Census Bureau's request and said we are not going to provide that?
A My understanding is that there have been a number of states who have said no.
Q Do you know how many?
A Rough approximation, about a third.
Q Okay. Are you aware of any administrative data that the Census Bureau has requested from federal agencies and those federal agencies have

refused to provide the administrative data?
MR. SVERDLOV: Counsel, I'm going to object here once again because we are verging very close to ongoing negotiations, and we would view materials that this question potentially calls for as subject to the deliberative process privilege.
So I think if the witness can answer in a general way, that would be fine. But specific details about agencies which have and have not responded we would view as falling within the privilege.
MR. DAVIS: Okay. Tell me this. And I will direct this to counsel. Just -- if -- would the witness be allowed to tell me whether, that if a hypothetical federal agency had said no, whether the Census Bureau would consider the matter closed or whether that issue would still be under negotiation?
MR. SVERDLOV: I think we would view that issue as still under negotiations potentially.
BY MR. DAVIS:
Q Okay. Let me try to ask it this way, and be sure to allow your counsel time to lodge an

objection. Mrs. Battle, if the Census Bureau has requested administrative data from another federal agency and that federal agency initially said no, is it the intention of the Department of Census to continue to seek that information through negotiations?

MR. SVERDLOV: I'm going to raise the same objection and instruct the witness not to answer.

BY MR. DAVIS:

Q Let me ask it this way. Has the Census Bureau requested information from any federal agency, and by information I mean administrative data that it intends to use to impute citizenship status, and that other federal agency has responded with a refusal to provide the information?

MR. SVERDLOV: Counsel, I'm not sure how that question is materially different.

MR. DAVIS: How is -- this is a fact of something that happened in the past, whether an agency has responded with a yes or a no. That's not a deliberation.

MR. SVERDLOV: I think if we can answer it

in a general way, the witness can try to do so. But I think we are very close, as I've indicated, we are very close to the line of those, the negotiations that the Department of Commerce and the Census Bureau is having with other agencies, and we would view that as subject to privilege. So if you can answer in a general way, perhaps it would be helpful to, for you to restate your question.

BY MR. DAVIS:

Q I'm not waiving this issue, but tell me what you can.

MR. SVERDLOV: Objection. Vague.

A I would say that the Census Bureau has established an interagency working group and we do have members from the, across the federal government. And the purpose of that working group is to facilitate the Census Bureau acquiring administrative records to help us comply with the executive order.

Q Thank you. That doesn't really help with what I'm looking for, but I appreciate that.

Now, this working group, that is what is

listed on the first page of Exhibit 6; correct?

A Yes.

Q Okay. And they have had one meeting to date?

A Yes.

Q Are any further meetings planned?

MR. SVERDLOV: Objection. Vague.

A At this point the work that's happening is really involving the points of contact. So the Census Bureau has a point of contact who is working with points of contacts at all of the member agencies to work through any issues with interagency agreements, to talk through the data and the variables that we are requesting to acquire.

So there is a lot of back and fourth, and not in formal meetings with full membership, but there is a lot of back and forth between the Census and individual agencies to continue working through issues to make sure we can acquire the data that we have requested.

Q Is there any administrative data that the Census Bureau has determined that it will request

but it simply has not made that request yet?

MR. SVERDLOV: Objection. Vague.

A At this time I am not aware that the Census Bureau has any other remaining requests outstanding.

Q Let's look back at Exhibit 5, and that's the document that's behind Tab 8 in your notebook, Mrs. Battle. We are still in the back with the Q and As.

A All right.

Q Q&A 20, which is on page P-17, as I read it, you tell me if I'm wrong, please, the question posed is whether the Alternative C approach, the use of administrative data, has been used before on other data collection projects. And the response says the approach in Alternative C has been routinely used in processing the economic censuses for several decades.

First off, I read at that correctly; right?

A I'm sorry. Which number are you on?

Q It's Q&A 20 on page P-17.

A Okay. Okay.
Q Okay. First tell me what it means by economic censuses.
A So the Census Bureau not only conducts a census of the population, but it also conducts a census of organizations, businesses, et cetera. And so they are referring to those economic censuses.
Q Okay. Administrative data has been used, was used in the 2010 census, was it not, to impute characteristics and for other purposes?
A There were administrative records used to impute characteristics used in the 2010 census.
Q Okay. So the use of administrative records is not limited in the past to economic censuses. Am I right about that?
A Correct.
Q Okay. And if you turn to the page of that same exhibit where the Bates Number at the bottom is P-30, please? Do you see the chart there that's labeled Figure 1, Mrs. Battle?
A Yes.
Q Can you explain this to me, what the terms

are; Linked, Adrec, A-D-R-E-C, and then on the other side Not Linked and Model?
MR. SVERDLOV: Counsel, really quick, I'm also going to raise an objection because I think this line of questioning is starting to veer somewhat outside of the topics that we have negotiated.
MR. DAVIS: I believe this Figure 1 refers to the use of administrative data in general and the memo is about citizenship. That seems to fall under the umbrella.
MR. SVERDLOV: Yes. And as you will recall -- my yes was not me acceding to your premise.
As you recall, we narrowed those topics in our December 27th, 2019 letter, which stated that we will produce a witness who can testify about these topics to the extent they concern the feasibility and utility of collecting and using administrative records in the manner directed by Executive Order 13880, and I believe the document you are referring to is part of Topic 5.

MR. DAVIS: Okay. Well, is the witness allowed to explain to me, for example, what modeling is?
MR. SVERDLOV: I think we can pursue some general questions along those lines, but I do want to flag that, you know, questions about like the general background of this document and it's preparation was one of the things that we specifically limited.
MR. DAVIS: I'm not asking about that. I want to explain the terms. I asked her to explain the terms.
BY MR. DAVIS:
Q First, Mrs. Battle, what is A-D-R-E-C? Do you know?
A Yes. That refers to administrative records.
Q Okay. And what is model?
A Model refers to developing a statistical model.
Q Okay. So after the 2020 census if you are able to link records, you will use the

administrative records to impute citizenship for a person; is that correct?
MR. SVERDLOV: Objection. Vague. Calls for speculation.
A The basic idea is that the Census Bureau will combine multiple sources of citizenship from different sources of administrative records and use that information to determine citizenship status.
Q Okay.
A Linked records can then, we can then utilize those administrative records to determine citizenship.
Q Okay. And in the 2020 census if you are not able to link administrative records, does the Census Bureau intend to use statistical modeling to impute citizenship?
MR. SVERDLOV: Objection. Vague.
A This diagram shows that initial thinking is that if we are not able to link administrative records to respondents or individuals counted in the census and we need to determine their citizenship status, that a statistical model would be utilized

to determine that.
Q Okay. And how will that be performed?
MR. SVERDLOV: Objection. As you might have surmised from the nature of that question, the work in this area is still ongoing, so we view the specifics of that work to be covered by the deliberative process privilege. I will instruct the witness to answer in general terms if she can, but not the specifics.
MR. DAVIS: But it's a fair question and if the answer is that they don't know yet, then that's the answer.
MR. SVERDLOV: Sure.
BY MR. DAVIS:
Q So if the Census Bureau is not able to link administrative data and you will use statistical modeling, the question is how will that happen?
A So at this point in time the Census Bureau has not finalized its methodology about exactly how that will take place.
Q Okay. Who is working on making the final

determination of how that will work?
MR. SVERDLOV: Objection. Assumes facts not in evidence.
BY MR. DAVIS:
Q Well, did I understand you correctly? You said no final determination had been made. Is anyone in the Census Bureau thinking about that and working on making a final solution?
MR. SVERDLOV: Objection. Vague and compound.
A The Census Bureau staff who are evaluating the administrative records that the Census Bureau acquires are going to be involved in the process of working with Dr. John Abowd to determine the statistical modeling. So -- so the first step is really to evaluate the incoming data, and then we can turn to specifically how to develop the modeling.
Q Okay. And to the best of your knowledge, is that going -- will these decisions be made by Dr. Abowd and his group?
MR. SVERDLOV: Objection. Vague.

A I believe recommendations will come from those involved in this research and those recommendations will be presented to executive leadership at the Census Bureau and the department.
Q Okay. We touched on this, but I'm not sure it's clear in one spot, Mrs. Battle. Can you describe for me the difference between statistical modeling and imputation?
MR. SVERDLOV: Objection. Vague.
A Well, I would say that statistical modeling is a form of imputation, whereas imputation might involve imputing data from someone else in the same household or using a hot deck or using a statistical model. So to me statistical modeling for this purpose is a form of imputation.
Q Okay. Let's say for the 2020 census through linking databases you learn from the administrative records you receive from the Social Security records that a particular person is a United States citizen. That's imputation because you are taking, is it not, when you are taking information you received directly from other

administrative records that says that this person with this Social Security Number is a citizen?
MR. SVERDLOV: Objection. Vague, compound and calls for speculation.
A So information on citizenship status from these administrative records will be used in combination to help us determine the citizenship status, so we are going to take multiple sources into account to help us determine the citizenship status. It may not necessarily be taking one specific source and then imputing it. We are going to take all of that into account and then determine.
Q Okay. You wouldn't look then at a single agency's administrative records, but at the universe of the administrative records you receive in this process in order to impute citizenship? Did I hear you correctly?
MR. SVERDLOV: Objection. Vague.
A The general idea at this point is to pool as many different sources on citizenship for an individual as possible and to utilize those multiple sources to help us determine what the citizenship

status is.
Q Does the Census Bureau have a goal for a deadline for determining, number one, what of this data is usable? And by this data I mean the administrative records that are listed on Exhibit 6?
MR. SVERDLOV: Objection. Vague and compound.
A The Census Bureau has set a goal of the spring of 2020 to complete or at least complete initial evaluations of the data to try to determine specifically which sources could be utilized in continuing to develop a CVAP file.
Q Is there any plan that you are aware of, Mrs. Battle, to report publicly that the Census Bureau has determined that, for example, the records from Department of Homeland Security are usable and will be part of this imputation process?
MR. SVERDLOV: Objection. Vague and once again verges into deliberative process. So to the extent -- to the extent the witness can answer in general terms about whether there are plans, that would be acceptable.

BY MR. DAVIS:
Q That's what I asked. Are there plans to publicly report the decisions as to the determinations as to whether the data is usable?
A I know the Census Bureau does plan to share publicly the approach, the statistical modeling approach and the data sources to be utilized.
Q Okay. And you said that there is a goal of making the decision by, making the determination by spring of 2020 as to whether the data is usable or to release the statistical modeling process?
MR. SVERDLOV: Objection. Compound.
A The goal for spring of 2020 is to be able to determine specifically which sources of administrative records could be used and the methodology.
Q Both?
A Yes.
Q Okay. While I understand there is no final determination of the specific processes to be used, has a decision been made on what to do if

there is conflicting information about citizenship among different administrative records?
MR. SVERDLOV: I think that this very much verges into the ongoing deliberations of the agency. To the extent that the witness can answer in general terms about whether there is or is not a plan, that would be fine. But otherwise I will instruct the witness not to answer.
MR. DAVIS: That's what I asked, Aleks. I asked has a determination been made on what to do. I didn't ask what that determination is. I don't want to know. I asked if a decision has been made.
BY MR. DAVIS:
Q So has a decision been made about what to do if there is conflicting information about citizenship among the different administrative records?
A The methodology to be used to address that issue has not been determined as of yet.
Q Thank you.
MR. SVERDLOV: Are you okay? Do you need a break.

THE WITNESS: I'm good.
BY MR. DAVIS:
Q You tell me at any time if you need a break.
A Okay.
Q Would you please turn, Mrs. Battle, to the document behind Tab 6 of the notebook? Are you familiar with this document, Mrs. Battle?
A I do not believe I have specifically seen this document, but I understand the general information.
Q Okay. I have some very general questions, so I don't think a lack of familiarity with the specifics of this individual document will matter.
MR. DAVIS: Let's go ahead and mark this for the record.
(Battle Exhibit Number 7 was marked for identification.)
MR. SVERDLOV: Just to be clear on the record, this is a document that was not one of the ones identified in your list of topics. So to the extent that it falls within some other category, or

you believe it falls within some other category that you have identified, obviously we will let you pursue those questions, but otherwise specific questions about this document I think would be outside the scope.

MR. DAVIS: I know that if I ask a question outside the topics, you will object. You don't have to warn me about that. And I know this wasn't listed.

BY MR. DAVIS:

Q On the Executive Summary, which is the page that's Bates numbered 6315 --

A Yes.

Q -- the first sentence says:

"Characteristic imputation in the 2010 Census Coverage Measurement program imputed values when missing values occurred for relationship, race, Hispanic origin, age, sex, and tenure."

I want to know do you know what the 2010 Census Coverage Measurement Program is?

A Yes. This is the program that is conducted after the decennial census to assess the

coverage of the population. It's one of two methods the Census Bureau uses to assess the coverage in the decennial census, whether there is an over-count or under-count.

Q Okay. And do I understand this memo correctly that characteristic imputation is a part of that process?

A Yes.

Q Okay. So you are using imputation when you are assessing the coverage of a past census?

A Uh-huh. So with the Census Coverage Measurement Program they actually go out and conduct a survey. And so what they are doing is collecting the same information that was collected in the decennial census. And not everyone answers all of those questions even in this survey.

So this is, the same method, the same approach is used to fill in the missing data.

Q Okay. And -- no. Never mind.

On page 3, the first full paragraph begins as follows. It says: "Editing was a fundamental part of the census characteristic imputation

system."

I'm not sure I understood what, what the difference is between editing and imputation.

MR. SVERDLOV: Objection. Assumes facts not in evidence.

A So the difference here is that editing is when you are trying to resolve inconsistencies that may exist between the data or utilize data that's been provided to help you determine a value.

So, for example, if someone only provides their date of birth, but they don't provide their age, what we will do then is calculate age based on the date of birth. So that's the editing.

Q Okay.

A As opposed to using administrative records to bring in and fill in missing information. So that's, you know, another example of editing would be if we have a situation where a household responds that there is a same sex couple household, but then when we look at the sex data for the variables, they are opposite sex. So we have to figure out how do we handle this inconsistency. So we are using

reported data, but we have to resolve inconsistencies.

Another example would be if someone reported their date of birth and gave an age, but when you calculate age and date of birth, it doesn't match. Some people like to report their age around zeros and fives, you know, 40 instead of 41.

So there are things like that that involve editing of the data to try to resolve inconsistencies, and that's different from imputation where you have let's say missing data and you need to find a way to bring in other sources to fill in the gaps.

Q Okay. And let's say that different, a person reports an age and a date of birth that don't match up. Are there rules that the Census Bureau has that when that happens, these are the steps we will go through?

A Yes. There are business rules for that, yes.

Q Where are those reported?

MR. SVERDLOV: Objection. Assumes facts

not in evidence.
A So --
Q Are they reported?
A The business rules for how to conduct the editing and imputation procedures, they are contained in a specification.
Q Okay. Where are the specifications? Are those something that's publicly reported?
A Those specifications typically are not put out to the public.
Q Okay. Is there a particular group or department or division in the Census Bureau that's responsible for developing and maintaining those business rules?
MR. SVERDLOV: Objection. Vague and compound.
A Yes. For the characteristics related to age, sex, race and Hispanic origin, my division, the Population Division, is responsible for those specifications.
For editing and imputation rules, business rules related to relationship and tenure, our sister

division, the Social, Economic and Household Statistics Division produces those specifications.
Q Okay. And related to the methods that the Bureau is developing for citizenship, does the Census Bureau intend to develop business rules that will address those issues?
MR. SVERDLOV: Objection to vague and compound.
A I think that the methodology that will be determined and developed to allow the Bureau to determine citizenship will have to include the information on statistical modeling and any other procedures that are done with the data.
Q I've seen references, Mrs. Battle, to developing or imputing the best citizenship status?
A Yes.
Q What is best citizenship as opposed to just citizenship?
MR. SVERDLOV: Objection. Vague, and misleading, assumes facts not in evidence.
A So this is part of what the Census Bureau needs to do in terms of evaluating the

administrative records that have been acquired.
Q Okay.
A There will potentially be different citizenship values reported across different administrative records, so the Census Bureau needs to develop a methodology that will help them take those multiple sources of information into account and then determine what the best citizenship status is for an individual.
Q Okay. So let's say hypothetically for this one person one set of administrative records suggests that this person is a citizen and another set of administrative records suggests that this person is a non-citizen. When you say best citizenship, do you mean that the Census Bureau will try to determine which of the various pieces of information is more likely to be reliable?
MR. SVERDLOV: Objection. Misleading and calls for information that we view as protected by the deliberative process privilege.
MR. DAVIS: I'm asking about what she just told me, trying to understand her previous response.

BY MR. DAVIS:
Q So this was directly related to her past response. Did I understand you correctly, Mrs. Battle, that when the Bureau is referring to best citizenship variable, that you are trying to reconcile which conflicting pieces of information is correct?
MR. SVERDLOV: Objection. Vague. And I think we are still in that category of information where the Census Bureau has not reached the final decision and so it's trying to deliberate. But if you can answer in a general way, go ahead.
A One example that might help that is mentioned in a number of the memos is that, for instance, our primary source of citizenship data comes from the Social Security Administration, and we know that if the sources of data from the Social Security Administration, for example, may list that an individual is not a citizen, but we don't know if that individual's citizenship status has changed over time and they just didn't update the Social Security Administration, and so, again as listed in

some of the memos, that's one of the reasons for trying to acquire administrative records on naturalizations, for example, that may have more current information or updated information that may not be reflected in our reference file. So we are trying to gather multiple sources and look at them together to help us determine the best citizenship --

Q Okay.

A -- value.

Q Mrs. Battle, have we discussed all of the records that have been requested for state governments? As I recall, we have discussed driver's license data, SNAP, WIC and TANF, four categories. Are there any other pieces of data or administrative records that have been requested from state governments by the Census Bureau?

MR. SVERDLOV: Objection. Vague and compound.

A I'm not aware of any additional state-level records that have been requested at this time.

Q Let's say for a request for driver's license data, how would that request be made?

MR. SVERDLOV: Objection. Vague.

A The Census Bureau staff reached out to the heads of the states Department of Motor Vehicles to request, have a discussion about obtaining those data.

Q Okay. So somebody from the Census Bureau would call, like in Alabama there is the Alabama Law Enforcement Agency which is part of, is the agency which issues driver's licenses. They would likely reach out to the head of that department in the State of Alabama?

MR. SVERDLOV: Objection. Vague and compound.

BY MR. DAVIS:

Q Is that right?

MR. SVERDLOV: Object.

A Yes.

Q Is there any particular person in the Census Bureau who is responsible for making the request for administrative records to the state governments?

A There is, but I do not recall the name off the top of my head.

Q Okay. Do you know what that person's title or what division that person likely works in?

A That person likely works in the section of the Census Bureau that is responsible for acquiring administrative records and ingesting those administrative records.

Q And what would that be?

MR. SVERDLOV: Objection. Vague.

A That -- it's the -- within the Economic Directorate there is a division called I believe Economic Reimbursable Surveys Division, and that houses the staff that are responsible for acquiring and ingesting the administrative records.

Q I'm sorry, Mrs. Battle. Did you say Economic Reimbursable Survey?

A That is my -- I would need to double check on the specific name, but I believe that's correct.

Q I understand you are not sure. But I did understand you correctly? The word was

"reimbursable," if you are remembering correctly?

A Yes.

Q Would you look, please, Mrs. Battle, at the document behind Tab 3 of the notebook?

MR. DAVIS: And for the record, I have no doubt we have the original of this in what you produced. There simply wasn't time to get that in every case. So the format of this particular memo was as it was reformatted for purposes of the United States Supreme Court record. So let's mark that.

(Battle Exhibit Number 8 was marked for identification.)

BY MR. DAVIS:

Q Are you familiar with this memorandum, Mrs. Battle?

A Yes.

Q Okay. And this is a reproduction of a memorandum dated December 22, 2017 prepared for John M. Abowd prepared by Michael Berning and others?

A Uh-huh.

Q So look at page, it will say 304 at the top. This has been marked as Exhibit 8.

A Uh-huh.
Q This was a couple years ago, but it talks about, under Table 2, data that is currently in census inventory and lists Social Security Administration Numident, Temporary Assistance to Needy Families, and Bureau of Prisons; correct?
A Yes.
Q Then is says Potential New Acquisitions.
A Uh-huh.
Q Now the USCIS Citizen Data, we talked about that because it was listed on one of the other documents we reviewed; right?
A Yes.
Q Okay. And Real ID Act Data, is that data, Mrs. Battle, that states would have?
MR. SVERDLOV: Objection. Vague. Calls for speculation.
BY MR. DAVIS:
Q Driver's license data, for example?
A I think we would need to turn to a memorandum of understanding regarding exactly what the Census Bureau is requesting from the states

regarding the driver's license data.
Q Okay. And another document listed under Potential New Acquisitions is FHA Loan Applications. Do you know if those have been requested?
MR. SVERDLOV: Objection. Assumes facts not in evidence.
BY MR. DAVIS:
Q Do you know if those have been requested?
A I am not aware of this being requested.
Q Okay. Do you know if there is any intention that the Census Bureau has to request FHA loan application data?
A I cannot say at this time --
Q Okay.
A -- if there is an intention to collect that.
Q Who would know?
A I think we would turn to the organization within the Economic Directorate who is responsible for acquiring administrative records to make that final determination.
Q And that's a person who you can't remember

their name at this moment; right?
A Well, actually the supervisor, I know his name, but I'm sure his staff -- the supervisor's name is Michael Berning.
Q Okay.
A So...
Q But there might be someone on his staff who is better able to answer that question; is that right?
MR. SVERDLOV: Objection. Vague.
A Well, Michael would know the answer, because his staff would be involved in this.
Q Okay. And back to this Exhibit 8, under FHA Loan Applications, still under the part of the table that lists Potential New Acquisitions, the next item is State Department Expatriates. Do you know of any requests for that information?
A I am not aware of the request, but we would need to talk to Michael Berning's staff to confirm that.
Q All right. And what about the next item listed, Medicare/Medicaid Loan Applications?

A Well, we do have on our first reference sheet that the Census Bureau has both Medicare enrollment data and Medicaid enrollment data. I know this says specifically "loan applications," so we would need to talk with Michael Berning to ensure that there is a distinction there or not.
Q Okay. I'm sorry, Mrs. Battle. Let's go back. You said the reference sheet -- would you refer to that by Exhibit Number, please?
A Exhibit Number 2.
Q Would you point to me where there is information about Medicare and Medicaid?
A The third row down says CMS MEDB. That's the Medicare enrollment database. And then where, towards the bottom where it says Best Race and Ethnicity, the first sub-bullet, CMS MSIS is the Medicaid enrollment.
Q Okay. Does this suggest to you that this is data on people who are in fact enrolled in Medicare or Medicaid?
A The information in Exhibit 2 reflects data on those who are enrolled. Whereas, I know on 304

it mentions loan application, so if these are the same things or different things, I need to --

Q I understand. When you said 304, you are referring to page 304 of Exhibit 8?

A Yes.

Q Okay. And it's Mr. Berning or his group who could tell us to the best of your knowledge?

A Yes.

Q Okay. Would you look now at Tab 4, the document behind Tab 4, the Executive Order 13880? And let's mark that as the next exhibit, please.

(Battle Exhibit Number 9 was marked for identification.)

BY MR. DAVIS:

Q Okay. Do you see this is Exhibit 9; right? And it's a copy of the Executive Order 13880. Have you reviewed this Executive Order before, Mrs. Battle?

A Yes.

MR. SVERDLOV: Objection. Vague.

MR. DAVIS: Have you reviewed this Executive Order before?

MR. SVERDLOV: Vague as to time. Go ahead.

BY MR. DAVIS:

Q Would you look at the page -- it's Bates Number P-169 at the bottom. Do you see that?

A Yes.

Q Page? Under Section 3, the Executive Order says that -- that section is titled Assistance to the Department of Commerce and Maximizing Citizenship Data. Do you understand this to be a list of data that agencies, quote, "shall examine relevant legal authorities and, to the maximum extent consistent with law, provide access to the following records"? These are documents the President wants the agencies to review and study and see if they can provide to the Department of Commerce; correct?

MR. SVERDLOV: Objection. Compound.

A Yes.

Q Okay. Walk me through this, Mrs. Battle. Has the department requested all of this information listed? And we can refer to the different documents

we've been reviewing. I just want to be able to match them up.

A So if we go back to Exhibit Number 6 --

Q Yes.

A So back in Exhibit Number 9 on page 169, the first item under Section 3 calls for Department of Homeland Security, United States Citizenship and Immigration Services - National-level file of Lawful Permanent Residents, and Naturalizations. And so if we refer back to Exhibit 6 on page 2, you will see that that request was made for Lawful Permanent Resident file and Naturalization data.

Q Yes. That's data that in fact we discussed earlier?

A Yes.

Q Okay.

A And back in Exhibit 9, the second bullet under Section 3 calls for Department of Homeland Security, Immigration and Customs Enforcement, Non-immigrant Visas, and that is reflected on page 2 back in Exhibit 6, the last row where it talks about Arrival Departure Information System and Visa data,

Customs and Border Protection. That is the data on temporary lawful residents.

Q And for that data, according to Exhibit 6, it's been requested, you are awaiting transfer from DHS; right?

A Yes. Yes.

Q Got it.

A Okay.

Q And going back to the Executive Order, bullet 3 says Department of Homeland Security, National-level file of Customs and Border Arrival/Departure transaction data?

A And that will be fulfilled through the same role we just talked about.

Q Okay. Arrival/departure information?

A Yes.

Q And on the Executive Order bullet 4, Department of Homeland Security and Department of State, Worldwide Refugee and Asylum Processing System, Refugee and Asylum visas?

A In Exhibit 6 on page 3, at the very top you'll see the Department of State and the request

was for Worldwide Refugee Admission Processing System data.

Q Okay. And according to Exhibit 6, that's been requested and you are awaiting data transfer?

A Yes.

Q All right. So item 5 on the Executive Record lists Department of State, National-level passport application data.

A Uh-huh. I need to -- I would need to check on the passport application data from the State Department. I do not see it in the Exhibit Number 6.

Q Okay. Back to the Executive Order, Mrs. Battle, item 6 is Social Security Administration - Master Beneficiary Records. Is that what I see on page 3 of Exhibit 6?

A On page 3 of Exhibit 6, yes. The Master Beneficiary Record, yes. That has been requested and received.

Q Great. And the last item on that particular list on the Executive Order is the, the Department of Health and Human Services - CMS

Medicaid and CHIP Information System. Is that on Exhibit 6?

A Yes. Exhibit 6, page 4. They reference the Medicaid Children's Health Insurance Program there, and that we are awaiting transfer.

Q Okay. Then with your and your counsel's permission, I would like to take just a couple minutes for you to tell me in very general terms what some of these other documents are that you brought today, and then we will break for lunch, and that will give us a chance to look at them and decide what we need to ask about them. Does that work?

A Yes.

MR. DAVIS: Let's mark these as exhibits. We have got three more it seems.

(Battle Exhibit Number 10 was marked for identification.)

BY MR. DAVIS:

Q So, Mrs. Battle, first I'm marking one of these as Exhibit 10. Would you tell me what this document is?

A This document is a Memorandum of Understanding between the Census Bureau and the Department of State.

Q Okay.

A And it is requesting passport data.

Q And is this a memorandum that has been executed? Is it in place?

A This memorandum was signed earlier this week, January 13th --

Q Great.

A -- when it was executed. This is new.

Q Okay.

(Battle Exhibit Number 11 was marked for identification.)

BY MR. DAVIS:

Q And what about the one I'm marking as Exhibit 11?

A Exhibit 11 is another Memorandum of Agreement between the Census Bureau and the Department of Homeland Security regarding data on immigration and citizenship.

(Battle Exhibit Number 12

was marked for identification.)

BY MR. DAVIS:

Q And the last one I'll mark as Exhibit 12. This appears to be a chart. Would you tell me what this indicates, please?

A Exhibit --

MR. SVERDLOV: Objection. Vague.

A Exhibit 12 is a chart that shows you the existing administrative records that the Census Bureau has and has obtained over the years, long history of obtaining these data from the Social Security Administration, the Internal Revenue Service, and the Department of Housing and Urban Development.

Q Okay. So some of this stuff like from DHS that we've been talking about just a couple minutes ago, those are kind of new requests. This is data that you've had for a while? Is that right?

A Yes.

Q Okay.

MR. DAVIS: Very good. I think this is a good stopping point. What time would you like to

come back?
MR. SVERDLOV: We are at noon now. Let's take about an hour.
MR. DAVIS: Sounds good. See you then.
(Recessed at 11:54 a.m.)
(Reconvened at 1:23 p.m.)
MR. SVERDLOV: Can folks on the phone hear us okay?
PHONE PARTICIPANT: Yes.
BY MR. DAVIS:
Q Mrs. Battle, early in the deposition we talked about some populations that tended to be subject to under-counts in the census. Would you remind me what some of those are?
A Yes. So we know that in the decennial census there tends to be an under-count for young children. Those are children under the age of five. And we also know from research that there are certain racial and ethnic population groups that may be under-counted, such as young black males or American Indians and Alaskan Natives, for example.
Q Okay. Taking the Alaskan Natives as an

example, if I understand you correctly, research after the census suggests to the Census Bureau that there is likely an under-count of Alaskan Natives in the census; correct?
A For the 2010 census in recent history there was an under-count, yes.
Q Yes. Okay. Do you know whether that's true for other censuses as well?
A The Census Bureau does publish after the decennial census their assessment of coverage of the decennial census and those reports would have that information.
Q Okay. And the Census Bureau wants to count everyone it can, that are supposed to be counted; correct?
MR. SVERDLOV: Objection. Vague. Calls for a legal conclusion.
A Yes.
Q Okay. Does the Census Bureau have any efforts planned to reach harder to count populations?
MR. SVERDLOV: Objection. Vague.

A Yes.
Q Would you give me an example of efforts that the Census Bureau has planned to reach a population that it believes to be more difficult to count than other populations?
A So the Census Bureau has an advertising campaign and the Census Bureau develops advertising directed towards particular hard to count populations in order to help make awareness more broad of the decennial census and to encourage participation.
The Census Bureau also has a network of partner -- it's called the National Partnership Program, and the idea there is to partner with particular organizations, local areas, to try to develop ways and approaches to reach the hard to count to get participation improved in the decennial census.
Q Okay. Are there any efforts by the Census Bureau or any planned efforts to reach as many undocumented immigrants as possible for the count?
MR. SVERDLOV: Objection. Vague. Calls

for a legal conclusion.
A I am not aware of any activities or programs or advertising that would be focused on that population.
Q Would you turn, please, Mrs. Battle, to the document behind Tab 5 of the notebook?
A Uh-huh.
MR. SVERDLOV: Counsel, for the record, I'm just going to note here this is also not a document that was identified in the topics, and given its date as noted on the first page of September 18, 1985, we have concerns that questions about this document would venture far outside the scope of the topics negotiated.
MR. DAVIS: Well, it could, but you might listen to my question first and then you could decide whether or not it's within the topics. It would save us a little bit of time.
MR. SVERDLOV: I'm flagging a concern. I'm happy to give you an opportunity to prove me wrong.
MR. DAVIS: Let's mark this as Exhibit 13,

please.

(Battle Exhibit Number 13 was marked for identification.)

BY MR. DAVIS:

Q Mrs. Battle, this is a statement of the Director of the Bureau of the Census before the Subcommittee on Energy, Nuclear Proliferation, et cetera, dated September 18, 1985. I'm going to turn to the page -- the first page is Bates Numbered 1820, produced by the Department of Commerce, and I'm looking at the page that's Bates Numbered 1827.

And here I'm going to represent to you that if you see a paragraph towards the bottom that begins, "because undocumented aliens," et cetera? On that page and the following page, as I read this, and you can tell me if you disagree, the former director is talking about efforts addressed to count as many undocumented aliens as possible.

And I just want to see if this refreshes your recollection if you review the steps that he says were taken in the past, I ask you to look at those and see if this refreshes your recollection,

if you are aware of any such effort that the Census Bureau intends to make as part of the 2020 census?

MR. SVERDLOV: I'm going to object to that question on the basis of foundation and on the basis of scope.

A On page 1828 --

Q Yes, ma'am.

A -- it mentions enumerating migrant farm camps.

Q Yes.

A And I will say that in the course of the decennial census the Census Bureau does have a group quarters enumeration operation that would include workers dormitories which may be similar to this type of facility.

Q Okay.

A I would need to check on any conversations that the Census Bureau has had with law enforcement agencies.

Q Okay. Yes. Because this statement, the former director said that they discussed with law enforcement agencies about curtailing law

enforcement on census days to ensure maximum participation. Do you read it the same way?

MR. SVERDLOV: Objection. Lack of personal knowledge and foundation and scope. The document says what the document says and the witness was neither prepared on this document, nor was this document something that you indicated you were interested in pursuing testimony on.

BY MR. DAVIS:

Q Are you aware of any conversations the Census Bureau has had with law enforcement agencies seeking perhaps a curtailment of law enforcement with related to immigration on census day to ensure, to help ensure maximum participation by undocumented immigrants?

MR. SVERDLOV: I'm going to object based on scope and also based on potentially deliberative process privilege. I will direct the witness not to answer because at the very least we are far outside the scope of the topics noticed in this deposition.

BY MR. DAVIS:

Q Has the Census Bureau made any decision of

whether or not to work with law enforcement agencies to curtail enforcement of immigration laws around census days in order to ensure greater participation by undocumented immigrants in the census?

MR. SVERDLOV: To protect the deliberative process I will direct the witness to answer in a general way.

A I do not have knowledge regarding that. I would need to check.

Q Okay. Who would you check with if you wanted to find out the answer to that question?

A I would talk with the Deputy Director of the Census Bureau.

Q And who would that be?

A Ron Jarmin.

Q Okay. Has the Census Bureau made any decision of whether or not to reach out to clergy, for example, the Conference of Catholic Bishops, to solicit their support in spreading the word about the census and the importance of participating in the census?

MR. SVERDLOV: I will raise the same

objection as before and give a similar instruction to the witness.

A Well, in the National Partnership Program that I mentioned earlier there is a faith-based component there, so I do know that the Census Bureau has partnered with members of the different religious communities to help get the word out about the decennial census.

Q The date of the census is April 1, did you say, 2020? That's the date that you are targeting trying to measure the population on that date?

MR. SVERDLOV: Objection. Compound and not I'm not clear the witness has testified on that, so misstates prior testimony.

A Yes.

Q Okay. That doesn't mean though that everyone who fills out a form fills it out on April 1 though, does it?

A No.

Q Okay. What if I fill out my form on March the 1st and move on the 15th; on March the 1st I report that I live in Prattville, Alabama, but I

move to Nebraska on the 15th. Where does the Census Bureau count me for the purposes of the 2020 census if those things were to happen?

A Well --

MR. SVERDLOV: Objection. Vague.

A We do ask people to report as of census day.

Q Okay.

A It could be we collect their data early, earlier than that or even after that, but we always reference it back to we need your information as of census day, the reference date.

Q Okay. Well, let's say that maybe I didn't see that part or I misunderstood, but I nonetheless report my address in Prattville, but I move to Nebraska on the 15th. Does the Census Bureau count me at the state that's on my form?

MR. SVERDLOV: Objection. Vague and misleading.

A The -- could you repeat that question, please?

Q Sure. Let's say in spite of the

instructions that you put on my form to reflect my status as of April 1, I fill out my form early, I fill it out on March 1 and say I live in Prattville, which was true on March 1, but on the 15th I moved to Nebraska. Is the Census Bureau going to count me as a resident of Alabama or Nebraska?

MR. SVERDLOV: Same objection.

A I think what would happen is that the data would be collected from that original form and if that individual did not fill out another form in Nebraska, that that information would be held -- in the sense -- I don't know that the Census Bureau would know that this person has moved if they never engaged with the Census Bureau an additional time.

Q Unless it's self-reported, is it possible or even likely that the Census Bureau would not be aware of my move to another state?

MR. SVERDLOV: Objection. Compound and misleading.

A If the only information we have for that household has come in on a census form and we have no need to follow up with that individual, then that

would be the information that we have.

Q Okay.

A If we never needed to interact with that person again.

Q Okay. What if just any random person fills out their census form on March 15th, mails it in and the next day passes away; does the Census Bureau have any way that you are aware of to know that someone who filled out a census form in fact was deceased before census day?

MR. SVERDLOV: Objection. Compound.

A Once that census form has been submitted and the individual passes away, the Census Bureau would not have knowledge of that.

Q Okay. I suppose it could also work the other way, a couple could fill out a census form and report two people live in a household and before census day they have a child. In that case that house would likely be under-counted, would it not?

MR. SVERDLOV: Objection. Calls for a legal conclusion.

A The Census Bureau would have access to the

information that that family provided on their questionnaire, yes.

Q In that case there may be an additional resident of that household that the Census Bureau just has no way of counting; is that correct?

MR. SVERDLOV: Objection. Misleading.

A If that household provided their information, they responded to the decennial census, completed the questionnaire and submitted it, then that would be their record for the census.

Q Would you turn back, please, Mrs. Battle to the document behind Tab 8? It's been previously marked as an exhibit, but I didn't write down for this one which Exhibit Number that was.

A Five.

Q Exhibit 5. And going back to the Q and As at the back on the page that's Bates Numbered P-15, I'm going to refer you to Question Number 13 at the bottom. The question in this question and answer section reads as follows:

"Is Census confident that administrative data will be able to be used to determine

citizenship for all persons, e.g., not all citizens have Social Security Numbers."

And the response given is: "We are confident that Alternative C," use of administrative data, "is viable and that we have already ingested enough high-quality citizenship administrative data from SSA and IRS."

Does the -- is the Census Bureau still confident that the use of administrative data to impute citizenship is viable and that you have enough high-quality citizenship data to perform those functions?

MR. SVERDLOV: Objection. One second. Objection. I think this is verging into the deliberative process privilege. The question by its terms calls upon the witness to testify about efforts that are ongoing, so I will direct the witness not to answer that question.

MR. DAVIS: Okay.

BY MR. DAVIS:

Q This memo is dated January 19, 2018. Was it true on January 19, 2018 that the Census Bureau

was confident that Alternative C in this memo, quote, is viable and that we, meaning the Census Bureau, have already ingested enough high-quality citizenship administrative data from SSA and IRS?

A The Census Bureau knows that, yes, the Social Security Administration data and the Internal Revenue Service data are of high quality but there are still some gaps.

Q Okay. The next sentence of the response says: "The USCIS data are not required. They would, however, make the citizenship voting age tabulations better." Was that true in 2018?

MR. SVERDLOV: Objection. Vague.

A What I can tell you is that there are gaps in the Social Security Administration data, and acquiring information from the Citizenship and Immigration Services Agency may be helpful in filling in those gaps.

Q Okay. Then I apologize for this, but I want to make sure I've asked what I need to ask, Mrs. Battle. I want to try this another way.

The statement that Alternative C is

viable, was that statement true when it was made?

MR. SVERDLOV: Objection. Vague.

A Alternative C was put forward as an option that the Census Bureau thought should be pursued, additional research would need to be done, additional data would need to be collected to see how that alternative could be then developed to produce information on citizenship status.

Q Well, on this day does the Census Bureau know whether the use of administrative data will allow it to produce citizen voting age population after the 2020 census?

MR. SVERDLOV: Objection. Vague as to time. To the extent that this question concerns a date other than the date on the memorandum or dates subsequent to it, I will direct the witness not to answer based on deliberative process privilege.

BY MR. DAVIS:

Q The question is as of today's date does the Census Bureau know whether it will be able to use the 2020 census to produce citizen voting age population data using administrative data? I'm not

asking about deliberations, I'm asking if it knows?
MR. SVERDLOV: As of today's date?
MR. DAVIS: As we sit here right now.
MR. SVERDLOV: So to the extent the question can be answered without going into deliberations and can be answered in a general way, the witness can answer. Otherwise, I will direct the witness not to answer.
A The Census Bureau is pursuing and has obtained additional administrative records that will be evaluated to see how those data can be used in conjunction with the Social Security Administration data and the Internal Revenue Service data to help us develop the citizenship status information for the purposes of CVAP.
So we are ingesting data, we are evaluating data, and we need to continue that evaluation in order to make a final determination on what data we need to help us develop citizenship status.
Q So do I understand that the Census Bureau does not know yet whether it can use administrative

data to produce citizen voting age population data?
A The Census Bureau is pursuing that, but we need to continue to evaluate all of the data that we have requested and then make sure we have developed the appropriate methodology that will allow us to do that. So we are still evaluating the data.
Q Okay. Are you aware of any memorandum or reports from the Census Bureau or perhaps testimony from prior litigation where the Census Bureau or a representative said in effect we don't know whether we can use administrative to do this, but we are going to look at it and see?
MR. SVERDLOV: Objection. Vague and misleading. To the extent that -- strike that last part.
A I am aware of memos that instruct the Census Bureau to acquire additional administrative records and with the purpose of developing methodology to determine citizenship status with the CVAP data product.
Q Does the Census Bureau expect to know the answer to that question by spring of 2020?

MR. SVERDLOV: Objection. Vague.
A The Census Bureau has stated that in the spring of 2020 its goal is to have identified specific administrative record data sources and methodology that will permit it to develop the CVAP data product.
Q When this report or memo dated January 19, 2018 contains the statement that we are confident that Alternative C is viable, has anything happened since that date to make the Census Bureau less confident that Alternative C is viable?
MR. SVERDLOV: Objection on the basis of deliberative process privilege. To the extent the witness can answer in general terms, she may try to do so. But I will direct the witness not to answer the question to the extent it calls for the internal deliberations and the substance of those deliberations of the Census Bureau.
A I am not aware of any conversations that concluded that administrative records are not viable to help us with those efforts.
Q Has the Census Bureau made a decision as

to whether any sampling will be involved to measure or impute citizenship as part of the 2020 census?
MR. SVERDLOV: Objection. Vague and compound.
A The Census Bureau has not determined its final methodology for producing the CVAP yet.
Q Has the Census Bureau determined whether CVAP data will be released as part of the P-4 -- what was the data file? Dash 171?
MR. SVERDLOV: Objection. Vague and compound.
A You are asking me if CVAP is intended to be a part of the redistricting data file, the PL.
Q Right. PL dash --
A PL-94171.
Q That's it. Thank you.
A The Census Bureau intends for the CVAP data product to be a separate special tabulation.
Q Okay. What form will it be released in?
MR. SVERDLOV: Objection. Vague.
A The Census Bureau is working to finalize the format of the CVAP. I expect that information

to be ready in the spring of 2020.
Q Okay. So you don't know yet what form it will be released in; is that correct?
A The specific format, no.
Q Okay. Would you turn now, please, Mrs. Battle, to the document behind Tab 9?
A Uh-huh.
Q That, for the record, is a March 1, 2018 memorandum for Wilbur Ross from John Abowd through others. Let's mark the first page of that, please, Mrs. Battle, as Exhibit 14.
(Battle Exhibit Number 14 was marked for identification.)
BY MR. DAVIS:
Q Are you familiar with that document, Mrs. Battle?
A Yes.
Q And one of the sections is, it begins on the page that's Bates Numbered P-38. There is a heading, "What are the weaknesses in Alternative C?" What was the author's response to that question, if you could just summarize it for me?

A So one of the key issues with the Numident is whether or not there, the information regarding individuals who are not citizen is up-to-date. Whereas, it could be the case that at the time that someone applied for a Social Security Number they were not a citizen, but subsequently they have achieved naturalization, but then never updated the Social Security Administration. So there is a weakness there, there is a gap there.
The -- another issue, a weakness with the Social Security Administration that's listed is that some people are not required to have a Social Security Number, and so then they would not appear in the Numident data from the Social Security Administration.
Q So, I want you to continue, but what you have described so far are groups of people for whom you may not have citizenship information in the administrative data; is that correct?
MR. SVERDLOV: I'm sorry. Hold on one second. I want to read the question. Objection. Vague.

A So with the key issue regarding individuals who are not citizens at the time that they obtained the Social Security Number, that information may not be updated in that particular source of data, but the idea is to search other administrative records to use in conjunction to then have more updated information.
Q Okay. So it's a population who may not be included in the citizenship information in a particular set of administrative records? Did I understand you correctly?
A Yes.
Q Okay. But there could be other administrative records that do contain citizenship information about that individual?
A Yes.
MR. SVERDLOV: Objection. Calls for speculation.
Q And it lists one, two, three, four, five, six, seven people starting on -- not people -- groups starting on page P-39. One is U.S. citizens from birth with no Social Security Number or U.S.

passport. The second is U.S. citizens from birth born outside the U.S. who do not have a U.S. passport, et cetera, and I'm not reading the whole description, but you see where I'm talking about?
A Yes.
Q Is the Census Bureau making any efforts to seek particular data to fill the so-called citizenship data gaps?
MR. SVERDLOV: Objection. This question calls for information that is protected by the deliberative process privilege. So to the extent the witness can answer it in a general way, she may do so. But I will direct her not to go into the details regarding any efforts that may or may not be taking place.
A So the Census Bureau has recently acquired and will acquire additional administrative records, and in the course of evaluating this data the Census Bureau can assess how many of these gaps we might be able to fill.
Q And was it in seeking this information, was it one of the goals of the Census Department to

fill as many of these gaps as possible?
MR. SVERDLOV: Objection. That question calls for information protected by the deliberative process privilege.
MR. DAVIS: Was it a goal of the Census Department to fill as many gaps as possible? That doesn't call for deliberations.
MR. SVERDLOV: It precisely does. It calls for revealing the rationale by which the Census Bureau has been acting on a matter in which the Census Bureau has not yet completed deliberations. So our view is that it is protected by the deliberative process privilege.
MR. DAVIS: Are you instructing the witness not to answer?
MR. SVERDLOV: Let me review the question. I will direct the witness not to answer that particular question. However, there may be general questions that she can answer.
BY MR. DAVIS:
Q Is it the goal of the Census Department to refrain from asking for data that it believes would

be helpful?
MR. SVERDLOV: Objection. Argumentative.
A Can you please restate that?
Q Sure. Is it a goal of the Census Department to purposefully refuse to ask for administrative data from another agency that it believes would be helpful in producing a more accurate citizen voting age population count in the 2020 census?
MR. SVERDLOV: In addition to being argumentative, that question seeks to discover the deliberations of the Census Bureau. I will direct the witness not to answer that question.
BY MR. DAVIS:
Q You can refer to this document if you wish. It's the executive order, Mrs. Battle. What do you understand the executive order behind Tab 4, what do you understand this executive order to direct the census department to do?
A My understanding is that the Census Bureau is directed to establish an interagency working group with the purpose of meeting with federal

departments to discuss acquiring their administrative records that may be helpful in helping the Census Bureau meet and comply with the executive order.
Q And does the Census Bureau intend to do that?
A Yes.
Q Is there in any respect that the Census Bureau does not intend to comply with Executive Order 13880?
A The Census Bureau is working to comply with Executive Order 13880.
Q And you are not aware of any area or any requirement of the Executive Order that the Census Bureau intends to refuse?
MR. SVERDLOV: Objection. Vague, calls for a legal conclusion, calls for speculation.
A I am not aware of any part of the Executive Order that the Census Bureau intends to refuse.
Q Referring, Mrs. Battle, to the efforts of the Census Bureau to obtain administrative data from

the various states, let's say there is a case where a particular state has declined to provide requested data. Has the Census Bureau made any decision yet as to what the next steps might or might not be?
MR. SVERDLOV: Objection. Calls for speculation.
A I'm not aware of any next steps that the Census Bureau plans to take regarding states that have refused to share their administrative records.
Q Okay. Well, I have to be clear because of the objections. Has there been a decision made that the Census Bureau is going to take no further steps if a state has declined to provide requested data?
MR. SVERDLOV: Objection to the extent it calls for deliberative information. To the extent that the witness can answer whether or not there has been a decision made, she may answer.
MR. DAVIS: Which is the question that I asked.
A I am not aware of the Census Bureau making any decisions about whether or not next steps need to be taken.

Q Okay. Look back, please, Mrs. Battle, at the document behind Tab 9. And remind me for the record what Exhibit Number is.
A 14.
Q 14. Thank you. And look back at the list of one through seven.
MR. SVERDLOV: For the record, this is the page that's Bates Numbered P-39.
THE WITNESS: Yes.
BY MR. DAVIS:
Q Does the Census Bureau know how many individuals are in any of these categories one through seven?
MR. SVERDLOV: Objection. Vague.
A I am not aware of the Census Bureau having quantified how many people are in each of these categories.
Q To make sure I'm clear, are you aware of any estimates of the number of people in any of these categories?
MR. SVERDLOV: Objection. Vague.
A I'm not aware of any specific estimates

for any of these categories that may have been utilized in the development of this memo.
Q Would you turn now, please, Mrs. Battle, to the document that is behind Tab 14 of the notebook? And let's mark the first page as Exhibit 15, please.
And I'll represent to you that these are excerpts of a deposition in other litigation. These are excerpts of a deposition taken in other litigation, the deposition of Dr. John Abowd, on Wednesday, August 29th in the lawsuit New York Immigration Collision, et al., versus U.S. Department of Commerce.
(Battle Exhibit Number 15
was marked for identification.)
MR. SVERDLOV: Just for the record, I will note that this is another document that has not been identified for purposes of the topics that the parties negotiated. So to the extent that the witness can answer in general terms, she may do so.
MR. DAVIS: That's not helpful, because I don't have to tell you what the exhibits are going

to be when we negotiate topics. And it --
MR. SVERDLOV: I'm laying groundwork for an objection. I don't know where you are going to go.
MR. DAVIS: Exactly. You don't know. So in my view it's a waste of time. You can still raise the objection after a question if in fact the question is objectionable, instead of taking up our time flagging potential objections.
BY MR. DAVIS:
Q I will tell you, Mrs. Battle, I find some of the coloring hard to read. This is the form we were able to receive it in. I think it is because different parties designated different portions of the deposition in other litigation.
I'm going to refer you to page 67 of the deposition. Do you see the page I mean? The top line one begins, "in 2000 and 2010 that was accomplished."
A Yes.
Q Okay. There is testimony here I'll represent to you, Mrs. Battle, concerning

introducing randomness to see that data to ensure protection of privacy, at least that's the way I interpret the testimony.
I would like you to review that and help me understand, if you know and if any decision has been made about this, whether randomness is going to be injected into CVAP data to protect the privacy of individuals?
A Yes. The Census Bureau has determined that it will use a procedure or methodology called differential privacy that will be used to infuse noise into all estimates that come out from the CVAP as well as all census counts that come out from the decennial census. So all data products from the decennial census will have this noise infusion to protect the privacy of those who are included.
Q Okay. How does that work? What does it mean to inject -- what I mean by that question is what does it mean to inject noise into the data?
A The Census Bureau will be using a mathematical approach to determine how to -- a mathematical approach in terms of how to take census

responses and then be able to inject noise is the best way I can describe it, to protect an individual's information. So it's a way of preventing an individual from being identified based on their characteristics that they provided in response to the decennial census.

Q Okay. I'm sure I'm just slow, but I don't understand that. Let me try to give you an example.

Let's say the Census Bureau reports for a particular census block that there are 100 people living here, there are 90 citizens and ten non-citizens. Is that going to be true or will this noise mean that you are reporting some different number?

MR. SVERDLOV: Objection. Vague. Calls for speculation.

A The Census Bureau is going to take the as-enumerated information and will use a mathematical approach to take those data and the data will then reflect the population in that area, but some of the specific details may be altered, changed, so that you cannot identify an individual.

Q What is an example of details that my might be altered or changed?

A In particular, we have information on age, information on race, information on Hispanic origin, for example.

Q So I understand you can't look at the CVAP data for a census block and tell from that who individually is a citizen and who is not. But will the totals for that census block be reported accurately?

MR. SVERDLOV: Objection. Vague. Compound.

A The Census Bureau has determined that the only population data coming out of the decennial census that will not have differential privacy or noise injection will be the state-level population totals. All other totals will have this differential privacy applied to it, at least that's as of today the Census Bureau's position.

Q And when states are using this CVAP data to draw districts and it looks at a census block and it says we add this census block to this district,

we are adding 100 additional white voters, white voting age citizens and 42 additional African-American voting age citizens, are those numbers going to be true?

MR. SVERDLOV: I'm going to object based on scope and I'm also going to object -- first, I'm going to object to the question as vague and I will also object to it on the basis of scope, because redistricting is explicitly not one of the things that we have agreed to proffer a witness to testify about, nor is it something that the Census Bureau performs.

MR. DAVIS: Well, this is not really about redistricting, it's about the accuracy of the CVAP data that will be important, and I'm just having trouble understanding what injecting noise does to accuracy.

MR. SVERDLOV: Is that a question?

MR. DAVIS: Yes.

BY MR. DAVIS:

Q What does injecting noise have to do with accuracy? How does it effect it?

MR. SVERDLOV: Objection. Compound.

A So the Census Bureau has talked publicly about the differential privacy methodology and the fact that the data will become more accurate as you aggregate levels of geography. So data at the block level may have noise in it that's more pronounced, but as you group those blocks into block groups and take those block groups and create census tracks and take those census tracts and build up to counties, the accuracy improves as you aggregate data and build larger geographic areas.

Q And is there any difference in the process that you described as injecting noise in what otherwise may have been referred to as injecting randomness? Or are those the same thing?

MR. SVERDLOV: Objection. Calls for speculation.

A You are referring to a statement on page 67 about randomness?

Q Right.

A Let's see.

Q And that's in Exhibit 15. I'm trying to

understand if you and this witness are describing the same procedure.

A Because on the top of page 67 the testimony talks about differential privacy, then we are talking about the same thing.

Q Okay.

MR. SVERDLOV: Counsel, I think we would benefit from a little bit of clarification. The document in Tab 14, you've designated the excerpt of testimony from Dr. John Abowd, do you know whether that was a 30(b)(6) deposition? It does not appear to be one on its face.

MR. DAVIS: I do not know the answer to that question. And if I intended -- if I represented this as being the testimony of the department itself, that was not intentional.

MR. SVERDLOV: Okay.

MR. DAVIS: With your permission, counsel, and, Mrs. Battle, this would be a good time for a 10 or 15-minute break to get organized. I think the rest of the time would proceed more efficiently if you allow me to do that.

MR. SVERDLOV: That makes sense.

MR. DAVIS: Thank you, Mrs. Battle.

(Recessed at 2:15 p.m.)

(Reconvened at 2:40 p.m.)

BY MR. DAVIS:

Q Mrs. Battle, the Executive Order -- you are free to turn to it if you want -- but it is behind Tab 4. In Executive Order 13880 it says on the page that's been marked, that's Bates Numbered P-169, it says, before it lists the different categories of administrative records it says: "The following agencies shall examine relevant legal authorities and, to the maximum extent consistent with law, provide access to the following records."

MR. SVERDLOV: I'm sorry, counsel. Can you direct me?

MR. DAVIS: It's under Section 3 just before the list of documents, small little Roman one.

MR. SVERDLOV: Okay.

BY MR. DAVIS:

Q My question to you, Mrs. Battle, is this:

Are you aware of any federal agencies that have said we cannot provided requested information because the law doesn't permit us to share it with you?

A I am not aware of any agencies stating that they cannot share or send to us their data because of a law.

Q Okay. And for the data that you received or that they've agreed to share, are you aware of any circumstance where the law would not permit you to use the data in order to impute citizenship?

MR. SVERDLOV: Objection. Calls for a legal conclusion, and to the extent it pertains to the ongoing deliberations about the use of data, that this information we would view as protected under the deliberative process privilege, so I will instruct the witness not to answer that portion.

BY MR. DAVIS:

Q Let's start over. Are you aware of any circumstance where the Census Bureau has determined that it is unable to use a set of administrative data because of some impediment of the law?

MR. SVERDLOV: Objection. Vague.

BY MR. DAVIS:

Q Or some legal requirement?

MR. SVERDLOV: Objection. Compound.

A I am not aware of that.

Q Would you look at the document, one of the ones that you brought with you today, that's marked as Exhibit 11? And this, for the record, is a Memorandum of Agreement between the United States Department of Commerce and the United States Department of Homeland Security. And I will refer you to page 17 of that document, Mrs. Battle.

Do you see that page with the heading Attachment 1: Description of Approved Research Project?

A Yes. Yes.

Q In the first paragraph, Mrs. Battle, it says: "The Census Bureau plans to use several administrative data sources of citizenship status in a statistical model that will produce a probability of being a U.S. citizen on April 1, 2020 for each person in the 2020 census."

First, is that in fact the Census Bureau's

plans?
A The Census Bureau is acquiring administrative records that it will evaluate and the Census Bureau will then finalize their plans about how they specifically will determine citizenship for those enumerated in the census.
Q Okay. What does it mean you'll produce a probability of being a U.S. citizen?
A In this general approach the probability would be a value between zero and one.
Q Okay. Well, what if the probability is .5; is that person counted as a citizen or a non-citizen?
MR. SVERDLOV: Objection. Vague and misleading, assumes facts not in evidence.
A The final methodology for how the Census Bureau will use administrative records and to actually develop the citizenship status for individuals in the census has not been finalized yet to be able to tell you that information.
Q Okay. Let me make sure I understand you by asking you a different way. Has the Census

Bureau yet decided how high the probability must be of citizenship before a person is counted as a U.S. citizen?
A I am not aware of the Census Bureau making that decision yet.
Q Okay. And who would be making that decision?
MR. SVERDLOV: Objection. Vague. And, okay.
A The final methodology that the Census Bureau will use to create the CVAP file will need to be vetted and approved by executive leadership at the Census Bureau as well as at the Department of Commerce.
Q Okay. So executive leadership has to approve it. I assume that there are employees of the Census Bureau who will be working on answers to these questions to recommend to executive leadership. Is that true?
MR. SVERDLOV: Objection. Vague.
A Yes.
Q Okay. And do you know who within the

Census Bureau will be working on recommendations to make to executive leadership?
MR. SVERDLOV: Objection. Vague and assumes facts not in evidence.
A The Census Bureau will look to an internal expert team that includes leadership from John Abowd and the development of the recommendation about how to develop the statistical models, how to use probability data if that indeed will be part of the final methodology.
Q Mrs. Battle, when you talk about in terms of probability of citizenship and the value between zero and one, what does zero mean?
MR. SVERDLOV: Objection. Vague.
A The methodology that needs to be finalized will determine what the values of the range of the probabilities actually means.
Q Okay. I guess you would give me the same answer if I asked what one means in that scenario?
A Yes. All of that has to be finalized in the methodology.
Q Okay. Let's say, Mrs. Battle, that after

the 2020 census the Census Bureau counts in a particular census block 100 voting age white citizens, 40 voting age African-American citizens, and ten non-citizens. Are those numbers going to be reported for that census block?
MR. SVERDLOV: Objection. Vague and compound. To the extent it concerns ongoing deliberations, that question would -- the answer to that question would be protected by the deliberative process privilege.
I think more pertinent right now is that this question is verging outside the scope of the negotiated topics and I think we would benefit from you explaining how you view the, that type of count you described as falling within one of the topics we negotiated.
BY MR. DAVIS:
Q I'm making the numbers up. I don't care what the numbers are. I just want to know if you count particular numbers in the census block. This is going back, Mrs. Battle, to the injecting noise and I just want to understand that as well as I can

while I have the opportunity to speak with you.
So the first step is if you measure X number of, let's just stick with X number of Caucasian voting age citizens in a census block, is that X in fact going to be released for that census block, or because of noise, will it be changed to some other number?
MR. SVERDLOV: Objection. Vague.
A The Census Bureau will take enumerated counts for a block and those data, along with all the other census data collected in the decennial census, will go through the disclosure avoidance process and noise will be injected.
Q Okay. And after -- how will the numbers for a block look different after noise is injected?
MR. SVERDLOV: Objection. Calls for speculation.
BY MR. DAVIS:
Q I'm going to break that down with different questions to see if maybe I can make it make sense a little more for me.
After you inject noise, would the total

population of the block change?
MR. SVERDLOV: Objection. Vague.
A The current plans for using disclosure avoidance in the decennial census holds that only the state's population totals will be as enumerated in the census and other population totals may change because of noise that's been injected.
Q Okay. So the numbers reported for a particular census block may not be accurate then if I understand you correctly?
MR. SVERDLOV: I'm going to object based on scope once again and this time I'm going to direct the witness not to answer. I do not see how this bears on the question of state apportionments, which is the nature of your claims in this lawsuit and therefore the predicate for --
MR. DAVIS: We will come back to that. We will just skip that for now.
BY MR. DAVIS:
Q But from what you described, Mrs. Battle, voting age population at the state level will be correct?

MR. SVERDLOV: Objection. Vague.
A The state population totals will be as enumerated in the decennial census.
Q Okay. Will you be releasing citizen voting age population at the state level?
A That level of geography traditionally has been published with the CVAP data file. The final specifications for the 2020 CVAP are not finalized yet.
Q Is there any doubt that the Census Bureau will in fact release CVAP data after the 2020 census?
MR. SVERDLOV: Objection. Vague.
A The Census Bureau plans to release the CVAP data after the census. The goal is to produce that by March 31st of 2021.
Q Does the Census Bureau have any intention that you are aware of to seek information concerning deferred action for childhood arrivals program?
MR. SVERDLOV: Objection. I will direct the witness not to answer both on the basis of scope and deliberative process privilege.

BY MR. DAVIS:
Q Have you made a decision as to whether or not to seek that data?
MR. SVERDLOV: Objection. Assumes facts not in evidence. And outside the scope. But if --
BY MR. DAVIS:
Q I feel like the administrative data that may be available to address citizenship is well within the scope of the topics. So I will ask again. Has the Census Bureau made any decision as to whether it will seek information related to the deferred action for childhood arrivals program?
MR. SVERDLOV: Objection. Assumes facts not in evidence.
A I am not aware of any decision that's been made regarding that topic.
Q Okay. I am almost positive that at times today I have referred to the census department when it's really the Census Bureau. If I have done that, we understood each other? You knew who I was talking about, that I meant the Census Bureau, did you not?

MR. SVERDLOV: Objection. Misleading.
A Yes.
MR. DAVIS: Do you all need a break?
MR. ROSENBERG: Are you done?
MR. DAVIS: Not quite. But close.
BY MR. DAVIS:
Q Would you look at Tab 17 of your notebook, please, Mrs. Battle?
MR. SVERDLOV: I'm sorry? What tab?
MR. DAVIS: Tab 17.
BY MR. DAVIS:
Q And, Mrs. Battle, take all the time you want. I really just want to know if you can identify that document for me just so I can get on the record if you know what that document is.
Let's mark it as Exhibit 18. For the record, I made a mistake. This document will be marked as Exhibit 16 to Mrs. Battle's deposition.
(Battle Exhibit Number 16 was marked for identification.)
BY MR. DAVIS:
Q Can you identify the document that's been

marked as Exhibit 16, Mrs. Battle?
A This is the Department of Homeland Security Immigration-Related Information Sharing with U.S. Census Bureau, December 20th, 2019.
Q And how is that different from the document we marked as Exhibit 11, the Memorandum of Agreement between the Department of Commerce and the U.S. Department of Homeland Security?
MR. SVERDLOV: Objection. Vague and misleading and assumes facts not in evidence. And to the extent you are asking the witness to testify about a Department of Homeland Security document that you have marked as Exhibit 16, it is outside the scope of this deposition because the witness is testifying on behalf of the U.S. Census Bureau, not the Department of Homeland Security.
BY MR. DAVIS:
Q Have you reviewed the document that's been marked Exhibit 16 before?
A I am not familiar with this particular document.
Q That's all. That's fine. Then I will

have no other questions about it.
Mrs. Battle, does the Census Bureau know yet whether it is feasible to produce high-quality citizen voting age population data using administrative records?
MR. SVERDLOV: Objection. Vague and misleading, assumes facts not in evidence.
A The Census Bureau will need to continue evaluating the administrative records that we have recently acquired before being able to make that statement.
Q So the answer is the Bureau just doesn't know yet? Is that true?
A Yes.
Q Okay. If it didn't know now, then it didn't know the answer to that question in 2019 or 2018 or 2017, did it?
MR. SVERDLOV: Objection. Argumentative.
A The Census Bureau needs to get access to the data and be able to evaluate that to make that final decision.
Q So if someone said in 2019 that, yes, the

Census Bureau can use administrative data and use that to produce high-quality citizen voting age population data, that would have been incorrect?
MR. SVERDLOV: Objection. Vague and misleading.
A The goal of the Census Bureau is to use administrative records to produce high-quality data on citizenship for the population. But we need to access the data that we believe may be helpful to us and just make sure that it will be of the quality that we need for the purposes that we need.
Q After the 2020 census, Mrs. Battle, does the Census Bureau intend to release a total population count for each state?
A After the decennial census the Census Bureau intends to publish a, an apportionment population count for the state, which would include a resident population count for the state as well as the federal affiliated overseas population for the state.
Q Okay. Will it produce as a part of any product a count of the number of U.S. citizens

residing in each state?
MR. SVERDLOV: Objection. Vague.
A The Census Bureau in the development of the citizen voting age population file would include data on the number of citizens of voting age. The final format of other information that would be in that CVAP file has to be finalized.
Q The numbers released for citizenship, if I understood you correctly, will be the number of citizens of voting age; is that correct?
A Yes. That would be in the citizen voting age population data product.
Q But does the Census Bureau also intend to count each person, even those not of voting age, as a citizen or a non-citizen?
MR. SVERDLOV: Objection. Vague and misleading.
A The Census Bureau through the use of administrative records will be determining a citizenship value for all those counted in the decennial census.
Q Does the Census Bureau plan to count the

number of non-citizens who are lawfully present in each state?
MR. SVERDLOV: Objection. Vague and misleading.
A The Census Bureau plans to count in the decennial enumeration all of those who are usual residents of the state regardless of citizenship status.
Q Do you know and does the Census Bureau know whether any of the administrative data that it has sought or obtained would contain administrative data on lawful residents?
Let me say by that I mean do you know whether any of the data from any of these other agencies will contain information to let you impute whether or not a person counted is, a non-citizen counted is a lawful resident of the United States?
MR. SVERDLOV: Objection. Vague and misleading.
A I can't speak to whether the Census Bureau will impute a particular legal status to someone in a decennial census. The Census Bureau is acquiring

administrative records that will have some of that information.
Q Okay. What are some of those? And I will refer you, Mrs. Battle, to the document that's been marked as Exhibit 6. I'm not limiting you to that exhibit, but it may be a place to start. And again what I'm asking you is to tell me which of these records either have or may have information related to the lawful status of a non-citizen.
A So in Exhibit 6 on page 2, in the bottom part of the table we see data that either has been acquired or we are waiting to acquire from the Department of Homeland Security, which would include information on lawful permanent residents and naturalized citizens, as well as temporary lawful migrants, people with student visas or temporary work visas, et cetera.
And page 3, at the top the Department of State, we are waiting to acquire those records on data regarding the refugee population.
Q Any other sources of data listed on Exhibit 6 that may have information about lawful

residency?
A I would need to defer back to the Memorandum of Understanding with all of these agencies which lists the variables specifically that are being requested to determine that.
Q If a state agrees to release information to the Census Bureau, and by information I mean administrative data requested as part of the effort to comply with the Executive Order, is the Census Bureau entering into agreements with those states or memorandums of understanding?
MR. SVERDLOV: Objection. Vague.
A The Census Bureau will need to have a memorandum of understanding or enter transfer agreements to document exactly what the Census Bureau is requesting, yes.
Q Look. Nebraska is listed on here and providing you some information; correct?
A Yes.
Q Does that mean that Nebraska has entered into a memorandum of understanding with the Census Bureau?

A In order for the Census Bureau to acquire those data there needs to be a memorandum of understanding.

Q Gotcha.

MR. DAVIS: This is off the record.

- - -

(Discussion off the Record.)

- - -

BY MR. DAVIS:

Q Back on. Mrs. Battle, if the Census Bureau determined that it was going to make a count of non-citizens who were lawfully present in each state, is there additional administrative data that the Census Bureau would need in order to accomplish that?

MR. SVERDLOV: Objection. I will skip the form objection and just object on the basis of deliberative process privilege and instruct the witness not to answer.

BY MR. DAVIS:

Q Mrs. Battle, has the Census Bureau made any decision that should it determine to make a

count of persons who were unlawfully present non-citizens in each state, that it would need additional administrative data to do that?

MR. SVERDLOV: Objection. Vague and compound, assumes facts not in evidence.

A The Census Bureau has not made any determination at this point as to additional information that could be produced or published regarding lawful immigrants.

Q We discussed earlier, Mrs. Battle, the different steps that the Census Bureau goes through when it's attempting to make an enumeration. You send out the form, sometimes enumerator, sometimes in certain cases you might ask a neighbor, sometimes these hot deck imputations.

My question is this: Are each of these steps, each of these efforts, are they part of the Census Bureau's efforts to make the census as accurate as possible?

MR. SVERDLOV: Objection. Vague, calls for a legal conclusion.

A The Census Bureau strives to conduct as

accurate and as complete a count as possible and utilizes many different operations and techniques to help us meet that goal.

Q Certainly. And imputation, for example, is it true that at least one of the reasons why the Census Bureau uses characteristic imputation for the use of administrative records is that because it results in a more accurate census?

MR. SVERDLOV: Objection. Vague.

A Yes.

MR. DAVIS: Can we go off the record so I can talk to my colleagues? We can take a break, let us chat and we will be right back.

MR. SVERDLOV: Why don't you chat and then we will figure out next.

(Recessed at 3:13 p.m.)

(Reconvened at 3:31 p.m.)

MR. DAVIS: I think I'm up and I can say we have no further questions. We really appreciate counsel hosting Mrs. Battle. We thank you for taking time to speak to us and helping with these issues. Before I close I would say that there is

still documents to be produced or documents that through unavoidable technical difficulties we just received a new copy of today.

If in the course of reviewing those documents there is something that we need additional testimony about, I reserve the right to speak with counsel and seek additional testimony. Although, we would in those circumstances most certainly try to exhaust other ways of getting the information that we need.

MR. SVERDLOV: We understand your position and we certainly do not consent to anything at this time, but we are happy to work with you to resolve any issues that may arise.

MR. DAVIS: Thank you.

MR. SVERDLOV: We don't have -- I don't have any questions for Mrs. Battle. We will reserve the right to read and sign the transcript.

MR. DAVIS: Certainly.

MR. SVERDLOV: And otherwise we have nothing further.

MR. DAVIS: Thank you all.

(Whereupon, at 3:33 p.m., the deposition of KAREN R. BATTLE was concluded.)

* * * * *

UNITED STATES OF AMERICA)

ss:

DISTRICT OF COLUMBIA)

I, ROBERT M. JAKUPCIAK, an RPR and Notary Public within and for the District of Columbia do hereby certify:

That the witness whose deposition is hereinbefore set forth, was duly sworn and that the within transcript is a true record of the testimony given by such witness.

I further certify that I am not related to any of these parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st d



My Commission Expires:

February 29, 2024

To: ALEXANDER V. SVERDLOV, ESQ.
Re: Signature of Deponent 30(b)(6) Karen R. Battle
Date Errata due back at our offices: 2/20/2020

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I, the undersigned, do hereby certify that I have read the transcript of my testimony, and that

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Pursuant to Civil Procedure, Rule 30. ALA. CODE § 5-30(e) (2017). Rule 30(e) states any changes in form or substance which you desire to make to your testimony shall be entered upon the deposition with a statement of the reasons given for making them. To assist you in making any such corrections, please use the form below. If additional pages are necessary, please furnish same and attach.

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DEPONENT'S SIGNATURE

Sworn to and subscribed before me this ____ day of

_____, _____.

_____

NOTARY PUBLIC / My Commission Expires:_____

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Alabama Rules of Civil Procedure

Part V. Depositions and Discovery

Rule 30

(e) Submission to witness; changes; signing. When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by the witness, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within thirty (30) days of its submission to the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 32(d)(4) the

court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(F) Certification and filing by officer; exhibits; copies; notice of filing.

(1) The officer shall certify on the deposition that the witness was duly sworn by the officer and that the deposition is a true record of the testimony given by the witness. Unless otherwise ordered by the court, the officer shall then securely seal the deposition in an envelope indorsed with the title of the action and marked "Deposition of [here insert name of witness]" and shall promptly file it with the court in which the action is pending or send it by registered or certified mail to the clerk thereof for filing.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE STATE RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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LEGAL SOLUTIONS

Deposition of:

30(b)(6) Karen R. Battle

January 16, 2020

In the Matter of:

State Of Alabama, Et Al. Vs. United States Department Of Commerce, Et Al.

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

STATE OF ALABAMA; and,	:	
MORRIS J. BROOKS, JR.,	:	
Representative for Alabama's	:	
5th Congressional District,	:	
Plaintiffs,	:	
vs.	:	Civil Action No.:
UNITED STATES DEPARTMENT	:	2:18-cv-00772-RDP
OF COMMERCE, et al.,	:	
Defendants.	:	

Rule 30(b)(6) Deposition of
U.S. BUREAU OF THE CENSUS
Washington, D.C.
Thursday, January 16, 2020
9:00 a.m.

Job No. AL-3846101
Pages 1 - 179
Reported by: Robert M. Jakupciak, RPR

Deposition of KAREN R. BATTLE, held at the offices of:

U.S. Department of Commerce

1401 Constitution Avenue, N.W.

Washington, D.C. 20230

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BC-DOC-0000029500

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C O N T E N T S

THE WITNESS: KAREN R. BATTLE

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P R O C E E D I N G S

Whereupon,

KAREN R. BATTLE,

called as a witness, and having been first duly sworn, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR PLAINTIFF

BY MR. DAVIS:

Q Good morning.

A Good morning.

Q Would you state your name, please?

A My name is Karen Battle.

Q Ms. Battle, my name is Jim Davis. First off, is it Ms., Mrs., Doctor?

A Mrs.

Q I represent the State of Alabama in a lawsuit against the Department of Commerce. You are familiar with that litigation; correct?

A Yes.

Q And you have been identified as a representative of the Department of Commerce for purposes of that deposition; correct?

A Yes.

Q Have you ever given a deposition before?
A Yes.
Q How many times? More than five?
A Once.
Q Once. Okay. How long ago was that?
A Three months ago.
Q What kind of case was that?
A A human resources case.
Q I have some questions about the lawsuit today. If at any point you don't understand my question, let me know. If you need a break, let me know. Where do you work?
A I work in the Population Division at the U.S. Census Bureau.
Q What is your title?
A Division Chief, Chief of the Population Division.
Q How long have you held that position?
A I have been the Division Chief for five years.
Q Did you have any positions in the Division before you were Chief?

A Yes.

Q What were those, and approximately for what term?

A Prior to becoming the Division Chief I served as the Assistant Division Chief for Special Population Statistics, and I served in that position from 2007 to 2014.

Prior to that I served as the Branch Chief over the Sex and Age Statistics Branch, and I served in that position from 2004 to 2007.

Prior to that I served as the Special Assistant to the Division Chief from approximately 2004 -- 2000 to 2004. And prior to that I served as a Data Analyst in the Racial Statistics Branch and the Ethnicity and Ancestry Branch. And prior to that I was a summer intern in 1998.

Q So have you been employed by the Census Bureau since 1998?

A Yes.

Q Tell me about your education background, please.

A I have a Master's Degree in Sociology from

the Western Michigan University.

Q Did you work -- did you have any employment before you were employed by the Bureau of Census?

A I held research positions at universities.

Q Which universities?

A The Western Michigan University, and after leaving Western Michigan University, I spent several years working at the University of Wisconsin in Madison in a research position.

Q I have a notebook here, Mrs. Battle, with some documents that we are going to be discussing during the deposition. They are behind tabs so that everyone can find it easily, but the ones we will be marking as an exhibit probably won't correspondence to the tab numbers.

Would you look at Tab 18 in the notebook, please?

MR. DAVIS: And we will mark that as Exhibit 1, if you please.

(Battle Exhibit Number 1 was marked for identification.)

BY MR. DAVIS:

Q Have you reviewed this Notice of Deposition that has been marked as Exhibit 1, Mrs. Battle?

MR. SVERDLOV: Objection. Vague.

BY MR. DAVIS:

Q Have you seen it before this morning?

A Yes.

Q Are you familiar with the topics that are listed?

A Yes.

Q And there have been discussions following issuing of the deposition between counsel, some of these topics have been narrowed. But are you prepared today to speak on behalf of the Department of Commerce for the topics listed on this deposition notice as narrowed through further discussions by counsel?

MR. SVERDLOV: Objection. Misleading. The deposition notice is for a representative of the Census Bureau to testify, not the Department of Commerce.

MR. DAVIS: You are correct. I misspoke.

BY MR. DAVIS:

Q Same question, except substitute "census bureau" for "commerce"?

A Could you repeat that?

Q Yes, ma'am. Are you prepared today to speak on behalf of the Census Bureau for the topics listed on this deposition notice as those topics have been narrowed through discussions between counsel?

MR. SVERDLOV: Objection. Compound.

A Yes.

Q Mrs. Battle, just some preliminaries. There is a census every ten years; correct?

A Yes.

Q And after each census the Bureau of Census releases population statistics?

MR. SVERDLOV: Objection. Vague.

A Yes.

Q Okay. And part of the data the Census Bureau releases is population totals for the United States and for each state; is that correct?

MR. SVERDLOV: Objection. Vague.

A Yes.

Q Are there known under-counts in the census?

MR. SVERDLOV: Objection. Vague.

A Yes.

Q Are any particular populations more likely to be subject to under-counts than other populations in the country?

A The Census Bureau does assess the coverage on the population after the decennial census, and there are two methods that the Census Bureau uses to do that, and those methods have identified certain subpopulations that are under-counted.

Q What subpopulations tend to be under-counted?

MR. SVERDLOV: Objection. Vague.

A We know from our analyses that young children, children under the age of five, tend to be under-counted in the decennial census. In addition, there are other racial and ethnic populations that may be under-counted in the decennial census; for

example, young black males or the Hispanic population or the American Indian or Alaskan Native population.

Q Are there over-counts in the census?

A Yes.

Q How does that work? Who is over-counted?

MR. SVERDLOV: Objection. Vague and compound.

A Well, our analyses have showed that there may be populations, such as the white population, that may be over-counted.

(Joining the phone conference is Congressman Mo Brooks.)

A So there are some populations that might be over-counted. For example, it could be the white population or some different components along those lines.

Q The Census Bureau again knows that when it releases a count say of the total population for the State of Alabama, would that total population count, could that be characterized as an estimate?

MR. SVERDLOV: Objection. Vague, compound

and misleading.

A The decennial census publishes enumerated population counts, not estimates.

Q Okay. Say after the 2010 census the population for the State of Alabama was reported to be 4,779,736. Is that as of a particular date?

MR. SVERDLOV: Objection. Vague and assumes facts not in evidence.

A Yes. The decennial census reference date is April 1st of the census year.

Q But your assessments following the census have shown that some populations are under-counted; correct?

A Yes.

Q And there may be over-counts as well; is that correct?

A Yes.

Q So the total population of the State of Alabama, assuming its 4,779,000 and change, that may not mean that there were exactly that number of residents in Alabama as of April 1, 2010?

MR. SVERDLOV: Objection.

BY MR. DAVIS:

Q Would you agree with that?

MR. SVERDLOV: Objection. Compound and argumentative.

A The state population counts that come out from the decennial census represent the population that was enumerated as of that census reference date.

Q Okay. Let's talk, Mrs. Battle, about how the Bureau gets to that number. The decennial census starts with questionnaires; correct?

A Yes.

Q Okay. And how do you know who to send the questionnaires too?

A The Census Bureau maintains what's called a master address file which contains the addresses for all of the housing units and group quarters facilities in the United States.

Q And you send a questionnaire to all of those addresses?

A There are different types of enumeration approaches for different areas within the United

States, but about 95 percent of the housing units do receive a mailing to either instruct them to go online to respond to the decennial census or they can fill out a paper response. There are other sections of the country where the Census Bureau may go out and just enumerate those areas that may be more rural or hard to enumerate, for example.

Q Okay. And when you say that they go out and enumerate those areas, what do you mean?

A I mean that an enumerator will have their device to be able to collect the information on the decennial census form and will go out to the housing unit or location and attempt to collect the data at that point.

Q For people to whom the Bureau sends a questionnaire, I assume you don't get a hundred percent response rate from those questionnaires; is that correct?

MR. SVERDLOV: Objection. Compound.

A That is correct.

Q What happens then? What does the Census Bureau do if you do not receive a response from a

particular household?

A The Census Bureau has a contact strategy where there are a series of attempts to contact a household through mailings. If those contacts do not result in a returned questionnaire, then the Census Bureau will have that particular housing unit that has not responded go into what's called the non-response follow-up universe, and then the Census Bureau will actually have enumerators go out and start knocking on the doors to try to collect the data.

Q And if you reach the point where you are sending enumerators to go to the household to try to collect the data, let's say they go once and no one is there, they get no response; are there follow-up visits?

A Well, for the 2020 census the Census Bureau is employing a new strategy for the non-response follow-up operation. And what we are doing is using statistical models to determine if the housing units within the non-response follow-up universe are indeed occupied. And if we have

information that indicates that that housing unit is indeed occupied, and we also have administrative records available that are associated or linked to that particular housing unit, then we would only make one attempt to have an individual out there knocking on the door to try to collect that information. And if they are not successful, then we would utilize the administrative records to enumerate that household.

Q Okay. What administrative records would you use to enumerate that household?

A We actually have a reference sheets.

Q Sure. Your counsel gave us some documents before the deposition. Would one of those documents help you respond to this question?

A Yes.

Q I'm going to just give you the stack and you tell me which one would be helpful to you.

A This one.

Q Okay.

MR. DAVIS: Then let's mark this as our next exhibit, please.

(Battle Exhibit Number 2
was marked for identification.)

BY MR. DAVIS:

Q All right. Mrs. Battle, as I understand your testimony, you said if there is a household you send a questionnaire and you get no response, if you have administrative records related to that household that suggests that household is occupied, you would send a enumerator only a single time; is that correct?

A The Census Bureau will be using statistical models that incorporate data from administrative records to identify households in the non-response follow-up universe that are occupied, and if we have administrative records that have information on the characteristics of those individuals, then we can use that to enumerate the household after one attempt.

Q Okay. I want to come back to the statistical models, but first deal with the question I asked previously. If you get to the point where you use administrative records to enumerate that

household, what administrative records does the Census Bureau use? And at this point you are referring to Exhibit 2.

A Yes. So what you'll see in this chart, in the left column are data sources that are used. We have administrative records from the Internal Revenue Service, the 1040, 1099 returns; we have data on the Medicare enrollment, we have data from the Census Numident, which is actually the numerical identification file that we receive from the Social Security Administration that contains data on every Social Security Number that's ever been issued.

We also have information from the Census Household Composition Key, we have information from HUD which reflects data on public and Indian housing, as well as tenant rental assistance information.

We have data from the Indian Health Service Patient Registration. We have data from the United States Postal Service. They have information on addresses that where they attempt to deliver but they are undeliverable as addressed. That's the

UAA.

So for the NRFU or the non-response follow-up portion of things we focus on that information. We also have data down below where it says Best Rates and Ethnicity, we have data on Medicaid enrollment, as well as data from the TANF program, the Temporary Assistance for Needy Families.

And we also use CoreLogic Black Knight, which provides information on property taxes and deeds of, along those lines.

So we are able to utilize some of this information to help us determine if this household is occupied and how many people are living there, and we can also use some data from these administrative records to determine age, sex, race, ethnicity and tenure, whether they own or rent that property, and that's what we utilize to help do the enumeration.

Q What is the last item listed, Group Quarters Records?

A Well, the Group Quarters Records, it's not

part of the non-response follow-up universe, but we have an operation to enumerate individuals who are residing in group quarters, like prisons and college dormitories and nursing homes.

And in those instances much of the data that we collect for those residing in group quarters come from the office's administrative records, as opposed to the census going out to interview each resident in a prison cell or someone who might be in a nursing home bed that's not cognitively functioning.

Q Okay.

A So we use administrative records in that sense.

Q All right. So if this -- say you are trying to enumerate a nursing home. Would you get records from the group or organization that operates that nursing home, a list of residents, for example?

MR. SVERDLOV: Objection. Compound.

A The Census Bureau works with a, an administrator for that particular nursing home.

Q Okay.

A And that administrator will pull upon their records from their office to provide us with a listing of the residents and their demographic characteristics; age, date of birth, sex and race and ethnicity if possible.

Q Okay. And still looking at Exhibit 2, could you tell me what these columns indicate?

A Yes. So the first two columns describe the non-response follow-up administrative records enumeration. So this is the instance where we have used statistical models to determine that a housing unit is occupied, and if we are not able to get a response via the enumerator, then we are able to utilize data from these administrative records to determine how many people are in that household and then to fill in their characteristics. So that's really what the NRFU AR Enumeration columns reflect.

Next to that we have Count Imputation, and this may take into, occur when we do not have information that would allow us to do a NRFU actual enumeration. So we don't have administrative records that could provide necessarily at first

glance characteristics, so we have a special operation for count imputation where we utilize administrative records to help us determine the count of people in that household, similar to the NRFU.

And then later in the processing we will work to assign the characteristics. So it's a similar process, but the count imputation takes place when at first we don't know that we have the information, the characteristics for that household, but we do have information on the count.

Q Okay. So in that case there may be a household where you have administrative records suggesting that four people reside in that household, but you don't have administrative records that tell you their age, gender, those sorts of things? Am I understanding you correctly?

A We would have to do further processing to try to determine that.

Q Okay. And what further processing would you do?

A That is when we have an operation called

the edit and -- edit and imputation characteristics operation, and at that point we will make another attempt to see if we have administrative records that can be used to fill in the missing characteristics.

And if we are not able to, then we utilize what's called a hot deck methodology where you are basically looking for the nearest neighbor and they will be donating their characteristics to the household.

Q Let's go back, Mrs. Battle, to the statistical modeling. What do you mean by statistical modeling?

MR. SVERDLOV: Objection. Vague.

A So when I say statistical models, what I'm basically saying is that there is a mathematical approach where you are developing an equation that is trying to assess the relationship amongst a group of variables to help you predict an outcome.

So in this case the Census Bureau would be utilizing administrative records for the NRFU, a non-response follow-up, to assess different data

sources to help us predict whether that household is occupied. So using data from the Postal Service, using data from the IRS, using data from the Social Security Administration to help us predict whether that household is occupied.

Q And we are talking about a household where, that did not respond to the questionnaire; correct?

A Yes.

MR. SVERDLOV: Objection. Vague.

BY MR. DAVIS:

Q So you got no response, you use the statistical model to determine the likelihood that that household is occupied. So when you say that, are you looking at records from the Postal Service as an example that suggests that mail isn't being returned as undeliverable that's addressed to that household?

A Yes. That's exactly right. That's one of the components into the model. When we have data from the Postal Service, do they have this address marked as undeliverable as addressed. So that's a

piece of information that goes into helping us determine whether or not we think that household is occupied, for example.

Q And you mentioned IRS records if I understood you correctly. What type of information might you receive from the Internal Revenue Service to be a clue as to whether or not that household is occupied?

MR. SVERDLOV: Objection. Compound.

A Well, definitely the address and just understanding that there has been someone who filed taxes recently from that address again provides more information to help us determine whether or not that household is occupied.

Q Okay. Tell me -- look, if you would, Mrs. Battle, at the document that's behind Tab 7 of the notebook.

MR. DAVIS: Let's mark that as Exhibit 3, please.

(Battle Exhibit Number 3 was marked for identification.)

BY MR. DAVIS:

Q Are you familiar with the document that's been marked as Exhibit 3, Mrs. Battle?

A I believe I have seen this document.

Q Does it describe the process that we were just discussing of the steps that the Census Bureau goes through?

MR. SVERDLOV: Objection. Vague.

A It does talk about the steps that we follow for the 2018 End-to-End Test in terms of non-response follow-up, it talks about different administrative records that could be utilized, it talks about the imputation of the count of the household as well as the characteristics of the household. So, yes, it is similar to what we were just discussing.

Q Okay. What did you mean, Mrs. Battle, when you discussed the editing process?

A So after the census data has been collected, we know that not everyone answers every question, and so we have a process that we create where we specify how we are to fill in missing data.

And so that's our edit and imputation process.

And so we begin by taking a look at an individual record for a particular housing unit and we assess are there missing responses? And, for example, if there is a missing race response, the first thing we would do is then look to the other questions for that particular individual and see if responses to those other questions might help us fill in the race information.

So, for example, if race is blank, but they reported they are Hispanic origin and wrote in something like white or along with their Hispanic ethnicity, we can use that to help us fill in their race and make their race white, for example.

Q Okay.

A So we look to see if there is other information provided in that form to help us fill in missing information.

If there is no other information provided in that form to help us, then our next effort to try to fill in missing data is to see are we able to link up that household with our administrative

records, which would include the 2010 census responses. Did this household respond to the 2010 Census? If so, was information provided for this person and can bring forward and assign for 2020?

We also are going to be checking administrative records such as the Numident file, the Social Security Administration file. That file might be able to provide data on age or date of birth or sex for that individual.

So but if we are not able to match up with administrative records, then the next attempt to try to fill in missing information involves taking a look at others in that same household.

So if there is a child of the householder who is missing data, let's say race, and we know that their parent is in that household and they do have a race, then we can use that and assign that to their biological child. So we are looking within the household to see if there is anywhere else we can grab information to fill in.

And if that fails, then one of our last resorts is to use this hot deck methodology where we

then look for the nearest neighbor and try to match up the household on certain characteristics and then the nearest neighbor can donate that missing information. So there is a series of business tools and steps we go through.

Q I see. Let's say you get to the point where you use the hot deck methodology. What does "hot deck" mean?

A Really it's a statistical procedure where as we are collecting data through the decennial census and people are reporting fully their information, we store that fully-reported information up in this, it's called a hot deck. And then as we come across households that are missing information and we aren't able to be fill it in anywhere else, we take from that deck and assign data from the nearest neighbor. So that's the idea behind this.

Q Why is it called hot deck?

A Well, just that you are using live data on the spot and you are trying to use as fresh of information as possible to fill in the missing

information.

Q Okay. And give me an example of what type of characteristic might be imputed using the hot deck methodology.

A Race, ethnicity, and age and sex.

Q Would you use hot deck imputation to assign a count to a household?

A Earlier on when we were talking about count imputation, if there is a household where we really don't have any information available to us from administrative records to help us determine how many people are in that household to start, because we have zero information and we are not able to utilize any administrative records, so the last resort, similar to the characteristics, is to use a hot deck methodology where again you are pulling information from the nearest neighbors to assign a count, a population count.

Q Okay. Why does the Census Bureau believe that that would make the census more accurate; if you have no information about a household, to impute characteristics from a neighboring household?

MR. SVERDLOV: Objection. Vague and compound and assumes facts not in evidence.

A This has been a standard methodology that the Census Bureau has relied on for a number of decades and has relied on this methodology. This is the chosen methodology.

But, again, as we are experimenting with administrative records, and again that's a huge focus for the 2020 census, we are working to use administrative records as our, kind of one of our first attempts. But if we are not able to do that, then we do need to rely on other statistical methods to fill in characteristics, et cetera.

Q I assume that the Census Bureau uses this methodology because it believes that to result in a more accurate census?

MR. SVERDLOV: Same objection.

BY MR. DAVIS:

Q Do you agree?

A Yes. We need to provide information and we need to make sure that we have complete information for every housing unit counted in the

decennial census.

Q Okay. And if you get to a household where even using administrative records and questionnaires and enumerators the Bureau just has no information about that household, you will use hot deck imputation and a neighbor will donate characteristics to the household; correct?

A There is one other step I need to talk about.

Q Please.

A For the non-response follow-up operation for those housing units where I mentioned earlier where we determine that those housing units are occupied and that we have administrative records that we can use to assign their characteristics, that's one type of housing unit outcome.

However, there are going to be other housing units where again we don't have that information, and so the Census Bureau will continue to visit that housing unit up to six times trying to get the information.

For the 2020 census, after the third visit

if we still are not able to get information, then the Census Bureau will tell the enumerator to attempt to get a proxy interview, which means the enumerator will then try to reach out to a neighbor to see if they have information about how many people are living there and if they have any information on the characteristics. If the proxy interviews are not possible, then we move to the imputation aspect of it.

Q Okay. And how does the Census Bureau determine what type of household to donate characteristics to this other hypothetical household about which you have no information?

MR. SVERDLOV: Objection. Vague.

A I would need to examine the detailed methodology to answer that, but the general approach is that the Census Bureau will rely on the nearest neighbor, information that we have been collecting from the nearest neighbor to try to fill in information for that housing unit.

Q I'm thinking of my neighborhood, and you have in our household, my wife and I are empty

nesters, I have an across the street neighbor who is a single retired man, a next door neighbor who is a very young single man, another next door neighbor who is an African-American woman who is living withing extended family, including both grandparents and young children. It's a very diverse neighborhood.

So if you went through all these steps, the Census Bureau went through all these steps and could not get any information about my household, who would donate characteristics to my household?

MR. SVERDLOV: Objection. Calls for speculation. Vague.

BY MR. DAVIS:

Q It may be -- I'm just trying to understand, Mrs. Battle. It may be that it would be easier for you to simply describe the steps that the Bureau would go through under those circumstances.

A Well, again I would need to examine the detailed methodology to explain exactly how that would transpire.

Q Okay. Where would you go to examine the

detailed methodology? Is there a particular manual or document in the Census Bureau that you would use to educate yourself on that point?

A I would need to first consult with the area that's responsible for developing that operation.

Q What would that area be?

A That would be the Decennial Statistical Studies Division.

Q Is there a particular person in that division that you would speak to to better understand the process?

A I would start with the Division Chief, Patrick Cantwell.

Q And do you know, Mrs. Battle, why the Census Bureau uses hot deck imputation to assign characteristics to a household instead of just writing down a zero for that household?

MR. SVERDLOV: Objection. Vague.

A Well, the Census Bureau does determine through the use of staff whether they believe a household to be non-existent, the address is, you

know, it's not a habitable address, and those, of course, are deleted.

But if we can tell that this is a habitable address, the Census Bureau will then want to take further steps to make sure that they are, that household is included in the decennial census.

Q Does using imputation then help to ensure that as many inhabitants as possible are counted?

MR. SVERDLOV: Objection. Vague.

A Imputation helps us to ensure that if there is a housing unit where we believe there are people living there but we do not have information for them, that we are including those units in the decennial census.

Q And the goal of the Census Bureau is to have as accurate a census as possible. Would you agree?

MR. SVERDLOV: Objection. Form.

A The Census Bureau strives to have a complete and accurate count.

Q Of course. And in this case the Census Bureau has determined that imputation results in a

more accurate census than not using imputation. Would you agree with that?

MR. SVERDLOV: Objection. Argumentative.

A The Census Bureau is continually working to develop statistical approaches and other types of approaches to improve upon our methodology.

Q Of course.

A And while we are making improvements through the use of administrative records, we still need to rely on traditional methods when we need to assign characteristics, if there is nothing else that we can utilize to help.

Q Would you look, please, Mrs. Battle, at the document that is behind Tab 11 of the notebook?

MR. DAVIS: And let's mark this as Exhibit 4, please.

(Battle Exhibit Number 4 was marked for identification.)

BY MR. DAVIS:

Q This is a list of frequently asked questions, Mrs. Battle, from the Bureau's website. And I'll represent to you that it may not be in this

exact form on the website today, but it serves our purposes to help me understand the process a little better.

Have you reviewed this document before today?

A Yes.

Q A lot of these deal with apportionment, and I want to understand the process of apportionment and the role that the Census Bureau plays in apportionment.

First, would you agree with the first question and response there on the first page; that apportionment is the process of dividing the 435 memberships or seats in the U.S. House of Representatives among the 50 states?

A Yes.

Q And who is included in the apportionment counts?

A So the apportionment population counts contain two components. First, we include what's called the resident population. This reflects the population that was residing in a particular state

as of census day. That's their usual residence.

The second component of the apportionment population count includes the federally affiliated overseas. These are military and civilian employees of the federal government whose home state of record is that particular state.

So for a state you have the resident population and then the federally affiliated population, and together that equals the apportionment population counts.

Q Okay. After the 2020 census the Census Bureau will release a total population count for the United States of America; correct?

A Yes.

Q The count for apportionment purposes will differ from that, will it not?

MR. SVERDLOV: Objection. Vague.

A The results of the decennial census, the first results from a decennial census include the apportionment population counts, which includes the resident pop, people enumerated as usually residing in these states, plus the federally affiliated. So

that is the only data product that comes out of a decennial census where you have the federally affiliated population included.

Q Okay.

A All remaining data products from the redistricting data file, the PL-94171, all the remaining data products only include the resident population, not the federally affiliated.

Q And the PL-94 --

A 171.

Q -- 171 file, tell me what that is.

A That is a data product that the Census Bureau publishes that is for the use of states in their redistricting process.

Q And that data product does not include people, this population living overseas that you described; correct?

A That is correct.

Q Okay. In the apportionment count, and that's -- let me start over. Does the apportionment count, for example, include residents of the District of Columbia or Puerto Rico?

MR. SVERDLOV: Objection. Compound.

A The apportionment population counts do not include data for the District of Columbia or Puerto Rico.

Q It's only for the 50 states plus this overseas population?

A Correct.

Q Okay. And how -- this person who is living overseas, as part of the overseas population, how does the Census Bureau determine which state to count them in?

MR. SVERDLOV: Objection.

BY MR. DAVIS:

Q In the apportionment count?

A So the Census Bureau has an operation that's called the Federally Affiliated Americans Operation. And that operation entails the Census Bureau working with different federal agencies, and we first start by working with the U.S. Office of Personnel Management to get a list of those agencies that have employees stationed overseas.

And once we have that list, the Census

Bureau reaches out to those agencies and establishes a contact and informs them of the special federally affiliated overseas operation. The Census Bureau works with these agencies and explains what is needed, and these particular agencies will then go and through their records provide counts for everyone in their agency whose stationed overseas or deployed overseas and they will give us a count by state.

And we ask that they provide the information for employees' home state of record. So the agencies find that information and they deliver the state counts to us for the employees.

Q Okay. And one of those agencies may be, for example, the State Department?

A Yes.

Q So somebody whose home state of record is Alabama, is employed by the State Department and is stationed oversees, the State Department would report to the Census Bureau that that person has listed Alabama as the home state of record?

MR. SVERDLOV: Objection.

BY MR. DAVIS:

Q Did I understand you correctly?

A Yes. The State Department will then provide to us the home state of record, they will take a look at for all of their employees the home state of record and give us a count; for all of their employees who have a home state of record of Alabama, a count for all of their employees that had a home state of record of California, and so on.

Q Okay. And so for the state of Alabama you have a count for the residents of the state of Alabama and you add in all of these other overseas people who are reported by the various agencies as having Alabama as their home state of record and you add that to Alabama's total for apportionment purposes; is that right?

A That information results in the federally affiliated overseas count for a state, yes, and that is added to the state's resident population and that equals the apportionment population.

Q And this apportionment population count is something the Census Bureau provides to the

President; correct?

A Yes.

Q And when does that happen?

A The Census Bureau is mandated to deliver the apportionment population counts to the President within nine months of the census day, which turns out to be before December 31st of census year.

Q So that will be provided no later than December 31st of 2020 to the President?

MR. SVERDLOV: Objection.

BY MR. DAVIS:

Q Is that right?

A That is correct.

Q Okay. Does the apportionment count provided to the President include non-U.S. citizens?

A The apportionment population counts that we develop includes the resident population as enumerated in the decennial census as well as the federally affiliated overseas, and both of those will include citizens and non-citizens.

Q Obviously then if it includes both citizens and non-citizens, it includes non-citizens

who are lawfully present and non-citizens who are not lawfully present?

MR. SVERDLOV: Objection. Assumes facts not in evidence.

A It includes all types of people who are non-citizens.

Q Yes. It includes everyone regardless of citizenship and regardless of lawful presence; is that correct?

MR. SVERDLOV: Objection. Vague.

A Yes.

MR. DAVIS: We haven't been going that long, but this actually might be a good time for a breather.

MR. SVERDLOV: Okay.

MR. DAVIS: Do you want to take 15 minutes? Is that okay with you, Mrs. Battle?

THE WITNESS: Yes.

(Recessed at 10:03 a.m.)

(Reconvened at 10:26 a.m.)

BY MR. DAVIS:

Q Mrs. Battle, going back to the hot deck

imputation, do you know what the Census Bureau would do if my household is eligible for hot deck imputation, but I happen to live in the neighborhood where all of the residents of the neighborhood are very different from me, different race and all the other neighbors have kids and I don't; do you know what the Census Bureau would do in that instance?

MR. SVERDLOV: Objection. Vague and calls for speculation.

A Well, again the premise of the hot deck methodology would be to go to that nearest neighbor and we can use that.

Q Okay.

A Now, when we do have some information about the household, we do try to match up those characteristics when we do the hot deck imputation.

So, for example, if we know that the householder who does not have information, if they have a Spanish surname, then we look for nearest neighbor with a Spanish surname to try to perhaps impute race or ethnicity. So if we do have some information, we try to match up those

characteristics and then take what we need to have donated.

Q And do you have a division that tries to determine which household is the best source of the donated information?

MR. SVERDLOV: Objection. Vague.

A Again when it comes to the characteristic imputation using a hot deck, there is this standard approach, and I would have to look at the details of the methodology to --

Q Okay.

A -- address that further.

Q Okay. Is the Census Bureau trying to enumerate the total number of people who are physically present within the State of Alabama on April 1, 2020 or residents of the State of Alabama?

MR. SVERDLOV: Objection. Compound.

A The core concept that the Census Bureau utilizes in doing its enumeration is the concept of usual residence, so we are looking to enumerate individuals where they usually reside, where they live and sleep most of the time.

Q Okay. So someone simply driving through the state on that date would not be counted if their usual residence is in some other state; correct?

A Yes.

Q Okay. And a tourist who happens to be within the state on April 1 wouldn't necessarily be included in the population count if their usual residence is some other state; is that correct?

A The idea is, yes, we want to count people at their usual residence where they live and sleep most of the time.

Now, I need to say that the residence criteria is based on three core principles. So the first one is that of usual residence, where we want to count people where they reside and live and sleep most of the time.

Secondly, there are people who are in certain types of facilities on census day that will be counted at that facility, such as prisons, et cetera.

And then, thirdly, if we cannot determine the usual residence for an individual or they don't

know, they don't have one, then we count them where they are on census day. So those are the three principles.

Q Okay. Will the Bureau report a count of U.S. citizens as a result of the 2020 census?

MR. SVERDLOV: Objection. Vague.

A The Census Bureau is working to develop what's called the citizen voting age population by race and ethnicity special tabulation, which would be based on data from the decennial census. And as you can tell by the name, it will include citizen information; citizenship voting age population.

Q Okay. So will there be within any of the products that the census releases after the 2020 census, will there be a total count of United States citizens?

MR. SVERDLOV: Objection. Vague.

A The specific data product that I mentioned for citizen voting age population by race and ethnicity will be limited to citizens that are 18 years and older. So that would be the extent of the publication of citizens.

Q Does the Census Bureau have any intention of attempting to count the citizens who are under the age of 18?

MR. SVERDLOV: Same objection.

A Well, all usual residents are to be counted in a decennial census.

Q I see the problem with the question I just asked. Okay. You are certainly going to try to count everyone, all residents who, regardless of age; correct?

A Yes.

Q Okay. Of those who are under 18, does the Census Bureau intend to attempt to determine how many of those people are U.S. citizens?

MR. SVERDLOV: Objection. Vague.

A In terms of the publication of statistics, the Census Bureau is finalizing the exact format of the citizen voting age by race and ethnicity special product, but in the efforts to develop that information and using administrative records, I am -- the information on citizenship for those who are under the age of 18 would be involved in the

process. While we have not finalized the specific methodology to produce those data, we will be utilizing information on citizenship status for the population.

Q Okay. How does the Census Bureau currently plan to develop the citizen voting age population data?

MR. SVERDLOV: Objection. Vague.

A Well, the Census Bureau has not finalized the specific methodology and approach or the final table share, but of course the Census Bureau does produce a citizen voting age population special tabulation annually currently, but it's not based on the decennial census, it's based on the American Community Survey. So they are still determining that final methodology for the citizen voting age population product based on the decennial census.

Q So in the past the Census Bureau has released citizen voting age population data that was based on the American Community Survey; correct?

A Yes.

Q Okay. After the 2020 census do I

understand you right that the Census Bureau intends to release citizen voting age population based on the 2020 census itself?

A For the product that we are planning to release in year 2021, the citizen voting age population data product would be based on the decennial census.

Q And when it comes to how exactly the Bureau plans to do that, is that what you say is still under consideration?

A Yes.

Q Okay. Has the Census Bureau determined that whatever the final method is, that it will use any particular subsets of data?

MR. SVERDLOV: Objection. Vague. And I will also say that as you can tell from the witness' answer, the methods haven't been determined, so we are sort of veering into areas where we might assert deliberative process privilege. So instruct the witness to answer in general terms.

BY MR. DAVIS:

Q The way I phrased the question is although

final methodology hasn't been determined, have you at least determined that, for example, yes, we will use this particular set of administrative data?

MR. SVERDLOV: I'm not convinced that that cures my objection, but if you can answer in a general way, please do.

A So the Census Bureau is looking to utilize administrative records in combination with decennial census data, so that is the general idea, but in terms of specifically which administrative records, that has not been determined yet.

Q Will you attempt for each person that you count, and let's start first with people who are voting age and older. Will the Census Bureau attempt to determine whether or not that individual is a citizen or a non-citizen?

MR. SVERDLOV: Objection. Vague.

A The Census Bureau is developing methodologies that would help us determine the citizenship status for everyone counted in the decennial census.

Q For everyone regardless of age?

A For the purposes of developing the data product in and of itself, the methodology is not finalized, but the Census Bureau will be collecting information on, through administrative records and that information will be utilized to help us produce the final product which is focused on the population 18 years and older. It's because the methodology is not determined, I cannot say for sure at this time exactly to what extent we would be collecting the data on citizenship.

Q Would you look at the document that is behind Tab Number 8 in the notebook, please, Mrs. Battle?

MR. SMITH: Can you repeat the tab number?

MR. DAVIS: Tab Number 8.

MR. SMITH: Thank you.

MR. DAVIS: Can we mark this?

(Battle Exhibit Number 5 was marked for identification.)

MR. SVERDLOV: Can you state for the record what you've marked?

MR. DAVIS: Yes. We've marked as Exhibit

5 this January 19, 2018 memorandum from John M. Abowd to Wilbur Ross. And it's Bates marked as P-001.

BY MR. DAVIS:

Q Have you seen this memorandum before today, Mrs. Battle?

A Yes.

Q Can you summarize the recommendations in the memorandum? Let me see if I can make that quicker.

Do you understand the author to be discussing three different methods for attempting to determine citizenship or imputing citizenship for the people that they count and making a recommendation as to which of those three methods would be better?

MR. SVERDLOV: Objection. Vague and compound.

A Yes.

Q Okay. And am I reading it correctly that they recommended that, as it says in the second paragraph, we consider three alternatives in

response to the request from the Department of Justice, and one of those is Option C, obtaining citizenship status from administrative records for the whole 2020 census population?

A Yes.

Q Okay. Is that, in fact, the goal of the Census Bureau, to obtain citizenship status from administrative records for the whole 2020 census population?

MR. SVERDLOV: Objection. Vague.

A Well, the Census Bureau would need to obtain that information. While the CVAP data product is focusing on the 18 and plus older population, we do need the foundational information. So, yes, the Census Bureau is trying to ascertain from administrative records citizenship status for the 2020 enumerated population.

Q This is a slightly different topic. There are questions and answers towards the back of the memorandum, Mrs. Battle. On the page that's Bates numbered P-11, there is a Q and A about the response rates for the 2000 census long form and short form,

and it says the mail response rate in 2000 was 66.4 percent for the short form and 53.9 percent for the long forms.

Do you know what the response rate was for surveys for the 2010 census?

A I do not know that off the top of my head.

Q Okay. In the 2010 census there was no long and short form, there was just one form; correct?

A Correct.

Q And is that going to be true for the 2020 census as well?

A Yes.

Q Do you know where I could go to look up the response rate for the 2010 census?

MR. SVERDLOV: Objection. Vague.

A That information must be in an assessment report on our website.

Q Okay. Do you think that's likely to be something that was publicly reported?

A Yes.

Q A few pages over on the page that's Bates

Numbered P-15, question 12 asked about other data that may be available, other administrative data that may be available to impute citizenship.

The response says the Census Bureau is in discussion with the U.S. Citizen and Immigration Services, USCIS, staff to acquire additional citizenship data. Do you know the status of the discussions with the U.S. Citizen and Immigration Services to acquire administrative data?

A This might be a good time to use our additional reference sheet. We have reference sheets.

Q Yes. You are looking at some of the documents that your counsel brought today?

A Uh-huh.

Q If at any point a document would help you respond to the question, please just refer to it.

A Background sheet number 2. Background sheet number 2.

MR. DAVIS: And before we continue, let's go ahead and mark it as an exhibit so that after the fact we will all know which document we are talking

about. And let's mark that as Exhibit 6, please.

(Battle Exhibit Number 6
was marked for identification.)

BY MR. DAVIS:

Q And what is this document that's been marked as Exhibit 6, Mrs. Battle?

A Well, the first page of the document lays out the members of the Interagency Working Group that the Census Bureau created per Executive Order 13880 and lists the departments who are participants as well as the representatives.

The second page begins the listing of the administrative records that the Census Bureau has received from a number of agencies, and it actually provides some information on the status.

Your question was about data from the Citizen and Immigration Services?

Q Correct.

A And so if you look on page 2, what you will see is a listing of the types of data that we have requested from the, received from the Department of Homeland Security, and you will see it

mentions that the lawful permanent resident file and naturalization data have been obtained from the Citizen and Immigration Services.

Q Okay. Okay. So I see in that row of the document, page 2 of Exhibit 6?

A Yes.

Q The source agency is the Department of Homeland Security, and you finalized an agreement with the Department of Homeland Security on December 23, 2019. Am I reading that correctly?

A Yes.

Q You began negotiations with the Department of Homeland Security on January 2018?

A Yes.

Q And data type I see, there the rows begins to be broken down into two different rows. So you have the lawful permanent resident file and naturalization data, paren, Citizen and Immigration Services; correct?

A Yes.

Q Okay. And under Variables it says: "46 variables consisting of person identifiers and

citizenship status. All variables will potentially be used for the citizenship project."

So do I understand this to mean that what you received is a database, and so for each person there are 46 fields in that database?

MR. SVERDLOV: Objection. Vague. Assumes facts not in evidence.

A We requested a data file from the Department of Homeland Security, and so the expectation is that each of the records for individuals will contain data in each of those 46 variables.

Q Okay.

A Yeah.

Q And under Status it says: "Fitness for use determination." What does that mean?

A So the Census Bureau is acquiring new sources of administrative records, and once those new sources arrive, the first thing we have to do is evaluate those data to help us determine if we can use the data, and if we can use the data, then we begin to think through how best can we use the data

to comply with the executive order.

So the first thing that has to happen is when we acquire these data sets, we need to make sure we can read the files that have been given to us and we need to make sure that all 46 of those variables are present in the data, just to make sure nothing went awry in the agency developing the data for us.

But once we have that covered, we then need to dig deeper and start taking a look at the variables that we have requested. We want to take stock of how complete are those data. If we have one of those variables that says address, well, is address missing for 60 percent of the records in the file? And for addresses that are reported, are they complete addresses, are they partial? So we need to evaluate the kind of data that we have in each of those variables.

And that's really important because we need to be able to assess if we can make record linkages, and so we need identifiers like name, age, date of birth, sex, address. And, of course, the

citizenship variable itself, we need to assess how complete are those data, et cetera.

Q Okay. And you are trying to -- if you -- if you get this database from Homeland Security, just stick with that example, you are trying to link it to some other database, is that right? To connect it so that you can compare the two databases?

MR. SVERDLOV: Objection. Vague and misleading.

A Yes.

Q Okay. And what is the other database? Is it -- what is the other database?

A So the Census Bureau, number one, has reference files, and the primary source of these reference files include the Numident file, the numerical identification file that we get from the Social Security Administration.

That's a huge database that has all of these data, data on all Social Security numbers ever issued. In addition to that we have a file that contains what's called ITI, income tax

identification numbers. These are unique identifiers that are assigned by the Internal Revenue Service to individuals who are not eligible for a Social Security Number.

So we have this database that has all of this unique identifiable information. So our goal is to see if these newly acquired administrative records, if we can match individuals up, whereas we have in the Social Security Administration information on citizenship. So that's one way that we are doing linkages.

In addition to that, we also want to see if we can link people across these different administrative record data sets that we are acquiring to compare and see what information do we have, are they differing for individuals, have people updated their addresses. So there is an element of that to it.

So we are really looking to see how we can make linkages, not only with our internal reference files, but across the newly acquired data sets as well.

Q If I look at this chart on Exhibit 6 and I see the words under, "Status; Fitness for use determination," does that mean that the Census Bureau has already determined that the data is usable?

MR. SVERDLOV: Objection.

BY MR. DAVIS:

Q Or that it has not made a determination yet?

A It has not made a determination yet. It's in that process.

Q Okay. What group or division in the Census Bureau has the responsibility of determining whether a database or performing the fitness for use determination?

A Well, most of this work is going to be done through the Research and Methodology Directorate, as well as utilizing staff from the Center for Economic Studies.

Q I'm sorry, Mrs. Battle. You said the Center of Economic Studies, but you also said the research?

A The Research and Methodology Directorate.

Q And is the Research and Methodology Directorate a division of the Census Bureau?

A It is an organizational unit that contains multiple divisions.

Q Okay. Does it -- is it part of the Census Bureau?

A Yes.

Q Okay. And who heads the Research and Methodology?

A John Abowd. Dr. John Abowd.

Q Now, back at Exhibit 6, and I see under Department of Homeland Security that there is a second data set, which is under Data Type it says Arrival Departure Information System and Visa Data.

And there under Status it says, "Awaiting Data Transfer from DHS." I take it that just means you haven't received the data yet from Homeland Security?

A That particular data, that's correct, we are waiting to receive that.

Q Yeah. Is there any data where the fitness

for use determination process has been completed?

MR. SVERDLOV: Objection. Vague.

A For the administrative records that we've acquired we are still in the process, either we are waiting for the data or we are beginning to do that evaluation.

Q Okay. Is there any administrative data that you are aware of that the Census Bureau has requested for these purposes that is not listed on this chart that's been marked as Exhibit 6?

MR. SVERDLOV: Objection. Vague.

A One thing I call your attention to is on page 5. At the bottom you'll see the source agency is Nebraska.

Q Yes.

A So what I would say is that we have put out requests to all 50 states to obtain driver's license data, but the only one listed here is Nebraska as we have received those data. So I will mention that.

MR. SVERDLOV: Counsel, can I pause for one second?

MR. DAVIS: Yes.

MR. SVERDLOV: I want to go back to my prior objection. The reason I objected is because it was unclear whether the question asked for the witness to testify on behalf of the Census Bureau or in her personal capacity when you said whether she is aware.

MR. DAVIS: Fair. But let me clear that up. I could and almost certainly will get sloppy with some of the language I use. That's not intentional. I recognize Mrs. Battle is produced as a representative of the department. Unless I very clearly state otherwise, I'm intending to seek the department's knowledge and information.

MR. SVERDLOV: Thank you.

BY MR. DAVIS:

Q So there is data, Mrs. Battle, that the Census Bureau has requested that is not on the chart. At least we know that it's requested driver's license data from all other states; correct?

A Correct.

Q Are you aware of any other data that the Census Bureau has requested that is not listed on this chart?

A The Census Bureau has also reached out to states to request data on WIC, and TANF, and SNAP. So that would be SNAP would be the Supplemental Nutrition Assistance Program data. WIC is the Women, Infants and Children's Program. And TANF is the Temporary Assistance for Needy Families Program. So we are working to obtain those data from states as well.

Q Do you know if any states have declined to provide driver's license information, if they have responded to the Census Bureau's request and said we are not going to provide that?

A My understanding is that there have been a number of states who have said no.

Q Do you know how many?

A Rough approximation, about a third.

Q Okay. Are you aware of any administrative data that the Census Bureau has requested from federal agencies and those federal agencies have

refused to provide the administrative data?

MR. SVERDLOV: Counsel, I'm going to object here once again because we are verging very close to ongoing negotiations, and we would view materials that this question potentially calls for as subject to the deliberative process privilege.

So I think if the witness can answer in a general way, that would be fine. But specific details about agencies which have and have not responded we would view as falling within the privilege.

MR. DAVIS: Okay. Tell me this. And I will direct this to counsel. Just -- if -- would the witness be allowed to tell me whether, that if a hypothetical federal agency had said no, whether the Census Bureau would consider the matter closed or whether that issue would still be under negotiation?

MR. SVERDLOV: I think we would view that issue as still under negotiations potentially.

BY MR. DAVIS:

Q Okay. Let me try to ask it this way, and be sure to allow your counsel time to lodge an

objection. Mrs. Battle, if the Census Bureau has requested administrative data from another federal agency and that federal agency initially said no, is it the intention of the Department of Census to continue to seek that information through negotiations?

MR. SVERDLOV: I'm going to raise the same objection and instruct the witness not to answer.

BY MR. DAVIS:

Q Let me ask it this way. Has the Census Bureau requested information from any federal agency, and by information I mean administrative data that it intends to use to impute citizenship status, and that other federal agency has responded with a refusal to provide the information?

MR. SVERDLOV: Counsel, I'm not sure how that question is materially different.

MR. DAVIS: How is -- this is a fact of something that happened in the past, whether an agency has responded with a yes or a no. That's not a deliberation.

MR. SVERDLOV: I think if we can answer it

in a general way, the witness can try to do so. But I think we are very close, as I've indicated, we are very close to the line of those, the negotiations that the Department of Commerce and the Census Bureau is having with other agencies, and we would view that as subject to privilege. So if you can answer in a general way, perhaps it would be helpful to, for you to restate your question.

BY MR. DAVIS:

Q I'm not waiving this issue, but tell me what you can.

MR. SVERDLOV: Objection. Vague.

A I would say that the Census Bureau has established an interagency working group and we do have members from the, across the federal government. And the purpose of that working group is to facilitate the Census Bureau acquiring administrative records to help us comply with the executive order.

Q Thank you. That doesn't really help with what I'm looking for, but I appreciate that.

Now, this working group, that is what is

listed on the first page of Exhibit 6; correct?

A Yes.

Q Okay. And they have had one meeting to date?

A Yes.

Q Are any further meetings planned?

MR. SVERDLOV: Objection. Vague.

A At this point the work that's happening is really involving the points of contact. So the Census Bureau has a point of contact who is working with points of contacts at all of the member agencies to work through any issues with interagency agreements, to talk through the data and the variables that we are requesting to acquire.

So there is a lot of back and fourth, and not in formal meetings with full membership, but there is a lot of back and forth between the Census and individual agencies to continue working through issues to make sure we can acquire the data that we have requested.

Q Is there any administrative data that the Census Bureau has determined that it will request

but it simply has not made that request yet?

MR. SVERDLOV: Objection. Vague.

A At this time I am not aware that the Census Bureau has any other remaining requests outstanding.

Q Let's look back at Exhibit 5, and that's the document that's behind Tab 8 in your notebook, Mrs. Battle. We are still in the back with the Q and As.

A All right.

Q Q&A 20, which is on page P-17, as I read it, you tell me if I'm wrong, please, the question posed is whether the Alternative C approach, the use of administrative data, has been used before on other data collection projects. And the response says the approach in Alternative C has been routinely used in processing the economic censuses for several decades.

First off, I read at that correctly; right?

A I'm sorry. Which number are you on?

Q It's Q&A 20 on page P-17.

A Okay. Okay.

Q Okay. First tell me what it means by economic censuses.

A So the Census Bureau not only conducts a census of the population, but it also conducts a census of organizations, businesses, et cetera. And so they are referring to those economic censuses.

Q Okay. Administrative data has been used, was used in the 2010 census, was it not, to impute characteristics and for other purposes?

A There were administrative records used to impute characteristics used in the 2010 census.

Q Okay. So the use of administrative records is not limited in the past to economic censuses. Am I right about that?

A Correct.

Q Okay. And if you turn to the page of that same exhibit where the Bates Number at the bottom is P-30, please? Do you see the chart there that's labeled Figure 1, Mrs. Battle?

A Yes.

Q Can you explain this to me, what the terms

are; Linked, Adrec, A-D-R-E-C, and then on the other side Not Linked and Model?

MR. SVERDLOV: Counsel, really quick, I'm also going to raise an objection because I think this line of questioning is starting to veer somewhat outside of the topics that we have negotiated.

MR. DAVIS: I believe this Figure 1 refers to the use of administrative data in general and the memo is about citizenship. That seems to fall under the umbrella.

MR. SVERDLOV: Yes. And as you will recall -- my yes was not me acceding to your premise.

As you recall, we narrowed those topics in our December 27th, 2019 letter, which stated that we will produce a witness who can testify about these topics to the extent they concern the feasibility and utility of collecting and using administrative records in the manner directed by Executive Order 13880, and I believe the document you are referring to is part of Topic 5.

MR. DAVIS: Okay. Well, is the witness allowed to explain to me, for example, what modeling is?

MR. SVERDLOV: I think we can pursue some general questions along those lines, but I do want to flag that, you know, questions about like the general background of this document and it's preparation was one of the things that we specifically limited.

MR. DAVIS: I'm not asking about that. I want to explain the terms. I asked her to explain the terms.

BY MR. DAVIS:

Q First, Mrs. Battle, what is A-D-R-E-C? Do you know?

A Yes. That refers to administrative records.

Q Okay. And what is model?

A Model refers to developing a statistical model.

Q Okay. So after the 2020 census if you are able to link records, you will use the

administrative records to impute citizenship for a person; is that correct?

MR. SVERDLOV: Objection. Vague. Calls for speculation.

A The basic idea is that the Census Bureau will combine multiple sources of citizenship from different sources of administrative records and use that information to determine citizenship status.

Q Okay.

A Linked records can then, we can then utilize those administrative records to determine citizenship.

Q Okay. And in the 2020 census if you are not able to link administrative records, does the Census Bureau intend to use statistical modeling to impute citizenship?

MR. SVERDLOV: Objection. Vague.

A This diagram shows that initial thinking is that if we are not able to link administrative records to respondents or individuals counted in the census and we need to determine their citizenship status, that a statistical model would be utilized

to determine that.

Q Okay. And how will that be performed?

MR. SVERDLOV: Objection. As you might have surmised from the nature of that question, the work in this area is still ongoing, so we view the specifics of that work to be covered by the deliberative process privilege. I will instruct the witness to answer in general terms if she can, but not the specifics.

MR. DAVIS: But it's a fair question and if the answer is that they don't know yet, then that's the answer.

MR. SVERDLOV: Sure.

BY MR. DAVIS:

Q So if the Census Bureau is not able to link administrative data and you will use statistical modeling, the question is how will that happen?

A So at this point in time the Census Bureau has not finalized its methodology about exactly how that will take place.

Q Okay. Who is working on making the final

determination of how that will work?

MR. SVERDLOV: Objection. Assumes facts not in evidence.

BY MR. DAVIS:

Q Well, did I understand you correctly? You said no final determination had been made. Is anyone in the Census Bureau thinking about that and working on making a final solution?

MR. SVERDLOV: Objection. Vague and compound.

A The Census Bureau staff who are evaluating the administrative records that the Census Bureau acquires are going to be involved in the process of working with Dr. John Abowd to determine the statistical modeling. So -- so the first step is really to evaluate the incoming data, and then we can turn to specifically how to develop the modeling.

Q Okay. And to the best of your knowledge, is that going -- will these decisions be made by Dr. Abowd and his group?

MR. SVERDLOV: Objection. Vague.

A I believe recommendations will come from those involved in this research and those recommendations will be presented to executive leadership at the Census Bureau and the department.

Q Okay. We touched on this, but I'm not sure it's clear in one spot, Mrs. Battle. Can you describe for me the difference between statistical modeling and imputation?

MR. SVERDLOV: Objection. Vague.

A Well, I would say that statistical modeling is a form of imputation, whereas imputation might involve imputing data from someone else in the same household or using a hot deck or using a statistical model. So to me statistical modeling for this purpose is a form of imputation.

Q Okay. Let's say for the 2020 census through linking databases you learn from the administrative records you receive from the Social Security records that a particular person is a United States citizen. That's imputation because you are taking, is it not, when you are taking information you received directly from other

administrative records that says that this person with this Social Security Number is a citizen?

MR. SVERDLOV: Objection. Vague, compound and calls for speculation.

A So information on citizenship status from these administrative records will be used in combination to help us determine the citizenship status, so we are going to take multiple sources into account to help us determine the citizenship status. It may not necessarily be taking one specific source and then imputing it. We are going to take all of that into account and then determine.

Q Okay. You wouldn't look then at a single agency's administrative records, but at the universe of the administrative records you receive in this process in order to impute citizenship? Did I hear you correctly?

MR. SVERDLOV: Objection. Vague.

A The general idea at this point is to pool as many different sources on citizenship for an individual as possible and to utilize those multiple sources to help us determine what the citizenship

status is.

Q Does the Census Bureau have a goal for a deadline for determining, number one, what of this data is usable? And by this data I mean the administrative records that are listed on Exhibit 6?

MR. SVERDLOV: Objection. Vague and compound.

A The Census Bureau has set a goal of the spring of 2020 to complete or at least complete initial evaluations of the data to try to determine specifically which sources could be utilized in continuing to develop a CVAP file.

Q Is there any plan that you are aware of, Mrs. Battle, to report publicly that the Census Bureau has determined that, for example, the records from Department of Homeland Security are usable and will be part of this imputation process?

MR. SVERDLOV: Objection. Vague and once again verges into deliberative process. So to the extent -- to the extent the witness can answer in general terms about whether there are plans, that would be acceptable.

BY MR. DAVIS:

Q That's what I asked. Are there plans to publicly report the decisions as to the determinations as to whether the data is usable?

A I know the Census Bureau does plan to share publicly the approach, the statistical modeling approach and the data sources to be utilized.

Q Okay. And you said that there is a goal of making the decision by, making the determination by spring of 2020 as to whether the data is usable or to release the statistical modeling process?

MR. SVERDLOV: Objection. Compound.

A The goal for spring of 2020 is to be able to determine specifically which sources of administrative records could be used and the methodology.

Q Both?

A Yes.

Q Okay. While I understand there is no final determination of the specific processes to be used, has a decision been made on what to do if

there is conflicting information about citizenship among different administrative records?

MR. SVERDLOV: I think that this very much verges into the ongoing deliberations of the agency. To the extent that the witness can answer in general terms about whether there is or is not a plan, that would be fine. But otherwise I will instruct the witness not to answer.

MR. DAVIS: That's what I asked, Aleks. I asked has a determination been made on what to do. I didn't ask what that determination is. I don't want to know. I asked if a decision has been made.

BY MR. DAVIS:

Q So has a decision been made about what to do if there is conflicting information about citizenship among the different administrative records?

A The methodology to be used to address that issue has not been determined as of yet.

Q Thank you.

MR. SVERDLOV: Are you okay? Do you need a break.

THE WITNESS: I'm good.

BY MR. DAVIS:

Q You tell me at any time if you need a break.

A Okay.

Q Would you please turn, Mrs. Battle, to the document behind Tab 6 of the notebook? Are you familiar with this document, Mrs. Battle?

A I do not believe I have specifically seen this document, but I understand the general information.

Q Okay. I have some very general questions, so I don't think a lack of familiarity with the specifics of this individual document will matter.

MR. DAVIS: Let's go ahead and mark this for the record.

(Battle Exhibit Number 7
was marked for identification.)

MR. SVERDLOV: Just to be clear on the record, this is a document that was not one of the ones identified in your list of topics. So to the extent that it falls within some other category, or

you believe it falls within some other category that you have identified, obviously we will let you pursue those questions, but otherwise specific questions about this document I think would be outside the scope.

MR. DAVIS: I know that if I ask a question outside the topics, you will object. You don't have to warn me about that. And I know this wasn't listed.

BY MR. DAVIS:

Q On the Executive Summary, which is the page that's Bates numbered 6315 --

A Yes.

Q -- the first sentence says: "Characteristic imputation in the 2010 Census Coverage Measurement program imputed values when missing values occurred for relationship, race, Hispanic origin, age, sex, and tenure."

I want to know do you know what the 2010 Census Coverage Measurement Program is?

A Yes. This is the program that is conducted after the decennial census to assess the

coverage of the population. It's one of two methods the Census Bureau uses to assess the coverage in the decennial census, whether there is an over-count or under-count.

Q Okay. And do I understand this memo correctly that characteristic imputation is a part of that process?

A Yes.

Q Okay. So you are using imputation when you are assessing the coverage of a past census?

A Uh-huh. So with the Census Coverage Measurement Program they actually go out and conduct a survey. And so what they are doing is collecting the same information that was collected in the decennial census. And not everyone answers all of those questions even in this survey.

So this is, the same method, the same approach is used to fill in the missing data.

Q Okay. And -- no. Never mind.

On page 3, the first full paragraph begins as follows. It says: "Editing was a fundamental part of the census characteristic imputation

system."

I'm not sure I understood what, what the difference is between editing and imputation.

MR. SVERDLOV: Objection. Assumes facts not in evidence.

A So the difference here is that editing is when you are trying to resolve inconsistencies that may exist between the data or utilize data that's been provided to help you determine a value.

So, for example, if someone only provides their date of birth, but they don't provide their age, what we will do then is calculate age based on the date of birth. So that's the editing.

Q Okay.

A As opposed to using administrative records to bring in and fill in missing information. So that's, you know, another example of editing would be if we have a situation where a household responds that there is a same sex couple household, but then when we look at the sex data for the variables, they are opposite sex. So we have to figure out how do we handle this inconsistency. So we are using

reported data, but we have to resolve inconsistencies.

Another example would be if someone reported their date of birth and gave an age, but when you calculate age and date of birth, it doesn't match. Some people like to report their age around zeros and fives, you know, 40 instead of 41.

So there are things like that that involve editing of the data to try to resolve inconsistencies, and that's different from imputation where you have let's say missing data and you need to find a way to bring in other sources to fill in the gaps.

Q Okay. And let's say that different, a person reports an age and a date of birth that don't match up. Are there rules that the Census Bureau has that when that happens, these are the steps we will go through?

A Yes. There are business rules for that, yes.

Q Where are those reported?

MR. SVERDLOV: Objection. Assumes facts

not in evidence.

A So --

Q Are they reported?

A The business rules for how to conduct the editing and imputation procedures, they are contained in a specification.

Q Okay. Where are the specifications? Are those something that's publicly reported?

A Those specifications typically are not put out to the public.

Q Okay. Is there a particular group or department or division in the Census Bureau that's responsible for developing and maintaining those business rules?

MR. SVERDLOV: Objection. Vague and compound.

A Yes. For the characteristics related to age, sex, race and Hispanic origin, my division, the Population Division, is responsible for those specifications.

For editing and imputation rules, business rules related to relationship and tenure, our sister

division, the Social, Economic and Household Statistics Division produces those specifications.

Q Okay. And related to the methods that the Bureau is developing for citizenship, does the Census Bureau intend to develop business rules that will address those issues?

MR. SVERDLOV: Objection to vague and compound.

A I think that the methodology that will be determined and developed to allow the Bureau to determine citizenship will have to include the information on statistical modeling and any other procedures that are done with the data.

Q I've seen references, Mrs. Battle, to developing or imputing the best citizenship status?

A Yes.

Q What is best citizenship as opposed to just citizenship?

MR. SVERDLOV: Objection. Vague, and misleading, assumes facts not in evidence.

A So this is part of what the Census Bureau needs to do in terms of evaluating the

administrative records that have been acquired.

Q Okay.

A There will potentially be different citizenship values reported across different administrative records, so the Census Bureau needs to develop a methodology that will help them take those multiple sources of information into account and then determine what the best citizenship status is for an individual.

Q Okay. So let's say hypothetically for this one person one set of administrative records suggests that this person is a citizen and another set of administrative records suggests that this person is a non-citizen. When you say best citizenship, do you mean that the Census Bureau will try to determine which of the various pieces of information is more likely to be reliable?

MR. SVERDLOV: Objection. Misleading and calls for information that we view as protected by the deliberative process privilege.

MR. DAVIS: I'm asking about what she just told me, trying to understand her previous response.

BY MR. DAVIS:

Q So this was directly related to her past response. Did I understand you correctly, Mrs. Battle, that when the Bureau is referring to best citizenship variable, that you are trying to reconcile which conflicting pieces of information is correct?

MR. SVERDLOV: Objection. Vague. And I think we are still in that category of information where the Census Bureau has not reached the final decision and so it's trying to deliberate. But if you can answer in a general way, go ahead.

A One example that might help that is mentioned in a number of the memos is that, for instance, our primary source of citizenship data comes from the Social Security Administration, and we know that if the sources of data from the Social Security Administration, for example, may list that an individual is not a citizen, but we don't know if that individual's citizenship status has changed over time and they just didn't update the Social Security Administration, and so, again as listed in

some of the memos, that's one of the reasons for trying to acquire administrative records on naturalizations, for example, that may have more current information or updated information that may not be reflected in our reference file. So we are trying to gather multiple sources and look at them together to help us determine the best citizenship --

Q Okay.

A -- value.

Q Mrs. Battle, have we discussed all of the records that have been requested for state governments? As I recall, we have discussed driver's license data, SNAP, WIC and TANF, four categories. Are there any other pieces of data or administrative records that have been requested from state governments by the Census Bureau?

MR. SVERDLOV: Objection. Vague and compound.

A I'm not aware of any additional state-level records that have been requested at this time.

Q Let's say for a request for driver's license data, how would that request be made?

MR. SVERDLOV: Objection. Vague.

A The Census Bureau staff reached out to the heads of the states Department of Motor Vehicles to request, have a discussion about obtaining those data.

Q Okay. So somebody from the Census Bureau would call, like in Alabama there is the Alabama Law Enforcement Agency which is part of, is the agency which issues driver's licenses. They would likely reach out to the head of that department in the State of Alabama?

MR. SVERDLOV: Objection. Vague and compound.

BY MR. DAVIS:

Q Is that right?

MR. SVERDLOV: Object.

A Yes.

Q Is there any particular person in the Census Bureau who is responsible for making the request for administrative records to the state

governments?

A There is, but I do not recall the name off the top of my head.

Q Okay. Do you know what that person's title or what division that person likely works in?

A That person likely works in the section of the Census Bureau that is responsible for acquiring administrative records and ingesting those administrative records.

Q And what would that be?

MR. SVERDLOV: Objection. Vague.

A That -- it's the -- within the Economic Directorate there is a division called I believe Economic Reimbursable Surveys Division, and that houses the staff that are responsible for acquiring and ingesting the administrative records.

Q I'm sorry, Mrs. Battle. Did you say Economic Reimbursable Survey?

A That is my -- I would need to double check on the specific name, but I believe that's correct.

Q I understand you are not sure. But I did understand you correctly? The word was

"reimbursable," if you are remembering correctly?

A Yes.

Q Would you look, please, Mrs. Battle, at the document behind Tab 3 of the notebook?

MR. DAVIS: And for the record, I have no doubt we have the original of this in what you produced. There simply wasn't time to get that in every case. So the format of this particular memo was as it was reformatted for purposes of the United States Supreme Court record. So let's mark that.

(Battle Exhibit Number 8
was marked for identification.)

BY MR. DAVIS:

Q Are you familiar with this memorandum, Mrs. Battle?

A Yes.

Q Okay. And this is a reproduction of a memorandum dated December 22, 2017 prepared for John M. Abowd prepared by Michael Berning and others?

A Uh-huh.

Q So look at page, it will say 304 at the top. This has been marked as Exhibit 8.

A Uh-huh.

Q This was a couple years ago, but it talks about, under Table 2, data that is currently in census inventory and lists Social Security Administration Numident, Temporary Assistance to Needy Families, and Bureau of Prisons; correct?

A Yes.

Q Then is says Potential New Acquisitions.

A Uh-huh.

Q Now the USCIS Citizen Data, we talked about that because it was listed on one of the other documents we reviewed; right?

A Yes.

Q Okay. And Real ID Act Data, is that data, Mrs. Battle, that states would have?

MR. SVERDLOV: Objection. Vague. Calls for speculation.

BY MR. DAVIS:

Q Driver's license data, for example?

A I think we would need to turn to a memorandum of understanding regarding exactly what the Census Bureau is requesting from the states

regarding the driver's license data.

Q Okay. And another document listed under Potential New Acquisitions is FHA Loan Applications. Do you know if those have been requested?

MR. SVERDLOV: Objection. Assumes facts not in evidence.

BY MR. DAVIS:

Q Do you know if those have been requested?

A I am not aware of this being requested.

Q Okay. Do you know if there is any intention that the Census Bureau has to request FHA loan application data?

A I cannot say at this time --

Q Okay.

A -- if there is an intention to collect that.

Q Who would know?

A I think we would turn to the organization within the Economic Directorate who is responsible for acquiring administrative records to make that final determination.

Q And that's a person who you can't remember

their name at this moment; right?

A Well, actually the supervisor, I know his name, but I'm sure his staff -- the supervisor's name is Michael Berning.

Q Okay.

A So...

Q But there might be someone on his staff who is better able to answer that question; is that right?

MR. SVERDLOV: Objection. Vague.

A Well, Michael would know the answer, because his staff would be involved in this.

Q Okay. And back to this Exhibit 8, under FHA Loan Applications, still under the part of the table that lists Potential New Acquisitions, the next item is State Department Expatriates. Do you know of any requests for that information?

A I am not aware of the request, but we would need to talk to Michael Berning's staff to confirm that.

Q All right. And what about the next item listed, Medicare/Medicaid Loan Applications?

A Well, we do have on our first reference sheet that the Census Bureau has both Medicare enrollment data and Medicaid enrollment data. I know this says specifically "loan applications," so we would need to talk with Michael Berning to ensure that there is a distinction there or not.

Q Okay. I'm sorry, Mrs. Battle. Let's go back. You said the reference sheet -- would you refer to that by Exhibit Number, please?

A Exhibit Number 2.

Q Would you point to me where there is information about Medicare and Medicaid?

A The third row down says CMS MEDB. That's the Medicare enrollment database. And then where, towards the bottom where it says Best Race and Ethnicity, the first sub-bullet, CMS MSIS is the Medicaid enrollment.

Q Okay. Does this suggest to you that this is data on people who are in fact enrolled in Medicare or Medicaid?

A The information in Exhibit 2 reflects data on those who are enrolled. Whereas, I know on 304

it mentions loan application, so if these are the same things or different things, I need to --

Q I understand. When you said 304, you are referring to page 304 of Exhibit 8?

A Yes.

Q Okay. And it's Mr. Berning or his group who could tell us to the best of your knowledge?

A Yes.

Q Okay. Would you look now at Tab 4, the document behind Tab 4, the Executive Order 13880? And let's mark that as the next exhibit, please.

(Battle Exhibit Number 9
was marked for identification.)

BY MR. DAVIS:

Q Okay. Do you see this is Exhibit 9; right? And it's a copy of the Executive Order 13880. Have you reviewed this Executive Order before, Mrs. Battle?

A Yes.

MR. SVERDLOV: Objection. Vague.

MR. DAVIS: Have you reviewed this Executive Order before?

MR. SVERDLOV: Vague as to time. Go ahead.

BY MR. DAVIS:

Q Would you look at the page -- it's Bates Number P-169 at the bottom. Do you see that?

A Yes.

Q Page? Under Section 3, the Executive Order says that -- that section is titled Assistance to the Department of Commerce and Maximizing Citizenship Data. Do you understand this to be a list of data that agencies, quote, "shall examine relevant legal authorities and, to the maximum extent consistent with law, provide access to the following records"? These are documents the President wants the agencies to review and study and see if they can provide to the Department of Commerce; correct?

MR. SVERDLOV: Objection. Compound.

A Yes.

Q Okay. Walk me through this, Mrs. Battle. Has the department requested all of this information listed? And we can refer to the different documents

we've been reviewing. I just want to be able to match them up.

A So if we go back to Exhibit Number 6 --

Q Yes.

A So back in Exhibit Number 9 on page 169, the first item under Section 3 calls for Department of Homeland Security, United States Citizenship and Immigration Services - National-level file of Lawful Permanent Residents, and Naturalizations. And so if we refer back to Exhibit 6 on page 2, you will see that that request was made for Lawful Permanent Resident file and Naturalization data.

Q Yes. That's data that in fact we discussed earlier?

A Yes.

Q Okay.

A And back in Exhibit 9, the second bullet under Section 3 calls for Department of Homeland Security, Immigration and Customs Enforcement, Non-immigrant Visas, and that is reflected on page 2 back in Exhibit 6, the last row where it talks about Arrival Departure Information System and Visa data,

Customs and Border Protection. That is the data on temporary lawful residents.

Q And for that data, according to Exhibit 6, it's been requested, you are awaiting transfer from DHS; right?

A Yes. Yes.

Q Got it.

A Okay.

Q And going back to the Executive Order, bullet 3 says Department of Homeland Security, National-level file of Customs and Border Arrival/Departure transaction data?

A And that will be fulfilled through the same role we just talked about.

Q Okay. Arrival/departure information?

A Yes.

Q And on the Executive Order bullet 4, Department of Homeland Security and Department of State, Worldwide Refugee and Asylum Processing System, Refugee and Asylum visas?

A In Exhibit 6 on page 3, at the very top you'll see the Department of State and the request

was for Worldwide Refugee Admission Processing System data.

Q Okay. And according to Exhibit 6, that's been requested and you are awaiting data transfer?

A Yes.

Q All right. So item 5 on the Executive Record lists Department of State, National-level passport application data.

A Uh-huh. I need to -- I would need to check on the passport application data from the State Department. I do not see it in the Exhibit Number 6.

Q Okay. Back to the Executive Order, Mrs. Battle, item 6 is Social Security Administration - Master Beneficiary Records. Is that what I see on page 3 of Exhibit 6?

A On page 3 of Exhibit 6, yes. The Master Beneficiary Record, yes. That has been requested and received.

Q Great. And the last item on that particular list on the Executive Order is the, the Department of Health and Human Services - CMS

Medicaid and CHIP Information System. Is that on Exhibit 6?

A Yes. Exhibit 6, page 4. They reference the Medicaid Children's Health Insurance Program there, and that we are awaiting transfer.

Q Okay. Then with your and your counsel's permission, I would like to take just a couple minutes for you to tell me in very general terms what some of these other documents are that you brought today, and then we will break for lunch, and that will give us a chance to look at them and decide what we need to ask about them. Does that work?

A Yes.

MR. DAVIS: Let's mark these as exhibits. We have got three more it seems.

(Battle Exhibit Number 10 was marked for identification.)

BY MR. DAVIS:

Q So, Mrs. Battle, first I'm marking one of these as Exhibit 10. Would you tell me what this document is?

A This document is a Memorandum of Understanding between the Census Bureau and the Department of State.

Q Okay.

A And it is requesting passport data.

Q And is this a memorandum that has been executed? Is it in place?

A This memorandum was signed earlier this week, January 13th --

Q Great.

A -- when it was executed. This is new.

Q Okay.

(Battle Exhibit Number 11 was marked for identification.)

BY MR. DAVIS:

Q And what about the one I'm marking as Exhibit 11?

A Exhibit 11 is another Memorandum of Agreement between the Census Bureau and the Department of Homeland Security regarding data on immigration and citizenship.

(Battle Exhibit Number 12

was marked for identification.)

BY MR. DAVIS:

Q And the last one I'll mark as Exhibit 12. This appears to be a chart. Would you tell me what this indicates, please?

A Exhibit --

MR. SVERDLOV: Objection. Vague.

A Exhibit 12 is a chart that shows you the existing administrative records that the Census Bureau has and has obtained over the years, long history of obtaining these data from the Social Security Administration, the Internal Revenue Service, and the Department of Housing and Urban Development.

Q Okay. So some of this stuff like from DHS that we've been talking about just a couple minutes ago, those are kind of new requests. This is data that you've had for a while? Is that right?

A Yes.

Q Okay.

MR. DAVIS: Very good. I think this is a good stopping point. What time would you like to

come back?

MR. SVERDLOV: We are at noon now. Let's take about an hour.

MR. DAVIS: Sounds good. See you then.

(Recessed at 11:54 a.m.)

(Reconvened at 1:23 p.m.)

MR. SVERDLOV: Can folks on the phone hear us okay?

PHONE PARTICIPANT: Yes.

BY MR. DAVIS:

Q Mrs. Battle, early in the deposition we talked about some populations that tended to be subject to under-counts in the census. Would you remind me what some of those are?

A Yes. So we know that in the decennial census there tends to be an under-count for young children. Those are children under the age of five. And we also know from research that there are certain racial and ethnic population groups that may be under-counted, such as young black males or American Indians and Alaskan Natives, for example.

Q Okay. Taking the Alaskan Natives as an

example, if I understand you correctly, research after the census suggests to the Census Bureau that there is likely an under-count of Alaskan Natives in the census; correct?

A For the 2010 census in recent history there was an under-count, yes.

Q Yes. Okay. Do you know whether that's true for other censuses as well?

A The Census Bureau does publish after the decennial census their assessment of coverage of the decennial census and those reports would have that information.

Q Okay. And the Census Bureau wants to count everyone it can, that are supposed to be counted; correct?

MR. SVERDLOV: Objection. Vague. Calls for a legal conclusion.

A Yes.

Q Okay. Does the Census Bureau have any efforts planned to reach harder to count populations?

MR. SVERDLOV: Objection. Vague.

A Yes.

Q Would you give me an example of efforts that the Census Bureau has planned to reach a population that it believes to be more difficult to count than other populations?

A So the Census Bureau has an advertising campaign and the Census Bureau develops advertising directed towards particular hard to count populations in order to help make awareness more broad of the decennial census and to encourage participation.

The Census Bureau also has a network of partner -- it's called the National Partnership Program, and the idea there is to partner with particular organizations, local areas, to try to develop ways and approaches to reach the hard to count to get participation improved in the decennial census.

Q Okay. Are there any efforts by the Census Bureau or any planned efforts to reach as many undocumented immigrants as possible for the count?

MR. SVERDLOV: Objection. Vague. Calls

for a legal conclusion.

A I am not aware of any activities or programs or advertising that would be focused on that population.

Q Would you turn, please, Mrs. Battle, to the document behind Tab 5 of the notebook?

A Uh-huh.

MR. SVERDLOV: Counsel, for the record, I'm just going to note here this is also not a document that was identified in the topics, and given its date as noted on the first page of September 18, 1985, we have concerns that questions about this document would venture far outside the scope of the topics negotiated.

MR. DAVIS: Well, it could, but you might listen to my question first and then you could decide whether or not it's within the topics. It would save us a little bit of time.

MR. SVERDLOV: I'm flagging a concern. I'm happy to give you an opportunity to prove me wrong.

MR. DAVIS: Let's mark this as Exhibit 13,

please.

(Battle Exhibit Number 13
was marked for identification.)

BY MR. DAVIS:

Q Mrs. Battle, this is a statement of the Director of the Bureau of the Census before the Subcommittee on Energy, Nuclear Proliferation, et cetera, dated September 18, 1985. I'm going to turn to the page -- the first page is Bates Numbered 1820, produced by the Department of Commerce, and I'm looking at the page that's Bates Numbered 1827.

And here I'm going to represent to you that if you see a paragraph towards the bottom that begins, "because undocumented aliens," et cetera? On that page and the following page, as I read this, and you can tell me if you disagree, the former director is talking about efforts addressed to count as many undocumented aliens as possible.

And I just want to see if this refreshes your recollection if you review the steps that he says were taken in the past, I ask you to look at those and see if this refreshes your recollection,

if you are aware of any such effort that the Census Bureau intends to make as part of the 2020 census?

MR. SVERDLOV: I'm going to object to that question on the basis of foundation and on the basis of scope.

A On page 1828 --

Q Yes, ma'am.

A -- it mentions enumerating migrant farm camps.

Q Yes.

A And I will say that in the course of the decennial census the Census Bureau does have a group quarters enumeration operation that would include workers dormitories which may be similar to this type of facility.

Q Okay.

A I would need to check on any conversations that the Census Bureau has had with law enforcement agencies.

Q Okay. Yes. Because this statement, the former director said that they discussed with law enforcement agencies about curtailing law

enforcement on census days to ensure maximum participation. Do you read it the same way?

MR. SVERDLOV: Objection. Lack of personal knowledge and foundation and scope. The document says what the document says and the witness was neither prepared on this document, nor was this document something that you indicated you were interested in pursuing testimony on.

BY MR. DAVIS:

Q Are you aware of any conversations the Census Bureau has had with law enforcement agencies seeking perhaps a curtailment of law enforcement with related to immigration on census day to ensure, to help ensure maximum participation by undocumented immigrants?

MR. SVERDLOV: I'm going to object based on scope and also based on potentially deliberative process privilege. I will direct the witness not to answer because at the very least we are far outside the scope of the topics noticed in this deposition.

BY MR. DAVIS:

Q Has the Census Bureau made any decision of

whether or not to work with law enforcement agencies to curtail enforcement of immigration laws around census days in order to ensure greater participation by undocumented immigrants in the census?

MR. SVERDLOV: To protect the deliberative process I will direct the witness to answer in a general way.

A I do not have knowledge regarding that. I would need to check.

Q Okay. Who would you check with if you wanted to find out the answer to that question?

A I would talk with the Deputy Director of the Census Bureau.

Q And who would that be?

A Ron Jarmin.

Q Okay. Has the Census Bureau made any decision of whether or not to reach out to clergy, for example, the Conference of Catholic Bishops, to solicit their support in spreading the word about the census and the importance of participating in the census?

MR. SVERDLOV: I will raise the same

objection as before and give a similar instruction to the witness.

A Well, in the National Partnership Program that I mentioned earlier there is a faith-based component there, so I do know that the Census Bureau has partnered with members of the different religious communities to help get the word out about the decennial census.

Q The date of the census is April 1, did you say, 2020? That's the date that you are targeting trying to measure the population on that date?

MR. SVERDLOV: Objection. Compound and not I'm not clear the witness has testified on that, so misstates prior testimony.

A Yes.

Q Okay. That doesn't mean though that everyone who fills out a form fills it out on April 1 though, does it?

A No.

Q Okay. What if I fill out my form on March the 1st and move on the 15th; on March the 1st I report that I live in Prattville, Alabama, but I

move to Nebraska on the 15th. Where does the Census Bureau count me for the purposes of the 2020 census if those things were to happen?

A Well --

MR. SVERDLOV: Objection. Vague.

A We do ask people to report as of census day.

Q Okay.

A It could be we collect their data early, earlier than that or even after that, but we always reference it back to we need your information as of census day, the reference date.

Q Okay. Well, let's say that maybe I didn't see that part or I misunderstood, but I nonetheless report my address in Prattville, but I move to Nebraska on the 15th. Does the Census Bureau count me at the state that's on my form?

MR. SVERDLOV: Objection. Vague and misleading.

A The -- could you repeat that question, please?

Q Sure. Let's say in spite of the

instructions that you put on my form to reflect my status as of April 1, I fill out my form early, I fill it out on March 1 and say I live in Prattville, which was true on March 1, but on the 15th I moved to Nebraska. Is the Census Bureau going to count me as a resident of Alabama or Nebraska?

MR. SVERDLOV: Same objection.

A I think what would happen is that the data would be collected from that original form and if that individual did not fill out another form in Nebraska, that that information would be held -- in the sense -- I don't know that the Census Bureau would know that this person has moved if they never engaged with the Census Bureau an additional time.

Q Unless it's self-reported, is it possible or even likely that the Census Bureau would not be aware of my move to another state?

MR. SVERDLOV: Objection. Compound and misleading.

A If the only information we have for that household has come in on a census form and we have no need to follow up with that individual, then that

would be the information that we have.

Q Okay.

A If we never needed to interact with that person again.

Q Okay. What if just any random person fills out their census form on March 15th, mails it in and the next day passes away; does the Census Bureau have any way that you are aware of to know that someone who filled out a census form in fact was deceased before census day?

MR. SVERDLOV: Objection. Compound.

A Once that census form has been submitted and the individual passes away, the Census Bureau would not have knowledge of that.

Q Okay. I suppose it could also work the other way, a couple could fill out a census form and report two people live in a household and before census day they have a child. In that case that house would likely be under-counted, would it not?

MR. SVERDLOV: Objection. Calls for a legal conclusion.

A The Census Bureau would have access to the

information that that family provided on their questionnaire, yes.

Q In that case there may be an additional resident of that household that the Census Bureau just has no way of counting; is that correct?

MR. SVERDLOV: Objection. Misleading.

A If that household provided their information, they responded to the decennial census, completed the questionnaire and submitted it, then that would be their record for the census.

Q Would you turn back, please, Mrs. Battle to the document behind Tab 8? It's been previously marked as an exhibit, but I didn't write down for this one which Exhibit Number that was.

A Five.

Q Exhibit 5. And going back to the Q and As at the back on the page that's Bates Numbered P-15, I'm going to refer you to Question Number 13 at the bottom. The question in this question and answer section reads as follows:

"Is Census confident that administrative data will be able to be used to determine

citizenship for all persons, e.g., not all citizens have Social Security Numbers."

And the response given is: "We are confident that Alternative C," use of administrative data, "is viable and that we have already ingested enough high-quality citizenship administrative data from SSA and IRS."

Does the -- is the Census Bureau still confident that the use of administrative data to impute citizenship is viable and that you have enough high-quality citizenship data to perform those functions?

MR. SVERDLOV: Objection. One second. Objection. I think this is verging into the deliberative process privilege. The question by its terms calls upon the witness to testify about efforts that are ongoing, so I will direct the witness not to answer that question.

MR. DAVIS: Okay.

BY MR. DAVIS:

Q This memo is dated January 19, 2018. Was it true on January 19, 2018 that the Census Bureau

was confident that Alternative C in this memo, quote, is viable and that we, meaning the Census Bureau, have already ingested enough high-quality citizenship administrative data from SSA and IRS?

A The Census Bureau knows that, yes, the Social Security Administration data and the Internal Revenue Service data are of high quality but there are still some gaps.

Q Okay. The next sentence of the response says: "The USCIS data are not required. They would, however, make the citizenship voting age tabulations better." Was that true in 2018?

MR. SVERDLOV: Objection. Vague.

A What I can tell you is that there are gaps in the Social Security Administration data, and acquiring information from the Citizenship and Immigration Services Agency may be helpful in filling in those gaps.

Q Okay. Then I apologize for this, but I want to make sure I've asked what I need to ask, Mrs. Battle. I want to try this another way.

The statement that Alternative C is

viable, was that statement true when it was made?

MR. SVERDLOV: Objection. Vague.

A Alternative C was put forward as an option that the Census Bureau thought should be pursued, additional research would need to be done, additional data would need to be collected to see how that alternative could be then developed to produce information on citizenship status.

Q Well, on this day does the Census Bureau know whether the use of administrative data will allow it to produce citizen voting age population after the 2020 census?

MR. SVERDLOV: Objection. Vague as to time. To the extent that this question concerns a date other than the date on the memorandum or dates subsequent to it, I will direct the witness not to answer based on deliberative process privilege.

BY MR. DAVIS:

Q The question is as of today's date does the Census Bureau know whether it will be able to use the 2020 census to produce citizen voting age population data using administrative data? I'm not

asking about deliberations, I'm asking if it knows?

MR. SVERDLOV: As of today's date?

MR. DAVIS: As we sit here right now.

MR. SVERDLOV: So to the extent the question can be answered without going into deliberations and can be answered in a general way, the witness can answer. Otherwise, I will direct the witness not to answer.

A The Census Bureau is pursuing and has obtained additional administrative records that will be evaluated to see how those data can be used in conjunction with the Social Security Administration data and the Internal Revenue Service data to help us develop the citizenship status information for the purposes of CVAP.

So we are ingesting data, we are evaluating data, and we need to continue that evaluation in order to make a final determination on what data we need to help us develop citizenship status.

Q So do I understand that the Census Bureau does not know yet whether it can use administrative

data to produce citizen voting age population data?

A The Census Bureau is pursuing that, but we need to continue to evaluate all of the data that we have requested and then make sure we have developed the appropriate methodology that will allow us to do that. So we are still evaluating the data.

Q Okay. Are you aware of any memorandum or reports from the Census Bureau or perhaps testimony from prior litigation where the Census Bureau or a representative said in effect we don't know whether we can use administrative to do this, but we are going to look at it and see?

MR. SVERDLOV: Objection. Vague and misleading. To the extent that -- strike that last part.

A I am aware of memos that instruct the Census Bureau to acquire additional administrative records and with the purpose of developing methodology to determine citizenship status with the CVAP data product.

Q Does the Census Bureau expect to know the answer to that question by spring of 2020?

MR. SVERDLOV: Objection. Vague.

A The Census Bureau has stated that in the spring of 2020 its goal is to have identified specific administrative record data sources and methodology that will permit it to develop the CVAP data product.

Q When this report or memo dated January 19, 2018 contains the statement that we are confident that Alternative C is viable, has anything happened since that date to make the Census Bureau less confident that Alternative C is viable?

MR. SVERDLOV: Objection on the basis of deliberative process privilege. To the extent the witness can answer in general terms, she may try to do so. But I will direct the witness not to answer the question to the extent it calls for the internal deliberations and the substance of those deliberations of the Census Bureau.

A I am not aware of any conversations that concluded that administrative records are not viable to help us with those efforts.

Q Has the Census Bureau made a decision as

to whether any sampling will be involved to measure or impute citizenship as part of the 2020 census?

MR. SVERDLOV: Objection. Vague and compound.

A The Census Bureau has not determined its final methodology for producing the CVAP yet.

Q Has the Census Bureau determined whether CVAP data will be released as part of the P-4 -- what was the data file? Dash 171?

MR. SVERDLOV: Objection. Vague and compound.

A You are asking me if CVAP is intended to be a part of the redistricting data file, the PL.

Q Right. PL dash --

A PL-94171.

Q That's it. Thank you.

A The Census Bureau intends for the CVAP data product to be a separate special tabulation.

Q Okay. What form will it be released in?

MR. SVERDLOV: Objection. Vague.

A The Census Bureau is working to finalize the format of the CVAP. I expect that information

to be ready in the spring of 2020.

Q Okay. So you don't know yet what form it will be released in; is that correct?

A The specific format, no.

Q Okay. Would you turn now, please, Mrs. Battle, to the document behind Tab 9?

A Uh-huh.

Q That, for the record, is a March 1, 2018 memorandum for Wilbur Ross from John Abowd through others. Let's mark the first page of that, please, Mrs. Battle, as Exhibit 14.

(Battle Exhibit Number 14
was marked for identification.)

BY MR. DAVIS:

Q Are you familiar with that document, Mrs. Battle?

A Yes.

Q And one of the sections is, it begins on the page that's Bates Numbered P-38. There is a heading, "What are the weaknesses in Alternative C?" What was the author's response to that question, if you could just summarize it for me?

A So one of the key issues with the Numident is whether or not there, the information regarding individuals who are not citizen is up-to-date. Whereas, it could be the case that at the time that someone applied for a Social Security Number they were not a citizen, but subsequently they have achieved naturalization, but then never updated the Social Security Administration. So there is a weakness there, there is a gap there.

The -- another issue, a weakness with the Social Security Administration that's listed is that some people are not required to have a Social Security Number, and so then they would not appear in the Numident data from the Social Security Administration.

Q So, I want you to continue, but what you have described so far are groups of people for whom you may not have citizenship information in the administrative data; is that correct?

MR. SVERDLOV: I'm sorry. Hold on one second. I want to read the question. Objection. Vague.

A So with the key issue regarding individuals who are not citizens at the time that they obtained the Social Security Number, that information may not be updated in that particular source of data, but the idea is to search other administrative records to use in conjunction to then have more updated information.

Q Okay. So it's a population who may not be included in the citizenship information in a particular set of administrative records? Did I understand you correctly?

A Yes.

Q Okay. But there could be other administrative records that do contain citizenship information about that individual?

A Yes.

MR. SVERDLOV: Objection. Calls for speculation.

Q And it lists one, two, three, four, five, six, seven people starting on -- not people -- groups starting on page P-39. One is U.S. citizens from birth with no Social Security Number or U.S.

passport. The second is U.S. citizens from birth born outside the U.S. who do not have a U.S. passport, et cetera, and I'm not reading the whole description, but you see where I'm talking about?

A Yes.

Q Is the Census Bureau making any efforts to seek particular data to fill the so-called citizenship data gaps?

MR. SVERDLOV: Objection. This question calls for information that is protected by the deliberative process privilege. So to the extent the witness can answer it in a general way, she may do so. But I will direct her not to go into the details regarding any efforts that may or may not be taking place.

A So the Census Bureau has recently acquired and will acquire additional administrative records, and in the course of evaluating this data the Census Bureau can assess how many of these gaps we might be able to fill.

Q And was it in seeking this information, was it one of the goals of the Census Department to

fill as many of these gaps as possible?

MR. SVERDLOV: Objection. That question calls for information protected by the deliberative process privilege.

MR. DAVIS: Was it a goal of the Census Department to fill as many gaps as possible? That doesn't call for deliberations.

MR. SVERDLOV: It precisely does. It calls for revealing the rationale by which the Census Bureau has been acting on a matter in which the Census Bureau has not yet completed deliberations. So our view is that it is protected by the deliberative process privilege.

MR. DAVIS: Are you instructing the witness not to answer?

MR. SVERDLOV: Let me review the question. I will direct the witness not to answer that particular question. However, there may be general questions that she can answer.

BY MR. DAVIS:

Q Is it the goal of the Census Department to refrain from asking for data that it believes would

be helpful?

MR. SVERDLOV: Objection. Argumentative.

A Can you please restate that?

Q Sure. Is it a goal of the Census Department to purposefully refuse to ask for administrative data from another agency that it believes would be helpful in producing a more accurate citizen voting age population count in the 2020 census?

MR. SVERDLOV: In addition to being argumentative, that question seeks to discover the deliberations of the Census Bureau. I will direct the witness not to answer that question.

BY MR. DAVIS:

Q You can refer to this document if you wish. It's the executive order, Mrs. Battle. What do you understand the executive order behind Tab 4, what do you understand this executive order to direct the census department to do?

A My understanding is that the Census Bureau is directed to establish an interagency working group with the purpose of meeting with federal

departments to discuss acquiring their administrative records that may be helpful in helping the Census Bureau meet and comply with the executive order.

Q And does the Census Bureau intend to do that?

A Yes.

Q Is there in any respect that the Census Bureau does not intend to comply with Executive Order 13880?

A The Census Bureau is working to comply with Executive Order 13880.

Q And you are not aware of any area or any requirement of the Executive Order that the Census Bureau intends to refuse?

MR. SVERDLOV: Objection. Vague, calls for a legal conclusion, calls for speculation.

A I am not aware of any part of the Executive Order that the Census Bureau intends to refuse.

Q Referring, Mrs. Battle, to the efforts of the Census Bureau to obtain administrative data from

the various states, let's say there is a case where a particular state has declined to provide requested data. Has the Census Bureau made any decision yet as to what the next steps might or might not be?

MR. SVERDLOV: Objection. Calls for speculation.

A I'm not aware of any next steps that the Census Bureau plans to take regarding states that have refused to share their administrative records.

Q Okay. Well, I have to be clear because of the objections. Has there been a decision made that the Census Bureau is going to take no further steps if a state has declined to provide requested data?

MR. SVERDLOV: Objection to the extent it calls for deliberative information. To the extent that the witness can answer whether or not there has been a decision made, she may answer.

MR. DAVIS: Which is the question that I asked.

A I am not aware of the Census Bureau making any decisions about whether or not next steps need to be taken.

Q Okay. Look back, please, Mrs. Battle, at the document behind Tab 9. And remind me for the record what Exhibit Number is.

A 14.

Q 14. Thank you. And look back at the list of one through seven.

MR. SVERDLOV: For the record, this is the page that's Bates Numbered P-39.

THE WITNESS: Yes.

BY MR. DAVIS:

Q Does the Census Bureau know how many individuals are in any of these categories one through seven?

MR. SVERDLOV: Objection. Vague.

A I am not aware of the Census Bureau having quantified how many people are in each of these categories.

Q To make sure I'm clear, are you aware of any estimates of the number of people in any of these categories?

MR. SVERDLOV: Objection. Vague.

A I'm not aware of any specific estimates

for any of these categories that may have been utilized in the development of this memo.

Q Would you turn now, please, Mrs. Battle, to the document that is behind Tab 14 of the notebook? And let's mark the first page as Exhibit 15, please.

And I'll represent to you that these are excerpts of a deposition in other litigation. These are excerpts of a deposition taken in other litigation, the deposition of Dr. John Abowd, on Wednesday, August 29th in the lawsuit New York Immigration Collision, et al., versus U.S. Department of Commerce.

(Battle Exhibit Number 15 was marked for identification.)

MR. SVERDLOV: Just for the record, I will note that this is another document that has not been identified for purposes of the topics that the parties negotiated. So to the extent that the witness can answer in general terms, she may do so.

MR. DAVIS: That's not helpful, because I don't have to tell you what the exhibits are going

to be when we negotiate topics. And it --

MR. SVERDLOV: I'm laying groundwork for an objection. I don't know where you are going to go.

MR. DAVIS: Exactly. You don't know. So in my view it's a waste of time. You can still raise the objection after a question if in fact the question is objectionable, instead of taking up our time flagging potential objections.

BY MR. DAVIS:

Q I will tell you, Mrs. Battle, I find some of the coloring hard to read. This is the form we were able to receive it in. I think it is because different parties designated different portions of the deposition in other litigation.

I'm going to refer you to page 67 of the deposition. Do you see the page I mean? The top line one begins, "in 2000 and 2010 that was accomplished."

A Yes.

Q Okay. There is testimony here I'll represent to you, Mrs. Battle, concerning

introducing randomness to see that data to ensure protection of privacy, at least that's the way I interpret the testimony.

I would like you to review that and help me understand, if you know and if any decision has been made about this, whether randomness is going to be injected into CVAP data to protect the privacy of individuals?

A Yes. The Census Bureau has determined that it will use a procedure or methodology called differential privacy that will be used to infuse noise into all estimates that come out from the CVAP as well as all census counts that come out from the decennial census. So all data products from the decennial census will have this noise infusion to protect the privacy of those who are included.

Q Okay. How does that work? What does it mean to inject -- what I mean by that question is what does it mean to inject noise into the data?

A The Census Bureau will be using a mathematical approach to determine how to -- a mathematical approach in terms of how to take census

responses and then be able to inject noise is the best way I can describe it, to protect an individual's information. So it's a way of preventing an individual from being identified based on their characteristics that they provided in response to the decennial census.

Q Okay. I'm sure I'm just slow, but I don't understand that. Let me try to give you an example.

Let's say the Census Bureau reports for a particular census block that there are 100 people living here, there are 90 citizens and ten non-citizens. Is that going to be true or will this noise mean that you are reporting some different number?

MR. SVERDLOV: Objection. Vague. Calls for speculation.

A The Census Bureau is going to take the as-enumerated information and will use a mathematical approach to take those data and the data will then reflect the population in that area, but some of the specific details may be altered, changed, so that you cannot identify an individual.

Q What is an example of details that my might be altered or changed?

A In particular, we have information on age, information on race, information on Hispanic origin, for example.

Q So I understand you can't look at the CVAP data for a census block and tell from that who individually is a citizen and who is not. But will the totals for that census block be reported accurately?

MR. SVERDLOV: Objection. Vague. Compound.

A The Census Bureau has determined that the only population data coming out of the decennial census that will not have differential privacy or noise injection will be the state-level population totals. All other totals will have this differential privacy applied to it, at least that's as of today the Census Bureau's position.

Q And when states are using this CVAP data to draw districts and it looks at a census block and it says we add this census block to this district,

we are adding 100 additional white voters, white voting age citizens and 42 additional African-American voting age citizens, are those numbers going to be true?

MR. SVERDLOV: I'm going to object based on scope and I'm also going to object -- first, I'm going to object to the question as vague and I will also object to it on the basis of scope, because redistricting is explicitly not one of the things that we have agreed to proffer a witness to testify about, nor is it something that the Census Bureau performs.

MR. DAVIS: Well, this is not really about redistricting, it's about the accuracy of the CVAP data that will be important, and I'm just having trouble understanding what injecting noise does to accuracy.

MR. SVERDLOV: Is that a question?

MR. DAVIS: Yes.

BY MR. DAVIS:

Q What does injecting noise have to do with accuracy? How does it effect it?

MR. SVERDLOV: Objection. Compound.

A So the Census Bureau has talked publicly about the differential privacy methodology and the fact that the data will become more accurate as you aggregate levels of geography. So data at the block level may have noise in it that's more pronounced, but as you group those blocks into block groups and take those block groups and create census tracks and take those census tracts and build up to counties, the accuracy improves as you aggregate data and build larger geographic areas.

Q And is there any difference in the process that you described as injecting noise in what otherwise may have been referred to as injecting randomness? Or are those the same thing?

MR. SVERDLOV: Objection. Calls for speculation.

A You are referring to a statement on page 67 about randomness?

Q Right.

A Let's see.

Q And that's in Exhibit 15. I'm trying to

understand if you and this witness are describing the same procedure.

A Because on the top of page 67 the testimony talks about differential privacy, then we are talking about the same thing.

Q Okay.

MR. SVERDLOV: Counsel, I think we would benefit from a little bit of clarification. The document in Tab 14, you've designated the excerpt of testimony from Dr. John Abowd, do you know whether that was a 30(b)(6) deposition? It does not appear to be one on its face.

MR. DAVIS: I do not know the answer to that question. And if I intended -- if I represented this as being the testimony of the department itself, that was not intentional.

MR. SVERDLOV: Okay.

MR. DAVIS: With your permission, counsel, and, Mrs. Battle, this would be a good time for a 10 or 15-minute break to get organized. I think the rest of the time would proceed more efficiently if you allow me to do that.

MR. SVERDLOV: That makes sense.

MR. DAVIS: Thank you, Mrs. Battle.

(Recessed at 2:15 p.m.)

(Reconvened at 2:40 p.m.)

BY MR. DAVIS:

Q Mrs. Battle, the Executive Order -- you are free to turn to it if you want -- but it is behind Tab 4. In Executive Order 13880 it says on the page that's been marked, that's Bates Numbered P-169, it says, before it lists the different categories of administrative records it says: "The following agencies shall examine relevant legal authorities and, to the maximum extent consistent with law, provide access to the following records."

MR. SVERDLOV: I'm sorry, counsel. Can you direct me?

MR. DAVIS: It's under Section 3 just before the list of documents, small little Roman one.

MR. SVERDLOV: Okay.

BY MR. DAVIS:

Q My question to you, Mrs. Battle, is this:

Are you aware of any federal agencies that have said we cannot provided requested information because the law doesn't permit us to share it with you?

A I am not aware of any agencies stating that they cannot share or send to us their data because of a law.

Q Okay. And for the data that you received or that they've agreed to share, are you aware of any circumstance where the law would not permit you to use the data in order to impute citizenship?

MR. SVERDLOV: Objection. Calls for a legal conclusion, and to the extent it pertains to the ongoing deliberations about the use of data, that this information we would view as protected under the deliberative process privilege, so I will instruct the witness not to answer that portion.

BY MR. DAVIS:

Q Let's start over. Are you aware of any circumstance where the Census Bureau has determined that it is unable to use a set of administrative data because of some impediment of the law?

MR. SVERDLOV: Objection. Vague.

BY MR. DAVIS:

Q Or some legal requirement?

MR. SVERDLOV: Objection. Compound.

A I am not aware of that.

Q Would you look at the document, one of the ones that you brought with you today, that's marked as Exhibit 11? And this, for the record, is a Memorandum of Agreement between the United States Department of Commerce and the United States Department of Homeland Security. And I will refer you to page 17 of that document, Mrs. Battle.

Do you see that page with the heading Attachment 1: Description of Approved Research Project?

A Yes. Yes.

Q In the first paragraph, Mrs. Battle, it says: "The Census Bureau plans to use several administrative data sources of citizenship status in a statistical model that will produce a probability of being a U.S. citizen on April 1, 2020 for each person in the 2020 census."

First, is that in fact the Census Bureau's

plans?

A The Census Bureau is acquiring administrative records that it will evaluate and the Census Bureau will then finalize their plans about how they specifically will determine citizenship for those enumerated in the census.

Q Okay. What does it mean you'll produce a probability of being a U.S. citizen?

A In this general approach the probability would be a value between zero and one.

Q Okay. Well, what if the probability is .5; is that person counted as a citizen or a non-citizen?

MR. SVERDLOV: Objection. Vague and misleading, assumes facts not in evidence.

A The final methodology for how the Census Bureau will use administrative records and to actually develop the citizenship status for individuals in the census has not been finalized yet to be able to tell you that information.

Q Okay. Let me make sure I understand you by asking you a different way. Has the Census

Bureau yet decided how high the probability must be of citizenship before a person is counted as a U.S. citizen?

A I am not aware of the Census Bureau making that decision yet.

Q Okay. And who would be making that decision?

MR. SVERDLOV: Objection. Vague. And, okay.

A The final methodology that the Census Bureau will use to create the CVAP file will need to be vetted and approved by executive leadership at the Census Bureau as well as at the Department of Commerce.

Q Okay. So executive leadership has to approve it. I assume that there are employees of the Census Bureau who will be working on answers to these questions to recommend to executive leadership. Is that true?

MR. SVERDLOV: Objection. Vague.

A Yes.

Q Okay. And do you know who within the

Census Bureau will be working on recommendations to make to executive leadership?

MR. SVERDLOV: Objection. Vague and assumes facts not in evidence.

A The Census Bureau will look to an internal expert team that includes leadership from John Abowd and the development of the recommendation about how to develop the statistical models, how to use probability data if that indeed will be part of the final methodology.

Q Mrs. Battle, when you talk about in terms of probability of citizenship and the value between zero and one, what does zero mean?

MR. SVERDLOV: Objection. Vague.

A The methodology that needs to be finalized will determine what the values of the range of the probabilities actually means.

Q Okay. I guess you would give me the same answer if I asked what one means in that scenario?

A Yes. All of that has to be finalized in the methodology.

Q Okay. Let's say, Mrs. Battle, that after

the 2020 census the Census Bureau counts in a particular census block 100 voting age white citizens, 40 voting age African-American citizens, and ten non-citizens. Are those numbers going to be reported for that census block?

MR. SVERDLOV: Objection. Vague and compound. To the extent it concerns ongoing deliberations, that question would -- the answer to that question would be protected by the deliberative process privilege.

I think more pertinent right now is that this question is verging outside the scope of the negotiated topics and I think we would benefit from you explaining how you view the, that type of count you described as falling within one of the topics we negotiated.

BY MR. DAVIS:

Q I'm making the numbers up. I don't care what the numbers are. I just want to know if you count particular numbers in the census block. This is going back, Mrs. Battle, to the injecting noise and I just want to understand that as well as I can

while I have the opportunity to speak with you.

So the first step is if you measure X number of, let's just stick with X number of Caucasian voting age citizens in a census block, is that X in fact going to be released for that census block, or because of noise, will it be changed to some other number?

MR. SVERDLOV: Objection. Vague.

A The Census Bureau will take enumerated counts for a block and those data, along with all the other census data collected in the decennial census, will go through the disclosure avoidance process and noise will be injected.

Q Okay. And after -- how will the numbers for a block look different after noise is injected?

MR. SVERDLOV: Objection. Calls for speculation.

BY MR. DAVIS:

Q I'm going to break that down with different questions to see if maybe I can make it make sense a little more for me.

After you inject noise, would the total

population of the block change?

MR. SVERDLOV: Objection. Vague.

A The current plans for using disclosure avoidance in the decennial census holds that only the state's population totals will be as enumerated in the census and other population totals may change because of noise that's been injected.

Q Okay. So the numbers reported for a particular census block may not be accurate then if I understand you correctly?

MR. SVERDLOV: I'm going to object based on scope once again and this time I'm going to direct the witness not to answer. I do not see how this bears on the question of state apportionments, which is the nature of your claims in this lawsuit and therefore the predicate for --

MR. DAVIS: We will come back to that. We will just skip that for now.

BY MR. DAVIS:

Q But from what you described, Mrs. Battle, voting age population at the state level will be correct?

MR. SVERDLOV: Objection. Vague.

A The state population totals will be as enumerated in the decennial census.

Q Okay. Will you be releasing citizen voting age population at the state level?

A That level of geography traditionally has been published with the CVAP data file. The final specifications for the 2020 CVAP are not finalized yet.

Q Is there any doubt that the Census Bureau will in fact release CVAP data after the 2020 census?

MR. SVERDLOV: Objection. Vague.

A The Census Bureau plans to release the CVAP data after the census. The goal is to produce that by March 31st of 2021.

Q Does the Census Bureau have any intention that you are aware of to seek information concerning deferred action for childhood arrivals program?

MR. SVERDLOV: Objection. I will direct the witness not to answer both on the basis of scope and deliberative process privilege.

BY MR. DAVIS:

Q Have you made a decision as to whether or not to seek that data?

MR. SVERDLOV: Objection. Assumes facts not in evidence. And outside the scope. But if --

BY MR. DAVIS:

Q I feel like the administrative data that may be available to address citizenship is well within the scope of the topics. So I will ask again. Has the Census Bureau made any decision as to whether it will seek information related to the deferred action for childhood arrivals program?

MR. SVERDLOV: Objection. Assumes facts not in evidence.

A I am not aware of any decision that's been made regarding that topic.

Q Okay. I am almost positive that at times today I have referred to the census department when it's really the Census Bureau. If I have done that, we understood each other? You knew who I was talking about, that I meant the Census Bureau, did you not?

MR. SVERDLOV: Objection. Misleading.

A Yes.

MR. DAVIS: Do you all need a break?

MR. ROSENBERG: Are you done?

MR. DAVIS: Not quite. But close.

BY MR. DAVIS:

Q Would you look at Tab 17 of your notebook, please, Mrs. Battle?

MR. SVERDLOV: I'm sorry? What tab?

MR. DAVIS: Tab 17.

BY MR. DAVIS:

Q And, Mrs. Battle, take all the time you want. I really just want to know if you can identify that document for me just so I can get on the record if you know what that document is.

Let's mark it as Exhibit 18. For the record, I made a mistake. This document will be marked as Exhibit 16 to Mrs. Battle's deposition.

(Battle Exhibit Number 16 was marked for identification.)

BY MR. DAVIS:

Q Can you identify the document that's been

marked as Exhibit 16, Mrs. Battle?

A This is the Department of Homeland Security Immigration-Related Information Sharing with U.S. Census Bureau, December 20th, 2019.

Q And how is that different from the document we marked as Exhibit 11, the Memorandum of Agreement between the Department of Commerce and the U.S. Department of Homeland Security?

MR. SVERDLOV: Objection. Vague and misleading and assumes facts not in evidence. And to the extent you are asking the witness to testify about a Department of Homeland Security document that you have marked as Exhibit 16, it is outside the scope of this deposition because the witness is testifying on behalf of the U.S. Census Bureau, not the Department of Homeland Security.

BY MR. DAVIS:

Q Have you reviewed the document that's been marked Exhibit 16 before?

A I am not familiar with this particular document.

Q That's all. That's fine. Then I will

have no other questions about it.

Mrs. Battle, does the Census Bureau know yet whether it is feasible to produce high-quality citizen voting age population data using administrative records?

MR. SVERDLOV: Objection. Vague and misleading, assumes facts not in evidence.

A The Census Bureau will need to continue evaluating the administrative records that we have recently acquired before being able to make that statement.

Q So the answer is the Bureau just doesn't know yet? Is that true?

A Yes.

Q Okay. If it didn't know now, then it didn't know the answer to that question in 2019 or 2018 or 2017, did it?

MR. SVERDLOV: Objection. Argumentative.

A The Census Bureau needs to get access to the data and be able to evaluate that to make that final decision.

Q So if someone said in 2019 that, yes, the

Census Bureau can use administrative data and use that to produce high-quality citizen voting age population data, that would have been incorrect?

MR. SVERDLOV: Objection. Vague and misleading.

A The goal of the Census Bureau is to use administrative records to produce high-quality data on citizenship for the population. But we need to access the data that we believe may be helpful to us and just make sure that it will be of the quality that we need for the purposes that we need.

Q After the 2020 census, Mrs. Battle, does the Census Bureau intend to release a total population count for each state?

A After the decennial census the Census Bureau intends to publish a, an apportionment population count for the state, which would include a resident population count for the state as well as the federal affiliated overseas population for the state.

Q Okay. Will it produce as a part of any product a count of the number of U.S. citizens

residing in each state?

MR. SVERDLOV: Objection. Vague.

A The Census Bureau in the development of the citizen voting age population file would include data on the number of citizens of voting age. The final format of other information that would be in that CVAP file has to be finalized.

Q The numbers released for citizenship, if I understood you correctly, will be the number of citizens of voting age; is that correct?

A Yes. That would be in the citizen voting age population data product.

Q But does the Census Bureau also intend to count each person, even those not of voting age, as a citizen or a non-citizen?

MR. SVERDLOV: Objection. Vague and misleading.

A The Census Bureau through the use of administrative records will be determining a citizenship value for all those counted in the decennial census.

Q Does the Census Bureau plan to count the

number of non-citizens who are lawfully present in each state?

MR. SVERDLOV: Objection. Vague and misleading.

A The Census Bureau plans to count in the decennial enumeration all of those who are usual residents of the state regardless of citizenship status.

Q Do you know and does the Census Bureau know whether any of the administrative data that it has sought or obtained would contain administrative data on lawful residents?

Let me say by that I mean do you know whether any of the data from any of these other agencies will contain information to let you impute whether or not a person counted is, a non-citizen counted is a lawful resident of the United States?

MR. SVERDLOV: Objection. Vague and misleading.

A I can't speak to whether the Census Bureau will impute a particular legal status to someone in a decennial census. The Census Bureau is acquiring

administrative records that will have some of that information.

Q Okay. What are some of those? And I will refer you, Mrs. Battle, to the document that's been marked as Exhibit 6. I'm not limiting you to that exhibit, but it may be a place to start. And again what I'm asking you is to tell me which of these records either have or may have information related to the lawful status of a non-citizen.

A So in Exhibit 6 on page 2, in the bottom part of the table we see data that either has been acquired or we are waiting to acquire from the Department of Homeland Security, which would include information on lawful permanent residents and naturalized citizens, as well as temporary lawful migrants, people with student visas or temporary work visas, et cetera.

And page 3, at the top the Department of State, we are waiting to acquire those records on data regarding the refugee population.

Q Any other sources of data listed on Exhibit 6 that may have information about lawful

residency?

A I would need to defer back to the Memorandum of Understanding with all of these agencies which lists the variables specifically that are being requested to determine that.

Q If a state agrees to release information to the Census Bureau, and by information I mean administrative data requested as part of the effort to comply with the Executive Order, is the Census Bureau entering into agreements with those states or memorandums of understanding?

MR. SVERDLOV: Objection. Vague.

A The Census Bureau will need to have a memorandum of understanding or enter transfer agreements to document exactly what the Census Bureau is requesting, yes.

Q Look. Nebraska is listed on here and providing you some information; correct?

A Yes.

Q Does that mean that Nebraska has entered into a memorandum of understanding with the Census Bureau?

A In order for the Census Bureau to acquire those data there needs to be a memorandum of understanding.

Q Gotcha.

MR. DAVIS: This is off the record.

- - -

(Discussion off the Record.)

- - -

BY MR. DAVIS:

Q Back on. Mrs. Battle, if the Census Bureau determined that it was going to make a count of non-citizens who were lawfully present in each state, is there additional administrative data that the Census Bureau would need in order to accomplish that?

MR. SVERDLOV: Objection. I will skip the form objection and just object on the basis of deliberative process privilege and instruct the witness not to answer.

BY MR. DAVIS:

Q Mrs. Battle, has the Census Bureau made any decision that should it determine to make a

count of persons who were unlawfully present non-citizens in each state, that it would need additional administrative data to do that?

MR. SVERDLOV: Objection. Vague and compound, assumes facts not in evidence.

A The Census Bureau has not made any determination at this point as to additional information that could be produced or published regarding lawful immigrants.

Q We discussed earlier, Mrs. Battle, the different steps that the Census Bureau goes through when it's attempting to make an enumeration. You send out the form, sometimes enumerator, sometimes in certain cases you might ask a neighbor, sometimes these hot deck imputations.

My question is this: Are each of these steps, each of these efforts, are they part of the Census Bureau's efforts to make the census as accurate as possible?

MR. SVERDLOV: Objection. Vague, calls for a legal conclusion.

A The Census Bureau strives to conduct as

accurate and as complete a count as possible and utilizes many different operations and techniques to help us meet that goal.

Q Certainly. And imputation, for example, is it true that at least one of the reasons why the Census Bureau uses characteristic imputation for the use of administrative records is that because it results in a more accurate census?

MR. SVERDLOV: Objection. Vague.

A Yes.

MR. DAVIS: Can we go off the record so I can talk to my colleagues? We can take a break, let us chat and we will be right back.

MR. SVERDLOV: Why don't you chat and then we will figure out next.

(Recessed at 3:13 p.m.)

(Reconvened at 3:31 p.m.)

MR. DAVIS: I think I'm up and I can say we have no further questions. We really appreciate counsel hosting Mrs. Battle. We thank you for taking time to speak to us and helping with these issues. Before I close I would say that there is

still documents to be produced or documents that through unavoidable technical difficulties we just received a new copy of today.

If in the course of reviewing those documents there is something that we need additional testimony about, I reserve the right to speak with counsel and seek additional testimony. Although, we would in those circumstances most certainly try to exhaust other ways of getting the information that we need.

MR. SVERDLOV: We understand your position and we certainly do not consent to anything at this time, but we are happy to work with you to resolve any issues that may arise.

MR. DAVIS: Thank you.

MR. SVERDLOV: We don't have -- I don't have any questions for Mrs. Battle. We will reserve the right to read and sign the transcript.

MR. DAVIS: Certainly.

MR. SVERDLOV: And otherwise we have nothing further.

MR. DAVIS: Thank you all.

(Whereupon, at 3:33 p.m., the deposition of KAREN R. BATTLE was concluded.)

* * * * *

UNITED STATES OF AMERICA)

ss:

DISTRICT OF COLUMBIA)

I, ROBERT M. JAKUPCIAK, an RPR and Notary Public within and for the District of Columbia do hereby certify:

That the witness whose deposition is hereinbefore set forth, was duly sworn and that the within transcript is a true record of the testimony given by such witness.

I further certify that I am not related to any of these parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of January, 2020.



My Commission Expires:

February 29, 2024

To: ALEXANDER V. SVERDLOV, ESQ.
Re: Signature of Deponent 30(b)(6) Karen R. Battle
Date Errata due back at our offices: 2/20/2020

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Alabama Rules of Civil Procedure

Part V. Depositions and Discovery

Rule 30

(e) Submission to witness; changes; signing. When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by the witness, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within thirty (30) days of its submission to the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 32(d)(4) the

court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(F) Certification and filing by officer; exhibits; copies; notice of filing.

(1) The officer shall certify on the deposition that the witness was duly sworn by the officer and that the deposition is a true record of the testimony given by the witness. Unless otherwise ordered by the court, the officer shall then securely seal the deposition in an envelope indorsed with the title of the action and marked "Deposition of [here insert name of witness]" and shall promptly file it with the court in which the action is pending or send it by registered or certified mail to the clerk thereof for filing.

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On Jan 17, 2020, at 8:52 AM, Rosenberg, Brad (CIV) <b(6)> wrote:

Mike, Sapna, and Stephanie:

b(5) - AC/WP

Thanks,
-Brad

From: Robert Jakupciak <b(6)>
Sent: Thursday, January 16, 2020 7:40 PM
To: Rosenberg, Brad (CIV) b(6)
Subject: Rough draft of Battle deposition
Attached please find the rough draft of the Battle deposition.
Sent from Mail for Windows 10
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Sent: Wed 1/15/2020 1:15:59 PM (UTC-05:00)
Subject: FW: Activity in Case 8:19-cv-02710-PX La Union Del Pueblo Entero et al v. Ross et al Motion to Dismiss
60 - Defs.' Mot. to Dismiss.pdf

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

LA UNIÓN DEL PUEBLO ENTERO, *et al.*, Plaintiffs, v. WILBUR L. ROSS, in his official capacity as U.S. Secretary of Commerce, *et al.*, Defendants.	No. 8:19-cv-02710-PX

MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT

Defendants Wilbur L. Ross, in his official capacity as Secretary of Commerce; Steven Dillingham, in his official capacity as Director of the U.S. Census Bureau; U.S. Department of Commerce; and U.S. Census Bureau (collectively, "Defendants"), by and through their undersigned counsel, move the Court to dismiss the claims against them under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). Defendants' arguments in support of this motion are fully explained in the attached Memorandum of Law.

DATED: December 18, 2019

Respectfully submitted,

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Civil Division, Federal Programs Branch

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Counsel for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

LA UNIÓN DEL PUEBLO ENTERO, *et al.*, Plaintiffs, v. WILBUR L. ROSS, in his official capacity as U.S. Secretary of Commerce, *et al.*, Defendants.	No. 8:19-cv-02710-GJH

MEMORANDUM OF LAW IN SUPPORT OF
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594 F.2d 1060 (5th Cir. 1979) 40

United Bhd. of Carpenters & Joiners of Am., Local 610, AFL-CIO v. Scott,
463 U.S. 825 (1983) 39

United States v. Testan,
424 U.S. 392 (1976) 39

Valley Forge Christian Coll. v. Ams. United for Separation of Church & State, Inc.,
454 U.S. 464 (1982) 21

Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.,
429 U.S. 252 (1977) 35

Vill. of Bald Head Island v. U.S. Army Corps of Eng'rs,
714 F.3d 186 (4th Cir. 2013) 26, 29

Walters v. McMahen,
684 F.3d 435 (4th Cir. 2012) 10

Weigel v. Maryland,
950 F. Supp. 2d 811 (D. Md. 2013) 23

Wikimedia Found. v. Nat'l Sec. Agency,
857 F.3d 193 (4th Cir. 2017) 15, 19

Wright v. North Carolina,
787 F.3d 256 (4th Cir. 2015) 14

Ziglar v. Abbasi,
137 S. Ct. 1843 (2017) 44, 45

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STATUTES

5 U.S.C. § 702 25

5 U.S.C. § 704 45

13 U.S.C. § 6 ..... 3, 31, 36

13 U.S.C. § 141 ..... 5, 35

13 U.S.C. § 221 27

42 U.S.C. § 1982 39

42 U.S.C. § 1983 38

42 U.S.C. § 1985 ..... 2, 38, 40, 44

REGULATIONS

Exec. Order No. 13880, 84 Fed. Reg. 33821 (July 11, 2019) ..... *passim*

RULES

Fed. R. Civ. P. 12 9

UNITED STATES CONSTITUTION

U.S. Const. art. III. § 2 10

OTHER AUTHORITIES

Andrew Rafferty, et al., *Steve Bannon Out as White House Chief Strategist*, NBC News (Aug. 18, 2017), https://www.nbcnews.com/politics/politics-news/steve-bannon-out-white-house-chief-strategist-n793921 43

Associated Press, *Kobach says he's seriously considering US Senate bid in 2020* (Jan. 19, 2019), https://apnews.com/9de85ad8578243e3aa7fbbcab28e5de0 43

Devlin Barrett, et al., *Jeff Sessions forced out as attorney general*, Washington Post (Nov. 7, 2018), https://www.washingtonpost.com/world/national-security/attorney-general-jeff-

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sessions-resigns-at-trumps-request/2018/11/07/d1b7a214-e144-11e8-ab2c-b31dcd53ca6b_story.html 43

J. David Brown, et al., Understanding the Quality of Alternative Citizenship Data Sources for the 2020 Census (June 2019), https://www2.census.gov/ces/wp/2018/CES-WP-18-38R.pdf 4

Michael Wines, *Thomas Hofeller, Republican Master of Political Maps, Dies at 75*, New York Times (Aug. 21, 2018), https://www.nytimes.com/2018/08/21/obituaries/thomas-hofeller-republican-master-of-political-maps-dies-at-75.html 44

Sam Levine, *DOJ Official Who Played Big Role In Push For Citizenship Question To Leave Trump Admin*, Huffington Post (Aug. 9, 2019), https://www.huffpost.com/entry/john-gore-leaving-doj_n_5d4d8fa0e4b09e7297459561 43

U.S. Census Bureau, *Citizen Voting Age Population by Race and Ethnicity (CVAP)*, https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.html 5

U.S. Census Bureau, *Current Population Reports, Population Estimates* (Aug. 13, 1948), https://www2.census.gov/library/publications/1948/demographics/P25-13.pdf 3

U.S. Census Bureau, *History of the 1997 Economic Census* (July 2000), https://www.census.gov/history/pdf/1997econhistory.pdf 3, 4

U.S. Census Bureau, *Update on Disclosure Avoidance and Administrative Data* (Sept. 13, 2019), https://www2.census.gov/cac/sac/meetings/2019-09/update-disclosure-avoidance-administrative-data.pdf? 18

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INTRODUCTION

Secretaries of Commerce have long exercised their statutory authority to gather administrative records—files from other federal and state agencies—in aid of their mission to provide vital statistics to the nation. After the Secretary's unsuccessful attempt to obtain citizenship data using a citizenship question on the 2020 Census, the President issued Executive Order 13880 in July 2019 with the "goal of making available to the [Commerce] Department administrative records showing citizenship data for 100 percent of the population." Exec. Order No. 13880, 84 Fed. Reg. 33821 (July 11, 2019). While the Secretary had collected enough administrative records for the Census Bureau (the primary statistical agency in the Department of Commerce) to "determine citizenship status for approximately 90 percent of the population," he "remain[ed] in negotiations to" access "several additional important sets of [administrative] records with critical information on citizenship." *Id.* The President therefore directed "all executive departments and agencies" to "provide the [Commerce] Department the maximum assistance permissible" in order "to eliminate delays and uncertainty, and to resolve any doubt about the duty of agencies to share data promptly with the Department." *Id.*

Plaintiffs—individuals and organizations concerned about their *States and localities'* potential use of citizenship data—now take issue with a process decades in the making: the Secretary's collection of administrative records, facilitated by the President's

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internal guidance to federal agencies, to obtain comprehensive citizenship data on the U.S. population. In seeking to "[e]njoin Defendants and their agents from collecting data as dictated by EO 13380," Plaintiffs' First Amended Complaint (FAC) alleges violations of the Administrative Procedure Act (APA), the Fifth Amendment's equal protection component, and 42 U.S.C. § 1985(3) (civil conspiracy). FAC ¶¶ 88–117, ECF No. 41; *Id.* at 31. But the FAC is fatally flawed from beginning to end.

The Secretary's administrative-record collection does not affect any private parties, let alone Plaintiffs. It is only when Plaintiffs' *States and localities* "discriminatorily" choose to use citizenship data that Plaintiffs could possibly be injured. *See* FAC ¶ 87. So they lack standing, and their suit is unripe, because their injuries can only result from a highly attenuated chain of possibilities, including the independent decisions of States and localities to use (or not use) citizenship data. This also torpedoes Plaintiffs' APA and equal protection claims, as the Secretary's administrative-record collection is neither "agency action" for APA purposes, nor does it cause a "disparate impact" for equal protection purposes.

If that were not enough, Plaintiffs' § 1985(3) is barred on several threshold grounds, including sovereign immunity and a lack of statutory authorization for injunctive relief. And Plaintiffs do not plausibly allege any facts supporting their equal protection and § 1985(3) claims, instead relying almost exclusively on the events leading

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up to *a citizenship question*, not the collection of administrative records. Plaintiffs' FAC is meritless and should be dismissed.

BACKGROUND

I. The Secretary's Collection of Administrative Records and Citizenship Data

The use of administrative records is not new. In the 1890 Census, for example, "special enumerators visited real estate recorders' office[s] [ ] to obtain data on individual and corporate debt."[1] And after the Department of Commerce was formed, Congress specifically empowered the Secretary of Commerce, "whenever he considers it advisable," to "call upon any other department, agency, or establishment of the Federal Government . . . for information pertinent to the work" of the Census Bureau. 13 U.S.C. § 6(a).[2] Secretaries have routinely exercised this power to collect and use administrative records. As just two of many examples, administrative records have been used since the 1940s to help produce population estimates between censuses,[3] and in 1954 the Census

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[1] U.S. Census Bureau, *History of the 1997 Economic Census* (July 2000), at 63, https://www.census.gov/history/pdf/1997econhistory.pdf.

[2] The Secretary may also acquire similar information from "States, counties, cities, or other units of government," or "from private persons and agencies." 13 U.S.C. § 6(b).

[3] U.S. Census Bureau, *Current Population Reports, Population Estimates* (Aug. 13, 1948), at 2, https://www2.census.gov/library/publications/1948/demographics/P25-13.pdf.

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Bureau implemented "large-scale use of administrative records" from the Internal Revenue Service as part of the Economic Census.[4]

The Secretary has collected administrative records containing citizenship data since at least 2002.[5] But the Census Bureau has never had a full set of administrative records to determine citizenship for every person in the country. To inform immigration policy, support research, plan investments, design programs, and aid Voting Rights Act enforcement—which requires citizenship estimates to determine the number of eligible voters in a given geographic area—the Census Bureau has used sample-based surveys. From 1970 to 2000, the Census Bureau used the long-form census, a set of over thirty questions (including citizenship) sent to one in six households during each decennial census. *Kravitz v. U.S. Dep't of Commerce*, 366 F. Supp. 3d 681, 693 (D. Md. 2019). The long form was discontinued after the 2000 Census and replaced by the American Community Survey (ACS) in 2005, a similarly lengthy survey (also including a citizenship question) that is sent to one in 38 households annually. *Id.*

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[4] U.S. Census Bureau, *History of the 1997 Economic Census* (July 2000), at 63, https://www.census.gov/history/pdf/1997econhistory.pdf.

[5] J. David Brown, et al., Understanding the Quality of Alternative Citizenship Data Sources for the 2020 Census (June 2019), at Table A8, https://www2.census.gov/ces/wp/2018/CES-WP-18-38R.pdf (noting the use of Social Security records after the 2000 Census).

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These surveys did not, and do not, provide perfect citizenship data. For example, because the ACS is based on a sample of the population, its citizenship data is not available at the lowest geographic level, called a "census block" and roughly equivalent to a city block. *See id.* (discussing census blocks). Instead, ACS-based citizenship data is only reported at a higher geographic level (called a "census block group"), containing about 600 to 3,000 people. *See id.* (discussing census block groups). While the Census Bureau is statutorily obligated to produce *population* data for States and localities to use in redistricting (so-called Public Law 94-171 data), it also provides citizen voting age population by race and ethnicity (CVAP) data tabulated from the ACS.[6] 13 U.S.C. § 141(c); FAC ¶ 39. Population totals are reported at the census-block level; CVAP data is not. *Kravitz*, 366 F. Supp. 3d at 692–93.

In December 2017, the Department of Justice sent a letter to the Census Bureau requesting a citizenship question on the 2020 Census, which would enhance Voting Rights Act enforcement by allowing the Census Bureau to calculate citizenship data at the census-block level. *Id.* at 698. In March 2018, the Secretary of Commerce issued a memorandum directing the Census Bureau to include a citizenship question on the 2020 Census. *Id.* at 693.

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[6] *See* U.S. Census Bureau, *Citizen Voting Age Population by Race and Ethnicity (CVAP)*, https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.html.

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Various parties—including two organizations and one individual in this case—challenged the Secretary's decision. *Id.* at 691. Throughout the year-long litigation, the plaintiffs consistently and forcefully argued that the Secretary's so-called Alternative C—collecting citizenship data using administrative records—was "objectively superior" to employing a citizenship question on the 2020 Census.[7] The issue eventually reached the Supreme Court, which vacated and remanded the Secretary's decision on other grounds. *See Dep't of Commerce v. New York*, 139 S. Ct. 2551, 2570–75 (2019).

II. The Executive Order to Continue Gathering Citizenship Data Using Administrative Records

Several weeks after the Supreme Court's decision, the President issued Executive Order 13880. While noting the Supreme Court's holding that "the Department of Commerce [ ] may, as a general matter, lawfully include a question inquiring about citizenship status on the decennial census," the President explained that "[t]he Court's

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[7] *See, e.g.*, Pls.' Corrected Conclusions of Law, *Kravitz v. U.S. Department of Commerce*, No. 18-cv-1041 (D. Md. Feb. 18, 2019), ECF No. 151-2 at ¶ 129 ("The uncontroverted evidence before the Secretary demonstrated that the use of [administrative records] alone without a decennial Census citizenship question—Alternative C—was superior to [including a citizenship question] by every relevant metric, including those that the Secretary purported [ ] to value."); *id.* ¶ 178 ("[T]he only reasonable conclusion to be drawn from the [administrative record] is that Alternative C would yield more accurate citizenship data than [including a citizenship question], with no compromise of timeliness, scope, or other criteria of quality relevant to DOJ's stated use."); Pls.' Mem. in Opp'n to Defs.' Mot. for Summ. J., *LUPE v. Ross*, No. 18-cv-1570 (D. Md. Nov. 27, 2018), ECF No. 85 at 34–41, 44 (arguing that "all evidence from the Census Bureau points out that [including the citizenship question] is less accurate and more costly" than Alternative C).

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ruling . . . has now made it impossible, as a practical matter, to include a citizenship question on the 2020 decennial census questionnaire." E.O. 13880, 84 Fed. Reg. at 33821. Nonetheless, the President sought to "ensure that accurate citizenship data is compiled," with the "goal of making available to the [Commerce] Department administrative records showing citizenship data for 100 percent of the population." *Id.* at 33822.

This is important, the President explained, to "help us understand the effects of immigration on our country," to "implement specific [public-benefits] programs and to evaluate policy proposals for changes in those programs," and to "generate a more reliable count of the unauthorized alien population in the country." *Id.* The President also noted that "the Supreme Court left open the question whether 'States may draw districts to equalize voter-eligible population rather than total population,'" but "because eligibility to vote depends in part on citizenship, States could more effectively exercise this option with a more accurate and complete count of the citizen population." *Id.* at 33823 (citing *Evenwel v. Abbott*, 136 S. Ct. 1120 (2016)). Among other helpful aspects, "a more accurate and complete count of the citizen population" derived from administrative records would enable the Census Bureau to produce a CVAP tabulation at the lowest geographic level (the census block), unlike recently available CVAP tabulations derived solely from the ACS. *See id.* at 33824.

By the time of the Executive Order, the Census Bureau had enough administrative records to "determine citizenship status for approximately 90 percent of the population,"

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but "remain[ed] in negotiations to" access "several additional important sets of records with critical information on citizenship" from other federal agencies." *Id.* at 33821. "[T]o eliminate delays and uncertainty, and to resolve any doubt about the duty of agencies to share data promptly with the [Commerce] Department," the President directed "all executive departments and agencies" to "provide the Department the maximum assistance permissible, consistent with law, in determining the number of citizens and non-citizens in the country," including "by providing any access that the Department may request to administrative records that may be useful in accomplishing that objective." *Id.* The President also established an "interagency working group to improve access to administrative records," and directed "the [Commerce] Department to strengthen its efforts, consistent with law, to obtain State administrative records concerning citizenship." *Id.* at 33822.

III. Plaintiffs' Challenge

Plaintiffs now take issue with the exact decision some of them previously desired—the use of administrative records to gather citizenship data. Their lawsuit stems from a purported concern that if the Census Bureau "provides [Plaintiffs'] states with citizenship data to be used along with the total population tabulations in the P.L. 94-171 Redistricting Data File," these States may "use CVAP as a population base for drawing congressional and state legislative redistricting plans in 2021." FAC ¶ 87.

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On the merits, Plaintiffs overlook the Secretary's decades of gathering administrative records to allege that the mere collection of citizenship data from federal and state agencies is now part of a conspiracy "motivated by racial animus towards Latinos, and animus towards non-U.S. citizens and foreign-born persons." FAC ¶¶ 110–17. For that reason, and alleged violations of the APA, Plaintiffs seek to "[e]njoin Defendants and their agents from collecting data as dictated by EO 13380." FAC at 31. This motion follows.

LEGAL STANDARDS

In evaluating a motion to dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), the Court must "accept as true the allegations for which there is sufficient factual matter to render them plausible on their face." *Hutton v. Nat'l Bd. of Examiners in Optometry, Inc.*, 892 F.3d 613, 620 (4th Cir. 2018) (alterations and citations omitted). But the Court need not do the same for "legal conclusion[s] couched as [ ] factual allegation[s]." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

Courts should "presume that [they] lack jurisdiction unless the contrary appears affirmatively from the record." *Renne v. Geary*, 501 U.S. 312, 316 (1991) (citations omitted). So, to survive a Rule 12(b)(1) motion to dismiss, Plaintiffs must establish this Court's jurisdiction through sufficient allegations. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992). Similarly, to survive a 12(b)(6) motion to dismiss, "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its

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face.'" *Iqbal*, 556 U.S. at 678 (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "The mere recital of elements of a cause of action, supported only by conclusory statements, is not sufficient to survive a motion made pursuant to Rule 12(b)(6)." *K.M. by & Through C.M. v. Bd. of Educ. of Montgomery*, 2019 WL 330194, at *3 (D. Md. Jan. 25, 2019) (Xinis, J.) (quoting *Walters v. McMahen*, 684 F.3d 435, 439 (4th Cir. 2012)).

ARGUMENT

I. Plaintiffs Lack Standing

Article III of the Constitution limits the judicial power of federal courts to "Cases" and "Controversies." U.S. Const. art. III, § 2. "[R]ooted in the traditional understanding of a case or controversy," standing doctrine developed to implement this Article III command. *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016). It "limits the category of litigants empowered to maintain a lawsuit in federal court to seek redress for a legal wrong," thus preventing "the judicial process from being used to usurp the powers of the political branches" and "confin[ing] the federal courts to a properly judicial role." *Id.*

Standing "requires an injury in fact that is caused by the challenged conduct and is likely to be redressed by a favorable decision." *6th Cong. Dist. Republican Comm. v. Alcorn*, 913 F.3d 393, 405 (4th Cir. 2019). As the parties invoking this Court's jurisdiction, Plaintiffs bear the burden of establishing these requirements. *Spokeo*, 136 S. Ct. at 1547. They cannot. Plaintiffs claim that they "live in states where lawmakers have expressed an interest and desire to use CVAP as a population base for drawing congressional and

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state legislative redistricting plans in 2021." FAC ¶ 87. If the Census Bureau "provides those states with citizenship data," the state and local officials may exclude "non-citizens from the population base used for redistricting congressional, state legislative[,] and local districts," purportedly resulting in Plaintiffs' "vote dilution and loss of representation in unconstitutionally overpopulated districts." *Id.* This theory fails every prong of standing.

A. Plaintiffs' purported harm is not traceable any action of Defendants and not redressable by the Court.

Most obviously, Plaintiffs fail to demonstrate traceability and redressability. Standing requires Plaintiffs to show that their purported injury is "fairly traceable to the challenged action of the defendant[s], and not the result of the independent action of some third party not before the court." *Lujan*, 504 U.S. at 560 (alterations and citations omitted). This is important because "it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Id.* at 561 (quotation marks and citations omitted). Here, it is only "independent action of some third party not before the court"—States and localities using redistricting data—that could possibly cause Plaintiffs' alleged redistricting injury, and no court order is likely to redress that injury.

For starters, Plaintiffs' claimed injury could only occur if state and local officials exclude "non-citizens from the population base used for redistricting congressional, state legislative[,] and local districts." FAC ¶ 87. But that redistricting choice is, quite obviously, an independent decision by state and local officials. The Supreme Court has

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explained in no uncertain terms that "[r]edistricting is primarily the duty and responsibility of the State," *Abbott v. Perez*, 138 S. Ct. 2305, 2324 (2018), and "[t]he decision to include or exclude" noncitizens and other non-voting persons "involves *choices* about the nature of representation with which we have been shown no constitutionally founded reason to interfere," *Burns v. Richardson*, 384 U.S. 73, 92 (1966) (emphasis added). The possibility that "*States* may draw districts to equalize voter-eligible population rather than total population" was explicitly left open in *Evenwel v. Abbott*, 136 S. Ct. 1120, 1133 (2016) (emphasis added). And "because eligibility to vote depends in part on citizenship, *States* could more effectively exercise this option with a more accurate and complete count of the citizen population." E.O. 18880, 84 Fed. Reg. at 33824 (emphasis added). Nothing in either law or Plaintiffs' factual allegations supports the idea that States' redistricting methodologies are anything but their own independent decisions.[8]

[8] It is true that traceability may be found "where the plaintiff suffers an injury that is produced by the determinative or coercive effect of the defendant's conduct upon the action of someone else." *Lansdowne on the Potomac Homeowners Ass'n, Inc. v. OpenBand at Lansdowne*, LLC, 713 F.3d 187, 197 (4th Cir. 2013) (alterations omitted). But Plaintiffs do not (and cannot) advance any allegations that Defendants' mere collection of citizenship data somehow coerces States into using that data for CVAP redistricting, or somehow makes CVAP redistricting a foregone conclusion. As Plaintiffs themselves acknowledge, States and localities expressed a desire for CVAP redistricting long before the Executive Order. *See, e.g.*, FAC ¶ 87 n.42; Brief for Appellees, *Evenwel v. Abbott*, 136 S. Ct. 1120 (2016) (No. 14-940) (State of Texas arguing for voter-eligible redistricting in 2015); Brief Amicus Curiae of Tennessee State Legislators and the Judicial Education Project in Support of Appellants, *Evenwel v. Abbott*, 136 S. Ct. 1120 (2016) (No. 14-940) (Tennessee legislators arguing for voter-eligible redistricting in 2015).

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This alone is fatal to Plaintiffs' standing. *See Doe v. Obama*, 631 F.3d 157, 162 (4th Cir. 2011) (stating that "a fundamental tenet of standing doctrine" is that where a third party "makes the independent decision that causes an injury, that injury is not fairly traceable" to the defendant). But even if States make the independent choice to use CVAP for redistricting, they must also make the independent choice to use citizenship data *provided by the Census Bureau*, as opposed to other statistics like voter-registration data. *See Burns*, 384 U.S. at 92–93 (permitting a State to draw districts based on voter-registration data).[9] So before Plaintiffs could possibly suffer "vote dilution and loss of representation in unconstitutionally overpopulated districts," States must make two independent decisions: (i) whether to "exclu[de] [ ] non-citizens from the population base used for redistricting congressional, state legislative[,] and local districts," and (ii) whether to use "citizenship data" provided by the Census Bureau "along with the total population tabulations in the P.L. 94-171 Redistricting Data File." FAC ¶ 87.

That is also why a favorable decision in this case would do nothing to relieve Plaintiffs' theoretical "injury." *Lujan*, 504 U.S. at 560. Plaintiffs seek to "[e]njoin Defendants and their agents from collecting data as dictated by EO 13380." FAC at 31.

[9] More broadly, States make the independent choice to use any Census Bureau data, even total population figures, for redistricting. *See Burns*, 384 U.S. at 91 ("[T]he Equal Protection Clause does not require the States to use total population figures derived from the federal census as the standard by which this substantial population equivalency is to be measured.").

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But even if they are granted this relief, States may nonetheless choose to use CVAP for redistricting based on either voter-registration data or the Census Bureau's ACS-based citizenship data.[10] The reverse is also true. Even if this Court declines Plaintiffs' requested injunction, it is entirely possible that States—or at least Arizona, Texas, and Washington, where Plaintiffs reside—may choose *not* to use CVAP for redistricting. In either case, Plaintiffs lack standing because "[f]ederal courts may not decide questions that cannot affect the rights of litigants in the case before them or give opinions advising what the law would be upon a hypothetical state of facts." *Chafin v. Chafin*, 568 U.S. 165, 172 (2013) (alterations and citations omitted).

Plaintiffs' quarrel lies with their respective States, not the President, the Secretary of Commerce, or the Census Bureau. Merely collecting citizenship data and potentially providing it to the States cannot have the challenged effect on redistricting unless *States* decide to use CVAP for redistricting. And if they do so for discriminatory purposes, Plaintiffs could sue their respective States (or the relevant State officials). *See Davidson v. City of Cranston*, 837 F.3d 135, 142–43 (1st Cir. 2016); *Wright v. North Carolina*, 787 F.3d 256, 263 (4th Cir. 2015); *Terrebonne Par. NAACP v. Jindal*, 154 F. Supp. 3d 354, 363 (M.D. La. 2015); *Giles v. Ashcroft*, 193 F. Supp. 2d 258, 267 (D.D.C. 2002); *Common Cause S. Christian*

[10] As experienced demographers told the Supreme Court in 2015, "ACS data more than suffices as the raw material for building districts of 'substantially equal' numbers of eligible voters." Brief of Demographers Peter A. Morrison, et al. as Amici Curiae in Support of Appellants, *Evenwel v. Abbott*, 136 S. Ct. 1120 (2016) (No. 14-940).

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Leadership Conference of Greater L.A. v. Jones, 213 F. Supp. 2d 1106, 1108 (C.D. Cal. 2001). In the meantime, Plaintiffs may seek relief through the political process—not the courts—if they dislike the collection of citizenship data through administrative records.

B. Plaintiffs' purported harm is far from certainly impending.

Plaintiffs also fail the injury-in-fact inquiry because no one is injured by the Defendants' mere collection of citizenship data; Plaintiffs' hypothetical injury could only occur, if ever, after a series of speculative events. "To establish injury in fact, a plaintiff must show that he or she suffered an invasion of a legally protected interest that is concrete and particularized and actual or imminent, not conjectural or hypothetical." *Spokeo*, 136 S. Ct. at 1548. The purpose of the imminence requirement "is to ensure that the alleged injury is not too speculative for Article III purposes." *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 409 (2013). So the "threatened injury must be *certainly impending* to constitute injury in fact, and allegations of *possible* future injury are not sufficient." *Wikimedia Found. v. Nat'l Sec. Agency*, 857 F.3d 193, 207–08 (4th Cir. 2017) (alterations omitted) (quoting *Clapper*, 568 U.S. at 409). Plaintiffs have alleged just such a "possible future injury" here.

Plaintiffs claim that if the Census Bureau "provides th[eir] states with citizenship data," state and local officials may exclude "non-citizens from the population base used for redistricting congressional, state legislative[,] and local districts," purportedly resulting in Plaintiffs' "vote dilution and loss of representation in unconstitutionally

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overpopulated districts." FAC ¶ 87. So Plaintiffs will not suffer any harm unless (1) Defendants collect more administrative records under the Executive Order, *id.* ¶¶ 59–62; (2) the Census Bureau is able to "produce citizenship population tabulations" using these additional administrative records, *id.* ¶¶ 96, 101, 103, 108, 112; (3) the Census Bureau provides "[S]tates with citizenship data" based on administrative records, *id.* ¶ 87; (4) States choose to "use CVAP as a population base for drawing congressional and state legislative redistricting plans in 2021," *id.*; and (5) States choose to use the Census Bureau's administrative-record data to do so. The result is a "highly attenuated chain of possibilities," which "does not satisfy the requirement that threatened injury must be certainly impending." *Clapper*, 568 U.S. at 410.

First, until the Census Bureau is able to obtain administrative records under the Executive Order, the precise effect of additional records remains unknown. As the Executive Order itself notes, Defendants *already had* administrative records to "determine citizenship status for approximately 90 percent of the population," but "remain[ed] in negotiations to" access "several additional important sets of records with critical information on citizenship" from other federal agencies. E.O. 13880, 84 Fed. Reg. at 33821–22. The acquisition of administrative records from federal agencies is a complicated process. It requires extensive negotiation of a lengthy agreement, including how the data will be transferred, how the data may be used, how the data must be protected, how long the Census Bureau may retain the data, and how much the data will

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cost. And this says nothing about Defendants' acquisition of *state* administrative records, which are comparably more difficult to obtain because they not only require the same extensive negotiation as federal agreements, but require these negotiations with each separate State (and sometimes multiple state agencies with the same State). Plaintiffs seek to enjoin only the speculative acquisition of administrative records obtained under the Executive Order, not any preexisting administrative records. *See* FAC at 31 (seeking to "[e]njoin Defendants and their agents from collecting data as dictated by EO 13380").[11]

Second, even if additional administrative records are acquired, they may be too unreliable to aid production of "citizenship population tabulations" by April 2021. *See id.* ¶¶ 87, 96, 101, 103, 108, 112. The Census Bureau can only produce these tabulations—including the number and location of citizens and noncitizens—when administrative records and their connections to census data are both of "high quality." *See New York v. U.S. Dep't of Commerce*, 351 F. Supp. 3d 502, 587–88 (S.D.N.Y.) (noting that administrative

[11] Although Plaintiffs seemingly seek a declaratory judgment "that production of citizenship data for use along with the P.L. 94-171 Redistricting Data File and population tabulations, or including citizenship data in the File, violates the Equal Protection guarantee of the Fifth Amendment," FAC at 31, they nowhere allege facts supporting the unprecedented relief of declaring that all citizenship data—not just citizenship data collected under the Executive Order—is invalid on equal protection grounds. In fact, the only allegations of discriminatory intent (necessary for an equal protection violation) focus on the Secretary's previous attempt to include a citizenship question on the census and the subsequent Executive Order, not any preexisting animus somehow infecting administrative records collected years ago. *See id.* ¶¶ 73–84. In any event, Plaintiffs claims are both unreviewable and meritless, as discussed above and below.

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records "will be used to enumerate only a limited number of those households for which there is high quality administrative data about the household," and that "[n]oncitizen and Hispanic households are less likely to be accurately represented in quality administrative records than other groups"), *aff'd in part, rev'd in part* 139 S. Ct. 2551 (2019). Plaintiffs themselves fully acknowledge the possibility of gaps in administrative records. *See* FAC ¶¶ 66–72 (cataloguing shortcomings of administrative records and noting that the Census Bureau "will most likely never possess a fully adequate truth deck" for citizenship). So the usability of any administrative records collected under the Executive Order is still unknown.[12]

Third, even if the Census Bureau is able to gather administrative records under the Executive Order, and even if they prove reliable enough to "produce citizenship population tabulations," the methodology used to produce any citizenship data provided to States is still undetermined.[13]

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[12] The usability and completeness of citizenship data in Defendants' administrative records is currently being litigated. *See* Defendant-Interveners' Cross Claim, *Alabama v. U.S. Dep't of Commerce*, No. 18-cv-0772 (N.D. Ala. Oct. 1, 2019), ECF No. 119 at ¶¶ 42–51 (contesting the use of "data collected under EO 13880" for congressional apportionment because it "is not an enumeration of individuals, and specifically is not an enumeration of undocumented immigrants, in the U.S.").

[13] U.S. Census Bureau, *Update on Disclosure Avoidance and Administrative Data* (Sept. 13, 2019), at 13, https://www2.census.gov/cac/sac/meetings/2019-09/update-disclosure-avoidance-administrative-data.pdf? ("No final decisions have been made regarding the methodology and format of the block-level CVAP data.").

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Fourth and fifth, it is anyone's guess as to whether state and local officials will make the independent decisions to both use CVAP for redistricting and use the Census Bureau's (as-yet-unknown) data in the process. As explained above, it is entirely possible that Plaintiffs' States and localities may choose to redistrict using total population, or to use voter-registration data for CVAP redistricting.

Plaintiffs build speculation on top of speculation in a feeble attempt to manufacture a redistricting injury from Defendants' mere collection of administrative records. The result is a "highly attenuated chain of possibilities," which "does not satisfy the requirement that threatened injury must be certainly impending." *Clapper*, 568 U.S. at 410. No redistricting harm may ever befall Plaintiffs, let alone redistricting harm traceable to Defendants' conduct and redressable by the Court.

C. Plaintiffs will suffer no injury to a legally protected interest.

Plaintiffs' sole alleged redistricting injury is that they will suffer "vote dilution and loss of representation in unconstitutionally overpopulated districts" if state and local officials exclude "non-citizens from the population base used for redistricting congressional, state legislative[,] and local districts." FAC ¶ 87. But standing requires Plaintiffs to show that they will suffer "an invasion of a *legally protected* interest." *Wikimedia*, 857 F.3d at 207–08 (emphasis added) (quoting *Spokeo*, 136 S.Ct. at 1548). And despite Plaintiffs' cursory assertion that CVAP redistricting is itself "unconstitutional[]," that is simply not true under current law. FAC ¶ 87.

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The Supreme Court explicitly left open the possibility for States to "draw districts to equalize voter-eligible population rather than total population," and it has suggested that States may constitutionally redistrict on either basis. *Evenwel*, 136 S. Ct. at 1126–32 (total population); *Burns*, 384 U.S. at 90 (registered-voter population). Indeed, "[i]t has long been constitutionally acceptable, but by no means required, to exclude non-voting persons . . . from the apportionment base, so long as the apportionment scheme does not involve invidious discrimination." *Davidson*, 837 F.3d at 143 (quoting *Burns*, 384 U.S. at 92); *Kaplan v. Cty. of Sullivan*, 74 F.3d 398, 401 (2d Cir. 1996) (same). So the mere use of CVAP in redistricting does not cause "vote dilution and loss of representation in unconstitutionally overpopulated districts." FAC ¶ 87.[14] It is only when Plaintiffs' state and local officials choose to use CVAP *with discriminatory intent* that Plaintiffs will suffer

[14] Plaintiffs also point out that "[e]xclusion of non-citizens from the population count used for [congressional] apportionment creates a significant risk that states in which large numbers of non-citizens reside, including Texas and Arizona, will suffer a reduction in the number of congressional seats that would otherwise be apportioned to them." FAC ¶ 86. But Defendants do not understand Plaintiffs to be asserting an injury on this basis because they advance no allegation, nor could they, that Defendants will use citizenship data collected under the Executive Order to exclude noncitizens in congressional apportionment. If Plaintiffs were to rely on that theory for standing, however, Defendants would likely seek to transfer venue to the Northern District of Alabama where that issue is currently being litigated. *See* First Am. Compl., *Alabama v. U.S. Dep't of Commerce*, No. 18-cv-0772 (N.D. Ala. Sept. 10, 2019), ECF No. 112 at ¶¶ 1–4 (alleging that *inclusion* of noncitizens in congressional apportionment is unconstitutional); Defendant-Interveners' Cross Claim, *Alabama v. U.S. Dep't of Commerce*, No. 18-cv-0772 (N.D. Ala. Oct. 1, 2019), ECF No. 119 at ¶¶ 50—56 (alleging that *exclusion* of noncitizens in congressional apportionment based on administrative records is unconstitutional).

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a legally cognizable injury. *Davidson*, 837 F.3d at 143; *Kaplan*, 74 F.3d at 401. And, as explained above, Plaintiffs may attempt to enjoin such conduct by suing their state and local officials, not Defendants who merely tabulated citizenship data.

D. Organizational Plaintiffs lack standing.

In addition the infirmities identified above, the Organizational Plaintiffs have other standing problems: suing on behalf of their members or on their own behalves.

An organization does not have Article III standing to sue on behalf of its members unless "its members would otherwise have standing to sue in their own right." *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977). A general reference to unidentified members is insufficient for organizational standing. *Valley Forge Christian Coll. v. Ams. United for Separation of Church & State, Inc.*, 454 U.S. 464, 487 n.23 (1982); *see also Am. Chemistry Council v. Dep't of Transp.*, 468 F.3d 810, 820 (D.C. Cir. 2006). Here, Promise Arizona (PAZ) does not identify a single member who may suffer an injury. *See* FAC ¶¶ 6–14. And although La Unión del Pueblo Entero (LUPE) identifies one member (Plaintiff Juanita Valdez-Cox) who may hypothetically suffer an injury, she—and therefore LUPE—still lack standing for the reasons explained above. *Id.*

When an organization sues on its own behalf (rather than on behalf of its members), it must satisfy the same Article III standing requirements that apply to individuals. *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 378–79 (1982). But Organizational Plaintiffs do not even attempt to allege any injuries distinct from their

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members, like a "concrete and demonstrable injury to the organization's activities—with the consequent drain on the organization's resources." *Id.* at 379.

II. Plaintiffs' Claims Are Not Ripe

Ripeness "prevent[s] the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements." *Trustgard Ins. Co. v. Collins*, 942 F.3d 195, 199 (4th Cir. 2019) (quoting *Abbott Labs. v. Gardner*, 387 U.S. 136, 148-49 (1967)). In that sense, "[a]nalyzing ripeness is similar to determining whether a party has standing." *South Carolina v. United States*, 912 F.3d 720, 730 (4th Cir. 2019) (quoting *Miller v. Brown*, 462 F.3d 312, 319 (4th Cir. 2006)). Just as Plaintiffs "cannot assert standing based on an alleged injury that lies at the end of a highly attenuated chain of possibilities," Plaintiffs' "claim is not ripe for judicial review if it rests upon contingent future events that may not occur as anticipated, or indeed may not occur at all." *Id.* (citations omitted).

"The question of whether a claim is ripe turns on the fitness of the issues for judicial decision and the hardship to the parties of withholding court consideration." *Id.* (citations omitted). Neither factor favors Plaintiffs. "A case is fit for judicial decision when the issues are purely legal and when the action in controversy is final and not dependent on future uncertainties." *Miller*, 462 F.3d at 319; *Johnston v. Lamone*, 401 F. Supp. 3d 598, 607 (D. Md. 2019). Here, as explained above, the action in controversy—redistricting based on CVAP—is far from final and entirely dependent on unknown facts underlying a "highly attenuated chain of possibilities," *Clapper*, 568 U.S. at 410, including

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States' independent redistricting decisions. *See Doe v. Va. Dep't of State Police*, 713 F.3d 745, 758 (4th Cir. 2013) ("Where an injury is contingent upon a decision to be made by a third party that has not yet acted, it is not ripe as the subject of decision in a federal court.").

"The hardship prong [of ripeness] is measured by the immediacy of the threat and the burden imposed on" Plaintiffs. *Miller*, 462 F.3d at 319. By Plaintiffs' own admission, the Census Bureau would not provide citizenship data to the States—whether based on administrative records or the ACS—until April 2021. *See* FAC ¶¶ 1, 15, 65, 87. And as explained above, it is far from certain that Plaintiffs would suffer any redistricting harm whatsoever. But perhaps more importantly, there is no burden on Plaintiffs at all. Cases have been deemed ripe where, for example, a "challenged statute imposed a continuing injury on [plaintiffs'] associational rights," *Miller*, 462 F.3d at 319–20, or a challenged "policy impose[d] the heavy burden of requiring a pit bull owner to either vacate his or her home or abandon a family pet," *Weigel v. Maryland*, 950 F. Supp. 2d 811, 830 (D. Md. 2013), or a challenged policy forced "harmful consequences [for plaintiffs] such as the cancellation and postponements of surgeries" and "the prospect of discharge [from the military] and inability to commission as an officer," *Stone v. Trump*, 280 F. Supp. 3d 747, 767 (D. Md. 2017). In stark contrast, Defendants' collection of administrative records, facilitated by the Executive Order, neither obligates Plaintiffs to, nor prohibits Plaintiffs from, any action. This case is not ripe and it should be dismissed.

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III. Plaintiffs' APA Claims Should be Dismissed

Plaintiffs seem to target their APA claims at the Executive Order, and they challenge the Secretary's compliance with this presidential directive. FAC ¶¶ 88–109; *see, e.g., id.* ¶ 103 ("Defendant Ross's decision to follow EO 13380 and direct the Census Bureau to, among other things, collect citizenship data . . . violates the APA and must be set aside."). But "[i]t is firmly established that presidential action is not subject to APA review." *Int'l Refugee Assistance Project v. Trump*, 373 F. Supp. 3d 650, 662 (D. Md. 2019) (citing *Franklin v. Massachusetts*, 505 U.S. 788, 800–01 (1992)).

It is true that, in certain circumstances, courts may apply the APA to an *agency's implementation* of an executive order. *See U.S. Chamber of Commerce v. Reich*, 74 F.3d 1322, 1326 (D.C. Cir. 1996) ("Appellants could not possibly have relied on the APA for a cause of action prior to the Secretary's issuance of regulations implementing the Executive Order."); *Serv. Emps. Int'l Union Local 200 v. Trump*, 2019 WL 4877273, at *7 (W.D.N.Y. Oct. 3, 2019) (collecting cases for the proposition that "an APA challenge to an agency's implementation of an executive order (or other presidential directive) is not permissible prior to some independent, concrete action by the agency"). For at least two reasons, however, that gets Plaintiffs no closer to an actionable APA claim.

First, the Executive Order was merely a managerial tool designed "to eliminate delays and uncertainty, and to resolve any doubt about the duty of agencies to share data promptly with the [Commerce] Department." E.O. 13880, 84 Fed. Reg. at 33822. It was

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not "issued pursuant to statutory mandate" or "a delegation from Congress of lawmaking authority." *U.S. Dep't of Health & Human Servs. v. Fed. Labor Relations Auth.*, 844 F.2d 1087, 1096 (4th Cir. 1988). To the contrary, it was "intended for the internal management of the President's cabinet," so neither the Executive Order nor its implementation are reviewable by courts. *Chai v. Carroll*, 48 F.3d 1331, 1339 (4th Cir. 1995); *see U.S. Dep't of Health & Human Servs.*, 844 F.2d at 1095; *Orbital ATK, Inc. v. Walker*, 2017 WL 2982010, at *9 (E.D. Va. July 12, 2017) (rejecting an APA challenge where the presidential directive at issue was "intended primarily as a managerial tool for implementing the President's personal [ ] policies" (quoting *Indep. Meat Packers Ass'n v. Butz*, 526 F.2d 228, 235–36 (8th Cir. 1975))).

Second, given that the Executive Order is simply managerial, it is unsurprising that Plaintiffs do not challenge a cognizable "agency action." The APA authorizes suit by "[a] person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute." 5 U.S.C. § 702. "The term 'action' as used in the APA is a term of art that does not include all conduct on the part of the government." *City of New York v. U.S. Dep't of Def.*, 913 F.3d 423, 430 (4th Cir. 2019) (quoting *Vill. of Bald Head Island v. U.S. Army Corps of Eng'rs*, 714 F.3d 186, 193 (4th Cir. 2013)). Cognizable "agency action" under the APA must satisfy two key criteria: it must be "circumscribed and discrete," and it must "determine rights and obligations." *Id.* at 431 (citations and alterations omitted).

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The latter requirement "ensures that judicial review does not reach into the internal workings of the government, and is instead properly directed at the effect that agency conduct has on private parties." *Id.* "To meet this requirement, a party must demonstrate that the challenged act had an immediate and practical impact, or altered the legal regime in which it operates." *Id.* (citations and alterations omitted). "It is not enough for plaintiffs to simply identify a governmental action that ultimately affected them through the 'independent responses and choices of third parties,' or mere 'coercive pressures.'" *Id.* (citation omitted). The collection of administrative records fails this test.

Indeed, Plaintiffs' APA claims are the paradigmatic example of improperly "reach[ing] into the internal workings of the government." *Id.* The Executive Order simply seeks to "ensure that accurate citizenship data is compiled" from administrative records already held by federal and state agencies. *See* E.O. 13880, 84 Fed. Reg. at 33821 (ordering "all executive departments and agencies" to "provide the [Commerce] Department the maximum assistance permissible, consistent with law, in determining the number of citizens and non-citizens in the country"). It has no impact whatsoever on private parties, let alone an "immediate and practical" one. *See City of New York*, 913 F.3d at 431.

The Court need look no further than the recent challenges to the 2020 Census to understand this point. In those cases, plaintiffs challenged the Secretary's decision to include a citizenship question on the 2020 Census, arguing that it violated the

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Constitution and the APA. *See, e.g., La Union del Pueblo Entero v. Ross*, 353 F. Supp. 3d 381 (D. Md. 2018). Moving to dismiss plaintiffs' APA claims, the government acknowledged that the Secretary's decision was "final agency action." *See, e.g., New York*, 351 F. Supp. 3d at 627 ("There is no dispute th[at] Secretary Ross's decision constitutes 'final agency action' reviewable under the APA."). That was because the Secretary's decision imposed an obligation on private parties—*i.e.*, U.S. residents—to truthfully answer the citizenship question in 2020. *See* 13 U.S.C. § 221. Here, in contrast, Defendants' collection of administrative records from other federal and state agencies do not obligate private parties to do anything. *See NAACP v. Bureau of the Census*, 399 F. Supp. 3d 406, 425 (D. Md. 2019) (rejecting APA challenges to the Census Bureau's plans to conduct the 2020 Census because they did not determine rights and obligations of private parties).

It also cannot be said that the Executive Order "alter[s] the legal regime in which it operates." *City of New York*, 913 F.3d at 431 (citations omitted). It neither dictates how the Census Bureau must use the administrative records once they are collected, nor is anyone exposed to civil or criminal penalties for failing to follow it. *Cf. Bennett v. Spear*, 520 U.S. 154, 178 (1997) (holding that the legal regime is altered by one agency's determination when the action agency would expose itself to civil and criminal penalties if it disregarded that determination); *see Flue-Cured Tobacco Coop. Stabilization Corp. v. EPA*, 313 F.3d 852, 861 (4th Cir. 2002) (holding that an EPA Report did not alter the legal regime because "no statutory scheme triggers potential civil or criminal penalties for

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failing to adhere to the Report's recommendations"). Beyond ordering "*all executive departments and agencies*"—not private parties—to "provide the [Commerce] Department the maximum assistance permissible," *see* E.O. 13880, 84 Fed. Reg. at 33821 (emphasis added), the Executive Order in no way "determine[s] rights and obligations" for the Department of Commerce, the Census Bureau, other federal agencies, Plaintiffs, or anyone else.

The Supreme Court's decision in *Franklin v. Massachusetts* alone resolves this case. 505 U.S. 788 (1992). There, plaintiffs challenged the Secretary's *use of administrative records* to count federal employees serving overseas, arguing that the Secretary's tabulation of census results violated the APA. *Id.* at 794–96 (explaining that the Census Bureau used the "home of record" in the Department of Defense's personnel files to allocate individuals). Strikingly, the Supreme Court held that the Secretary's final report to the President conveying the census results did not constitute "final agency action" because "the action that creates an entitlement to a particular number of Representatives and has a direct effect on the reapportionment is the President's statement to Congress, not the Secretary's report to the President." *Id.* at 797. So if the Secretary's tabulation of final census results—*including* administrative records—is not "final agency action" under the APA, then the mere gathering of administrative records parallel to the census cannot constitute "final agency action" either.

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Fourth Circuit law reinforces this point, consistently rejecting APA claims like those at issue here. *City of New York*, 913 F.3d at 434–35 (holding that the Department of Defense's compliance with statutory requirements was not "agency action" under the APA because it did not "in any way determine [the plaintiffs'] rights and obligations"); *Bald Head Island*, 714 F.3d at 188–93 (finding no "agency action" where plaintiffs "commenced [the] action to challenge the adequacy of [a project's] performance and to require the [Army Corps of Engineers] to do what it had undertaken to do when approving the project," which was not a "determination of rights and obligations"); *Golden & Zimmerman, LLC v. Domenech*, 599 F.3d 426, 427–28 (4th Cir. 2010) (discussed below); *Invention Submission Corp. v. Rogan*, 357 F.3d 452, 459 (4th Cir. 2004) (holding that the Patent and Trademark Office's advertising campaign was not "final agency action" because it "was not the consummation of any decisionmaking process that determined rights or obligations or from which legal consequences flowed"); *Flue-Cured Tobacco*, 313 F.3d at 861 (holding that publication of an EPA report that classified environmental tobacco smoke as a potentially harmful human carcinogen was not an "agency action" reviewable under the APA).

In *Golden & Zimmerman, LLC v. Domenech*, for example, the plaintiffs challenged the "Federal Firearms Regulations Reference Guide 2005,' which [was] published by the Bureau of Alcohol, Tobacco, Firearms and Explosives ('ATF') to provide information designed to help licensees comply with all of the laws and regulations governing the

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manufacture, importation, and distribution of firearms and ammunition." 599 F.3d at 427–28 (alterations omitted). The court rejected this challenge because, although the Reference Guide "inform[ed] the regulated community of what violates the law," it did "not itself *determine* the law or the consequences of not following it." *Id.* at 432–33. Notably, the court explained, "if the ATF had never published the Reference Guide . . . the ATF would still have had the authority to prosecute licensees for engaging in the conduct described in [it] because legal consequences do not emanate from [the Reference Guide] but from the Gun Control Act and its implementing regulations." *Id.* at 433.

The Executive Order here is even further removed from "determin[ing] the law" than the Reference Guide in *Golden & Zimmerman*: it provides no information to "the regulated community of what violates the law," *id.* at 432–33, but merely functions as an internal guide for "all executive departments and agencies" to "provide the [Commerce] Department the maximum assistance permissible, consistent with law, in determining the number of citizens and non-citizens in the country." *See* E.O. 13880, 84 Fed. Reg. at 33821. Surely, if a Reference Guide explaining the law to regulated parties does not "determine rights and obligations," then neither does the President's managerial decision. And, like the Reference Guide in *Golden & Zimmerman*, Defendants can, and have, gathered administrative records *without* the President's recent directive. *See id.* 33821–22 (noting that the Census Bureau already had administrative records to "determine citizenship status for approximately 90 percent of the population"). Their

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authority to do so derives from the Census Act, not a recent directive "to eliminate delays and uncertainty" in the process. *See* 13 U.S.C. § 6(a) ("The Secretary, whenever he considers it advisable, may call upon any other department, agency, or establishment of the Federal Government . . . for information pertinent to the work provided for in this title."); E.O. 13880, 84 Fed. Reg. at 33821–22 ("[T]o to eliminate delays and uncertainty . . . I am hereby ordering all agencies to share information requested by the Department to the maximum extent permissible under law.").

Plaintiffs are clearly concerned about the conduct of States and localities when they receive citizenship data from the Census Bureau in 2021. *See* FAC ¶¶ 1, 15, 65, 87. But the APA "does not provide judicial review for everything done by an administrative agency," *Invention Submission Corp.*, 357 F.3d at 459 (citation omitted), and "[i]t is not enough for plaintiffs to simply identify a governmental action that ultimately affected them through the independent responses and choices of third parties," *City of New York*, 913 F.3d at 431 (citations omitted). Managerial "policy statements," like the Executive Order, "are properly challenged through the political process and not the courts." *Invention Submission Corp.*, 357 F.3d at 459.

IV. Plaintiffs' Equal Protection Claim Should be Dismissed

Plaintiffs' equal protection claim alleges that "[t]he collection of citizenship data and the production of citizenship population tabulations for use along with the P.L. 94-171 Redistricting Data File violates the equal protection guarantee of the Fifth

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Amendment because it is motivated by racial animus towards Latinos, and animus towards non-U.S. citizens and foreign-born persons." FAC ¶ 112. To state an equal protection claim,[15] Plaintiffs must plausibly allege that the decision at issue has an adverse effect on a protected group and was motivated by discriminatory animus. *Pers. Adm'r of Mass. v. Feeney*, 442 U.S. 256, 272 (1979); *La Union del Pueblo Entero*, 353 F. Supp. 3d at 393. They fail both prongs.

As explained above, the mere collection of administrative records does not impact anyone, let alone disparately impact Plaintiffs. *See* Argument Section I., *supra*. The Executive Order is even explicit that its goal is to "mak[e] available to the [Commerce] Department administrative records showing citizenship data for 100 percent of the population," citizens and noncitizens alike. E.O. 13880, 84 Fed. Reg. at 33822. It is only when States and localities use citizenship data produced by the Census Bureau (sometime after April 2021, if ever) that Plaintiffs would be impacted. That alone resolves their equal protection claim. *See Feeney*, 442 U.S. at 272.

But even if Plaintiffs somehow alleged an adverse effect from the collection of administrative records, they fail to allege facts plausibly suggesting discriminatory intent for this collection. *Id.* at 274. Put simply, Plaintiffs have not met their burden of plausibly

[15] "Although the Fourteenth Amendment's Equal Protection Clause does not apply to the federal government, the Fifth Amendment's Due Process Clause contains an equal protection component." *Stop Reckless Econ. Instability Caused by Democrats v. Fed. Election Comm'n*, 814 F.3d 221, 233 (4th Cir. 2016), *cert. denied*, 137 S. Ct. 374 (2016).

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alleging that the decisionmaker "selected or reaffirmed a particular course of action at least in part 'because of,' not merely 'in spite of,' its adverse effects upon an identifiable group." *Id.* at 279.

The Supreme Court and the Fourth Circuit have identified various factors that may be probative of whether a decisionmaker was motivated by discriminatory intent:

> (1) evidence of a "consistent pattern" of actions by the [decisionmaker] disparately impacting members of a particular class of persons; (2) historical background of the decision, which may take into account any history of discrimination by the [decisionmaker] . . . ; (3) the specific sequence of events leading up to the particular decision being challenged, including any significant departures from normal procedures; and (4) contemporary statements by [the decisionmaker] on the record or in minutes of [ ] meetings.

Cent. Radio Co. v. City of Norfolk, 811 F.3d 625, 635 (4th Cir. 2016) (quoting *Sylvia Dev. Corp. v. Calvert Cty.*, 48 F.3d 810, 819 (4th Cir. 1995)). None of these factors favor Plaintiffs.

First, Plaintiffs have not plausibly alleged a "consistent pattern" of actions by *anyone* that disparately impacted Latinos, noncitizens, and foreign-born persons.[16] They

[16] Plaintiffs cannot maintain an equal protection claim based on "animus towards non-U.S. citizens and foreign-born persons," FAC ¶ 112, because they are not suspect classifications. The federal government makes many distinctions between citizens and noncitizens, both for privileges (such as voting, jury service, and eligibility for benefits) and for immigration laws. *See, e.g.*, *Mathews v. Diaz*, 426 U.S. 67, 79–80 (1976) ("In the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens."); *Lewis v. Thompson*, 252 F.3d 567, 583-84 (2d Cir. 2001); *Moving Phones P'ship L.P. v. FCC*, 998 F.2d 1051, 1055-56 (D.C. Cir. 1993). In any event, Plaintiffs have not set forth plausible allegations of discriminatory animus toward any of their named groups.

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name only one incident, Defendants' failed inclusion of a citizenship question on the 2020 Census, as the touchstone of discriminatory motivation here. *See* FAC ¶¶ 73–84. But one event can hardly be called a "consistent pattern," especially because the attempt to include a citizenship question was enjoined and could not possibly have "disparately impact[ed] members of a particular class of persons." *Cent. Radio*, 811 F.3d at 635.

Regardless, even their allegations of that one incident are lacking. The proverbial smoking gun cited for discriminatory intent is a document of the late Dr. Thomas Hofeller, in which he noted inclusion of a citizenship question to "shift from redistricting based on total population to CVAP." FAC ¶ 81 ("To generate the necessary CVAP data and achieve this goal of diluting Latino representation while increasing over-representation of non-Latino Whites, Dr. Hofeller concluded that a citizenship question must be added to the 2020 census."). But there are no allegations that the sole decisionmaker with statutory authority to add a citizenship question—*i.e.*, the Secretary, *see* 13 U.S.C. § 141(f)(2)—ever read, received, or was even aware of Dr. Hofeller or his supposedly incendiary documents.[17] And those deficient allegations are still significantly

[17] At most, Plaintiffs allege that Dr. Hofeller "drafted and gave to Commerce and DOJ officials . . . the substantive content of the December 2017 DOJ letter requesting the addition of the citizenship question." FAC ¶ 82. Their allegations say nothing about the "substantive content of the December 2017 DOJ letter" including his idea to "shift from redistricting based on total population to CVAP," *id.* ¶ 81, or whether the "Commerce and DOJ officials," *id.* ¶ 82, were even aware of Dr. Hofeller's findings, let alone that they shared Dr. Hofeller's supposed motive to use CVAP redistricting for *discriminatory* purposes.

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removed from any action at issue in this case: the Secretary's collection of administrative records, and the President's facilitation of that process. So none of Plaintiffs' allegations, FAC ¶¶ 73–84, shed any light on "the decisionmaker's purposes." *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 267 (1977).

Second and relatedly, the FAC says nothing about a discriminatory historical background surrounding any action at issue in this case. Again, the FAC's equal protection claim rests solely on insufficient allegations related to a census citizenship question, not the collection of administrative records. Plaintiffs identify no "history of discrimination by the [decisionmaker]" relevant to determining "the decisionmaker's purposes" in collecting administrative records or expediting that process. *Id.* at 267; *Cent. Radio*, 811 F.3d at 635.

Third, Plaintiffs fail to plausibly allege any departures from normal procedures such that discriminatory intent could be inferred. As explained above, the Secretary of Commerce has the statutory authority to collect data from other agencies. *See* 13 U.S.C. § 6(a). Secretaries of Commerce have long exercised this statutory authority to gather administrative records, including those on citizenship. And by the time of the Executive Order, Defendants *already had* administrative records to "determine citizenship status for approximately 90 percent of the population." E.O. 13880, 84 Fed. Reg. at 33821–22. While Plaintiffs make oblique references to generally applicable standards of Office of Management and Budget Policy Directives, the Paperwork Reduction Act, and the

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Information Quality Act, *see* FAC ¶¶ 26–31, they nowehere explain how those guidelines apply to the collection of administrative records, how this collection violated any of those guidelines, or how the Secretary's current collection of administrative data differs from the procedures used for the last century.

Fourth, Plaintiffs do not advance any plausible allegations of "contemporary statements by [the decisionmaker]" from which discriminatory intent could be inferred. *Cent. Radio*, 811 F.3d at 635. For example, Plaintiffs cite the President's statements that the Executive Order will help "generate[] an accurate count of how many citizens, non-citizens, and illegal aliens are in the United States of America," and that citizenship data may be used by some States who "may want to draw state and local legislative districts based upon the voter-eligible population." FAC ¶¶ 62–63. Both of those sentiments were clearly expressed in the text of the Executive Order. *See* E.O. 13880, 84 Fed. Reg. at 33821–22 (noting the goal of "making available to the [Commerce] Department administrative records showing citizenship data for 100 percent of the population"); *id.* at 33823 (noting that citizenship data may allow "States to design State and local legislative districts based on the population of voter-eligible citizens"). And a discriminatory purpose cannot be inferred from either. Again, Secretaries of Commerce have long collected administrative records, including those on citizenship. And the Supreme Court explicitly left open the possibility for States to "draw districts to equalize voter-eligible population rather than total population." *Evenwel*, 136 S. Ct. at 1133. As the Executive Order explains, "because

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eligibility to vote depends in part on citizenship, States could more effectively exercise this option with a more accurate and complete count of the citizen population." E.O. 13880, 84 Fed. Reg. at 33823. So, again, none of Plaintiffs' allegations raise a plausible inference of discriminatory motive to collect administrative records—a collection that some of these Plaintiffs previously advocated.

Whether examined individually or collectively, through the lens of the Fourth Circuit's factors or not, the FAC contains no facts plausibly suggesting that discriminatory intent motivated any action at issue. Plaintiffs' equal protection claim should be summarily rejected.

V. Plaintiffs' 42 U.S.C. § 1985(3) Claim Should be Dismissed

Plaintiffs also advance a claim under 42 U.S.C. § 1985(3), alleging that "President Trump, Defendant Ross, Defendant Dillingham, John Gore, Attorney General Sessions, Kris Kobach, and Stephen Bannon conspired to collect citizenship data and produce citizenship data for use along with the P.L. 94-171 Redistricting Data File so that states can use CVAP data to apportion state and local districts." FAC ¶ 115. This official-capacity claim fails on multiple threshold grounds and, in any event, fails to state a claim.

A. Section 1985 does not authorize courts to award injunctive relief.

Plaintiffs' conspiracy claim fails at the outset because § 1985 only authorizes courts to award damages, not the injunctive relief Plaintiffs seek here. *See id.* at 31–32 (prayer for relief). By its terms, § 1985(3) provides only that a plaintiff "may have an action *for*

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the recovery of damages . . . against any one or more of the conspirators." 42 U.S.C. § 1985(3) (emphasis added). The statute says nothing about injunctive relief. In stark contrast, § 1985(3)'s companion provision, also enacted as part of the Ku Klux Klan Act of 1871, authorizes "action[s] at law, *suit[s] in equity*, or other proper proceeding[s] for redress." 42 U.S.C. § 1983 (emphasis added). As this comparison reveals, Congress both considered and authorized differing remedies under two statutory provisions of the same act: a violation of § 1983 may incur damages or injunction relief, while a violation of § 1985(3) can incur only damages. And "where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." *Russello v. United States*, 464 U.S. 16, 23 (1983).

The Court should therefore conclude that "the statutory relief available under § 1985 'is limited to the recovery of damages'" and that, in requesting only injunctive relief, Plaintiffs' claim fails. *Tufano v. One Toms Point Lane Corp.*, 64 F. Supp. 2d 119, 133 (E.D.N.Y. 1999) (quoting *Cuban v. Kapoor Bros., Inc.*, 653 F. Supp. 1025, 1033 (E.D.N.Y. 1986), *aff'd*, 229 F.3d 1136 (2d Cir. 2000).[18]

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[18] Neither the Supreme Court nor the Fourth Circuit have decided whether § 1985(3) authorizes injunctive relief. *See Bray v. Alexandria Women's Health Clinic*, 506 U.S. 263, 285 n.16 (1993). Two other circuits have indicated that injunctive relief is available under § 1985(3). *See Action v. Gannon*, 450 F.2d 1227, 1237–38 (8th Cir. 1971) (en banc); *Mizell v. N. Broward Hosp. Dist.*, 427 F.2d 468, 473 (5th Cir. 1970). Neither case is persuasive. *Action* simply relied on *Mizell*. And *Mizell* relied on dicta in *Jones v. Alfred H.*

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B. Plaintiffs' § 1985(3) claim is barred by sovereign immunity.

Plaintiffs' § 1985(3) claim also fails because it is barred by sovereign immunity. Sovereign immunity prohibits cases against the federal government unless Congress has unequivocally consented to suit. *United States v. Testan*, 424 U.S. 392, 399 (1976). Sovereign immunity is not limited to cases naming the United States as a defendant; it also bars cases against federal officials in their official capacities because the relief requested would run against the federal government. *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682, 689 (1949). Civil rights statutes like 42 U.S.C. § 1985(3) do not waive the federal government's sovereign immunity. *Unimex, Inc. v. Dep't of Housing & Urban Dev.*, 594 F.2d 1060, 1061 (5th Cir. 1979). Sovereign immunity thus "bars []§ 1985(3) . . . suits brought against the United States and its officers acting in their official capacity." *Davis v. U.S. Dep't of Justice*, 204 F.3d 723, 726 (7th Cir. 2000); *accord Affiliated Prof'l Home Health Care Agency v. Shalala*, 164 F.3d 282, 286 (5th Cir. 1999).

While a § 1985(3) suit against federal officers in their *individual capacities* might be permissible if Plaintiffs alleged that the officers acted beyond their statutory powers and that the powers themselves, or their exercise, were constitutionally void, *see Dugan v.*

Mayer Co., 392 U.S. 409, 414 (1968), and on *Sullivan v. Little Hunting Park, Inc.*, 396 U.S. 229, 238–40 (1969), both of which interpreted a statute (42 U.S.C. § 1982) that—unlike § 1985(3)—confers substantive rights without specifying a remedy. By contrast, § 1985(3) is solely remedial, *see United Bhd. of Carpenters & Joiners of Am., Local 610, AFL-CIO v. Scott*, 463 U.S. 825, 833 (1983), and that remedy is limited to damages.

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Rank, 372 U.S. 609, 621 (1963), Plaintiffs have sued Defendants only in their official capacities, FAC ¶¶ 15–16. So their § 1985(3) claim is barred by sovereign immunity.

C. Plaintiffs fail to state a claim under § 1985(3).

Even if Plaintiffs' § 1985(3) claim were viable, their allegations are entirely conclusory and fail to state a claim. To state an actionable conspiracy under § 1985(3), Plaintiffs must allege non-conclusory facts plausibly showing:

> (1) a conspiracy of two or more persons, (2) who are motivated by a specific class-based, invidiously discriminatory animus to (3) deprive the plaintiff of the equal enjoyment of rights secured by the law to all, (4) and which results in injury to the plaintiff as (5) a consequence of an overt act committed by the defendants in connection with the conspiracy.

Simmons v. Poe, 47 F.3d 1370, 1376 (4th Cir. 1995) (citation omitted). Plaintiffs also must adequately allege "an agreement or a 'meeting of the minds' by defendants to violate the claimant's constitutional rights"—that is, a "joint plan[] to deprive [the plaintiff] of his constitutional rights." *Id.* at 1377. In applying these "very high" standards, *Brissett v. Paul*, 141 F.3d 1157 (4th Cir. 1998) (unpublished), the Fourth Circuit "has rarely, if ever, found that a plaintiff has set forth sufficient facts to establish a section 1985 conspiracy," *Simmons*, 47 F.3d at 1377. No such "sufficient facts" can be found in the FAC.

As noted above, Plaintiffs' theory seems to be, in essence, that various individuals with discriminatory animus conspired to include a citizenship question on the 2020 Census. FAC ¶¶ 73–84. The purported proof of this conspiracy is a document of the late Dr. Thomas Hofeller, in which he noted inclusion of a citizenship question to "shift from

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redistricting based on total population to CVAP." *Id.* ¶¶ 81, 83. Plaintiffs simply state that "[t]he same discriminatory motivation behind adding the citizenship question motivated Defendants" to seek citizenship information through administrative records. *Id.* ¶ 84. This does not come close to plausibly alleging a civil conspiracy under § 1985(3).

To begin, Plaintiffs have not alleged "an overt act committed by the defendants in connection with the conspiracy" that "results in injury to" them. *Simmons*, 47 F.3d at 1376. The only overt act Plaintiffs arguably allege is the Executive Order's facilitation of collecting citizenship data through administrative records. *Cf.* FAC ¶¶ 58, 84. But, as explained above, the mere collection of administrative records causes no harm to anyone, let alone Plaintiffs. *See* Argument Section I., *supra*.

Plaintiffs also do not attempt to allege any facts from which to infer "a specific class-based, invidiously discriminatory animus to" gather administrative records. *Simmons*, 47 F.3d at 1376. Instead, their allegations of discriminatory motive focus exclusively on the 2020 Census citizenship question; they say nothing about the motives for collecting administrative records. *See* Argument Section IV., *supra*; FAC ¶¶ 73–84.

That is fatal to not only § 1985's discriminatory-animus element, but also its meeting-of-the-minds element. *Simmons*, 47 F.3d at 1376. Plaintiffs explicitly note the purported conspirators of a discriminatory plot to include a citizenship question on the census. *See* FAC ¶ 73 ("Defendant Ross, members of the Trump Administration, A. Mark Neuman, then-Kansas Secretary of State Kris Kobach, members of the DOJ . . . and

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Republican strategist Dr. Thomas Hofeller conspired to add a citizenship question to the 2020 census."). And they piece together disparate actions of these individuals in a convoluted attempt to demonstrate this plot and its underlying motivations. *See id.* ¶¶ 73–83 (alleging, for example, that "Defendant Ross . . . coordinated with AG Sessions, other members of the DOJ, and the White House to fabricate a 'need' for the citizenship question"). But setting aside the sufficiency of those allegations on their own terms, the FAC is utterly devoid of facts demonstrating that purported conspirators reached "an agreement" or a "meeting of the minds" on a "joint plan" to gather administrative records in order to deprive Plaintiffs of their constitutional rights. *Simmons*, 47 F.3d at 1376–77.

Plaintiffs do not even plausibly allege the *members* of the purported conspiracy. They claim that "President Trump, Defendant Ross, Defendant Dillingham, John Gore, Attorney General Sessions, Kris Kobach, and Stephen Bannon conspired to . . . produce citizenship data for use along with the P.L. 94-171 Redistricting Data File." FAC ¶ 115. But Plaintiffs own allegations make clear that then-Attorney General Sessions, then-Assistant Attorney General Gore, then-Kansas Secretary of State Kris Kobach, and then-White House adviser Stephen Bannon were only involved, if at all, with the inclusion of a citizenship question. *See, e.g., id.* ¶¶ 74–75. None of these individuals are alleged to have been involved in the decision to collect citizenship information through administrative records. That makes sense because three of the four—Messrs. Sessions, Kobach, and Bannon—left their respective positions long before the President issued his

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Executive Order, while Mr. Gore left his position shortly thereafter.[19] And Dr. Hofeller—the author of documents at the heart of the "conspiracy" that allegedly evinced discriminatory animus—had been deceased for almost a year when the President issued his Executive Order.[20]

Plaintiffs' allegations about the remaining "conspirators"—President Trump, Defendant Ross, and Defendant Dillingham—are perfunctory, at best. Dr. Dillingham, for example, appears only in the FAC's caption, its description of parties and venue, and its conclusory causes of action. *See id.* ¶¶ 16, 20, 115–16. But no matter. As Executive Branch officials, the President, the Secretary of Commerce, and the Director of the Census Bureau are legally incapable of a § 1985(3) conspiracy. The intracorporate-conspiracy doctrine applies to § 1985(3) claims, *Buschi v. Kirven*, 775 F.2d 1240, 1251–52 (4th Cir. 1985),

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[19] Devlin Barrett, et al., *Jeff Sessions forced out as attorney general*, Washington Post (Nov. 7, 2018), https://www.washingtonpost.com/world/national-security/attorney-general-jeff-sessions-resigns-at-trumps-request/2018/11/07/d1b7a214-e144-11e8-ab2c-b31dcd53ca6b_story.html; Associated Press, *Kobach says he's seriously considering US Senate bid in 2020* (Jan. 19, 2019), https://apnews.com/9de85ad8578243e3aa7fbbcab28e5de0; Sam Levine, *DOJ Official Who Played Big Role In Push For Citizenship Question To Leave Trump Admin*, Huffington Post (Aug. 9, 2019), https://www.huffpost.com/entry/john-gore-leaving-doj_n_5d4d8fa0e4b09e7297459561; Andrew Rafferty, et al., *Steve Bannon Out as White House Chief Strategist*, NBC News (Aug. 18, 2017), https://www.nbcnews.com/politics/politics-news/steve-bannon-out-white-house-chief-strategist-n793921.

[20] Michael Wines, *Thomas Hofeller, Republican Master of Political Maps, Dies at 75*, New York Times (Aug. 21, 2018), https://www.nytimes.com/2018/08/21/obituaries/thomas-hofeller-republican-master-of-political-maps-dies-at-75.html.

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and dictates that "there is no unlawful conspiracy when officers within a single corporate entity consult among themselves and then adopt a policy for the entity," *Ziglar v. Abbasi*, 137 S. Ct. 1843, 1867 (2017). The rationale for this doctrine is that "[c]onspiracy requires an agreement . . . between or among two or more separate persons," but "[w]hen two agents of the same legal entity make an agreement in the course of their official duties . . . their acts are attributed to [the] principal," so "there has not been an agreement between two or more separate people." *Id.* Because the President, the Secretary of Commerce, and the Census Bureau's Director are all Executive Branch officers, they cannot conspire for purposes of § 1985(3). *See Ziglar*, 137 S. Ct. at 1867; *Buschi*, 775 F.2d at 1251–52.

At bottom, Plaintiffs' § 1985(3) claim "amounts to nothing more than rank speculation and conjecture." *Hinkle v. City of Clarksburg*, 81 F.3d 416, 422 (4th Cir. 1996). Their allegations, to the extent there are any, are implausible, incomplete, and insufficient to satisfy their "weighty burden" of "establish[ing] a civil rights conspiracy." *Id.* at 421.

D. If Plaintiffs' § 1985(3) claim is viable, their APA claims should be dismissed.

If Plaintiffs may pursue an official-capacity § 1985(3) claim, then their claims under the APA must be dismissed because they have an adequate alternative remedy. The APA provides that "[a]gency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court are subject to judicial review." 5 U.S.C. § 704; *see Garcia v. Vilsack*, 563 F.3d 519, 522 (D.C. Cir. 2009). Here, Plaintiffs seek nearly the same relief under the APA and § 1985(3): an order declaring illegal "Secretary

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Ross's decision to follow EO 13380" and "[e]njoin[ing] Defendants and their agents from collecting data as dictated by EO 13380." FAC at 31; *see id.* ¶¶ 88–117. If the Court allows Plaintiffs' § 1985(3) claim to proceed, and the Court has not already dismissed Plaintiffs' APA claims for the reasons explained above, then the Court should dismiss Plaintiffs' APA claims because Plaintiffs would have an "other adequate remedy in a court." 5 U.S.C. § 704.

CONCLUSION

The Court should dismiss Plaintiffs' FAC for the reasons explained above.

DATED: December 18, 2019

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64 - response in opp'n to MTD.pdf

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

LA UNIÓN DEL PUEBLO ENTERO, *et al.*, Plaintiffs, v. WILBUR L. ROSS, sued in his official capacity as U.S. Secretary of Commerce, *et al.*, Defendants.	No. 8:19-cv-02710-PX

PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO DISMISS

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INTRODUCTION

Since 2017, Defendants have sought to diminish the political representation of Latinos, non-U.S. citizens, and other minority groups by manipulating the Census Bureau's information collection and reporting processes. First, Defendants sought to accomplish their discriminatory purpose by adding a question to the 2020 decennial census ("2020 Census") questionnaire that would have collected citizenship information from every individual in the United States. After this plan was blocked by various courts, including this Court and the Supreme Court, Defendants proceeded to plan b: create and provide to states a census redistricting dataset that purports to show citizenship for every person in the United States. The sole purpose of the redistricting citizenship dataset is to enable states to subtract purported non-U.S. citizens from the population used to draw new political boundaries, thereby drastically reducing the political strength and representation of Latinos and others.

Defendants' attempt to create a person-by-person redistricting citizenship dataset is a direct response to being thwarted in their effort to ask a citizenship question of all people responding to the 2020 Census. The attempt to add a citizenship question to the 2020 Census was accompanied by a "contrived" claim of enforcing the federal Voting Rights Act ("VRA"). *Dep't of Commerce v. New York*, 139 S. Ct. 2551, 2575-76 (2019). By contrast, Executive Order 13880 ("EO 13880"), and Secretary Ross's directive, state their discriminatory goal overtly—create a redistricting citizenship dataset so that "State and local legislative districts [can redistrict] based on the population of voter-eligible citizens."[1]

[1] ECF No. 41, First Amended Complaint ("FAC") ¶ 60 (quoting *Executive Order on Collecting Information about Citizenship Status in Connection with the Decennial Census* at § 1 (July 11, 2019), *available at* https://www.whitehouse.gov/presidential-actions/executive-order-collecting-information-citizenship-status-connection-decennial-census/).

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Defendants' actions are nothing more than an attempt to perpetuate a scheme already halted once by the courts, and the First Amended Complaint more than adequately pleads a case and controversy. Plaintiffs challenge Defendants' attempt to use administrative records to create a redistricting citizenship dataset that is specific to every person in the country, and then share that information with the states for the purpose of redistricting—an effort that is neither routine nor a natural development of prior agency practices.

This effort to use administrative records to compile a person-by-person redistricting citizenship dataset is not decades in the making as claimed by Defendants. It is new and radical. Its goal is to equip, and invite, states to exclude certain immigrant populations when drawing political lines, thereby conducting "redistricting [that] would be advantageous to Republicans and Non-Hispanic Whites." Plaintiffs First Amended Complaint ("FAC") ¶ 81. In the words of one expert who urged the acquisition of citizenship data for redistricting, it would be a "radical departure" from prior redistricting practice. *Id.*

Defendants mischaracterize the First Amended Complaint as simply challenging the "routine" collection of administrative records, ECF. No. 60-1, Memorandum of Law in Support of Defendants Motion to Dismiss ("MTD") at 3, or "the use of administrative records to gather citizenship data," MTD at 8, before claiming that their actions are too innocuous to be challenged, *see* MTD at 21 (claiming Defendants are "merely tabulat[ing] citizenship data."). Defendants' failure to engage with Plaintiffs' claims, which are much different from Defendants' straw men, dooms the Motion to Dismiss.

Plaintiffs' First Amended Complaint more than adequately alleges that Plaintiffs have standing and the lawsuit is ripe, because Defendants' actions will harm Latinos and non-U.S. citizens, and that harm is the part of the chain of causation created by Defendants. Further,

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Plaintiffs successfully pleaded Administrative Procedure Act ("APA") and race discrimination claims. The decision to create a redistricting citizenship dataset and provide that data to states for use in redistricting is a final agency action, and this final agency action purposefully discriminates against Latinos and non-citizens. Finally, Plaintiffs adequately pleaded a 42 U.S.C. § 1985(3) claim that is not barred under the doctrine of sovereign immunity, and empowers Plaintiffs to seek injunctive relief.

LEGAL STANDARD

A complaint is sufficient when it "contain[s] sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citations omitted). A plaintiff must allege facts sufficient to "allow[ ] the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* General factual allegations suffice to satisfy Rule 12(b)(1), and courts must "presume that the general allegations embrace those specific facts that are necessary to support the claim." *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992) (citation and alternations omitted). When considering a motion to dismiss, courts must view the plaintiffs' allegations through a "forgiving lens," accepting the facts alleged as true and construing the pleadings in a light most favorable to the party opposing the motion. *Wright v. North Carolina*, 787 F.3d 256, 265 (4th Cir. 2015).

ARGUMENT

I. Plaintiffs Have Standing to Bring this Action

Plaintiffs' First Amended Complaint adequately pleaded their standing with allegations showing: "(1) injury in fact; (2) a sufficient causal connection between the injury and the conduct complained of; and (3) a likelihood that the injury will be redressed by a favorable decision." *See Wikimedia Found. v. Nat'l Sec. Agency*, 857 F.3d 193, 207 (4th Cir. 2017) (citing *Lujan*, 504 U.S. at 560). "[P]laintiffs are required only to state a plausible claim that each of the

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standing elements is present" in order to defeat a motion to dismiss for lack of standing, *Attias v. Carefirst, Inc.*, 865 F.3d 620, 625 (D.C. Cir. 2017), and courts must "presume[e] that general allegations embrace those specific facts that are necessary to support the claim," *Lujan*, 504 U.S. at 561 (1992) (alternations original).

Defendants argue that Plaintiffs have not plausibly alleged facts supporting their standing but fail to engage with Plaintiffs' specific allegations. *See generally* MTD at 10-23. In particular, Plaintiffs allege that:

- For discriminatory reasons, Defendants made the decision to use administrative records to create and provide to states a citizenship dataset for use in redistricting. *See, e.g.*, Plaintiffs' "FAC" ¶ 112. As a result of Defendants' decision, Plaintiffs will lose political representation because: 1) the use of Citizen Voting Age Population ("CVAP") by states and localities for apportionment will result in vote dilution, FAC ¶¶ 86-87, and 2) the Census Bureau's ("Bureau") citizenship dataset will contain inaccuracies that will misclassify, and therefore undercount, naturalized U.S. citizens, *see* FAC ¶¶ 66-72, which will further cause vote dilution where states and localities use CVAP as a population base, *see* FAC ¶¶ 86-87.

- Defendants made the decision to create and provide a redistricting citizenship dataset to states so that this data will be used for redistricting. *See, e.g.*, FAC ¶ 65. Defendants plan to release their redistricting citizenship dataset to states with the dataset that the Census Bureau provides to states for redistricting. FAC ¶ 91. Plaintiffs live in jurisdictions that have expressed an interest in redistricting using CVAP as a population base for apportionment. FAC ¶¶ 61, 87. Defendants plan to create and provide a redistricting citizenship dataset to states, and these jurisdictions will use the dataset for its intended purpose: to redistrict using CVAP as a population base. *See id.*

- Plaintiffs' harms will be redressed if the Court enjoins Defendants from creating the redistricting citizenship dataset. If the Bureau does not create and provide the redistricting citizenship dataset, states will continue their established practice of using the Census Bureau's traditional redistricting dataset to redistrict. *See* FAC ¶¶ 36-38, 53.

As discussed in more detail below, Plaintiffs' allegations are more than sufficient to establish standing at the pleading stage.

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A. Plaintiffs Plausibly Allege Injury in Fact

Plaintiffs have adequately alleged "an invasion of a legally protected interest" that is "concrete and particularized" and "actual or imminent, not conjectural or hypothetical." *Lujan*, 504 U.S. at 560. Plaintiffs have further alleged facts showing that "the threatened injury is certainly impending, [and] there is a substantial risk that the harm will occur." *Susan B. Anthony List. v. Driehaus*, 573 U.S. 149, 158 (2014) (internal quotation marks omitted).

Plaintiffs allege that they face a concrete injury from the exclusion of non-U.S. citizens from redistricting in their jurisdictions as a result of Defendants' decision to create and provide to states a redistricting citizenship database. FAC ¶ 87. Plaintiffs allege that because Plaintiffs and members of Plaintiffs La Unión del Pueblo Entero ("LUPE") and Promise Arizona ("PAZ") (collectively, "Organizational Plaintiffs") live in jurisdictions with higher populations of immigrants, the exclusion from apportionment of non-U.S. citizens (and naturalized U.S. citizens improperly classified as non-U.S. citizens) will result in a loss of political representation. FAC ¶¶ 66-71, 85-87. In particular, excluding non-U.S. citizens and misclassified naturalized U.S. citizens will result in Plaintiffs' districts being overpopulated and result in fewer districts in which Plaintiffs and their members have the opportunity to elect their preferred candidates. FAC ¶¶ 86-87.

Plaintiffs possess standing in census cases where, as here, they face an expected loss of representation; this injury "undoubtedly satisfies the injury-in-fact requirement of Article III standing." *Dep't of Commerce v. House of Representatives*, 525 U.S. 316, 331-32 (1999); *see also Evenwel v. Abbott*, 136 S. Ct. 1120, 1125 (2016) (adjudicating claim "that basing apportionment on total population dilutes [plaintiffs'] votes in relation to voters in other Senate districts"); *Carey v. Klutznick*, 637 F.2d 834, 838 (2d Cir. 1980) (holding that vote dilution is a "concrete harm" sufficient to confer standing). Here, Plaintiffs have alleged that vote dilution

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and the loss of representation is imminent, concrete and particularized. *Lujan*, 504 U.S. at 560. Thus, assuming all facts in the First Amended Complaint to be true, Plaintiffs have plausibly alleged that they will lose representation as a result of Defendants' decision to create and provide a redistricting citizenship dataset to states.

Defendants erroneously argue that Plaintiffs' allegations are speculative, and that vote dilution as a result of redistricting based on CVAP is not a cognizable legal injury. MTD at 15-21. First, ignoring years of Supreme Court jurisprudence, Defendants argue that Plaintiffs' injuries do not satisfy standing requirements because a series of "speculative events" must first occur before Plaintiffs suffer injury. MTD at 15-18. But the series of "speculative events" Defendants point to are not speculative at all. For example, notwithstanding the fact that Defendants have already committed to create and provide a redistricting citizenship dataset to states, Defendants argue that maybe they won't, after all, follow through with their commitment if they are unable collect a requisite amount of administrative records, ensure the quality of the data, and come up with a methodology to create and provide the data. MTD at 16 -18. However, nothing in either EO 13880 or Sectary Ross's directive indicates that Defendants will not create and provide states with a redistricting citizenship dataset if the citizenship data is spotty or unreliable according to Census Bureau standards. *See* FAC ¶ 58-61, 65. Defendants have already ignored evidence that administrative records will not yield accurate citizenship data. FAC ¶¶ 66-72. Contrary to Defendants' assertion, Secretary Ross's directive, as reflected in the July 3 Office Management and Budget ("OMB") request ("July 3 OMB Request"), is unequivocal, FAC ¶ 65, and EO 13880 orders federal agencies to do everything in their power to facilitate the collection of this data, FAC ¶¶ 58-61.

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"It would be inequitable in the extreme" to permit Defendants "to create a significantly increased risk of harm to [Plaintiffs], and then avoid [Plaintiffs] from trying to prevent the potential harm because the party that created the risk promises that it will ensure that the harm is avoided." *Cent. Delta Water Agency v. United States*, 306 F.3d 938, 950 (9th Cir. 2002). Ultimately, Defendants' claims that the dataset they have already decided to create and give states may ultimately be incomplete and inaccurate at most provides factual support for Plaintiffs' allegations regarding vote dilution resulting from inaccuracies in the Bureau's dataset and support for their APA and equal protection claims.

Furthermore, as in other cases challenging the conduct of the decennial census, it is "certainly not necessary" for the Court to wait until the Bureau creates and provides a redistricting citizenship dataset to states "to consider the issues presented here, because such a pause [from judicial action] would result in extreme—possibly irremediable—hardship." *Dep't of Commerce*, 525 U.S. at 332.

Finally, Defendants improperly collapse a standing argument into a merits argument, conflating the question of whether Plaintiffs plausibly alleged an injury with the question of whether redistricting using CVAP as a population base is unconstitutional. MTD at 19-20. As explained above, Plaintiffs' allegations regarding their vote dilution injuries more than satisfy the pleading standard under Rule 12; Defendants can try to justify their actions under the Constitution at the merits stage of the case.

B. Plaintiffs' Harms are Traceable to Defendants' Actions and Redressable by a Favorable Decision from this Court

Plaintiffs sufficiently alleged that their alleged injuries are fairly traceable to the challenged conduct of the Defendants. *See Lujan*, 504 U.S. at 560. Defendants' argument regarding traceability and redressability rests entirely on the erroneous premise that lawsuits are

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precluded where injury depends at least in part on the actions of third parties. MTD at 11-15. But Defendants wrongly "equate[ ] injury 'fairly traceable' to the defendant with injury as to which the defendant's actions are the very last step of the chain of causation." *Lansdowne on the Potomac Homeowners Ass'n, Inc. v. OpenBand at Lansdowne, LLC (Lansdowne)*, 713 F.3d 187, 196-97 (4th Cir. 2013) (finding traceability where challenged action was not the last in the series of injurious acts). Even where standing "depends on the unfettered choices made by independent actors not before the court," plaintiffs can "adduce facts showing that those choices . . . will be made in such a manner as to produce causation and permit redressability of injury." *Lujan*, 504 U.S. at 562 (internal quotations and citations omitted).

Traceability exists where, for example, "third parties will likely react in predictable ways to the" challenged conduct. *See Dep't of Commerce*, 139 S. Ct. at 2566; *Block v. Meese*, 793 F.2d 1303, 1307, 1309 (D.C. Cir. 1986) (Scalia, J.) (holding plaintiff had standing to challenge classification of film as "political propaganda" based on anticipated, albeit irrational, public reaction to the classification).

Here, Plaintiffs have satisfied the "relatively modest" burden of alleging traceability and redressability at the pleading stage. *See Bennett v. Spear*, 520 U.S. 154, 171 (1997). Plaintiffs allege that the sole purpose of Defendants' decision to create and provide a redistricting citizenship dataset to states is so that they will use these data in redistricting. *See, e.g.*, FAC ¶ 65 (quoting July 3 OMB Request noting that Secretary Ross "directed the Census Bureau to . . . produce [CVAP] information prior to April 1, 2021 that states may use in redistricting."); *see also Lansdowne*, 713 F.3d at 196-97 (rejecting argument that plaintiffs' injury was not traceable to defendant cable provider's exclusivity agreements because it was up to third party providers to refuse to provide service to plaintiffs, and instead finding traceability because the "whole

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purpose" of the exclusivity agreements was for third party providers to decline service); *Mayor and City Council of Baltimore v. Trump*, No. ELH-19-3636, 2019 WL 4598011, at *17 (D. Md. Sept. 20, 2019) (where plaintiff's injuries rested on third party immigrants declining to use public benefits, finding traceability because challenged provision was designed to discourage immigrants from using public benefits).

Plaintiffs allege that, in the absence of the Bureau's redistricting citizenship dataset, jurisdictions have redistricted using total population in the "overwhelming majority of cases." FAC ¶ 53 (quoting *Evenwel*, 136 S. Ct. at 1124).[2] Plaintiffs further allege (and Defendants admit) that, given the tools by Defendants, jurisdictions in which Plaintiffs reside will redistrict using CVAP data as a population base, and Plaintiffs will suffer vote dilution as a result. FAC ¶ 87; MTD at 12 n.8 (noting Texas argued in favor of excluding non-U.S. citizens from redistricting in 2015). Plaintiffs thus plausibly allege that states and local jurisdictions in which they reside will make a choice "in such a manner as to produce causation and permit redressability of injury." *Lujan*, 504 U.S. at 562 (citation omitted).

Defendants also make disingenuous arguments that jurisdictions attempting to use CVAP to redistrict might not use the Bureau's redistricting citizenship dataset, but instead would turn to voter registration data or Census sample data currently available from the American Community Survey ("ACS"). MTD at 12-13.[3] However, jurisdictions currently redistrict using total

[2] A rare exception is *Burns v. Richardson*, 384 U.S. 73, 94 (1966), in which the Supreme Court upheld redistricting that was not based on total population. However, *Burns* is limited to its facts which showed that Hawaii acted to correct population distortions created by a large number of *non-residents*, including military personnel and tourists largely concentrated in Oahu. *Id.*

[3] Defendants' citation to *Chafin v. Chafin*, 568 U.S. 165, 172 (2013), in support of their argument that Plaintiffs' claims are not redressable because they purportedly rely on hypothetical facts is inapposite. As discussed in Section II below, the instant case is ripe for review, and Plaintiffs' lawsuit challenging Defendants' *decision* to create and provide a citizenship dataset to states does not rest on hypothetical, future facts, but on a directive that has already been issued.

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population tabulations prepared by the Bureau in the Redistricting Data File,[4] not Census datasets on voter registration or sample data, although both have existed for decades. FAC ¶¶ 36-40, 42. *See also* FAC ¶ 54 (quoting *Evenwel*, 136 S. Ct. at 11240); FAC ¶¶ 52-53, 81 (although ACS data was available, Dr. Thomas Hofeller, a redistricting expert for the Republican Party, opined that a citizenship question was necessary to generate CVAP data for use in redistricting). Plaintiffs need not "negate the kind of speculative and hypothetical possibilities suggested in order to demonstrate" traceability and the likely effectiveness of judicial relief. *Duke Power Co. v. Carolina Envtl. Study Group, Inc.*, 438 U.S. 59, 78 (1978).

Plaintiffs have plausibly alleged that the sole purpose of Defendants' decision to create and provide a redistricting citizenship dataset to states is for states *to use that dataset* in redistricting. The Court should reject Defendants' attempts to disclaim the very result they seek to achieve.

C. Organizational Plaintiffs Have Standing to Sue on Behalf of their Members

Organizational Plaintiffs have more than adequately pleaded that they have standing because "(a) [their] members would otherwise have standing to sue in their own right; (b) the interests [they seek] to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Hunt v. Washington State of Apple Advertising Com'n*, 432 U.S. 333, 343 (1977).

Organizational Plaintiffs pleaded that: (1) at least one of their respective members would otherwise have standing to sue in their own right, FAC ¶¶ 7, 9-10, 85, 87 and (2) the interests LUPE and PAZ seek to protect are germane to their purpose, FAC ¶¶ 6, 8. The First Amended

[4] "A [Redistricting] dataset is the assembled result of one data collection operation (for example, the 2010 Census) as a whole or in major subsets (2010 Census Summary File 1)." *Redistricting Data Datasets*, United States Census Bureau, (2017) *available at* https://www.census.gov/programs-surveys/decennial-census/data/datasets/rdo.html.

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Complaint demonstrates on its face that neither the claims asserted, nor the relief requested, requires the participation of the individual members in this lawsuit. *Hunt*, 432 U.S. at 343.

Defendants do not dispute that Organizational Plaintiffs adequately alleged the last two *Hunt* requirements, but instead argue that because Plaintiffs did not name a PAZ member with standing, Plaintiffs have failed to meet first *Hunt* requirement. MTD at 21-22. Even if Defendants were correct that Plaintiffs must name a member with standing (they are not), Plaintiffs identify Juanita Valdez-Cox as a LUPE member who has standing, and the case may proceed if at least one plaintiff has standing to sue. *Bostic v. Schaefer*, 760 F.3d 352, 370-71 (4th Cir. 2014).

Defendants cite to no Fourth Circuit case that stands for the proposition that organizational plaintiffs must name a member with standing at the pleading stage. *See* MTD at 21. Instead, an organization need only "allege facts sufficient to establish that one or more of its members has suffered, or is threatened with, an injury." *LUPE*, 353 F. Supp. 3d at 391 n.6 (rejecting defendants' argument that an organizational plaintiff must identify a particular member by name at pleading stage) (quoting *Valley Forge Christian Coll. v. Ams. United for Separation of Church & State, Inc.*, 545 U.S. 464, 487 n.23 (1982)).

None of the cases on which Defendants rely support their position. In *Valley Forge Christian College*, for example, the Court granted summary judgment in favor of defendants on standing grounds where plaintiffs alleged only that the Constitution had been violated and failed "to identify any personal injury suffered by them as a consequence of the alleged constitutional error." 454 U.S. at 485-87. The Court did not enter summary judgment based on a failure by plaintiffs to name a particular member who was harmed. Similarly, *American Chemistry Council v. Department of Transportation*, does not stand for the proposition that Organizational

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Plaintiffs must name a member with standing at the pleading stage. 468 F.3d 810 (2006). Instead, the Court noted that despite having had at least two opportunities to show standing for one of their members during the administrative appeal stage, plaintiffs had not shown that anyone had suffered an injury-in-fact. *Id.* at 819.

II. Plaintiffs' Claims are Ripe

In support of their argument that Plaintiffs' claims are unripe, Defendants again misstate Plaintiffs' allegations. MTD at 22-23. Plaintiffs challenge Defendants' decision to create and provide a redistricting citizenship dataset to states, *see, e.g.*, FAC ¶¶ 96, 103, 108, 112, 115, not, as Defendants disingenuously claim, redistricting based on CVAP. MTD at 22. All of Defendants' arguments regarding ripeness rest on this mischaracterization, and many of the cases they cite in support of their arguments are inapposite because the cases involved challenges to decisions or events that had not yet occurred.[5] In this case, Plaintiffs plausibly allege that Defendants have already made their decision and are implementing that decision in order to create and release a redistricting citizenship dataset for use in the 2021 redistricting cycle. FAC ¶¶ 1, 58, 62, 65.

[5] *See, e.g.*, *Trustguard Ins. Co. v. Collins*, 942 F.3d 195, 200 (2019) (holding claim unripe where plaintiff requested a declaratory judgment that it did not have to indemnify insured should court in another proceeding find the insured liable for car accident); *South Carolina v. United States*, 912 F.3d 720, 726-27, 728-31 (4th Cir. 2019) (holding claims unripe where state alleged it would become a permanent repository of nuclear waste but this was uncertain because defendants planned to remove waste and were statutorily required to remove waste by 2021); *Doe v. Virginia Dep't of State Police*, 713 F.3d 745, 751, 758-59 (4th Cir. 2013) (holding claim unripe where plaintiff, a registered sex offender, sought to challenge a law that excluded her from school premises unless she petitioned a state court or school board, but plaintiff had not yet filed a petition); *Johnston v. Lamone*, 401 F. Supp. 3d 598 (D. Md. 2019) (holding claims unripe where political party alleged state standards for verifying petition signatures were needlessly stringent in violation of First and Fourteenth Amendment, but political party had not yet collected signatures or submitted them to state, and plaintiff included no allegations regarding how state standards would result in needless invalidations).

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Plaintiffs allege that the case is ripe because: 1) the issues are fit for judicial decision, and 2) Plaintiffs would suffer great hardship if the Court withheld consideration of Plaintiffs' claims. *See Mayor and City Council of Baltimore*, 2019 WL 4598011, at *20 (quoting *Nat'l Park Hosp. Ass'n v. Dep't of Interior*, 538 U.S. 803, 808 (2003)) (laying out standard for ripeness). A case is fit for decision "when the issues are purely legal and when the action in controversy is final and not dependent on future uncertainties." *Lansdowne*, 713 F.3d at 198. "The hardship prong is measured by the immediacy of the threat and burden imposed on the plaintiff." *Id.* (internal quotation marks and brackets omitted). Plaintiffs meet both prongs to establish ripeness.

Plaintiffs' APA claims—that Defendants' decision is contrary to law, arbitrary and capricious, in excess of authority, and without observance to proper procedure—challenge actions already taken by Defendants and present purely legal questions. *Compare Mayor and City Council of Baltimore*, 2019 WL 4598011, at *199 (holding APA review of amendments to policy was a purely legal question); *with Johnston v. Lamone*, 401 F. Supp. 3d 598 (D. Md. 2019) (holding claims unripe where political party alleged state standards for verifying petition signatures were needlessly stringent in violation of First and Fourteenth Amendment, but additional facts regarding standards were necessary to identify the legal question). Similarly, Plaintiffs' equal protection claim challenges the decision already made by Defendants to create and provide a redistricting citizenship dataset to states. *See, e.g.*, *Mayor and City Council of Baltimore*, 2019 WL 4598011, at *199 (holding plaintiff's equal protection claim based on prior statements by President Donald J. Trump was ripe for review).

Plaintiffs also meet the hardship prong. Here, as in other cases where plaintiffs challenge decisions made before the census and before census data is produced, courts routinely hold that

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"it is certainly not necessary . . . to wait until the census [has taken place] to consider the issues presented." *Dep't of Commerce*, 525 U.S. at 332 (allowing case to go forward where challenged statistical adjustments would not take place until after the census); *Glavin v. Clinton*, 19 F. Supp. 2d 543, 547 (1998) (same). Here, Plaintiffs challenge Defendants' discriminatory decision to compile a "census . . . of how many citizens, non-citizens, and illegal aliens are in the United States" FAC ¶ 62 (quoting President Trump), and although the Bureau will not provide the redistricting citizenship dataset to states until 2021, it is not necessary for the Court to wait until the dataset has been created and provided to states for the Court to review Defendants' final discriminatory decision. *See Glavin*, 19 F. Supp. 2d at 547 ("Given the finality of the Department's decision to utilize statistical sampling as a means to determine the population for purposes of congressional apportionment in the 2020 Census, it is clear that ripeness concerns have no application in the instant case."); *Public Serv. Comm'n of Utah v. Wycoff Co., Inc.*, 344 U.S. 237, 244 (1952) (challenged action ripe for review where it has "taken on a fixed and final shape so that a court can see what legal issues it is deciding, what effect its decision will have on the adversaries, and some useful purpose to be achieved in deciding them).

Defendants' reliance on *Miller v. Brown*, 462 F.3d 312 (4th Cir. 2006) is misplaced. MTD at 22-23. *Miller* involved a challenge to an election law that required open primaries, and identified one way to show a case is ripe for review: where plaintiffs would be "compelled to act under threat of enforcement of the challenged law." 462 F.3d at 316, 319. But, as demonstrated above, *Miller* and other cases cited by Defendants in which the challenged decision obligates or prohibits action are by no means the only ripe cases. For example, the decision to use statistical sampling during the 2000 Census challenged in *Department of Commerce* and *Glavin* did not

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force plaintiffs to act. Nonetheless, both of these cases were ripe for review. *Dep't of Commerce*, 525 U.S. at 332; *Glavin*, 19 F. Supp. 2d at 547.

III. Defendants' Decision to Create and Provide Redistricting Citizenship Data Is Reviewable Under The APA

Defendants contend that Plaintiffs' APA claims are not reviewable agency action, arguing that: (1) the executive order was a managerial tool, and (2) Plaintiffs do not challenge a cognizable agency action. *See* MTD at 34-41. Defendants are wrong on both fronts. Plaintiffs have adequately alleged that Defendants' decision to create and provide to states citizenship data with the Redistricting Data File is agency action that is reviewable under the APA. *See* FAC ¶¶ 88-109.

A. Defendants' Decision to Create and Provide Citizenship Data for Redistricting Is Not A Managerial Action and is Thus Reviewable

To avoid APA review, Defendants attempt to characterize Plaintiffs' APA claims as merely challenging EO 13880. *See* MTD at 34. But as Plaintiffs allege consistently throughout the First Amended Complaint, the APA claims are not focused on EO 13880, but challenge Defendants' decision to create and provide citizenship data for states to use in redistricting as evidenced by the July OMB Request. *See, e.g.*, FAC ¶¶ 1-4, 88-109.[6] One day after President Trump issued EO 13880, the Bureau released the OMB request stating that the Secretary "directed the Census Bureau to . . . produce [CVAP] information prior to April 1, 2021 that states may use in redistricting." *Id.* at ¶ 65 (quoting July 3 OMB Request). Plaintiffs challenge Defendants' decision, made in connection with EO 13880, to create and provide states with

[6] Subsequent statements by Defendants, such as the official Bureau policy presented by Dr. John Abowd, Chief Scientist and Associate Director for Research and Methodology at the Bureau, on September 6, 2019, further demonstrate that a final agency action has been taken and that Defendants are executing their plan as set forth in the decision. *See* John Abowd, Census Bureau Citizenship Data Research and Product Development, Census Bureau, Sept. 6, 2019, http://www.copafs.org/UserFiles/file/2019%20Documents/2019-09-06-Abowd-COPAFS%20(Approved).pdf.

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redistricting citizenship data. *See e.g.*, *E. Bay Sanctuary Covenant v. Trump*, 909 F.3d 1219, 1246-47 (9th Cir. 2018) (holding that an agency rule that incorporated a presidential proclamation constituted an "operative rule of decision for asylum eligibility" that courts may review under the APA); *see also, Int'l Refugee Assistance Project v. Trump (IRAP)*, 373 F. Supp. 3d 650, 663 (D. Md. 2019) ("declin[ing] to find that APA review of the implementation of the Proclamation is foreclosed because the agency action was taken in response to presidential action."). Accordingly, Plaintiffs' challenge to Defendants' decision—made in connection with a presidential directive—is reviewable under the APA.

Defendants' reliance on *Chai v. Caroll*, 48 F.3d 1331 (4th Cir. 1995), and *Orbital ATK, Inc. v. Walker*, No. 1:17-cv-163(LMB/IDD), 2017 WL 2982010 (E.D. Va. July 12, 2017), is unavailing, as these cases concern whether third parties can compel executive agencies to comply with presidential orders. In *Chai,* the Fourth Circuit held that an asylum seeker could not sue to require an agency to follow an executive order or previously-withdrawn interim rules. *Chai*, 48 F.3d at 1339. Similarly, in *Orbital ATK*, the court held that a presidential policy directive (akin to an executive order) did not have the force of law against which to measure agency action. 2017 WL 2982010, at *9.

B. Defendants' Decision to Create and Provide Citizenship Data for Redistricting Is Reviewable Agency Action

Defendants further contend that "Plaintiffs do not challenge an 'agency action.'" MTD at 35. On the contrary, the challenged action in this case is both "circumscribed and discrete" and it "determines rights and obligations." MTD at 35 (internal citation and quotation omitted).

1. Defendants' Actions are Discrete and Circumscribed

An agency action that is "discrete" is reviewable under the APA. "Accordingly, courts that have conducted APA review of agency actions implementing a presidential directive are

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typically presented with a discrete agency rule or decision to review." *IRAP*, 373 F.Supp.3d at 665 (citation omitted). *See also East Bay Sanctuary Covenant,* 909 F.3d at 1246-47 (finding that an interim final rule, incorporating a presidential proclamation issued on the same day as the interim final rule, created an "operative rule of decision for asylum eligibility" that is reviewable under the APA)*; City of Carmel-by-the-Sea v. U.S. Dep't. of Transp.*, 123 F.3d 1142, 1166 (9th Cir. 1997) (reviewing whether the Federal Highway Administration's findings in a final environmental impact statement/report complied with two separate executive orders and were thus lawful under the APA); *Zhang v. Slattery,* 55 F.3d 732, 743-45, 748-49 (2d Cir. 1995) (reviewing whether a rule issued in connection with an executive order requiring the attorney general to overrule a previous Board of Immigration Appeals decision was lawfully promulgated under the APA).

Indeed, "[c]ourts are well-suited to reviewing specific agency decisions[.]" *City of New York v. Dep't of Def.*, 913 F.3d 423, 431 (4th Cir. 2013). Here, Plaintiffs allege that Defendants' discrete decision to create, and provide citizenship data for use along with the Redistricting Data File violates the APA, and Defendants do not dispute the discrete nature of that agency action. *See* MTD at 34-41.

2. Defendants' Actions Determine Plaintiffs' Rights and Obligations

Plaintiffs' allegations "demonstrate that the challenged act had an immediate and practical impact or altered the legal regime in which it operates." *City of New York*, 913 F.3d at 431 (internal citations omitted); *see also Frozen Food Express v. U.S.*, 351 U.S. 40, 44 (1956) (finding that a commission's order that categorized certain commodities as nonexempt from the agricultural exception had an "immediate and practical impact" on carriers transporting the commodities). Defendants argue that EO 13880 "has no impact whatsoever on private parties,

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let alone an 'immediate and practical' one." MTD at 36. Defendants again mischaracterize Plaintiffs' claims as merely challenging EO 13880. Plaintiffs allege that Defendants' decision to create and provide a redistricting citizenship dataset in accordance with EO 13880 will harm Plaintiffs by reducing their political representation and violating their right to equal protection under the law. *See* FAC ¶¶ 73-87. Moreover, this injury is imminent, as the Bureau already confirmed in the July 3 OMB Request that it is carrying out the Secretary's directive. *Supra* Part I (A); *see City of New York*, 913 F.3d at 43; *Frozen Food Express*, 351 U.S. at 40, 44.

Here, the rights of Plaintiffs are impaired by the vote dilution and reduction in Plaintiffs' political representation that flow from the challenged agency action. *See* FAC ¶¶ 85-87, 96. Plaintiffs further will be injured by the unreliable and faulty citizenship data created and provided by Defendants for use in redistricting. FAC at ¶¶ 3, 7, 9, 10-14, 67-72, 81, 85-87. This discrimination certainly "directly affect[s] the parties," *Franklin v. Massachusetts*, 505 U.S. 788, 797 (1992); *see also Frozen Food Express,* 351 U.S. at 44 (finding an agency action reviewable when that action had "immediate and practical impact" on the plaintiff, as well as other similarly-situated entities).[7]

Defendants further err in arguing that Plaintiffs' APA claim fails because EO 13880 does not alter the "legal regime in which it operates." *See* MTD at 37 (relying on *City of New York*, 913 F.3d at 431).[8] First, Plaintiffs have alleged an "immediate and practical impact" and thus are not required to show that the decision also altered the "legal regime in which it operated." *City of*

[7] Having established that Defendants' actions affect Plaintiffs' rights, Plaintiffs need not demonstrate that an agency action must "obligate private parties to do [some]thing" to be reviewable under the APA. *See* Defs.' Mot. at 36-37.

[8] Because Defendants mischaracterize Plaintiffs' APA claims as only challenging EO 13880, Defendants' argument that EO 13880 does not "dictate how the Census Bureau must use the administrative records once they are collected," MTD at 37-38, is irrelevant. Defendants' decision, as outlined in the July 3 OMB Request, directs the Bureau to collect, create, and provide the citizenship data file to states for use in redistricting. *See* FAC ¶ 65.

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New York, 913 F.3d at 431; *Bennett*, 520 U.S. at 178. ("[T]he action must be one by which 'rights or obligations have been determined,' *or* from which 'legal consequences will flow[.]'") (emphasis added). Second, *City of New York* did not address whether there were alterations in the "legal regime." 520 U.S. at 432-34 (finding instead that the municipalities' requested relief that the court "supervise an agency's compliance with the broad statutory mandate" was not a challenge to a discrete agency action, and that the challenged action did not determine rights and obligations).[9] Third, Defendants' decision to create and provide citizenship data for the purpose of redistricting, as alleged, changes the legal regime related to redistricting and political representation.

Defendants are also wrong in suggesting that civil or criminal liability must follow for an agency action to alter the legal regime in which it operates. MTD at 28-29 (relying on *Bennett*, 520 U.S. at 154 and *Flue-Cured Tobacco Coop. Stabilization Corp. v. EPA*, 313 F.3d 852, 841 (4th Cir. 2002)).[10] Agency actions that do not trigger civil or criminal penalties are reviewable

[9] Defendants' reliance on *Vill. of Bald Head Island v. U.S. Army Corps of Engineers*, 714 F.3d 186 (4th Cir. 2013) to support their contention that Defendants' decision does not determine rights and obligations is misplaced. In *Bald Head Island*, the plaintiff challenged the implementation of an ongoing project to deposit sand on a beach. *Id.* at 193-94. The court found that the Corps had already taken a final agency action when it announced formal approval of the project, and any subsequent "project implementation" was not reviewable under the APA. *Id.* at 195. That is not the case here, where Plaintiffs challenge Defendants' decision to create and provide a redistricting citizenship data file for states to use in redistricting.

[10] Defendants' reliance on cases in which agency action has no direct effect on the plaintiff are misplaced. *Flue-Cured* "is readily distinguished . . . because when the Fourth Circuit 'first look[ed] for direction to the Radon Act,' it noted that 'section 404 of the Radon Act prohibits the EPA (and the courts) from giving the Report 'any regulatory' effect.'" *Am. Acad. of Pediatrics v. Food & Drug Admin.*, 379 F. Supp. 3d 461, 488 (D. Md. 2019) (citing *Flue-Cured*, 313 F.3d at 858-59). *Flue-Cured* turned on this statutory language, but Defendants point to no equivalent statutory provision that prohibits the challenged action from having a regulatory effect—likely because they cannot do so. Similarly, in *Invention Submission Corp. v. Rogan*, 357 F.3d 452, 459 (4th Cir. 2004), the Patent and Trademark Office's advertisement campaign warning the public of promotional scams that did not directly affect the plaintiff, also did not mention the plaintiff or target the plaintiff in any way. *Id.* at 460. It was the actions of a journalist who read

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under the APA. *See, e.g.*, *Mayor & City Council of Balt.*, No. ELH-18-3636, 2019 WL 4598011 at *27-28 (revisions to the Foreign Affairs Manual's criteria for determining "public charge" for purposes of an immigrant visa application were reviewable agency action because legal consequences flowed from the challenged action). Moreover, discrimination determines rights and renders agency action reviewable under the APA. *See Jersey Heights Neighborhood Association v. Glendening*, 174 F.3d 180, 186 (4th Cir. 1999) (noting that a demonstration of discrimination alone is a sufficient enough injury to be considered an action determining rights).

Defendants' reliance on *Golden & Zimmerman v. Domenech*, 599 F.3d 426, 432-33 (4th Cir. 2010) is also incorrect. In that case, the court held agency action was not reviewable because the challenged Reference Guide restated an established interpretation of the Gun Control Act and simply served to inform licensees about compliance with the Gun Control Act and implementing regulations. *Id.* Here, Defendants' decision does not merely "inform" agencies, stakeholders, and individuals, but directs the preparation and distribution to states of a new redistricting citizenship dataset and determines the rights of Latinos and non-U.S. citizens. Defendants' decision is more akin to the FDA Guidance in *American Academy of Pediatrics v. FDA*, 379 F. Supp. 3d 461, 490 (D. Md. 2019), that removed a regularity requirement for new products to undergo premarket review and "immediately brought a number of new tobacco

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the report, and linked the plaintiff to the report, that had a deleterious effect on the plaintiff. *See Id.* at 459-60 ("[B]y looking at the campaign material, the public would see only that a consumer complained about an invention promoter and that invention promotion scams are causing the public $200 million in losses every year. Surely Invention Submission would not suggest that the attribution in the advertisements of $200 million in losses to patent scams was in any respect focusing the public's eye on it."). The journalist's conduct was too attenuated to be connected to the agency action. *Id.* Here, however, Defendants' decision itself harms plaintiffs by discriminating against them. Moreover, the effects are hardly the "independent" actions of third parties, but instead, actions both concerted and traceable to illegal conduct of Defendants. *See Supra* Sec. I (discussing traceability of the injury).

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products into compliance." The court held that the FDA Guidance was a final agency action that directly affected the parties and was therefore subject to judicial review. *Id.*[11]

Furthermore, Defendants' reliance on *Franklin* to argue that "the mere gathering of administrative records parallel to the census cannot constitute 'final agency action,'" MTD at 38, is inapposite. Although both *Franklin* and the instant case concern the census, the similarities end there. In *Franklin*, the Supreme Court held that the Secretary's report to the President was unreviewable because "the final action complained of is that of the President, and the President is not an agency within the meaning of the Act." 505 U.S. at 796-97. Thus, *Franklin* is limited to "those cases in which the President has final constitutional or statutory responsibility for the final step necessary for the agency action directly to affect the parties." *Chamber of Commerce of the U.S. v. Reich*, 74 F.3d 1322, 1327 (D.C. Cir. 1996) (quoting *Public Citizen v. U.S. Trade Representative*, 5 F.3d 549, 552 (D.C. Cir. 1993)). Here, Plaintiffs challenge Defendants' directive that issued in tandem with EO 13880. Unlike *Franklin*, where the final action rested with the President and not an agency, here Defendants have made the final decision, pursuant to EO 13880, to create and provide states a redistricting citizenship dataset, as evidenced by the July 3 OMB Request. Finally, Defendants' conduct at issue here is not the "mere gathering" of records, but the creation and distribution of citizenship dataset for states to use in redistricting. *See* FAC ¶¶ 65, 84.

[11] Defendants also appear to argue that EO 13880 has little effect because the Bureau has already collected 90 percent of citizenship data from administrative records, which collection is authorized by the Census Act. *See* MTD at 40-41. As discussed *supra* Section I., Plaintiffs challenge the creation and distribution of a dataset to be used to specifically to discriminate against Latinos and noncitizens by removing some of them from the population base used for redistricting. The Census Act does not authorize such discrimination. *See generally* United States Code Title 13.

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For the foregoing reasons, Plaintiffs have sufficiently alleged that Defendants' decision to create and provide a citizenship dataset along with the Redistricting Data File was a discrete decision that imminently and directly affects Plaintiffs' rights. *See City of New York*, 913 F.3d at 431. Thus, Defendants' decision is a final agency action that this Court is "well-suited" to review pursuant to the APA. *Id.*

IV. Plaintiffs Have Stated an Equal Protection Claim

A. Plaintiffs Plausibly Allege Intentional Discrimination

Defendants offer a hodge podge of arguments in support of their contention that Plaintiffs failed to properly plead an equal protection claim. All are unavailing. The First Amended Complaint meticulously sets out allegations supporting the equal protection claim.

Plaintiffs plausibly alleged that the challenged decision was motivated by intentional discrimination and adversely affects a protected group. *See La Unión del Pueblo Entero v. Ross ("LUPE I")*, 353 F. Supp. 3d 381, 393-95 (D. Md. 2018) (citing *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp. ("Arlington Heights")*, 429 U.S. 252, 264-65 (1977)). Plaintiffs' allegations bear directly on the Court's required "sensitive inquiry into such circumstantial evidence of intent as may be available[,]" including:

- the impact of the official action, *i.e.* whether it "bears more heavily on one race than another" and whether "a clear pattern, unexplainable on grounds other than race emerges from the effect of the state action even when the governing legislation appears neutral on its face";
- the historical background of the decision;
- the specific sequence of events leading up to the challenged decision;
- departures from the normal procedural sequence;
- substantive departures, "particularly if the factors usually considered important by the decisionmaker strongly favor a decision contrary to the one reached"; and
- the legislative or administrative history, especially where there are contemporary statements by members of the decisionmaking body, minutes of its meetings, or reports.

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Arlington Heights, 429 U.S. at 264-68. A plaintiff can survive a motion to dismiss without independently establishing that each factor weights in the plaintiff's favor. *LUPE I*, 353 F. Supp. 2d at 394.

Plaintiffs more than adequately allege that Defendants are motivated by a desire to reduce the electoral strength of Latinos and other racial minorities by inviting and equipping states to exclude non-U.S. citizens from apportionment. FAC ¶¶ 2, 54-84; *see also LUPE I*, 353 F. Supp. 2d at 394-95 (holding plaintiffs stated an equal protection claim where they alleged facts touching on the *Arlington Heights* factors); *CASA de Maryland, Inc. v. Trump*, 355 F. Supp. 3d 307, 325 (D. Md. 2018) (same); *North Carolina State Conference of NAACP v. McCrory ("NAACP")*, 831 F.3d 204, 233 (4th Cir. 2016) (finding intentional discrimination where totality of the circumstances showed that defendants adopted a voting law to politically entrench themselves to the detriment of African Americans who were unlikely to vote for them). In particular, Plaintiffs allege that the decision to create and provide states with a redistricting citizenship dataset was motivated by a discriminatory purpose to increase the political representation of "Non-Hispanic Whites" to the detriment of Latinos and other racial minorities, in violation of the Fifth Amendment. FAC ¶ 80.

1. Historical Background of the Decision

Plaintiffs adequately pleaded that the historical background of the decision to create and provide a redistricting citizenship dataset evidences discriminatory animus. The Fourth Circuit requires courts to engage in a broad inquiry into historical discrimination and look at the historical origins of the challenged decision, particularly where matters of political representation are at issue. *NAACP*, 831 F.3d at 226-27.

Although earlier in its history the United States excluded certain racial minorities from

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congressional apportionment, with the attendant reduction of representation and political power (*see Evenwel*, 136 S. Ct. at 1127-29), the origins of the challenged action in this case are found in more recent history. Plaintiffs allege that the decision to have the Bureau prepare and release a redistricting citizenship dataset to the states—first by adding a citizenship question to the 2020 Census, and now by using administrative records—goes at least as far back as the Hofeller Study. *See* FAC ¶ 73. Dr. Hofeller, a leading Republican redistricting strategist and map-drawing expert for the Republican National Committee, FAC ¶ 79, prepared a memo explaining how using CVAP instead of total population to apportion population to election districts in redistricting would "be advantageous for Republicans and Non-Hispanic Whites." FAC ¶¶ 73, 79-81. He acknowledged that CVAP apportionment was a "radical departure" from prior practice, FAC ¶ 81, and concluded that it was necessary to add a citizenship question to the 2020 Census to acquire the data necessary to use CVAP as a population base for redistricting. FAC ¶ 81. This information was then promulgated among major players in the Administration. *See* FAC ¶ 73.

Plaintiffs allege that after Dr. Hofeller explained the political advantages of using CVAP as a population base for redistricting to suppress the representation of Latinos and others, Dr. Hofeller, Secretary Ross, White House officials, A. Mark Neuman (a Presidential transition team member), then-Kansas Secretary of State Kris Kobach, and U.S. Department of Justice (DOJ) attorneys, including then-Attorney General Jeff Sessions ("AG Sessions") and the head of the DOJ's Civil Rights Division John Gore, conspired to reduce the political power of people of color by using CVAP as a population base for redistricting. FAC ¶ 73.

Secretary Ross first consulted with Mr. Kobach, a proponent of excluding non-U.S. citizens from apportionment, and Steve Bannon, then a White House official, about adding a

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citizenship question to the 2020 Census. *See* FAC ¶ 74. Secretary Ross then directed U.S. Department of Commerce ("Commerce") staff to research the exclusion of non-U.S. citizens from apportionment and solicit and secure the help of DOJ. *Id.* Secretary Ross, through Commerce, coordinated with DOJ, Mr. Neuman, Dr. Hofeller, and the White House to fabricate a "need" for a Census citizenship question to better enforce the VRA, FAC ¶ 73, resulting in a letter from DOJ to the Bureau requesting the addition of the question to the 2020 Census (the "DOJ letter"), FAC ¶ 75. Dr. Hofeller provided Mr. Neuman and Mr. Gore with the substantive content of the DOJ Letter. FAC ¶ 82.[12]

Ultimately, three federal courts in six cases enjoined Defendants from adding a citizenship question on the 2020 Census, and the Supreme Court affirmed the New York district court's injunction. FAC ¶¶ 55-56, n.24. After reviewing evidence of the failed attempt to add a citizenship question to the Census, the U.S. District Court for the District of Maryland concluded: "it is becoming difficult to avoid seeing what is increasingly clear. As more puzzle pieces are placed on the mat, a disturbing picture of the decisionmakers' motives take shape." *Kravitz v. Dep't of Commerce*, 382 F. Supp. 3d 393, 402 (D. Md. 2019). *See also La Union del Pueblo Entero v. Ross*, 771 F. App'x. 323, 324-25 (4th Cir. 2019) (Wynn, J., concurring) (emphasizing that discriminatory intent can be inferred from the totality of the circumstances, including where the decisionmaker provides a pretextual rationale); *LUPE v. Ross*, Case No. 19-

[12] The Supreme Court later determined that Secretary Ross's initial "VRA enforcement rationale—the sole stated reason [for adding a citizenship question]—seems to have been contrived." FAC ¶ 56 (quoting *Dep't of Commerce*, 139 S. Ct. at 2575). Such "[p]roof that the defendant's explanation is unworthy of credence is . . . one form of circumstantial evidence that is probative of intentional discrimination, and it may be quite persuasive." *Reeves v. Sanderson Plumbing Prod., Inc.*, 530 U.S. 133, 147 (2000).

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1425 (4th Cir. Aug. 19, 2019), ECF No. 52 (instructing the district court to vacate its judgment on the equal protection claim).[13]

These well pleaded facts are relevant, because the historical background of the decision to accomplish CVAP redistricting was rooted in a study that advocated for the creation of a redistricting citizenship dataset and the failed attempt to add a citizenship question to the Census. This history sparked a highly specific and suspect series of events that further evidenced the discriminatory intent of the Defendants.

2. Specific Sequence of Events

Plaintiffs adequately pleaded that the specific series of events surrounding the challenged action in this case further support their claim of racial discrimination. *See NAACP*, 831 F.3d at 227 (recognizing that sequences of events leading to official action can provide further evidence of racial animus).

In the immediate aftermath of the Supreme Court's decision blocking the addition of the citizenship question to the Census, Secretary Ross directed the Bureau "to proceed with the 2020 Census without a citizenship question on the questionnaire, and [instead] produce [CVAP] information . . . that states may use in redistricting." FAC ¶ 65 (quoting July 3 OMB Request). Thus, Secretary Ross directly tied his decision to create and provide to states a redistricting citizenship dataset to the citizenship question, describing it as an alternative to the citizenship question to achieve Defendants' discriminatory purpose. *See Id.*

President Trump issued EO 13880 only a few days later. FAC ¶ 1; *see also* MTD at 1.

[13] In fact, Defendants continue to maintain that they sought to include a citizenship question on the Census to "enhance Voting Rights Act enforcement by allowing the Census Bureau to calculate citizenship data at the census-block level." MTD at 5. This is despite the fact that this rationale was found to be "contrived" by the U.S. Supreme Court. *Dep't of Commerce*, 139 S. Ct. at 2575.

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The purpose of issuing EO 13880 was to speed up the process of collecting and producing a redistricting citizenship dataset. FAC ¶ 58. That same day President Trump explained during a press conference that the purpose of the order was to make sure that the census could generate an accurate dataset of non-U.S. citizens, in part, for the purpose of "administering our elections." FAC ¶ 63. Attorney General William Bar further elaborated that they were studying "whether illegal aliens could be counted for [legislative] apportionment purposes." FAC ¶ 64 (quoting Attorney General Barr). The next day, the Census Bureau published the July 3 OMB Request, a revision of the February 2019 OMB Request, that reflects Secretary Ross's directive that the bureau continue collecting citizenship data for the purposes of creating the redistricting citizenship dataset. FAC ¶ 65.

The decision to redirect Bureau and other federal government resources to create and give to states a redistricting citizenship dataset occurred "in the immediate aftermath" of the Supreme Court's June 27, 2019 decision blocking the Census citizenship question. FAC ¶¶ 56-58, 65; *see NAACP*, 831 F.3d at 226-27 (noting that the timing of the adoption of a restrictive voting law was evidence of discriminatory intent). Plaintiffs adequately pleaded that the discriminatory purpose that infected the decision to add a citizenship question to the 2020 Census also provides evidence that the agency action at issue in this case is similarly motivated. *See, e.g.*, *Hunter v. Underwood*, 471 U.S. 222, 222-33 (1985) (looking at the original enactment of state constitutional provision to support finding that, even 80 years later and after several changes, the provision was still discriminatory); *NAACP*, 831 F.3d at 225 ("[T]hat a legislature impermissibly relied on race" in enacting a prior election law "certainly provides relevant evidence as to whether race motivated other election legislation passed by the same legislature."); *Jean v. Nelson*, 711 F.2d 1455, 1490-92 (11th Cir. 1983) (finding evidence of prior

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discriminatory policies to be probative of whether the challenged policy was motivated by discriminatory intent).

3. Departures from the Normal Procedural Sequence

Plaintiffs plausibly allege that Defendants' decision to create and provide to states a redistricting citizenship dataset significantly departs from the Bureau's normal procedural sequence. *See LUPE*, 353 F. Supp. 3d at 394 (holding plaintiffs stated a claim for an equal protection violation where plaintiffs provided, among other things, detailed allegations regarding procedural departures). In *NAACP*, for example, the voting bill at issue was rushed through the legislative process to avoid in-depth scrutiny, was afforded far less debate than normally offered to other bills, and targeted African American voters. 831 F.3d at 227-28. Finding error in the district court's "accepting the State's efforts to cast this suspicious narrative in an innocuous light," the Fourth Circuit held that such departures, even as other procedural rules were adhered to, provided "another compelling piece of the [motivation] puzzle." *Id.* at 228-29.

Plaintiffs allege that Defendants made the challenged decision *before* fully studying the issue, affording less in-depth scrutiny to this data collection than normally afforded to other data collections, and departing from other normal procedures along the way. *See, e.g.*, FAC ¶¶ 3, 91, 108. For example, Plaintiffs allege that Secretary Ross added a citizenship question to the 2020 Census and directed the Bureau collect administrative citizenship data to validate question responses just two years before the 2020 Census. FAC ¶¶ 54, 76. This was contrary to the normal procedure of informing Congress about subjects on the decennial census three years before the Census, or by April 2017, *see* FAC ¶ 23 (citing 13 U.S.C. § 141(f)).

Plaintiffs further allege that, following its normal procedures, the Bureau began to plan the contents of the Redistricting Data File at least as early as 2014. FAC ¶¶ 41-42. It was not

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until December 2018, however, that the Bureau first mentioned including citizenship data in this file in connection with the citizenship question. FAC ¶¶ 46-47. And it was not until July 3, 2019, less than a year before the 2020 Census, that Defendants first made the affirmative decision to redirect Bureau resources to collect administrative records from federal agencies and states and use these records to compile a completely new dataset to accompany the Redistricting Data File. *See* FAC ¶¶ 58, 60-61, 65. Such a hurried pace "strongly suggests an attempt to avoid in-depth scrutiny." *NAACP*, 831 F.3d at 227-28 (comparing the robust deliberations afforded to other bills to the minimal deliberations afforded to the bill at issue); *Veasey v. Abbot*, 830 F.3d, 216, 236-39 (5th Cir. 2016) (highlighting departures from normal procedural sequence, including intervention by the governor and extreme prioritization of a bill that did not present a problem of great magnitude).

Defendants emphasize that the Bureau has collected administrative data regarding citizenship in the past. MTD at 3-4. But Plaintiffs do not challenge past well-planned, measured collection of citizenship data for other purposes (e.g., validating ACS responses). Plaintiffs adequately pleaded that Defendants' unstudied and rushed decision to redirect federal resources to create a redistricting citizenship dataset, specifically for the purpose of using this data as a population base for redistricting and apportionment, departed from procedural norms and these allegations support a claim of discriminatory intent.

4. Substantive Departures

Plaintiffs also allege a number of substantive departures where "factors usually considered important by the decisionmaker strongly favor a decision contrary to the one reached." *Arlington Heights*, 429 U.S. at 564-65. For example, Plaintiffs allege that Secretary Ross ignored the known shortcomings of citizenship data derived from administrative sources,

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including those explained in the Bureau's March 1, 2018 memorandum concluding that citizenship data from administrative records does not produce 100 percent accurate data on citizenship, and that the Bureau "will most likely never possess a fully adequate truth deck to benchmark [citizenship] to." FAC ¶¶ 65, 66-72. Departing from these important substantive considerations, Secretary Ross directed the Bureau to produce a redistricting citizenship dataset using this flawed and incomplete data. FAC ¶ 65;[14] *see also* FAC ¶ 76 (alleging that Secretary Ross ignored the recommendation of the Bureau not to add a citizenship question to the 2020 Census).

Plaintiffs also allege that federal laws, regulations, and guidelines require that data created and provided by the Bureau have integrity, objectivity, and impartiality, that the Bureau be independent from political influence in the development, production, and dissemination of statistics, and that Defendants departed from substantive considerations when they violated many of these provisions. FAC ¶¶ 3, 27-31, 37, 108.

5. Contemporaneous Statements

The Fourth Circuit recognizes that officials "seldom, if ever, announce on the record that they are pursuing a particular course of action because of their desire to discriminate against a racial minority." *Smith v. Town of Clarkton, N.C.*, 682 F.2d 1055, 1064 (4th Cir. 1982). Plaintiffs nonetheless allege statements made by Defendants and their conspirators which support their allegation that Defendants were motivated by discriminatory intent.

[14] Defendants' contention that as of July 11, 2019 they had 90 percent of citizenship data necessary for the purpose of validating citizenship question responses to better enforce the federal voting rights act says nothing about the quality of this data for the purposes of apportionment, and says nothing about the sufficiency of Plaintiffs' discriminatory intent allegations. *See* FAC ¶ 3.

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For example, contemporaneous statements reflect that Defendants first "contrived" a reason for gathering citizenship information from the total U.S. population. FAC ¶ 54. After the U.S. Supreme Court held that Secretary Ross's rationale was pretextual, Defendants and the President publicly revealed their real reason to create and provide citizenship data—to conduct redistricting and apportionment based on CVAP instead of total population. FAC ¶¶ 56, 58-65. Statements made by President Trump and Attorney General William Bar regarding EO 13880 also support Plaintiffs' allegations that Defendants seek to reduce the political power of racial minorities and non-U.S. citizens. *See, e.g.*, FAC ¶¶ 63-64 (noting that some jurisdictions "may want to draw state and local legislative districts based upon the voter-eligible population, and that there is "a dispute over whether illegal aliens can be included for apportionment purposes") (internal quotation omitted). Plaintiffs' general allegations of racial animus, FAC ¶¶ 112, 115, further support their claim of discriminatory intent, s*ee Hutton v. Nat'l Bd. of Exam'rs in Optometry, Inc.*, 829 F.3d 613, 620 (4th Cir. 2018) (on a motion to dismiss, courts "presume that general allegations embrace those specific facts that are necessary to support the claim.").

Defendants concede that their purpose in preparing and distributing a redistricting citizenship dataset is to enable states to "design State and local legislative districts based upon the voter-eligible citizens." MTD at 36 (quoting EO 13880 at 33823).[15] Plaintiffs plainly allege that removing non-U.S. citizens from the apportionment base used for redistricting would, as described by the expert who drafted Defendants' plan, be "advantageous to . . . Non-Hispanic Whites" FAC ¶ 81. Defendants' admission that their purpose is to provide the tool to states

[15] Plaintiffs note that equating CVAP, which is what the redistricting citizenship dataset contains, and voter eligibility is incorrect. The redistricting citizenship dataset does not contain information related to criminal conviction history or mental competency—voter eligibility requirements found in most states.

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needed to subtract primarily Latinos and Asian Americans from the apportionment base demonstrates the adequacy of Plaintiffs' allegations, and does not undermine it.

6. Disparate Impact

Finally, Plaintiffs allege that Defendants' creation and provision to states of a redistricting citizenship dataset will have a disparate impact on the basis of race and national origin. *Arlington Heights*, 429 U.S. at 266 ("The impact of the official action whether it 'bears more heavily on one race than another,' . . . may provide an important starting point.") (quoting *Washington v. Davis*, 426 U.S. 229, 242 (1976)). Plaintiffs allege that they live in areas with relatively larger Latino and non-U.S. citizen populations when compared to the population of the U.S. and their states. FAC at ¶¶7, 9, 10-14, 85, 87. Furthermore, citizenship data based on administrative records will be inaccurate, and the Bureau's own research confirms that inaccuracies will be greater for naturalized citizens, those in mixed-immigration status households, certain U.S. citizens, and certain types of immigrants. FAC ¶¶ 66-72. Given that Latinos and Asian Americans are overrepresented among immigrants, naturalized citizens and those in mixed-immigration status households, Plaintiffs adequately pleaded disparate impact. Furthermore, although not necessary to set forth an equal protection claim, Plaintiffs adequately pleaded that Defendants relied on Dr. Hofeller's explanation that, for example in Texas, redistricting based on CVAP would benefit "Non-Hispanic Whites," FAC ¶ 81, and that Defendants intended this disparate impact to occur, FAC ¶¶ 81-83. Redistricting based on CVAP as a population base will result in a disproportionate harm to Latinos and non-U.S. citizens, because they will live in "unconstitutionally overpopulated districts." FAC ¶ 87.

Plaintiffs further allege that the decision to provide states with citizenship data for use in redistricting bears more heavily on Latino, Asian-American, and non-U.S. citizen populations

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because it will result in less political representation for these communities. *See* FAC ¶¶ 2, 4, 7, 9-14, 80-81, 85-87. In particular, Plaintiffs allege that jurisdictions' use of CVAP data to apportion population for redistricting will result in: 1) less majority-minority CVAP districts; and 2) malapportionment. *Id.* Plaintiffs allege that Defendants made the decision to create and provide citizenship data because of, not in spite of, this disparate impact. FAC ¶¶ 60, 63-65, 73, 80-84.

i. Disparate Impact is Not a Necessary Element of an Equal Protection Claim

Defendants' argument that Plaintiffs failed to allege disparate impact as a necessary element of an equal protection claim is factually incorrect and legally unfounded. First, Defendants cite no case to support their argument that Plaintiffs asserting an equal protection claim must allege discriminatory effects. *See* MTD at 32; *see also Arlington Heights*, 429 U.S. at 265 ("Disproportionate impact is not irrelevant, but it is not the sole touchstone of an invidious racial discrimination.") (quoting *Washington*, 426 U.S. at 242). Second, even if pleading discriminatory effects was a requirement, Plaintiffs have more than satisfied it. *See supra* Sec. IV.A.6; *see also* FAC ¶¶ 67-72, 86, 87 (alleging that administrative data regarding citizenship is inaccurate and misclassifies some naturalized U.S. citizens as non-U.S. citizens, and that Plaintiffs live in states where there is a higher population of non-U.S. citizens). Plaintiffs allege facts related to discriminatory effects in satisfaction of one of the *Arlington Heights* factors, not because equal protection plaintiffs are required to plead disparate effects.

B. Defendants' Other Arguments Are Unavailing

Defendants misstate equal protection law when they assert that "Plaintiffs cannot maintain an equal protection claim based on 'animus towards non-U.S. citizens and foreign-born persons,' FAC ¶ 112, because they are not suspect classifications." MTD at 33 n.16. It is well-

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established that individuals treated differently because they are non-U.S. citizens can prevail on an equal protection claim. *See, e.g.*, *Bernal v. Fainter*, 467 U.S. 216, 226 (1984) (strict scrutiny applied to law that prevented non-U.S. citizen from becoming a notary public); *Nyquist v. Mauclet*, 432 U.S. 1, 7-9 (1977) (applying strict scrutiny to law that prevented non-U.S. citizens from receiving state financial aid, and finding that the law was unconstitutional); *Graham v. Richardson*, 403 U.S. 365, 372 (1971) ("[C]lassifications based on alienage, like those based on nationality or race, are inherently suspect and subject to close judicial scrutiny. Aliens as a class are a prime example of a 'discrete and insular' minority . . . for whom such heightened judicial solicitude is appropriate."); *Traux v. Raisch*, 239 U.S. 33, 37 (1915) (striking down an anti-non-U.S. citizen labor law as unconstitutional under Equal Protection Clause of the Fourteenth Amendment).

Furthermore, even if the Court found that the Plaintiffs are not entitled to strict scrutiny, the level of scrutiny that a court applies to analyze an equal protection claim (e.g. strict scrutiny, intermediate scrutiny or rational basis review) has nothing to do with whether a plaintiff can assert an equal protection claim. *See, e.g.*, *Bd. of Trustees of Univ. of Alabama v. Garrett*, 531 U.S. 356, 366 (2001) (reflecting that constitutional protections still exist under the equal protection clause, even though challenged law did not target a suspect classification).

Defendants' argument that this case involves "the mere collection of administrative records" and thus there cannot be an equal protection challenge rests on a mischaracterization of Plaintiffs' complaint and ignores the facts surrounding the challenged action. *See* MTD at 32. Plaintiffs do not challenge the "mere" collection of administrative records. *See e.g.*, FAC ¶ 61, 65, 112) ("Defendant Ross 'directed the Census Bureau to proceed with the 2020 Census without a citizenship question on the questionnaire, and rather to produce Citizen Voting Age Population

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(CVAP) information prior to April 1, 2021 that states may use in redistricting.'"). Even if Defendants hope to prove that Plaintiffs' challenge involves mere record collection, that is a dispute of fact. Disputes of fact are properly resolved at the merits, not the pleading, stage of litigation. Defendants will have an opportunity later in the case to present their competing version of the facts; at this point, Plaintiffs well-pleaded facts are taken as true and Defendants' fact disputes cannot sustain their motion to dismiss. *Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc.*, 591 F.3d 250, 255 (4th Cir. 2009) ("[I]n evaluating a Rule 12(b)(6) motion to dismiss, a court accepts all well-pleaded facts as true and construes these facts in the light most favorable to the plaintiff in weighing the legal sufficiency of the complaint.").

The same is true for Defendants' unsuccessful attempt to re-litigate the facts that led one court to conclude, "it is becoming difficult to avoid seeing that which is increasingly clear. As more puzzle pieces are placed on the mat, a disturbing picture of the decionsmakers' motives take shape." *Kravitz*, GJH-18-1041, Opinion, Dkt. No. 175 at 13. The question before the Court is whether Plaintiffs adequately pleaded that Defendants are motivated by discriminatory intent—not whether Defendants deny those allegations.

Finally, Plaintiffs also sufficiently allege that Latinos, other racial minority individuals, and non-U.S. citizens will be harmed if Defendants are not enjoined from continuing their discriminatory conduct. *See supra* Sec. I (standing); *see supra* Sec. IV.A.6 (disparate impact).

V. Plaintiffs Have Stated a Cause of Action under 42 U.S.C. § 1985(3)

Plaintiffs more than adequately pleaded a claim under 42 U.S.C. § 1985(3) that Defendants and others are engaged in a conspiracy to create and provide to states a redistricting citizenship dataset in order to increase the political power of non-Hispanic whites and reduce the power of Latinos, other racial minority individuals, and non-U.S. citizens. Further, creating and providing a redistricting citizenship dataset from administrative sources is an overt act that is part

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of the same conspiracy Defendants initiated when they attempted to add a citizenship question to the 2020 Census. *See, e.g.*, FAC ¶¶ 54-56, 58, 60-65. Accordingly, plaintiffs adequately pleaded that such a conspiracy exists.

A. Injunctive Relief is Available as a Remedy for § 1985(3) Violations

Defendants erroneously argue that § 1985(3) provides no basis for injunctive relief. MTD at 37-38. It is well-established, however, that "[a]bsent the clearest command to the contrary from Congress, federal courts retain their equitable power to issue injunctions in suits over which they have jurisdiction." *Califano v. Yamasaki*, 442 U.S. 682, 705 (1979); *see also Plata v. Schwarzenegger*, 603 F.3d 1088, 1094 (9th Cir. 2010) (same); *LUPE I*, 353 F. Supp. 3d at 398 n.7 (noting that argument that § 1985(3) prohibits injunctive relief is "not persuasive"); *F.T.C. v. Dean Foods Co.*, 384 U.S. 597, 608 (1966) (holding that courts retain authority under All Writs Act "[i]n the absence of explicit direction from Congress"); *Sterk v. Redbox Automated Retail, LLC*, 672 F.3d 535, 539 (7th Cir. 2012) (holding that "when all that a plaintiff seeks is to enjoin an unlawful act, there is no need for express statutory authorization" from Congress).

Congress did not divest federal courts of their equitable powers when it enacted § 1985(3), and this Court thus retains the power to enjoin Defendants from violating § 1985(3).[16]

[16] Defendants erroneously argue that the Court must dismiss Plaintiffs' APA claims if their conspiracy claim survives. MTD at 44-45. In support of this argument, Defendants cite 5 U.S.C. § 704, which provides that the APA allows review of "final agency actions for which there is no other adequate remedy in a court[.]" Defendants interpret this language to mean that if a plaintiff brings an APA claim for injunctive relief, they cannot add additional claims that provide for the same relief. This is incorrect. Instead, the Supreme Court in *Bowen v. Massachusetts* held that the "no other adequate remedy" language is "merely a restatement of the proposition that one need not exhaust administrative remedies that are inadequate," and is meant to make clear that Congress did not intend for the APA "to duplicate the previously established special statutory procedures relating to specific agencies." 487 U.S. 879, 901-03 (1988) (alteration and internal quotation omitted). Section 704 does not speak to what other claims, in addition to an APA claim a plaintiff, may bring in federal court, and the Court should reject this meritless attempt to dismiss Plaintiffs' APA claims.

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See, e.g., *Mizell v. N. Broward Hospital Dist.*, 427 F.2d 468, 473 (5th Cir. 1970) (holding that the power to issue an injunction "is available to a trial court in an action brought under Section 1985, even though that section refers in precise terms only to a suit for damages"); *Action v. Gannon*, 450 F.2d 1227, 1237-38 (8th Cir. 1971) (en banc) (in holding that injunctive relief is available under § 1985(3), reasoning that "[f]ederal courts have the power to afford all remedies necessary to the vindication of federal substantive rights defined in statutory and constitutional provisions except where Congress has explicitly indicated that such remedy is not available").

B. Sovereign Immunity Does not Bar Plaintiffs' § 1985(3) claim.

The Supreme Court has long held that federal officials may be sued for injunctive relief to prevent future infringement of federal laws. *See, e.g.*, *Larson v. Domestic Foreign Com. Corp.*, 337 U.S. 682, 689-691 (1949) (federal officers may be enjoined from acting unconstitutionally); *Unimex, Inc. v. Dep't of Hous. and Urban Dev.*, 594 F.2d 1060, 1062 (5th Cir. 1979) (same). Here, Plaintiffs allege that Defendants acted unconstitutionally when they conspired to violate Plaintiffs' rights to equal protection of the law, in violation of the Fifth Amendment of the Constitution. Because Plaintiffs seek only injunctive relief, not damages, Plaintiffs' § 1985(3) claim is not barred on sovereign immunity grounds.[17] *See Ziglar v. Abassi*,

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[17] The cases cited by Defendants are either inapposite or not persuasive for the proposition for which Defendants cite them. *United States v. Testan,* 424 U.S. 392, 392 (1976), *Davis v. Dep't of Justice*, 204 F.3d 723, 725 (7th Cir. 2000), and *Unimex*, 594 F.2d at 1061 all involved claims for damages, not injunctive relief. Further, in *Unimex*, the Fifth Circuit acknowledged that had plaintiffs alleged that defendant federal officials acted *ultra vires*, plaintiffs could have brought an action for injunctive relief. 594 F.2d at 1062 (citing *Larson*, 337 U.S. at 691, and 5 U.S.C. § 702). *Larson* supports Plaintiffs' argument that their § 1985(3) claim is not barred by sovereign immunity. 337 U.S. at 689-691. There, the Supreme Court acknowledged that federal employees may be sued for injunctive relief in their official capacities where, like Defendants here, they violate the Constitution. *Id.* Finally, although the plaintiffs in *Affiliated Professional Home Health Care Agency v. Shalala*, 164 F.3d 282, 286 (5th Cir. 1999), sought both monetary

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137 S. Ct. 1843, 1853 (2017) (entertaining § 1985(3) claim against federal administration officials acting in their official capacity).

C. Plaintiffs' Allegations Support a Claim Under 42 U.S.C. § 1985(3)

Plaintiffs have sufficiently stated a claim under § 1985(3) because they plausibly allege: "(1) a conspiracy of two or more persons, (2) who are motivated by a specific class-based, invidiously discriminatory animus to (3) deprive the plaintiff of the equal enjoyment of rights secured by the law to all, (4) and which results in injury to the plaintiff as (5) a consequence of an overt act committed by the defendants in connection with the conspiracy." *Simmons v. Poe*, 47 F.3d 1370, 1376 (4th Cir. 1995). Plaintiffs allege that Defendants, including Secretary Ross and Commerce and Census Bureau officials, worked with individuals in the White House, including President Trump, and others outside of the administration to create and provide a citizenship redistricting dataset to the states because it would negatively affect the representation of Latinos, Asian Americans and non-U.S. citizens. FAC ¶¶ 1-2, 46-47, 49, 73-74, 80-83. Defendants carried out overt acts in furtherance of this conspiracy, from the collection of citizenship and immigration administrative records, to the effort to add a citizenship question to the decennial census, to the most recent executive order and implementing actions. FAC ¶¶ 54-56, 58-65, 73-78, 85.

Contrary to Defendants' claim, MTD at 40-41, Plaintiffs allege more than the existence of the Hofeller Study. Plaintiffs' First Amended Complaint also includes allegations regarding: 1) Mr. Kobach's involvement early in 2017 in persuading the Commerce Department to add a Census citizenship question to 2020 Census, FAC ¶ 74; 2) Secretary Ross's request that Commerce research excluding immigrants from apportionment, *id.*; 3) The involvement of Dr.

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damages and injunctive relief, the Fifth Circuit did not address the plaintiffs' request for injunctive relief.

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Hofeller and Mr. Neuman in drafting the DOJ Letter requesting a citizenship question for pretextual reasons, FAC ¶ 82; 4) Secretary Ross's decision to add a citizenship question to the 2020 Census notwithstanding the Bureau's recommendations to the contrary, FAC ¶ 76; and 5) statements by Defendants, President Trump, and Attorney General William Bar in July 2019 admitting that, after more than a year of hiding their true purpose and consistent with the Hofeller Study, that found that using CVAP would diminish the political power of minority groups, Defendants were in fact moving forward to create and give states citizenship data for use in redistricting and apportionment, FAC ¶¶ 60-65.[18,19]

Plaintiffs' allegations are nothing like the allegations in the cases cited by Defendants. In *Simmons*, the Fourth Circuit provided examples of conclusory allegations of conspiracy, including cases where the "§ 1985(3) claim was essentially an afterthought with little more to support it than the respective racial identities of the individuals involved." 47 F.3d at 1377 (quoting *Gooden v. Howard Cnty.*, 954 F.2d 960, 969-70 (4th Cir. 1992)) (alteration omitted).[20] Here, Plaintiffs allege with specificity that Defendants conspired to create and provide citizenship data for use in redistricting and with the purpose of discriminating against Latinos, Asian Americans and others.

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[18] In *LUPE I*, the U.S. District Court for the District of Maryland held that plaintiffs pleaded sufficient facts to state a claim for conspiracy by defendants to violate plaintiffs' constitutional rights. *LUPE I*, 353 F. Supp. 3d at 397-98. Notably, this was before Dr. Hofeller's study became public, and before Defendants and President Trump admitted their true purpose for collecting and reporting citizenship data in July 2019.

[19] Defendants argue that some of the conspirators were only involved with the citizenship question. MTD at 42. But there is no requirement that all conspirators be involved at every step of the conspiracy. Instead, *Simmons* requires only that conspirators have a meeting of the minds (here, to use citizenship data in redistricting to reduce the political power of Latinos and other groups), and that they commit an overt act in furtherance of the conspiracy. 47 F.3d at 1376. Plaintiffs allege that Dr. Hofeller, Mr. Kobach, Mr. Neuman, AG Sessions, Secretary Ross, among others, committed such overt acts.

[20] It was also uncontested in *Simmons* that one of the alleged conspirators had acted on his own. *Simmons*, 47 F.3d at 1377-78.

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Hinkle v. City of Clarksburg, West Virginia, also cited by Defendants, involved not a motion to dismiss, but a summary judgment motion where defendants had proffered evidence that contradicted plaintiffs' allegations. 81 F.3d 416, 241-43 (1996). And, unlike the claims in *Hinkle*, Plaintiffs' allegations here are not "rank speculation and conjecture," MTD at 44, but are instead supported by allegations related to documents released in connection with the citizenship question cases, FAC ¶¶ 55-56. Plaintiffs further alleged facts connected to the Hofeller Study and other documents evidencing the important roles played by Dr. Hofeller and Mr. Neuman in the conspiracy. *See* FAC ¶¶ 79-83.

D. The Intracorporate-Conspiracy Doctrine Does Not Apply in this Case

Defendants erroneously argue that the intracorporate-conspiracy doctrine, an antitrust principle that provides that "there is no unlawful conspiracy where officers within a single corporate entity consult among themselves and then adopt a policy for the entity." *Ziglar*, 137 S. Ct. at 1867, applies in this case, MTD at 43-44. Plaintiffs here allege a conspiracy between private parties and individuals working for different state and federal governments. *See* FAC ¶¶ 73-84; *see also Ziglar*, 137 S. Ct. at 1867 (in discussing whether intracorporate-conspiracy doctrine applies to civil rights suits, focusing on whether officers were members of the same department, not members of the same branch of government).[21] Further, "[i]ndividuals are not immune from liability under [§] 1985(3) merely because the same corporation employs them," and they remain liable for their "unauthorized acts in furtherance of [the] conspiracy[.]" *Hodgin v. Jefferson*, 446 F. Supp. 804, 807 (D. Md. 1978); *see also Buschi v. Kirven*, 775 F.2d 1240,

[21] To the extent there is a question of fact as to whether Commerce and DOJ officials are part of the same governmental body, this does not defeat Plaintiffs' claim at the motion to dismiss stage. *Kronberg v. LaRouche*, No. 1:09-CV-947-AJT/TRJ, 2010 WL 1443898, at *8 (E.D. Va. Apr. 9, 2010) (denying defendants' motion to dismiss where there was a question of fact as to whether the intracorporate-conspiracy doctrine applied).

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1251-53 (4th Cir. 1985) (same). Plaintiffs alleged that the conspirators took steps to disadvantage Latinos, Asian Americans, and non-U.S. Citizens individuals in violation of their right to equal protection, and Defendants' acts were therefore unauthorized.[22]

Even though the Supreme Court did not decide the issue, it acknowledged in *Ziglar* that it "has not given its approval to [the intracorporate-conspiracy] doctrine in the specific context of § 1985(3)," and that "[t]here is a division in the courts of appeals . . . respecting the validity or correctness of the intracorporate-conspiracy doctrine with reference to § 1985 conspiracies." 137 S. Ct. at 1868. The Court should thus further decline to dismiss Plaintiffs' § 1985(3) claim on the basis of unsettled law. *Wright*, 787 F.3d at 263 (holding that the fact that a plaintiff's claim does "not fall within the four corners of . . . prior case law . . . does not justify dismissal under Rule 12(b)(6)," and that dismissal in these circumstances is "especially disfavored") (internal quotation marks omitted). Indeed, Plaintiffs here "should be given an opportunity to develop evidence before the merits are resolved." *Id.* (internal quotation marks omitted).

[22] Moreover, to the extent there is a question as to whether an exception to the intracorporate-conspiracy doctrine applies under the facts of this case, such a question requires denial of Defendants' Motion to Dismiss. *Bell v. City of Roanoke Sheriff's Office*, No. 7:09-cv-214, 2009 WL 5083459, at *4 (W.D. Va. Dec. 23, 2009) ("Because the applicability of the exceptions to intracorporate immunity entail a factual inquiry, the court will deny the defendants' motion to dismiss").

Dated: January 9, 2020

Respectfully submitted,

By /s/ Terry Ao Minnis

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*** Application for admission forthcoming*
° *Not admitted in DC.*

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CERTIFICATE OF SERVICE

I certify that on this 9th day of January, 2020, I caused a copy of Plaintiffs' Response to Defendants' Motion to Dismiss to be sent to all parties receiving CM/ECT notices in this case.

/s/ Terry Ao Minnis
Terry Ao Minnis

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Sent: Fri 5/8/2020 2:46:14 PM (UTC-04:00)
Subject: FW: Congressional inquiry
2020-04-14 Tri-Caucus to Ross, Dillingham re EO 13880.pdf
04-XX-2020 DRAFT to Castro et al on EO 13880 (2).docx