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Respectfully,

/s/ Patrick Carome
Patrick Carome
Mikayla C. Foster
Jared V. Grubow
Rieko H. Shepherd
Counsel for Requestors

July 1, 2020

By Mail

ATTN: FOIA Office
U.S. Census Bureau, Room 3J235
4600 Silver Hill Road
Washington, DC 20233-3700

Re: Freedom of Information Act Request

Dear Sir or Madam:

On behalf of our client, the Brennan Center for Justice at NYU School of Law (the “Brennan Center” or “Center” or “Requestors”), we respectfully request all records in the possession of the Census Bureau, including any officers, employees, or divisions thereof, on the topics listed below concerning the 2020 Census, pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). By this letter we also request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E).

Background

On June 27, 2019, the U.S. Supreme Court struck down the Trump administration’s attempt to add an unprecedented citizenship question to the 2020 decennial census.¹ Soon after, on July 11, 2019, President Donald J. Trump renewed the administration’s attempt to collect citizenship data via the Census Bureau by issuing Executive Order 13880, which ordered the Bureau to collect pre-existing administrative records on citizenship from other federal agencies.² During the same press conference where President Trump announced Executive Order 13880, United States Attorney General William Barr stated that the Administration “will be studying” whether the data collected via Executive Order 13880 is “relevant to” whether “illegal aliens can be included for apportionment purposes.”³ Several agencies have already complied with that Executive Order.⁴

¹ *Dep’t of Commerce v. New York*, 139 S. Ct. 2551, 2576 (2019).

² 84 Fed. Reg. 33821 (July 11, 2019).

³ *Remarks by President Trump on Citizenship and the Census*, The White House (July 11, 2019, 5:37 p.m.), <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-citizenship-census>.

⁴ See Hansi Lo Wang, *To Produce Citizenship Data, Homeland Security to Share Records With Census*, NPR (Jan. 4, 2020), <https://www.npr.org/2020/01/04/793325772/to-produce-citizenship-data-homeland-security-to-share-records-with-census.be>.

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Apportionment—the determination of how many seats each state receives in the U.S. House of Representatives—is a constitutionally required, once-a-decade calculation made using the results of the decennial census. Under the U.S. Code, the Secretary of Commerce provides the state-population totals required for congressional apportionment to the President.⁵ The President then must use those state totals to calculate the congressional apportionment using a mathematical formula specified by statute and report the results to Congress.⁶ Because the administration has indicated that it may attempt to use citizenship data in some way during the process for calculating the congressional apportionment but has not revealed any details of its plans to the public, this request seeks all records related to the administration’s plans for how it might use citizenship data collected by the Census Bureau for apportionment purposes.

Apportionment affects the representational rights of every person living in the United States. Accordingly, the public has a right to know how the administration intends to calculate the apportionment and whether and how citizenship data might be used in the calculation.

Records Requested

We request the following:

- 1) All records⁷ created on or after June 27, 2019, pertaining to how any of the citizenship-status data collected pursuant to Executive Order 13880 can, could, should, or may be used, incorporated, referenced, or considered in any of the following activities:
 - calculating or otherwise formulating the 2020 total national population;
 - calculating or otherwise formulating the 2020 state-population totals to be used to apportion the United States House of Representatives as contemplated by 13 U.S.C. § 141(b) (hereinafter, the “2020 state-population totals”);
 - reporting the 2020 state-population totals to President Trump by the Secretary of Commerce as required under 13 U.S.C. § 141(b);

⁵ 13 U.S.C. § 141(b).

⁶ 2 U.S.C. § 2a(a).

⁷ The term “records” includes any and all codes, correspondence (including electronic mail and instant messages), digital recordings, documents, directives, examinations, guidelines, handbooks, instructions, manuals, maps, microfilms, computer tapes or disks, memoranda, notes, photographs, regulations, reports, rules, or standards, including any drafts thereof.

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- reporting by President Trump to Congress the 2020 state-population totals and number of congressional representatives to which each state is entitled, as required under 2 U.S.C. § 2a(a);
 - changing the Census Bureau's policy for calculating the 2020 state-population totals, which currently states the 2020 state-population totals will be calculated using the Census Unedited File⁸;
 - changing the Census Bureau's policy for creating the Census Unedited File, which currently states the Census Unedited File will not contain any citizenship status data.⁹
- 2) All records created on or after June 27, 2019, pertaining to the process by which the Secretary of Commerce will report the 2020 state-population totals to President Trump, as required under 13 U.S.C. § 141(b).
 - 3) All records created on or after June 27, 2019 pertaining to the process by which President Trump will report to Congress the 2020 state-population totals and number of congressional representatives to which each state is entitled thereunder, as required under 2 U.S.C. § 2a(a).
 - 4) All records created on or after June 27, 2019 and relating to the 2020 Census in which there is any mention of, involvement in, or communication with any of the following persons or entities:

Persons

- Adam Korzeniewski, Senior Advisor to the Deputy Director for Policy at the U.S. Census Bureau and Former Advisor to the Department of Commerce
- Christopher C. Demuth, Sr., Hudson Institute
- Christopher J. Hajec, Immigration Reform Law Institute
- David Dewhirst, Formerly of Department of Commerce
- Eric Ueland, White House Office of Legislative Affairs
- Eric W. Lee, Judicial Watch
- Gail Gitcho, National Republican Redistricting Trust
- Guy Harrison, National Republic Redistricting Trust
- Hans von Spakovsky, Heritage Foundation

⁸ See John M. Abowd & Victoria Velkoff, *Update on Disclosure Avoidance and Administrative Data*, U.S. Census Bureau, at 12 (Sept. 13, 2019), <https://www2.census.gov/cac/sac/meetings/2019-09/update-disclosure-avoidance-administrative-data.pdf>.

⁹ *Id.*

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- J. Christian Adams, Public Interest Legal Foundation and Presidential Advisory Commission on Election Integrity
- J. Justin Reimer, Republican National Committee
- Jeff Timmer, Michigan GOP
- John Fleming, White House Chief of Staff Office
- Joseph W. Miller, Restoring Liberty
- Karen Dunn Kelley, Deputy Secretary of Commerce
- Kaylan Phillips, Public Interest Legal Foundation
- Lauren Bryan, National Republican Senatorial Committee
- Mark S. Venezia, Immigration Reform Law Institute
- Michael M. Hethmon, Immigration Reform Law Institute
- Mike Walsh, Chief of Staff to the Secretary of Commerce
- Nathaniel Cogley, Deputy Director for Policy at the U.S. Census Bureau and Former Advisor to the Department of Commerce
- Peter B. Davidson, Department of Commerce
- Robert D. Popper, Judicial Watch
- Russ Vought, Deputy Director of Office of Management and Budget

Entities

- Allied Educational Foundation
- American Civil Rights Union
- American Legislative Exchange Council
- Citizens United
- Citizens United Foundation
- Conservative Legal Defense and Education Fund
- Eagle Forum Education & Legal Defense Fund
- English First Foundation
- Fair Lines America
- Family-PAC Federal
- Gun Owners Foundation
- Gun Owners of America, Inc.
- Heritage Foundation
- Immigration Reform Law Institute
- Judicial Watch
- National Republican Congressional Committee
- Policy Analysis Center
- Polidata

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- Public Advocate of the United States
- Public Interest Legal Foundation
- Project on Fair Representation
- Republican National Committee
- Republican State Leadership Committee
- Restoring Liberty Action Committee
- The Senior Citizens League

In searching for records that are responsive to each of the four foregoing requests, please be sure to search the electronic records (including email and text messages) and non-electronic records of each person within your agency who might have any responsive records, and, in addition, please search, in particular, the electronic records and non-electronic records of each of the following persons:

- Nathaniel Cogley, Deputy Director for Policy at the U.S. Census Bureau and
- Adam Korzeniewski, Senior Advisor to the Deputy Director for Policy at the U.S. Census Bureau

Request for Expedited Processing

Requestors seek expedited processing of the above requests pursuant to 5 U.S.C. § 552(a)(6)(E) and 15 C.F.R. § 4.6(f) and rely on two justifications for the request.

The Department of Commerce must process requests on an expedited basis when either (1) “[a] matter of widespread and exceptional media interest involving questions about the Government’s integrity which affect public confidence”¹⁰ exists; or (2) “[a]n urgency to inform the public about an actual or alleged Federal Government activity” is made by an organization “primarily engaged in disseminating information.”¹¹ Both bases are satisfied by this request.

First, the records requested concern a matter of widespread and exceptional media interest. There has been a plethora of reporting about how the Trump Administration plans to

¹⁰ 5 U.S.C. § 552(a)(6)(E) and 15 C.F.R. § 4.6(f)(iii).

¹¹ 5 U.S.C. § 552(a)(6)(E)(II) and 15 C.F.R. § 4.6(f)(iv).

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collect citizenship data¹² in conjunction with the 2020 Census reporting.¹³ Such news reporting discusses the nexus between Executive Order 13880 and the census generally, as well as focuses on how the Bureau is preparing citizenship data and how states might use that data for apportioning their legislatures and/or redrawing their electoral districts.¹⁴ Census Bureau policy instructs that the file used to calculate apportionment counts “does not contain any citizenship data.”¹⁵ Nevertheless, Attorney General Barr stated that the Administration “will be studying” whether the data collected via Executive Order 13880 is “relevant to” whether “illegal aliens can be included for apportionment purposes.”¹⁶ A challenge by the Trump Administration to the Census Bureau’s well-settled policy raises “questions about the Government’s integrity which affect public confidence.”¹⁷

Second, there is an “urgency to inform the public” about any past, present, or future actions taken by the federal government with regard to using citizenship data to calculate the apportionment.¹⁸ Such urgency exists because any action taken by the government to incorporate citizenship status into the calculations for apportioning congressional seats would violate the clear command of the U.S. Constitution, mark a monumental shift in methodology for

¹² See Abowd & Velkoff, *supra* note 8, at 12 (“[T]he President’s Executive Order 13880 commit[s] the Census Bureau to releasing Citizen Voting-Age Population (CVAP) data . . . by combining administrative data from a number of federal, and possibly state, agencies into a separate micro-data file that will contain a ‘best citizenship’ variable for every person in the 2020 census.”).

¹³ See, e.g., Katie Rogers et al., *Trump Says He Will Seek Citizenship Information From Existing Federal Records, Not the Census*, N.Y. Times (July 11, 2019), <https://www.nytimes.com/2019/07/11/us/politics/census-executive-action.html>; Wang, *supra* note 4.

¹⁴ See, e.g., Brendan A. Shanahan, *Counting Everyone—Citizens and Non-Citizens—in the 2020 Census is Crucial*, Wash. Post (Mar. 12, 2020), <https://www.washingtonpost.com/outlook/2020/03/12/counting-everyone-citizens-non-citizens-2020-census-is-crucial/>; Adam Boyd, *How Census Is Building a Citizenship Database Covering Everyone Living in the U.S.*, Nextgov (Apr. 1, 2020), <https://www.nextgov.com/analytics-data/2020/04/how-census-building-citizenship-database-covering-everyone-living-us/164275>. A dispute is also currently ongoing involving whether non-citizens can be excluded from the population totals used for congressional apportionment. See *Alabama v. Dep’t of Commerce*, No. 18-CV-00772 (N.D. Ala. May 21, 2018) (Complaint).

¹⁵ See Abowd & Velkoff, *supra* note 8, at 9.

¹⁶ *Remarks by President Trump on Citizenship and the Census*, The White House (July 11, 2019, 5:37 p.m.), available at <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-citizenship-census>.

¹⁷ 5 U.S.C. § 552(a)(6)(E) and 15 C.F.R. § 4.6(f)(iii).

¹⁸ 5 U.S.C. § 552(a)(6)(E)(II) and 15 C.F.R. § 4.6(f)(iv).

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apportioning Congress, and contravene the Census Bureau's current policy.¹⁹ Modeling shows how significantly the use of citizenship data would affect apportionment.²⁰

The federal government's actual or alleged activity includes at least the following:²¹ First, the government is collecting citizenship data in conjunction with the 2020 Census. President Trump signed Executive Order 13880, requesting that citizenship data be sent to the Census Bureau. Several agencies have already complied with that Order.²² Second, Attorney General Barr has stated that the Justice Department would study how that data could be used in calculating apportionment. And yet, little else is known of the government's plans and whether other non-government entities may be influencing those plans. As the census is currently ongoing and the statutory deadline for calculating the apportionment is rapidly approaching, processing this request is urgent to inform the public about how the federal government is affecting their representational rights.

The Brennan Center is an organization "primarily engaged in the dissemination of information."²³ The Brennan Center is a think tank and public interest law center that regularly writes and publishes reports and articles and makes appearances in various media outlets regarding census-related subjects, including efforts to ensure that all people participate in the census. The opportunity to explain to the public how citizenship data may be used to calculate the apportionment is the best tool to mitigate any public fears of government abuses and thereby increase census participation. The records and communications requested are essential to that goal.

The Brennan Center certifies that the above explanation is true and correct to the best of its knowledge and belief.²⁴

¹⁹ See U.S. Const. amend. XIV, § 2 (mandating that "[r]epresentatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state"); Abowd & Velkoff, *supra* note 8, at 9; cf. *Wisconsin v. City of New York*, 517 U.S. 1, 11–12 (1996) (approving of the Secretary's findings that "small changes in adjustment methodology would have a large impact upon apportionment" and that any adjustment "might open the door to political tampering in the future."). Efforts to use citizenship data in light of the Census Bureau's policy raises the specter of political tampering.

²⁰ See *States Gaining/Losing Seats Based Upon Citizen VAP Projected to 2020*, Polidata.org, <https://www.polidata.org/census/ST017KCA.pdf> (last accessed May 17, 2020).

²¹ 5 U.S.C. § 552(a)(6)(E)(v)(II) and 15 C.F.R. § 4.6(f)(iv).

²² See Wang, *supra* note 4.

²³ 5 U.S.C. § 552(a)(6)(E)(v)(II) and 15 C.F.R. § 4.6(f)(iv). Requestors are "a cutting-edge communications hub, shaping opinion by taking our message directly to the press and public." *Mission & Impact*, Brennan Ctr., <https://www.brennancenter.org/about/mission-impact> (last accessed May 17, 2020).

²⁴ 5 U.S.C. § 552(a)(6)(E)(vi) and 15 C.F.R. § 4.6(f)(3).

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Pursuant to the applicable statute and regulations, Requestors expect the determination regarding expedited processing to be made within 10 days.²⁵

Request for Fee Waiver or Limitation on Fees

Requestors seek a waiver of all document search, review, and duplication fees because disclosure “is likely to contribute significantly to public understanding of the operations or activities of the government” and “is not primarily in the commercial interest of” the Brennan Center.²⁶ If the fee waiver request is not granted, the Brennan Center asks that fees be limited to reasonable standard charges for document duplication because the Center qualifies as a noncommercial scientific institution, an educational institution, and a representative of the news media.²⁷

A. Disclosure Is in the Public Interest

The records requested satisfy the two factors used by the Department of Commerce when determining whether to waive fees: (i) disclosure “is in the public interest”; and (ii) disclosure “is not primarily in the commercial interest of” the Brennan Center.²⁸

The information requested satisfies the Department of Commerce’s four factor “public interest” test: (i) the records requested concern the operations or activities of the government; (ii) disclosure is likely to contribute to an understanding of government operations or activities; (iii) disclosure will contribute to the understanding of a reasonably broad audience of persons interested in the subject; and (iv) disclosure is likely to contribute significantly to public understanding of government operations or activities.²⁹

First, the records requested “concern identifiable operations or activities of the Federal Government”³⁰ because they relate to: (1) compilation of citizenship data by the Department of Commerce pursuant to Executive Order 13880; (2) reporting of the 2020 Census results by the Secretary of Commerce and the President; and (3) communications involving employees of the Department of Commerce, Department of Justice, or outside organizations concerning details about the 2020 Census.

²⁵ See 5 U.S.C. § 552(a)(6)(E)(ii)(I) and 15 C.F.R. § 4.6(f)(4).

²⁶ 5 U.S.C. § 552(a)(4)(A)(iii) and 15 C.F.R. § 4.11(l)(1)(i)–(ii).

²⁷ See 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 15 C.F.R. § 4.11(c)(1)(ii)–(iii), (d)(1).

²⁸ 15 C.F.R. § 4.11(l)(1)(i)–(ii).

²⁹ See *id.* § 4.11(l)(2)(i)–(iv).

³⁰ 15 C.F.R. § 4.11(l)(2)(i).

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Second, disclosure would be “meaningfully informative about Government operations or activities”³¹ because the records requested will provide firsthand evidence about how the federal government plans to use citizenship data in apportionment and which groups or individuals outside the government it has consulted in forming those plans.

Third, disclosure will “contribute to the understanding of a reasonably broad audience of persons interested in the subject,” because the Department of Commerce “presumes that a representative of the news media,” such as the Brennan Center, “satisfies this consideration.”³² As discussed in more detail below, the Brennan Center qualifies as a representative of the news media because it broadly disseminates information to the public about issues affecting justice and democracy, including the census. Through articles on its frequently visited website, brennancenter.org, and through its widely read research reports,³³ the Brennan Center is an “entity that [] gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work and distributes that work to an audience.”³⁴ Even if the Brennan Center were not a representative of the news media, this third factor would be satisfied because apportionment affects every single person living in the United States. Information about how citizenship data might be used in apportionment will therefore contribute to the understanding of members of the American public whose representational rights are directly impacted by apportionment.

Fourth, the public’s understanding of how the federal government plans to use citizenship data for apportionment purposes will be “significantly enhanced by the disclosure” because, aside from Attorney General Barr’s brief remarks about using citizenship data for apportionment purposes, little is known about how the federal government plans to use data gathered under Executive Order 13880 for apportionment purposes or whether groups outside the government have been involved in discussions about how to use that data.

Requestors also satisfy the “commercial interest” condition for a fee waiver because disclosure of the records requested “is not primarily in the commercial interest of” the Brennan Center.³⁵ The Brennan Center is a 501(c)(3) non-profit organization and does not seek the requested records for commercial use.³⁶ Instead, the Center plans to analyze, publish, and

³¹ *Id.* § 4.11(l)(2)(ii).

³² *Id.* § 4.11(l)(2)(iii).

³³ See, e.g., Kelly Percival, *Federal Laws that Protect Census Confidentiality*, Brennan Ctr. (Feb. 20, 2019), <https://www.brennancenter.org/our-work/research-reports/federal-laws-protect-census-confidentiality>.

³⁴ 15 C.F.R. § 4.11(a)(6).

³⁵ *Id.* § 4.11(l)(3).

³⁶ See *Financial & Legal Information*, Brennan Ctr., <https://www.brennancenter.org/about/financial-legal-information> (last accessed May 18, 2020).

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publicly disseminate the information requested at no cost. Moreover, the Department of Commerce “ordinarily shall presume that if a news media requester has satisfied the public interest standard, the public interest is the primary interest served by disclosure to that requester[,]” not commercial use.³⁷ As explained above, the Brennan Center is a representative of the news media and has satisfied the public interest standard.

For these reasons, the Brennan Center’s request for a fee waiver should be granted.

B. The Brennan Center is a Noncommercial Scientific Institution

Even if the Brennan Center’s request for a fee waiver is not granted, fees should be limited to standard charges for document duplication because the Center qualifies as a noncommercial scientific institution.³⁸ The Brennan Center is a noncommercial scientific institution because it conducts social scientific research into the American justice system and American democracy, the results of which are intended to inform the American public, not “promote any particular product or industry.”³⁹ As stated on its website, the Center is “an independent, nonpartisan law and policy organization” that conducts “rigorous research to identify problems and provide in-depth empirical findings and compelling analyses of pressing legal and policy issues.”⁴⁰

C. The Brennan Center is an Educational Institution

If the Brennan Center’s request for a fee waiver is not granted, fees should be limited to standard duplication fees because the Center also qualifies as an educational institution.⁴¹ The Brennan Center qualifies as an educational institution because it is affiliated with the New York University School of Law, which is an “institution of graduate higher education” falling under the Department of Commerce’s definition of an “[e]ducational institution.”⁴²

³⁷ 15 C.F.R. § 4.11(l)(3)(ii).

³⁸ See 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 15 C.F.R. § 4.11(c)(1)(ii).

³⁹ 15 C.F.R. § 4.11(b)(5).

⁴⁰ *Research & Reports*, Brennan Ctr, <https://www.brennancenter.org/our-work/research-reports> (last accessed May 18, 2020). See, e.g., Laura Royden & Michael Li, *Extreme Maps*, Brennan Ctr. (May 9, 2017), <https://www.brennancenter.org/our-work/research-reports/extreme-maps>; Ames Grawert, *Crime Trends: 1990-2016*, Brennan Ctr. (Apr. 18, 2017), <https://www.brennancenter.org/our-work/research-reports/crime-trends-1990-2016> (examining crime statistics at the national and city level during the last quarter century).

⁴¹ See 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 15 C.F.R. § 4.11(c)(1)(ii).

⁴² 15 C.F.R. § 4.11(b)(4).

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D. The Brennan Center is a Representative of the News Media

Finally, if fees are not waived, they should be limited to standard duplication fees because the Brennan Center also qualifies as a representative of the news media.⁴³ Representatives of the news media are not limited only to traditional media outlets like newspapers and periodicals.⁴⁴ Rather, a representative of the news media is defined as “any person or entity that [] gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work and distributes that work to an audience.”⁴⁵ Moreover, posting content to a public website can qualify as a means of distributing it for the purposes of qualifying as a representative of the news media.⁴⁶

The Brennan Center regularly publishes news articles and research reports on its website, brennancenter.org, which was visited by 1.9 million people in 2019.⁴⁷ The Center gathers information about the American political system, synthesizes that research, and reports that information to the public. It therefore plainly falls within the definition of a representative of the news media and should be exempt from all fees associated with this request except for standard duplication fees.

In the event you deny our waiver request, please contact us if you expect the costs to exceed the amount of \$500.00.

* * *

To the extent that some of the requested records may be available before other records, please provide responsive records on a rolling basis as they become available.

If you determine that any requested record or portion of a requested record is exempt from disclosure, please identify each such record or portion of such record and the basis for the asserted exemption by reference to specific exemptions of FOIA. We expect release of all nonexempt records and segregable portions of otherwise exempt records. We reserve the right to appeal a decision to withhold any information.

⁴³ See 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 15 C.F.R. § 4.11(c)(iii).

⁴⁴ See *Cause of Action v. FTC*, 799 F.3d 1108, 1119-1120 (D.C. Cir. 2015) (citing *Nat'l Sec. Archive v. Dep't of Def.*, 880 F.2d 1381 (D.C. Cir. 1989)).

⁴⁵ 5 U.S.C. § 552(a)(4)(A)(ii) and 15 C.F.R. § 4.11(b)(6).

⁴⁶ See *Cause of Action*, 799 F.3d at 1123.

⁴⁷ See *2019 Annual Report* 15, Brennan Ctr, (2019), https://www.brennancenter.org/sites/default/files/2020-04/2019__AnnualReport.pdf.

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Thank you for your prompt attention to this matter. Please copy all responsive records and furnish copies in electronic format by email or U.S. mail to undersigned counsel for the Requestors at:

Jared V. Grubow
Wilmer Cutler Pickering Hale and Dorr LLP
7 World Trade Center
250 Greenwich Street, 42nd Floor
New York, NY 10007
jared.grubow@wilmerhale.com

As indicated above, we are applying for expedited processing of this request. Notwithstanding your determination of expedited processing, we would appreciate a response within twenty days of receipt of this request consistent with 5 U.S.C. § 552(a)(6)(A)(i).

Respectfully,

/s/ Patrick Carome

Patrick Carome

Mikayla C. Foster

Jared V. Grubow

Christian Ronald

Rieko H. Shepherd

Counsel for Requestors

Highlights/Flag for Upcoming

- The Policy Coordination Office (PCO) is coordinating with the associates and program areas to update the Census Bureau Briefing Book and the Transition Binder. (POC: Mary Potter)
- In response to the July 21, 2020, Presidential Memorandum on Excluding Illegal Aliens from the Apportionment Base Following the 2020 Census, the bureau has formed a Presidential Memorandum (PM) Methods Team consisting of members from Decennial, Economic, Demographic and Research & Methodology Program areas.
 - The PM Methods Team is tasked with deriving the best feasible methodology (in both terms of statistical methods and operational feasibility) to achieve the goals of directives from Secretary Ross regarding implementation of the Presidential Memorandum.
 - John Abowd, chief scientist, and Tori Velkoff, chief demographer, will direct the work and serve as the external representatives of the PM Methods Team's progress and findings.
- 7/29: Director Steven Dillingham testified before the House Committee on Oversight and Reform on "Counting Every Person: Safeguarding the 2020 Census against the Trump Administration's Unconstitutional Attacks."
- 7/29 [ICSP request/Handled]: The Standard Application Process subgroup sought volunteers from several agencies to contribute to writing a draft policy for the single application through February 2021. *Action:* Ashley Landreth, Policy Coordination Office, to serve as Census volunteer.
- 8/3: Census leadership participated in a check-in meeting with Secretary Ross and Deputy Secretary Karen Dunn Kelley.
- 8/3: Director Steven Dillingham issued a statement regarding delivering a complete and accurate 2020 Census Count announcing updates to the plan that will include enumerator awards and the hiring of more employees to accelerate the completion of data collection and apportionment counts by our statutory deadline of December 31, 2020, as required by law and directed by the Secretary of Commerce.
- 8/3-6: Ron Jarmin virtually attended the 2020 Joint Statistical Meetings (JSM) Virtual Conference. ~~Director Steven Dillingham is scheduled to meet (Data Science for the Public Good) with Senator Dan Sullivan (R-Alaska) to discuss the 2020 Census.~~
- 8/7: Ron Jarmin is scheduled to virtually attend the Data Science for the Public Good Annual Symposium held by the University of Virginia's Darden School of Business.
- DOC sought POCs from each bureau to work with the Office of Policy and Strategic Planning (OPSP) for pandemic response, including facilities, external inquiries (IG, GAO, Hill, OMB, etc.), and CARES Act. *Action/Informed:* Laura Furgione is the Census point of contact.
- 8/10: Census leadership are scheduled to brief Secretary Ross and Deputy Secretary Karen Dunn Kelley on the status of 2020 Census operations.
- The Office of the Director staff office relocations:
 - Mary Potter moved from (b) (6) → to (b) (6)
 - Steve Smith moved from (b) (6) → to (b) (6)
 - Nathaniel Cogley is located in (b) (6)

- Adam Korzeniewski is located in (b) (6)

Census Bureau FRN Status

- 2020-2022 Report of Organization (0607-0444) The PRA 30-day FRN published on 7/30/20. Public comments will be submitted directly to OMB.
- 2020 Count Question Resolution Operation (0607-0879) The PRA 60-day FRN published on 8/4/20. The date that the population counts are sent to the President was listed incorrectly. A new notification will provide the correct date.
- Current Population Survey, School Enrollment Supplement (0607-0464) OMB has requested that Census publish a 30-day FRN to accompany the non-substantive change request to add seven questions to the School Enrollment Supplement in October 2020. The added questions will assist researchers in understanding how the coronavirus (COVID-19) pandemic affected schooling at an individual child level, such as:
 - How children received instruction in a distance-format, if at all;
 - How much digital and internet access children had, if at all;
 - How much live interaction children had with teachers, if at all; and
 - How much time was spent on distance learning?
- The CPS School Enrollment Supplement FRN is currently with DOC OPSP for review/approval before publication.

GAO:

- GAO provided us their draft report on 7/30/20, *"2020 Census: The Bureau Has Made Adjustments in Response to COVID-19 but Risks Remain (GAO-20-671R)." This is part of their series of operational updates on the 2020 Census. Response is due on 8/14/20 and we will be coordinating with the Department's Office of General Counsel (OGC) to clear comments. GAO will be sending some revised language for further review which we will also clear with OGC.*

OIG:

- As part of their engagement on 2020 Peak Operations, OIG informed us they are “assessing how adjustments to the 2020 Census operational schedule impact the quality of data used for apportionment and redistricting.”
- OIG issued their final report, *“The Department Needs to Improve Oversight Practices to Close out Contract Files by Complying with Federal Regulations and Departmental Requirements”* on 6/2/20. DOC sent the Action Plan on 8/4/20.

The Associate Director for Economic Programs (ADEP)

Nick Orsini

DATE: August 3 – 7, 2020

Highlights/Week in Review

- 8/5: Nick Orsini was interviewed by Sirius XM Business Radio about the release of the international trade data in August. Topics included trade in commodities, with major trading partners, technology, and the impact of prices.

Publications (e.g., Working Papers) From the Past Week.

- 7/29: Staff responded to a data request for select data items from the 2018 State and Local Government Finance upcoming data release from the Treasury Department to assist with assessing the impact of COVID on state and local governments. For the purposes of data transparency, these data will also be released as an early look data product on 8/5.
- 7/30: Week 30 release of Business Formation Statistics including the unemployment claims data by state.
- 8/3: Construction Spending (Construction Put in Place)
 - Total construction activity for June 2020 (\$1,355.2 billion) was 0.7 percent below the revised May 2020 (\$1,364.7 billion).
- 8/4: Full Report – Manufacturers' Shipments, Inventories and Orders
 - New orders for manufactured goods in June increased \$25.5 billion or 6.2 percent to \$437.2 billion.
- 8/5: U.S. International Trade in Goods and Services
 - The nation's international trade deficit in goods and services decreased to \$50.7 billion in June from \$54.8 billion in May (revised), as exports increased more than imports.

Significant External Meetings & Conference Presentations from the Past Week

- 7/28: Staff met virtually with representatives from Eurostat to share experiences collecting Robotics data on the Annual Business Survey, Annual Capital Expenditures Survey, and the Annual Survey of Manufactures.
- 7/31: Staff met with Reveal to discuss the current status and upcoming work for the Construction Re-engineering Project.
- 8/1-6: Staff participated in the Joint Statistical Meetings (JSM) of the American Statistical Association (ASA), held virtually this year. The JSM is one of the largest organized statistical events in the world, providing a unique opportunity for statisticians in academia, industry, and government to exchange ideas and explore opportunities for collaboration. At the JSM, staff provided presentations at topic and contributed sessions, including hosting a panel on the Federal Data Strategy and Data Science Training in the federal government; co-taught a continuing education course; and presented information on the Census Bureau's products and services. In addition, staff participated in several organizational meetings.
- 8/3-4: Staff participated in the "Global Trade Educational Conference (GTEC)", held virtually this year. The conference provided customs brokers, freight forwarders, Non-Vessel Operating Common Carriers (NVOCC), Ocean Transportation Intermediaries (OTI), service providers,

importers, exporters and all global logistics professionals with updates on industry developments and networking opportunities.

Upcoming Travel or Outreach

- 8/6: Staff will present the “Census Has Business Data? An Update on the Economic Census for the Mining, Construction, and Manufacturing Sectors (NAICS 21, 23, 31-33)” webinar. The webinar will provide an update on the 2017 Economic Census data release for the Mining, Construction, and Manufacturing sectors (North American Industry Classification System (NAICS) sectors 21, 23, 31-33). In addition, the webinar provides tips and tricks on how to access the data on data.census.gov and how to use the materials on the Economic Census web site.
- 8/11: Staff will present the “Exploring Census Data Webinar Series: New Businesses Statistics” webinar. Census Bureau subject matter experts will provide practical ways to use the business data from economic programs to dive into business expansions and contractions. The session will explore several dimensions of births and deaths of businesses with highlights to include demographic components of new businesses. The webinar includes a segment on available resources and data tools with the opportunity for Q&A.

The Associate Director for Communications (ADCOM)

Ali Ahmad

DATE: August 3 – 7, 2020

Highlights/Week in Review

- Evaluating modifications to communications plan that are responsive to potential scheduling changes.
- We still see a bump in self response rates that we think is associated at least in part to our sustained increase in partnership and communications activities. These efforts continue as we are now in the first phase of the NRFU campaign.
- National advertising is in place for the first week of with new creative sensitive to the current environment and running at levels consistent with the height of the campaign. After August 11 we will drop back to local advertising focused on the areas of the country with the highest NRFU workload. Partnership, Earned and Digital activities also proceed apace at the National level and in collaboration with the Regions.
- Emails are now going out in areas with low response rates, and we're seeing positive rates of click through to the self-response web page. We are currently in negotiations with the major telecommunications companies (i.e. Verizon, ATT, etc.) in the hope that we can overcome their concerns about sending texts to their customers. Texting now looks like something of a long shot, but we will still do everything we can to pull this off.

National Partnerships (POC: Robin Bachman)

- As of July 31, there are 1,032 National Participating Organizations which remained unchanged from last week.

Congressional and Intergovernmental (POC: Chris Stanley)

- Weekly Congressional briefing for Oversight and Appropriations staff. Census Bureau staff provide 2020 Census operational updates (Fridays).

Digital (POC: Lisa Wolfish)

- The [Self-Response Rate Map](#) page just surpassed 1.5 million page views.
- Public videos posted: [July Regional Push videos](#), [NRFU](#) promo campaign videos

Publications (POC: Michael Cook)

America Counts

[Stories Released This Week](#)

[Census Bureau Estimates U.S. Population Reached 330 Million Today](#) (July 23)

[2020 Census Will Help School Districts Prepare for Next Generation of Students](#) (July 28)

News Release Schedule

Monday, Aug. 3, 2020

- Economic Indicator: (10 a.m.) Construction Spending (Construction Put in Place) – June 2020

Tuesday, Aug. 4, 2020

- Tip Sheet: 2020 Census Paid Temporary Workers
- Economic Indicator: (10 a.m.) Full Report – Manufacturers’ Shipments, Inventories and Orders – June 2020

Wednesday, Aug. 5, 2020

- Extended Tip Sheet: U.S. Census Bureau Releases New Report on Retail Workers: 2018 (TENT)
- Economic Indicator: (8:30 a.m.) U.S. International Trade in Goods and Services – June 2020
- Economic Indicator: (8:30 a.m.) Final U.S. Imports for Consumption of Steel Products – June 2020

Thursday, Aug. 6, 2020

- Data Release: (12 p.m.) Business Formation Statistics (Administrative Records from IRS)

Friday, Aug. 7, 2020

- Economic Indicator: (10 a.m.) Monthly Wholesale Trade: Sales and Inventories – June 2020

Tuesday, Aug. 11, 2020

- News Release: Census Takers begin following up with Households Nationwide
- Tip Sheet: 2020 Census Paid Temporary Workers

Thursday, Aug. 13, 2020

- Data Release: (12 p.m.) Business Formation Statistics (Administrative Records from IRS)

Friday, Aug. 14, 2020

- Tip Sheet: Bi-weekly
- Economic Indicator: (8:30 a.m.) Advance Monthly Sales for Retail and Food Services – July 2020
- Economic Indicator: (10 a.m.) Manufacturing and Trade: Inventories and Sales – June 2020

Monday, Aug. 17, 2020

- Global Reach Blog: August

Tuesday, Aug. 18, 2020

- Tip Sheet: 2020 Census Paid Temporary Workers
- Economic Indicator: (8:30 a.m.) New Residential Construction – July 2020
- Economic Indicator: (10 a.m.) Quarterly Retail E-Commerce Sales: 2nd Quarter 2020

Wednesday, Aug. 19, 2020

- Economic Indicator: (10 a.m.) Advance Quarterly Services Report: 2nd Quarter 2020

Thursday, Aug. 20, 2020

- Data Release: (12 p.m.) Business Formation Statistics (Administrative Records from IRS)

Tuesday, Aug. 25, 2020

- Media Advisory: Schedule for Income, Poverty and Health Insurance Statistics and Supplemental Poverty Measure (resend from July 7)

- Tip Sheet: 2020 Census Paid Temporary Workers
- Economic Indicator: (10 a.m.) New Residential Sales – July 2020
- Economic Indicator: (10 a.m.) Preliminary U.S. Imports for Consumption of Steel Products – July 2020

Wednesday, Aug. 26, 2020

- Economic Indicator: (8:30 a.m.) Advance Report on Durable Goods – Manufacturers’ Shipments, Inventories and Orders – July 2020

Thursday, Aug. 27, 2020

- Data Release: (12 p.m.) Business Formation Statistics (Administrative Records from IRS)

Friday, Aug. 28, 2020

- Tip Sheet: Bi-weekly
- Economic Indicator: (8:30 a.m.) Advance Economic Indicator Report (International Trade, Retail and Wholesale) – July 2020

The Associate Director for Decennial Census Programs (ADDC)

Albert E. Fontenot, Jr.

DATE: August 3 – 7, 2020

Highlights/Week in Review

- We continue to monitor the impacts of COVID-19 on 2020 Census operations and follow guidance of federal, state, and local health authorities to ensure the safety of our staff and the public.
- We are continuing to evaluate our operational plans to collect and process 2020 Census data, and we have announced plans that include enumerator awards and the hiring of more employees to accelerate the completion of data collection and apportionment counts by our statutory deadline of December 31, 2020. Data collection and self-response options will close on September 30 to permit the commencement of data processing.
- We began emailing millions of households in low-responding areas last week to encourage them to respond to the 2020 Census. The emails will continue into September. These emails supplement a final campaign reminding people to respond to the 2020 Census on their own, as census takers begin asking households to respond to the census.
- We sent reminder postcards beginning July 22 to about 34.3 million households across the country. This is the final mailing before census takers begin visiting the majority of nonresponding households in mid-August.
- To supplement our in-person nonresponse follow-up interviewing, we are training census takers to follow up with households by phone. Using information provided to the Census Bureau and third-party purchased data, we have a strong contact list for both landlines and cellphones assigned to our addresses list. This enables us to continue field operations in areas that we cannot conduct in-person interviewing because of COVID-19 risk or other factors. If a voicemail is available, the census taker will leave a message asking the household to call one of the Census Bureau's call centers (available in 13 languages).
- We are planning on sending a seventh mailing with a paper questionnaire to households in the lowest responding areas.
- As of August 4, we have hired nearly 205,000 enumerators for the Nonresponse Followup (NRFU) operation, and almost 65,000 have completed training.
- More than 34,300 census takers based out of 47 area census offices (ACOs) are now following up with households as part of a NRFU "soft launch."
- As of August 4, the six Cycle 1A of ACOs have resolved nearly 501,700 cases in the field since July 16. These six ACOs include:
 - Gardiner (Maine)
 - Beckley (West Virginia)
 - Kansas City (Missouri)
 - New Orleans (Louisiana)
 - Oklahoma County (Oklahoma)
 - Boise (Idaho)
- The six Cycle 1B ACOs began work July 23 and have resolved more than 174,200 cases in the field as of August 4. These six ACOs include:

- Hartford (Connecticut)
- State College (Pennsylvania)
- Crystal City (Virginia)
- Evansville (Indiana)
- Wichita (Kansas)
- Tacoma (Washington)
- Census takers from 35 ACOs began Cycle 2 of the NRFU “soft launch” on July 30. As of August 3, they have resolved more than 377,600 cases in the field. ACOs in this wave include:
 - Aurora, Colorado North, and Denver (Colorado)
 - Danbury (Connecticut)
 - Honolulu (Hawaii)
 - Chicago Central, Chicago Far Southwest, Chicago South, Cook County Northwest, Cook County South, DeKalb, Oswego, Peoria, and Skokie (Illinois)
 - Indianapolis and Lake County (Indiana)
 - Quincy, Waltham, and Worcester (Massachusetts)
 - Hanover, Hagerstown, and Towson (Maryland)
 - Bismarck (North Dakota)
 - Trenton (New Jersey)
 - Buffalo (New York)
 - Mansfield (Ohio)
 - Cranberry Township and Harrisburg (Pennsylvania)
 - Guaynabo, Caguas, and Mayaguez (Puerto Rico)
 - Everett, Olympia, and Seattle (Washington)
 - Green Bay (Wisconsin)
- On August 6, census takers will begin interviewing households in areas managed by the following ACOs:
 - New Haven (Connecticut)
 - Washington (District of Columbia)
 - Wilmington (Delaware)
 - Boston, Lawrence, and East Bridgewater (Massachusetts)
 - Concord (New Hampshire)
 - Lansing and Oakland County (Michigan)
 - Minneapolis (Minnesota)
 - Parsippany, South Plainfield, and Newark (New Jersey)
 - Albany, Bronx (two locations), Brooklyn (three locations), Manhattan (two locations), Queens (four locations), Pawling, Peekskill, Rochester, Staten Island, and Syracuse (New York)
 - Providence (Rhode Island)
 - Allentown, Norristown, Philly Franklin, Philly Penn, and Reading (Pennsylvania)
 - Fairfax, Fredericksburg, and Roanoke (Virginia)
- The rest of the census offices across the country will begin follow-up work by next week.
- We expect to visit 33,671 housing units in remote Alaska, and as of August 3, we have enumerated 33,668 of them (99.99 percent).

- Self-response to the 2020 Census is tracking within the projected range. As of August 3, 63.0 percent of the nation’s households have submitted a response to the 2020 Census. Our projection for this date was 62.9 percent.
- Self-response by mode shows internet response is exceeding expectations with a 50.3 percent response. Our projection for this date was 40.9 percent.
- Telephone response is lagging behind projections with 0.9 percent response (projection: 4.3 percent). Paper response is also behind projections with an 11.8 percent response (projection: 17.6 percent).
- Paper data capture centers in Tucson (Arizona) and Jeffersonville (Indiana) have checked in 18.7 million paper questionnaires and have scanned 14.3 million of them as of August 3.
- Minnesota continues to lead all states in 2020 Census self-response at 72.3 percent. Of the 50 states, Alaska has the lowest response at 49.5 percent. Of all the states and state-equivalents, Puerto Rico has the lowest response at 27.7 percent.
- As of August 4, more than 10.8 million calls have been made to Census Questionnaire Assistance centers, which is more than the projected volume of almost 9.8 million calls. Callers to the English and Spanish language lines are routed first through the Interactive Voice Response system to answer frequently asked questions. So far, nearly 3.7 million calls have gone on to a customer service representative.
- To date, more than 19,400 callers have requested the callback option (available to callers who leave a message). These callbacks have resulted in more than 8,000 completed interviews and more than 3,800 being provided assistance.
- The 2020 Census National Partnership Program has reached agreements with 1,032 national organizations across the country, as of July 30, which exceeds the 856 from the 2010 Census. The 2020 Census Community Partnership and Engagement Program has more than 394,000 partners, which surpasses the 256,000 community partners we had for the 2010 Census.
 - The Faith Communities Census Weekend of Action took place July 24-26 with significant partner engagement and promotion. Activities from the Census Bureau included social media promotion and email reminders to national, regional, and local partners. Materials included messaging from the updated [action guide](#), [YouTube playlist](#), and a cross-region faith-leader video.
- As part of the Integrated Communications Contract, we will have national TV ads promoting the 2020 Census across a variety of networks this week. These include:
 - August 5 – “Marrying Millions” on Lifetime, 10 p.m. EDT
 - August 6 – “The Real Housewives of New York City” on Bravo, 8 p.m. EDT
 - August 9 – “Doctor Strange” on SYFY, 7:30 p.m. EDT
- The Government Accountability Office (GAO) sent the draft report titled, “2020 Census: The Bureau has Made Adjustments in Response to COVID-19 but Risks Remain” on July 30. This update includes information from GAO’s ongoing work on the status of 2020 Census operations and challenges. The report does not have any recommendations and the Department of Commerce has delegated the response to the Census Bureau Director. Comments are due to GAO by August 14.

Publications:

- Summary Report of the 2020 Census Undercount of Young Children Task Force was posted to the Internal Memo Series site on August 3.

Significant External Meetings & Conference Presentations:

- **August 7** – Al Fontenot (Associate Director Decennial Census Programs) and Tim Olson (Associate Director Field Operations) are scheduled to provide an update on 2020 Census operations to staff of the House Oversight Committee, the Senate Homeland Security and Governmental Affairs Committee, and the Appropriations Committees.

Travel:

Dates	Traveler, Division	Place	Purpose
7/26-8/8/20	Sean McLaren, DCEO	Las Vegas, NV	Decennial Device as a Service (dDaaS) decommissioning
8/9-8/22/20	Kimberly Credito, DCMD	Las Vegas, NV	dDaaS decommissioning
8/23-9/5/20	Zolinka McCauley, DCMD	Las Vegas, NV	dDaaS decommissioning

The Associate Director for Field Operations (ADFO)

Timothy P. Olson

DATE: August 3 – 7, 2020

Highlights/Week in Review

- FLD is pursuing an awards program strategy for 2020 Census Enumerators and Field Supervisors to enhance productivity and help improve staff attrition rates. (POC: Dale Kelly – John Magruder)
- 7/28: Tim Olson delivered a 2020 Census update for members of the St. Louis Regional Chamber of Commerce. (POC: Tim Olson)
- 7/28: The Current Population Survey (CPS) closed out with a 67.18% response rate for the month of July. (POC: Dale Kelly – John Magruder)
- 7/28: NPC received 5 million face coverings from the Department of Health and Human Services (HHS) to support Nonresponse Followup (NRFU) enumerator field activities. The division started distributing the face coverings to the Area Census Offices (ACOs) on 7/29. These masks will be provided to 2020 Census respondents as part of the ongoing efforts to keep employees and the general public safe. (POC: Jeff Bryant)
- 7/28: Office Of Survey and Census Analytics (OSCA) held their Monthly All Hands Meeting and Portfolio Management Review to communicate ongoing office activities and critical updates to the staff. Statuses will be provided for select projects. (POC: Jamey Christy – Adam Bacon)
- 7/30: The 35 Cycle 2 NRFU Soft Launch ACOs began production in the field. The goal is to deploy 52K enumerators into the field during this cycle. (POC: Dale Kelly – John Magruder)
- 7/30: Based on the latest health data, Field Representatives (FRs) resumed personal visits on current survey programs in the following states: Utah, Michigan, and Minnesota. (POC: Dale Kelly – John Magruder)
- 7/30: The Initial Housing Unit Follow-up (IHUFU) operation of the Post-Enumeration Survey (PES) began. (POC: Dale Kelly – John Magruder)
- 7/30: OSCA released a dashboard that modernizes the monthly report with information about the field staff working on current surveys. The dashboard improves the static report by including the ability to filter, view data over time, and access more granular data. FLD management at HQ and the regions will be able to access the dashboard. (POC: Jamey Christy – Adam Bacon)
- 7/30: NPC held the inaugural meeting of the newly established division Coronavirus Task Force. Comprised of 13 members from multiple division areas, the body will advise senior leadership on employee protective measures and safe workplace practices during the pandemic. (POC: Jeff Bryant)
- 7/31: The Community Partnership and Engagement Program (CPEP) Team (HQ) and across the regions) is leading an effort to increase self-response in specific rural populations and in Tribal Areas during the week of 8/2-8/8. This outreach will be grassroots and hyper-local, but also cover vast geographic areas across the nation. The campaign will focus on getting the word out through neighborhood and hometown contacts, and via conventional media (local TV and radio) that reach rural populations. There is also a social media element. The National Partnership Program,

through their network of partners will lend a hand to amplify the message to self-respond across our rural communities. (POC: Dale Kelly – John Magruder)

- 7/31: 164 ACOs have completed Update Leave (UL) production and 164 have completed Quality Assurance. 99.89% of the original addresses have been completed to date. Dallas RCC continues working with stakeholders to gain access to six tribal areas to complete UL. There are 11,369 original addresses to complete. (POC: Dale Kelly – John Magruder)
- 7/31: The Group Quarters Enumeration (GQE) operation continues to achieve their progress goals. As of 7/31, 65.3% of the workload has been completed, exceeding the 65% progress goal set for this date. (POC: Dale Kelly – John Magruder)
- 7/31: NPC received a total of 18.7 million 2020 Census questionnaires to date. 14.7 million Questionnaires (78%) have been through the scanners to capture the initial electronic data image and 13.1 million (70%) have been fully processed and transmitted to headquarters. NPC reduced the unprocessed paper backlog by 1M questionnaires during the week of 7/27-7/31. (POC: Jeff Bryant)
- 7/31: OSCA staff successfully provided backup for a FLD contractor by creating internal FLD reports using Decennial Applicant, Personnel and Payroll System (DAPPs) and Learning Management System (LMS) reports. (POC: Jamey Christy – Adam Bacon)
- 7/31: The Decennial Field Quality Monitoring (DFQM) team continues to monitor assessment scores and observations for enumerators and investigate outliers for the Cycle 1a/1b and Cycle 2 ACOs. (POC: Jamey Christy – Adam Bacon)

Flag for Upcoming Weeks

- FLD Activities for the week of 8/3:
 - Production ACOs continue with Enumerator online training
 - 8/6: Cycle 3 soft launch offices begin NRFU Enumerator production
 - 8/6: The IHUFU Quality Control (QC) operation of the Post-Enumeration Survey (PES) begins.
 - 8/7: Complete Update/Leave production operations in the Dallas RCC
 - 8/9: Begin NRFU production in all 248 ACOs
- OSCA staff are preparing to join the Decennial Directorate's Census Integration Group to provide weekly updates on observations and status of DFQM activity. (POC: Jamey Christy – Adam Bacon)

Significant External Meetings & Conference Presentations

- 8/7: Tim Olson will join Al Fontenot in a weekly congressional briefing for oversight and appropriations staff on the 2020 Census operations. (POC: Tim Olson)

Executive Travel (POC: Dale Kelly – John Magruder)

- 8/3-8/14: Cathy Lacy, Denver RD, will travel to Dallas, TX.

Anything Else of Note

- 8/1: Beginning of monthly ongoing survey data collection cycle. (POC: Dale Kelly – John Magruder)

Chief Administrative Officer (CAO)

Laura Furgione

DATE: August 3 – 7, 2020

Highlights/Week in Review

CIS Weekly Executive Summary Highlights

- Last week 7/27/20-8/02/20
 - 43,743 cases approved by DDCs (47,896 by staff and 8,933 by system) for a total of 3,323 since 3/23/20
 - 50,169 employment cases adjudicated by staff (11 D's) for a total of 1025 since 3/23/20
- National Processing Center (NPC) CIS Weekly call counts: Incoming - 3,454 (Transferred - 57 and Outbound - 45)
- Laura Furgione and Stacy Chalmers are conducting COVID-19 “road shows” for division and directorate Town Hall meetings. Over 7500 participants have had an opportunity to hear the latest information and ask questions. Additional Town Halls are scheduled over the next two weeks.
- ACSD registered for the 2020 Earned Value Promotion for Decennial Census Management Directorate, which allows the U.S. Census Bureau to receive a \$.02 credit for each Business Reply Mail piece (BRM) counted April 1 – June 30, 2020, for the decennial census. For this time period, we received a credit of \$224,980.50 for 11,246,240 pieces. The credit must be used by December 30, 2020. DCMD will use the credit for an additional mailout.
- Tundra provided high-level hypothetical designs that were presented to OPCOM on 7/21/2020. At that time, OPCOM selected GSA's Alternative #3 - complete redesign of the new Census space if funding is approved.
- Chicago Regional office continues to review/research potential contractors to complete the IDS/PACS security work for Phase 1 and Phase 2.
- Chicago/Oakbrook Regional Office - construction complete as of 8/5/20. Creating a punch list on items that need to be resolved.
- Adrienne Davis has been named as the main contract librarian.
- Health Unit Nurses will assist Safety staff to do outreach assessments for COVID-19 cases nationwide. OSHA interim guidance requires that employers assess reported COVID-19 cases to determine if they meet OSHA record-ability standards.
- The Health and Safety Branch (HSB) staff is following up w/ACOs/RCCs, using COVID protocol, with reports of ACO/RCC COVID cases to determine work-relatedness. There were over 77 reported positive cases this week.
- The Health and Safety Branch (HSB) George Barnett, Marcus Barber, and Rose Cooper conducted five ACO & RCC OSHA/WC/PC trainings – over 1,300 participants. Final class concluded July 31, 2020.
- The Health and Safety Branch (HSB/TCO) enhancement of “Are You Hurt” injury reporting hotline went live 7/16. Decennial workers can now enter their ACO # to access the workers' comp specialist for their region.
- EAP Summer Wellness Series extended through the end of the fiscal year. Partnering with HRD to make these courses a component of annual management training sessions.
- HRD facilitated focus groups with administrative offices and employees for additional feedback regarding the USA Performance system pilot to assist with preparing a thorough recommendation regarding future use of the USA Performance system in FY21.

- Selections for the 2020 Public Service and Recognition Awards were received from the Deputy Director on July 27. Plans for the upcoming ceremony are underway.
- Brochures to highlight the functions, services and support offered by the Employee Relations, Labor Relations and Reasonable Accommodation Branches have been finalized. Preparations are being made to post on the Census Central intranet banner in the coming weeks.
- The first Census Bureau virtual arbitration hearing was held on July 29th with representatives from the Office of General Counsel and Labor Relations participating. Two additional arbitration hearings will be scheduled once the cases are assigned.
- COVID-19 communications and support continue in partnership with Emergency Preparedness Task Force Subgroup.
- CAO continues to work closely with DOC and Census Bureau personnel regarding COVID-19. As updated information and guidance becomes available, it is uploaded to the COVID-19 and Preparedness SharePoint site.

Anything Else of Note:

- Mandatory 2020 WebTa training to rollout on August 10th.

Office of Program, Performance and Stakeholder Integration (PPSI)

David Ziaya

DATE: August 3 – 7, 2020

Highlights/Week in Review

- Travel including international trips are cancelled or postponed. (POC: Kim Leonard)
- Finalized the Chief of Staff Strategic Action Plan. Meeting with the Chief of Staff on August 13, 2020 to review next steps. (PCO: Dana Cope)
- Collaborated with Tasha Boone and Katrina Syvertsen and prepared a summary of the transformation/priority programs. Provided summary to the CAO for use as a proposal for a T20 (Presidential Transition) policy paper. (PCO: Dana Cope)
- Census Enterprise Data Collection and Processing (CEDCaP) Transition/Data Ingest and Collection for the Enterprise (DICE) continued collaborating with the ADSD and ECON teams currently supporting DEVOPS to define the plan for the program. (POC: Lora Rosenberger)
- CEDCaP Transition/DICE continued collaborating with ADCOM and the transformation office to define a communication strategy for DICE. (POC: Lora Rosenberger)
- Staff continued drafting an outline for the International travel policy. (POC: Kim Leonard)
- Project Server 2016 is now more stable; and the team is renewing the Change Control process to allow new and updated changes to the current environment, including reports, enterprise custom fields and enhancements. (POC: Rich Bittner)
- The PPSI Cost Estimation (CE) and CEDSCI cost estimating teams kicked off the second round of reconciliation of the Independent Cost Estimate (ICE) and Program Office Estimate (POE). Both teams will continue to work with the program to further define the cost elements being estimated. (POC: Kevin Metcalf)
- CEDCaP Transition/DICE completed the fifth Iteration of Program Increment 2 and conducted a demonstration and Program Increment 3 Planning Session for Questionnaire Design Metadata (QDM) Analysis of Alternatives next steps to support the 2022 Economic Census. (POC: Lora Rosenberger/Maria Mate)
- The PPSI Program Management and Quality Assurance & Evaluation (PQAE) team is assisting the PPSI External Stakeholder Engagement team with the development of a new International Travel Application (ITA), which will allow automated ITA's to be routed from travelers to approvers. This new system will streamline the ability to create, edit, and track International Travel documents. (POC: Rich Bittner/Kim Leonard)
- Staff received several nominations for Census Scientific Advisory Committee (CSAC) and National Advisory Committee (NAC) new members by the August 1, 2020, deadline. (POC: Kim Leonard)
- Staff contacted the decennial directorate about a request forwarded by the Office of Management and Budget (OMB) to participate in the United Nations Economic Commission for Europe (UNECE) online meeting on Population and Housing Censuses 2020 on September 29-October 1, 2020. Participants should register by September 18, 2020. (POC: Kim Leonard)
- OMB forwarded an invitation to attend a virtual meeting of the Tenth Session of the United Nations Committee of Experts on Global Geospatial Information Management (UN-GGIM) on August 26-27, 2020 and September 4, 2020. There will be three 2-hour sessions. Staff is coordinating a response of who will attend from the program areas. (POC: Kim Leonard)

- Staff continued the development and internal testing of the Visio component of the Quick Start Toolkit (QST) 3.0. The QST is used by program area staff to develop business process models for communication and improvement of mission and mission-support efforts. (POC: *Jerome Garrett*)

Flag for Upcoming Weeks

- The FY'23-'28 Strategic Plan schedule will be briefed to the strategic management working group on August 3, 2020. Output from the transformation vision conference will provide the base for the Plan. The OPCOM facilitated sessions will begin in January 2021. (PCO: *Dana Cope*)
- Enterprise Planning will be presented to OPCOM in early October 2020. (PCO: *Dana Cope*)
- Strategic Management team will meet with OPCOM on October 6, 2020 (working to reschedule to late September) to discuss the FY'21 priority programs and Goal 2 resource gaps. (PCO: *Dana Cope*)
- QPRs scheduled for OPCOM briefing August 11 and 18, 2020. QPRs will also be presented to EReRB on August 12, 2020. (POC: *Dana Cope/Maria Mate*)
- The Cost Review Board (CRB) will determine the Census Bureau baseline cost position for the CEDSCI program. This will be scheduled to occur 65 days prior to the Milestone Review Board (MRB)--currently unscheduled. A likely timeframe for the CRB will be July-September based on estimated Q1 FY21 MRB. (POC: *Kevin Metcalf*)
- The Office of the General Counsel (OGC) is in the process of determining whether the MOU between Mexico/Canada/US on migration statistics rises to the level of being deemed an "international agreement" under U.S. law that would require a separate U.S. State Department review and clearance (in addition to typical Census/DOC review and clearance). (POC: *Kim Leonard*)
- Staff are preparing a document for PCO on sensitivities to consider when working with embassies and how to address data requests. Staff and PCO will prepare a policy. (POC: *Kim Leonard*)
- The Business Process Management (BPM) Staff will facilitate a planning meeting with DSD and SEHSD personnel to define the specifics of the SIPP program "Editing & Weighting" sub process. (POC: *Jerome Garrett*)
- The Requirements Engineering (RE) team will facilitate Enterprise Data Lake (EDL) Program Increment 4 on August 10-11, 2020. The program is expecting to receive the Authority to Operate (ATO) for development and test environment during this increment. (POC: *Maria Mate*)
- Staff will provide a draft agenda to the Director's Office for the two day virtual CSAC meeting on September 17-18, 2020. (POC: *Kim Leonard*)

Office of the Chief Financial Officer (OCFO)

Ben Page

DATE: August 3 – 7, 2020

Highlights/Week in Review (*POC: Whitney Duffey-Jones*)

- OCFO, Field, and Decennial have provided an updated contingency waterfall to the Department with estimates for revised Nonresponse Followup (NRFU) activities and potential acceleration costs.
- On July 7th the House CJS subcommittee released their initial appropriations bill for FY2021, funding the Census Bureau at \$1.68 billion. This includes \$1.39 billion for the Periodic Censuses and Programs appropriation (equal to the President's Budget request) and \$288 million for the Current Surveys and Programs appropriation, \$9 million above the President's Budget request to restore funding for SIPP. Notably we did not receive transfer authority to allocate unspent Decennial balances to fund facilities work associated with the BLS move. The Senate CJS appropriations subcommittee has not yet released their draft bill.
- Last week the Senate released the Health, Economic Assistance, Liability Protection and Schools (HEALS) Act, which included \$448 million in supplemental appropriations for the Census Bureau's Decennial field operations and data processing. The legislation did not adjust the statutory deadlines for the delivery of apportionment or redistricting data and did not include language clarifying the Families Education Rights and Privacy Act (FERPA) application for the purposes of enumeration. The House has not signaled support for supplemental appropriations for Census as part of their legislative package.
- The Department's Office of Budget is reviewing the Census FY2022 budget submission that BUD submitted on July 17th.
- NPC was closed for an extended period of time earlier this year due to COVID-19 and placed most of its staff on Weather and Safety Leave. This cost was borne by the Working Capital Fund and the Budget Division has calculated an assessment that it will bill its appropriated programs, based on workload data provided by NPC. The costs attributable to reimbursable programs and Working Capital Fund operations will be borne by the WCF. We currently plan to execute the appropriated programs assessment in August.
- We are supporting NPC in conversations with GSA in preparation for transmitting a revised prospectus for their facility needs.
- ACQ continues to support the acquisition of protective equipment to facilitate post-COVID-19 resumption of Decennial field operations and help ensure the impacts of COVID-related Decennial schedule adjustments are addressed contractually.

Anything Else of Note –

- Representatives from the OCFO Divisions (BUD, ACQ, and FIN) continue to join COVID-19 Task Force meetings.

Associate Director for Research and Methodology (ADRM)

John Abowd

DATE: August 3 – 7, 2020

Highlights/Week in Review

ADRM Associate Director for Research and Methodology (POC: Sara Sullivan)

- John Abowd, Associate Director for Research and Methodology and Chief Scientist, participated in a JASON briefing on Thursday, July 30.
- John Abowd, John Eltinge, and colleagues from several centers within ADRM are presenting papers at the 2020 Virtual Joint Statistical Meetings (JSM), taking place August 2-6, 2020. A schedule of Census presentations is posted at: <https://www.census.gov/topics/research/events/jsm-2020.html>.

CBSM Center for Behavioral Science Methods (POC: Paul Beatty)

- CBSM is conducting 10 interviews and six focus groups with third-party organizations participating in the 2020 Census National Partnership Program (NPP) and Community Partnership Engagement Program (CPEP), respectively. The interviews and focus groups cover the following topics: (a) 2020 Census-related concerns (including privacy and confidentiality concerns) expressed by the communities that participants work with, (b) opinions about what factors motivate their communities to respond or not respond to the Census, (c) Strategies they use to address concerns, and (d) their opinions of how well the strategies work. This project is part of a 2020 Census Evaluation of Privacy and Confidentiality. Data collection is taking place during July and August 2020.
- This week, CBSM begins a questionnaire testing project for the American Housing Survey (AHS), including a small number of interviews conducted remotely, and web probing administered via Qualtrics. Both forms of data collection represent significant departures from original plans, in response to COVID. Although it is our sense that standardized web probing lacks some of the depth of actual interviews, it is useful for bringing in a larger and more diverse sample than is typical for these projects. For example, web probing will allow us to target some very specific geographies for a wildfire risk module. Few household survey sponsors have been open to this methodology in the past, making this an interesting test case.

CES Center for Economic Studies (POC: Randy Becker)

- A recent National Bureau of Economic Research [conference paper](#), by Census Bureau economists and outside coauthors, which describe findings from a module to the 2018 Annual Business Survey on advanced technology adoption, was the focus of [a recent Wired magazine article](#).

Flag for Upcoming Weeks

ADRM Associate Director for Research and Methodology (POC: Sara Sullivan)

- Preparations are ongoing for the Annual Research Data Center meeting. Originally scheduled to be held at the Kansas City Federal Reserve, it has moved online and will be September 3-4.

CBSM Center for Behavioral Science Methods (POC: Paul Beatty)

- The 2020 Census User Experience Survey will field in August 2020. A sample of 150,000 online 2020 Census responses with a valid cell phone number will be sent up to 3 text messages encouraging them complete a feedback survey on their experience with the online 2020 Census form. The survey collects self-reported satisfaction data and information about where the 2020 Census online instrument worked well for the respondent and places where the respondent thought the online census could be improved. The survey will run in 11-day field periods through the end of the 2020 Census (early November). The survey is being conducted through Qualtrics, designed by CBSM staff in coordination with staff from DSSD.

Significant External Meetings & Conference Presentations

CBSM

- Schulzetenberg, A. (CBSM) “Development of a Standardized Formula to Calculate Severity Scores in Multitask Usability Testing.” Presented at the 2020 Government UX Summit, online.

The Associate Director for Demographic Programs (ADDP)

Victoria Velkoff

DATE: August 3 – 7, 2020

- *No highlights to report for this week.*

Chief Information Officer (CIO)

Kevin Smith

DATE: August 3 – 7, 2020

- *No highlights to report for this week.*

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NATIONAL URBAN LEAGUE, et al.,
Plaintiffs,
v.
WILBUR L. ROSS, et al.,
Defendants.

Case No. 20-CV-05799-LHK

**ORDER GRANTING MOTION FOR
TEMPORARY RESTRAINING ORDER**

Re: Dkt. No. 66

Plaintiffs 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; Adrian Garcia; National Association for the Advancement of Colored People; City of Chicago, Illinois; County of Los Angeles, California; Navajo Nation; and Gila River Indian Community (collectively, “Plaintiffs”) sue Defendants Commerce Secretary Wilbur L. Ross, Jr.; the U.S. Department of Commerce; the Director of the U.S. Census Bureau Steven Dillingham, and the U.S. Census Bureau (“Bureau”) (collectively, “Defendants”) for violations of the Enumeration Clause and Administrative Procedure Act.

Before the Court is Plaintiffs’ September 3, 2020 motion for a temporary restraining order

(“TRO motion”), enjoining Defendants from implementing Defendants’ August 3, 2020 Replan, which shortens census data collection and processing timelines from the eight months set forth in the Defendants’ April 13, 2020 COVID-19 Plan to four months. Plaintiffs claim that the Replan’s shortened timelines will unlawfully harm the accuracy of crucial census data. Plaintiffs request that the TRO remain in effect for twelve days, until the September 17, 2020 hearing on Plaintiffs’ motion for stay and preliminary injunction (“PI motion”).

Temporary restraining orders “serv[e] the[] underlying purpose of preserving the status quo and preventing irreparable harm just so long as is necessary to hold a hearing, and no longer.” *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local No. 70 of Alameda Cty.*, 415 U.S. 423, 439 (1974); *accord, e.g., E. Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 779 (9th Cir. 2018) (“a TRO ‘should be restricted to . . . preserving the status quo and preventing irreparable harm just so long as is necessary to hold a hearing and no longer’”) (ellipsis in original).

“‘[S]erious questions going to the merits’ and a balance of hardships that tips sharply towards the plaintiff can support issuance of a preliminary injunction [or TRO], so long as the plaintiff also shows that there is a likelihood of irreparable injury and that the injunction [or TRO] is in the public interest.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011); *accord Short v. Brown*, 893 F.3d 671, 675 (9th Cir. 2018) (holding that these factors are “on a sliding scale”). Thus, “when the balance of hardships tips sharply in the plaintiff’s favor, the plaintiff need demonstrate only ‘serious questions going to the merits.’” *hiQ Labs, Inc. v. LinkedIn Corp.*, 938 F.3d 985, 992 (9th Cir. 2019) (quoting *All. for the Wild Rockies*, 632 F.3d at 1135). The issuance of a TRO is at the Court’s discretion. *See All. for the Wild Rockies*, 632 F.3d at 1131.

The Court has considered the TRO motion, opposition, and reply; the parties’ oral arguments at the September 4, 2020 TRO hearing; the PI motion and opposition; the relevant law; and the record in this case. Below the Court analyzes in turn (1) the presence of serious questions going to the merits; (2) irreparable harm; (3) the balance of hardships; and (4) the public interest. *All. for the Wild Rockies*, 632 F.3d at 1135.

1 The Court finds that Plaintiffs have presented serious questions going to the merits at least
2 as to Plaintiffs' claims under the Administrative Procedure Act ("APA"). The Court does not
3 prejudge these claims, but merely recognizes that the Plaintiffs have presented serious questions
4 going to the merits of these claims.

5 For example, there are serious questions as to whether the Replan is reviewable by this
6 Court. There is a serious question as to whether Plaintiffs have standing to challenge the Replan.
7 *See Dep't of Commerce v. New York*, 139 S. Ct. 2551, 2565–66 (2019) (holding that Plaintiffs had
8 standing because an undercount of "as little as 2%" of noncitizen households constituted an injury
9 in fact and was traceable to the Defendants' actions). Additionally, there is a serious question as to
10 whether the Replan constitutes final agency action. Although the United States Supreme Court
11 decided in *Franklin v. Massachusetts* that the Secretary of Commerce's transmission of a final
12 Census report to the President is not final agency action, there is a serious question as to whether
13 *Franklin* governs the facts in the instant case. 505 U.S. 788, 798 (1992) (explaining that the
14 transmission was not final agency action because it "carries no direct consequences for the
15 apportionment"). Finally, there is a serious question as to whether the Replan is committed to
16 agency discretion by law. *See Dep't of Commerce v. New York*, 139 S. Ct. at 2568 (noting that
17 "census-related decisionmaking" is traditionally reviewable under the Administrative Procedure
18 Act).

19 There are also serious questions as to whether the Replan was arbitrary and capricious in
20 violation of the APA. *See* 5 U.S.C. § 706(2)(A). The APA requires that Defendants consider the
21 "important aspect[s] of the problem" before them. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut.*
22 *Ins. Co.*, 463 U.S. 29, 43 (1983). Although Defendants justify the Replan based on the statutory
23 deadline, Plaintiffs suggest that Defendants have failed to consider their other statutory
24 obligations, including the statutory requirement that Defendants "conduct a census that is accurate
25 and that fairly accounts for the crucial representational rights that depend on the census and the
26 apportionment." *Dep't of Commerce v. New York*, 139 S. Ct. at 2569 (quoting *Franklin*, 505 U.S.
27 at 819–20 (Stevens, J., concurring in part and concurring in the judgment)). Thus, there are

1 serious questions going to the merits of the Plaintiffs' APA claims.

2 As to irreparable harm, Plaintiffs identify and support with affidavits four potential
3 irreparable harms that Plaintiffs will suffer as a result of inaccurate census data. First, Plaintiffs
4 state that an inaccurate apportionment will violate their constitutional rights to political
5 representation. Mot. 29. Second, Plaintiffs risk losing important federal funding from
6 undercounting. Mot. 30. Third, Plaintiffs will need to expend resources to mitigate the
7 undercounting that will result from the Replan. Mot. 31. Lastly, local government Plaintiffs' costs
8 will increase because those Plaintiffs rely on accurate granular census data to deploy services and
9 allocate capital.

10 These harms are potentially irreparable in two ways. To start, at least part of the harms
11 may be constitutional in nature, and "the deprivation of constitutional rights 'unquestionably
12 constitutes irreparable injury.'" *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting
13 *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Moreover, to the extent the harm involves expending
14 money or resources, "[i]f those expenditures cannot be recouped, the resulting loss may be
15 irreparable." *Philip Morris USA Inc. v. Scott*, 561 U.S. 1301, 1304 (2010) (Scalia, J., in
16 chambers). Because the decennial census is at issue here, an inaccurate count would not be
17 remedied for another decade, which would affect the distribution of federal and state funding, the
18 deployment of services, and the allocation of local resources for a decade. Similar harms have
19 thus justified equitable relief in previous census litigation. *See, e.g., Dep't of Commerce v. U.S.*
20 *House of Representatives*, 525 U.S. 316, 328–34 (1999) (affirming injunction against the planned
21 use of statistical sampling in census and citing apportionment harms, among others); *New York v.*
22 *United States Dep't of Commerce*, 351 F. Supp. 3d 502, 675 (S.D.N.Y.) (issuing injunction and
23 finding irreparable "the loss of political representation and the degradation of information"), *aff'd*
24 *in part, rev'd in part and remanded sub nom. Dep't of Commerce v. New York*, 139 S. Ct. 2551.
25 Plaintiffs attached to their TRO motion an internal Bureau document indicating that the Replan's
26 compressed deadlines increase the risk of inaccuracy in the census count. ECF No. 66-3.
27 Plaintiffs aver that each day that the Census does not conduct its field operations to reach and

count hard to reach populations increases the inaccuracy of the census count and thus increases their irreparable harm.

By contrast, a temporary restraining order would merely require Defendants to do what Defendants had planned to do and were doing since April 13, 2020, when Defendants adopted the COVID-19 Plan, through August 3, 2020, when Defendants adopted the Replan. Moreover, the sole evidence Defendants submit in opposition to the TRO motion and the PI motion is the declaration of Albert E. Fontenot, Jr., Associate Director for Decennial Census Programs at the U.S. Census Bureau (hereafter, “Fontenot”). In his September 5, 2020 declaration, Fontenot declares that:

Lack of field staff would be a barrier to reverting to the COVID Schedule were the Court to rule later in September. The Census Bureau begins terminating staff as operations wind down, even prior to closeout. Based on progress to date, as is standard in prior censuses, we have already begun terminating some of our temporary field staff in areas that have completed their work. It is difficult to bring back field staff once we have terminated their employment. Were the Court to enjoin us tomorrow we would be able to keep more staff on board than were the Court to enjoin us on September 29, at which point we will have terminated many more employees.

Font. Decl. at ¶ 98. Thus, Fontenot’s declaration underscores Plaintiffs’ claims of irreparable harm because the Bureau is terminating field staff now and will have difficulty rehiring such staff. Moreover, Fontenot’s declaration suggests that the burden of an injunction on Defendants is far less now than later in September.

Furthermore, Defendants’ stated reason for the August 3, 2020 Replan is to get the Census count to the President by December 31, 2020 instead of April 30, 2021 as scheduled in the Bureau’s COVID-19 Plan. Font. Decl. at ¶ 81. However, Defendants’ sole declarant, Fontenot, acknowledged publicly less than two months ago 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-programtranscript-july8.pdf>. Similarly, 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, “we 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>. These statements support Plaintiffs’ claims of irreparable harm arising from an inaccurate census count. On balance, the Court finds that the balance of hardships tips sharply in favor of Plaintiffs.

As to the public interest, when the government is a party, the analysis of the balance of the hardships and the public interest merge. *See Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)). As the United States Supreme Court recognized, Congress has codified the public’s interest in “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. at 2569 (quoting *Franklin*, 505 U.S. at 819–820 (Stevens, J., concurring in part and concurring in judgment)) (discussing the Census Act, 2 U.S.C. § 2a). Other courts have held that “the public interest . . . requires obedience to the Constitution and to the requirement that Congress be fairly apportioned, based on accurate census figures” and that “it is in the public interest that the federal government distribute its funds . . . on the basis of accurate census data.” *Carey v. Klutznick*, 637 F.2d 834, 839 (2d Cir. 1980) (per curiam). Thus, the balance of the hardships and public interest tip sharply in Plaintiffs’ favor.

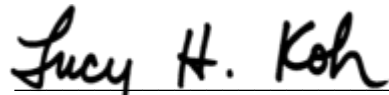
Accordingly, having considered the TRO motion, opposition, and reply; the parties’ oral arguments at the September 4, 2020 TRO hearing; the PI motion and opposition; the relevant law; and the record in this case, the Court GRANTS Plaintiffs’ motion for a temporary restraining order. The Court finds that no security is necessary. *See Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003) (“Rule 65(c) invests the district court ‘with discretion as to the amount of security required, *if any*.’” (quoting *Barahona–Gomez v. Reno*, 167 F.3d 1228, 1237 (9th Cir. 1999))).

IT IS HEREBY ORDERED THAT, effective as of the date of this Order, Defendants Commerce Secretary Wilbur L. Ross, Jr.; the U.S. Department of Commerce; the Director of the U.S. Census Bureau Steven Dillingham, and the U.S. Census Bureau are enjoined from

1 implementing the August 3, 2020 Replan or allowing to be implemented any actions as a result of
2 the shortened timelines in the August 3, 2020 Replan, including but not limited to winding down
3 or altering any Census field operations, until the Court conducts its September 17, 2020 hearing on
4 Plaintiffs' PI motion.

5 **IT IS SO ORDERED.**

6
7 Dated: September 5, 2020



LUCY H. KOH
United States District Judge

United States District Court
Northern District of California

To: Albert E Fontenot (CENSUS/ADDC FED)[Albert.E.Fontenot@census.gov]; Steven Dillingham (CENSUS/DEPDIR FED)[steven.dillingham@census.gov]; Michael John Sprung (CENSUS/DEPDIR FED)[michael.j.sprung@census.gov]; Steven K Smith (CENSUS/DEPDIR FED)[steven.k.smith@census.gov]; Nathaniel Cogley (CENSUS/DEPDIR FED)[nathaniel.cogley@census.gov]; Ron S Jarmin (CENSUS/DEPDIR FED)[Ron.S.Jarmin@census.gov]; Timothy P Olson (CENSUS/ADFO FED)[Timothy.P.Olson@census.gov]; James T Christy (CENSUS/LA FED)[James.T.Christy@census.gov]; Deborah Stempowski (CENSUS/DCMD FED)[Deborah.M.Stempowski@census.gov]; Enrique Lamas (CENSUS/DEPDIR FED)[Enrique.Lamas@census.gov]; Christa D Jones (CENSUS/DEPDIR FED)[Christa.D.Jones@census.gov]; Benjamin A Overholt (CENSUS/DEPDIR FED)[benjamin.a.overholt@census.gov]; Adam Michael Korzeniewski (CENSUS/DEPDIR FED)[adam.m.korzeniewski@census.gov]
From: Ali Mohammad Ahmad (CENSUS/ADCOM FED)[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9F924D2AEBA34BB78774A059DDE7550C-AHMAD, ALI]
Sent: Sun 9/6/2020 4:01:38 AM (UTC)
Subject: Statement per DOJ
[TRO ORDER 9-5-20.pdf](#)

Jamey just sent this out to FLD- per DOJ/DOC guidance. Per Al, I'm sending a PDF of Jamey's email back to DOJ/DOC. I will have something posted online (which will omit Jamey's name but use the language) sometime overnight once I wake up someone who can send it.

Guidance for Census Bureau Field Employees

A federal district court for the Northern District of California issued a temporary restraining order at 9:29 PM EDT on 9/5/2020 in the case of National Urban League v. Ross, No. 20-05799. The Order provides that the Census Bureau and the Commerce Department "are enjoined from implementing the August 3, 2020 Replan or allowing to be implemented any actions as a result of the shortened timelines in the August 3, 2020 Replan, including but not limited to winding down or altering any Census field operations, until the Court conducts its September 17, 2020 hearing on Plaintiffs' PI motion."

The Census Bureau and the Commerce Department are obligated to comply with the Court's Order and are taking immediate steps to do so.

The Bureau and the Department are also in the process of preparing additional guidance and will distribute that guidance shortly.

Enumeration will continue.

The Order is attached for reference.

Direct any questions to your regional management.

James Christy

U.S. Census Bureau

LA 818.267.1700 HQ 301.763.6228

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From: Albert E Fontenot (CENSUS/ADDC FED) <Albert.E.Fontenot@census.gov>

Sent: Saturday, September 5, 2020 10:38 PM

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BC-DOC-CEN-2020-001602-005696

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Subject: Re: (b) (5)

(b) (5)



Albert E. Fontenot, Jr.

Associate Director

Decennial Census Programs

United States Department of Commerce

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From: Ali Mohammad Ahmad (CENSUS/ADCOM FED) <ali.m.ahmad@census.gov>

Sent: Saturday, September 5, 2020 10:36 PM

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Subject: NPR: Census Work Has Been Winding Down, But A Judge Says The Head Count Must Continue

[Census Work Has Been Winding Down, But A Judge Says The Head Count Must Continue](#)

NPR – Hansi Lo Wang, September 5

The Trump administration must, for now, stop winding down in-person counting efforts for the 2020 census, a federal judge in California ordered Saturday, while a legal fight over the shortened schedule for the national head count continues.

[The temporary restraining order](#) issued by U.S. District Judge Lucy Koh in the Northern District of California comes after challengers led by the National Urban League filed an [emergency request](#) as part of a federal lawsuit — both of [which cite NPR's reporting](#). The order is expected to remain in effect until a court hearing is held [on Sept. 17](#) for the plaintiffs' request for a court order that would require counting to continue through the end of October.

A coalition that includes civil rights groups and local governments, as well as the Navajo Nation and the Gila River Indian Community in Arizona, is trying to force the Census Bureau to abandon a last-minute schedule change that cuts counting a month short to [end](#)

[on Sept. 30.](#)

The bureau had previously been working towards ending all counting efforts [on Oct. 31](#) to make up for delays caused by the coronavirus pandemic.

Without that extra time, the challengers are concerned the bureau will not be able to adequately conduct the constitutionally mandated count of every person living in the country, especially among people of color, immigrants and other historically undercounted groups.

After [publicly supporting extensions](#) to the census timeline, the Trump administration mysteriously made [an about-face in August when the bureau announced](#) it was speeding up its efforts in order to deliver the first batch of numbers to the president by year's end. That was even after the administration asked Congress to push back legal deadlines for reporting census results, which are used to determine the distribution of political representation and federal funding among states and local communities for the next decade.

A day after [NPR reported](#) that the bureau was ending door-knocking efforts in some areas as early as [Sept. 18](#), Justice Department attorneys confirmed in [a court filing](#) that the bureau has "already begun taking steps to conclude field operations," while warning that any court order "could not be implemented at this point without significant costs and burdens" to the bureau.

The bureau has already started letting go of some of its temporary workers in areas that have "completed their work," Al Fontenot, associate director for the 2020 census, confirmed in [a sworn statement](#) filed with the court late Friday in California.

Fontenot also emphasized, wishing to be "crystal clear," that if a court were to order counting to continue past [Sept. 30](#), the bureau would not be able to meet the [Dec. 31](#) deadline for the first set of census numbers. He noted that the bureau "simply cannot shorten" [the time left for processing census results again, after it has already been truncated to about three months](#).

Fontenot added that the possibility of "continual, conflicting, and evolving court orders" is "particularly troubling."

"While Census Bureau staff have demonstrated considerable resilience and flexibility during this difficult year, some certainty as to the amount of time available to conclude data collection and post processing will increase the likelihood of a successful outcome," Fontenot said.

In a similar federal lawsuit in Maryland, attorneys for another group of challengers are set to appear virtually for a [hearing on Sept. 21](#) about their request to block the administration from ending census efforts earlier than previously scheduled.

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TESTIMONY OF

HANS A. von SPAKOVSKY

Senior Legal Fellow and
Manager, Election Law Reform Initiative
Edwin Meese III Center for Legal and Judicial Studies
The Heritage Foundation¹

BEFORE THE COMMITTEE ON OVERSIGHT AND REFORM

OF THE

U.S. HOUSE OF REPRESENTATIVES

The 2020 Census

September 10, 2020

2154 Rayburn Building
Washington, D.C. 20425

Testimony of Hans A. von Spakovsky

¹ The Heritage Foundation is a non-partisan public policy, research, and educational organization recognized as exempt under §501(c)(3). It is privately supported and receives no funds from government at any level; nor does it perform any government or other contract work. The Heritage Foundation is the most broadly supported think tank in the United States. During 2014, it had hundreds of thousands of supporters representing every state. Contributions came from the following sources: individuals (75%), foundations (12%), corporations (3%), and program revenue and other income (10%). The views expressed here are my own, and do not reflect an institutional position for The Heritage Foundation or its board of trustees.

Thank you for the invitation to testify before the Committee on the issue of the conduct of the 2020 Census and the vital importance of collecting citizen population data for the purposes of apportionment, redistricting, and enforcement of the Voting Rights Act of 1965 (“the VRA”).

I am Hans A. von Spakovsky, a Senior Legal Fellow and Manager of the Election Law Reform Initiative in the Edwin Meese III Center for Legal and Judicial Studies at The Heritage Foundation (www.heritage.org). I was a Commissioner on the Federal Election Commission for two years and am a former career Counsel to the Assistant Attorney General for Civil Rights at the U.S. Department of Justice, where I coordinated enforcement of federal voting rights laws including the VRA.

I am also a former member of the Presidential Advisory Commission on Election Integrity; the Board of Advisors of the U.S. Election Assistance Commission; the Registration and Election Board of Fulton County, Georgia; the Electoral Board of Fairfax County, Virginia; and the Virginia Advisory Board to the U.S. Commission on Civil Rights. I have published extensively and have testified before both congressional and state legislative committees on voting and election issues.

All of the views and opinions I express in my testimony are my own and should not be construed as representing any official position of The Heritage Foundation or any other organization.

In summary, it is essential that the Census Bureau follow long historical precedent and collect data on the number of citizens and noncitizens present in the United States using the available, extensive information on citizenship of the U.S. population contained in executive branch agency records. That data is important not only for potential use in apportionment and redistricting, but also in effective enforcement of the Voting Rights Act. It is within the constitutional and delegated authority of the chief executive to direct the collection of citizenship data, including for apportionment purposes.

Collection of citizenship data is also vital to establish a consensus on national immigration policy. Without citizenship data, it is not possible to have an informed debate and discussion over what U.S. policy should be and how to successfully implement it.

The collection of citizenship data by the Census Bureau from available executive branch agency records is required for effective enforcement of the Voting Rights Act.

On July 11, 2019, President Trump issued an executive order directing all federal agencies to provide the Census Bureau with administrative records “showing citizenship data.”² This citizen voting age population (“CVAP”) data is essential to effective enforcement of Section 2 of the VRA when implementing remedies to vote dilution cases.

The Census Bureau has been collecting citizen population data since the 1820 Census, which had the first citizenship question on a Census form. It currently collects that data through the American Community Survey (“the ACS”), which also has a citizenship question.

However, since the ACS is only sent out annually to about 2.5 percent of American households, the ACS does not collect complete data on the entire country. The executive order ensures that the Census Bureau has access to all available records on the citizenship status of the population.

This executive order followed a fragmented 2019 Supreme Court decision holding that the executive branch has both the constitutional and statutory authority to reinstate a citizenship question on the Census form, but that the Department of Commerce had not followed the proper procedure to do so under the Administrative Procedure Act.³ This was a flawed decision; the administration followed the correct procedures and as Justice Clarence Thomas wrote in his dissent, the Court should have stopped its analysis when it determined the citizenship question is both constitutional and within the legal authority of the Secretary of the Department of Commerce.

So the Census Bureau has the right to collect citizenship data. In fact, even the United Nations [recommends](#) that its member countries ask a citizenship question on their census surveys, and countries ranging from Australia to Germany to Indonesia all ask this question.⁴ Only in the U.S. is this considered at all controversial — and it shouldn’t be.

² Executive Order on Collecting Information about Citizenship Status in Connection with the Decennial Census, E.O. 13880, July 11, 2019, <https://www.whitehouse.gov/presidential-actions/executive-order-collecting-information-citizenship-status-connection-decennial-census/>.

³ Department of Commerce v. New York, 588 U.S. ____ (2019).

⁴ Principles and Recommendations for Population and Housing Censuses, Department of Economic and Social Affairs, Statistics Division, United Nations, 2017, p. 191, https://unstats.un.org/unsd/publication/seriesM/Series_M67Rev3en.pdf.

When it is available, the limited citizenship data from the ACS is routinely used by the Civil Rights Division of the Department of Justice in enforcing Section 2 of the VRA. Section 2 prohibits laws, regulations, or voting practices and procedures that discriminate on the basis of race, color, or membership in a protected language minority group.⁵ Section 2 is most often used for challenges to at-large districts and to the redistricting process, ensuring that minority voters do not “have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.”⁶

Thus, when a court finds a violation of Section 2, the remedy is to draw a district – whether it is a town council, school board, county commission, state legislative, or congressional district – in which minority voters constitute a majority of the voters such that they can elect their candidates of choice (known as a majority/minority district). Citizen population data is essential to drawing an effective voting district for minority voters.

For example, if a group of minority voters constitutes 51 percent of a district, then they will be able to elect their candidates of choice as the majority of the electorate in that district. But using total population data, which includes both citizens and noncitizens, to draw a district in which Hispanics, for example, constitute 51 percent of the district, eligible Hispanic voters – citizens – who are of voting age -- may not constitute 51 percent of the voting electorate in that district, and therefore are not able to elect their candidate of choice. Thus, using total population rather than citizen population may not cure a Section 2 violation.

The Justice Department, as the designated chief enforcer of the VRA, concentrates on the number of eligible *citizen* voters when evaluating possible violations of the law and the appropriate remedies – when that data is available from the ACS. But because of its limited scope, that data is not available for every jurisdiction in the country, which handicaps the Justice Department and the courts in effectively enforcing the VRA.

The Justice Department’s use of citizenship data can be seen in the complaints filed by the Civil Rights Division of the Justice Department to enforce Section 2. This included, for example, the Justice Department’s complaint filed in *U.S. v. Town of Lake Park, Florida*, when DOJ challenged the town’s at-large method of electing commissioners “on the grounds that it dilutes the voting strength of black citizens in violation of Section 2.”⁷

⁵ 52 U.S.C. §10301 (a).

⁶ 52 U.S.C. §10301 (b).

⁷ Civil Action. No. 09-80507 (S.D. Fla.) (emphasis added), <https://www.justice.gov/crt/united-states-district-court-southern-district-florida-west-palm-beach-division>.

In fact, the complaint relied on citizen voting age population, rather than total voting age population, to ensure that the new districts would include at least one that would have a majority of black voters sufficient to elect their candidate of choice.

Numerous other enforcement cases filed by the Justice Department emphasize the need to use citizen voting age population when drawing districts. That includes *U.S. v. Euclid City School District Board of Education*; *U.S. v. The School Board of Osceola County, Florida*; *U.S. v. Georgetown County School District, South Carolina*; *U.S. v. City of Euclid, Ohio*; *U.S. v. City of Boston*; and *U.S. v. Alamosa, County, Colorado*.⁸

While the Supreme Court concluded in 2016 in *Evenwell v. Abbott* that the use of total population, which includes noncitizens, in drawing districts does not violate the “one-person, one-vote requirement” of the Equal Protection Clause of the Fourteenth Amendment, the use of citizen population data is necessary to prevent the creation of discriminatory districts that dilute the votes of citizens. This is, especially true for racial and ethnic minority citizens who may constitute a minority of the voting electorate in their particular districts.⁹

Basing apportionment on total population that includes large numbers of illegal aliens is fundamentally unfair to American citizens and dilutes and diminishes the value of their votes.

The right to vote is a sacred one and American leaders should make every effort within the law to ensure that right is protected. Including illegal aliens – who have no electoral or representational rights in the U.S. – in the population used to apportion congressional seats is fundamentally unfair to American citizens. It dilutes the votes of citizens and denies states with fewer illegal aliens seats in Congress to which they would otherwise be entitled.

The inclusion of illegal aliens perversely incentivizes states to encourage more illegal immigration in violation of U.S. law and the well-being of American citizens in order to gain more congressional representation. This contributes to the breakdown in the rule of law, one of the most basic and fundamental principles on which this democratic republic is based.

On July 21, 2020, President Trump issued a memorandum to the Commerce Department directing that illegal aliens be excluded from the population used for apportionment

⁸ These complaints are all available at the website of the Civil Rights Division, <https://www.justice.gov/crt/voting-section-litigation>.

⁹ 136 S.Ct. 1120 (2016).

purposes.¹⁰ This is within his constitutional and statutory authority as well as the correct policy.

Art. I, Sec. 2, Cl. 3 of the Constitution grants Congress the power to direct the conduct of the Census. That authority has been delegated by statute to the Secretary of the Department of Commerce to conduct the Census “in such form and content as he may determine.”¹¹ The Secretary transmits the report of the total population to the President.¹² The President then makes a determination of the “whole number of persons in each state” for the purpose of apportioning congressional representation and sends that information to Congress.¹³

As the U.S. Supreme Court said in *Franklin v. Massachusetts*, it is the “personal transmittal of the report to Congress” that “settles the apportionment” of congressional representatives; the president’s discretion in carrying out that duty is more than “ceremonial or ministerial.”¹⁴ In other words, part of his duty (and of the Commerce Department and the Census Bureau) is to make “policy judgments,” including determining who are the inhabitants of each state that must be included in the apportionment population.

Since the first Census, we have not counted every single individual physically present in each state. As is the normal procedure, for example, “Citizens of foreign countries visiting the United States, such as on a vacation or business trip” are “[n]ot counted in the census.”¹⁵

In the *Franklin* case, the Supreme Court pointed out that the key phrase in the Constitution concerning the number of persons “in each State” can “mean more than mere physical presence, and has been used broadly enough to include some element of allegiance or enduring tie to a place.”¹⁶ Illegal aliens clearly have no element of political allegiance to any state or the federal government – they cannot be drafted for jury duty or

¹⁰ Presidential Memorandum on Excluding Illegal Aliens From the Apportionment Base Following the 2020 Census, 85 Fed. Reg. 44674, July 21, 2020, <https://www.federalregister.gov/documents/2020/07/23/2020-16216/excluding-illegal-aliens-from-the-apportionment-base-following-the-2020-census>.

¹¹ 13 U.S.C. § 141(a).

¹² 13 U.S.C. § 141(b).

¹³ 2 U.S.C. § 2a(a). Section 2 of the Fourteenth Amendment provides that representatives shall be apportioned based on the “whole number of persons in each State.”

¹⁴ 505 U.S. 788, 799-800 (1992).

¹⁵ Residence Criteria and Residence Situations for the 2020 Census of the United States, U.S. Census Bureau, <https://www.census.gov/programs-surveys/decennial-census/2020-census/about/residence-rule.html>. See also *Federation for American Immigration Reform v. Klutznick*, 486 F.Supp. 564 (D.D.C. 1980) (noting that foreign diplomats and foreign tourists have not been counted by the Census).

¹⁶ 505 U.S. at 804.

for military service (if the U.S. still had a draft) because they owe their political allegiance to the native country of which they are a citizen.

Furthermore, illegal aliens have no “enduring tie” to any state since they are illegally present in the country. They can be picked up, detained at any time by federal authorities, and removed from the U.S. Thus, excluding individuals who have no allegiance or enduring tie to a state is well within the precedent set by the Court in *Franklin*. As the Court said in its seminal case on representational government and the Equal Protection Clause, *Reynolds v. Sims*, “achieving of fair and effective representation of all *citizens* is concededly the basic aim of legislative apportionment.”¹⁷

The Court in *Franklin* cited the disputed congressional residence qualifications in 1824 of “would-be Representative John Forsyth...who had been living in Spain during his election.” The House of Representatives determined he was qualified. In the debate, “Representative Bailey, supporting the qualification of Mr. Forsyth, pointed out that if ‘the mere living in a place constituted inhabitancy,’ it would “exclude sitting members of this House.”¹⁸

Illegal aliens are not citizens and the fact that they may be temporarily (merely) living in a particular state does not make them “inhabitants” who must be counted for apportionment purposes.

Finally, including aliens in apportionment not only dilutes the votes of individual citizens, but also damages the distribution of representation of state governments in our federal republic. In 2015, the Congressional Research Service analyzed how seats in the House would have been apportioned using the estimated citizen population instead of the 2010 total population Census count.

Louisiana, Missouri, Montana, North Carolina, Ohio, Oklahoma, and Virginia would have all gained one congressional representative. California, Florida, New York and Texas would have lost seats. These latter states have gained congressional seats based on noncitizen populations, particularly large numbers of illegal aliens in states like California, at the expense of the representation to which Louisiana, Missouri, Montana, North Carolina, Ohio, Oklahoma, and Virginia are entitled.¹⁹

Conclusion

¹⁷ 377 U.S. 533, 565-566 (1964) (emphasis added).

¹⁸ 505 U.S. 788, 805 (citations omitted).

¹⁹ Royce Crocker, Apportioning Seats in the U.S. House of Representatives Using the 2013 Estimated Citizen Population, Congressional Research Service, Oct. 30, 2015,

Including noncitizens in apportionment and redistricting unfairly dilutes the votes of citizens and distorts the political representation of states, giving some states more congressional representatives than they are entitled (and depriving others) based on a population that has no right to political representation or to even be present in the country. This violates fundamental principles of fairness and equity to which citizens are entitled as members of the body politic.

The senior leadership of the Census Bureau has already testified before this Committee that it has the ability and the resources – despite the COVID-19 problem – to provide an accurate count of the population of the U.S., as it has in numerous prior Census counts. That includes its duty and obligation to provide a complete count that includes the number of citizens and noncitizens

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From: Christopher J Stanley (CENSUS/OCIA FED)[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=ADA39E1C50F84DBE8E2EB98E59096E2D-STANLEY, CH]
Sent: Wed 9/9/2020 10:26:03 PM (UTC)
Subject: Re: additional testimony for tomorrow's hearing.
[Hans A. von Spakovsky House Oversight and Reform-Census-9-10-20.pdf](#)

For the last one, here is the testimony from the minority witness.

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STATEMENT OF STACEY CARLESS,
EXECUTIVE DIRECTOR OF NC COUNTS COALITION
“PROVIDING THE CENSUS BUREAU WITH THE TIME TO PRODUCE
A COMPLETE AND ACCURATE CENSUS”
HOUSE COMMITTEE ON OVERSIGHT AND REFORM

Chairwoman Maloney, Ranking Member Comer, and Members of the Committee: I am Stacey Carless, Executive Director of NC Counts Coalition. I want to thank you all for the opportunity to appear before you today to testify about the upcoming 2020 Census deadline.

NC Counts Coalition is a nonprofit, 501(c)(3) organization established in 2017 to serve as a hub to facilitate cross-sector collaboration and coordination among government, planning, nonprofit and community organizations, service providers, businesses and others to achieve a complete and accurate Census count for North Carolina. The Coalition recognizes the Decennial Census as the most inclusive government operation in our country. Collectively, with our diverse membership of more than 250 national, statewide and community partners, we champion inclusiveness and strive for every individual in North Carolina to be counted. We believe that accurate Census data is essential to the economic well-being of North Carolina and the general well-being of every single North Carolinian.

NC Counts Coalition is the connective tissue for the state’s complete count commission, the U.S. Census Bureau and nonprofit and community-based organizations. Our knowledge, resources and capacity make us effective in convening stakeholders, coordinating plans and preventing duplicative efforts for 2020 Census outreach across the state. We invest in mobilizing and rely on research, data to build a robust field operation to support and complement the US Census Bureau’s 2020 Census operation. Additionally, we serve as a funding hub. To date, NC Counts Coalition has funded 60 community partners through a mini-grant program that allows partners to work on the ground and in the field, alongside Census Bureau staff, to move community members at risk of not being counted to participation in the 2020 Census. Our role as North Carolina’s hub for 2020 Census outreach keeps us on the ground and connected to North Carolina communities’ progress with 2020 Census operations, which positions us well to address the current deadline of the 2020 Census operation and its impact on North Carolina.

THE IMPORTANCE OF THE CENSUS TO NORTH CAROLINA

North Carolina is the ninth most populous state and the fourth fastest-growing state in the country. According to estimates from the U.S. Census Bureau, North Carolina’s population grew to 10.5 million people as of July 1, 2019. According to 2019 projection estimates, North Carolina is expected to pick up a 14th seat in the U.S. House of Representatives with a complete and

accurate 2020 Census.¹ Additionally, a complete and accurate 2020 Census count for North Carolina will ensure that our state receives its fair share of \$1.5 trillion in federal dollars from Census derived programs²; in 2017, North Carolina received \$44 billion in Census guided funding.³

CURRENT STATE OF THE CENSUS IN NORTH CAROLINA

As COVID-19 disrupts and takes over our lives, it is also disturbing the 2020 Census operation in North Carolina. About 3.8 million individuals who are predominantly Black, Brown, rural, and young children are missing from North Carolina's Decennial count, putting North Carolina at risk of missing out on \$7 billion in federal funding to support school lunches, medication and care for seniors, workforce development programs, housing assistance, college grants, small business loans for rural communities, hospitals, and more.

As of September 7, 2020, 61.4 percent of North Carolina households had self-responded to the 2020 Census.

- This is below the national average of 65.5 percent and below our state's 2010 self-response, 64.8 percent.
- North Carolina has 100 counties. Only 18 of our 100 counties have surpassed their 2010 self-response rate. 82 NC counties are below their 2010 self-response rate.
- North Carolina is ranked number 37 in the nation for self-response among the 50 states and the District of Columbia.
- 20.7 percent of North Carolina households had been counted in Nonresponse followup, below the national average of 22.7 percent, making North Carolina 38th for Nonresponse followup among the 50 states and the District of Columbia.
- In total, only 82.1 percent of North Carolina households have been counted compared to 88.2 percent of households nationally.
- North Carolina has the 43rd lowest total enumeration among the states - only Louisiana (80.8%), South Carolina (80.7%), New Mexico (80.7%), Mississippi (80.1%), Arizona (80.1%), Montana (79.9%), Georgia (79.3%), and Alabama (79%) are lower.⁴

COMMUNITIES WITH LOW SELF-RESPONSE RATES

Currently, North Carolina census tracts with low self-response rates have greater proportions of residents that identify as American Indian, Black, or Hispanic/Latino; populations historically undercounted by the census. These populations and low responding census tracts have also been hit hard by COVID-19 and have felt the impact of Hurricane Isaias this year and Hurricanes Florence and Matthew in the last couple of years. 2020 Census data will inform decision-makers

¹<https://www.ncdemography.org/2020/01/16/north-carolina-on-track-to-surpass-10-6-million-by-2020-gain-in-the-house/#:~:text=Contact%20us-,North%20Carolina%20on%20track%20to%20surpass%2010.6,2020%2C%20gain%20in%20the%20House&text=North%20Carolina's%20population%20grew%20to.increased%20by%20nearly%20106%2C500%20individuals.>

² <https://gwipp.gwu.edu/counting-dollars-2020-role-decennial-census-geographic-distribution-federal-funds>

³

https://gwipp.gwu.edu/sites/g/files/zaxdzs2181/f/downloads/Counting%20for%20Dollars%202020%20-%20Comprehensive%20Accounting_Report%207B%20Feb%202020%20rev.pdf

⁴ <https://www.censushardtcountmaps2020.us/>

on future pandemic and disaster response.⁵ More than ever, our state must achieve a complete and accurate 2020 Census count to ensure that these communities receive the resources they will need to live in healthy and vibrant communities following the pandemic and hurricanes.

Other factors associated with low-response in North Carolina include low internet access, college communities, military communities and census tracts with a high percentage of young children under five.

- Since the beginning of the Census operation in North Carolina, Census tracts in rural North Carolina that lack internet access have consistently had lower response rates.
- Census tracts located in college towns and universities also displayed low self-response. This is likely due to the abrupt end of in-person instruction as the COVID-19 pandemic unfolded, causing a mass exodus of students who returned home, leaving homes in college communities vacant and harder to count.
- North Carolina is home to several military bases, including Ft. Bragg located in Cumberland County, the country's largest military base by population, Camp Lejeune located in Onslow County and Seymour Johnson Air Force Base located in Wayne County. In 2016, Senator Thom Tillis advocated for U.S. military personnel deployed outside the U.S. and living on or off a military installation outside the U.S. to be counted as residents of the state where they sleep most of the time.⁶ While this new rule would have a significant impact on North Carolina's total count, the counties home by military families are underperforming and have yet to reach 2010 self-response rates for the 2020 Census. This leaves these communities at risk of losing resources that help support our military personnel and their families.
- North Carolina failed to count an estimated 25,000 young children in the 2010 Census, and an estimated 73,000 young children could be missed in the 2020 Census.⁷ On a national level, tracts with young children are responding at lower rates; North Carolina follows this national trend. North Carolina tracts with the highest share of children under age five have response rates significantly below the state average. It is crucial that all of North Carolina's children be counted or North Carolina will miss out on resources our children need as they grow up.

I am here to testify that at this point in census operations, North Carolina would benefit not only from an extended timeline for self-response but also from a robust nonresponse followup field operation. Unfortunately, several red flags in the operation make NC Counts Coalition and our partners and stakeholders question the integrity and quality of the nonresponse followup operation including the quality of the data collected. We are extremely concerned that North Carolina is on the verge of a failed 2020 Census operation.

⁵ <https://www.ncdemography.org/2020/08/06/ncs-current-2020-census-response-is-concerning/>

⁶ <https://www.tillis.senate.gov/2016/7/tillis-helps-secure-census-change-to-count-north-carolina-servicemembers>

⁷

https://26s2ndak0r928bmgj3q4eino-wpengine.netdna-ssl.com/wp-content/uploads/2019/10/2018_Fact-Sheet_Young-Child-Undercount.pdf

CENSUS BUREAU OPERATIONS IN NORTH CAROLINA

In response to COVID-19 infection rates, Census Bureau staff has been limited in the field support they have provided as part of self-response operations.

The 2020 Census operation began in North Carolina on March 12, 2020. North Carolina Governor Roy Cooper issued a statewide 30-day Stay at Home Order as a part of the state's efforts to slow the spread of COVID-19 on March 27, 2020,⁸ fifteen days after the start of the operation. In response to the pandemic, U.S. Census Bureau staff began to stay at home on or around March 16, 2020 until about June 13, 2020, when the Census operation presumably returned to a modified self-response field operation.

On July 14, 2020, the Census Bureau announced that it would begin its Mobile Questionnaire Assistance (MQA) program. According to a Census Bureau press release, at MQAs: "Census Bureau staff is tasked with helping people complete the Census on a 2020 Census tablet or their own device while practicing state and local social distancing protocols. All census workers have been trained in social distancing protocols and issued personal protective equipment (PPE), including masks to be worn during MQA support." The Census Bureau press release also stated, "In the interest of public health concerns because of the COVID-19 pandemic, Census Bureau staff will decide on a weekly basis whether MQA activities will take place in a low-response area in coordination with local partners."⁹

NC Counts Coalition later learned that Census Bureau staff in North Carolina categorized NC counties as green or red, according to the county's COVID-19 infection rate. Red counties were considered high-risk counties where MQAs could not be conducted.

- On or around July 30, 2020 about 83 percent of North Carolina counties were considered to be "red counties" and could not participate in the Census Bureau's MQA program.
- On or around August 5, 2020, about 76 percent of North Carolina counties were considered to be "red counties" and could not participate in the Census Bureau's MQA program.
- On or around August 12, 2020, about 62 percent of North Carolina counties were considered to be "red counties" and could not participate in the Census Bureau's MQA program.
- On or around August 19, 2020, about 47 percent of North Carolina counties were considered to be "red counties" and could not participate in the Census Bureau's MQA program.
- Last week, on or around August 31, 2020, about 43 percent of North Carolina counties were considered to be "red counties" and could not participate in the Census Bureau's MQA program.
- MQAs did not begin in North Carolina's most populous county, Wake County, until around the week of August 12, 2020, less than a month ago and after the nonresponse followup operation began.

⁸ <https://www.ncdhhs.gov/news/press-releases/governor-cooper-announces-statewide-stay-home-order-until-april-29>

⁹ <https://www.census.gov/newsroom/press-releases/2020/2020-mobile-questionnaire-assistance.html>

From July 30th through about August 12, 2020, Census Bureau staff were discouraged from working in the field in “red counties” to support self-response by assisting individuals with completing their 2020 Census. Based on the classification reported above, this means that Census Bureau staff were discouraged from working in more than half of North Carolina counties during this period.

If Bureau staff did participate in outreach in “red” counties, it was limited to passing out 2020 Census literature to event attendees. For example, on Saturday, August 8, 2020 NC Counts Coalition, in partnership with a community partner, Hands Delivering Help, hosted a Back to School event where food and school supplies were provided to community members in Fayetteville, North Carolina, the home of Fort Bragg Army Base. This event took place in one of Fayetteville’s lowest responding census tracts. The US Census Bureau was invited to attend the event to set-up an MQA. On that day, about 210 families attended the event; many inquired about whether assistance was available to respond to the 2020 Census. Unfortunately, Census Bureau staff were unable to provide any assistance to families wanting to be counted. Instead, they stated they were given a directive only to pass out Census literature and promotional items provided by NC Counts Coalition. The Census Bureau had nothing to offer at this event and their presence served no purpose. This is only one of many examples of how partnering with the US Census Bureau has failed to increase self-response rates in the 2020 Census in North Carolina.

To date, NC Counts Coalition has heard from Census Bureau staff that Bureau staff are still being discouraged from participating in self-response outreach in “red” counties and are told that if they engage in outreach in “red counties” it is at their own risk.

It is also important to note that 80 of 100 North Carolina counties are rural counties. On August 31, 2020 when 43 percent of North Carolina counties were considered to be “red counties,” most of these counties, 37 of the 43 counties, were rural counties with low-self-response rates.

NC Counts Coalition and partners are particularly concerned about the reliability and accuracy of the nonresponse followup operation due to allegations of inadequate training of enumerators, reports of termination of employees and witnessed accounts of enumerators not knocking on doors.

On Friday, August 7, 2020, NC Counts Coalition and a partner organization were contacted by a local news reporter and asked for a response to comments by a census employee who covers a 14-county area in North Carolina. The employee reported that: There had been a mass exodus of census employees from the area office and that the announcement that the census would end in September instead of October was the clincher for census staff. They noted that, at that time, all key management positions were vacant and that the office had received a directive from D.C. that staff could only train three census takers at a time. The census employee reported that at that time their service area needed 2,000 employees and that training directives made it impossible to train enough census takers and fieldworkers.

On August 12, Carolina Demography received the following email from an enumerator in Western NC:

"I was an enumerator for about a day and finally quit due to major technical issues with their iPhone system. The iPhone they give you to conduct the census requires a cell phone service to operate and for maps, otherwise it's just a brick. When you get up in the remote mountains, there is no cell phone service, no bars, so nothing works, making it impossible to conduct the census or find an addresses with dead mapping system. Whoever in DC decided to use iPhones to conduct the census, assumed everyone has cell service. They forgot that they don't work in very remote areas, like the NC Mountains. I had to rely on my years of living up here to find my way back to town to get cell service. There is no paper backup system to fall back on."

On August 14, 2020 NC Counts Coalition received received a message through our website that stated the following:

"Hello, I am writing to describe my experience of applying for a position as a census taker in Chapel Hill, NC. I submitted my application on May 18 when I was looking for a summer job, and was accepted on June 22. Since then, after the training session I was scheduled for was postponed indefinitely, I have not yet been given the opportunity to work. I have no idea how typical this story is, but I wanted to share it with you on the off chance it might be helpful in examining the issues surrounding the 2020 census. Thank you all so much for the essential work you do to ensure fairness and thoroughness in the count."

Last week, on Wednesday September 2, 2020, NC Counts Coalition and community partners engaged in door canvassing where we dropped off census themed bags with PPE and census literature contact-free at the doorsteps of a community located in a low-performing census tract. This community is predominantly Black and Hispanic/Latino and has about 830 housing units. During our organization's canvassing event, NC Counts staff observed that an enumerator was also visiting the community. Our staff witnessed the enumerator go door-to-door and place a census form at the doorstep of units, without even knocking on doors.

Two days ago, the State of North Carolina received an anonymous report through its Fraud, Waste and Abuse website from a former Census employee that stated:

"Multiple enumerators have been terminated because of lack of "productivity". The training emphasized quality and accuracy of the data collected. Untrue: it is all about numbers and closing as many case surveys in the shortest period of time. There is no time for the CFS and area managers to answer questions. The equipment and training was inferior in order to do the job. Told numerous times [to] just make due [do]. As a result a significant number of the poor and black community are not getting counted. The compute[r] system used by the Census Bureau is inadequate to group the cases together geographically-very inefficient. After reporting numerous address[es] that can not be found and have been changed since [the] last decennial done. Told not to waste time and move on down the case list. This occurs primarily in campgrounds, trailer parks where most of the residents are poor and black. Also attempted contact during 9-5pm

many essential workers are not home and do not get counted. This process is wrong morally and legally. Unfortunately I was terminated without warning because of lack of efficiency of case closures. Unfortunately they came by without warning to terminate me and confiscate[d] all equipment that would detailed proof.”

I am sharing with you today only a handful of instances that have raised red flags in North Carolina. I, my staff, and our partners hear on a regular basis from current and past census staff about the inadequate training for non-response follow-up; the need for more enumerators to be hired to accomplish a robust field operation; and the high termination and turnover rates of census field employees. Additionally, last week a census employee in a local field office misinformed one of our community partners that the census operation was being extended back to the October 31, 2020 deadline and asked our partner for outreach ideas extending past September 30, 2020, the current deadline. This example of misinformation to a community partner from a census employee is alarming and illustrates the urgent need for there to be adequate training and communication.

NC Counts Coalition and partners are concerned about the quality of data being collected through the non-response follow-up operation.

With a rushed timeline and the current COVID-19 environment, it will be close to impossible for enumerators to knock on the doors of the estimated 1.5 million households that have yet to respond to the census. Particularly alarming is North Carolina’s current nonresponse follow-up rate of 20.7 percent in this environment. The Census Bureau provides aggregated data at the area census office level which does not allow us to assess accurately where our state is seeing participation bumps related to the nonresponse followup operation. With the rushed timeline and the Bureau’s need to quickly enumerate a large number of non-responding households, we want to know where the Bureau is deploying nonresponse followup resources in our state. For example: Is the Bureau focusing on easy addresses, such as vacation homes in North Carolina’s mountains and North Carolina beaches where the house is likely to be vacant, allowing for an easier and more straightforward count, versus deploying resources into low-performing tracts where Black and Brown families reside? Where is a more robust effort needed, households that are likely to need multiple visits in order be counted in the 2020 Census?

CONCLUSION

I have provided you with the data and given you extensive testimony to illustrate our concerns of the rushed census deadline. I have been working on the 2020 Census operation since 2017. I am a self-proclaimed census nerd and I love the operation, not only because it is the most inclusive form of civic engagement, where everyone counts, but because if it operates at its full potential, it is a way to build equitable, healthy, and thriving communities throughout our state for the next decade.

NC Counts Coalition and our partners remain steadfast in our commitment to achieving a complete and accurate 2020 Census count for North Carolina. We understand the impact that this count will have on our communities for the next ten years and we cannot afford to get it wrong.

Our children need a complete and accurate census count to access education; Our seniors need a complete and accurate census count so that they can retire and live a comfortable life with access to healthcare and medication programs; Our college students need a complete and accurate census count so that they can pursue their dreams through an affordable education; Our military community needs a complete and accurate census count - as they fulfill their commitment to serve our country, it is our commitment to serve them; Small business owners need a complete and accurate census count now more than ever to be able to access financial assistance and stay afloat and provide for their families while creating jobs for their community, and; Rural families need a complete and accurate census count for programs that give rural families access to clean water assistance, rental assistance and utility assistance. Throughout the pandemic, partner organizations have strapped on their boots, put on their masks and made the appropriate pivot in census outreach to continue to get out the count among North Carolina's rural communities, immigrant communities, communities of color and military communities. **We Need More Time.** The Constitution gives Congress responsibility for getting the census right. If there is *any* hope of salvaging a complete and accurate 2020 Census count for this country, the census deadline must be extended to at least October 31, 2020.

Written Testimony
Governor Stephen Roe Lewis, Gila River Indian Community

House Oversight & Reform Committee
“Producing an Accurate Census”
September 10, 2020

Thank you, Chairwoman Maloney, Ranking Member Comer, and members of the House Committee on Oversight and Reform, for holding this important hearing on the 2020 census. The 2020 decennial census is very important to all citizens in the United States, but for tribal communities the significant harms of a census undercount are multilayered.

The Census Bureau has acknowledged that interruption of the census was necessary due to the coronavirus pandemic. Despite its earlier statements that extensions were necessary for field operations and reporting deadlines to have an accurate census, the Census Bureau has reversed its position and is instead condensing the census timeframes. The Gila River Indian Community and Indian Country would be irrevocably harmed by these condensed timeframes given the low self-response rates that are currently reported. This undercount would cause substantial underfunding of critical tribal programs, which would not only be in breach of the trust responsibility between the federal government and tribal nations, but would be unconscionable during a global pandemic.

With this testimony, the Gila River Indian Community (“Community”) supports the efforts of this Committee and the House of Representatives to extend the statutory deadlines for reporting of census apportionment counts and redistricting data to April 30, 2021 and July 31, 2021, respectively, and also requests the continuation of census field operations through October 31, 2020.

Gila River Indian Community:

The Gila River Indian Community is comprised of the Akimel O’otham and the Pee-Posh tribes and has over 22,000 enrolled members. Approximately 14,000 of these members live on the Reservation, which is comprised of approximately 2,200 households located on 372,000 acres. The Reservation is divided into seven political districts, with each district having representation on the Community Council based on the population of the district. Five districts are located in Pinal County, and two districts are located in Maricopa County.

As of September 8, the self-response for the Gila River Indian Community is 10.1% compared to a 62.1% response rate for the state of Arizona and a national response rate of 65.6%. This low response rate is not unique to the Gila River Indian Community. Other tribal communities in Arizona are also struggling with self-response rates ranging from 0% for the Havasupai to 65.2% for the Ak-Chin Community. The attached chart shows that of the 19 tribal responders to the census from Arizona, 17 are below a 50% self-response rate and 14 are below a

33% response rate. These low rates of self-response to the 2020 census are found throughout Indian Country.

In part, this can be attributed to the known challenges that plague Indian Country during the decennial census – mistrust of the federal government, the rural location of many tribal communities, multiple families in one household, and this year, the lack of internet access to complete the census questionnaires online as promoted by the Census Bureau.

The Census Bureau estimates that American Indians and Alaska Natives living on reservations were undercounted by approximately 4.9 percent in the 2010 census – more than double the undercount rate of the next closest population group. In addition, a large proportion of American Indians/Alaska Natives reside in states with the highest hard-to-count areas, including Arizona. The Urban Institute estimates that approximately 29% of Arizona's current population, or 1,997,379 people live in hard-to-count areas.

A report issued by Civis Analytics in March of this year, ranked Maricopa County and Pinal County in the top 20 U.S. counties most at risk of an undercount for the 2020 census, ranking #2 and #13 respectively. Such an undercount could result in up to \$16.5 million of federal dollars not reaching residents of these two counties.

For the Gila River Indian Community, whose reservation spans both Maricopa and Pinal Counties, the undercount could mean inadequate federal representation in Congress. Underrepresentation would dilute the voice of tribal citizens in Congress and undermine the government-to-government relationship that exists between tribal citizens and the federal government.

This undercount would have a devastating on the federal funding the Community receives to provide for its citizens. More than 300 federal programs use census data to determine funding. For tribal communities, many critical programs rely on census data to allocate funding for tribes, such as: the Indian Health Service, the Indian Housing Block Grant program, the Tribal Transportation Program, Violence Against Woman Act grants, Head Start, Special Program for the Aging, and Native American Employment and Training programs. This is not an exhaustive list. An undercount of the census would harm every area of life on the Reservation for our youth, elders, women, workforce, tribal infrastructure and delivery of healthcare.

These programs are very important to the Community. The Community operates a 10-facility healthcare system complete with a hospital, health center, dialysis clinic and the Caring House, our elder facility. That healthcare system delivers healthcare to tribal citizens, urban tribal members from the Community and tribal members from other Arizona tribes with approximately 100,000 tribal members receiving care each year. So an undercount of tribal citizens on the Reservation, in other tribes in Arizona and urban areas would significantly harm the funding of this critical healthcare system that is known as the premier tribal health facility in the Phoenix area.

In addition, the Community runs a shelter called On Eagle's Wings that receives federal funding to care for women and families who are in need of shelter due to violence in the home. The Gila River Transportation Department staff of 45 is responsible for the Community's road inventory which consists of approximately 420 miles of roads and 67 bridges and is funded through state and tribal programs that are based, in part, on population data derived from the census. These are just some of the programs that would be harmed by an undercount in the census.

A contemporary example of the effects of an undercount can be found in the recent allocations from COVID-19-relief legislation. The Community received funding from the CARES Act intended to provide relief to tribal governments to address the effects of the coronavirus pandemic. One particular program, the Tribal Relief Fund that was part of the state, local and tribal relief funding, was disbursed, in large part, based on a population formula that included data derived from census data. That data underrepresented the Community's tribal membership by approximately 8,000 tribal citizens, which resulted in the loss of tens of millions of dollars to the Community intended to provide relief to members due to the global pandemic. In addition, several tribal nations brought litigation because their population numbers were so skewed by population data used in the Indian Housing Block Grant program. And those numbers were the result of a more typical census undercount that was not exacerbated by a pandemic.

Impact of COVID-19 on Census Operations:

The COVID-19 pandemic has created a health and economic crisis in Indian Country. An August 20, 2020, report by the Centers for Disease Control and Prevention showed that American Indians and Alaska Natives are among the most impacted by the COVID-19 with positive cases among American Indians and Alaska Natives 3.5 times that of non-Hispanic whites.

In May, data compiled by the UCLA American Indian Studies Center noted that "if Native American Tribes were counted as states, the five most infected states in the country would all be native tribes, with New York dropping to No. 6." And in July, Arizona was listed as the world's top hotspot for COVID-19.

Since the initial shutdown in the State of Arizona in March, the Community has been combatting COVID-19 on many levels from making sure it has enough ICU beds and hospital rooms to treat patients, making sure students are able to learn virtually despite challenges with internet service and computer equipment, to the closing of the tribal government except for essential personnel, the reopening and closing of economic enterprises multiple times, to mourning Community members who have died from COVID-19 and even ordering a mobile morgue should that be necessary during a spike.

In March of this year, during the initial stages of shutdowns due to COVID-19, the Census Bureau temporarily suspended operations, determining that it was not safe for field operations to continue during the pandemic. On April 13, 2020, U.S. Commerce Secretary Wilbur Ross and Census Bureau Director Steven Dillingham issued a statement to address operations adjustments to census operations due to COVID-19. In that statement, the Census

Bureau stated that field data collection activities would resume as quickly as possible after June 1, 2020, and that the Census Bureau would seek statutory relief from Congress of 120 additional calendar days to deliver final apportionment counts.

Under this plan the Census Bureau would perform field data collection and self-response through October 31, 2020 with apportionment counts delivered to the President by April 30, 2021 and redistricting data to be delivered to the states no later than July 31, 2021.

However, rather than adopting this modified timeframe for field operations and for self-response, the Administration has instead condensed those operations with an end date of September 30, with no extension requested for apportionment counts or redistricting data. That means a quality-control process that generally takes six months and would allow for revisiting areas with significant undercounts like those found in the Community, would need to be completed within three months.

Census field operations that would have been conducted on the Reservation earlier this year were interrupted because of the Census Bureau's suspension of operations. In-person field operations resumed on the Reservation on August 11th but those contacts are complicated by the shelter-in-place status on the Reservation.

Field operations and in-person contact are critical to ensuring an accurate count for the Gila River Indian Community. Although the Community has been promoting completion of census questionnaires through social media, the Community's newspaper and our District Offices, there are a number of residences on the Community that only have a Post Office box. Those households are unable to respond to the census online or via the phone line because a unique geographic identifier is required to locate the physical location of the home. This identifier is provided by census enumerators. This issue, along with the lack of internet service and the pandemic, are the main reasons the self-response rate is so low on the Reservation.

Gila River Indian Community Requests:

Efforts to cease census operations earlier than set out in the Bureau's own COVID-19 census plan, with full awareness that tribal nations are the most undercounted population in the census and also the most impacted by the coronavirus, is a breach of the governmental relationship that exists between the federal government and tribal nations. This action would underfund tribal programs for the next decade, and it would take several decades for tribal nations to recover from what is on track to be the most undercounted census in recent history.

The Gila River Indian Community respectfully requests that Congress take steps to extend the field operations and self-response deadline to October 31, 2020 and extend the statutory reporting dates for apportionment to April 30, 2021 with redistricting data to be delivered no later than July 31, 2021.

Thank you for your attention on the harms a census undercount would cause to tribal nations. I stand ready to answer any questions you may have.



Testimony

Before the Committee on Oversight and Reform, U.S. House of Representatives

For Release on Delivery
Expected at 11 a.m. ET
Thursday, September 10, 2020

2020 CENSUS

Key Areas for Attention Raised by Compressed Timeframes

Statement of J. Christopher Mihm, Managing Director,
Strategic Issues

Chairwoman Maloney, Ranking Member Comer, and Members of the Committee:

I am pleased to be here today to discuss the U.S. Census Bureau's (Bureau) progress in preparing for the 2020 Decennial Census. The Census is mandated by the Constitution and provides vital data for the nation. Census data are used, among other purposes, to apportion the seats of the U.S. House of Representatives; redraw congressional districts in each state; and allocate billions of dollars each year in federal financial assistance.¹

Like the rest of the country, the Bureau has been required to respond to the Coronavirus Disease 2019 (COVID-19) national emergency. Resulting delays, compressed timeframes, implementation of untested procedures, and continuing challenges could undermine the overall quality of the count and escalate census costs. Further, compounding factors in some areas, including high rates of COVID-19 and weather events such as Hurricane Laura and wildfires, affect the Bureau's ability to use in-person methods for obtaining responses.

In March 2020, the Bureau was forced to pause its operations as a result of the COVID-19 national emergency. In May 2020, the Bureau began to resume select operations while facing a new set of operational and public safety challenges resulting from COVID-19. The Department of Commerce (Commerce) had requested that Congress extend its statutory reporting dates by 4 months. While legislation providing this relief has been introduced in Congress, the legislation has not been enacted into law.²

On August 3, the Bureau announced it would end data collection by September 30, 2020 and deliver apportionment data by the statutory deadline of December 31, 2020. As a result of this decision, the Bureau

¹The Bureau is required by law to count the population as of April 1, 2020 (Census Day); deliver state apportionment counts to the President by December 31, 2020; and provide redistricting data to the states by April 1, 2021. 13 U.S.C. §§ 141(a)-(c).

²One bill, The Heroes Act, has passed the House of Representatives. The Heroes Act, H.R. 6800, 116th Cong. (2020). See also Fair and Accurate Census Act, H.R. 7034, S. 4048, 116th Cong. (2020).

shortened data collection and data processing operations in order to meet the statutory deadlines.³

Over the past decade, we have issued numerous reports on challenges and risks facing the 2020 Census. In 2017, we designated the 2020 Census as a high-risk area and added it to our 2017 High-Risk list.⁴ The 2020 Census remains on the list, as new innovations, acquisition and development of IT systems for the 2020 Census, and other challenges we have identified in recent years—such as the reliability of the cost estimate—raise serious concerns about the Bureau’s ability to conduct a cost-effective enumeration.⁵

Over the past decade, we have made 112 recommendations specific to the 2020 Census to help address these risks and other concerns. Commerce has generally agreed with these recommendations and has taken action and made progress to address them. To date, the Bureau has implemented 92 of our recommendations and we have closed one recommendation that Commerce did not implement.⁶ As of September

³On September 5, 2020, the United States District Court for the Northern District of California issued a temporary restraining order enjoining the Census Bureau from implementing the acceleration of its data collection and data processing operations (as the Bureau announced on August 3, 2020) or allowing any actions as a result of the shortened timelines to be implemented, including but not limited to winding down or altering any Census field operations, until the Court conducts its September 17, 2020 hearing on a motion for a permanent injunction. *National Urban League v. Ross*, Case No. 20-cv-05799 (N.D.Cal. Sept. 5, 2020).

⁴GAO’s high-risk program identifies government operations with vulnerabilities to fraud, waste, abuse, and mismanagement, or in need of transformation to address economy, efficiency, or effectiveness challenges.

⁵GAO, *High-Risk Series: Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas*. [GAO-19-157SP](#) (Washington, D.C.: March 2019) and *High-Risk Series: Progress on Many High-Risk Areas, While Substantial Efforts Needed on Others*. [GAO-17-317](#) (Washington, D.C.: Feb. 15, 2017).

⁶In 2010 we recommended that the Bureau assess visitation, response rate, and other applicable data on Be Counted locations. In December 2018, Bureau officials informed us that the 2020 Census would not be relying on Be Counted forms or Questionnaire Assistance Centers, and instead would rely on local partners to determine where best to conduct any special outreach efforts or events. As such, we consider this recommendation closed and not implemented. GAO, *2010 Census: Key Efforts to Include Hard-to-Count Populations Went Generally as Planned; Improvements Could Make the Efforts More Effective for Next Census*. [GAO-11-45](#) (Washington, D.C.: Dec 14, 2010).

2020, 19 of the recommendations have not been fully implemented and 10 of these are designated as priority recommendations.⁷

Since March, we have reported on the steps the Bureau has taken to adapt to its new environment, including suspending and delaying data collection operations; extending the time period for individuals to self-respond by internet, phone, or mail; and using data and criteria to reopen offices and operations as it became safe to do so.⁸ We have also reported on the Bureau's updates to its protocols to limit in-person interactions when possible and, where necessary, provide personal protective equipment (PPE) to keep both its employees and the public safe.

My statement today focuses on our most recent work on implementation of the 2020 Census. The information in this statement is based primarily on work we released on August 27 entitled *2020 Census: Recent Decision to Compress Timeframes Poses Additional Risks to an Accurate Count*.⁹ For that work, we reviewed, among other things, Bureau planning documentation; Bureau provided data on cost and progress of key operations; and goals as outlined in Bureau plans. In addition, we surveyed the Bureau's entire population of 248 area census office (ACO) managers at various points during the production of the 2020 Census.¹⁰

We also reviewed information, such as executive-level system status reports and dashboards from our ongoing work on the readiness of the Bureau's IT systems, and the Bureau's status in addressing cybersecurity

⁷Priority recommendations are those that GAO believes warrant priority attention from heads of key departments or agencies. They are highlighted because, upon implementation, they may significantly improve government operations; for example, by realizing large dollar savings; eliminating mismanagement, fraud, and abuse; or making progress toward addressing a high-risk or fragmentation, overlap, or duplication issue.

⁸See, for example, GAO, *2020 Census: Recent Decision to Compress Census Timeframes Poses Additional Risks to an Accurate Count*, [GAO-20-671R](#) (Washington, D.C.: Aug. 27, 2020) and *2020 Census: COVID-19 Presents Delays and Risks to Census Count*, [GAO-20-551R](#) (Washington, D.C., Jun. 9, 2020).

⁹[GAO-20-671R](#).

¹⁰We surveyed ACO managers at various points during the 2020 Census, including late February to early March, early April, late May, late June to early July, and late August. The response rates were 71, 75, 76, 72, and 67 percent, respectively. We also reviewed open-ended responses provided by the ACO managers as part of this survey.

risks. More detailed information on our objectives, scope, and methodology can be found in the issued report.

Our work was performed in accordance with generally accepted government auditing standards.

Compressed Timeframes Pose Additional Risks to an Accurate Count

The Bureau Considers Late Design Changes to be a Risk

Late design changes introduce risk and can affect cost and quality. The Bureau defines late design changes as modifications to the design of one or more operations or to the design of data products after planning and development milestones are completed. According to the Bureau, late design changes could potentially impact census data quality, force the implementation of an inadequately tested design, and require the Bureau to request additional funds which might put the 2020 Census over the cost goal.¹¹ The Bureau tracks existing risks in its risk register, a document that catalogues information regarding all risks to the 2020 Census that the Bureau has identified, including risk descriptions and mitigation and contingency plans.¹²

As of August 2020, the Bureau considers the risk of late design changes, to be realized—or to have occurred—due to COVID-19 and schedule changes, including the shift in the planned dates for delivering the apportionment count.¹³

¹¹The Bureau expected the 2020 Census to cost \$15.6 billion in current decennial timeframe costs. According to the Bureau, these figures rely on fiscal year 2020 constant dollar factors derived from the Chained Price Index from “Gross Domestic Product and Deflators Used in the Historical Tables: 1940–2020” table from the Fiscal Year 2016 Budget of the United States Government. According to Commerce documents, the more recently reported figures for the 2020 Census are “inflated to the current 2020 Census time frame (fiscal years 2012 to 2023)” rather than to 2020 constant dollars.

¹²For more information see GAO, *2020 Census: Additional Actions Needed to Manage Risk*, [GAO-19-399](#) (Washington, D.C.: May 31, 2019).

¹³We have previously recommended that the Bureau develop and obtain management approval of mitigation and contingency plans for all risks that require them. As of August 2020 this recommendation is still open. [GAO-19-399](#).

Areas for Attention Raised by Compressed Field Operations

With about thirty days less than planned to complete non-response follow up (NRFU) under its current timelines, as of September 8, the Bureau is 70.27 percent complete, ahead of its goal to be 62.02 percent complete nationwide for NRFU production. Bureau officials told us that productivity is typically higher at the start of the operation when cases are easier to enumerate. Officials said they expect productivity to slow towards the end of the operation when the most difficult cases remain.

The Bureau must monitor several areas related to workload and completeness as it conducts its field work, including:

- * **Hiring and retaining a sufficient NRFU workforce:** The Bureau planned to hire up to 435,000 enumerators to conduct NRFU and began hiring these enumerators on July 14. As of September 8, the Bureau had hired 354,990 NRFU enumerators.¹⁴ Bureau officials told us they are managing local hiring needs for NRFU to ensure there are sufficient applicants with the necessary skills in the hiring pool, but as of August 30, 7 ACOs were below 50 percent of their goal for the number of enumerators actively working.

Further, the Bureau is experiencing a greater attrition rate than it anticipated. The Bureau expected 10 percent of enumerators that started training would not show up for work in the field. However, as of August 18, approximately 35 percent of employees that started training subsequently did not show up for field work.

To combat attrition, Bureau officials told us they are continuing recruiting, hiring, and onboarding enumerators. Additionally, the Bureau is providing incentive awards to census field supervisors based on hours worked and enumerator awards based on hours worked and productivity. The use of awards has not been tested previously in the 2020 Census environment. Bureau officials told us that there are controls built into their time and attendance and production systems to guard against potential abuse. Additionally, Bureau officials stated that its Decennial Field Quality Monitoring Team reviews attendance and production data for indications of enumerator fraud and to ensure awards are properly administered.

- * **Operational changes to expedite NRFU:** To meet the September 30, 2020 deadline to complete NRFU data collection the Bureau has made several operational adjustments, some of which have not been tested for purposes of the decennial census. Notably, the Bureau has

¹⁴The Bureau considers an individual hired when they have completed their onboarding forms and been sworn in on the first day of training.

not changed the number of visits it will attempt for a housing unit that has been determined to be occupied. The Bureau will continue to make up to six attempts to collect data from occupied housing units in most cases.¹⁵

However, on September 5, a temporary restraining order was issued enjoining the Census Bureau from implementing the acceleration of its data collection and data processing operations or allowing any actions as a result of the shortened timelines to be implemented, including but not limited to winding down or altering any Census field operations, until the Court conducts its September 17, 2020 hearing on a motion for a permanent injunction. As a result, the Bureau's ability to continue with the adjustments is unclear at this time.

We are monitoring NRFU operations in our ongoing work, which includes interviewing census field supervisors across the country on their experiences and those of their enumerators.

Our August 2020 survey of all 248 ACO managers found that 40 percent of responding managers reported satisfaction with "time and resources provided to meet production goals while maintaining data quality". We also received comments from more than 20 ACO managers reporting that it will be difficult to complete NRFU by the end of September. Specifically, responding managers expressed concerns regarding inability to complete NRFU in time, insufficient staff in some locations, and resulting inaccuracy in hard-to-count areas.

- * **Efforts to ensure coverage at the local level:** The census is inherently local, and response rates vary not only by state but by town. Compounding factors in some areas, including high rates of COVID-19 and weather events such as Hurricane Laura or wildfires, affect the Bureau's ability to visit households to get responses. As of September 1, 49 of the 248 ACOs were not meeting NRFU production goals.

In the COVID-19 environment, the public may be less likely to cooperate with the door-to-door interviews used to reach nonresponding households during NRFU, and less responsive to other in-person interactions used to engage with hard-to-count populations, which may result in a less complete count. Many of the

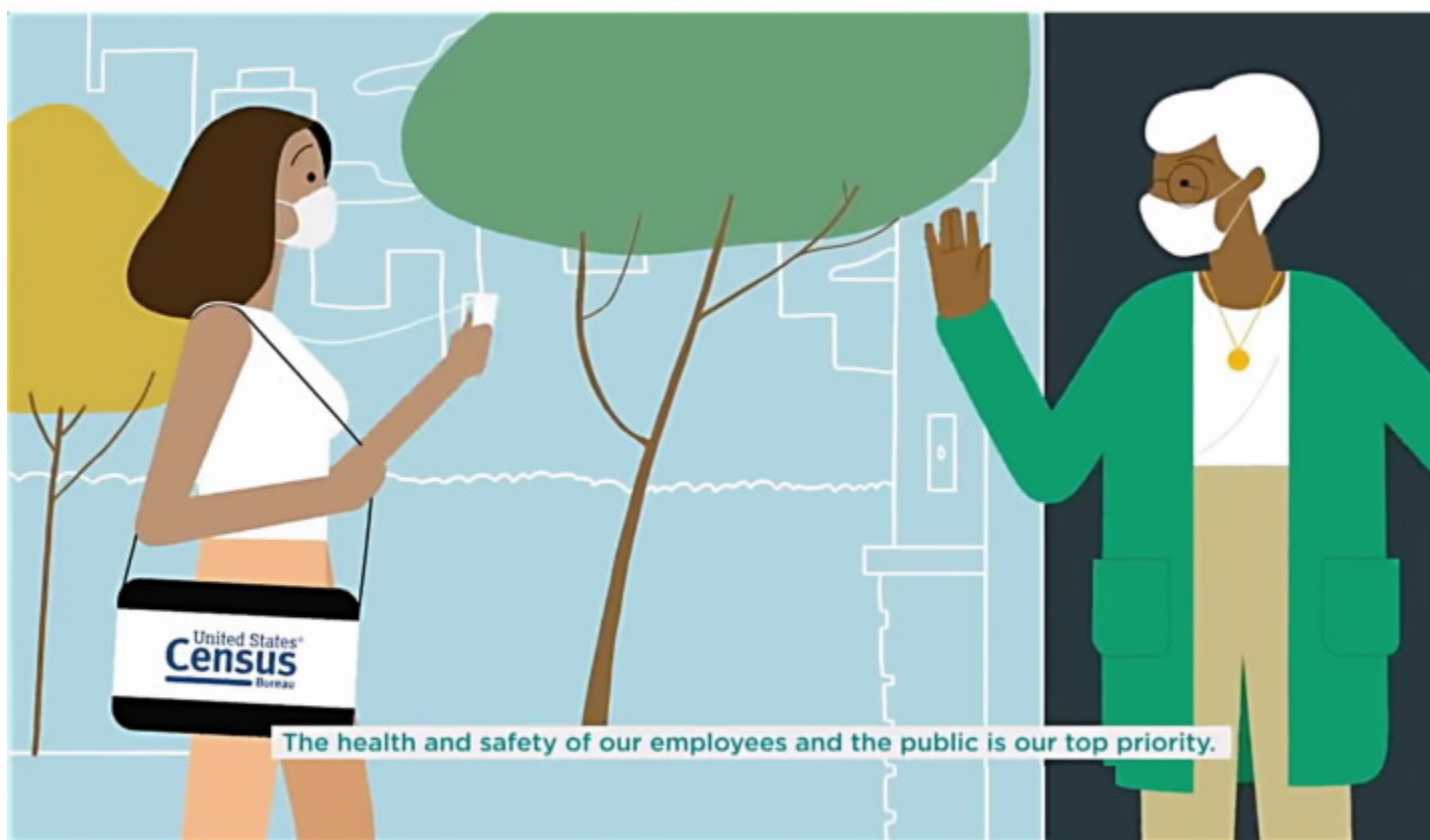
¹⁵Nonresponding households that the Bureau can confirm are occupied using administrative records will only get one NRFU visit and a final mailed invitation to respond, as planned.

Bureau's efforts to reach hard-to-count populations, such as minorities, short-term renters, and small children, rely on in-person face-to-face interactions with trusted organizations and leaders in the community to build support for the census. Though the Bureau resumed in-person partnership and Mobile Questionnaire Assistance activities in June and July of 2020, a shorter NRFU operation gives these efforts less time to encourage response among hard-to-count populations.¹⁶

To continue to motivate responses, the Bureau's communications campaign included new advertisements encouraging online self-response and promoting cooperation when census takers arrive to conduct an interview. New advertisements also feature census staff wearing PPE while in the field to address public safety concerns (see figure 1). The Bureau also aimed to reach new audiences with advertisements in 33 additional languages and an expanded list of media vendors, for a total of 45 languages in addition to English.

¹⁶The Mobile Questionnaire Assistance (MQA) initiative was intended to provide staff at community events to help people complete their questionnaire and answer questions in locations with low self-response. In July 2020, the Bureau announced that MQA staff would resume offering in-person assistance in select areas based on current health conditions and in accordance with local PPE and social distancing guidelines. The new plan positioned staff in location such as grocery store and pharmacy entrances rather than at large community events.

Figure 1: Example of Census Bureau Advertisement Showing Use of Personal Protective Equipment



Source: Census Bureau. | GAO-20-720T

Areas for Attention Raised by Streamlined Response Processing

The Bureau has stated that given the compressed data processing schedule, its priority is to provide the data used for apportionment by the statutory deadline of December 31. This commitment means the Bureau would have less time to conduct its post data collection activities, which improve the completeness and accuracy of census data. However, due to the temporary restraining order issued on September 5, the Bureau's plans may change.

During response processing, the Bureau checks for duplicate, inconsistent, and incomplete responses and uses administrative records to supplement response data. These activities were designed to take 153 days, but now would have to be completed in 92 days to meet the statutory deadline. More specifically, the Bureau would expect to begin

response processing in mid-October 2020, instead of January 2021, as previously planned after Commerce had requested a statutory change to its required deadlines. As a result, there would be less time available to complete the remaining system operational testing needed before the response processing operation begins.

If the Bureau proceeds with its plans to meet the statutory deadline, it will need to monitor the following as it implements response processing:

- * **Evaluating risks in streamlining response processing:** Bureau officials said that to meet the statutory date for apportionment, they will prioritize tasks needed to produce apportionment counts rather than simultaneously preparing redistricting data, which requires greater precision. Additionally, they will examine each activity and determine which ones, if removed, would have the smallest effect on the accuracy of the census count. We have requested but have not yet received information from the Bureau about what activities they plan to remove and their potential effects on quality.

The Bureau acknowledges both delays and the compressed timeframes as a risk to data quality. In May 2020, the Bureau added “Data Quality Concerns Resulting from Adjustments to the 2020 Census Operations” as a risk in its risk register. Further, Bureau officials told us in early August that they planned to add “Reaching the Apportionment Date” to their risk register. We have requested but have not yet received information from Commerce on additional updates to the Bureau’s risk register related to the compressed timeframe.

- * **Ensuring timely and quality processing of census responses.** It will also be important that the Bureau monitor the risks associated with the ability of its systems to perform census response processing under compressed time frames. The Bureau is doing operational testing of the systems needed to conduct the response processing operation. According to the Bureau, this testing is intended to ensure that all components are ready to conduct the operation, and will need to be completed by early October 2020.

Going forward, it will be important that the Bureau complete all remaining operational testing for the response processing operation as expeditiously as possible to better ensure that its systems are ready to complete this operation under compressed timeframes. If the Bureau does not complete all required testing, it may face an

increased number of system defects or other issues after it deploys the response processing operation, which could affect the quality and accuracy of the census count.

As the 2020 Census continues, we are monitoring the remainder of field operations and the Bureau's response processing operations. Our work will examine the quality and cost implications of the Bureau's COVID-19 response and late design changes. As we begin to look forward to the initial planning for the 2030 Census, we will also report on the Bureau's experience with its innovations to the 2020 Census and any lessons learned that can inform 2030 planning.

Chairwoman Maloney, Ranking Member Comer, and Members of the Committee, this completes my prepared statement. I would be pleased to respond to any questions that you may have.

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Statement of
John H Thompson
Former Director U.S. Census Bureau (August 2013 – June 2017)
For the House Committee on Oversight and Reform
U.S. House of Representatives
September 10, 2020

Thank you Chairwoman Maloney for inviting me to testify before the Committee on Reform and Oversight regarding “*Providing the Census Bureau with the Time to Produce a Complete and Accurate Census.*” I am extremely concerned that revised plans to reduce the time for the 2020 Census data collection and post-data collection processing will adversely affect the quality and accuracy of the 2020 Census. In the following discussion I will describe the basis for my concerns.

Background

My professional experiences include: mathematical statistics; survey design and methodology; management of large organizations; and the innovative use of technology to achieve efficiencies. In particular, the experiences that I drew on in preparing my testimony occurred at the Census Bureau. I joined the Census Bureau as a mathematical statistician in 1975. For the following 27 years I served in a number of positions that supported the conduct of the 1980, 1990 and 2000 decennial censuses. Most significantly, I held the position of Associate Director for the 2000 Decennial Census – the career executive in charge of all aspects of carrying out Census 2000. Under my leadership Census 2000 was completed on time, within budget, and had lower undercounts than previous censuses.

In August of 2013, I was appointed by President Obama as the Director of the Census Bureau – a Senate confirmed position. During my tenure I oversaw all Census Bureau activities and operations including planning for the 2020 Census. I retired from the Census Bureau in June of 2017 and I am pleased that many of the operations now being implemented in 2020 were in the final stages of design when I left the Census Bureau. Therefore, I am very familiar with the 2020 Census procedures, operations, and methods.

I. Introduction

On April 13, 2020 the Secretary of Commerce, Wilbur Ross, and the Director of the Census Bureau, Dr. Steven Dillingham, issued a statement on 2020 Census operational adjustments due to the COVID-19 pandemic. This statement concluded that “[u]nder this plan, the Census Bureau would extend the window for field data collection and self-response to October 31, 2020, which will allow for apportionment counts to be delivered to the President by April 30, 2021, and redistricting data to be delivered to the states no later than July 31, 2021.”¹

¹ U.S. Department of Commerce Secretary Wilbur Ross and U.S. Census Bureau Director Steven Dillingham Statement on 2020 Census Operational Adjustments Due to COVID-19, April 13, 2020.

On August 3, 2020 the Director of the Census Bureau, Dr. Steven Dillingham, issued a statement announcing that the Census Bureau would “accelerate the completion of data collection and apportionment counts by our statutory deadline of December 31, 2020, as required by law and directed by the Secretary of Commerce.”² Based on my experience and expertise, I am extremely concerned that this August 3 decision will adversely affect the quality and accuracy of the 2020 Census.

I have carefully reviewed the 2020 Census Operational Plans as well as the documentation that the Census Bureau has issued describing the actions it is taking in response to the COVID-19 pandemic and its recently issued documentation³ regarding its plans to conclude data collection by September 30, 2020. Based on my review, I am concerned that reducing the time for data collection at this late date will have serious consequences for the 2020 Census, because: (1) the time constraints will force the Census Bureau to modify the plans for their data collection operations; (2) these modifications will significantly increase the risk of larger total and differential undercounts for the hard-to-count populations, as well as increase the levels of erroneous enumerations and reduce the overall quality of this census, relative to previous censuses; (3) the Census Bureau’s new push to adhere to the original schedule reduces not only data collection time frames, but drastically reduces time frames for necessary post data collection processes that ensure an accurate and complete count; and (4) the Census Bureau is providing only limited measures that will allow stakeholders to assess whether the 2020 Census is succeeding in carrying out a fair and accurate enumeration under the limitations imposed by the new push to adhere to the original schedule.

II. Concerns

A. Background on the Decennial Census

The uses of the data generated by the Decennial Census are extremely important for all components of our democracy and economy, including: the constitutionally required reapportionment of the House of Representatives; redrawing congressional and state legislative voting districts; allocating over \$1.5 trillion in federal funds annually; supporting evidence-based policy making by state, local and tribal governments; and allowing informed decisions by large and small business to generate economic growth and job creation. The Census results are also carried forward throughout the decade in the form of population estimates⁴ that are used for a number of purposes including ensuring that most public and private household surveys are fully representative of all population groups.⁵ Any undercounts in the Census would be carried

² Statement from U.S. Census Bureau Director Steven Dillingham: Delivering a Complete and Accurate 2020 Census Count, August 3, 2017.

³ US Census Bureau, *Review of 2020 Census Operational Plan Schedule*, <https://www.census.gov/content/dam/Census/newsroom/press-kits/2020/2020-operational-plan-schedule-review.pdf>, August 17, 2020.

⁴ US Census Bureau, <https://www.census.gov/programs-surveys/popest.html>

⁵ There are many important surveys that provide information that is goes beyond the uses of the Decennial Census that I described above. For example, the Current Population Survey provides measures of unemployment, income

forward in the population estimates and reflected in the surveys. Inaccuracies or undercounts in Decennial Census data will result in under-representation of the affected population groups not just in the immediate term, but for ten subsequent years until the next Decennial Census results are available.

The Census Bureau spent much of this decade conducting testing and research in order to develop the plans and procedures to be used in the 2020 Census. This culminated with the release of a final detailed Operational Plan⁶, followed by the release of a number of detailed Operational plans for specific operations that I will discuss below. The plans for the 2020 Census include a number of operations and programs that are important to achieve a fair and accurate enumeration. I will briefly describe four of these operations and programs here for background purposes and then discuss the impact of the COVID-19 pandemic and other issues relating to a fair and accurate enumeration in subsequent portions of this declaration. The four operations or programs are as follows:

- Developing a comprehensive address list – The Census Bureau worked this decade to continuously update the address list that supported the 2010 Census. Input is continuously received from sources such as the United States Postal Service and local governments. The Census Bureau also conducted an “address canvassing” operation that concluded in 2019. Address canvassing used field or office workers to find and include additional addresses that may not have been provided from other input sources. The address list is critical because it serves as the control file for most 2020 Census operations including data collection.
- Self-response – Most housing units on the address list received an invitation to self-respond to the 2020 Census in March 2020. Responses could be submitted by Internet, completing and mailing back a paper questionnaire, or over the telephone.
- Nonresponse Followup – Not all households provide self-responses, requiring the Census Bureau to conduct an operation to collect information from these self-nonresponding housing units. The Census Bureau refers to this operation as “Nonresponse Followup” or NRFU. NRFU requires recruiting and hiring a large staff of enumerators to visit the nonresponding housing units and obtain a response and is the most expensive and labor-intensive operation that the 2020 Census will carry out. As of August 9, 2020, the date when NRFU had started in every part of the United States, the national self-response rate was 63.3 percent, which meant that over 36 percent – or over 50 million housing units and their occupants must still be enumerated.⁷ Prior to the COVID-19 pandemic, the Census Bureau estimated that it would need to deploy at least 260,000 enumerators to conduct NRFU for a workload of this

and poverty; and the Health Interview Survey tracks health status, health care access, and progress in achieving national health objectives.

⁶U.S Census Bureau, *2020 Census Operational Plan, A New Design for the 21st Century*, version 4.0 issued December 2018.

⁷ US Census Bureau 2020 Census daily response rate tracker, <https://2020census.gov/en/response-rates.html> (last accessed August 9, 2020).

size.⁸ As I will discuss below, the hard-to-count populations are disproportionately represented in the nonresponse universe. Hard-to-count populations include young children, minorities, immigrants, low income renters, limited English speakers, residents of hard to reach rural areas including Asians and Latinos, and American Indian Reservations or Alaska Native Villages. A failure to obtain a complete enumeration in NRFU would result in disproportionate undercounts of these populations. Therefore, I view a successful NRFU as one of the most important census operations to ensuring a fair and accurate count.

- Developing and deploying an integrated communications and partnership program – The Census Bureau has conducted extensive research to develop a communications program, using paid advertising and digital media, coupled with a local partnership program to encourage self-response and participation in the 2020 Census. The goal of the program is to get out messages on a local level that the 2020 Census is important to local communities, and that respondent information is completely confidential. The Census Bureau will not share identifiable information for any person to any outside entity, including law and immigration enforcement. The Census Bureau was very successful in recruiting over 300,000 national and local partners for the 2020 Census. Many of these partners planned to hold local events to promote 2020 Census self-response.

B. The requirement to end data collection by the end of September 2020 will force the Census Bureau to modify data collection procedures, resulting in a less complete enumeration compared to previous censuses.

The COVID-19 pandemic forced the delay of key 2020 Census operations out of concerns for the safety of both census workers and the general public. Of particular concern was the delay of the NRFU.

The NRFU operation had been scheduled to start on May 15, 2020 and run through July 31, 2020. However, as a result of the COVID-19 pandemic, the Census Bureau rescheduled it to start in most of the United States on August 11, 2020 and initially planned to complete it by October 31, 2020.

In order to accommodate this delay, the Census Bureau had requested, through the Department of Commerce, a four-month extension of the deadlines⁹ to deliver Apportionment and redistricting data. For apportionment, the requested extension was from the current deadline of December 31, 2020 to April 30, 2021. For redistricting, the requested extension was from March 31, 2021 to July 31, 2021.

⁸ US Census Bureau, *2020 Census Detailed Operational Plan for: 18. Nonresponse Followup Operation (NRFU)*, Version 2.0 Final, July 15, 2019.

⁹ Title 13, US Code, Section 141, (b) and (c).

However, on August 3, 2020 the Census Bureau announced that the deadlines would not be extended, and that NRFU would now be completed by September 30, 2020.¹⁰ The Census Bureau will have to take steps to complete NRFU more rapidly than it planned, given that it has already lost over a third of the schedule that the career staff had developed under the original plan.

The Census Bureau released, on August 17, 2020, a review of the 2020 Census Operational Plan Schedule¹¹ that describes actions being taken to complete all data collection, including NRFU, by September 30, 2020. According to the review, these actions include:

- ☐ Starting NRFU in all areas by August 9, 2020
- ☐ Sending enumerators to make up to 6 visits to attempt to obtain an interview with occupied housing units
- ☐ Offering bonuses to NRFU enumerators to maximize staff production hours
- ☐ Making efforts at “Keeping Staff Levels Up”
- ☐ Implementing outbound telephone calling to supplement in-person contact attempts as a means of enumerating hard-to-count populations

The review document had a serious lack of detail regarding how NRFU would be actually implemented under the revised and shortened time schedule. The Census Bureau had prepared detailed information regarding how it was going to conduct NRFU under the original schedule and time frame. For example, the Census Bureau described three NRFU phases – Phase 1, Phase 2, and Closeout.¹² For each phase criteria and dates were provided that described how each would start. There is no such discussion included in the review of the Operational Plan, nor is there even a mention as to whether there will still be three phases.

On September 4, 2020, Albert E. Fontenot, Jr. provided some additional detail in a Declaration provided in *National Urban League, et al, Plaintiff v. Wilbur L. Ross, et al., Defendants* in the United States District Court for the Northern District of California San Jose Division.¹³ Mr. Fontenot did discuss the closeout phase (not mentioning phase 1 or Phase 2). He stated that all areas would be eligible for closeout on September 11, 2020, approximately a month after the start of NRFU in all areas of the United States. The comparable date in the original Operational plan was July 10, 2020 nearly two months after the originally planned start of NRFU. Mr. Fontenot did not discuss the potential impact of cutting the period that would allow eligibility for Closeout approximately in half. In my opinion, this will further increase the likelihood of the concerns I raise below.

¹⁰ Statement from U.S. Census Bureau Director Steven Dillingham: Delivering a Complete and Accurate 2020 Census Count, <https://www.census.gov/newsroom/press-releases/2020/delivering-complete-accurate-count.html>, August 3, 2020.

¹¹ US Census Bureau, *Review of 2020 Census Operational Plan Schedule*, <https://www.census.gov/content/dam/Census/newsroom/press-kits/2020/2020-operational-plan-schedule-review.pdf>, August 17, 2020

¹² US Census Bureau, *2020 Census Detailed Operational Plan for: 18. Nonresponse Followup Operation (NRFU)*, Version 2.0 Final, July 15, 2019.

¹³ Declaration of Albert E. Fontenot Jr., Case No. 5:20-cv-05799-LHK, September 4, 2020.

I am concerned that taking the actions described in the review of the Operational Plan will not effectively address the constraints imposed by the revised timelines for completing NRFU. My concerns are informed by my experiences in managing all aspects of the 2000 Census and by directing the research and development necessary to plan the 2020 Census. My concerns are as follows:

- The staffing levels will not be adequate to complete NRFU without accepting lower quality enumerations and incompletely enumerating the traditionally hard-to-count populations. The Census Bureau has lost over 30 percent of the time that had been planned for NRFU, this is inconsistent with my experience in managing the 2000 Census which would lead me to conclude that the Census Bureau will need significantly more staff to complete this critical undertaking. However, the plan being put forth to end data collection by September 30 is to maintain staffing, at levels determined before the advent of the COVID-19 pandemic. The Department of Commerce Office of the Inspector (OIG) has recently reviewed the progress of staffing for the NRFU and stated:

“Bureau management have stated that their target number of enumerators, needed by the end of August 2020 to complete NRFU production, is just above 300,000. As of August 17, 2020, the Bureau has just under 220,000 enumerators trained and ready to start working on the NRFU operation that is underway—this represents approximately 73 percent of the estimated number of enumerators needed to complete NRFU production. However, 132 out of 248 total Area Census Office (ACOs) are less than 75 percent toward reaching their estimated goals; of those 132 ACOs at less than 75 percent, 37 are less than 50 percent toward reaching their goal.”¹⁴

To explain briefly, the Census Bureau has established Area Census Offices (ACO) to carry out the 2020 Census field operations, including NRFU. There are 248 ACOs, each of which has a significant portion of the NRFU workload to carry out. On average, this would be about 226,000 housing units from which a self-response was not received. It is very troubling that not only is the Census Bureau falling behind in its plans for staffing NRFU, but also the hiring shortfalls for NRFU staff are not uniform. Approximately 15 percent of the NRFU workload is in areas where the Census Bureau is falling 50 percent short of hiring goals. While the Census Bureau stated in the review of the Operational Plan Schedule that it was making efforts at “keeping staff levels up,” it is falling well behind in reaching the staffing levels it had determined were necessary for NRFU. In addition the NRFU staffing levels cited by the OIG are lower than the Census Bureau projected requirements *prior* to the COVID-19 pandemic - 260,000 enumerators.¹⁵ I will

¹⁴ Zabarsky, Mark H, Principal Assistant Inspector General for Audit and Evaluation, *2020 Census Alert: The Census Bureau Faces Challenges in Accelerating Hiring and Minimizing Attrition Rates for Abbreviated 2020 Census Field Operations Final Memorandum No. OIG-20-041-M.*, Memorandum for Steven D. Dillingham, Director, US Census Bureau, August 18, 2020.

¹⁵ US Census Bureau, *2020 Census Detailed Operational Plan for: 18. Nonresponse Followup Operation (NRFU)*, Version 2.0 Final, July 15, 2019.

discuss the impact of these staffing shortfalls for hard-to-count communities in more detail below.

- The self-response rates are not uniformly distributed and are disproportionately lower in areas with higher proportions of Black and Latino (referred to as Hispanic by the Census Bureau) populations, as well as in some rural areas. For example, as of August 6, 2020, there were 50.7 million people living in census tracts in the lowest fifth of self-response.^{16, 17} The overall self-response rate for these tracts is less than 51.3 percent, compared to a national average of over 63 percent. Furthermore, while Latinos make up 18.3 percent of the U.S. population, they represent 25.8 percent of the population in these low response areas. For non-Hispanic Blacks, the corresponding rates are 12.3 and 22.2 percent, respectively. The Census Bureau also noted that, as of August 6, 2020, the self-response rate in update-leave (rural areas) was a little over 34 percent. The low update-leave self-response is also problematic for Latinos living areas such as the colonias in Texas, and for American Indian Reservations or Alaska Native Villages. As I will discuss below, the likely outcome for these areas and populations will be increased undercounts relative to previous censuses and decreased quality of the information collected.
- Given the current NRFU staffing levels, the Census Bureau will have to rely less on direct in-person contact attempts and more on the following in order to meet the new September 30, 2020 deadline with deleterious consequences for the count:
 - a. Reduced in-person contact attempts with residents of the NRFU households, leading to increased undercounts of the traditionally hard-to-count populations. While the Census Bureau is planning for up to 6 attempts for most NRFU households, this will not be enough to obtain complete interviews in many hard-to-count communities. The Government Accountability Office (GAO) evaluated the early testing that the Census Bureau carried out to develop the current NRFU procedures. The GAO stated:

“according to preliminary 2016 Census Test data, there were 19,721 NRFU cases coded as non-interviews in Harris County, Texas and 14,026 in L.A. County, California, or about 30 and 20 percent of the test workload respectively. According to the Census Bureau, non-interviews are cases where no data or insufficient data were collected, either because enumerators made six attempted visits without success (the maximum number the Bureau allowed) or visits were not completed due to, for example, language barriers or dangerous situations.”¹⁸

¹⁶ A census tract is a small geographic area that is similar to a neighborhood. See https://www.census.gov/programs-surveys/geography/about/glossary.html#par_textimage_13.

¹⁷ Romalewski, Steven, Mapping “Self-Response” for a Fair and Accurate Census, Center for Urban Research at the Graduate Center, City University of New York, https://www.gc.cuny.edu/CUNY_GC/media/CUNY-Graduate-Center/PDF/Centers/Center%20for%20Urban%20Research/Resources/Census2020-self-response-rates-thru-Aug-6-CUNY-Graduate-Center.pdf, August 7, 2020.

¹⁸ United States Government Accountability Office, *2020 CENSUS Additional Actions Could Strengthen Field Data Collection Efforts*, GAO-17-191, a report to congressional requesters, January 2017

The Census Bureau subsequently refined the NRFU procedures to allow for more contact attempts, as is necessary to reach higher resolution rates comparable to previous censuses.¹⁹ However, my opinion is that there is a significant risk that NRFU will not be successful in completely enumerating hard-to-count communities under the current time schedule.

Hard-to-count communities have significantly lower levels of self-response, and a corresponding larger proportion of households that fall into NRFU, making recruiting and hiring sufficient staff to achieve a complete enumeration particularly challenging. The Census Bureau has identified hiring staff with relevant language skills and hiring people who live in local communities as key components of its design for achieving a complete enumeration of hard-to-count communities.²⁰ Difficulties in recruiting NRFU staff with the necessary qualifications make it much harder to assign enumerators with the language skills necessary to enumerate non-English speaking local areas, and it will also require the Census Bureau to send enumerators into communities that they are not familiar with. The ultimate outcome for these hard-to-count areas will be a higher portion of incomplete responses.

I am also very concerned about the proposed use of outbound telephone calling to conduct NRFU in hard-to-count communities. For example, the Pew Research Center has documented that telephone survey rates have fallen from 36 percent in 1997 to under 6 percent in 2018.²¹ Achieving a complete and accurate count in the hard-to-count communities requires a lot of hard work by well-trained enumerators who are very familiar with these areas. Furthermore, the use of outbound telephone calling to conduct NRFU enumeration has not been tested, nor have methodologies to deploy in-language telephone enumerators.

Based on my experience in planning and managing the 2000 and 2020 Censuses it is my opinion that limited staff, a shortened time frame, and the use of untested procedures will most likely result in serious increases in the undercounts for these communities relative to previous censuses.

- b. Increased proxy enumerations, resulting in increased levels of erroneous enumerations. The limited NRFU workforce combined with the shortened schedule will result in a higher level of proxy enumerations than in previous censuses. Proxy enumerations are those obtained by asking people other than the actual residents of

¹⁹ US Census Bureau, *2020 Census Detailed Operational Plan for: 18. Nonresponse Followup Operation (NRFU)*, Version 2.0 Final, July 15, 2019.

²⁰ US Census Bureau, *2020 Census: Counting Everyone Once, Only Once, and in the Right Place, A Design for Hard to Count Populations*, presented at the October 19, 2018 Project Management Review, <https://www2.census.gov/programs-surveys/decennial/2020/program-management/pmr-materials/10-19-2018/pmr-hard-to-count-2018-10-19.pdf?#>, October 18, 2018.

²¹ Kennedy, Courtney and Hannah Hartig, *Response rates in telephone surveys have resumed their decline*, Pew Research Center report, February 27, 2019.

NRFU households for information about those residents. These proxies can include neighbors, apartment managers, or other knowledgeable persons. In the 2010 Census, proxy enumerations were obtained for about 21 percent of the NRFU returns. The erroneous enumeration rate for the proxy enumeration was 6.7 percent—over twice the overall erroneous enumeration rate of 3.3 percent.²²

- c. Increased reliance on administrative records to complete NRFU enumerations, leading to less complete enumerations for the hard-to-count populations. The Census Bureau plans include the use of administrative records (e.g., records from the IRS, Medicare, and the Social Security Administration) to reduce the NRFU workload, where feasible, by using such records to enumerate occupied households that have failed to respond after several contact attempts.²³ The Census Bureau may be forced to rely more heavily on such enumerations if NRFU cannot be completed as planned. Based on the research that the Census Bureau conducted to develop the current NRFU strategy, it had planned to enumerate 12.9 percent of the occupied NRFU housing units after making one visit.²⁴ Expanding the uses of administrative records to enumerate a higher portion of the NRFU occupied housing units is not supported by the research the Census Bureau has used to date, and the Census Bureau has not released additional research to support such actions. Census Bureau research has shown that the quality and completeness of administrative records is not expansive enough to replace a decennial census.²⁵ In addition, noncitizens and Latinos are disproportionately underrepresented in administrative records. Therefore, the use of administrative records beyond the planned levels for NRFU would be less representative of the hard-to-count populations than a complete NRFU.
- d. There will likely be an increased use of “whole person imputation” relative to previous censuses. Such imputations will not correct for any undercounts that have resulted from an incomplete NRFU. In conducting NRFU in previous censuses, situations have arisen where, despite the best efforts of NRFU enumerators, either minimal or no information was obtained for some housing units by the conclusion of the NRFU. The Census Bureau uses statistical techniques, referred to as imputation, to correct for this missing data problem. The statistical processes are used to estimate—or impute—all of the characteristics of the persons in these housing units. The Census Bureau applies “Count Imputation” for situations where no information is available for a housing unit. This methodology will first estimate whether the unit is occupied, and if so, will estimate or impute a household size – meaning, the number of people in that household. The process will then use “whole person imputation” to

²² P. Cantwell, DSSD 2010 Census Coverage Measurement Memorandum Series # 2010-G-01, (May 22, 2012), https://www.census.gov/coverage_measurement/pdfs/g01.pdf.

²³ Albert E. Fontenot, *Intended Administrative Data Use in the 2020 Census*, 2020 Census Program Memorandum Series: 2020.06, May 7, 2020.

²⁴ US Census Bureau, *2020 Census Detailed Operational Plan for: 18. Nonresponse Followup Operation (NRFU)*, Version 2.0 Final, July 15, 2019.

²⁵ Rastogi, Sonya and Amy O’Hara, *2010 Census Match Study*, 2010 Census Planning Memorandum Series, No. 247, November 19, 2012

estimate characteristics (including age, race, and ethnicity) for persons in a household of this size. The Census Bureau also uses whole person imputation in situations where only the count of people residing in a housing unit could be determined. In the 2010 Census, about 2.0 percent of the enumerations fell into the category of whole person imputation – 0.4 percent were the result of count imputation and 1.6 percent resulted when only the population count was known.²⁶ It should be noted that of the 16.3 million persons enumerated by proxy in the 2010 Census, 23.1 percent required whole person imputation.²⁷ I am very concerned that the levels of housing units requiring whole person imputation will be much larger than in 2010, due to the reduction in time and staff limitations for NRFU enumerators to get a complete response. Unfortunately, the statistical methods that the Census Bureau uses for imputation rely on using information from the resolved housing units to estimate or impute for the unresolved housing units. Therefore, any undercounts that are in the resolved housing units will be carried forward in the imputation and not corrected. These undercounts would include persons omitted from housing units enumerated by both self-response and NRFU.

- The plan to offer bonuses or awards to increase the hours that NRFU enumerators work may have unintended consequences on accuracy. The Census Bureau plans to award NRFU enumerators up to \$800 above their regular pay, if they work a minimum number of hours and complete 0.75 cases per hour. I am concerned that in order to meet production goals, particularly in areas that are difficult to enumerate, some NRFU enumerators may be tempted to falsify data for some households to meet production goals. The result would be that instead of obtaining an accurate enumeration for these households, the data would be made-up. The Census Bureau has not conducted any testing to understand the effects on quality of such awards.
- The schedule will not allow the Census Bureau the flexibility to complete NRFU in areas affected by natural disasters. We are currently in the midst of a very active hurricane season, and there are many areas in the West that are dealing with wildfires. The Census Bureau will be forced to delay NRFU in such areas until it is safe to return and resume enumeration activities. The current schedule simply does not allow enough time to carry out a thorough NRFU in areas that may be impacted by these unforeseen events.
- On September 2, 2020 Chairwoman Maloney, released a new internal Census Bureau document that warns of the risk of “serious errors” in the data if the Census Bureau is forced to complete its count under the current statutory deadlines. I have not included this document in my analysis, of the revised 2020 Census schedule because I do not know the source or purpose of the document. However, if the document is an actual reflection of the actions that the Census Bureau is taking, it is clear that quality is being sacrificed to meet the shortened schedule.

²⁶ P. Cantwell, DSSD 2010 Census Coverage Measurement Memorandum Series # 2010-G-01, (May 22, 2012), https://www.census.gov/coverage_measurement/pdfs/g01.pdf.

²⁷ Ibid

C. The reduced schedule for NRFU will have serious accuracy and quality implications for the 2020 Census

Undercounts, particularly for traditionally hard-to-count populations, are likely to increase relative to previous censuses as a result of the Census Bureau's new, reduced schedule. As I discussed above, the NRFU workloads will be relatively higher in areas with lower self-response rates. The Census Bureau uses low self-response as a key measure in determining whether an area is hard-to-enumerate,²⁸ so by definition the challenge for NRFU to obtain a complete count is in these areas. In addition, these areas also contain higher proportions of Black, Latino, and immigrant populations relative to the White non-Hispanic population. The end result for these communities is likely to be incomplete NRFU enumeration due to staffing and time limitations, as well as more use of proxy enumerations and whole person imputation. This will lead to increased undercounts relative to previous censuses. For example, in the 1990 Census the undercount of the Latino population the undercount was 5.0 percent and for the Black or African American population was 4.6 percent.²⁹ It is important to understand that in 1990, the Census Bureau had the flexibility to extend the NRFU beyond its planned end date until it had reached a completion rate of over 99 percent for NRFU enumeration.³⁰ However, even with this high completion rate for 1990, serious undercounts were measured.³¹ The Census Bureau is now being forced to stop all data collection, including NRFU as of September 30, 2020. In my opinion, there is a high risk that the measures the Census Bureau will be forced to take to complete NRFU by this unmovable deadline (as I discussed above relying more on proxy or count-only enumerations and administrative records), even potentially falling short of the 99 percent completion goal, will likely result in undercounts that will be materially larger than were observed in the 1990 Census.

D. The compressed schedule for post data collection processing significantly increases the risk of inaccuracies into the 2020 Census data

The initial Census Bureau schedule had NRFU ending at the end of July 2020 leaving about five months for the post data collection operations prior to the release of the Apportionment counts. In the revised schedule the Census Bureau issued in its request for an extension of the deadlines, there were six months allocated to complete the post data collection before the release of the Apportionment counts. Under the current schedule, there are only three months available for post data collection prior to release of the Apportionment counts. In the August 17, 2020 Review of the Operational Plan, the Census Bureau offered no insights into how it was going to

²⁸ Response Area Outreach Mapper, Census.gov, www.census.gov/roam, (July 2018).

²⁹ P. Cantwell, DSSD 2010 Census Coverage Measurement Memorandum Series # 2010-G-01, (May 22, 2012), https://www.census.gov/coverage_measurement/pdfs/g01.pdf.

³⁰ U.S. Census Bureau, *1990 Census of Population and Housing – History Field Enumeration 6-36*, Report Number CPH-R-2, <https://www.census.gov/library/publications/1996/dec/cph-r-2.html>, 1996.

³¹ P. Cantwell, DSSD 2010 Census Coverage Measurement Memorandum Series # 2010-G-01, (May 22, 2012), https://www.census.gov/coverage_measurement/pdfs/g01.pdf.

address this shortfall. There are critical activities that must be accomplished as part of the post data collection processing, including:³²

- Apply data codes to facilitate data tabulation – Many of the questions included on the 2020 Census questionnaire allow respondents to write-in a response (for example the questions on Race and Ethnicity). In order to properly tabulate these responses, they must be assigned a numeric code. Coding is conducted by both automated and computer-assisted manual processes.
- Identify potential fraudulent returns from self-responses and record final fraud investigation disposition – The 2020 Census allows multiple opportunities for response. Including “non-ID” response where a respondent can go online and respond with just their address. In previous censuses respondents had to use a multi-digit identification code that uniquely identified their housing unit in order to self-respond. The non-ID process was designed to make it easier to respond to the 2020 Census, but it does carry a risk that it could be misused by those who might want to introduce inaccuracies into the 2020 Census data files. To guard against such actions, the Census Bureau has developed computer algorithms to detect such fraud. It is critically important that these algorithms be run, and the results evaluated during the post data collection processing.
- Resolve potential duplicate responses – Duplicate responses can occur in the conduct of a census. For example, someone could self-respond in one location and also be enumerated during NRFU in another. Given that NRFU is now taking place at a point in time that is much further from Census Day, April 1, 2020 the potential for duplicate responses is much higher since more people will have moved that the Census Bureau initially anticipated. It will be critical for the Census Bureau to have the time to identify and remove any duplicates.
- Identify the return of record for housing units with multiple returns – When multiple opportunities for response are allowed, situations arise where more than one questionnaire is returned for a housing unit. In these situations, the Census Bureau uses a Primary Selection Algorithm to establish the single enumeration record for the housing unit.
- Repair missing or conflicting data – There are situations where responses to some of the questions are missing. The count-imputation and whole person imputation scenarios that I discussed above are examples of these situations. This component of the post data collection processing is designed to carry out these statistical processes.

³² U.S Census Bureau, *2020 Census Operational Plan, A New Design for the 21st Century*, version 4.0 issued December 2018.

- Provide final census results – Finally, a census file must be created that combines the results of the steps I have outlined above so that it can provide the tabulations necessary for producing the Apportionment counts.

Each of the activities I described above must be carried out to ensure that the post data collection processing will generate high quality data. The Census Bureau has not stated what actions it will take to fit processes that were initially planned for five months into a three-month window. Dropping or seriously curtailing any one of the above processes would have severe consequences by reducing the quality of the 2020 Census data.

The reduced time frame for post data collection processing will not allow the Census Bureau to run the computer programs that have been prepared to carry out the critical activities as had originally been planned. At a minimum the Census Bureau will have to modify or alter the sequence of these computer programs. Rushing to modify computer programs at the last minute introduces the risk of making systematic programming errors which would further erode the quality of the resulting 2020 Census data. The September 4, 2020 Declaration of Mr. Fontenot, that I discussed above, provides some additional high-level detail regarding how the post data processing is being rescheduled. Of interest, Mr. Fontenot states that the time allotted for subject matter expert review and software error remediation had been compressed by cutting 21 days from the schedule. This is alarming because the well-developed plans for this phase of post data collection processing were based on the extensive preparations for the 2020 Census. The likelihood of a serious computer error that goes undetected is very high.

The initial 2020 Census schedule for post data collection is very reasonable and is consistent with the schedule for previous censuses. In both the 2000 and 2010 Censuses, NRFU was completed within the schedule originally planned for 2020 – June 26, 2000 and July 9, 2010, respectively. In both of these censuses the Apportionment counts were delivered to the President in late December of 2000 and 2010 respectively. The 2020 Census schedule, as originally revised and requested by the Census Bureau, was also following this well-established time schedule.

The overall quality of the 2020 Census data will most likely be lower than in previous censuses. As I noted above, it is very likely that the Census Bureau will have to rely more on proxy enumeration and whole person imputation than in previous censuses. While this will be a particular problem for the hard-to-count communities, these less accurate enumeration methods will also most likely be used more across the board in the 2020 Census relative to previous censuses. In addition to the increased use of proxy enumeration, as I discussed above, employing a higher level of administrative records and statistical imputation will result in lower quality than would have been achieved through direct in-person contact. Finally, the extreme truncation of time to conduct the post-data collection activities, as discussed above, will most likely lead to additional inaccuracies that will disproportionately hurt hard-to-count populations. The impacts of undercounts and poor quality data will not just be a problem for the immediate uses of the 2020 census (e.g., apportionment and redistricting), but will remain for the 10 years until they can be corrected in the 2030 Census (e.g. federal funding).

E. Increased transparency is essential to assure stakeholders of the legitimacy of 2020 Census data collection

At this point, there is little information available to assess the conduct of the 2020 NRFU. The Census Bureau has been very forthcoming about the self-response phase of the 2020 Census. Very detailed and granular data have been made available to allow for public assessment of self-response for many areas, including census tracts.

The current Census Bureau plan is to release only NRFU resolution rates at the State and ACO levels. While the ACO level resolution rates are more helpful than the State level results, they do not provide insight into the progress of NRFU for the hard-to-count communities. In order to demonstrate that NRFU is meeting the goal of a complete and accurate enumeration, it is essential that the Census Bureau provide additional data beyond just the resolution rate of housing units in NRFU. These data should include information such as the rate of proxy and count only enumerations at similar levels of geographic aggregation as the self-response data. Further, in order to ensure that the reported apportionment tabulations will be complete and accurate, the Census Bureau should also provide additional detailed information on how it plans to conduct needed post-data collection processes without the additional time it had originally requested.

The Census Bureau has recently announced three new political appointees including – a new Deputy Director for Policy³³ and a new Deputy Director for Data,³⁴ raising concerns among stakeholders. Having political appointees with vague responsibilities at the Deputy Director level of the Census Bureau (which has always been a career position) is unprecedented and is raising serious concerns among stakeholders. Perceptions that the results of the 2020 Census have been manipulated for political purposes will erode public and stakeholder confidence, not only in the 2020 Census, but also in our democratic processes more generally. Therefore, it is critical that the Census Bureau release the data that I have described above to demonstrate that it is achieving a complete and fair enumeration through NRFU.

III. Conclusion

It is my conclusion that the current deadlines for delivering the 2020 Census Apportionment and redistricting data place unreasonable time constraints on the Census Bureau. These constraints will not allow the Census Bureau to carry out data collection operations that will deliver high quality results. I am very concerned that these timing constraints will significantly increase the risk of much larger undercounts for the 2020 Census than measured in previous censuses. These undercounts will disproportionately affect the traditionally hard-to-count communities including immigrants, persons of color, and the underserved. Furthermore, these undercounts will have a lasting effect until the 2030 Census results are available.

³³ Statement from Census Bureau Director Steven Dillingham, Release Number CB20-RTQ.20

³⁴ Statement from Census Bureau on Deputy Director for Data, Release Number CB20-RTQ.24, August 17, 2020

Briefing Materials for Secretary Ross on the Status of Data Acquisition and Options for Estimating the Illegal Population Enumerated in the 2020 Census

August 10, 2020

Status of Data Acquisition to Support the Presidential Memorandum

- Presidential Memorandum work will build on data available and acquired over the past 8 months to support Executive Order 13880 to create Citizen Voting Age Population (CVAP) estimate of citizen/non-citizens.
 - Available CVAP data sources are from the Department of Homeland Security (DHS), the Department of Housing and Urban Development (HUD), Social Security Administration (SSA), State Department, Centers for Medicare and Medicaid Services (CMS), Bureau of Prisons, U.S. Marshals, Bureau of Justice Statistics, Internal Revenue Services (IRS), Department of Interior (DOI) and Indian Health Services (IHS).
- Data identified as required to determine legal status:
 - Available Data: DOI data provided to support the CVAP work.
 - Additional data to be acquired: Department of Homeland Security:
 - USCIS data to include declined applications for Lawful Permanent Resident, DACA and Student Immigrant Juveniles data
 - ICE data to include Enforcement and Removal Operations data.
 - Additional data from USCIS and ICE are targeted for an August 31, 2020 delivery to the Census Bureau.
- MOU Status: modifications are in draft to acquire/and or authorize existing data for the project:
 - Acquisition of new data: Applies to ICE and CIS to directly support determination of documented/undocumented. Draft MOU's to acquire the data and authorize the additional use were reviewed by both ICE and CIS prior to Census Bureau Legal review.
 - Both MOU's have cleared Census Legal and are now in the signature process.
 - Authority to use existing data to determine documentation status: Applies to DOI data already acquired for CVAP.
 - MOU is in Census Legal review.
 - Authority to add the new work as an authorized use to the CVAP citizen/non-citizen work: Applies to data acquired/available for CVAP to estimate non-citizenship but not directly inform of documented/undocumented.
 - MOUs in Census Legal review for DHS Customs and Border Protection, State Department, HUD, SSA, CMS, IRS, IHS, U.S. Marshalls, Bureau of Justice Statistics and Bureau of Prisons.

Options for Estimating the Illegal Population Enumerated in the 2020 Census

1. **Tabulate the People Enumerated in the 2020 Census who were in ICE Detention Centers as of April 1, 2020**
 - a. Pros
 - i. This is an actual enumeration.
 - ii. Could meet the existing statutory, judicial and regulatory standards established for the resident population definition used in apportionment.
 - iii. Can complete this by December 31
 - iv. We can get a list of the centers from ICE and verify that we enumerated them in the Group Quarters operation
 - b. Cons
 - i. Need to assume that either all prisoners living in the detention centers are here illegally or some proportion are here illegally (we can ask ICE for data on this)
 - ii. Some centers are part of county jails, we may not have enough information in what we collected to distinguish prisoners in the county jail from those in the detention center
 - iii. This is the lower end of the actual number of illegal people enumerated in the 2020 census
2. **Match Administrative Records to the 2020 Census** (Need 43 days from when the Census Unedited File (CUF) is complete for this option)^{1 2}
 - a. Pros
 - i. Will be able to match various admin records to people enumerated in the 2020 Census
 - ii. Could meet the existing statutory, judicial and regulatory standards established for the resident population definition used in apportionment
 - iii. This option will match to a larger number of illegal immigrants than option 1 because we will also include the people identified in option 1.
 - b. Cons
 - i. The number of illegal immigrants in both admin records and the 2020 census is likely to be low.

¹ Note that this method assume a match and a definitive determination of status from the records. If we were instructed to determine status for the unmatched population using, for example, a hot deck methodology or statistical modeling, this would add additional days.

² Note that we plan to use production level matching to the Person Identification Validation System (PVS). The PVS will link people with social security numbers or individually taxpayer identification numbers (ITINs). The Experimental PVS (EPVS), developed for the Citizen Voting Age Population data, is not ready for production use. This EPVS potentially links additional administrative records to the 2020 Census by using PII found on DHS and State Department records. This EPVS is suitable for use in an experimental product but has not received either the internal or external peer review associated with apportionment.

[DELIBERATIVE/PRE-DECISIONAL]

- ii. Based on the 2010 Census, we expect about 10 percent of decennial records to not match an admin record. Many of the unmatched are U.S. citizens or legal immigrants who did not provide enough personally identifiable information to match.
- 3. **Use an Aggregate Residual Method to Estimate the Number of Illegal Immigrants by State who were Enumerated in the 2020 Census** This method begins with an estimate of the foreign-born population from the American Community Survey (ACS).
 - a. Pros
 - i. Can finish this by December 31, 2020 (if we start now).
 - ii. We have access to many administrative data sets at the Census Bureau that other organizations who do this type of estimate do not (ACS, mortality data,...)
 - b. Cons
 - i. This method will be based on the ACS which is based on a sample.
 - ii. We would need to make several adjustments to the foreign-born population that are based on limited data. This includes estimating how many illegal immigrants we think we enumerated in the 2020 Census based on coverage measurement samples.
 - iii. These numbers have limited precision, thousands or tens of thousands at best, and have a range of uncertainty around them.

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From: Christopher J Stanley (CENSUS/OCIA FED)[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=ADA39E1C50F84DBE8E2EB98E59096E2D-STANLEY, CH]
Sent: Wed 9/9/2020 10:16:52 PM (UTC)
Subject: additional testimony for tomorrow's hearing.
[Carless Testimony.pdf](#)
[Lewis Testimony.pdf](#)
[Mihm Testimony.pdf](#)
[Thompson Testimony.pdf](#)

Census Unedited File (CUF)
production and quality assurance

Admin records available and
processed by Person Identification Validation
System (PVS)

Slide 7

Prior to 12/14/2020

CUF finalized

12/14/2020

After 12/14/2020

Tabulation of resident population
and federally affiliated overseas
population (FACO); tabulation of
ICE detention centers*;
QA procedures. This will meet the
December 31, 2020 deadline.

Slides 6 and 10

CUF processed by PVS

9 days (12/23)

Slide 8

Matching admin records to CUF and quality
assurance (QA)

7 days (12/30)

Slide 8

Applying rules to assign status of the unauthorized
immigrant

5 days (1/4)

Slide 9

Quality assurance of tabulation and demographic
reasonableness review.

3 days (1/7)

Slide 10

Apply disclosure avoidance to unauthorized
immigrant counts and QA

1 days (1/8)

Slide 10

Quality assurance of transmittal package

2 days (1/10)

Slide 11

Transmittal package
Table with 3 columns - resident population,
FACO, and unauthorized immigrants

* ICE detention centers tabulation will only
be used as an input to tabulation of
unauthorized immigrants and will not be
released separately due to disclosure
issues.

Predecisional; Internal use only

BC-DOC-CEN-2020-001602-005751

1

To: Steven Dillingham (CENSUS/DEPDIR FED)[steven.dillingham@census.gov]; Ron S Jarmin (CENSUS/DEPDIR FED)[Ron.S.Jarmin@census.gov]; Cogley, Nathaniel (Federal)[NCogley@doc.gov]; Steven K Smith (CENSUS/DEPDIR FED)[steven.k.smith@census.gov]
From: Enrique Lamas (CENSUS/DEPDIR FED)[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2C2E07BF883B4488800E4FF3AE7188AB-LAMAS, ENRI]
Sent: Mon 8/10/2020 7:18:58 PM (UTC)
Subject: Material for briefing Sec Ross
[2020-08-10 One Pager on Options v3.docx](#)

The attached is based on the request from KDK for a 1 pager to brief Secretary Ross on the status of the admin rec acquisition and the options for estimating the undoc immigrant population.

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

To: Steven Dillingham (CENSUS/DEPDIR FED)[steven.dillingham@census.gov]; Steven K Smith (CENSUS/DEPDIR FED)[steven.k.smith@census.gov]; Ron S Jarmin (CENSUS/DEPDIR FED)[Ron.S.Jarmin@census.gov]; Enrique Lamas (CENSUS/DEPDIR FED)[Enrique.Lamas@census.gov]; Christa D Jones (CENSUS/DEPDIR FED)[Christa.D.Jones@census.gov]; Albert E Fontenot (CENSUS/ADDC FED)[Albert.E.Fontenot@census.gov]; Deborah Stempowski (CENSUS/ADDC FED)[Deborah.M.Stempowski@census.gov]; Victoria Velkoff (CENSUS/ADDP FED)[Victoria.A.Velkoff@census.gov]; Michael T Thieme (CENSUS/ADDC FED)[Michael.T.Thieme@census.gov]; Nathaniel Cogley (CENSUS/DEPDIR FED)[nathaniel.cogley@census.gov]; Korzeniewski, Adam (Federal)[AKorzeniewski@doc.gov]; Deirdre Bishop (CENSUS/GEO FED)[Deirdre.Dalpiaz.Bishop@census.gov]; Barbara M LoPresti (CENSUS/DITD FED)[Barbara.M.LoPresti@census.gov]; Benjamin A Overholt (CENSUS/DEPDIR FED)[benjamin.a.overholt@census.gov]; John Maron Abowd (CENSUS/ADRM FED)[john.maron.abowd@census.gov]; Walsh, Michael (Federal)[MWalsh@doc.gov]
From: Martin, Nicole (Federal)[NMartin1@doc.gov]
Sent: Fri 8/21/2020 2:11:39 PM (UTC)
Subject: Census Pre Brief
[20200820 Updated Overview Slide.pptx](#)
[Census 2020 Backend Processing DRAFT 2.6.pptx](#)

All,

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

Nicole

Nicole Martin

Office of the Deputy Secretary

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O: 202-482-0504

C: (b) (6)

*****DRAFT*****

2020 Census Data Processing Planning

8/24/2020

U//FOUO

Unclassified/ For Official Use Only

Shape
your future
START HERE >

United States[®]
Census
2020

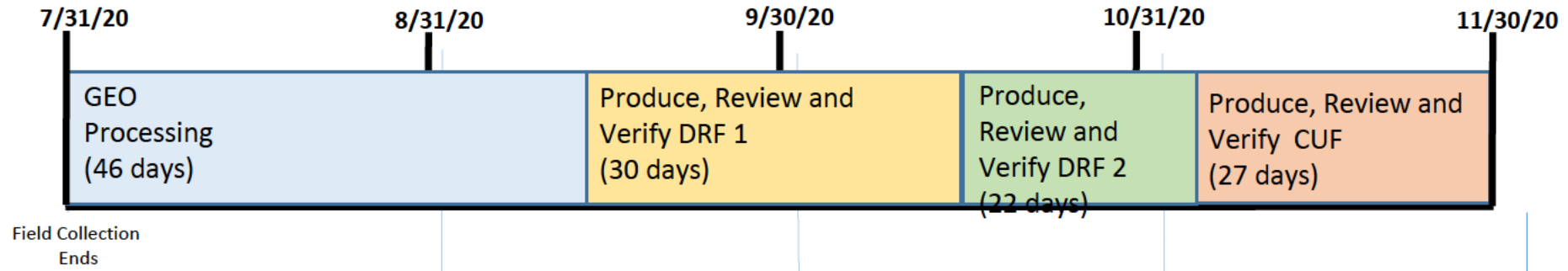
BC-DOC-CEN-2020-001602-005754

Overview

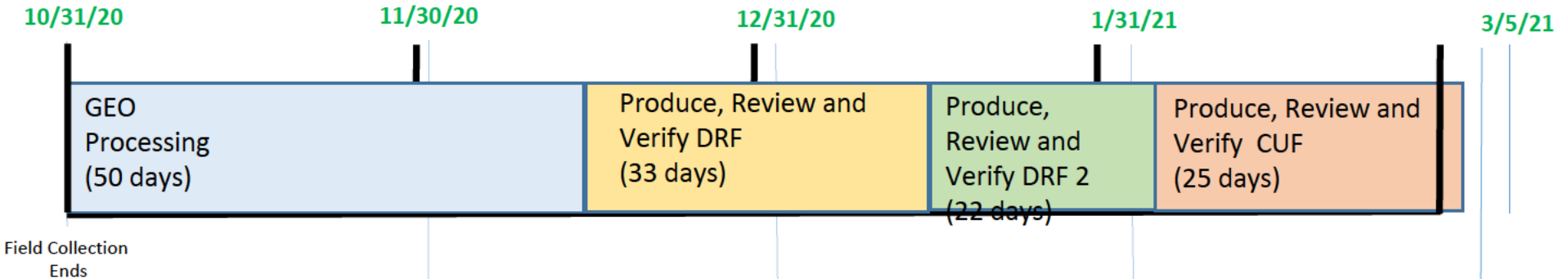
- This is a viable plan to deliver the final Census Unedited File (CUF) by 12/14/2020
- It cuts a four-month process down to two and a half months
- It optimizes staff and computing resources to be in operation 24/7, weekends and holidays
- It streamlines and limits processes to focus only on Apportionment, separating and deferring redistricting processing
- Contingent on field operations ending 9/30/2020, we identified any process that could start earlier, run in parallel, or be eliminated
- This plan presents risk to data accuracy
- If risks are realized, they will require decisions that weigh data accuracy and U.S. Census Bureau reputation against schedule delays
- By closely managing both the process and the risks, our intention continues to be to produce an accurate, defensible 2020 Census count

Re-Planning for 2020 Census Post Processing

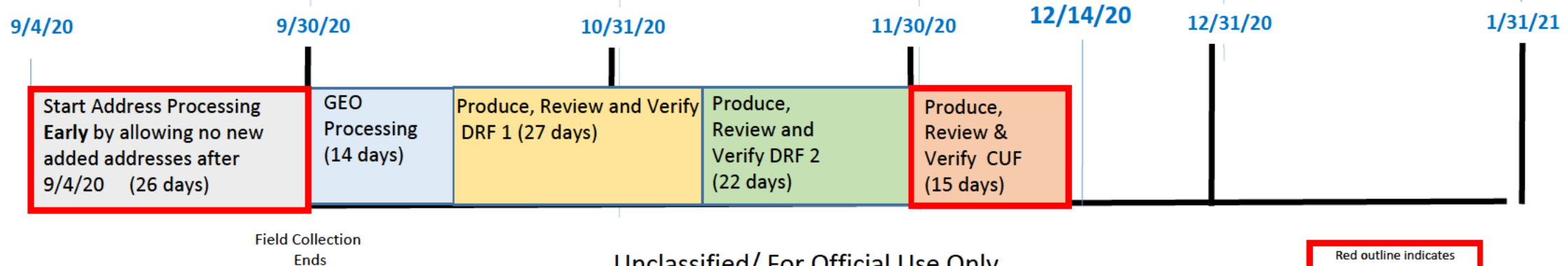
Original Plan (Before COVID 19)



COVID 19 Plan



Current Plan



Unclassified/ For Official Use Only

Red outline indicates
Heightened Risk

Creating the MAF/TIGER Benchmark – Bottom Line Plan

Geographic data built the foundation for 2020 Census data collection, tabulation, and dissemination. We have the most complete and accurate address list and maps in history. Nearly 152 million addresses were included in the 2020 Census enumeration universe.

In this plan we streamlined, rescheduled, and eliminated processing activities to meet the 12/14/2020 CUF delivery deadline

- No new addresses accepted from data collection operations after 9/4/2020
 - Any new addresses identified between then and 9/30/2020, the last day of data collection operations, and the population associated with those addresses **will not be included in the 2020 Census**
- This plan reduces the MAF address update process from 45 to 18 days per operation
- The benchmarking process is shortened from 34 to 20 days, eliminating 14 days worth of processing activities that will be cut now and deferred until the creation of the redistricting data products
- We have cancelled the internal independent review of the final list of addresses that will be used to tabulate 2020 Census data (MAF Extract)
- We are eliminating quality control steps that traditionally resulted in a nationwide delivery of all files at once. Instead states will now be delivered on a flow basis.

Decennial Response Processing and Review – Producing Accurate 2020 Results

Once the 2020 Census MAF/TIGER collection benchmark is complete, we have the frame that will serve as the collection geography for 2020 Census response processing. The high-level process to deliver the Census Unedited File includes:

Produce the Decennial Response File 1 (DRF1) – 27 days

- Integrate final collection geography data with the response data
- Standardize data collection modes data (phone, internet, paper and Non Response Follow Up), incorporating high-quality administrative records data as the response data for housing units that do not have an enumeration.
- Classify living quarters as Housing Units or Group Quarters
- Identify unique persons within an individual response
- Incorporate results from NRFU re-interview and electronic records from group quarters
- Determine final demographic variables from response data
- Standardize demographic data for person matching
- Remove responses from collection universe depending on residence criteria
- Perform baby delete criteria – flags person records for deletion for babies confirmed to be born after 4/1
- Assign IDs to non-ID cases
- Collate multiple sheet large HU paper responses

Decennial Response Processing and Review – Producing Accurate 2020 Results

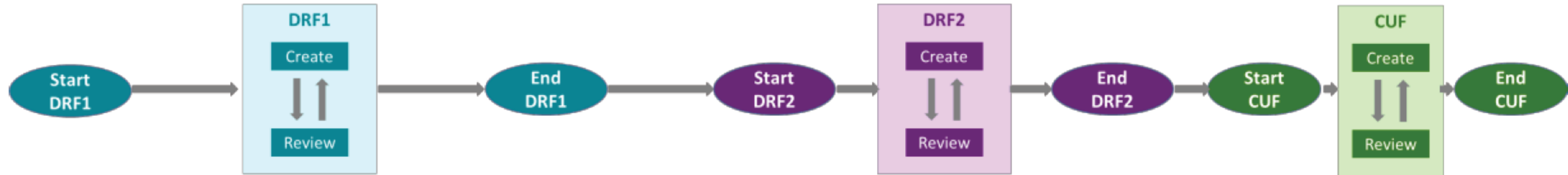
Produce Decennial Response File 2 (DRF2) – 22 days

- Remove responses that meet criteria for being born after Census Day
- Execute Primary Selection Algorithm (PSA) - this resolves situations where we have more than one response for a single address
- Review and verify PSA results
- Process DRF2 state-by-state and at the national level

Produce the Census Unedited File (CUF) – 15 days

- Determine the status for every housing unit as occupied, vacant or non-existent
- Identify the universe of data to include in the Census from the Sample Delivery File (SDF) and DRF2 and apply the Count Imputation (CI) operation to fill in the missing housing unit status and the missing household size
- Determine final population count for each address
- Review the population totals and their reasonableness
- Review and verify the data processing steps and products

Decennial Response Processing- Bottom Line Plan



- **Improved DRPS System Performance in Preparation for 2020 Census Processing**

Upgraded Oracle Real Application Clusters (RAC) to Oracle Exadata environment. Exadata is a high-performing pre-configured combination of hardware and software the provides infrastructure for Oracle databases.

- Infrastructure Platform Optimized for Oracle Databases
- Actively optimizing DRPS processing through monitoring large test executions and consultation with Oracle
- Adjusted code base to address bottlenecks

- **Optimized role assignments to ensure maximum staff resource usage during this shortened production period**

	DRF1	DRF2	CUF
Pre-Covid	Sept 15 – Oct 14, 2020	Oct 14 – Nov 4, 2020	Nov 4 – 30, 2020
Covid Replan	Dec 18 – Jan 19, 2021	Jan 19 – February 9, 2021	Feb 9 – March 5, 2021
Current Plan	Oct 14 – Nov 9, 2020	Nov 9 – Nov 30, 2020	Nov 30 – Dec 14, 2020
Schedule Savings from Pre-Covid	3 Days	0 Days	12 Days

Enhancing and Accelerating Data Review

Subject Matter Expert (SME) Review Improvements

- Increased analysis of real time response data to look for trends in data collection and shifting demographics
- Use of SME-developed and tested SAS review programs to automate data collection and data processing review
- The most in-depth demographic reasonableness review will be conducted on the first five to ten states produced by DRPS, with later states undergoing more cursory review checks
- Review of the DRF1 will occur to identify potential issues earlier; in 2010, SME review started with the DRF2
- The focus of the DRF1-CUF review will be on total population counts for apportionment; a separate team of analysts will be compiled to support the additional review of state totals
- Additional benchmarks are being developed to assess the reasonableness of state totals earlier in the review
- An automated issue tracking system and a streamlined communication plan will allow for quicker decision making about identified issues and provide additional information to senior leadership
- Creation of the DRF1 and CUF will operate concurrently with SME Reviews

Risks During Data Processing and Review

- Reduced data processing and review time increases the risk regarding data quality.
- When anomalies are detected during processing or review, they are assessed and root cause is determined. Past experience tells us we will find anomalies. This means that as data issues are fixed, individual states or all states may need to be re-processed.
- State, multi-state, and national re-processing has been required in all recent censuses, and we anticipate, based on previous Censuses, the need to re-process state or national data in 2020 Census processing
- The 2020 Census implemented a number of new innovations this decade, such as internet data collection and administrative record enumeration. There other external factors that may impact the data, such as COVID. These factors also increase the risk of re-processing.
- The nature of one-time processing and the requirement to have the full universe complete for accurate review means we won't know the full extent of anomalies until we process the entire universe.
- It is unknown at this time if re-processing activities will disrupt decennial response processing and impact the timely delivery of the CUF.
- These schedule modifications have removed any ability to recover from late critical issues.

Appendix

Detailed Processing Steps

Activity ID	Activity Name	Calendar	OD	Start	Finish	Var- Start	Var- Finish
Z0ISR-12170	Conduct Internet Self-Response (ISR) Data Collection	3. 7 Day Federal Holiday thru 2023	230d	12-Mar-20	31-Oct-20	0d	0d
Z0NID-11020	Conduct Non-ID Clerical Process Operation	3. 7 Day Federal Holiday thru 2023	230d	12-Mar-20	31-Oct-20	0d	0d
Z0SQU-10500	Conduct Self-Response Quality Assurance	3. 7 Day Federal Holiday thru 2023	230d	12-Mar-20	31-Oct-20	0d	0d
Z0CQA-10830	Conduct Census Questionnaire Assistance (CQA) Inbound Operation	4. 7 Day No Holidays thru 2023	234d	12-Mar-20	31-Oct-20	0d	0d
Z0CQA-10840	Conduct Census Questionnaire Assistance (CQA) Outbound Operation	4. 7 Day No Holidays thru 2023	193d	22-Apr-20	31-Oct-20	0d	0d
Z0CIO-12520	Monitor CQA Outbound Call Telephone Operation	3. 7 Day Federal Holiday thru 2023	187d	24-Apr-20	31-Oct-20	0d	0d
Z0NRD-31520	Conduct NRFU Reinterview Field Data Collection	3. 7 Day Federal Holiday thru 2023	79d	12-Aug-20	31-Oct-20	0d	0d
Z0IPC-11080	Conduct 2020 Reminder Phase	4. 7 Day No Holidays thru 2023	79d	14-Aug-20	31-Oct-20	0d	0d
Z0MIS-22260	Create MAF/TIGER Benchmark for Final Collection Products and Services	3. 7 Day Federal Holiday thru 2023	22d	13-Nov-20	5-Dec-20	0d	1d
Z0MIS-20400	Create MAF Extract for Final Collection - MAF/TIGER	3. 7 Day Federal Holiday thru 2023	9d	6-Dec-20	14-Dec-20	1d	1d
Z0MIS-20410	QC MAF Extract for Final Collection - MAF/TIGER	3. 7 Day Federal Holiday thru 2023	9d	7-Dec-20	15-Dec-20	1d	1d
Z0MIS-20390	Deliver MAF Extract & Header File to DITD/CARDS for Final Collection - MAF/TIGER	3. 7 Day Federal Holiday thru 2023	2d	16-Dec-20	17-Dec-20	1d	3d
Z0CAR-50950	DITD/CARDS Receive MAF Extract from MAF/TIGER for Final SDF (Coll)	1. 5 Day Federal Holiday thru 2023	0d	18-Dec-20		1d	1d
Z0CAR-50980	CARDS Ingests MAF Extract from MAF/TIGER for Final SDF (Coll)	4. 7 Day No Holidays thru 2023	2d	18-Dec-20	19-Dec-20	3d	3d
Z0CAR-51060	CARDS Creates and Review Final SDF (Coll)	4. 7 Day No Holidays thru 2023	4d	20-Dec-20	23-Dec-20	3d	6d
Z0CAR-51100	CARDS Delivers Final SDF (Coll) to DRPS	4. 7 Day No Holidays thru 2023	0d		23-Dec-20	6d	6d
Z0DRP-90590	DRPS Receives and Ingests Final Collection SDF from CARDS	4. 7 Day No Holidays thru 2023	3d	24-Dec-20	26-Dec-20	6d	9d
Z0DRP-90580	Create Initial Decennial Response File (PCDI/DRF1) - DRPS	1. 5 Day Federal Holiday thru 2023	12d	28-Dec-20	13-Jan-21	5d	5d
Z0DRP-11590	Deliver Initial Decennial Response File (PCDI/DRF1) to RPO/DSSD - DRPS	1. 5 Day Federal Holiday thru 2023	13d	30-Dec-20	19-Jan-21	5d	5d
Z0DRP-11600	Receive Approval of Decennial Response File (PCDI/DRF1) from RPO/DSSD - DRPS	1. 5 Day Federal Holiday thru 2023	1d	19-Jan-21	19-Jan-21	5d	5d
Z0DRP-90750	Create Initial Decennial Response File (PSA/DRF2) - DRPS	1. 5 Day Federal Holiday thru 2023	6d	19-Jan-21	26-Jan-21	5d	5d
Z0DRP-18430	Deliver Initial Decennial Response File (PSA/DRF2) to RPO/DSSD - DRPS	1. 5 Day Federal Holiday thru 2023	1d	26-Jan-21	26-Jan-21	5d	5d
Z0RPO-11250	Receive Primary Selection Algorithm File (PSA) (Final PSA/DRF2) from DRPS	1. 5 Day Federal Holiday thru 2023	1d	26-Jan-21	26-Jan-21	5d	5d
Z0RPO-11260	Perform SME Review of Primary Selection Algorithm File (Final PSA/DRF2)	1. 5 Day Federal Holiday thru 2023	11d	26-Jan-21	9-Feb-21	5d	5d
Z0DRP-18440	Receive Approval of Decennial Response File (PSA/DRF2) from RPO/DSSD - DRPS	1. 5 Day Federal Holiday thru 2023	1d	9-Feb-21	9-Feb-21	5d	5d
Z0DRP-90610	Create Initial Census Unedited File (CUF) - DRPS	1. 5 Day Federal Holiday thru 2023	17d	9-Feb-21	4-Mar-21	5d	5d
Z0RPO-11270	Provide Results and Approval of Primary Selection Algorithm File (Final PSA/DRF2) to DRPS	1. 5 Day Federal Holiday thru 2023	0d		9-Feb-21	5d	5d
Z0DRP-18460	Deliver Initial Census Unedited File (CUF) to RPO/POP - DRPS	1. 5 Day Federal Holiday thru 2023	15d	11-Feb-21	4-Mar-21	5d	5d
Z0DRP-18470	Receive Approval of Census Unedited File (CUF) from RPO/POP - DRPS	1. 5 Day Federal Holiday thru 2023	1d	4-Mar-21	4-Mar-21	5d	5d
Z0DRP-18480	Deliver Final Census Unedited File (CUF) to POP / CDL - DRPS	1. 5 Day Federal Holiday thru 2023	0d		4-Mar-21	5d	5d
Z0DPD-10730	POP Receives Final CUF from CDL/DRPS	1. 5 Day Federal Holiday thru 2023	0d	5-Mar-21		5d	5d
Z0PMD-16890	-----Executive Review and Approve CUF-----	4. 7 Day No Holidays thru 2023	30d	5-Mar-21	3-Apr-21	7d	-2d
Z0DPD-10740	POP Creates/Verifies Apportionment Tables	1. 5 Day Federal Holiday thru 2023	16d	5-Apr-21	26-Apr-21	-1d	0d
Z0DPD-10750	POP Delivers Final Apportionment Tables to BOC DIR and CQAS	1. 5 Day Federal Holiday thru 2023	0d		26-Apr-21	0d	0d
Z0DPD-10760	BOC DIR/CQAS Assembles Final Apportionment Transmittal Package	1. 5 Day Federal Holiday thru 2023	4d	27-Apr-21	30-Apr-21	0d	0d
Z0DPD-10770	BOC DIR Delivers Final Apportionment Transmittal Package to DOC	1. 5 Day Federal Holiday thru 2023	0d		30-Apr-21	0d	0d
Z0DPD-10850	DOC Delivers Apportionment Counts to President (U.S.C. Article 1, Section 2)	1. 5 Day Federal Holiday thru 2023	0d		30-Apr-21	0d	0d

To: Steven K Smith (CENSUS/DEPDIR FED) [steven.k.smith@census.gov]
From: Steven Dillingham (CENSUS/DEPDIR FED) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=09DC165EB6DD488E9F3A9A0CE6B45130-DILLINGHAM,]
Sent: Fri 8/7/2020 6:49:42 PM (UTC)
Subject: Fwd: [8/3-7] Director's Weekly Bureau Report
[Week of August 3, Director Dillingham's Weekly Bureau Report.docx](#)
[ATT00001.htm](#)

Sent from my iPhone

Begin forwarded message:

From: "Robin Wyvill (CENSUS/DEPDIR FED)" <Robin.L.Wyvill@census.gov>
Date: August 7, 2020 at 2:23:32 PM EDT
To: "OPCOM - Principals Only List (CENSUS/ OTHER)" <(b) (6)>, "Nathaniel Cogley (CENSUS/DEPDIR FED)" <nathaniel.cogley@census.gov>, "Adam Michael Korzeniewski (CENSUS/DEPDIR FED)" <adam.m.korzeniewski@census.gov>
Cc: "Christa D Jones (CENSUS/DEPDIR FED)" <Christa.D.Jones@census.gov>
Subject: [8/3-7] Director's Weekly Bureau Report

Hello all,
Please find attached...

- Week of August 3, Director Dillingham's Weekly Bureau Report

Take care,
Robin

From: Christa D Jones (CENSUS/DEPDIR FED) <Christa.D.Jones@census.gov>
Sent: Friday, March 27, 2020 8:57 AM
To: OPCOM - Principals Only List (CENSUS/ OTHER) (b) (6)
Cc: Robin Wyvill (CENSUS/DEPDIR FED) <Robin.L.Wyvill@census.gov>
Subject: 3/23, Weekly Bureau Report

All--making this report available to all for the general purpose of sharing information.

From: Olson, Stephanie (Federal) [SOlson@doc.gov]
Sent: 8/18/2020 8:40:35 PM
To: Kourkouvelis, Aristidis (Federal) [AKourkouvelis@doc.gov]; Cannon, Michael (Federal) [MCannon@doc.gov]; Heller, Megan (Federal) [MHeller@doc.gov]; Sharma, Sapna (Federal) [SSharma@doc.gov]
CC: DiGiacomo, Brian (Federal) [bDiGiacomo@doc.gov]; Melissa L Creech (CENSUS/PCO FED) [Melissa.L.Creech@census.gov]; DiGiacomo, Brian (Federal) [bDiGiacomo@doc.gov]
Subject: RE: SDNY draft brief
Attachments: (b) (5)

(b) (6), (b) (5)

From: Kourkouvelis, Aristidis (Federal)
Sent: Tuesday, August 18, 2020 1:25 PM
To: Cannon, Michael (Federal) <MCannon@doc.gov>; Olson, Stephanie (Federal) <SOlson@doc.gov>; Heller, Megan (Federal) <MHeller@doc.gov>; Sharma, Sapna (Federal) <SSharma@doc.gov>
Cc: DiGiacomo, Brian (Federal) <bDiGiacomo@doc.gov>; Creech, Melissa L <melissa.l.creech@census.gov>; DiGiacomo, Brian (Federal) <bDiGiacomo@doc.gov>
Subject: RE: SDNY draft brief

(b) (5)

Thanks,
Aris

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

From: Cannon, Michael (Federal) <MCannon@doc.gov>
Sent: Tuesday, August 18, 2020 10:44 AM
To: Olson, Stephanie (Federal) <SOlson@doc.gov>; Heller, Megan (Federal) <MHeller@doc.gov>; Sharma, Sapna (Federal) <SSharma@doc.gov>
Cc: Kourkouvelis, Aristidis (Federal) <AKourkouvelis@doc.gov>; DiGiacomo, Brian (Federal) <bDiGiacomo@doc.gov>; Creech, Melissa L <melissa.l.creech@census.gov>; DiGiacomo, Brian (Federal) <bDiGiacomo@doc.gov>
Subject: (b) (5)

CUI//PRIVILEGE/AWP//FED ONLY

(b) (5)

Mike

Michael A. Cannon
Chief Counsel for Economic Affairs
Office of the General Counsel

From: John Maron Abowd (CENSUS/ADRM FED) [john.maron.abowd@census.gov]
Sent: 8/19/2020 1:52:56 AM
To: Ron S Jarmin (CENSUS/DEPDIR FED) [Ron.S.Jarmin@census.gov]
CC: Victoria Velkoff (CENSUS/ADDP FED) [Victoria.A.Velkoff@census.gov]; Enrique Lamas (CENSUS/DEPDIR FED) [Enrique.Lamas@census.gov]; Christa D Jones (CENSUS/DEPDIR FED) [Christa.D.Jones@census.gov]; PCO DSEP (CENSUS/ OTHER) [pco.dsep@census.gov]
Subject: COB -2:10
Attachments: (b) (5)

Here is the draft DSEP paper for Thursday. Tori has not reviewed yet. Other two attachments are draft parts of the DSEP packet.

I am simultaneously getting DAS and PM reviews.

Mike Castro, you may start editing too.

As always, COB = 11:59pm.

Thanks,

John M. Abowd, PhD, Associate Director and Chief Scientist
Research and Methodology

U.S. Census Bureau

O: 301-763-5880 (b) (6)

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From: John Maron Abowd (CENSUS/ADRM FED) [john.maron.abowd@census.gov]
Sent: 8/19/2020 1:55:00 AM
To: Daniel Kifer (CENSUS/CES CTR) [daniel.kifer@census.gov]; Philip Leclerc (CENSUS/CDAR FED) [philip.leclerc@census.gov]; Simson L Garfinkel (CENSUS/ADRM FED) [simson.l.garfinkel@census.gov]; Michael B Hawes (CENSUS/CED FED) [michael.b.hawes@census.gov]
CC: Teresa Sabol (CENSUS/CED FED) [teresa.sabol@census.gov]; Robert Sienkiewicz (CENSUS/CED FED) [robert.sienkiewicz@census.gov]; John A Fattaleh (CENSUS/CED FED) [john.a.fattaleh@census.gov]
Subject: Draft DSEP paper for review
Attachments: (b) (5)

CC list for SA.

I need your comments by 10:00am. You are excused from morning DAS meetings to prepare those comments.

Thanks very much,

John M. Abowd, PhD, Associate Director and Chief Scientist
Research and Methodology
U.S. Census Bureau
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[census.gov](https://www.census.gov) | [@uscensusbureau](https://twitter.com/uscensusbureau)
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From: John Maron Abowd (CENSUS/ADRM FED) (b) (6)
(b) (6)
Sent: 8/19/2020 1:58:59 AM
To: Gary Linus Benedetto (CENSUS/CED FED) [Gary.Linus.Benedetto@census.gov]; Mark E Asiala (CENSUS/DSSD FED) [Mark.E.Asiala@census.gov]
CC: Cassandra Ingram (CENSUS/CED FED) [cassandra.ingram@census.gov]
Subject: Draft DSEP paper for Thursday
Attachments: (b) (5)

I need your comments by 10:00am. Please vet the discussions of permissible methods on pages 2 and 3 and rounding on page 5.

Sorry for the rush. I got told to produce this by COB today in draft yesterday.

Thanks,

John M. Abowd, PhD, Associate Director and Chief Scientist
Research and Methodology
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From: John Maron Abowd (CENSUS/ADRM FED) (b) (6)
(b) (6)
Sent: 8/19/2020 2:02:07 AM
To: Melissa L Creech (CENSUS/PCO FED) [Melissa.L.Creech@census.gov]
Subject: Draft DSEP paper for Thursday
Attachments: (b) (5)

I hate to do this to you, but I need comments by 10:00am. Assign-out if necessary.

Thanks,

John M. Abowd, PhD, Associate Director and Chief Scientist
Research and Methodology
U.S. Census Bureau
O: 301-763-5880 (b) (6)
[census.gov](https://www.census.gov) | [@uscensusbureau](https://twitter.com/uscensusbureau)
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From: Sara A Rosario Nieves (CENSUS/ADDC FED) [Sara.A.Rosario.Nieves@census.gov]
Sent: 9/18/2020 12:31:32 PM
To: Michael Niosi (CENSUS/DCMD FED) [Michael.Niosi@census.gov]
CC: Deidre C Hicks (CENSUS/DCMD FED) [Deidre.C.Hicks@census.gov]; James L Dinwiddie (CENSUS/ADDC FED) [James.L.Dinwiddie@census.gov]; Gerell L Smith (CENSUS/ADDC FED) [gerell.l.smith@census.gov]; Britney L Dockett (CENSUS/ADDC FED) [britney.l.dockett@census.gov]
Subject: Re: 2020 Census Portfolio and Program Risk & Issue Documents for GAO/OIG - September 2020
Attachments: (b) (5)

Good morning Michael,

Thanks for sending. Could you identify the risk documents that contain redistricting and apportionment information on GAO's delivery? These will need to be added to the separate clearance packet for DOC/OGC.

(b) (5)

Thanks,
Sara

Sara A. Rosario Nieves

Chief, Strategic Planning and Portfolio Management | Decennial
U.S. Census Bureau | Office 301.763.2941 | Room (b) (6) | Cell: (b) (6)
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From: Michael Niosi (CENSUS/DCMD FED) <Michael.Niosi@census.gov>
Sent: Thursday, September 17, 2020 6:18 PM
To: Sara A Rosario Nieves (CENSUS/ADDC FED) <Sara.A.Rosario.Nieves@census.gov>; Britney L Dockett (CENSUS/ADDC FED) <britney.l.dockett@census.gov>
Cc: Deidre C Hicks (CENSUS/DCMD FED) <Deidre.C.Hicks@census.gov>
Subject: (b) (5)

Sara and Britney,

Attached are two zip files containing the risk and issue related documents for GAO for both the 2020 Census portfolio and program levels. Also attached is the program level risk and issue registers for OIG.

Let me know if there are any questions.

Thank you.

Michael Niosi, 2020 Census Risk and Issue Process Manager
Decennial Census Management Division/Decennial Program Management Office
U.S. Census Bureau
O: 301-763-8938 | Room (b) (6)
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From: Christa D Jones (CENSUS/DEPDIR FED) [Christa.D.Jones@census.gov]
Sent: 9/18/2020 1:57:51 PM
To: Victoria Velkoff (CENSUS/ADDP FED) [Victoria.A.Velkoff@census.gov]; Robin Wyvill (CENSUS/DEPDIR FED) [Robin.L.Wyvill@census.gov]
CC: John Maron Abowd (CENSUS/ADRM FED) [john.maron.abowd@census.gov]
Subject: Re: Need assistance
Attachments: 20200903 Overview Process to DOC FINAL.pdf; 20200903 Overview Process to DOC FINAL.pptx

I think so, this is what we have.

Christa D Jones, Chief of Staff
Office of the Director
U.S. Census Bureau
O|M: 301-763-7310
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From: Victoria Velkoff (CENSUS/ADDP FED) <Victoria.A.Velkoff@census.gov>
Sent: Friday, September 18, 2020 9:55 AM
To: Christa D Jones (CENSUS/DEPDIR FED) <Christa.D.Jones@census.gov>; Robin Wyvill (CENSUS/DEPDIR FED) <Robin.L.Wyvill@census.gov>
Cc: John Maron Abowd (CENSUS/ADRM FED) <john.maron.abowd@census.gov>
Subject: Need assistance

Do either of you have the final version of the slides that John and I presented to the secretary and the dep sec for August 31 and September 3?

Thanks

Victoria Velkoff, PhD
Associate Director for Demographic Programs
U.S. Census Bureau
o: 301-763-1372
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[census.gov](https://www.census.gov) | [@uscensusbureau](https://twitter.com/uscensusbureau)

From: Sara A Rosario Nieves (CENSUS/ADDC FED) [Sara.A.Rosario.Nieves@census.gov]
Sent: 8/19/2020 10:59:18 AM
To: James L Dinwiddie (CENSUS/ADDC FED) [James.L.Dinwiddie@census.gov]
CC: Britney L Dockett (CENSUS/ADDC FED) [britney.l.dockett@census.gov]; Gerell L Smith (CENSUS/ADDC FED) [gerell.l.smith@census.gov]
Subject: Fw: 2020 Census Risk and Issue Deliverables for GAO & OIG - August 2020
Attachments: 2020 Census Portfolio Risk and Issue Documents August 2020 GAO.zip; 2020 Census Program Risk and Issue Documents August 2020 GAO.zip; 2020 Census Program Risk and Issue Registers August 2020 OIG.zip

Good morning Jim,

Attached are the files (risk registers) for delivery to OIG and GAO. Please, let us know if/when ready to send out. Holding off for now.

Thanks, Sara

Sara A. Rosario Nieves

Chief, Strategic Planning and Portfolio Management | Decennial
U.S. Census Bureau | Office 301.763.2941 | Room (b) (6) | Cell: (b) (6)
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From: Michael Niosi (CENSUS/DCMD FED) <Michael.Niosi@census.gov>
Sent: Tuesday, August 18, 2020 6:32 PM
To: Sara A Rosario Nieves (CENSUS/ADDC FED) <Sara.A.Rosario.Nieves@census.gov>; Britney L Dockett (CENSUS/ADDC FED) <britney.l.dockett@census.gov>
Cc: Deidre C Hicks (CENSUS/DCMD FED) <Deidre.C.Hicks@census.gov>
Subject: 2020 Census Risk and Issue Deliverables for GAO & OIG - August 2020

Sara and Britney,

Attached are two zip files containing the risk and issue related documents for GAO for both the 2020 Census portfolio and program levels. Also attached is the program level risk and issue registers for OIG.

Let me know if there are any questions.

Thank you.

Michael Niosi, 2020 Census Risk and Issue Process Manager
Decennial Census Management Division/Decennial Program Management Office
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From: Steven Dillingham (CENSUS/DEPDIR FED) [steven.dillingham@census.gov]
Sent: 9/10/2020 10:28:11 PM
To: Nathaniel Cogley (CENSUS/DEPDIR FED) [nathaniel.cogley@census.gov]; Benjamin A Overholt (CENSUS/DEPDIR FED) [benjamin.a.overholt@census.gov]; Steven K Smith (CENSUS/DEPDIR FED) [steven.k.smith@census.gov]; Michael John Sprung (CENSUS/DEPDIR FED) [michael.j.sprung@census.gov]; Ali Mohammad Ahmad (CENSUS/ADCOM FED) [ali.m.ahmad@census.gov]
Subject: Fwd: SDNY Opinion/Order from 3-judge court
Attachments: Census (SDNY) - Opinion and Order.pdf; ATT00001.htm; 165 - Court's Final Judgment and Injunction - NY v. Trump (10 Sept 2020).pdf; ATT00002.htm

(b) (5)



(b) (5)



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
STATE OF NEW YORK, et al.,
:

Plaintiffs,
:

-v-
:

DONALD J. TRUMP, *in his official capacity as*
President of the United States, et al.,
:

Defendants.
:
-----X

20-CV-5770 (RCW) (PWH) (JMF)

OPINION AND ORDER

Before: RICHARD C. WESLEY, United States Circuit Judge
PETER W. HALL, United States Circuit Judge
JESSE M. FURMAN, United States District Judge

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PER CURIAM.

The Constitution provides that “Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State.” U.S. Const. amend. XIV, § 2. To enable that apportionment, it mandates that an “actual Enumeration” be conducted “every . . . ten Years, in such Manner as [Congress] shall by Law direct,” an effort commonly known as the decennial census. *Id.* art. I, § 2, cl. 3. Congress has delegated the task of conducting the census to the Secretary of Commerce, who is required to