

# Legal Considerations for Stakeholders Planning Get Out the Count Activities

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***Note: The below includes guidelines and considerations to think about as you create your Get Out the Count plans. As you develop your plan, you should consult your own counsel and advisors before engaging in any outreach. This section will be updated with additional guidance, as necessary.***

During the census, trusted community voices are tasked with having conversations with our most vulnerable populations about the importance of the census. Fears about the confidentiality and safety of the census are nothing new. Historically, some census respondents have feared that their responses might be relayed to housing authorities, landlords, the police, and others. In addition, there are laws guiding census and field outreach that stakeholders will need to keep in mind when planning their outreach.

Census stakeholders have compiled many resources to help educate communities on legal safeguards that are in place to protect the confidentiality of responses. This section will help stakeholders quickly identify topline messages and frequently asked questions about census data confidentiality and guidelines for Get Out the Count activity.

## Confidentiality of census data

Census data are protected by the strictest confidentiality protections in federal law. The Census Bureau, the Commerce Department (which houses the Census Bureau), and their employees may not reveal a person's data gathered through the census to anyone. That means they are prohibited from sharing your data with federal, state, or local government agencies, immigration authorities, law enforcement, or courts of law. Federal law also does not allow your personal census information to be used against you by immigration authorities, a court of law, local housing agencies, any law enforcement agency, or any other government officials, for any reason whatsoever. You are protected from harm or misuse of your personal information in many ways.

Advocates are committed to combat any actions by federal law enforcement agencies that rest on personal data from the census obtained in violation of the law or used to harm respondents in violation of the law.

Government workers who violate these privacy protections can be punished with fines of up to \$250,000 and jail terms of up to five years, or both.

***For more information about federal laws that protect census confidentiality, see the [Brennan Center's fact sheet](#).<sup>1</sup> Asian American Advancing Justice | AAJC and The Leadership Conference wrote a [factsheet on confidentiality](#)<sup>2</sup> on the census and Japanese American incarceration.***

## Quick facts for organizers

- **No one other than Census Bureau employees, not even officials from tribal, state, or municipal governments, should collect any census response information for the 2020 Census.** Only data collected by census takers employed by the Census Bureau are protected under Title 13, U.S. Code. Census Bureau employees take a lifetime oath to ensure that respondent information is used for statistical purposes only and not for any other reason. Census Bureau employees cannot share information with anyone else, including law enforcement—not the FBI, ICE, or even local police and housing authorities.
  - Stakeholders should not attempt to collect 2020 Census data through websites or apps, over the phone, or in person.
  - Stakeholders should not go door-to-door to collect information for later entry on a census form.
  - Stakeholders should not encourage anyone to respond to the census on behalf of a household in which they do not live.
- **Organizations doing educational door-to-door canvassing should be extremely careful to avoid any action that might undermine Title 13 confidentiality protections.** This caution also will help protect community-based groups from accusations, spearheaded by foes of an inclusive census, that they are somehow encouraging or facilitating false responses, or otherwise “manipulating” the count.
- **Organizations doing door-to-door canvassing should identify that they are NOT representing and do not work for the U.S. Census Bureau.** Not doing so could cause confusion for households that have already responded and households who have not yet responded and must be interviewed by census takers. Additionally, confusion about canvassers can also discourage response by elevating concerns of a potential scam, intrusion, or other unlawful activity. A **key component**<sup>3</sup> of the Census Bureau’s communications effort is to raise awareness of how to identify an official census taker.
- **Do not send any mailed material that could be confused with an official U.S. Census Bureau questionnaire or reminder, either on the outer envelope or through the contents.** The **Deceptive Mailing Prevention and Enforcement Act**<sup>4</sup> prohibits private entities (nonprofit or for-profit) from using logos, slogans, return addresses, and the like that would reasonably confuse the recipient into thinking it was official federal government mail. If your organization is developing census “pledge cards,” consider adding the disclaimer, “This is not an official mailing from the U.S. Census Bureau, and completion of this pledge does not substitute for participating in the upcoming U.S. Census.” The Census Bureau website includes resources on “avoiding frauds and scams.” (<https://2020census.gov/en/avoiding-fraud.html>)<sup>5</sup>
- Stakeholders using telephonic communication (calls, peer-to-peer texting, or blast texting) to communicate with their membership should ensure that all outreach complies with the **Telephone Consumer Protection Act (TCPA)**.<sup>6</sup> The National Consumer Law Center has created an overview of census reminders and TCPA compliance. Consult with your counsel or relevant vendor to ensure you are complying with federal law.
- **Get Out the Count (GOTC) activities can be incorporated into other nonpartisan civic participation outreach, like voter registration outreach.** Stakeholders should be careful to educate community members on the different eligibility requirements for voting and census participation; the latter invites everyone in the United States to participate and the former has stricter eligibility requirements, such as citizenship and age. Under **no circumstances** should 2020 Census outreach efforts be combined with **partisan** GOTV outreach or activities. Consult with your counsel or relevant vendor to ensure you are complying with federal law.

## Frequently Asked Questions

### **Will a citizenship question be on the 2020 Census?**

No, there is not a citizenship question on the 2020 Census form.

### **Why did someone receive a form from the U.S. Census Bureau with a citizenship question on it?**

The citizenship question will not appear on the 2020 Census form. However, some households may have received a test census form in the summer of 2019 that included a question on citizenship. The test was conducted to gauge the effect on self-response of the proposed citizenship question, which the administration ultimately dropped after the U.S. Supreme Court ruled that the decision to add it did not follow federal law.

Households also should be aware that a question on citizenship is included in the Census Bureau's American Community Survey, which is sent to a random sample of 1 in 38 households a year on a rolling monthly basis. More information on the American Community Survey is available [here](#).<sup>7</sup>

### **Are census data protected by law?**

All data collected by the Census Bureau (including data collected via administrative records sharing agreements) are strictly confidential under [federal law](#).<sup>8</sup> The Census Bureau is not allowed to release individual data or personal responses to anyone, for any purpose—including to other government agencies or law enforcement. See more information about the federal laws that protect census confidentiality in this [fact sheet from the Brennan Center](#).<sup>9</sup>

It is [illegal](#)<sup>10</sup> for the Census Bureau to disclose census responses in ways that would identify an individual or household. Further, the Census Bureau cannot share census responses with other governmental agencies or use respondent data for nonstatistical purposes, such as sharing information for law enforcement or even national security purposes. The law prohibits any government agency, court of law, or other entity from using an individual's personal information to that person's "detriment" in any way. It is illegal for anyone to view individual census responses, except for Commerce Department (the bureau's parent agency) and Census Bureau employees on an "as-needed basis," who are sworn to secrecy for life and face stiff penalties for violating their confidentiality oaths.

Civil rights groups are monitoring the census process to protect against any efforts by the Trump administration, state governments, or other entities that would violate census confidentiality laws. In the event that any violations are found, census and civil rights advocates will pursue all available legal remedies to protect victims of such actions.

# References

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## PAGE 3

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**1620 L Street NW, Suite 1100  
Washington, DC 20036**



**(202) 466-3434**



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