



Webinar on Data Sharing, Census Confidentiality, and Trump's Executive Order

February 5, 2020



Goals for Today's Webinar:

- Receive an update on the Executive Order and the law
- Hear how this is impacting our communities
- Receive an update on lawsuits challenging the order
- Learn tools we have at our disposal to protect census confidentiality and how we can take action



Today's Speakers:

- Beth Lynk, The Leadership Conference Education Fund
- Kira Romero, Latino Justice
- Andrea Senteno, Mexican American Legal Defense and Educational Fund (MALDEF)
- Sulma Arias, Fair Immigration Reform Movement (FIRM)
- Terry Ao Minnis, Asian Americans Advancing Justice | AAJC

Kira Romero-Craft, LatinoJustice PRLDEF



Census 2020 - Article 1, Section 2 of the United States Constitution -

The Constitution requires the U.S. Census Bureau to conduct a count of every person living in the United States, including U.S. territories like Puerto Rico, every ten years. This count considers all people in the U.S. regardless of age, immigration status, ethnicity, race, or nationality.

Congress codified earlier census acts and all other statutes authorizing the decennial census as Title 13 of U.S. Code.



WHY DOES THE CENSUS MATTER?

An accurate population count can ensure a fair and equitable distribution of needed resources and political influence to underserved communities like ethnic minorities, children and youth, urban and rural low-income households, and immigrants. The statistical data collected from the census is used to determine congressional representation and produce set formulas that allocate over \$800 billion of funding to federal, state, and local programs. These programs directly affect community's schools, health care offices, emergency departments, children and senior care facilities, infrastructure, and other critical services.



ARE MY RESPONSES SECURE?

All census records and individual respondent data are confidential and protected by

many federal laws and regulations, including the Census Act, the Confidential Information Protection and Statistical Efficiency Act, the Privacy Act, and the U.S. Tax

Code. The Census Act specifically prohibits the Census Bureau from sharing any personal

information to any government agency or official (federal, state, or local), outside entity

(such as a business), or court of law for any reason. It is illegal to use any census information for purposes other than the production of statistical datasets. All Census

Bureau staff take a lifetime oath to protect your personal information, and any violation comes with a penalty of up to \$250,000 and/or up to 5 years in prison.



CAN MY DATA BE USED IN OTHER WAYS?

All information collected from the census is only used for statistics production. By law, the Census Bureau and is not permitted to share your responses to immigration enforcement or law enforcement agencies. Your information cannot be used to determine eligibility for government benefits, and landlords cannot access or use your responses for any purpose. Responses can neither be disclosed in legal proceedings without your consent nor be used against you by any government agency or court in any way—this includes the Federal Bureau of Investigation (FBI), the Central Intelligence Agency (CIA), the Department of Homeland Security (DHS), and U.S. Immigration and Customs Enforcement (ICE). The census is not to be used for regulation of immigration or enforcement of federal, state, or local laws.



ARE THESE PROTECTIONS AT RISK?

The U.S. Department of Justice's Office of Legal Counsel has stated that no current law, or any agency or government official, can override the Census Act confidentiality protections – not the Patriot Act, the IRS, Homeland Security, ICE, or even the president.

No private company, landlord, or employer can get any household's census information, even with a court order. Census records can only be released after 72 years.



IS MY INFORMATION SAFE ONLINE?

The 2020 census will be the first to offer an online response option. You will now have the opportunity to participate in the census through your computers, smartphones and/or tablets. The Census Bureau takes strong precautions to keep all online responses safe. All data are encrypted to protect your privacy, and the bureau's cybersecurity program meets the highest standards for protecting personal information. If you prefer, you can answer the census by phone, in 13 languages, or you can fill out a paper form that will be mailed to you in April.



IS MY INFORMATION SAFE ONLINE?

The Federal Cybersecurity Enhancement Act of 2015 granted the Department of Homeland Security (DHS) access to the network traffic of federal agencies' information systems, including that of the Census Bureau. However, all census data is encrypted and DHS does not have access to your personal information. By law, the only use of the network traffic information is to “protect information and information systems from cybersecurity risks.” (6 U.S.C.151(c)(3)). DHS is not authorized to use any information for any other purposes, including immigration or law enforcement. Such actions would be considered illegal.



WHAT WILL I BE ASKED?

The 2020 census will only ask you questions related to household composition and homeownership as of April 1, 2020, Census Day. You will be asked about: the number of people living or staying in your home; whether your home is owned or rented; the age, race, and ethnicity of all household members; and the relationship of each household member to you.

The census has nothing to do with and will not ask you about your citizenship status or immigration status. You will never be asked for your Social Security Number, money or donations, any bank account or credit card information, or anything on behalf of a political party.



Must I Respond?

Everyone living in the 50 states, District of Columbia, and five U.S. territories (Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands) is required by law to be counted in the 2020 Census.

Title 13, U.S. Code § 221 - Refusal or neglect to answer questions; false answers



Sulma Arias, Fair Immigration Reform Movement (FIRM)





Census messaging to immigrant communities

combating misinformation/disinformation
staying authentic, honest & empowering



COMMUNITY
Power from the
ground up **CHANGE**



FAIR IMMIGRATION REFORM MOVEMENT ON THE CENSUS

- **Oldest national network of immigrant rights groups**
- **Partners in 33 states representing undocumented & mixed status families (HTC)**
- **Partners are under-resourced trusted messengers, tasked with census outreach, trainings, assistance and validating information that can confuse communities**
- **FIRM also coordinates national field table (CPD, United We Dream, BAJI, NPNA) around census**

CHALLENGES IN MESSAGING

- **Justifiable fear of government**
 - mistrust of administration despite legal protections
- **Different local contexts**
- **Different audiences (community vs. local/ethnic media)**
- **How can we communicate the urgency of people's participation without being dishonest about their safety?**

RESPONSES TO CHALLENGES

- **Messages must be authentic, acknowledge fear and create hope at the same time**
- **Census Spokesperson cohort of 15 visible partner directors & communicators to troubleshoot misinformation & disinformation and find winning narratives for undocumented communities**
- **Messages can be tweaked to fit each community and context**

WHAT'S WORKING IN THE FIELD (samples)

COMMUNITY-FACING

- “The 2020 census will impact each of us--our friends, family and neighbors, too, for the next decade and beyond. We will only be truly free when we take the power to shape our future, not politicians who want to rig the rules against us. That is what filling out the census is about; using our voices to build our lives and thrive.”
- “We live in uncertain times but together we can fight whatever they throw at us, as we have every step of the way. We are supported by advocates, watch-dogs, litigators. - we are NOT alone.”
- “We will not be erased: We may not all be able to vote, but we CAN COUNT!”
- “This administration's fear is evidence of our power.”

MEDIA-FACING

- “America is at its best when we look out for each other and work together as one nation. The census data determines resources for the schools and parks in our neighborhoods and the money that funds programs that keep families healthy and fed. More importantly, census data is used to determine political representation in Congress and in our state.”
- “Our undocumented communities are steeped in resilience. Everyday they face risks by just walking outside their door.
- “We will not be intimidated by the latest threat this administration is using to keep us from exercising our power.”
- “The census is about MONEY, POWER, RESPECT.”

TIPS FOR SPOKESPEOPLE

- Lead with values. Stay positive, empowering, calm, authentic, resolute.
- Draw a picture of what we can secure for our communities when we work together for an accurate count.
- Don't lie - say data is “confidential” instead of “safe.”
- Meet people where they are: Acknowledge data sharing fears (DHS, landlords, taxes); empower them to make the right decision for them.
- Come back to the action you want the person to take (“get less-vulnerable people in your community to fill it out the census if you can't”).
- Make it local: cite local statistics, use state pride, name well-known local places.
- Speak in a way your grandmother would understand.

**Terry Ao Minnis,
Asian Americans
Advancing Justice
| AAJC**



**Andrea Senteno,
Mexican
American Legal
Defense Fund
(MALDEF)**



LUPE v. Ross – Challenging the Creation of New Redistricting Data

- On same day Trump abandoned the citizenship question he issued Executive Order 13880 directing the Commerce Department to collect citizenship and immigration information through administrative records. Ross directed the Census Bureau to create citizenship redistricting files for states to use in redistricting.
- On September 13, 2019, MALDEF and AAJC filed a challenge to Executive Order 13988.
 - Equal Protection Guarantee of 5th Amendment
 - Administrative Procedure Act
 - Federal conspiracy statute, 42 U.S.C. §1985
- Plaintiffs include Latino, Asian American, and immigrant organizations and individuals across the country.



LUPE v. Ross

- Administrative records are not reliable for producing block level citizenship data on which states can base their redistricting.
- Census Bureau has made recent requests to states for administrative records, including WIC and DMV records.
 - DMV records are inaccurate for identifying non-citizens
 - Texas voter purge litigation an example of problems with DMV records
 - MALDEF and AAJC represented naturalized Latino and AAPI citizens who received purge letters based on out-of-date driver's license records
- Government defendants filed a motion to dismiss the case, and briefing on the issue will conclude February 6, 2020.



Confidentiality Pledge

- MALDEF and the Leadership Conference developed a census confidentiality protection pledge to boost confidence among hard-to-count populations that Census data will remain confidential because there are strong federal laws that keep individual responses confidential. However, many people are likely still reluctant to trust the current administration to follow the law.
- The pledge would unite a bipartisan coalition of prominent and respected individuals and organizations who commit to use their power and influence to address, deter, and end any breaches of Census data confidentiality.
- The plan is to circulate the pledge and to recruit individual and organizational sign-ons in the upcoming month, with a media and public rollout in March.



Census Hotlines

- Arab American Institute: (833) 333-6864; (833) 3DD-OUNI ("Count me" in Arabic)
- Asian Americans Advancing Justice – AAJC: (844) 2020-API or (844) 202-0274 (English, Mandarin, Cantonese, Korean, Vietnamese, Tagalog, Urdu, Hindi, and Bengali/Bangla).
- Lawyers' Committee for Civil Rights: 888-Count20
- NALEO Educational Fund: 877-EL-CENSO (877-352-3676) (Spanish)



Census Hotlines

- Logistics
 - Hotlines will run through July 2020 (end of NRFU)
 - Mixture of live operators responding in real-time and voicemail messages returned in 24-48 hours
 - Coordinating across the hotlines re: FAQs, training, rapid response, etc.
- Scope
 - Broad areas related to the Census, from basic information requests to legal questions to incidents requiring significant follow-up
 - Legal questions are also expected to range broadly from basic obligations regarding Census to serious threats of Census disruption
 - Attorney networks



Questions?