

7

Tasos Katopodis/Getty Images



U.S. Census Director Steven Dillingham discusses the 2020 census at the National Press Club in Washington in April 2019. Some analysts and policymakers have raised concerns that budget shortfalls could undermine the count, but Dillingham said census funding is adequate.

From *CQ Researcher*,
May 3, 2019.

The 2020 Census

Would a citizenship question undermine the count?

By Tom Price

When census takers come calling in 2020, Carmen Queveda of Los Angeles said she wouldn't respond.

"I would never answer, because I don't have papers," the undocumented immigrant from Guatemala told *The New York Times* last year.¹

Census experts say immigrants across the country share her fear about a question the Trump administration wants in the 2020 census: "Is this person a citizen of the United States?"

The problem with the question, the U.S. Census Bureau said in January, is that many immigrants — both legal and undocumented — believe the census will be used "to find undocumented immigrants, [and] that their information will be shared across agencies — potentially leading to deportation." A North African participant said during a census focus group that the government would use the information "to figure out who they've got to kick out."²

The citizenship question is now in the hands of the U.S. Supreme Court, which is expected to decide by the end of June whether the question can be on next year's census form. If the court approves inclusion — and legal analysts believe it may well, based on conservative justices' comments at an April 23 hearing — the census could undercount as many as 6.5 million people, say census researchers and statisticians.³

But backers of the question argue that the concerns are overblown and that the Census Bureau can arrive at an accurate count

even if some people decline to answer all or part of the decennial survey.

The stakes for an accurate count are high. Census data determine the number of seats each state is allotted in the U.S. House of Representatives and how much each state receives from the \$880 billion the federal government allots for everything from student loans to welfare payments. Moreover, academic researchers, business planners, marketers and numerous others use census data to gain a textured understanding of the U.S. population.⁴

The census is “so fundamental to our American form of government, it’s rendered invisible at times,” wrote Kyla Fullenwider, a fellow at the Shorenstein Center on Media, Politics, and Public Policy at the Harvard Kennedy School. “What’s at stake? Federal funding, apportionment, and facts: Money, power, and truth.”⁵

The citizenship question is one of several conflicts — most of them along partisan political lines — surrounding the 2020 census. Liberals and conservatives also are arguing over:

- How much funding the Census Bureau needs to conduct next year’s count, with many liberals worrying

about funding shortfalls and conservatives complaining about high costs.

- Whether undocumented immigrants should be counted when determining congressional representation. Some Republicans say counting noncitizens unfairly increases the number of seats in Democratic-leaning areas.

- Where prisoners should be counted. Conservatives favor counting them where they are incarcerated, which tends to give more political power to rural areas, where many prisons — and the jobs that go with them — are located. Liberals want prisoners counted where they lived before incarceration, which would tilt power toward urban areas.

The 2020 count also has sparked concerns among cyber specialists, who worry that a Census Bureau decision to encourage people to complete the census online for the first time will make the census — and its results — vulnerable to hacking.

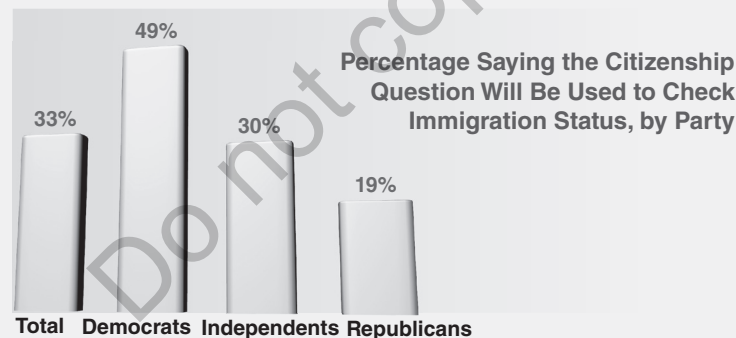
For many historians and analysts, the partisan battles over the 2020 census — particularly the citizenship question — are familiar.

“The citizenship question is another example of how, every 10 years, Americans have to revisit the issues of the allocation of power and money on the basis of census numbers,” said Margo Anderson, a census historian and professor emerita of history at the University of Wisconsin, Milwaukee. She spoke at a March seminar for journalists organized by Georgetown University and the Poynter Institute, a journalism education and research organization in St. Petersburg, Fla.

A collection of city and state governments and activist groups is suing to prevent the Trump administration from adding the citizenship question to the census. Before the Supreme Court hearing, three federal District Court judges ruled that the question violates the law or the Constitution.⁶

Republicans, Democrats Divided on Citizenship Question

One-third of Americans believe the government would use a citizenship question in the 2020 census to check a person’s immigration status, according to a December 2018 survey by the Public Religion Research Institute, a nonpartisan research and education organization. Democrats were more than twice as likely as Republicans to be skeptical of the government’s intentions.



Note: Two percent of respondents either said they “did not know” or declined to answer. The survey’s margin of error is plus or minus 3.3 percentage points.

Source: Maxine Najle and Robert P. Jones, “American Democracy in Crisis: The Fate of Pluralism in a Divided Nation,” Public Religion Research Institute, Feb. 19, 2019, <https://tinyurl.com/y4ophvn5>

“The record in these cases provides overwhelming evidence that the administration’s goal in adding a citizenship question was to discourage and deter immigrants and communities of color from participating” in the census in an effort to decrease Democratic political power, said Kristen Clarke, president and executive director of the Lawyers’ Committee for Civil Rights Under Law, one of the groups that has challenged the administration.⁷

Commerce Secretary Wilbur Ross, who initially said he added the citizenship question at the behest of the U.S. Department of Justice (DOJ), defended his decision. He said the Justice Department wants more detailed citizenship data so it can better enforce protections for minorities under the Voting Rights Act, which forbids racial discrimination in voting and drawing of legislative districts. The evidence is slim that asking about citizens would hurt participation in the census, he said, noting that citizenship questions have appeared on previous censuses.

But even if fewer people do respond in 2020, Ross said, “the citizenship data provided to DOJ will be more accurate with the question than without it, which is of greater importance than any adverse effect that may result from people violating their legal duty to respond.”⁸

Meanwhile, the Urban Institute think tank, the NAACP civil rights advocacy group and other organizations contend that funding and staffing problems threaten the accuracy of the upcoming count. “Because of budget cuts, census officials have had to scale back key components of testing and outreach,” the Urban Institute said.⁹

In a lawsuit, the NAACP said poor planning for the nation’s first-ever census in which people can respond online will worsen undercounts of minorities and others and leave the census vulnerable to cyberattack. The suit also said the U.S. Census Bureau does not have enough money to properly conduct the census.¹⁰

After the Census Bureau spent \$13 billion on the 2010 count — the most expensive in history — Congress capped spending for the 2020 census at \$12.5 billion, and the Trump administration asked for appropriations to match that limit. However, the bureau in late 2017 said it needed \$15.6 billion.¹¹



Andrew Harner/Bloomberg via Getty Images

Commerce Secretary Wilbur Ross testifies about the 2020 census before the House Oversight Committee on March 14, 2019. Ross said including a citizenship question in the census would help ensure that redrawn legislative districts would not dilute minority voting power, but committee Democrats accused Ross of lying to Congress about his reasons for wanting the question on the census form.

Despite the shortfall over the census’ 10-year budget cycle, bureau officials say the 2020 census is on schedule. Senate and House appropriators have backed funding increases in recent years, they note. In fiscal 2018, for example, Congress approved \$2.8 billion for the Census Bureau, nearly double the 2017 funding level of \$1.47 billion, and \$1.13 billion more than the administration’s adjusted request for 2018.¹²

In addition, because most responses will be returned electronically and information will be tabulated using improved data processing techniques, census officials say the bureau requires fewer workers than in previous decades.

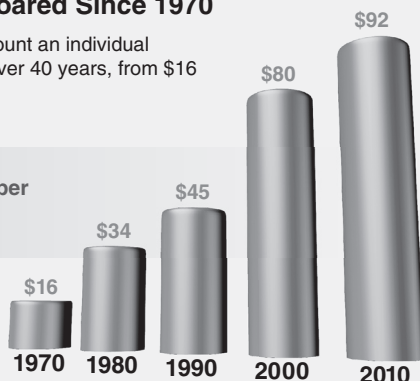
Cyber experts say the digital response option presents its own headaches because of the hacking threat. They point to, among other things, Russia’s attempts to hack into computerized elections records during the 2016 campaign, the initial technical failures of the government’s Affordable Care Act website and data breaches at the Office of Personnel Management and the Federal Emergency Management Agency.

Hackers, cyber experts say, could try to discredit or manipulate census data. “We know that actors like the Russians and others are interested in finding ways to

Census Costs Have Soared Since 1970

The Census Bureau's cost to count an individual household rose nearly sixfold over 40 years, from \$16 in 1970 to \$92 in 2010.

Decennial Census Cost per Household, 1970-2010*



* Figures in 2020 dollars.

Source: "Bureau Has Made Progress with Its Scheduling, but Further Improvement Will Help Inform Management Decisions," U.S. Government Accountability Office, p. 5, <https://tinyurl.com/y5q2x8cs>

make our democracy seem weak, brittle, flawed," said Joshua Geltzer, a former National Security Council official who is executive director of Georgetown Law's Institute for Constitutional Advocacy and Protection. "I don't think it's crazy to worry that there might still be problems when [the census] rolls around. We haven't cracked the code on this in terms of other contexts, of the elections, of the general democracy, so I wouldn't expect the Census Bureau to have figured this out."¹³

In a March report, the U.S. Government Accountability Office (GAO), Congress' investigating arm, said the Census Bureau "needs to address cybersecurity weaknesses in a timely manner and ensure that security risks are at an acceptable level before systems are deployed."¹⁴

Experts from high-tech companies and federal intelligence and law enforcement agencies are helping the bureau prepare its cyber defenses, Bureau Chief Information Officer Kevin Smith said at the Georgetown/Poynter seminar, and added that the bureau is taking other steps to protect the census.

Census officials say a growing distrust of the government presents another challenge to the 2020 count. Although the law requires information about individuals to be kept secret for 72 years, many people remain suspicious that their answers to census questions could be used for nefarious purposes.¹⁵

To encourage responses, the Census Bureau is planning mass-media marketing campaigns and is recruiting minorities and foreign-language speakers to be census

takers. It also is undertaking a massive effort to identify every residence in the nation before mailings go out next year, and forming partnerships with local leaders who will encourage their constituents to answer census questions.

Liberals are happy with one aspect of the 2020 census: For the first time, it will ask whether respondents are in a same-sex marriage, which some say underscores growing acceptance of the institution and could be a boon to gay rights. An official approximation of the number of gay marriages in the country and in specific communities could cause public officials

to be more solicitous of their gay constituents, says Gary Gates, a retired research fellow at the University of California, Los Angeles, and an expert on the demography of the lesbian, gay, bisexual and transgender population.

As census workers finish preparations for next year's count, here are some questions that experts, government officials and others are debating in Washington and across the country:

Will the census accurately count all U.S. residents?

Census officials say they are on track to conduct an accurate and efficient headcount next year, and add that a field test in 2018 was successful. But critics cite new and long-standing challenges as worrisome.

In addition to concerns about the planned citizenship question, some experts and minority activists charge that the administration and Congress have underfunded the Census Bureau and that heavy reliance on the internet poses inadequately examined risks.

They said the bureau needs at least \$2 billion more in the upcoming year than President Trump has requested. Trump proposed spending \$5.3 billion for the fiscal year that begins Oct. 1, down from the \$7.4 billion that Commerce Secretary Ross said in a 2017 report would be needed that year. Activists accuse the Trump administration of lowballing the actual cost as part of its broader campaign to reduce federal spending.¹⁶

"It seems almost to be a deliberate policy of [the Trump administration] to deny the census the funds



Joe Raedle/Getty Images

Census worker Monique Stence (left) talks with Miami resident Nilda Borroto during an outreach campaign for the 2010 census aimed at encouraging people to mail back their census form. For the 2020 count, the U.S. Census Bureau for the first time is urging respondents to return their form electronically.

that it needs,” says Robert Shapiro, chairman of the economic and security advisory firm Sonecon, who supervised preparations for the 2000 census as undersecretary of Commerce for economic affairs.

Census Director Steven Dillingham disagrees. “We’re confident we can get the job done and have a complete count” under the Trump budget, he said. If the bureau discovers it needs more money, it will ask for it, he added.¹⁷

Shapiro says there’s a slim possibility Congress will appropriate more money. But he notes that Congress has struggled to pass appropriations bills in recent years, leaving most or all spending wrapped up in a giant bill called a continuing resolution.

Inadequate funding at key points of the 10-year budget cycle has forced the bureau to curtail some preparations, critics say. The bureau canceled two of three field tests planned for last year. In contrast, the bureau conducted five field tests before the 2010 census, according to Gabriela Domenzain, former director of the Latino Policy Institute, a research group at Roger Williams University in Rhode Island.

The solo 2018 test was conducted in Providence County, R.I. By omitting trial runs in Pierce County, Wash., and the Bluefield-Beckley-Oak Hill area of West Virginia, the bureau abandoned plans to measure the census’ performance in rural areas with spotty internet

service and tribal communities that lack street addresses, according to the Leadership Conference on Civil and Human Rights, a coalition of civil rights groups.¹⁸

The test did not include the citizenship question because Ross announced plans to use it after the questionnaires were prepared, according to the bureau. The question is scheduled to be tested this summer.¹⁹

Critics also worry about the bureau’s plans to receive online responses from the public and to use the internet to manage census takers tracking down people who fail to respond.²⁰

NAACP General Counsel Bradford Berry warned of a “digital divide” — lower-income people being less likely to have good internet access than wealthier households. The census’ reliance on the internet “risks discriminating against Americans — disproportionately people of color — who lack reliable access to broadband,” he said. That, in turn, will lower their response rates and hurt their community’s ability to get federal money for housing, education and other aid, he said.²¹

The GAO’s March report uncovered deficiencies in the Census Bureau’s cyber plan. The agency said the Census Bureau had identified nearly 1,100 security weaknesses yet to be fixed. The bureau lacked sufficient staff and skills to properly oversee an \$886 million contract to integrate information technology systems. Delays in developing IT systems shortened the time available for testing, the GAO said.

The GAO did credit the bureau with making progress since a previous investigation by addressing leadership shortcomings, increasing staff and resources, improving its action plan and better monitoring its programs.²²

The bureau is taking multiple steps to secure its online operations, Chief Information Officer Smith said at the Georgetown/Poynter seminar. Federal and private organizations have tried to break into the census website without success, he said. In addition, online responses and files from census takers will be encrypted in a secure “vault,” and the census website will be monitored for unusual activity.

Census officials said the December-January government shutdown did not harm preparations, because they were able to use a billion-dollar carryover from the previous fiscal year to keep needed staff working.²³

At the seminar and an April 1 press conference, officials described the 2018 field test as a success. Responding to GAO criticism that the bureau did not field test all its

IT systems, census officials said it was not necessary because some had been used in earlier surveys and some weren't ready to be tested at the time.

Albert Fontenot Jr., associate director for decennial census programs, said of the field test: "All of our systems deployed and integrated effectively. Real people were able to effectively use the technology in a real-world condition."

Looking ahead, he said, the largest advertising campaign in census history will promote participation in the 2020 census. New technology — such as using iPhones and a better data processing system for tabulations — has made census workers 50 percent more efficient than a decade ago, meaning fewer will be needed. This census will be the easiest to respond to because people can do so with paper, a telephone or the internet, he said.

Should the census ask whether respondents are citizens?

When the Supreme Court took up the census citizenship question on April 23, it reviewed three federal District Court decisions that used harsh language to explain why the census should not ask the question.

Judge Richard Seeborg in California said Commerce Secretary Ross was engaging in "a cynical search to find some reason, any reason . . . to justify that preordained result" of adding the question to the census.²⁴

In Maryland, Judge George Hazel called the question "an answer in search of a problem."²⁵

And in New York, Judge Jesse Furman adopted the key argument against the question, saying it would be "fundamentally counterproductive to the goal of obtaining accurate citizenship data about the public," but "quite effective at depressing self-response rates among immigrants and noncitizens."²⁶

Technically, the April 23 arguments were about the New York case, which was brought by the state against the Commerce Department.²⁷ But the justices asked attorneys to address issues raised in the other cases as well.

Many analysts say an undercount will lead to a loss of money and power in Democratic strongholds. "A substantial undercount would affect the formulas by which hundreds of billions of dollars of federal spending are dispersed, to the disadvantage of blue states and cities with large immigrant populations," noted political commentator George F. Will.²⁸

But conservatives deny the citizenship question will lead to an undercount, noting that everyone is required by law to respond to the census. Mike Gonzalez, a senior fellow at the conservative Heritage Foundation think tank in Washington, said determining citizenship is "a valid question in a civic-minded constitutional democracy" because every sovereign nation should know how many citizens it has. And U.S. Sen. Ted Cruz, R-Texas, called the question a "reasonable, commonsense addition to the census."²⁹

Ross initially said he added the question at the request of the Justice Department, which needed more-detailed information about where minority citizens live. Without that, the Justice Department said, it cannot determine whether redrawn legislative district lines dilute minority voting power.³⁰

However, internal administration documents — revealed in the court cases and through freedom-of-information requests — told a different story. They showed that Ross first discussed the question with Steve Bannon, then-chief White House strategist, and Republican Kris Kobach, a former Kansas secretary of state who was vice chairman of President Trump's panel that investigated alleged voter fraud in 2017 and disbanded without documenting any.

Ross asked the Justice Department to request the question, and he complained when the department delayed in responding. Documents from the three District Court trials also revealed that career professionals within the Census Bureau opposed adding the question.³¹

Vanita Gupta, head of the Justice Department's Civil Rights Division from 2014 to 2017, said the DOJ can get sufficient citizenship information from the Census Bureau's American Community Survey, which questions about 2.5 percent of the population each year.³²

In a Supreme Court brief opposing the citizenship question, five former Census Bureau directors who served under both Republican and Democratic administrations agreed the information is available elsewhere.³³

"The issue isn't whether or not the administration or the United States has a right to know how many citizens are there," said former bureau Director Hermann Habermann. "The issue is, what's the best way to get that piece of information so that you do not harm the census."³⁴

In recent decades, Census Bureau officials have consistently opposed asking about everyone's citizenship.



Fernando Salazar/Wichita Eagle/TPS via Getty Images

Republican Kris Kobach, who pressed for a citizenship question on the 2020 census, said respondents should not fear that the government will share their information with immigration officials.

The question's potential for depressing responses is worsened by President Trump's anti-immigrant comments and actions, critics of the question say. Even before the question was announced, Latinos experienced a "heightened level of fear" because of "the Trump administration's hostile policies and rhetoric," said Gupta, who now heads the Leadership Conference on Civil and Human Rights.³⁵

The administration, however, has the backing of leaders in 17 Republican-controlled states and many conservative public officials.³⁶

Texas Attorney General Ken Paxton, a Republican, said, "We always are better off having a more accurate count of citizens versus noncitizens."³⁷

"There's no good reason to keep the citizenship question off the census," Kobach said. "The only justification [liberals] offer for keeping the federal government ignorant of how many citizens there are is their ridiculous claim that some people might be afraid to fill out the census form. It's hard to see why anyone would be afraid, when the federal government is prohibited from using census answers against anyone and when the form itself states very prominently that a person's answers 'are protected by law.'"³⁸

Noting that Canada, Australia and many other U.S. allies ask about citizenship on their censuses, conservative commentator Marc Thiessen said it does not matter if the question depresses response. "Illegal immigrants are

here *illegally*," said Thiessen, a resident fellow at the conservative-leaning American Enterprise Institute. "If they choose to violate U.S. law yet again by refusing to participate in the census because of a perfectly legitimate question about citizenship, that's not the U.S. government's fault."³⁹

Steven A. Camarota, research director at the Center for Immigration Studies, which favors less immigration, concedes that concern about a reduced response rate "is not an absurd argument," especially in the current climate with "a more heightened enforcement regime and Trump's rhetoric." But, he adds, other Census Bureau surveys ask about citizenship without apparently depressing responses.

A census question would provide detailed citizenship data for smaller geographic areas than the American Community Survey produces, which would be valuable to demographers like him, Camarota says. "So the value exceeds the risk."

But Ronald Wasserstein, executive director of the American Statistical Association, says adding the question without testing it is "statistical malpractice." The American Community Survey is not comparable to the census, he says, because "asking a question in one context is not the same as asking it in another context."

This is the first time most census responses will come online, for example, says Stephen Pierson, the association's director of science policy. The census has fewer questions than the American Community Survey, which asks about citizenship, he adds. And citizenship and immigration are more-divisive topics now than they have been in the past, Pierson says.

Should prisoners be counted in their most recent place of residence rather than where they are incarcerated?

Prisons and the census remain a flashpoint in the heated, long-term competition between rural and urban areas over political power. Urban activists complain that metropolitan areas lose power when prisoners are counted where they are incarcerated, which often is in rural areas, while rural advocates say the law and fairness demand that inmates be considered "residents" of the town where the prison is located.

The Census Bureau in 2020 will count inmates where they are imprisoned, a practice the Prison Policy Initiative

terms “prison gerrymandering.” In addition to diluting urban power, the practice “reduces the accuracy of census data about communities of color” because African Americans and Latinos are disproportionately incarcerated, the Massachusetts-based prison-reform organization said.⁴⁰

But Republican state Sen. Elizabeth Little of New York said that “the inmates, like everyone, should be counted at their place of residence on that particular day.” She added, “Counting those who are incarcerated where they once were and may never be again isn’t fair to the communities that actually provide the local services, such as water, sewer, emergency responders, health care and courts.”⁴¹

The debate stems from the Census Bureau’s decision to count people “where they usually reside, which is defined as the place where a person lives or sleeps most of the time.”⁴² The policy also applies to college students in their dorms and people who are institutionalized, such as in mental health facilities.⁴³

The bureau will make one change after the 2020 census. It will give states information about prison populations in early 2021 when it releases data used for redistricting. States can use the information to exclude prisoners from redistricting. If a state can identify all prisoners and determine where they lived before incarceration, the bureau will help the state count them in their previous homes.⁴⁴

The Prison Policy Initiative welcomed that decision, but complained that the census will “again count nearly 2 million people in the wrong place.”⁴⁵

The practice is particularly unfair because rural legislators with prisons in their districts tend to vote against prisoners’ interests, said Aleks Kajstura, the initiative’s legal director. Those lawmakers often oppose measures designed to reduce incarceration rates, she said. “You can’t have criminal justice reform if lawmakers feel that mass incarceration is how they got their jobs and how they can keep their districts,” Kajstura said.⁴⁶

Alice Green, executive director of the Center for Law and Justice, a New York-based reform organization, agreed. “The people elected in those districts with high prison populations are more conservative and support more mass incarcerations,” she said.

Democratic New Jersey state Sen. Sandra Cunningham, who is sponsoring legislation to count prisoners at home, said inmates’ transition to freedom can be smoothed by

preserving ties to their home community. “This is a good start in giving [prisoners] a stake in our society once they are released,” she said.⁴⁷

Political and community leaders in rural areas — and Republicans who support them — defend the current system.

When the Democratic-dominated New Jersey Legislature voted in 2017 to count prisoners in their hometowns for redistricting, Republican Gov. Chris Christie vetoed the bill, saying it “smacks of political opportunism” because it passed both houses on “party-line votes.”⁴⁸

In the lead-up to the 2010 census, Chuck Kelly, then-publisher of *The Journal* in upstate Ogdensburg, N.Y., said big cities did not want the two prisons that regional leaders welcomed to his job-starved area. If Ogdensburg benefits from the census count, Kelly said, it is fair compensation for taking the risk of housing criminals.⁴⁹

The Census Bureau and its predecessors have used the same definition of residence since the first census in 1790, census officials said.⁵⁰ “Counting prisoners anywhere other than the [prison] facility would be less consistent with the concept of usual residence, since the majority of people in prisons live and sleep most of the time at the prison,” bureau spokeswoman Kristina Barrett said.⁵¹

New York and Maryland used state records to count prisoners in their previous homes after the last census, Kajstura says. However, she says, the states could not get information about federal prisoners. California and Delaware adopted similar laws that will be implemented in 2021, Kajstura says. She expects the New Jersey Legislature to pass such legislation again and Democratic Gov. Phil Murphy to sign it. Six other states have legislation pending, she says.

The Census Bureau plans to measure one group the way Kajstura would like it to measure prisoners — civilian and military federal employees and their dependents who are abroad. Those on short-term deployments would be counted where they usually live in the United States. Those on long-term assignment would be counted in their home state of record, which is how all federal employees abroad were counted in previous censuses.⁵²

The plan has been derailed by a new Defense Department security measure, however. The Census Bureau planned to count overseas military personnel

with information from the Defense Manpower Data Center. But the center is no longer releasing information about currently deployed service members.

“This new guidance places us in jeopardy of not having the information necessary to count those who are deployed overseas in the communities in which they live,” Census Bureau officials wrote in a Jan. 14 memo.⁵³

BACKGROUND

1790 Undercount

The census has stirred controversy since the birth of the republic.

The struggle between free states — which didn’t want to count slaves when apportioning House of Representative seats — and slave states, which did, led to an infamous compromise enshrined in the Constitution’s Article I, Section 2, that counted each slave as three-fifths of a person.⁵⁴

When the first census tallied 3.9 million people in 1790, controversy surrounded its accuracy. President George Washington and Secretary of State Thomas Jefferson believed the nation’s population actually topped 4 million — and as many as 5 million in Jefferson’s mind. They attributed the undercount to a lack of cooperation from some citizens.⁵⁵

The United States was the first country to establish regular population counts to allocate legislative seats, according to historian Anderson. The framers assigned the enumeration task to the federal government, at a time when it was not expected to do much. The Founders feared the states would inflate their populations to increase their congressional and Electoral College votes, she said.

The U.S. population was harder to count than most democracies because it grew so fast and became so diverse due to immigration, Anderson said.

Assistant U.S. marshals conducted the first census by going door to door and counting free white males, free white females, other free persons and slaves.⁵⁶ They sent the results to the secretary of State, whose office transmitted them to Congress for the first decennial apportionment of 105 House seats, up from 65 in 1787.⁵⁷

Starting in 1820, the census counted how many people were engaged in agriculture, commerce and “manufactures,” and how many were “foreigners not naturalized.”⁵⁸

In 1850, for the first time, information about each individual in a household was listed on a separate line of the census form. Questions included ones on marital status, literacy status and whether a person had a disability.⁵⁹

The census contributed to sectional tensions before the Civil War, Anderson said. The North was growing faster than the South, causing Southern leaders to worry that the South’s power in Congress would grow weaker. That, they worried, could bolster the North’s efforts to abolish slavery.

As it turned out, after the Union’s Civil War victory ended slavery and the three-fifths count of slaves, Southern states’ political power increased because the South’s population — including its freed slaves — was fully counted for apportionment purposes.

The U.S. population exceeded 50 million in 1880, and during the following decade census workers struggled to hand-tabulate the results. Machine-counted punch cards brought relief in the 1890 census, but it still took nearly seven years to calculate and publish all the results of that decennial count. In 1902, recognizing the magnitude of census workers’ tasks, Congress created the Census Office as part of the Commerce Department.⁶⁰

Immigration soared to 8.2 million in the first decade of the 20th century, 70 percent from Eastern and Southern Europe. It was a record that stood until the century’s final decade.⁶¹ Researchers at that time analyzed census information to determine how well immigrants and their descendants assimilated into American culture and how well they fared economically. Politicians and others looked at data on whether people were literate in English, lived in ethnic enclaves and were employed and used the info to justify restrictions on immigration from some countries.

In 1907, Congress established the Dillingham Commission to investigate immigration. Named for its chair, Republican Sen. William Dillingham of Vermont, the commission had three senators, three representatives as well as three experts appointed by President Theodore Roosevelt. Four years later, the panel produced a 41-volume report that provided support for legislation to reduce immigration.⁶²

Some members of Congress wanted to suspend immigration entirely, ending the nation’s traditional open-borders policy. A 1921 law limited annual immigration of

C H R O N O L O G Y

1788-1860 *Census tracks the new nation's expansion.*

1788 U.S. Constitution is ratified; it orders a decennial census to allocate U.S. House seats among states, with slaves to be counted as three-fifths of a person.

1790 First census tallies 3.9 million people. President George Washington and Secretary of State Thomas Jefferson complain of an undercount.

1820 Congress orders census questions about agriculture, commerce, manufactures and “foreigners not naturalized.”

1830 Census takers begin carrying printed questionnaires in place of handwritten ones.

1850 For first time, the census identifies each individual in a household rather than just heads of households.

1860 Sectional tensions, fueled partly by the census’ documentation that Northern states are growing more rapidly than Southern, slaveholding states, help lead to Southern secession and the Civil War.

1865-1929 *Population growth strains census workers.*

1865 After the South’s surrender in the Civil War, the 13th Amendment ends slavery and the three-fifths rule, ironically increasing Southern representation in Congress.

1880 U.S. population exceeds 50 million, straining census tabulators’ ability to hand-count responses.

1890 Census responses are recorded on punch cards and tabulated by machines.

1902 Congress creates Census Office in the Commerce Department.

1920 For the first time in the nation’s history, census reveals most Americans live in urban areas. But Congress, still dominated by rural interests, refuses to approve reapportionment legislation.

1929 Congress adopts legislation that automatically reapportions House seats based on previous census unless Congress intervenes.

1940s-1990s *Census faces confidentiality, accuracy complaints.*

1940-41 Number of men registering for the draft reveals 1940 census missed 3 percent of draft-age men. . . . Scientific sampling is used to gather some census information.

1942 Census data are used to identify Japanese Americans for internment during World War II.

1947 Congress reestablishes the requirement that census information be kept confidential.

1950 Census undercounts U.S. population by 4.4 percent, African American population by 9.6 percent.

1960 Census creates long-form questionnaire, sent to a sample of households, to ask more questions than appear on the short form sent to all residences.

1970 Census Bureau mails questionnaires to most households, ending tradition of enumerators knocking on every door.

1990 A drop in the mail-response rate leads the Census Bureau to order extensive research into mail methodology and stepped-up promotion of the 2000 census.

1999 Supreme Court says sampling cannot be used for apportionment.

2000-Present *Census is at heart of citizenship, apportionment disputes.*

2000 Census Bureau resorts to paid advertising for the first time to promote census participation.

2005 American Community Survey, which queries 2.5 percent of U.S. households annually, replaces the long form.

2009 Senate rejects bill to require census to ask about citizenship.

2010 Most expensive census ever also is highly accurate, overcounting total population by just 0.01

percent. But most minorities are undercounted by 1.5 to 4.9 percent.

2015 Supreme Court rejects lawsuit that would have required states to conduct redistricting based on number of eligible voters rather than total population. It does not rule on whether states may voluntarily redraw districts based on the number of eligible voters.

2018 Trump administration reveals plan to ask citizenship question on 2020 census. Many experts,

including within the Census Bureau, warn the query could depress response rates. Multiple lawsuits seek to ban the citizenship question. . . . Alabama sues to remove undocumented immigrants from the census count that determines apportionment; the case is still being litigated.

2019 Three federal District Courts rule against the citizenship question. Supreme Court hears arguments on the issue on April 23; a decision is expected in June.

Europeans to 3 percent of an ethnic group's share of the U.S. population as revealed by the 1910 census.

In 1924, Congress lowered the quota to 2 percent of what was reported in the 1890 census, when Eastern and Southern Europeans' share of the population was less than in 1910. Asian immigration was banned entirely, but no restrictions were placed on immigrants from the Americas. The provisions stood until Congress passed the Immigration and Naturalization Act of 1965.⁶³

In the 1920s, Anderson said, Congress debated whether apportionment should still be based on each state's total population — citizen or not. It also considered a constitutional amendment to restrict the apportionment count to citizens. Nothing passed.

The 1920s also saw rural America clinging to the political power after the 1920 census revealed that, for the first time in U.S. history, a majority of the population lived in urban areas. Rural lawmakers, who held a majority of congressional seats, simply refused to pass reapportionment legislation, Anderson said.

To avoid future failures to reapportion, Congress in 1929 passed legislation that automatically implements the Census Bureau's apportionment report unless Congress overrides it. Congress failed to renew the requirement that congressional districts be roughly equal in population, however. That enabled rural interests to maintain legislative power by drawing unequal districts.

World War II Controversies

World War II shook the nation's faith in the Census Bureau's accuracy and promise of confidentiality.

When draft-age men registered with the Selective Service in the early 1940s, the Census Bureau discovered

it had undercounted that segment of the population by 3 percent in the 1940 census. Among African Americans, the undercount was 13 percent.⁶⁴

At about the same time, census officials cooperated in the now widely condemned roundup and internment of Japanese American citizens.

In 1939 the FBI and military intelligence agencies sought the right to see confidential census data. Census Bureau Director William Lane Austin resisted. But after the 1940 presidential election, Austin was replaced by J.C. Capt, who supported the intelligence and law enforcement agencies' requests.

Congress repealed the confidentiality requirement after the United States entered the war in December 1941, and information from the 1940 census helped authorities locate people of Japanese ancestry who lived in California, Arizona, Wyoming, Colorado, Utah, Idaho and Arkansas.

Congress reestablished the confidentiality mandate in 1947, then strengthened protections in the 1950s and '70s. Now, a Census Bureau employee who shares confidential information outside the bureau faces fines of up to \$250,000 and five years in prison.

After the Sept. 11 terrorist attacks in 2001, civil rights groups criticized the Census Bureau for giving the Homeland Security Department information about neighborhoods with large concentrations of Arab Americans. But that did not violate the privacy law because the data had already been published and did not provide information about individual households.⁶⁵

As Congress restored and strengthened census confidentiality after World War II, the Census Bureau worked to increase accuracy.

For Minorities, a Lot Is Riding on Census

Undercounting has plagued earlier tallies.

The 2010 census was the most accurate in U.S. history. But a historical trend of undercounting minorities continued, with worrisome implications for those groups.

The census missed 4.9 percent of American Indians who live on reservations, 2.1 percent of African Americans and 1.5 percent of Hispanics, according to the U.S. Census Bureau. At the same time, it overcounted non-Hispanic whites by 0.8 percent.¹

Federal funding and legislative apportionment is based on the census, so undercounting minority communities means they receive less government money and fewer representatives than they should.

“Under our system of government, we have long known that those who aren’t counted don’t count for purposes of drawing legislative districts and distributing federal dollars,” said Bradford Berry, the general counsel of the NAACP. “The systemic and disproportionate undercounting of communities of color deprives us of badly needed federal resources for medical care, K-12 education, housing and transportation while diminishing our ability to be heard politically.”²

Census experts attribute the accuracy problems to several factors. Poverty is one. According to Georgetown

University’s Center on Poverty and Inequality, people with lower income are more likely than others to live in isolated geographical areas where head-counts are difficult, to not have a fixed residence and to not file income tax returns, used by census takers to count people who do not respond to census queries.³

In 2017, African American households had a median income of \$40,258, compared with \$68,145 for non-Hispanic white households, according to the bureau.⁴

Census officials discovered they failed to count 1 million young children in 2010, Burton Reist, assistant census director for communications, operations and management, said at a March seminar for journalists organized by Georgetown University and the Poynter Institute, a journalism education and research organization in St. Petersburg, Fla. Many of those children may have been living apart from their parents — with grandparents or other relatives, for example — who didn’t realize they should report the children on the census. Poor children were more likely than children in affluent families to be living apart from their parents, Reist said.

Minority political power also is diminished by the Census Bureau’s decision to count prison inmates where they are incarcerated rather than their previous homes, says

The bureau had used scientific sampling techniques — similar to techniques employed in public opinion polling — to measure unemployment in the 1930s, and concluded the project was successful. During the 1940 and 1950 censuses, the bureau collected some information from samples of 3 percent, 5 percent and 20 percent of the total population. Sampling enabled the bureau to gather detailed information without asking the questions of every U.S. resident. The bureau gathered demographic information in the 1940 sample, for instance, and housing information in 1950.⁶⁶

Evaluating the accuracy of the 1950 census and the scientific surveys, the bureau found that samplings produced better data. The evaluation concluded that the 1950 census undercounted the total population by 4.4 percent and the black population by 9.6 percent. It found a likely 8 percent error rate in foreign-born residents’ responses to a citizenship question.⁶⁷

In 1957, Congress said the bureau could use sampling in the 1960 census but would have to count the entire population to apportion congressional seats. In response, the bureau prepared two census questionnaires. A short form went to all households and contained just a few questions, including the head count needed for apportionment. A long form, which went to a sampling of households, contained dozens of questions ranging from which appliances were in the house to the education levels of the occupants.⁶⁸

The bureau that year also ended the 170-year-old tradition of census takers knocking on every residential door in the country in order to ask questions about every person living in the household. To save money and increase accuracy, the bureau mailed questionnaires to most households, asking recipients to answer the questions and hold them for an enumerator to collect.⁶⁹

Aleks Kajstura, legal director of the Prison Policy Initiative, which advocates prison reform. This decision has disproportionately affected counts of African Americans and other minorities because their incarceration rates are higher than among whites.⁵

“The system of one person, one vote entirely breaks down when we take people from one community of interest, and then credit them to a completely different community for districting purposes,” said Peter Wagner, the initiative’s executive director.⁶

The undercounting of Native Americans is particularly important because of the special relationship tribes have with the federal government, according to Bill Anoatubby, governor of the Chickasaw Nation in Oklahoma. Under treaty, the federal government supports education, health care, housing and other services on tribal lands, he said at an April press conference conducted by the Census Bureau.

Getting an accurate count is difficult because 25 percent of Native Americans live in areas the Census Bureau has labeled hard to count, Anoatubby said. Besides being remote, some of these areas do not have named streets. Poverty, inadequate permanent housing and a prevalence of shared housing compound the problems, he said.

“It’s important that we as tribes step up” to urge constituents to participate in the census, he said.

The Chickasaw Nation, which had a population of 52,214 in the 2010 census, has begun a census-awareness

campaign using direct mail, social media and information booths at facilities and events.⁷

Many other tribal governments are organizing to encourage responses, Timothy Olson, associate census director for field operations, said at the press conference.

— **Tom Price**

¹ “Census Bureau Releases Estimates of Undercount and Overcount in the 2010 Census,” U.S. Census Bureau, May 22, 2012, <https://tinyurl.com/y2gngtwr>.

² Bradford M. Berry, “The census is a threat to communities of color,” *The Washington Post*, April 30, 2018, <https://tinyurl.com/y3zpxvlf>.

³ “Will You Count? Households with Low Incomes in the 2020 Census,” Center on Poverty and Inequality, Georgetown University Law School, July 1, 2018, <https://tinyurl.com/y2dyr2u6>.

⁴ Kayla Fontenot, Jessica Semega and Melissa Kollar, “Income and Poverty in the United States,” U.S. Census Bureau, September 2018, p. 2, <https://tinyurl.com/y89tqcmh>.

⁵ “Inmate Race,” Federal Bureau of Prisons, April 13, 2019, <https://tinyurl.com/z5pa9ww>.

⁶ David Sommerstein, “Urban, Rural Areas Battle For Census Prison Populace,” NPR, Feb. 15, 2010, <https://tinyurl.com/ygrle2k>.

⁷ Population figure is from “2010 Census CPH-T-6. American Indian and Alaska Native Tribes in the United States and Puerto Rico: 2010,” U.S. Census Bureau, Table 1, <https://tinyurl.com/y4wr3ds6>.

Ten years later, the bureau asked city and suburban respondents to mail back the questionnaires and sent enumerators only to rural households and those that had not responded or answered all the questions.⁷⁰ In 1980, 95 percent of households were asked to respond by mail.⁷¹

A debate similar to the current citizenship controversy erupted in the run-up to the 1980 census, when a proposed Senate bill would have removed undocumented immigrants from the apportionment count.

The bureau opposed adding a citizenship question to the short-form questionnaire sent to every household, saying “any effort to ascertain citizenship will inevitably jeopardize the overall accuracy of the population count. Questions as to citizenship are particularly sensitive in minority communities and would inevitably trigger hostility, resentment and refusal to cooperate.”

The bill did not pass, and the citizenship question remained only on the long form.⁷²

The citizenship question had a long and varied history by then, according to six historians and social scientists who researched the census’ use of the question. The 1820 and 1830 censuses asked respondents to state the number of “foreigners not naturalized” but did not ask their names. After 1830, the census asked only about foreign-born men over age 21. Then, in 1930, the census began asking about the naturalization status of all foreign-born people in each household. But starting in 1960, the Census Bureau asked the citizenship question only on the long form sent to a subset of households.⁷³

Accuracy Questions

In 1990, census officials became concerned when just 65 percent of households returned the mailed questionnaires,

Reaching Out to the Hard-to-Reach

Snowmobiles and circus visits help census takers get the count.

To begin the count of nearly 309 million U.S. residents a decade ago, Census Director Robert Groves climbed onto a dogsled so Hendy Ballot could drive him to the Inupiat Eskimo village of Noorvik, Alaska, north of the Arctic Circle, where Ballot was tribal administrator.

There — at the home Clifton Jackson, an 89-year-old veteran of World War II — Groves conducted the first census interview of 2010.¹

It was a publicity stunt, designed to call attention to the census and to encourage responses by residents of the remotest parts of the United States. But the journey to Noorvik also demonstrated the lengths census takers must go to count people in places unreachable by normal means of transportation.

Reaching people who are highly mobile, homeless or living in remote locations can require extraordinary effort — and often, creative thinking — to ensure a reliable decennial census.

Isolated localities in Alaska are prime examples. Although the national census officially occurs on April 1 and most mailings go out in March, canvassing in remote Alaska begins in January.

The first interview next year will occur on Jan. 21 in Toksook Bay, a village on the Bering Sea in southwest Alaska. The Census Bureau has not yet named the census taker or the mode of transportation he or she will use to reach the village.²

Census taking starts early in isolated Alaskan communities because many residents leave for hunting and fishing camps after the spring thaw. The early start also makes it easier for the census taker to travel when paths, rivers, lakes and tundra are frozen.³

Conducting the census by mail or internet is not a good option in remote Alaska, according to Carol Gore, who

heads the Cook Inlet Housing Authority in Anchorage and chairs a census advisory committee. More than 80 percent of the state's communities are inaccessible by road. Mail delivery can be unreliable, Gore said, and good internet connections are sparse.

"They may have one computer in their community, and that's at the school," she explained.⁴ Some communities are reachable by bush plane. But many census takers ride dogsleds or snowmobiles to get to the dwellings they count. The bureau looks to hire locals who know their way around the area and can speak the local language.⁵ About 20 native languages are spoken in the state.⁶

Meanwhile, census takers face different challenges when trying to count the homeless, whether in remote areas or in densely populated cities. The challenge is not getting to the places where the homeless live, but rather figuring out where those places are.

Census workers consult social-service providers and advocates for the homeless to compile lists of where people without a fixed address are likely to be on Census Day, according to Burton Reist, assistant census director for communications, operations and management. Options include shelters, soup kitchens, missions and places where mobile food-delivery services regularly stop.

Census takers will spend the night where people sleep outdoors, such as under bridges, in parking lots or at tent encampments, said Albert Fontenot Jr., associate director for decennial census programs.

Advocacy groups have complained that the homeless have been undercounted in previous censuses. That can mean less federal aid flows to places where people are missed, said Brendan Kearns, a fellow at the National Coalition for the Homeless, an advocacy group in Washington.⁷

short of the 70 percent the bureau expected, John Thompson, census director from 2013 to mid-2017, told the Georgetown/Poynter seminar.

Officials responded by ordering extensive research into mail methodology and stepped up promotion of the 2000 census. The bureau for the first time bought advertising to encourage response. In addition, it established

the partnership program, which recruited trusted individuals and organizations to encourage participation among their constituencies, Thompson said.

The bureau wanted to sample 750,000 households in 2000 to gather information it could use to correct miscounts in the full census. Congressional Republicans objected after the plan was revealed in 1996, arguing

More-accurate information helps advocates for the homeless spot trends, “understand what is working better and build the case to do more,” said Nan Roman, president and chief executive officer of the National Alliance to End Homelessness, a research and advocacy group in Washington that provides training and technical assistance to organizations working to tally the country’s homeless population.⁸

Former Census Bureau Director John Thompson, appearing alongside Reist and Fontenot at a March seminar for journalists on the 2020 census, said the apparent undercount occurs because “the census is a point-in-time count, [while] the population goes in and out of homelessness.”

People who are not homeless when they are counted are not listed as homeless on the census, Thompson says. But they are homeless to advocates and service providers when they turn up on another day to seek help.

Census takers also face challenges in counting people who carry their homes with them. That’s why enumerators show up at circuses, racetracks, marinas, campgrounds and RV parks. They also visit long-term-stay hotels and motels.

People who are traveling temporarily on Census Day, such as tourists, are counted at their permanent homes, Census Bureau spokesman Sonny Le said. People who always are on the road get counted wherever they are when census takers find them.⁹

That is true for people who are nomads for fun.

Chris Dunphy and Cherie Ve Ard have been traveling and blogging about their travels since 2006. “Our ‘winter’ home is a vintage bus conversion, and our ‘summer’ home is a motor yacht exploring the Great Loop” where the 6,000-mile waterway circles Florida, they say on their website.¹⁰

In late March 2010, Dunphy was researching how the census counted full-time travelers.

“With a home that moves and no place that we consider a single home base, we were curious as to where we’d be counted,” he wrote. Dunphy was “quite surprised, and impressed, when a census enumerator knocked on our door at a state park campground in Texas.”

Dunphy learned that he and Ve Ard would be counted in Austin, where the campground is located, and recorded on the census form as “full-time RV travelers — [do] not stay in one location most of the time.”

He also learned how the census sometimes counts people more than once.

“We were warned that when we move on to Gonzales [Texas] later next week, it’s quite possible we’ll be called upon again — and we should just tell them we were counted already.”¹¹

— **Tom Price**

¹ Kevin Spak, “Census Begins With Dog Sled Ride,” *Newser*, Jan 25, 2010, <https://tinyurl.com/y5t7b8lq>.

² “2020 Census Count to Begin in Remote Alaska,” U.S. Census Bureau, Oct. 19, 2018, <https://tinyurl.com/y54bz5as>.

³ “Remote Alaska,” U.S. Census Bureau, undated, <https://tinyurl.com/y5y8srm>.

⁴ Hansi Lo Wang, “Why The U.S. Census Starts In Alaska’s Most Remote, Rural Villages,” NPR, Jan. 21, 2019, <https://tinyurl.com/y8kvqx93>.

⁵ *Ibid.*

⁶ “Alaska Native Languages,” Alaska Native Language Preservation & Advisory Council, Alaska Division of Community and Regional Affairs, undated, <https://tinyurl.com/y5mlmadk>.

⁷ Brendan Kearns, “Down for the Count: Overcoming the Census Bureau’s Neglect of the Homeless,” National Coalition for the Homeless, January 2013, <https://tinyurl.com/y2tme3ud>.

⁸ Nan Roman, “Why the PIT Count Counts,” National Alliance to End Homelessness, Jan. 16, 2019, <https://tinyurl.com/y6c9hosh>.

⁹ “In the census, everyone must be counted — even the carnival workers,” *East Bay Times*, Aug. 15, 2016, <https://tinyurl.com/y2tol23w>.

¹⁰ Chris Dunphy and Cherie Ve Ard, “How We Hopscotch Our Car Between Marinas (For Realz . . .),” *Technomadia*, April 11, 2019, <https://tinyurl.com/yy37lyzu>; “The Adventure of a Lifetime . . . America’s Great Loop,” America’s Great Loop Cruisers’ Association, undated, <https://tinyurl.com/yab7tcd9>.

¹¹ Chris Dunphy and Cherie Ve Ard, “US Census 2010: Counting Nomads,” *Technomadia*, March 24, 2010, <https://tinyurl.com/y2adfnms>.

sampling would be open to error and political manipulation and noting the Constitution requires an “actual enumeration” for apportionment. The dispute went to the Supreme Court, which ruled 5-4 in 1999 that sampling cannot be used to determine how congressional seats are divided among the states. The decision left open the possibility of using sampling for other purposes, such

as distributing government funds and drawing legislative districts.⁷⁴

The Census Bureau scrapped the long form and replaced it in 2005 with the American Community Survey.⁷⁵ In 2009, Republican Sens. Bob Bennett of Utah and David Vitter of Louisiana proposed requiring the census to include a citizenship question. It was part

of a new effort to identify and remove undocumented immigrants from apportionment, but it failed to pass.⁷⁶

The 2010 census, the most expensive ever, was also remarkably accurate.

Comparing census results with a post-census survey to check the full count's accuracy, the bureau found an overcount of a mere 0.01 percent, or 36,000 people in a nation of nearly 309 million. The bureau described it as "not statistically different from zero," and Census Director Robert Groves called the results "outstanding."⁷⁷

The 2010 census cost about \$13 billion over its 10-year life cycle, angering some members of the Republican majority in Congress who ordered the bureau to spend no more than \$12.5 billion in the 2020 cycle, a cap that has been exceeded.⁷⁸

In the run-up to the 2010 census, conservatives claimed there were too many questions that violated Americans' privacy.

Then-Rep. Michele Bachmann, R-Minn., said she would tell only how many people lived in her home because census questions had become "very intricate, very personal." Then-Rep. Ron Paul, R-Texas, said the census "was never intended to serve as a vehicle for gathering personal information on citizens." And Erick Erickson, founder of the conservative website RedState.com, said he would chase census workers off his property with a shotgun. "We are becoming enslaved by the government," he said.⁷⁹

The census became a Supreme Court issue again in 2015 when two Texas voters argued that apportionment and redistricting should be based on the number of eligible voters, not on the total population. The court held that the state could not be forced to redistrict based on voter counts, but it did not rule on whether a state could do so voluntarily.⁸⁰

Thompson resigned as census director on June 30, 2017, at a time many legislators and census experts were complaining that Congress was not giving the bureau enough money to conduct an accurate count. The Census Bureau at one point had 157 job vacancies because of a governmentwide hiring freeze that Trump imposed shortly after taking office that year.⁸¹

Thompson said he did not resign in protest but because "I'd reached a point where I'd done all I could do" after leading the bureau through the transition from the Obama to the Trump administrations.⁸² The Senate unanimously

confirmed his successor, Dillingham, a former director of the Bureau of Justice Statistics, on Jan. 2.⁸³

In 2017 and 2018, the Trump administration debated whether the 2020 census should include a citizenship question.

Against, this backdrop, Stephen Buckner — Census Bureau assistant director for digital, marketing and strategic communication — warned in an internal email about "the unprecedented level of public distrust and fear of providing information to the Census Bureau that Census Bureau field representatives are experiencing."⁸⁴

CURRENT SITUATION

Supreme Court Hearing

The Supreme Court is considering two key questions as it decides whether to allow the citizenship question on the 2020 census:

- Did Commerce Secretary Ross break the law by ordering the census to include the question without following standard Census Bureau procedures for writing and testing questions?
- Did Ross violate the Constitution by ordering a question that could lead immigrants and other minority groups to avoid being counted?

When justices heard arguments in the case on April 23, members of the court's conservative majority indicated they were likely to let the question stand.

"The statute that Congress has passed gives huge discretion" to the secretary of Commerce in deciding which questions to add, said Justice Brett Kavanaugh, President Trump's most recent addition to the court.

The Constitution calls for an "actual enumeration" of the population each decade, and "enumeration is how many people reside here, not how many are citizens," said Justice Sonia Sotomayor, who was appointed by Democratic President Barack Obama. "There's no doubt that people will respond less. If you're talking about prediction, this is about 100 percent that people will answer less."

But the liberal wing, to which Sotomayor belongs, occupies just four of the court's nine seats.⁸⁵

The Supreme Court accepted the case on an expedited basis, taking the appeal directly from the District Court and bypassing the normal stop in an appeals



Mark Wilson/Getty Images

NAACP President Derrick Johnson speaks at the National Press Club in Washington in 2018 about a lawsuit his organization brought in federal court arguing that underfunding and poor preparation for the 2020 census could lead to an undercount of minorities. The Trump administration has defended census preparations.

court. The high court is expected to rule by the end of June, when the bureau said it needs to begin printing questionnaires.

Three federal District Court judges — in New York, Maryland and California — had ruled that Ross violated the Administrative Procedure Act, which governs how federal agencies make decisions. At the Maryland trial, former Census Bureau Director Thompson said Ross did not follow long-standing procedures for adding questions and ignored experts who told him the question would impair the census' accuracy. Normally questions undergo lengthy, sometimes years-long, testing, experts said. The citizenship question has not been tested, and critics say it will especially affect the tallying of minorities.

"The addition of a citizenship question to the 2020 census only increases the likelihood of a substantial undercount of immigrant communities, particularly immigrants of color," said Derrick Johnson, NAACP president and CEO.⁸⁶

By discouraging responses to the census and creating an inaccurate count, the Maryland and California judges said, the question violates the constitutional requirement for an "actual enumeration" every 10 years.⁸⁷

In the administration's first appeal, of the New York decision, Solicitor General Noel Francisco said the District Court exceeded its authority by taking the "unprecedented step of striking a demographic question from the decennial census and thereby preventing the secretary of Commerce from exercising his delegated powers" to manage the census.⁸⁸

Two other census-related cases are pending in federal District Courts, but they have not moved beyond early filings. In a case filed in Maryland, the NAACP contends the census is so poorly funded and run that minority groups will be undercounted. Government attorneys responded that the NAACP's concerns about census preparations are premature. District Judge Paul Grimm rejected an administration request to dismiss the suit.⁸⁹

The state of Alabama, meanwhile, is demanding that the Census Bureau identify undocumented immigrants and not count them when releasing data for apportionment. Otherwise, it said, the state will lose federal funding and a U.S. House seat to a state with larger numbers of undocumented immigrants. Drafters of the Constitution and the 14th Amendment on citizenship did not intend to have undocumented immigrants counted, the state said.

Opponents of the suit note that every census in U.S. history has counted everyone living in the country, regardless of citizenship. And the Constitution requires "counting the whole number of persons in each state." The judge, in the Northern District of Alabama, is considering requests for dismissal and the state's response, according to the Alabama attorney general's office.⁹⁰

The Commerce Department in December said it would allow state and local governments to request citizenship data for use in redistricting.⁹¹ Hedging against a possible loss in the Supreme Court, the Census Bureau is seeking to compile citizenship data from records kept by the Homeland Security Department and other federal agencies.⁹²

Census Preparations

Census officials say preparations for the 2020 count are on schedule. They expect to count 330 million people in 140 million households, 39.5 percent of whom will have to be contacted numerous times — some in person — to get responses, Deirdre Dalpiaz Bishop, chief of the

bureau's geography division, said at the Georgetown/Poynter seminar.

Census workers are compiling a list of all U.S. residential addresses, most of which will receive census mailings next year, she said. Some workers are examining satellite photos supplied by the National Geospatial Intelligence Agency, searching for changes in neighborhoods since they were last canvased. Other workers are walking neighborhoods to identify new residences and dwellings that no longer exist.

The bureau is working with service providers and advocates for the homeless to identify where the homeless congregate. The U.S. Postal Service sends its current address list to the Census Bureau each year. State, local and tribal governments send address lists as well, in efforts to make sure all their constituents are counted. The bureau's list has been growing by about a million addresses a year since 2010.

Between 40,000 and 60,000 employees will have worked on updating the address list by the time questionnaires are mailed, Bishop said.

Challenges to compiling an accurate address list include multiple families living in one housing unit, people living in structures not approved for housing, residences demolished since the last list was compiled and former commercial structures converted to housing units.

Most U.S. residences will receive letters in March 2020 asking them to respond online, by mail or by phone, Fontenot said at the seminar. Households that do not respond will receive up to four reminder letters, followed by one or more personal visits that deliver a questionnaire or lead to an in-person interview, he said.

Questionnaires will be delivered in person to residences that do not get mail and to places where residences have been disrupted by a natural disaster, including all of Puerto Rico. Personal deliveries also will be made in isolated, sparsely populated areas such as parts of Alaska and Maine and some tribal areas.

To contact nonrespondents, the bureau is recruiting and hiring what will become an army of 400,000 to 500,000 temporary census takers to visit those households, Fontenot said. The enumerators will carry iPhones that will give them their assignments and on which they will record the results of in-person interviews.

To try to maximize its response rate, the bureau consults many advisory committees that recommend how to reach ethnic and other groups and that work to persuade those groups to participate. State and local governments, community groups and business organizations encourage responses. Forty-eight states have formed "complete count committees" to urge their constituents to respond, according to the Census Bureau.

States and the Census

After the 2020 census is completed, nine states are in danger of losing a congressional seat, according to a *Washington Post* analysis: Alabama, Illinois, Michigan, Minnesota, New York, Ohio, Pennsylvania, Rhode Island and West Virginia. Arizona, Colorado, North Carolina and Oregon could gain a seat, while Florida could gain two and Texas three.⁹³

With congressional representation at stake, states are making varying degrees of effort for the census.

California, which has a large immigrant population, has committed to spending \$100 million on promotion, and Democratic Gov. Gavin Newsom has asked for another \$54 million. In Los Angeles, where \$1.2 million will be spent to promote participation, city officials have identified more than 200 government offices that could host internet-connected computers for people to answer the census. California spent \$25 million promoting participation in 2000 but only \$2 million in 2010, when the state had a severe budget crisis.⁹⁴

Illinois' state-appointed Complete Count Commission is requesting \$25 million. The Minnesota Legislature is considering spending \$2.5 million on promotion, and advocates are hoping to raise another \$2.5 million from businesses and nonprofit organizations.⁹⁵

In Republican-led Arizona, Florida and Texas, all of which have large immigrant populations, state leaders are mostly leaving it to city and local officials to organize census outreach efforts, according to an analysis by Pew.

Seventeen Democrats sponsored a bill in Arizona that would have directed \$2 million to the secretary of state's office for census communication and outreach, half of which was to be given to each county based on population, and half to each city and town, but the legislation died in committee.⁹⁶

A T I S S U E

Should the census ask whether respondents are U.S. citizens?

YES**Steven A. Camarota***Director of Research, Center for Immigration Studies**Written for CQ Researcher, May 2019*

A citizenship question was asked of all or some respondents on every census from 1820 to 2000. In 2010, the U.S. Census Bureau dropped the “long-form” questionnaire, asked of a subset of the population since 1960, in favor of the new annual American Community Survey (ACS), which essentially contains the long-form questions — including one on citizenship. There are two primary arguments for putting the citizenship question back on the decennial census: protecting voters and improving data quality.

In its memo asking for inclusion of the question, the Department of Justice argued that it is needed to enforce the Voting Rights Act and Supreme Court decisions. To determine whether discriminatory practices are reducing the immigrant and minority vote, the department wrote that it needs to know the actual number of eligible voters — including those who are naturalized. While the ACS provides citizenship data, the sample is too small to provide an accurate count on the local level.

In addition to voting rights, a citizenship question would go a long way in improving immigration-related data. The question of how many immigrants the census misses is important. Consider just one example: Estimates of the immigrant population are based on Census Bureau surveys and on adjustments to reflect those missed. Partly because of uncertainty about undercounting, a recent study estimated the undocumented immigrant population at 22 million — double other estimates. Adding a citizenship question could make such estimates much more accurate by helping to determine the actual undercount.

The bureau conducts extensive research after each census to see how many people were missed. But it can only do this for those questions included on the census. The proposed citizenship question would allow the bureau to estimate the actual undercount of immigrants.

Court challenges and media reports have speculated that including the question on the census might reduce response rates for immigrants or those who live with them. But it is important to remember that the bureau already asks about citizenship every month in the Current Population Survey, which provides unemployment figures, and there is no indication that respondents rates have fallen. The same is true of the annual ACS.

The concern that a citizenship question might reduce response rates, while not absurd, is only speculation. Unless there is actual evidence that it would harm response rates, the significant advantages merit its inclusion.

NO**Robert Shapiro***Senior Policy Fellow, Georgetown Business School; Former Undersecretary of Commerce for Economic Affairs**Written for CQ Researcher, May 2019*

Requiring everyone to tell the Census Bureau whether or not they are legal U.S. citizens would almost certainly inflict serious damage on the 2020 census.

I oversaw the 2000 census as undersecretary of Commerce for economic affairs, but my conclusion is not just my opinion. Experts at the U.S. Census Bureau, the American Statistical Association and the National Academy of Sciences have all agreed that a citizenship question could badly distort the 2020 decennial count.

The census is the only occasion we have in which all of us are required to provide our names, current addresses and family information to the government. We do so because the Constitution stipulates that apportioning seats in the House of Representatives depends on how many people live in each state. Beyond that, the federal government allocates \$800 billion a year among the states based on formulas that include decennial data.

Virtually all experts oppose the citizenship question, because they believe that millions of people will see it as a way of determining whether they are here legally. The choice for many of those millions of people will be to either lie or throw away the census form.

As a matter of law, the Census Bureau cannot share any personal information received through the decennial count or any of its other surveys with anyone else, including law enforcement. But most people don't know that — including, apparently, Commerce Secretary Wilbur Ross, who testified that the citizenship question should be included to help the Justice Department enforce voting rights.

Ask yourself: If you suspect that your census answers might be shared with law enforcement, why would you respond if anyone in your household were here without proper documentation? And why would you take the chance of responding with your name and address if you are in arrears on a federal student loan or child support?

Everyone is subject to the laws Congress passes, and how federal funds are distributed affects everyone, regardless of one's legal status and debts. This does not affect, for example, whether your children can attend a public school — but an accurate count of the children in your neighborhood will affect how much federal money your school receives.

With so much at stake, there are no reasonable grounds for including any question that could discourage tens of millions of people from responding to the census.

About 340 cities and counties in Alabama have helped census workers verify addresses. State officials also are seeking help from leaders in schools, churches and commerce to boost census responses.⁹⁷

OUTLOOK

Citizenship Question's Fate

All eyes are on the Supreme Court as it weighs the citizenship question.

Thomas Wolf, a counsel for the Democracy Program at New York University's Brennan Center for Justice, said the justices "will have to think long and hard before reversing rulings against the citizenship question from three separate courts."⁹⁸

Camarota of the Center for Immigration Studies says his "guess" is that "given the composition of the Supreme Court [with five conservative justices], they will rule that the administrative branch was well within its authority to add this one question."

Historian Anderson says that regardless of how the court rules, the administration's decision to ask the question already has fueled fear of the government among immigrants and other minorities, as has President Trump's constant attacks on undocumented immigrants.

"If they take the question off, there's still the residual sour taste," Anderson says. "Will that affect the census quality?"

Camarota says the impact of the question is overblown. "I don't think it will suppress the response," he says. "Just because somebody doesn't respond doesn't mean they [census workers] don't do follow-up," he says, noting the Census Bureau's plans to make multiple attempts to get information from those who do not reply to the initial contact.

Census funding remains an uncertainty, according to experts. And, even if Congress offers more money, "it's very late to fix things," says former Commerce undersecretary Shapiro. "Most things are really nailed down in this [census] cycle by 2018."

Some advocates are optimistic about prospects in their areas of expertise.

Kajstura, who advocates counting prisoners in their hometowns rather than in prison, says that "generally, across the map, things are getting closer to a solution." A small but growing minority of states is moving toward

her position, she says, and the Census Bureau has agreed to help states count prisoners whichever way state officials want to.

"The Census Bureau will report data on the number of people in correctional facilities earlier, in time for redistricting," she explains. "Last time, it was published after all the redistricting data was published."

Also applauding a census trend is Gates, the retired UCLA research fellow.

Adding a same-sex-marriage question to the 2020 census is "a powerful indication of the acknowledgment of the status of same-sex couples," Gates says. Census officials would not have approved the question unless they believed it "wouldn't create a fight, that people wouldn't get upset about seeing that on the census form."

In the past, some gay couples would have been reluctant to identify themselves because of concerns about confidentiality, Gates says. Now, he says, that is probably "a fairly small group."

But a question on same-sex marriage is not enough, he says. The 2030 census should have "a flat-out measurement of sexual orientation and gender identity," not just of marriage.

"In the United States, it's an unfortunate situation that you don't really count unless someone counts you," Gates says.

NOTES

1. Miriam Jordan, "If Census Asks About Citizenship, Some Already Have an Answer: No Comment," *The New York Times*, March 27, 2018, <https://tinyurl.com/y92baew9>.
2. "2020 Census Barriers, Attitudes, and Motivators Study (CBAMS) Focus Group Final Report," U.S. Census Bureau, Jan. 24, 2019, <https://tinyurl.com/y6xmo48h>; Kriston Capps, "The State of 2020 Census Is Distrust," CityLab, Feb. 22, 2019, <https://tinyurl.com/ytyceow>.
3. Robert Barnes, "In high-stakes census case, Supreme Court will dissect Trump's effort to catalogue non-citizens," *The Washington Post*, April 21, 2019, <https://tinyurl.com/y4hv5obl>; Robert Barnes and Mark Berman, "Supreme Court's conservatives appear likely to let Trump add citizenship question

- to 2020 Census," *The Washington Post*, April 23, 2019, <https://tinyurl.com/y6leoua8>.
4. Gregory Krieg, "The census has always been a weapon of political power," CNN, March 27, 2018, <https://tinyurl.com/yc2gltqd>.
 5. Kyla Fullenwider, "Why an Accurate 2020 Census Matters: Money, Power and Truth," Kennedy School Review, April 15, 2019, <https://tinyurl.com/y3fcs9we>.
 6. Fred Barbash, "Wilbur Ross: 'The simple but explosive questions about the census he's fighting not to answer,'" *The Washington Post*, Oct. 11, 2018, <https://tinyurl.com/y65noauf>; Richard Wolf, "Second federal judge thwarts Trump administration plan to ask about citizenship in 2020 Census," *USA Today*, March 6, 2019, <https://tinyurl.com/y3vxmdwc>; and Richard Wolf and Alan Gomez, "Trump administration plan for census citizenship question ruled against by third federal judge," *USA Today*, April 5, 2019, <https://tinyurl.com/y3otl8n5>.
 7. Stanley Augustin, "National Civil Rights Group Responds to Supreme Court's Decision to Hear Census Case," Lawyers' Committee for Civil Rights Under Law, Feb. 19, 2019, <https://tinyurl.com/y2zrrced>.
 8. Letter from Secretary Wilbur Ross to Karen Dunn Kelley, Undersecretary for Economic Affairs, March 26, 2018, U.S. Department of Commerce, p. 7, <https://tinyurl.com/y3ygdds7>.
 9. Diana Elliott and Charmaine Runes, "An Underfunded 2020 Census Puts an Accurate Count at Risk," Urban Institute, March 18, 2019, <https://tinyurl.com/yy233gg8>.
 10. Michael Kunzelman, "Judge Allows NAACP To Pursue Claim That 2020 Census Is Underfunded," Talking Points Memo, Jan. 30, 2019, <https://tinyurl.com/yxho5yek>.
 11. Margo J. Anderson, *The American Census* (2015), Appendix 2; "High-tech 2020 Census: Grant it enough money to make it count," *Seattle Times*, Sept. 6, 2017, <https://tinyurl.com/y6gbafnw>; "Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas," U.S. Government Accountability Office, March 2019, p. 63, <https://tinyurl.com/y5qbs2fq>.
 12. "Fiscal Year 2020 Budget Summary," U.S. Census Bureau, 2019, <https://tinyurl.com/yykq8shd>; Tara Bahrapour, "The 2020 Census received much more funding in the House spending bill than advocates had anticipated," *The Washington Post*, March 22, 2018, <https://tinyurl.com/y69vyhtk>; Chase Gunter, "House, Senate bills split on Census funding," FCW, June 20, 2018, <https://tinyurl.com/y4ngl6te>.
 13. Tara Bahrapour, "2020 Census likely target of hacking, disinformation campaigns, officials say," *The Washington Post*, April 1, 2019, <https://tinyurl.com/y6cua4lu>.
 14. "Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas," *op. cit.*
 15. Deanna Paul, "The Supreme Court agreed to hear the census citizenship case. Here's why that matters," *The Washington Post*, Nov. 20, 2018, <https://tinyurl.com/y5dcxlr3>.
 16. Jeffrey Mervis, "Trump's budget request for 2020 census raises alarms," *Science*, April 4, 2019, <https://tinyurl.com/y4nf5bwn>.
 17. *Ibid.*
 18. "Leadership Conference Comments on the Census Bureau's End-to-End Test-Peak Operations," Leadership Conference on Civil and Human Rights, Aug. 13, 2017, <https://tinyurl.com/yy2xlvly>; Diana Elliott and Charmaine Runes, "An Underfunded 2020 Census Puts an Accurate Count at Risk," Urban Institute, March 18, 2019, <https://tinyurl.com/yy233gg8>; Michael Wines, "With 2020 Census Looming, Worries About Fairness and Accuracy," *The New York Times*, Dec. 9, 2017, <https://tinyurl.com/ya4esvnp>; and Michelle R. Smith, "2020 census test has critics counting concerns, not people," *The Associated Press*, April 8, 2018, <https://tinyurl.com/y68xyv7s>.
 19. Hansi Lo Wang, "Hurdles Remain As The Final Countdown Begins For The 2020 Census," NPR, Jan. 10, 2019, <https://tinyurl.com/yxtov6ov>.
 20. Carolyn B. Maloney, "How the Trump administration tries to skew democracy by attacking the cen-

- sus," *The Washington Post*, Jan. 16, 2019, <https://tinyurl.com/y2ovbsp0>.
21. Bradford M. Berry, "The census is a threat to communities of color," *The Washington Post*, April 30, 2018, <https://tinyurl.com/y6tmc2uc>.
 22. "Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas," *op. cit.*
 23. Hansi Lo Wang, "2020 Census Preparations Were Slowed By The Partial Government Shutdown," NPR, Feb. 25, 2019, <https://tinyurl.com/yywulbhh>.
 24. "Ross's census sabotage was 'arbitrary,' 'capricious' and 'cynical,' says a federal judge," *The Washington Post*, March 18 2019, <https://tinyurl.com/y35gho6a>.
 25. Barbash, *op. cit.*
 26. Wolf, "Second federal judge thwarts Trump administration plan," *op. cit.*
 27. *United States Department of Commerce et al., Petitioners v. State of New York et al.*, <https://tinyurl.com/y4v5tuom>.
 28. George F. Will, "Wilbur Ross acted wretchedly. But his census decision may be legal," *The Washington Post*, April 19, 2019, <https://tinyurl.com/y2hsnhqw>.
 29. Mike Gonzalez, "Census Bureau Has Been Co-Opted by Leftist Ideologues," Heritage Foundation, June 15, 2018, <https://tinyurl.com/y3nl4bor>; Tim Henderson, "High-Immigration States Diverge on Census Citizenship Question," Pew Charitable Trusts, Oct. 26, 2018, <https://tinyurl.com/yxtkz77x>.
 30. Salvador Rizzo, "Fact-checking claims about Trump's citizenship question in the census," *The Washington Post*, March 29, 2018, <https://tinyurl.com/y2ebt6jx>.
 31. Emily Bazelon, "In Donald Trump's Census, Who Counts?" *The New York Times*, Nov. 28, 2018, <https://tinyurl.com/y7dz5673>.
 32. Dara Lind, "The citizenship question on the 2020 census, explained," *Vox*, March 28, 2018, <https://tinyurl.com/yclp88w9>; Vanita Gupta, "The bitter lie behind the census's citizenship question citizenship question," *The Washington Post*, March 29, 2018, <https://tinyurl.com/y6qjttfl>.
 33. "Brief of Former Census Bureau Directors as Amici Curiae in Support of Respondents," *U.S. Department of Commerce et al. v. State of New York et al.*, <https://tinyurl.com/y6lm73k2>.
 34. Hansi Lo Wang and Nina Totenberg, "Supreme Court Appears to Lean Toward Allowing Census Citizenship Question," NPR, April 23, 2019, <https://tinyurl.com/yytvu9cy>.
 35. Jay Michaelson, "2020 Census Citizenship Question Is All About Voter Suppression," *The Daily Beast*, March 27, 2018, <https://tinyurl.com/y8h564e5>.
 36. Wang and Totenberg, *op. cit.*
 37. Henderson, "High-Immigration States Diverge on Census Citizenship Question," *op. cit.*
 38. Kris W. Kobach, "Exclusive — Kobach: Bring the Citizenship Question Back to the Census," Breitbart, Jan. 30, 2018, <https://tinyurl.com/y53a7z6w>.
 39. Marc A. Thiessen, "There's nothing wrong with a census question about citizenship," *The Washington Post*, March 29, 2018, <https://tinyurl.com/y32vdmwa>.
 40. "Census Bureau will count incarcerated people in the wrong place once again in 2020 Census, continues to distort democracy," Prison Policy Initiative, Feb. 7, 2018, <https://tinyurl.com/yxagc3og>.
 41. Keith B. Richburg, "As Census Nears, How to Count Inmates Is Debated," *The Washington Post*, April 26, 2009, <https://tinyurl.com/y6tobod6>; Tim Henderson, "Counting prison inmates differently could shift political power to cities," Pew Charitable Trusts, Jan. 2, 2019, <https://tinyurl.com/yyv6k3os>.
 42. "2020 Census Operational Plan, Version 4.0," U.S. Census Bureau, December 2018, <https://tinyurl.com/y255gefo>.
 43. "Census Bureau will count incarcerated people in the wrong place once again in 2020 Census," *op. cit.*; Keith B. Richburg, "As Census Nears, How to Count Inmates Is Debated," *The Washington Post*, April 26, 2009, <https://tinyurl.com/y6tobod6>.
 44. "Final 2020 Census Residence Criteria and Residence Situations," *Federal Register*, Feb. 8, 2018, <https://tinyurl.com/y6srkkzq>.
 45. "Census Bureau will count incarcerated people in the wrong place once again in 2020 Census," *op. cit.*
 46. Henderson, "Counting prison inmates differently could shift political power to cities," *op. cit.*

47. *Ibid.*
48. *Ibid.*; Gov. Chris Christie, veto message, July 13, 2017, <https://tinyurl.com/yxa6w34q>.
49. David Sommerstein, "Urban, Rural Areas Battle For Census Prison Populace," NPR, Feb. 15, 2010, <https://tinyurl.com/y4yf7mq6>.
50. "2020 Census Operational Plan, Version 4.0," *op. cit.*
51. Tim Damos, "In Depth: Feds won't change how prisoners counted in 2020," *Baraboo* [Wisconsin] *News-Republic*, Jan. 12, 2019, <https://tinyurl.com/y4r2hxq5>.
52. Albert E. Fontenot Jr., "2020 Census Program Memorandum Series: 2018.04," U.S. Census Bureau, Feb. 5, 2018, <https://tinyurl.com/y2zkuduw>.
53. Hansi Lo Wang, "Restrictions On Deployed U.S. Troop Data Could Put 2020 Census 'At Risk,'" NPR, Feb. 25, 2019, <https://tinyurl.com/y4z7s5pa>.
54. Paul Finkelman, "Three-Fifths Clause: Why Its Taint Persists," *The Root*, Feb. 26, 2013, <https://tinyurl.com/y46p9vw6>.
55. Thomas J. Billitteri, "Census Controversy," *CQ Researcher*, May 14, 2010, pp. 433-56.
56. "History, Index of Questions, 1790," U.S. Census Bureau, <https://tinyurl.com/y5eolwgy>.
57. Margo Anderson *et al.*, "Brief of Historians and Social Scientists as Amici Curiae in Support of Respondents," *Department of Commerce, et al., v. State of New York, et al.*, No. 18-966, in the Supreme Court of the United States, April 1, 2019, <https://tinyurl.com/yyaf9cp9>; "Apportionment of the U.S. House of Representatives," U.S. Census Bureau, <https://tinyurl.com/y2w4e8to>.
58. "History, Index of Questions, 1820," U.S. Census Bureau, <https://tinyurl.com/johxl4e>.
59. Anderson *et al.*, *op. cit.*
60. *Ibid.*
61. "Total Immigrants by Decade," Scholastic, <https://tinyurl.com/lmbrvbv>; "Immigration in the Early 1900s," EyeWitness to History, <https://tinyurl.com/3lhmehp>.
62. "Abstracts of reports of the Immigration Commission," Government Printing Office, 1911, <https://tinyurl.com/yxjkd7w>.
63. Robert F. Zeidel, "A 1911 Report Set America On a Path of Screening Out 'Undesirable' Immigrants," *Smithsonian*, July 16, 2018, <https://tinyurl.com/yyyy4l7s>; Shom Mazumder, "The census has always been political," *The Washington Post*, March 30, 2018, <https://tinyurl.com/y47yjb7x>; and Anderson *et al.*, *op. cit.*
64. Billitteri, *op. cit.*
65. Lori Aratani, "Secret use of census info helped send Japanese Americans to internment camps in WWII," *The Washington Post*, April 6, 2018, <https://tinyurl.com/y4pcc6uo>; Anderson, *The American Census*, pp. 193-99, *op. cit.*; and Eric Lipton, "Panel Says Census Move on Arab-Americans Recalls World War II Internments," *The New York Times*, Nov. 10, 2004, <https://tinyurl.com/yyoebkkn>.
66. Anderson *et al.*, *op. cit.*; "1940 Overview," U.S. Census Bureau, <https://tinyurl.com/yyfvval4>; and "1950 Overview," U.S. Census Bureau, <https://tinyurl.com/qxay52e>.
67. Anderson *et al.*, *ibid.*; Billitteri, *op. cit.*
68. Anderson, *The American Census*, *op. cit.*, p. 207; "Notice of Required Information for the 1960 Census of Population and Housing," U.S. Census Bureau, <https://tinyurl.com/y2cbmfvk>.
69. "About the 1960 Decennial Census," U.S. Census Bureau, <https://tinyurl.com/y2je3h6k>.
70. "About the 1970 Decennial Census," U.S. Census Bureau, <https://tinyurl.com/yy448rc>.
71. "1980 Overview," U.S. Census Bureau, <https://tinyurl.com/yyhhthr5>.
72. *Ibid.*; Anderson *et al.*, *op. cit.*
73. *Ibid.*, Anderson *et al.*
74. Joan Biskupic and Barbara Vobejda, "High Court Rejects Sampling In Census," *The Washington Post*, Jan. 26, 1999, <https://tinyurl.com/y5nyhufm>; Billitteri, *op. cit.*; and Steven A. Holmes, "Court Voids Plan to Use Sampling for 2000 Census," *The New York Times*, Aug. 25, 1998, <https://tinyurl.com/y5w49amv>.
75. Lind, *op. cit.*; Anderson *et al.*, *op. cit.*
76. Billitteri, *op. cit.*
77. "Census Bureau Releases Estimates of Undercount and Overcount in the 2010 Census," U.S. Census

- Bureau, May 22, 2012, <https://tinyurl.com/h6nutvj>.
78. "High-tech 2020 Census: Grant it enough money to make it count," *op. cit.*; "Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas," U.S. Government Accountability Office, March 2019, <https://tinyurl.com/y5qbs2fq>; and Anderson, *The American Census*, *op. cit.*, Appendix 2.
 79. Billitteri, *op. cit.*
 80. Bazelon, *op. cit.*
 81. Matt Novak, "Here Are the Jobs the Census Bureau Can't Fill Because of Trump's Stupid Hiring Freeze," Gizmodo, April 10, 2017, <https://tinyurl.com/yy84zxyh>.
 82. Charles S. Clark, "Ex-Census Director: 'I Didn't Leave Because of Politics,'" *Government Executive*, July 25, 2017, <https://tinyurl.com/yxs22yoo>; Tara Bahrapour, "U.S. Census director resigns amid turmoil over funding of 2020 count," *The Washington Post*, May 9, 2017, <https://tinyurl.com/y45g2nfg>.
 83. Tara Bahrapour, "Senate confirms new Census Bureau director as 2020 survey approaches," *The Washington Post*, Jan. 3, 2019, <https://tinyurl.com/y5g8d8fg>.
 84. Deanna Paul, "The Supreme Court agreed to hear the census citizenship case. Here's why that matters," *The Washington Post*, Nov. 20, 2018, <https://tinyurl.com/y2565alx>.
 85. Barnes and Berman, "Supreme Court's conservatives appear likely to let Trump add citizenship question to 2020 Census," *op. cit.*
 86. "NAACP President Derrick Johnson Responds to Federal Judge Jesse Furman's Ruling on the 2020 Census," NAACP, Jan. 15, 2019, <https://tinyurl.com/y2c69xvl>.
 87. Tara Bahrapour, "Federal judge in Maryland blocks Trump administration's plan to add citizenship question to 2020 Census," *The Washington Post*, April 5, 2019, <https://tinyurl.com/y2suz6ys>; Tara Bahrapour, "Maryland trial on census citizenship question focuses on disenfranchisement in its first few days," *The Washington Post*, Jan. 25, 2019, <https://tinyurl.com/y6ydtuyy>.
 88. Robert Barnes, "Supreme Court takes up Trump administration's plan to ask about citizenship in census," *The Washington Post*, Feb. 15, 2019, <https://tinyurl.com/y3udgg7s>.
 89. Michael Kunzelman, "Judge Allows NAACP To Pursue Claim That 2020 Census Is Underfunded," Talking Points Memo, Jan. 30, 2019, <https://tinyurl.com/yxho5yek>.
 90. Michael Wines, "How the Supreme Court's Decision on the Census Could Alter American Politics," *The New York Times*, April 23, 2019, <https://tinyurl.com/y6yr4o3g>.
 91. Wang, "Hurdles Remain As The Final Countdown Begins For The 2020 Census," *op. cit.*
 92. Tara Bahrapour, "DHS plan to share noncitizens' data with Census Bureau could further frighten immigrants, experts say," *The Washington Post*, March 8, 2019, <https://tinyurl.com/yxf8sfmp>.
 93. Ted Mellnik and Reuben Fischer-Baum, "What's new for the 2020 Census?" *The Washington Post*, April 2, 2019, <https://tinyurl.com/y498a828>.
 94. *Ibid.*
 95. Mellnik and Fischer-Baum, *op. cit.*
 96. Henderson, "High-Immigration States Diverge on Census Citizenship Question," *op. cit.*
 97. Mellnik and Fischer-Baum, *op. cit.*
 98. Bahrapour, "Federal judge in Maryland blocks Trump administration's plan to add citizenship question to 2020 Census," *op. cit.*

BIBLIOGRAPHY

Books

Anderson, Margo J., *The American Census: A Social History*, 2nd ed., Yale University Press, 2015.

A historian who taught at the University of Wisconsin, Milwaukee, traces the census' path from its creation in the Constitution to the highly accurate 2010 count.

Lopresti, Robert, *When Women Didn't Count: The Chronic Mismeasure and Marginalization of American Women in Federal Statistics*, Praeger, 2017.

A government information librarian at Western Washington University shows how federal statistics have underplayed or distorted women's role in U.S. society.

Perlmann, Joel, *America Classifies the Immigrants: From Ellis Island to the 2020 Census*, Harvard University Press, 2018.

A senior scholar at Bard College's Levy Economics Institute analyzes how concepts of race and ethnicity shaped immigration laws, census questions and social policies from the 19th-century immigration surge to deliberations about a 2020 citizenship question.

Articles

Aratani, Lori, "Secret use of census info helped send Japanese Americans to internment camps in WWII," *The Washington Post*, April 6, 2018, <https://tinyurl.com/yy4luafw>.

A reporter recounts how supposedly confidential census information was used to identify and intern Americans of Japanese ancestry during World War II.

Elliott, Diana, and Charmaine Runes, "An Underfunded 2020 Census Puts an Accurate Count at Risk," Urban Institute, March 18, 2019, <https://tinyurl.com/yyolh7oj>.

Budget cuts forced census officials to scale back testing and outreach efforts, which will hurt the Census Bureau's ability to get an accurate count next year, according to a liberal-leaning Washington think tank.

Lind, Dara, "The citizenship question on the 2020 census, explained," *Vox*, March 28, 2018, <https://tinyurl.com/y45wlb62>.

A journalist offers a comprehensive look at the citizenship question and says it could make the 2020 census less accurate.

Thiessen, Marc A., "There's nothing wrong with a census question about citizenship," *The Washington Post*, March 29, 2018, <https://tinyurl.com/y32vd-mwa>.

A resident fellow at the conservative-leaning American Enterprise Institute defends the citizenship question and says it does not matter if including the question in the 2020 census reduces the response rate.

Wines, Michael, "Inside the Trump Administration's Fight to Add a Citizenship Question to the Census," *The New York Times*, Nov. 4, 2018, <https://tinyurl.com/y69y6g65>.

Internal Trump administration documents, released in court cases, show that Commerce Secretary Wilbur Ross

and other administration officials initiated the idea of adding a citizenship question, not the Justice Department, as Ross has claimed.

Reports and Studies

"Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas," U.S. Government Accountability Office, March 2019, <https://tinyurl.com/y2y726eh>.

Congress' investigative arm warns of Census Bureau shortcomings in preparations for next year's count, including staffing shortages and delays in testing the bureau's IT systems, but notes recent improvements in leadership and other areas.

"2020 Census Operational Plan, Version 4.0," U.S. Census Bureau, Dec. 31, 2018, <https://tinyurl.com/y6d4ub7a>.

The Census Bureau lays out its plan for counting everyone living in the United States next year.

Anderson, Margo, et al., "Brief of Historians and Social Scientists as Amici Curiae in Support of Respondents," *Department of Commerce et al., v. State of New York et al.*, No. 18-966, in the Supreme Court of the United States, April 1, 2019, <https://tinyurl.com/y3ajs24f>.

Six scholars — five historians and a sociologist — relate the history of the census' citizenship question while arguing that the 2020 count should not contain one.

Henderson, Tim, "High-Immigration States Diverge on Census Citizenship Question," Pew Charitable Trusts, Oct. 26, 2018, <https://tinyurl.com/yxtkz77x>.

A report by a Washington research group explores how red and blue states are taking different approaches to preparing for the 2020 census. Democratic-controlled California is spending big money to encourage residents to answer census questions, while three Republican states are leaving outreach to cities.

THE NEXT STEP

Census Budget

McGirt, Ellen, "Your Nation Is Counting On You," *Fortune*, March 27, 2019, <https://tinyurl.com/y2zhxho3>.

Budget cuts forced the U.S. Census Bureau to eliminate key staff and drop tests of essential improvements needed for the 2020 census, according to Robert Shapiro, who

oversaw the 2000 census as undersecretary of Commerce for economic affairs.

Mervis, Jeffrey, “Trump’s budget request for 2020 census raises alarms,” *Science*, April 4, 2019, <https://tinyurl.com/y4nf5bwn>.

To ensure a successful census, the bureau needs at least \$2 billion more in the upcoming year than the Trump administration has requested, some observers say, but Census Director Steven Dillingham defended the budget before a Senate panel.

Sidahmed, Mazin, “Early Arrival: NYS Budget’s Census Funding Disappoints Advocates,” *Documented*, April 1, 2019, <https://tinyurl.com/y6csoefe>.

New York state has dedicated \$20 million in its budget, only half of what critics say is needed, to help with the counting of immigrant and low-income residents in 2020.

Citizenship Controversy

Bade, Rachel, “Justice Department refuses to comply with congressional subpoena for testimony on citizenship question and 2020 Census,” *The Washington Post*, April 24, 2019, <https://tinyurl.com/y6a9ng5c>.

With tensions between the Trump administration and the Democratic-controlled House rising, the Justice Department will not let a department official appear before a congressional committee investigating whether the 2020 census should contain a citizenship question.

Oprysko, Caitlin, “Trump offers alternate argument for citizenship question on 2020 census,” *Politico*, April 24, 2019, <https://tinyurl.com/yyu3lkkz>.

President Trump tweeted his support for a citizenship question based on the importance of counting undocumented immigrants, instead of the official argument that the information is needed to protect minority voting rights.

Williams, Pete, “Supreme Court appears likely to allow citizenship question in 2020 census,” *NBC News*, April 23, 2019, <https://tinyurl.com/y35eczp4>.

The Supreme Court’s conservative majority indicated at a recent hearing that Commerce Secretary Wilbur Ross has the right to add a citizenship question to the census.

Cybersecurity

Bahrapour, Tara, “2020 Census likely target of hacking, disinformation campaigns, officials say,” *The Washington Post*, April 1, 2019, <https://tinyurl.com/y57uqjm4>.

To ensure the safety of the 2020 census, the Census Bureau says it is planning to encrypt the information it gathers, check responses for unusual activity and monitor social media.

Brown, Nick, “Exclusive: Fearful of fake news blitz, U.S. Census enlists help of tech giants,” *Reuters*, March 27, 2019, <https://tinyurl.com/y4ogrvrc>.

The Census Bureau is working with Google, Facebook and Twitter to combat misinformation about the 2020 census, including taking down fake websites.

Maurer, Tim, “Why the government needs to pay attention to census cybersecurity,” *The Hill*, April 2, 2019, <https://tinyurl.com/y28ux88p>.

The government needs to undertake a “hiring sprint” to fill key security positions for the 2020 census, says a cybersecurity expert.

Minorities

“Dakotas’ Native American tribes concerned about 2020 Census,” *Kelo AM-FM*, April 24, 2019, <https://tinyurl.com/yxnoa4b9>.

Native American tribes in North Dakota are planning outreach to their members in an effort to prevent the undercounting that occurred in earlier censuses.

Gedeon, Joseph, “As census approaches, many Arab Americans feel left out,” *The Washington Post*, April 13, 2019, <https://tinyurl.com/yxupcy49>.

Arab Americans say the census’ racial question should include an option for “Middle Eastern or North African.”

Nuño-Pérez, Stephen, “Communities take steps to foster Latino census participation despite citizenship question,” *NBC News*, April 23, 2019, <https://tinyurl.com/y5aaekpt>.

Groups in California and Arizona with high Hispanic and immigrant populations are providing education and language services to boost participation in the 2020 census.

For More Information

American Statistical Association, 732 N. Washington St., Alexandria, VA 22314; 703-684-1221; www.amstat.org. Scientific and educational society that advises the Census Bureau and reports on statistical issues.

Brennan Center for Justice, 120 Broadway, Suite 1750, New York, NY 10271; 646-292-8310; www.brennancenter.org. Liberal think tank and advocacy group at the New York University Law School whose interests include census-related issues.

Center for Immigration Studies, 1629 K St., N.W., Suite 600, Washington, DC 20006; 202-466-8185; <https://cis.org/>. Conservative research organization that supports lower levels of immigration.

Mexican American Legal Defense and Educational Fund, 634 S. Spring St., 11th Floor, Los Angeles, CA 90014; 213-629-2512; www.maldef.org. Nonprofit law firm that

litigates on behalf of Latinos, including opposing the census citizenship question and Alabama's suit to exclude undocumented immigrants from apportionment.

Prison Policy Initiative, PO Box 127, Northampton, MA 01061; 413-527-0845; www.prisonpolicy.org. Organization that advocates for prison reform, including calling for the census to count prisoners where they lived before sentencing instead of where they are incarcerated.

Public Interest Legal Foundation, 32 E. Washington St., Suite 1675, Indianapolis, IN 46204; 317-203-5599; <https://publicinterestlegal.org>. Conservative nonprofit law firm that focuses on election issues, including apportionment and the census.

U.S. Census Bureau, 4600 Silver Hill Road, Washington, DC 20233; 301-763-4636; www.census.gov. Federal agency that conducts the decennial census and other surveys.