



February 25, 2019

Via First-Class Mail
Jeff Behler, Director
New York Regional Census Office
32 Old Slip, 9th Floor
New York, NY 10005

Dear Director Behler:

Lawyers for Civil Rights (LCR) is writing to express its grave concern that the Census Bureau's operational plan for the 2020 Census has insufficient infrastructure to guarantee a complete count in the Commonwealth of Massachusetts. We are asking that you take proactive steps now to ensure that historically "hard to count" communities— people of color, immigrants, renters, low-income households, and families with limited English proficiency¹— are not overlooked in 2020, including adding a Census field office for western Massachusetts; hiring diverse trusted messengers to administer the Census; and providing appropriate language support for all non-English languages spoken in our Commonwealth. We also request a meeting with you to discuss these urgent issues.

I. Background

Lawyers for Civil Rights is a nonprofit that fosters equal opportunity and fights discrimination on behalf of people of color and immigrants. LCR engages in creative and courageous legal action, education, and advocacy in collaboration with law firms and community partners. Working in Massachusetts for over fifty years, LCR is acutely aware of the ways in which an undercount in 2020 would disadvantage Massachusetts residents by causing the state to suffer a depletion of federal funds and a dilution of congressional representation.

The 2020 Census will determine the allocation of nearly \$700 million in funding for approximately 120 social, economic and public health programs.² Federal programs use the population, demographic, and housing data collected by the Census to determine the share of expenditures Massachusetts will receive for the next ten years.³ The Census also affects subsidies to state programs including education, transportation, and MassHealth, which is 50% federally

¹ Census 2020, Explained. (2018: 9). The Boston Foundation. Retrieved from https://www.tbf.org/-/media/tbf/reports-and-covers/2018/census2020_webfinal.pdf?la=en.

² Marissa Hotchkiss & Jessica Phelan. (2017:3-7). Uses of Census Bureau Data in Federal Funds Distribution. United States Census Bureau. Retrieved from <https://www2.census.gov/programs-surveys/decennial/2020/program-management/working-papers/Uses-of-Census-Bureau-Data-in-Federal-Funds-Distribution.pdf>.

³ *Id.* at 10.

funded.⁴ Federal subsidies account for nearly 30% of the Massachusetts state budget.⁵ This amounts to \$16 billion dollars, or nearly \$2,500 per person per year for the next ten years in Census-linked funds.⁶

In particular, in Massachusetts the Census affects the allocation of nearly \$300 million in special education grants: over \$150 million to Head Start; nearly \$80 million to the Women, Infants and Children (WIC) Program; over \$600 million to the Children’s Health Insurance Program (CHIP); and \$135.6 million to the Low Income Home Energy Assistance Program (LiHEAP).⁷ To put this in human terms, 171,000 students currently benefit from special education programs;⁸ 12,000 children enrolled in free Head Start in 2017;⁹ 110,000 people currently use WIC;¹⁰ 1.5 million children use CHIP;¹¹ and in 2017 nearly 160,000 households received LiHEAP.¹² An undercount in 2020 would lead to budgetary shortfalls, placing increased burdens on the state, municipalities, and local service providers.

As you are aware, the 2020 Census is not only a constitutional mandate, but the sole determinant of Massachusetts’ congressional representation. It is well-established law that the “representatives serve all residents, not just those eligible or registered to vote.”¹³ Massachusetts is home to many domestic and international immigrants, particularly immigrants of color.¹⁴ Between 2000 and 2010, the Commonwealth added 200,000 residents¹⁵ and since 2010, the Commonwealth has welcomed an additional 375,000 new residents, becoming the fastest

⁴ Nancy Wagman (2017). What Is the Actual State Cost of MassHealth in 2018? Massachusetts Budget and Policy Center. Retrieved from http://massbudget.org/report_window.php?loc=What-Is-the-Actual-State-Cost-of-MassHealth-in-2018.html.

⁵ Mike Maciag (2017). How Much do States Rely on Federal Funding? *Governing Magazine*. Retrieved from <http://www.governing.com/topics/finance/gov-state-budgets-federal-funding-2015-2018-trump.html>.

⁶ Massachusetts Census Equity Fund 2020. Philanthropy Massachusetts. Retrieved from <https://www.philanthropyma.org/node/58660>.

⁷ Nancy Wagman, (2018). Why the Count Counts: Major Sources of Federal Funding for Massachusetts Affected by Census Counts. Massachusetts Budget and Policy Center. Retrieved from http://massbudget.org/report_window.php?loc=Why-the-Count-Counts.html.

⁸ School District Profiles. Massachusetts Department of Elementary and Secondary Education. Retrieved from <http://profiles.doe.mass.edu/statereport/selectedpopulations.aspx>.

⁹ Head Start Program Facts: Fiscal Year 2017. (2018). U.S. Department of Health and Human Services. Retrieved from <https://eclkc.ohs.acf.hhs.gov/about-us/article/head-start-program-facts-fiscal-year-2017>.

¹⁰ WIC Program: Total Participation. (2018). U.S. Department of Agriculture. Retrieved from <https://www.fns.usda.gov/pd/wic-program>.

¹¹ Total Monthly Medicaid and CHIP Enrollment. (2018). Henry J. Kaiser Family Foundation. Retrieved from <https://www.kff.org/health-reform/state-indicator/total-monthly-medicaid-and-chip-enrollment/?activeTab=map¤tTimeframe=0&selectedDistributions=total-monthly-medicaidchip-enrollment&selectedRows=%7B%22states%22:%7B%22massachusetts%22:%7B%7D%7D%7D&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>.

¹² Protect LiHEAP in 2019. National Energy and Utility Affordability Coalition. Retrieved from <https://neuac.org/wp-content/uploads/2018/02/State-Sheet-FY19-Massachusetts.pdf>.

¹³ *Evenwel v. Abbott*, 136 S. Ct. 1120, 1132 (2016).

¹⁴ Sarah Betancourt (2019). Without immigrants, Mass. would lose population, study says. *Commonwealth*. Retrieved from <https://commonwealthmagazine.org/immigration/without-immigrants-mass-would-lose-population-study-says/>.

¹⁵ Fred Thys (2010). After Losing A House Seat, Someone Must Go. *WBUR News*. Retrieved from <https://www.wbur.org/news/2010/12/22/ma-loses-a-seat> and Henry Renski et al. (2013); Long-term Population Projections for Massachusetts Regions and Municipalities. UMass Donahue Institute. Retrieved from http://pep.donahue-institute.org/UMDI_LongTermPopulationProjectionsReport_2013.11.pdf.

growing state in the Northeast.¹⁶ Nevertheless, Massachusetts lost a seat in the House of Representatives after the 2010 Census, which studies have shown significantly undercounted the state's population, for example, omitting an estimated 20,000 children from the final count.¹⁷ It is critical that the 2020 Census capture the Commonwealth's growth accurately so that residents are fairly represented in Congress, and appropriately allocated federal resources.

II. 2020 Census Challenges

The 2020 Census poses unique challenges. The Bureau's decision to level fund the 2020 Census at 2010 levels,¹⁸ relying on alleged "innovations" to lower costs,¹⁹ has already led to the cancellation of pilot programs, delays in field worker hiring, scaling back public outreach,²⁰ the closure of Boston's Regional Census Office,²¹ and a loss of six Census field offices compared to twelve in 2010, apparently without regard to where hard to count populations reside.²² Western Massachusetts includes 1.6 million hard to count residents and some of the hardest to count areas in the country,²³ there are no field offices west of Worcester.²⁴ This means that cities such as Springfield, Fitchburg, Leominster, Springfield, Southbridge and Amherst—which collectively have 300,000 residents,²⁵ a quarter to a third of which did not complete the 2010 Census—will not have a dedicated local office to manage Census field operations such as in-person follow-ups with households that do not self-report and manual counts of group housing residents.²⁶

¹⁶ Gintautas Dumcius (2018). Massachusetts population growing at twice the rate of previous 10 years, fastest in Northeast. *Masslive*. Retrieved from <https://www.masslive.com/news/2018/12/massachusetts-population-growing-at-twice-the-rate-of-previous-10-years-fastest-in-northeast.html>.

¹⁷ Catherine McGloin (2018). Undercounting the 2020 Census could cost Massachusetts Millions. *Bay State Banner*. Retrieved from <https://baystatebanner.com/2018/08/09/census-undercount-could-cost-massachusetts-millions/>.

¹⁸ Alexis Farmer. Funding the Census. Brennan Center for Justice. Retrieved from <https://www.brennancenter.org/funding-census>.

¹⁹ Albert E. Fontenot & Joanne Crane. 2020 Census Life-cycle Cost Estimate (2017:6). U.S. Census Bureau. Retrieved from <https://www2.census.gov/programs-surveys/decennial/2020/program-management/planning-docs/2020-cost-estimate1.pdf> and D'Vera Cohn. (2016). For 2020, Census Bureau plans to trade paper responses for digital ones. Pew Research Center. Retrieved from <http://www.pewresearch.org/fact-tank/2016/02/24/for-2020-census-bureau-plans-to-trade-paper-responses-for-digital-ones/>.

²⁰ Count Us All. Massachusetts Census Equity Fund. Retrieved from <https://www.masscensusequity.org/>.

²¹ Megan Woolhouse (2012). US Census office in Boston to close. *Boston Globe*. Retrieved from <https://www.bostonglobe.com/business/2012/08/24/boston-census-office-close-nyc-new-center-for-regional-operation/a8H2bQFebHUuKQK0fLIHL/story.html>.

²² Local Census Office Map (2010). U.S. Census Bureau. Retrieved from <https://www.census.gov/library/visualizations/2010/dec/local-census-offices-map.html>.

²³ HTC [Hard to Count]. CUNY Center for Urban Research. Retrieved from <https://www.censushardtcountmaps2020.us/?latlng=37.70121%2C-91.76331&z=8&query=coordinates%3A%3A38.83543%2C-92.31262&arp=arpRaceEthnicity>.

²⁴ Initial Locations of 2020 Area Census Offices. U.S. Census Bureau. Retrieved from https://www2.census.gov/programs-surveys/decennial/2020/program-management/memo-series/2020-memo-2017_21_ACO_list.pdf?#.

²⁵ American Factfinder. U.S. Census Bureau. Retrieved from https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml?src=bkmk.

²⁶ Albert E. Fontenot. (2017). Area Census Offices for the 2020 Census (2020 Census Program Memorandum Series 2017.21). U.S. Census Bureau. Retrieved from https://www.census.gov/programs-surveys/decennial-census/2020-census/planning-management/memo-series/2020-memo-2017_21.html.

The Bureau's decision, for the first time, to conduct the 2020 Census online²⁷ does not reduce the need for outreach among hard to count populations,²⁸ which face numerous obstacles. In western Massachusetts, 1 in 5 homes lacks internet access.²⁹ Springfield, for example, is the third-largest city in the state and had an average 68% response rate to the 2010 Census. Fully two-thirds of Springfield residents are people of color, 32% lack home internet access, and half of residents are renters.³⁰ Springfield's demographics make clear that hard to count populations are not discrete, but overlap in ways that, without intervention, will hamper or discourage their participation in the Census.

Immigrants are also less likely to participate in the Census because the xenophobic political tone has created a climate of uncertainty and fear. Attempts to dismantle Temporary Protected Status (TPS) and Deferred Action for Childhood Arrivals (DACA), arrests of immigrants at courthouses,³¹ and pending changes to "public charge" regulations that would make it harder to obtain a green card³² have led immigrants to fear adverse consequences for themselves and their families if they disclose information to the government. The possibility of a citizenship question on the 2020 Census has only heightened these reasonable fears.³³ Whether or not there is a citizenship question on the final Census form, 480,000 test Census forms that are already being sent out nationwide include a citizenship question.³⁴ The likelihood of polarizing rhetoric in the presidential primaries in 2020 makes outreach to hard to count populations to combat the trust gap even more critical.³⁵

III. Proactive Steps To Ensure An Accurate Census Count In Massachusetts

The Bureau can still ensure that Massachusetts receives a complete count in 2020 by revising its operational plan for Massachusetts to extend outreach to historically undercounted populations who are at increased risk of underrepresentation in 2020. Given the history of inaccurate counts in Massachusetts, and the very real consequences of an undercount in 2020, we ask the Bureau to immediately commit to taking the following proactive steps:

²⁷ Dan McMorro (2015). Respondent Validation for Non-ID Processing in the 2020 Decennial Census. The MITRE Corporation for the Decennial Census Management Division. Retrieved from https://www2.census.gov/programs-surveys/decennial/2020/program-management/final-analysis-reports/2020-2017_01-RespondentValidationNonIDProcessingReport.pdf.

²⁸ Administrative Records, Internet, and Hard to Count Population Working Group Final Report (2016:7). U.S. Census Bureau. Retrieved from https://www2.census.gov/cac/nac/reports/2016-07-admin_internet-wg-report.pdf.

²⁹ HTC (fn. 23 supra).

³⁰ HTC (fn. 23 supra) and QuickFacts Springfield MA. U.S. Census Bureau. Retrieved from <https://www.census.gov/quickfacts/fact/table/springfieldcitymassachusetts,US/PST045218>.

³¹ Lawsuit Filed to Block Immigration Arrests at Courthouses (2018). Lawyers for Civil Rights. Retrieved from <http://lawyerscom.org/lawsuit-filed-to-block-immigration-arrests-at-courthouses/>.

³² Paige Winifred Cunningham (2018). The Health 202: The clock is ticking on stricter 'public charge' rules for immigrants. *The Washington Post*. Retrieved from https://www.washingtonpost.com/news/powerpost/paloma/the-health-202/2018/10/10/the-health-202-the-clock-is-ticking-on-stricter-public-charge-rules-for-immigrants/5bbd09641b326b7c8a8d18e8/?noredirect=on&utm_term=.750fd4d55b6c.

³³ Jay Michaelson. (2018). New Email: Trump Administration 'Debates' Weaponizing Census to Aid ICE. *Daily Beast*. Retrieved from <https://www.thedailybeast.com/new-email-trump-administration-debates-weaponizing-census-to-aid-ice>.

³⁴ Gregory Wallace. (2019). Census Bureau to proceed with nationwide test of citizenship question. *CNN*. Retrieved from <https://www.cnn.com/2019/02/01/politics/census-2020-citizenship-question/index.html>.

³⁵ Erin Tieman. (2019). Judge blocks citizenship question from 2020 Census. *The Patriot Ledger*. Retrieved from <https://www.patriotledger.com/news/20190115/judge-blocks-citizenship-question-from-2020-census>.

- **Open a Census field office dedicated to on-the-ground operations in western Massachusetts.** LCR asks the Census Bureau to commit to on-the-ground operations in western Massachusetts by allocating a dedicated field office to this historically hard to count region. The western portion of the state is home to a number of large communities of color, including population centers with plurality or majority non-English-speaking and nearly 100,000 hard to count residents.³⁶ Undercounting these areas will have adverse impacts on residents who have legitimate and urgent claims on Census-allocated funds and compromise the accuracy of the 2020 Census.
- **Hire trusted messengers as Census field workers to engage hard to count populations.** Trusted messengers must be racially and linguistically diverse, and should be drawn from the communities they are counting. Many hard to count communities have legitimate fears about attracting government attention, fears that have been stoked by misinformation and confusion about the Census. Trusted messengers are an effective first step to mitigating that fear and confusion, addressing the concerns of hard to count communities, and portraying the Census as a collective effort to secure the resources and the representation that residents of the state are entitled to.
- **Provide adequate language support for non-English languages spoken in Massachusetts.** Census language support must be matched to the languages spoken in hard to count communities. 1.2 million Massachusetts residents speak a language other than English at home, and over half a million self-report limited English proficiency.³⁷ Currently, the schedule of non-English languages supported by the 2020 Census only partially overlaps with the languages spoken in the Commonwealth. The Census will be mailed in just two languages, English and Spanish, and available online in twelve. However, the Census will have only limited support for the nearly 100,000 residents of Massachusetts who speak languages such as Khmer, Armenian, or Farsi.³⁸ Lack of robust non-English language support will dilute Census participation in our Commonwealth.


A full and accurate Census count is critical for Massachusetts in 2020. An undercount would severely harm our families and communities, jeopardizing their access to much-needed federal funding and diluting our congressional representation. We respectfully request a meeting to discuss the implementation of the proactive steps outlined above in order to ensure that the Commonwealth's hard to count populations will be properly enumerated in the 2020 Census.

³⁶ HTC (fn. 23 supra).

³⁷ Most Commonly Spoken Languages in Massachusetts LEP Population (2011). Language Access Coalition. Retrieved from <https://www.masslegalservices.org/content/most-commonly-spoken-languages-massachusetts-lep-population>.

³⁸ Albert E. Fontenot. (2018). 2020 Census Non-English Language Support (2020 Census Program Memorandum Series 2018.06). U.S. Census Bureau. Retrieved from https://www2.census.gov/programs-surveys/decennial/2020/program-management/memo-series/2020-memo-2018_06.pdf and Most Spoken Languages in Massachusetts in 2010. Modern Language Association. Retrieved from https://apps.mla.org/cgi-shl/docstudio/docs.pl?map_data_results.

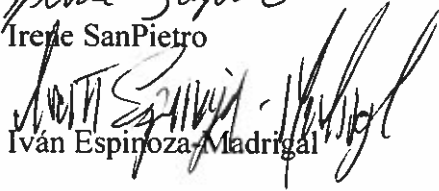
Sincerely,



Lauren Sampson



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Iván Espinoza-Madrigal

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