

August 20, 2019

Dr. Steven Dillingham, Director
U.S. Census Bureau
4600 Silver Hill Road
Washington, DC 20233

Dear Dr. Dillingham,

Lawyers for Civil Rights (LCR) has previously raised our concerns that the Census Bureau's operational plan for Census 2020 has insufficient infrastructure to guarantee a complete count in the Commonwealth of Massachusetts. Specifically, we highlighted the absence of a field office in Western Massachusetts, the need to hire diverse trusted messengers to administer the census, and the need to provide appropriate language support for all non-English languages spoken in our state.

We write today to emphasize two additional concerns that require immediate attention. For the first time in recent census cycles, the Bureau has indicated it will not apply for citizenship waivers for qualified enumerator applicants. Additionally, the Bureau has failed to extend an informal Memorandum of Understanding (MOU) that Immigration and Customs Enforcement (ICE) agents will not conduct enforcement activities at census outreach events. LCR urges the Bureau to reverse these decisions in order to ensure a full and accurate count of hard-to-reach immigrant communities.

I. Providing citizenship waivers for enumerator staff in hard-to-count communities

Under the Bureau's current plans, the census will not be available in several languages spoken throughout Massachusetts, including Khmer, Laotian, and Cape Verdean Creole. We previously urged the Bureau to remedy this defect in our February 25, 2019 letter to Regional Director Jeffrey Behler. If the Bureau refuses to do so, then the necessity of multilingual door-to-door census enumerators is even more pronounced. The Bureau should take all available steps to ensure enumerators have the skills and background necessary to reach hard-to-count communities, including asking for citizenship waivers.

Qualified enumerators are necessary to reach linguistically isolated immigrant populations, particularly those who do not have access to the online census form. Further, enumerators drawn from the immigrant communities will have developed ties to and trust within these communities and so will be best able to convince hard-to-count individuals, who are understandably distrustful of the federal government in the current climate, of the value of participating in Census 2020.

Census 2020 already faces mounting challenges, ranging from delays in field worker hiring and the scaling back of public outreach efforts, to a low unemployment rate, which the Bureau acknowledges has posed challenges for recruiting enumerators.¹ LCR understands that the Bureau has experienced considerable difficulty in soliciting applications in Suffolk County, which includes the Boston Metropolitan Statistical Area, a region where population growth is driven by increases in the nonwhite and immigrant population. In 2014, Boston's foreign-born residents accounted for 27.1% of the city's population; the city has the seventh highest share of foreign-born residents among the largest U.S. cities, and nearly 40% of Boston residents speak a language other than English at home.² Moreover, according to the most recent American Community Survey, over 15% of Suffolk County households either had no home internet subscription or dial-up only.³

Given the above, we urge the Bureau to follow the practice of previous census cycles and apply to the Office of Personnel Management for citizenship waivers for enumerators in regions with high concentrations of hard-to-count populations. In so doing, the Bureau will follow the recommendation of a 2010 internal review of its recruiting and hiring program by continuing to use waivers to "fill key census positions with employees with critical skills and increase the applicant pool in hard-to-recruit areas."⁴ Enumerators drawn from immigrant communities will be best able to bridge gaps in language access, while serving as effective ambassadors for the census in a climate of fear and distrust.

II. Creating or extending an agreement to prevent enforcement at Census 2020 outreach events

In order to conduct effective outreach within immigrant communities, the Bureau must ensure that community members can attend census events without fear they will be targeted for immigration enforcement. Without such assurances, immigrant participation in the census will be chilled, leading to a severe undercount and the attendant loss of funding and federal representation in Massachusetts.

LCR is aware that in previous census cycles, the Bureau reached an agreement, albeit unwritten, with ICE regarding enforcement activities during census outreach events. This practice is not uncommon—the Department of Homeland Security (DHS) has entered into comparable MOUs with the Department of Labor, agreeing to "refrain from engaging in civil worksite enforcement activities at a worksite that is the subject of an existing DOL investigation

¹ Bernstein, R., *U.S. Census Bureau Needs Hundreds of Thousands of Workers*, United States Census Bureau (2018), available at: <https://www.census.gov/library/stories/2018/07/recruiting-for-2020-census.html>.

² Lima et al, *Boston by the Numbers 2015*, Boston Redevelopment Authority Research Division, at 8, 30 (Dec. 2015).

³ U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates, Table B28002, available at <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

⁴ 2010 Census Planning Memoranda Series, United States Department of Commerce, Economics and Statistics Administration, at 42 (2011), available at https://www.census.gov/content/dam/Census/library/publications/2011/dec/2010_cpex_155.pdf.

during the pendency of the DOL investigation and any related proceeding.”⁵ These MOUs ensure that the mission of one agency—for example, effective enforcement of labor law to ensure proper wages and working conditions for all covered workers, regardless of immigration status—is not thwarted by ICE’s enforcement activity.

LCR urges the Bureau to extend, formalize, and publicize this agreement with ICE for Census 2020. Such an MOU would help ensure that the Bureau’s constitutional obligation—to conduct a complete and accurate account of every individual residing in the United States, regardless of immigration status—is not jeopardized by individuals’ fear of deportation or other civil immigration penalties.

III. Conclusion

If hard-to-count communities are not included in Census 2020, they will be deprived of the federal funding and congressional representation to which they are entitled. LCR requests that the Bureau reverse its decision and begin applying for citizenship waivers for enumerators in immigrant communities and extend, formalize, and publicize an MOU with DHS that ensures that ICE enforcement activities will not be conducted at Census-related events.

We would be happy to discuss this in further detail. Please contact Lauren Sampson at lsampson@lawyersforcivilrights.org or at 617-988-0609.

Sincerely,



Iván Espinoza-Madrigal, Esq.
Oren Sellstrom, Esq.
Lauren Sampson, Esq.
Lawyers for Civil Rights

cc: Representative Ayanna Pressley
Representative Jim McGovern
Representative Lori Trahan
Senator Elizabeth Warren
Senator Ed Markey
Regional Director Jeff Behler
Chelsea Collaborative
Centro Presente
East Boston Ecumenical Community Center
City of Boston Complete Count Committee

⁵ Revised Memorandum of Understanding between the Departments of Homeland Security and Labor Concerning Enforcement Activities at Worksites (2011), available at <https://www.dol.gov/asp/media/reports/dhs-dol-mou.pdf>.