

CENSUS POLICY CHALLENGES: *WHAT'S IN STORE FOR 2018?*

One year ago, a new President and new Congress took the nation's federal governing reins and, on several fronts, up-ended planning for the 2020 Census. The new administration influenced key policy decisions affecting the constitutionally required population count – either by direct action or, in some cases, by inaction. The Funders Committee for Civic Participation – in close partnership with the Democracy Funders Collaborative Census Subgroup and United Philanthropy Forum – conducted outreach and educational activities that highlighted the broad, consequential nature of these decisions and spurred a growing number of funders to support an accurate 2020 Census through investments in policy work and get-out-the-count (GOTC) campaigns.

2018 is a pivotal year on the road to Census 2020. Early field preparations have started; the 'dress rehearsal' will take place in Providence County, RI; and the Census Bureau must finalize counting methods and develop a multi-faceted communications plan. As the pace of census activities accelerates, we recap the major policy issues to watch in the coming months.

Key Takeaways

1. **Census Bureau leadership:** The leadership vacuum at the Census Bureau persists. The president has yet to nominate a new Census Director. A Deputy Director candidate with a partisan background and without the requisite management experience recently withdrew from consideration, leaving the number two slot without a permanent appointee, as well.
2. **2020 Census questions:** The Census Bureau will use separate race and ethnicity questions and will not add a new Middle Eastern and North African (MENA) category in both the 2018 'dress rehearsal' (End-to-End Census Test) and 2020 Census, setting aside years of painstaking research and testing in the absence of final action by OMB on new Standards for collecting race/ethnicity data. Congress could still intervene. Separately, the Justice Department asked the bureau to add a citizenship question to the 2020 Census, drawing significant criticism from stakeholders and some members of Congress. The Census Bureau is reviewing the request.
3. **Census 'Residence Rules':** The Census Bureau issued final rules that will determine where people are counted in the 2020 Census. Despite significant support for counting incarcerated persons at their home address, the Bureau will continue the policy of counting them at the prison facility where they are housed on Census Day. One significant change in the rules: the Bureau will count U.S.-stationed deployed military personnel at their U.S. home addresses in census data used for all purposes.
4. **Funding the 2020 Census:** Inadequate federal funding and Congress' inability to adopt a federal budget has resulted in canceled or streamlined tests and delayed messaging research. The Census Bureau needs timely, sufficient funding to ensure an accurate and cost-effective

census. A new two-year budget agreement gives lawmakers an opportunity to boost 2018 and 2019 funding for vital communications, partnership, and field activities above the administration's request.

1. **Census Bureau leadership**

Last spring, Census Bureau Director John Thompson, who was eligible for re-nomination to a second five-year term, unexpectedly resigned. Despite initial assurances by Commerce Secretary Wilbur L. Ross that the administration was prioritizing the search for a new director, who requires Senate confirmation, no candidates surfaced publicly. The Secretary more recently has taken pains to praise the qualifications of Acting Census Director Ron Jarmin (also the Census Bureau's Associate Director for Economic Programs) and Acting Deputy Director Enrique Lamas (also the Associate Director for Demographic Programs), who have decades of experience as career Bureau employees. Secretary Ross and Commerce Under Secretary for Economic Affairs Karen Dunn Kelley¹ also are closely overseeing and monitoring 2020 Census activities.

Stakeholders recently focused their attention on the number two position at the Bureau, after [news reports](#) revealed that the Trump administration planned to appoint Dr. Thomas Brunell, a political science professor at the University of Texas-Dallas, to be Deputy Director. The post traditionally has been held by a career civil servant hired through the competitive process and does not require Senate confirmation; the deputy director manages the agency's day-to-day operations and has significant influence over the conduct of the census. Dr. Brunell did not appear to have experience managing large organizations or operations and was an expert witness for Republicans in numerous redistricting cases where he argued in favor of legislative plans that impermissibly diluted minority voting strength. Widespread concern over the planned appointment apparently led Dr. Brunell to withdraw his name from consideration in recent weeks.

No other candidates for director or deputy director have emerged publicly.

2. **2020 Census questions**

By law, the Census Bureau must submit to Congress the questions it will ask in the census (and related American Community Survey) by April 1, 2018. The Census Act (Title 13, United States Code) does not contemplate congressional approval or disapproval of the proposed questions. As a practical matter, Congress can urge the Bureau to modify content or questions it doesn't like. Otherwise, lawmakers must use the legislative process to modify the topics or question wording, and the president must sign bills into law, of course.

¹ The U.S. Senate confirmed Karen Dunn Kelley as Under Secretary for Economic Affairs in August 2017. The Under Secretary oversees the Commerce Department's Economics and Statistics Administration (ESA), which includes the Census Bureau. Ms. Kelley also is serving as Acting Deputy Secretary of the Commerce Department.

OMB also can influence the scope of census and ACS data collection in its role as federal statistical overseer. All censuses and surveys must go through the OMB approval process under the Paperwork Reduction Act of 1980. OMB Director Mick Mulvaney was a founding member of the ultra-conservative House Freedom Caucus when he served in Congress. Also in a position of influence is the president's pick for administrator of OMB's Office of Information and Regulatory Affairs (OIRA), Dr. Neomi Rao, who the Senate confirmed in July. Dr. Rao is a lawyer (constitutional and administrative law) and academic who clerked for Supreme Court Justice Clarence Thomas and served in the White House counsel's office during George W. Bush's second term.

a. **Race and ethnicity data**

Last year, the Office of Management and Budget's statistical policy office (staffed by career civil servants) issued long-anticipated proposed revisions to the federal policy for collecting and publishing race and ethnicity data (formally known as the Standards for Maintaining, Collecting and Presenting Federal Data on Race and Ethnicity).

The proposed new Standards, based on initial recommendations from an interagency working group, featured two significant changes: (1) adding a new category for persons of Middle Eastern and North African (MENA) origin; and (2) favoring a single (combined) question to collect race and ethnicity data, instead of two separate questions. The proposed updates also would have directed federal agencies to collect and report detailed subgroup (i.e. national origin or ethnicity) data whenever feasible. The interagency panel sought feedback on whether the new Standards would create too much of a burden on states and localities that feed data to federal agencies for statistical purposes, such as on students or employees.

OMB received more than 8,000 public comments and set an internal deadline to release the final interagency report and issue final revised Standards by December 1, 2017. Issuing timely Standards was necessary to inform the Census Bureau's final decision on questions for the 2020 Census. Census Bureau staff had already recommended using a combined race/ethnicity question and including a MENA category in the 2018 End-to-End Census Test (the 'dress rehearsal'), based on results from its extensive 2015 National Content Test and years of previous research dating back to the 2010 Census.

However, OMB has not yet announced a final decision on updates to the race and ethnicity Standards. With the looming deadline for submitting 2020 Census questions to Congress, and the dry run in Providence County starting, the Census Bureau [announced last month](#) that it would use separate race and ethnicity (i.e. Hispanic origin) questions in both the dress rehearsal and 2020 Census and would not add a new MENA category, essentially acknowledging that it had run out of time to wait for possible revisions to the official OMB policy.

Noteworthy: The Bureau will adopt modest but important changes to the race and ethnicity questions (compared to the 2010 Census). It will allow Hispanic respondents to choose multiple subgroups (e.g. Puerto Rican; Dominican); offer space for people selecting the White and Black race groups to write-in a subgroup (this option already exists for the Asian, Native Hawaiian or Pacific Islander, and American Indian or Alaska Native race groups); and add examples for the American Indian or Alaska Native category, to improve the accuracy of tribal affiliation write-ins.

b. Citizenship question

On December 12, 2017, the U.S. Department of Justice (DOJ) sent a letter to the Census Bureau, asking for a question on citizenship in the 2020 Census. The request, brought to light in a [Pro Publica article](#) weeks later, said that DOJ needed data on citizenship for smaller geographic areas in order to enforce section 2 of the Voting Rights Act (VRA) and “[protect] against racial discrimination in voting.” The department had not previously made the case for a citizenship question on the census form sent to all households, instead confirming in a multi-year agency review process that citizenship data collected from a sample of households through the American Community Survey (and previously the census ‘long form’) were sufficient to implement the VRA. In fact, the census has never posed a citizenship question to all households since enactment of the VRA in 1965. The Census Bureau submitted the topics to be covered in the census and ACS to Congress last March, as required by law.

The Census Bureau and Commerce Department are now reviewing the DOJ request and likely will make a decision soon on whether to add a citizenship question to the census. In the meantime, [numerous stakeholder organizations](#), members of Congress, and editorial boards have weighed in against adding an untested question to the form, saying the new query likely would depress response rates in many communities and add significantly to the cost of the census without improving accuracy.

3. Census ‘residence rules’

On February 5, 2018, the Census Bureau issued [final rules](#) that will determine where people are counted in the 2020 Census. In 2016, the Bureau sought public comment on proposed new “Residence Criteria and Residence Situations” that declined to change a long-standing policy of counting incarcerated persons at the prison facility where they are housed on Census Day. In response, [tens of thousands of stakeholders](#) called for a new rule to count incarcerated persons at their home addresses. The Census Bureau delayed issuing final rules in order to conduct additional research, but in the end, it decided to continue counting incarcerated persons at the prison facility where they are housed on Census Day.

The Census Bureau did promise a small but useful change in the way it reports data on the incarcerated population. It will publish data on correctional facility populations concurrently with detailed data that states use for redistricting, in early 2021, thus assisting states that have passed laws to count prisoners at their home address for the purpose of drawing state legislative districts.

The new residence criteria do change the way the census will count members of the armed forces stationed overseas during the census. Deployed military personnel who are stationed/assigned to a U.S. base will be counted at their U.S. residence using administrative agency data. This population will be included in the census data used for all purposes, including congressional apportionment, redistricting, and the allocation of program funds. All other military and federal civilian personnel stationed/assigned and living outside the U.S. on Census Day will continue to be counted *at their "home of record"* (essentially, where they lived when they enlisted or joined federal service) and included *only in the state population totals used for congressional apportionment*.

4. **Funding the 2020 Census**

Finally, the overarching challenge facing the 2020 Census continues to be the availability of timely, sufficient funding. Over the next three years, the Census Bureau must finalize and operationalize the census design, build out the IT architecture, prepare for a massive communications campaign and field operations, and then count roughly 330 million people in the right place.

Congress' failure to pass appropriations bills on time for 2017 and 2018, and the Trump administration's woefully inadequate original funding request for 2018, added significant risk to census preparations. The Census Bureau canceled all 2017 site tests and two of three planned dress rehearsal sites, foregoing all opportunities to test counting operations in rural areas and on American Indian reservations before the census. It canceled communications and partnership activities for the 2018 End-to-End Census Test, reverted to a largely paper-based operation for counting group facilities (such as prisons, college dorms, and military barracks), and changed the methods it will use in most remote and rural areas. And vital messaging research and creative development for the advertising campaign are months behind schedule. Compounding the challenges, the cost estimate for the IT system that will automate everything from data collection to workforce management is now 40 percent over original projections.

To his credit, Commerce Secretary Ross conducted a complete scrub of projected 2020 Census costs and acknowledged last October that the "lifecycle" (i.e. 10-year) cost of the census would be \$3.3 billion more than the original estimate, for a total of \$15.6 billion. A key factor in the determination was a lower projected self-response rate, which the Census Bureau now believes will be only 55 percent instead of 63 percent. People will be able to respond by Internet, telephone, or paper questionnaire, with a projected on-line response rate of 41 percent.

The administration asked for an additional \$187 million for Fiscal Year (FY) 2018 – which started on October 1, 2017 – most of which would pay for IT development and program management. Census stakeholders are urging Congress to add roughly \$164 million more to the administration's revised request, to bolster and accelerate messaging research, increase the number of partnership specialists, and expand the field footprint through more local census offices, without diminishing the quality of important non-census demographic and economic statistics.

Last week, Congress finally adopted a new two-year budget agreement that sets the parameters for overall defense and non-defense spending and related funding (appropriations) bills that will set actual funding amounts. The agreement boosts domestic discretionary spending by \$131 billion for Fiscal Years 2018 and 2019, giving Congress bandwidth to boost spending on the 2020 Census above the administration's request. Lawmakers also passed a fifth stopgap funding measure (called a "Continuing Resolution") that gives them until March 23 to pass a final "omnibus" 2018 appropriations bill.

Meanwhile, the president released his budget request for FY 2019 on February 12. The administration proposed \$3.8 billion for the Census Bureau, including a \$2.35 billion boost for the 2020 Census, compared to its 2018 request of \$1.684 billion for the Bureau. While that jump is significant, it appears to be well below the comparable proportional funding increase at the same point in previous census cycles. *We will continue to share information about the 2019 budget request as experts conduct further analysis.*

Conclusion

The schedule for census preparations and implementation is unforgiving, and the Census Bureau cannot make up for lost time. Delays or cutbacks in planned activities put an accurate, cost-effective census at risk. Historically undercounted communities, which have lower self-response rates and are more likely to be wary of government surveys, will feel the brunt of inadequate resources, since the door-to-door field operation (Nonresponse Follow-Up) is the most costly part of the census. Inadequate funding will continue to hamper activities specifically designed to reach historically hard-to-count populations, including advertising and partnerships, visits to unresponsive households and the number of temporary census takes, and in-language assistance and outreach.

Congress and the administration must devote sufficient resources to the 2020 Census *now* and resist calls for untested, unnecessary new questions, to put planning and preparations back on track and increase the likelihood of a successful enumeration in all communities.