

March 15, 2019

Sheleen Dumas  
Departmental Lead PRA Officer  
Office of the Chief Information Officer  
14<sup>th</sup> and Constitution Avenue, NW  
Washington, DC 20230

[Submitted via <https://www.regulations.gov>]

RE: Proposed Information Collection for the 2020 Census, Comments on the Department of Commerce submission to the Office of Management and Budget for clearance, Docket # OMB-2018-0004

Dear Ms. Dumas,

The National Women's Law Center (the "Center") appreciates the opportunity to comment on the Federal Register Notice (FRN) regarding the 2020 Census proposed information collection. The Department of Commerce seeks Office of Management and Budget (OMB) clearance for its proposal under the Paperwork Reduction Act (PRA).

For over 45 years, the Center has advocated to expand opportunities for women and girls, with particular emphasis on low-income women and their families and those who face multiple and intersecting forms of discrimination. Census data is pivotal to the Center's advocacy. The Center relies on census data to identify the needs of women and their families, and census data enable us to lift up and lend a voice to women and girls who often do not have the resources or platform to advocate for themselves. The Center uses these data to highlight the various policy implications of legislation, fight back against unfair practices and policies, illuminate the different ways women and girls experience life in the United States, and develop evidence-based solutions for health, education, workplace, and income security policy.

The accuracy of census data, moreover, is critically important to the integrity of the U.S. government and how it serves its people. The Center believes that a full, fair, and accurate census, and the collection of useful, objective data about the nation's people, housing, economy, and communities, is vitally important because of the far-reaching implications that these data have, affecting so many aspects of government action and ultimately people's lives.

Not only is a nationwide census required by the Constitution, but it is also integral to democracy in the U.S., ensuring that congressional districts are fairly and accurately drawn. In addition, the federal government uses census-derived data to direct at least \$800 billion

annually in federal assistance to states, localities, and families through at least 300 programs.<sup>1</sup> The data also guide important community decisions, including those affecting schools, housing, health care services, and business investment, and impact millions of people across the country. Therefore, because of the vast impact of census data, census data collection efforts must be focused on increasing inclusion and accuracy.

That is why the Center is deeply concerned about the potential for the proposed 2020 Census questionnaire and implementation process to inaccurately count certain groups of people, including people of color; young children; low-income people; lesbian, gay, bisexual, transgender, and queer (LGBTQ) people. The historic undercounting and marginalization of these populations especially require the Census Bureau to make their data collection techniques and procedures more inclusive and more effective at promoting participation in the 2020 Census.

First and foremost, the Center urges OMB to reject the clearance of a 2020 Census questionnaire that includes a citizenship question because it is likely to exacerbate the undercounting of people of color, young children, and LGBTQ people, both immigrants and citizens, will increase the inaccuracy and cost of the 2020 Census, and does not have practical utility.

While there are aspects of the proposed 2020 Census questionnaire and collection procedures that may help address historical undercounting, there are many aspects, in addition to the citizenship question, that are likely to lead to inaccurate counting that should be improved to enhance the quality of the information collected. Specifically, the Center urges OMB to act on the following in reviewing the Department of Commerce's request for PRA clearance:

- Request that the Census Bureau conduct additional testing of Census materials in non-English languages to address the historic language barriers that have contributed to undercounting people of color;
- Request that the Census Bureau conduct additional testing in rural and remote areas, including American Indian reservations and Alaska Native villages;
- Request that the Census Bureau revamp its communications research and outreach to include special attention to hard-to-count groups, including people of color, young children, and low-income people;

---

<sup>1</sup> ANDREW REAMER, GEO. WASH. U. INST. OF PUB. POL'Y, COUNTING FOR DOLLARS 2020: THE ROLE OF THE DECENNIAL CENSUS IN THE GEOGRAPHIC DISTRIBUTION OF FEDERAL FUNDS, REPORT #2, 1 (Mar. 19, 2018), *available at* <https://gwipp.gwu.edu/sites/g/files/zaxdzs2181/f/downloads/GWIPP%20Reamer%20Fiscal%20Impacts%20of%20Census%20Undercount%20on%20FMAP-based%20Programs%2003-19-18.pdf> [hereinafter GW COUNTING FOR DOLLARS 2020 REPORT #2].

- Commend the Census Bureau for altering the wording on the 2020 Census questionnaire to more accurately count young children but requests that the Census Bureau conduct additional messaging research on families with young children;
- Commend the Census Bureau for planning to use service-based enumeration at targeted locations to count low-income and homeless people who may be missed during traditional housing unit and group quarters enumeration but encourages the Census Bureau to take steps to address historic undercounting of the low-income renters who frequently move around the Census administration cycle time period;
- Request that the Census Bureau optimize the mobile-experience for the online response option so low-income families relying on a mobile device as their sole or primary means of internet access can easily respond without consuming costly data;
- Request that the Census Bureau enhance the security and accessibility of the online response option and clearly inform people of alternative response options; and
- Commend the Census Bureau’s proposed changes to the relationship question.

#### I. THE CENSUS HAS HISTORICALLY UNDERCOUNTED SEVERAL COMMUNITIES.

The U.S. Constitution requires an accurate count of the U.S. population every 10 years. Unfortunately, certain populations (“hard-to-count” groups) are at a higher risk of being inaccurately counted in the decennial census. Some of these groups have been historically undercounted in the decennial census, including low-income families, people of color, young children, and LGBTQ people.

- **Low-income families** have persistently been undercounted in the decennial census, diminishing the quality of the census data. In the past, the decennial census has undercounted low-income families who are more likely to live in remote or rural neighborhoods with ‘low visibility’ or who, because more low-income families rent, rather than own their homes, are more likely to have moved immediately prior to or during census administration.<sup>2</sup> As a result, low-income families may be unable to receive and return a completed Census questionnaire by mail.
- **People of color** are also considerably undercounted – particularly Black and Hispanic communities. People of color have been undercounted during previous decennial censuses due to language barriers, mistrust of government, and fluctuating living

---

<sup>2</sup> THE LEADERSHIP CONF. EDUC. FUND, WILL YOU COUNT? HOUSEHOLDS WITH LOW INCOMES IN THE 2020 CENSUS 1 (Jan. 1, 2018), <http://civilrightsdocs.info/pdf/census/2020/Low-Income-Families-HTC.pdf>.

situations.<sup>3</sup> In addition, people of color are twice as likely to live under the federal poverty level – 11% of white, non-Hispanic people live under the federal poverty level compared with 26% of Black people, 25% of Hispanic people and 28% of Native people.<sup>4</sup> This increases the likelihood that people of color will be undercounted in census data, for the reasons discussed above.

- The Census has historically undercounted **young children** (aged 0 to 4) due to a range of reasons, including language barriers, the presence of young children in hard-to-count neighborhoods, and complicated living arrangements.<sup>5</sup> Young children also have a higher poverty rate than any other age group.<sup>6</sup>
- Many **LGBTQ** people also identify with hard-to-count groups.<sup>7</sup> Non-white racial and ethnic groups are more likely to identify as LGBTQ.<sup>8</sup> LGBTQ people, especially women, bisexual people, and transgender people, are more likely to live in poverty.<sup>9</sup> LGBTQ

---

<sup>3</sup> See THE LEADERSHIP CONF. EDUC. FUND, WILL YOU COUNT? AFRICAN AMERICANS IN THE 2020 CENSUS 1 (APR. 17, 2018), <http://civilrightsdocs.info/pdf/census/2020/Fact-Sheet-African-Americans-HTC.pdf>; THE LEADERSHIP CONF. EDUC. FUND, WILL YOU COUNT? AMERICAN INDIANS AND ALASKA NATIVES IN THE 2020 CENSUS 1 (APR. 17, 2018), <http://civilrightsdocs.info/pdf/census/2020/Fact-Sheet-AIAN-HTC.pdf>; THE LEADERSHIP CONF. EDUC. FUND, WILL YOU COUNT? ASIAN AMERICANS AND NATIVE HAWAIIANS AND PACIFIC ISLANDERS (NHPIs) IN THE 2020 CENSUS 1 (APR. 17, 2018), <http://civilrightsdocs.info/pdf/census/2020/Fact-Sheet-AA-NHPI-HTC.pdf>; THE LEADERSHIP CONF. EDUC. FUND, WILL YOU COUNT? LATINOS IN THE 2020 CENSUS 1 (APR. 17, 2018), <http://civilrightsdocs.info/pdf/census/2020/Fact-Sheet-Latino-HTC.pdf>; THE LEADERSHIP CONF. EDUC. FUND, WILL YOU COUNT? MIDDLE EASTERN AND NORTH AFRICAN AMERICANS (MENA) IN THE 2020 CENSUS 1 (APR. 17, 2018), <http://civilrightsdocs.info/pdf/census/2020/Fact-Sheet-MENA-HTC.pdf>.

<sup>4</sup> NAT'L WOMEN'S LAW CTR. calculations based on AMERICAN COMMUNITY SURVEY 2012-2016 FIVE-YEAR ESTIMATES, using STEVEN RUGGLES, KATIE GENADEK, RONALD GOEKEN, JOSIAH GROVER, AND MATTHEW SOBEK, INTEGRATED PUBLIC USE MICRODATA SERIES: VERSION 6.0 (IPUMS) [Machine-readable database], Minneapolis: University of Minnesota (2017), <https://usa.ipums.org/usa/> [hereinafter NWLC calculations based on ACS 2012-2016 IPUMS]. This difference is even larger between white, non-Hispanic men and women of color. U.S. Census Bureau Current Population Survey data shows that 7.0% of white, non-Hispanic men lived in poverty in 2016, while 22.8% of Native women, 21.4% of Black women, 18.7% of Latinx women, and 10.7% of Asian women lived in poverty. KAYLA PATRICK, NAT'L WOMEN'S LAW CTR., NATIONAL SNAPSHOT: POVERTY AMONG WOMEN & FAMILIES, 2016 (Sept. 2017), available at <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2017/09/Poverty-Snapshot-Factsheet-2017.pdf>.

<sup>5</sup> THE LEADERSHIP CONF. EDUC. FUND, FACTSHEET: WILL YOUR KIDS COUNT? YOUNG CHILDREN AND THEIR FAMILIES IN THE 2020 CENSUS 1 (APR. 17, 2018), <http://civilrightsdocs.info/pdf/census/Fact-Sheet-Undercount-of-Young-Children.pdf>.

<sup>6</sup> U.S. CENSUS BUREAU, TABLE POV-01: AGE AND SEX OF ALL PEOPLE, FAMILY MEMBERS AND UNRELATED INDIVIDUALS ITERATED BY INCOME-TO-POVERTY RATIO AND RACE (2016), <https://www.census.gov/data/tables/time-series/demo/income-poverty/cps-pov/pov-01.html>.

<sup>7</sup> U.S. CENSUS BUREAU, NAT'L ADVISORY COMM. ON RACIAL, ETHNIC, AND OTHER POPULATIONS (NAC), ADMINISTRATIVE RECORDS, INTERNET, AND HARD TO COUNT POPULATION WORKING GROUP 1 (July 2016), available at [https://www2.census.gov/cac/nac/reports/2016-07-admin\\_internet-wg-report.pdf](https://www2.census.gov/cac/nac/reports/2016-07-admin_internet-wg-report.pdf).

<sup>8</sup> GALLOP, IN U.S., MORE ADULTS IDENTIFYING AS LGBT (Jan. 11, 2017), <http://www.gallup.com/poll/201731/lgbt-identification-rises.aspx>.

<sup>9</sup> CTR. FOR AM. PROGRESS & MOVEMENT ADVANCEMENT PROJECT, PAYING AN UNFAIR PRICE: THE FINANCIAL PENALTY FOR BEING LGBT IN AMERICA 4 (last updated Nov. 2014), available at <http://www.lgbtmap.org/file/paying-an-unfair-price-full-report.pdf>.

youth face 2.2 times the relative risk of experiencing homelessness;<sup>10</sup> because periods of homelessness often make permanent housing stability less likely, it is expected that similar rates are present in the adult homeless population. LGBTQ people who live at the intersections of multiple marginalized identities (i.e., lesbian and Black, transgender and undocumented) experience exponentially higher rates of poverty and homelessness, and thus are at risk for undercounting.

Changes to the 2020 Census questionnaire and implementation process create new threats for these hard-to-count populations.

## **II. AN UNTESTED CITIZENSHIP QUESTION WILL COMPROMISE IMPLEMENTATION OF THE 2020 CENSUS AND JEOPARDIZE THE QUALITY AND ACCURACY OF CENSUS DATA FOR ALL COMMUNITIES.**

Under the U.S. Constitution, the decennial census is supposed to count everyone in the country, regardless of citizenship status. The introduction of a citizenship question would compromise the accuracy and integrity of the 2020 Census.

In a letter to Secretary Ross, six former Directors of the Census Bureau wrote that the environment significantly impacts census results.<sup>11</sup> Already, many immigrants are fearful of interactions with the government because of this Administration's hostile immigration actions and policies. Many immigrants feel demonized, and their worst fears have been realized as federal agents have invaded homes, schools, and places of worship, and families have been torn apart both at the U.S. border and in the heart of communities. Even before the citizenship question was added, Census Bureau staff warned that the charged political environment would make it harder to persuade many people to fill out the Census.<sup>12</sup> State and local officials and community leaders were also deeply concerned about participation in many communities.

---

<sup>10</sup> CHAPIN HALL AT THE U. OF CHI., MISSED OPPORTUNITIES: LGBTQ YOUTH HOMELESSNESS IN AMERICA 7 (Apr. 2018), *available at* <https://voicesofyouthcount.org/wp-content/uploads/2018/04/VoYC-LGBTQ-Brief-FINAL.pdf>.

<sup>11</sup> Letter to Wilbur L. Ross, Jr. Secretary of Commerce, from Vincent P. Barabba, Martha Farnsworth Riche, Kenneth Prewitt, Steven H. Murdock, Robert M. Groves, John Thompson (Jan. 26, 2018), *available at* [https://www.washingtonpost.com/r/2010-2019/WashingtonPost/2018/03/27/Editorial-Opinion/Graphics/DOJ\\_census\\_ques\\_request\\_Former\\_Directors\\_ltr\\_to\\_Ross.pdf?tid=a\\_mcctx](https://www.washingtonpost.com/r/2010-2019/WashingtonPost/2018/03/27/Editorial-Opinion/Graphics/DOJ_census_ques_request_Former_Directors_ltr_to_Ross.pdf?tid=a_mcctx).

<sup>12</sup>Memorandum for Associate Directorate for Research and Methodology (ADRM), from Ctr. for Survey Measurement (Sept. 20, 2017), *available at* <https://www2.census.gov/cac/nac/meetings/2017-11/Memo-Regarding-Respondent-Confidentiality-Concerns.pdf>. *See also* by MIKELYN MEYERS & PATRICIA GOERMAN, U.S. CENSUS BUREAU, Presentation at the Annual Conference of the Am. Ass'n for Public Opinion Res.: RESPONDENT CONFIDENTIALITY CONCERNS IN MULTILINGUAL PRETESTING STUDIES AND POSSIBLE EFFECTS ON RESPONSE RATES AND DATA QUALITY FOR THE 2020 CENSUS (May 2018), *available at* <https://census.gov/content/dam/Census/newsroom/press-kits/2018/aapor/aapor-presentation-confidentiality.pdf> (noting that many Spanish speaking respondents in qualitative studies in 2017 and 2018 expressed fear that their answers might be shared with immigration enforcement agencies).

The presence of a question about citizenship status on the Census questionnaire only exacerbates the effect of this anti-immigrant environment. The inclusion of this question may be interpreted as a policy intended to identify immigrants for additional targeted enforcement actions. In this hostile climate, the inclusion of a citizenship question will deter many individuals and families in many communities across the nation from fully participating in the 2020 Census questionnaire. It is no surprise that, in January 2018, Census Bureau staff concluded that the inclusion of a citizenship question would have an adverse impact on the accuracy and quality of the 2020 Census data.<sup>13</sup>

Immigrants have overlapping and intersecting identities and membership in diverse communities. Women and children make up over half of the overall immigrant population in the U.S.<sup>14</sup> Many immigrants also have identities that intersect with populations that have traditionally been undercounted in the decennial Census. Some immigrants are women of color. Some immigrants are young children. Some immigrants are in the LGBTQ community. And some immigrants have several of these intersecting identities. Consequently, the scope of the individuals, families, and communities who may be reacting to the citizenship question is broad.

In addition, other evidence suggests that individuals and families may misinterpret this untested citizenship question,<sup>15</sup> furthering the inaccuracy of the Census. For example, at the June 2018 Census Bureau's National Advisory Committee meeting it was revealed that, due to their tribal affiliation, some members of American Indian and Alaska Native tribes will misreport themselves as noncitizens of the U.S., even though they are legally U.S. citizens, because they only consider themselves citizens of their tribe. There are additional concerns about how mixed-status families, naturalized citizens, and dual citizens will respond to this question.

---

<sup>13</sup> Memorandum for Wilbur L. Ross, Jr. Secretary of Commerce, from John M. Abowd, Chief Scientist and Associate Director for Research and Methodology, U.S. Census Bureau, TECHNICAL REVIEW OF THE DEPARTMENT OF JUSTICE REQUEST TO ADD CITIZENSHIP QUESTION TO THE 2020 CENSUS (Jan. 19, 2018), *available at* <http://www.osec.doc.gov/opog/FOIA/Documents/AR%20-%20FINAL%20FILED%20-%20ALL%20DOCS%20%5bcERTIFICATION-INDEX-DOCUMENTS%5d%206.8.18.pdf#page=1289> [hereinafter "Dr. Abowd January 2018 Memo to Secretary Ross"].

<sup>14</sup> NAT'L WOMEN'S LAW CTR. calculations based on U.S. Census Bureau, 2017 Current Population Survey USING STEVEN RUGGLES ET AL., INTEGRATED PUBLIC USE MICRODATA SERIES (IPUMS): VERSION 6.0 [Machine-readable database] (Minneapolis: University of Minnesota, 2015) [hereinafter NWLC calculations based on 2017 CPS IPUMS].

<sup>15</sup> The Census Bureau conducted an iterative testing process that included cognitive testing of content and question wording in 2015, the 2015 National Content Test with 1.2 million homes, two large field tests in 2016 (Los Angeles County, CA, and Harris County, TX), a national sample (80,000 addresses) in 2017, and the 2018 End-to-End Census. None of those tests included or contemplated a citizenship question. Amended Complaint, State of New York et al. v. United States Department of Commerce et al., No. 1:18-cv-02921-JMF (S.D.N.Y. Apr. 30, 2018).

The harm from this decision, if unreversed, would be widespread, with communities that are already at greater risk of being undercounted – including people of color, young children, and LGBTQ people – being harmed the most. And the nation will have to live with these undercounts for the next 10 years. Resources should be allocated towards improving the accuracy of existing data collection strategies among these groups instead of incorporating the citizenship question, which requires additional resources and can impede progress towards more precise counts.

**A. People of color could be undercounted even more in the 2020 Census because of the addition of a citizenship question.**

Overall, 14% of people in the United States are foreign born and almost a third (27%) of people of color are foreign born.<sup>16</sup> People of color are already at risk of being undercounted in the census – the citizenship question could exacerbate this because of the current political dialogue and political action around immigration that makes this question more threatening to foreign born people. Furthermore, almost one in five (17%) foreign born people of color live below the federal poverty level,<sup>17</sup> and low-income people and families are already an undercounted group. It is imperative to understand that these identities create compounding barriers to the accurate collection of data. A citizenship question would only further complicate the existing undercounting of marginalized groups.

**B. A citizenship question on the 2020 Census questionnaire will contribute to an already troubling young child undercount.**

Adding a citizenship question increases the risk of a significant young child undercount in the 2020 Decennial Census in at least three ways.

- In the current political environment, many families are afraid to do anything that would draw attention to an undocumented family member. They are afraid that their family will be separated forever, and they assume that information available to one agency of the government may become available to another agency. Some 6.4 million children (about nine percent of all U.S. children) live in families with at least one undocumented member.<sup>18</sup> Of those children, 1.9 million are under age 5. Adding a citizenship question

---

<sup>16</sup> NWLC calculations based on ACS 2012-2016 IPUMS.

<sup>17</sup> *Id.*

<sup>18</sup> PEW RES. CTR. calculations based on U.S. CENSUS BUREAU, 2015 AMERICAN COMMUNITY SURVEY (IPUMS). For details on methodology, see JEFFREY S. PASSEL & D'VERA COHN, OVERALL NUMBER OF U.S. UNAUTHORIZED IMMIGRANTS HOLDS STEADY SINCE 2009 (Sept. 2016), <http://www.pewhispanic.org/2016/09/20/overall-number-of-u-s-unauthorized-immigrants-holds-steady-since-2009/>.



means that many of those children will be missed in the Census because the family will be afraid to fill out the Census questionnaire at all.

- Moreover, in the current environment, even immigrants who have green cards or other documentation authorizing their presence in the country may be afraid to complete the citizenship question and the Census questionnaire. They fear that policies will change and even legal permanent residents will be at risk. This means that adding a citizenship question also places 11% of all children age five or under (about 2.6 million children), the percentage of children in families with green cards or other documentation, at risk of not being counted.<sup>19</sup>
- Finally, the administration has decided to scrutinize naturalized citizens to see if their citizenship should be revoked.<sup>20</sup> This means that some fraction of the households where children live with naturalized citizen parents, which includes seven percent of all children age 5 or younger, or about 1.7 million young children,<sup>21</sup> may also decide not to fill out the Census questionnaire. While the impact on this third group is likely to be less severe, the count of young children is still likely to be depressed to some extent.

### **C. A citizenship question could lead to further undercounting of LGBTQ people.**

Many LGBTQ people are immigrants and are particularly likely to be concerned about sharing their citizenship status with the government. LGBTQ immigrants are slightly more likely to be undocumented.<sup>22</sup> Because of the harsh treatment of LGBTQ immigrants in detention, families with LGBTQ people may be afraid to fill out the Census questionnaire. Although LGBTQ immigrants make up a small percentage of people in ICE detentions, they are 97 times more likely to experience sexual violence than non-LGBTQ people in detention.<sup>23</sup> Transgender people, women in particular, are often housed incorrectly, disproportionately placed in solitary confinement, and, on average, are detained for a period of time that is two times longer than the average period of detention of all immigrants in ICE custody.<sup>24</sup>

---

<sup>19</sup> *Id.*

<sup>20</sup> AILSA CHANG, WHITE HOUSE LAUNCHES EFFORT TO TAKE CITIZENSHIP FROM THOSE WHO LIED TO GET IT, NPR (July 4, 2018), <https://www.npr.org/2018/07/04/625980910/white-house-launches-effort-to-take-citizenship-from-those-who-lied-to-get-it>.

<sup>21</sup> *Id.*

<sup>22</sup> GARY J. GATES, THE WILLIAMS INST., LGBT ADULT IMMIGRANTS IN THE UNITED STATES (Mar. 2013), <https://williamsinstitute.law.ucla.edu/research/census-lgbt-demographics-studies/us-lgbt-immigrants-mar-2013/>.

<sup>23</sup> SHARITA GRUBERG, CTR. FOR AM. PROGRESS, ICE'S REJECTION OF ITS OWN RULES IS PLACING LGBT IMMIGRANTS AT SEVERE RISK OF SEXUAL ABUSE (May 30, 2018), <https://www.americanprogress.org/issues/lgbt/news/2018/05/30/451294/ices-rejection-rules-placing-lgbt-immigrants-severe-risk-sexual-abuse/>.

<sup>24</sup> *Id.*



#### **D. Adding a citizenship question will increase the cost of the 2020 Census.**

The overall cost to taxpayers of adding an untested question this late in the process is significant. According to the Census Bureau, every one percent decrease in the self-response rate will increase the cost of the count by \$55 million, because Census enumerators will need to visit the household to collect the data.<sup>25</sup> A five percent drop in the self-response rate would add an additional, unplanned \$275 million to the 2020 Census. In addition to the added costs of nonresponse rates, there are the additional costs, including printing longer questionnaires, re-programming the online census instrument, additional staff time to answer questions posed by callers to the Census Questionnaire Assistance number, and processing more data.

#### **E. The citizenship question does not have practical utility and is strongly opposed.**

The Census Bureau, in consultation with OMB, developed guidelines to determine what data should be included in the decennial census and the American Community Survey (ACS). These guidelines specify that the decennial census and ACS will include topics that “federal law or regulation specifically mandates their inclusion in the census, the legal system requires that the data be collected, or federal law requires it for program implementation and the census is the only source for the information.”<sup>26</sup>

Secretary of Commerce Wilbur Ross claimed that the 2020 Census needed to collect citizenship status based on a December 12, 2017 Department of Justice (DOJ) request for census block level citizenship voting age population ("CVAP") data to enforce the Voting Rights Act (VRA).<sup>27</sup> However, there is no evidence to support this purported need for block level CVAP data to enforce the VRA, and documents obtained through litigation challenging the decision to add a citizenship status question to the 2020 Census demonstrates that DOJ's request was pretext for Secretary Ross decision to add the citizenship question. Secretary Ross and senior Administration officials discussed the idea of adding a citizenship status question to the 2020 Census *prior* to the December 2017 DOJ request and asked DOJ to request the addition of the question for VRA enforcement.<sup>28</sup> In addition, DOJ and private VRA litigators have never sought

---

<sup>25</sup> Dr. Abowd January 2018 Memo to Secretary Ross, *supra* note 13.

<sup>26</sup> U.S. CENSUS BUREAU, A COMPASS FOR UNDERSTANDING AND USING AMERICAN COMMUNITY SURVEY DATA: WHAT CONGRESS NEEDS TO KNOW 2 (Nov. 2008), *available at*

<https://www.census.gov/content/dam/Census/library/publications/2008/acs/ACSCongressHandbook.pdf>.

<sup>27</sup> Letter to Dr. Ron Jarmin, Acting Census Director, U.S. Census Bureau, from Arthur E. Gary, General Counsel, Justice Management Division, Department of Justice (Dec. 12, 2017), *available at*

<https://www.documentcloud.org/documents/4340651-Text-of-Dec-2017-DOJ-letter-to-Census.html>.

<sup>28</sup> Memorandum from Wilbur L. Ross, Jr. Secretary of Commerce, SUPPLEMENTAL MEMORANDUM BY SECRETARY OF COMMERCE WILBUR ROSS REGARDING THE ADMINISTRATIVE RECORD IN CENSUS LITIGATION (June 21, 2018), *available at* <https://apps.npr.org/documents/document.html?id=4550951-Supplemental-Memo-by-Wilbur-Ross>.

block level CVAP data in the 53 years they have enforced § 2 of the VRA.<sup>29</sup> Subsequent court decisions also show that Secretary Ross’s decision to include the question was pretext.<sup>30</sup> Therefore, there is no the practical utility of adding this question to the 2020 Census questionnaire, and OMB cannot accept this pretextual rationale without violating its responsibilities under the PRA.

In *New York v. United States Dep’t of Commerce*, 351 F. Supp. 3d 502 (S.D.N.Y. 2019), the Court identified more than a dozen legal defects in Secretary Ross’s decision to include the citizenship question in the 2020 Census and held that including the question violated the Administrative Procedure Act (APA) and the Census Act. The Court held that Secretary Ross violated the APA because (1) he “ignored and violated a clear statutory duty [under the Census Act] to rely on administrative records (rather than direct inquiries) to the ‘maximum extent possible,’; (2) his purported reasons for adding a citizenship question to the Census rather than collect citizenship data through more effective and less costly means did not support the decision; (3) he “failed to satisfy the [Census Act] requirement that he report any plan to address the subject of citizenship to Congress at least three years before the decennial census;” and (4) the Administrative Record shows that his VRA enforcement rationale was pretextual.<sup>31</sup>

In *California v. Ross*, No. 18-cv-01865-RS, 2019 WL 1052434 (N.D. Cal. Mar. 6, 2019), the Court also held that Secretary Ross’s decision to include the citizenship question violated the APA. In addition, the Court held that the inclusion of the citizenship question also violated the Enumeration Clause of the U.S. Constitution because the inclusion of the question “will materially harm the accuracy of the census without advancing any legitimate governmental interest.”<sup>32</sup> The harm the Court identified includes undercounting noncitizens, Latinos, and the localities where they reside, which will in turn impact redistricting.<sup>33</sup> The Court found no legitimate governmental interest because Secretary Ross’s purported VRA enforcement reason for including the question was pretext.<sup>34</sup>

However, even if for the sake of argument, DOJ requires block level CVAP data, administrative records data on citizenship status would be more effective and provide better quality data than asking every household on the Census questionnaire because of the concerns previously outlined. Census Bureau staff estimated that using only administrative data to produce

---

<sup>29</sup> . Brief for The Leadership Conference on Civil and Human Rights et al. as Amici Curiae Supporting Plaintiffs, *State of New York v. U.S. Dep’t of Commerce*, No. 1:18-cv-02921-JMF (S.D.N.Y. June 18, 2018), *available at* [civilrightsdocs.info/pdf/census/Census-Amicus-Brief-2018-06-18.pdf](http://civilrightsdocs.info/pdf/census/Census-Amicus-Brief-2018-06-18.pdf).

<sup>30</sup> See *New York v. United States Dep’t of Commerce*, 351 F. Supp. 3d 502, 635 (S.D.N.Y. 2019); *California v. Ross*, No. 18-cv-01865-RS, 2019 WL 1052434, at \*68 (N.D. Cal. Mar. 6, 2019).

<sup>31</sup> *New York v. United States Dep’t of Commerce*, 351 F. Supp. 3d 502, 635 (S.D.N.Y. 2019).

<sup>32</sup> *California v. Ross*, No. 18-cv-01865-RS, 2019 WL 1052434, at \*68 (N.D. Cal. Mar. 6, 2019)

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

citizenship status data would cost \$500,000 to \$2 million,<sup>35</sup> far less than using an untested decennial census citizenship question. Dr. Abowd reiterated his conclusion that administrative records would likely have more accurate data in his March 1, 2018 memorandum to Secretary Ross.<sup>36</sup> The *Ross* Court noted that including the citizenship question in the census would lead to less accurate citizenship data than administrative records.<sup>37</sup> And the *Commerce* Court held that the decision to include the question violated the APA because it violated the Census Act's duty to rely on administrative records to the "maximum extent possible."<sup>38</sup>

Accordingly, the proposal to add a citizenship question to the 2020 Census questionnaire has drawn intense opposition from a nonpartisan and ideologically broad group of business leaders, state and local officials, social scientists, and civil and human rights advocates. This groundswell of opposition has included more than 160 Republican and Democratic mayors, six former directors of the Census Bureau and two former Commerce Secretaries from Republican and Democratic administrations, 171 civil and human rights groups, more than 600 faith leaders, more than 120 of members of the U.S. House of Representatives, and many others representing a diversity of political ideologies and communities. **All are united in their deep-seated concern that an untested citizenship question will compromise implementation of the 2020 Census and jeopardize the quality and accuracy of census data for all communities.**

The Center urges the Census Bureau to remove the citizenship question from the 2020 Census questionnaire, as it does not have practical utility and will contribute to undercounting, increase costs, and detrimentally affect the accuracy and quality of the Census.

### **III. ADDITIONAL COMMENTS REGARDING THE INACCURATE COUNTING OF PEOPLE OF COLOR**

To combat the many barriers that prevent accurate measurement of communities of color, the Census Bureau must take steps to gather representative data by better engaging communities of color in the data collection process, including targeted communications efforts and testing the materials in non-English languages to address the historic language barriers that have contributed to undercounting people of color. The Center also recommends conducting additional testing in rural and remote areas, including American Indian reservations and Alaska Native villages.

---

<sup>35</sup> Dr. Abowd January 2018 Memo to Secretary Ross, *supra* note 13.

<sup>36</sup> Memorandum for Wilbur L. Ross, Secretary of Commerce, from John M. Abowd, Chief Scientist and Associate Director for Research and Methodology, U.S. Census Bureau, PRELIMINARY ANALYSIS OF ALTERNATIVE D (COMBINED ALTERNATIVES B AND C) (Mar. 1, 2018).

<sup>37</sup> Ross, 2019 WL 1052434, at \*68.

<sup>38</sup> United States Dep't of Commerce, 351 F. Supp. 3d at 635.

With richer data that more fully demonstrates the lived experiences of women of color, policy makers will be in a better position to design new and protect existing policies aimed to improve the lives this historically undercounted and marginalized population.

#### **IV. ADDITIONAL COMMENTS REGARDING THE INACCURATE COUNTING OF YOUNG CHILDREN**

In addition to the citizenship question likely exacerbating the undercounting of young children, the Center wishes to comment on additional aspects of the 2020 Census questionnaire and implementation process.

First, the Center commends the Census Bureau for updating the language on the primary solicitation materials that most households will receive in 2020 to “...all adults, children, and babies living or staying at this address,” instead of “...everyone living or staying at this address.” This is an important first step to more accurately count young children who have long been undercounted, although by no means enough by itself to solve undercounting problems.

Second, the Center wishes to comment on the Census Bureau process for researching messages and developing materials to help persuade families with young children to fill out the census.

While the Census Bureau conducted over 40 focus groups with many different groups at risk of being undercounted as part of its messaging research, not a single focus group was specifically for parents and caregivers of young children, even though in 2010 this was the group with the biggest absolute undercount.<sup>39</sup> Moreover, the Census Barriers, Attitudes and Motivators Survey (CBAMS) survey of 50,000 people did not ask any questions specific to parents and caregivers of young children, although it did identify which respondents had young children in their households.<sup>40</sup>

The Center urges the Bureau to conduct research to address these shortcomings by focusing specifically on families with young children that live in hard-to-count areas or have some of the factors described above that particularly put children at risk of not being counted, such as living in complex families. The Center also urges the Bureau to investigate what types of messengers families with young children are most likely to trust, particularly around issues related to children. The Center also asks the Bureau to research whether families of young children trust and rely on faith leaders, child care and preschool staff, social service agency staff, and medical staff—the four groups that the children’s community thinks families with young children most

---

<sup>39</sup> U.S. CENSUS BUREAU, Presentation at U.S. Census Bureau: 2020 CENSUS QUARTERLY MANAGEMENT REVIEW (Apr. 20, 2018).

<sup>40</sup> G. WALEJKO, U.S. CENSUS BUREAU, Presentation at the Children’s Leadership Council Making Children Count in 2020 Census Meeting: RESEARCH AND COMMUNICATIONS TO ADDRESS THE UNDERCOUNT OF YOUNG CHILDREN (June 8, 2018).

consistently encounter. Further, the Center recommends that the Bureau research which media sources these families pay attention to, including print, TV, radio, and a variety of social media. Finally, the Center encourages them to design their outreach campaigns to include the messengers and the media outlets that families with young children are most likely to hear and to trust.

## **V. ADDITIONAL COMMENTS REGARDING THE INACCURATE COUNTING OF LOW-INCOME FAMILIES**

During a time when critical programs for low-income women and families are under constant threat, the Bureau must prioritize collection of accurate and reliable data to ensure that low-income women and their families have fair representation at all levels of government.

The Center commends the Census Bureau for planning to use service-based enumeration at shelters, soup kitchens, regularly-scheduled mobile food vans, and targeted non-sheltered outdoor locations to count people who may be missed during traditional housing unit and group quarters enumeration. While this may help reduce the undercounting of people experiencing homelessness, other aspects of the 2020 Census implementation could lead to the inaccurate counting of low-income people.

The Census Bureau should work with landlords to address historic undercounting of the low-income families who have moved immediately prior to or during census administration. In addition, the Census Bureau should engage in targeted communications efforts, especially in remote areas, to improve response rates for low-income families so they are not undercounted yet again in 2020.

Furthermore, the 2020 Census proposes using an online response option for the first time to reduce federal expenditures. However, only 45% of adults with incomes of less than \$30,000 have broadband service at home.<sup>41</sup> Low-income families with internet access at home may have older operating systems, so the Center urges the Census Bureau to test software for the 2020 Census across a wide range of operating systems to ensure it operates safely and smoothly on older operating systems. Low-income adults are among the demographics most likely to use a mobile device as their sole or primary of internet access.<sup>42</sup> The Center urges the Census Bureau to optimize the mobile-experience for the online response option so people can easily respond

---

<sup>41</sup> PEW RES. CTR., INTERNET/BROADBAND FACT SHEET (Feb. 5, 2018), <http://www.pewinternet.org/fact-sheet/internet-broadband/>.

<sup>42</sup> THE LEADERSHIP CONF. EDUC. FUND, COUNTING EVERYONE IN THE DIGITAL AGE 6 (2017), *available at* <http://www.civilrightsdocs.info/pdf/reports/Counting-Everyone-in-the-Digital-Age.pdf>.

to the survey without consuming costly data,<sup>43</sup> in a safe and secure manner, and across a variety of mobile phone types. Other low-income families may access the internet through shared computers, such as those provided at libraries, so cybersecurity efforts and outreach to libraries is critical.

## **VI. ADDITIONAL COMMENTS ON THE CENSUS QUESTIONNAIRE AND IMPLEMENTATION PROCESS**

### **A. Improving the online response option can improve the effectiveness of the census implementation process.**

The internet can be a less expensive way for people to respond to the census questionnaire, so a higher online response rate could make additional resources available to facilitate the counting of hard-to-count population groups (provided that other census operations do not have unforeseen failures). The online response option also includes an opportunity for people who did not receive, or do not have access to, their home address's unique code to still submit their census responses.

However, in addition to concerns about the online response option's impact on counting low-income families, the Center has concerns that impact broader counting efforts. Public confidence, or a lack thereof, in the confidentiality of their personal information will greatly impact internet response rates.<sup>44</sup> In light of previous hacks of government systems and the U.S. Government Accountability Office adding the 2020 Census to its high-risk list in part because of IT concerns,<sup>45</sup> the Census Bureau should increase its cybersecurity strategy and communicate the systems it will use to address threats, including potential phishing scams, to the public in order to increase public confidence in the security and confidentiality of the online response option.

In addition, the Census Bureau should ensure that the online self-response option is accessible to people with disabilities. Furthermore, the Census Bureau should make clear that there is a phone option available and consider allowing families in the Internet First group to request a paper questionnaire if they are not comfortable responding online or over the phone.

---

<sup>43</sup> Many cell-phone dependent adults are likely to cancel their phone service due to data limits, so a time-consuming survey requiring costly data could disproportionately reduce the response rates of low-income families. *Id.* at 12.

<sup>44</sup> *Id.* at 7-8.

<sup>45</sup> U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-18-215T, 2020 CENSUS: ACTIONS NEEDED TO MITIGATE KEY RISKS JEOPARDIZING COST-EFFECTIVE ENUMERATION 11 (2017), available at <https://www.gao.gov/assets/690/688060.pdf>.

**B. Changes to the relationship question will lead to more accurate responses.**

The Center also comments the Census Bureau’s proposed changes to the relationship question, which will lead to more accurate responses from couples in same-sex relationships and provide a data point about LGBTQ people.

**VII. INACCURATE CENSUS REPORTING HAS FAR-REACHING IMPACTS.**

Being undercounted deprives already marginalized communities of fair representation and vital community resources. If millions of people aren’t counted in the 2020 Census, policymakers and private sector decision-makers will have a flawed blueprint for deciding how and where to invest limited resources that lift up the well-being of communities and families.

**A. Inaccurate Decennial Census data distorts data in all Census surveys for the next decade.**

Inaccurate decennial census data distorts data in all Census surveys for the next decade. A majority of related Census surveys (the ACS, CPS, and others) utilize the decennial census population estimates specifically in their methodology to calculate up-to-date population estimates; this includes using decennial census population counts to weight and control for sampling issues. Consequently, inaccurate decennial census data threatens the accuracy of population estimates in Census related surveys. Therefore, incorrect population estimates can have far-reaching negative implications for the groups that are undercounted in the decennial census for years afterward.

**B. Inaccurate counts lead to inaccurate distribution of funding for programs that are funded based in whole or in part on Census counts.**

Every year, the federal government uses census-derived data to direct more than \$800 billion in federal funds to states and localities. Depending on the program, the government uses either direct decennial census data or Census population estimates and Census surveys that in turn rely on the decennial census.<sup>46</sup> Below are some of the programs that affect the lives of women and families for which funding is based in whole or in part on census data. (Unless noted, funding dollars are for fiscal year (FY) 2017. Because of differences in tracking participation in these programs, the year for participation statistics may be different across programs.) Funding allocations for many other, smaller but still important programs that help women and families make ends meet are not listed here but are also calculated using decennial census data.

---

<sup>46</sup> GW COUNTING FOR DOLLARS 2020 REPORT #2, *supra* note 1, at 1.



- **Medicaid** – \$377.6 billion (for all beneficiaries).<sup>47</sup> Medicaid is a federal-state program that provides health coverage for people with low incomes and plays a critical role in providing coverage for women of all ages and needs. It covers an array of services including prenatal care, well-child visits, preventive services like mammograms, pap smears, birth control, and long-term care services, including nursing home coverage.<sup>48</sup> Over 33 million women and girls get their health coverage from Medicaid, and more than half of adult Medicaid recipients are women.<sup>49</sup> In 2016, more than 28.5 million children—nearly two in five—received health coverage through Medicaid.<sup>50</sup> In 2016, of non-elderly adult women receiving Medicaid coverage, 5.7% were Asian women, 20.9% were Black women, 25.1% were Latinas, 2.1% were Native women, and 46.3% were white, non-Hispanic women.<sup>51</sup> The federal government pays for at least 50% of the costs of Medicaid, and more in many states. The Federal Medicaid Assistance Percentage (FMAP) is the formula used to calculate the federal government’s share of a state’s Medicaid costs. A decennial census undercount of a state’s population would result in a higher Per Capita Income in the FMAP formula and consequently, a lower reimbursement rate.<sup>52</sup>
- **Title I grants to local education agencies** — \$15.4 billion.<sup>53</sup> These grants help local educational agencies (LEAs) improve teaching and learning in high-poverty schools. In 2010 Title I served more than 21 million children.<sup>54</sup> The Census’s Model-based Small Area Income and Poverty Estimates (SAIPE) of the number of children and children in poverty in each district is used to allocate Title I grants.<sup>55</sup> A decennial census undercount of children, especially low-income children, in a school district would result in a lower SAIPE estimate and consequently, reduced funding for LEAs in that district.<sup>56</sup>

---

<sup>47</sup> DEP’T OF HEALTH & HUMAN SERVS., CTR. FOR MEDICARE & MEDICAID SERVS., FISCAL YEAR 2019: JUSTIFICATION OF ESTIMATES FOR APPROPRIATIONS COMMITTEES 2 (Feb. 2018), available at <https://www.cms.gov/About-CMS/Agency-Information/PerformanceBudget/Downloads/FY2019-CJ-Final.pdf> [hereinafter CMS FY 2019 BUDGET].

<sup>48</sup> KAYLA PATRICK, JASMINE TUCKER & AMY MATSUI, BY THE NUMBERS: DATA ON KEY PROGRAMS FOR THE WELL-BEING OF WOMEN & THEIR FAMILIES 2 (June 2018), available at <https://nwlc-ciw49tixgw51bab.stackpathdns.com/wp-content/uploads/2018/06/FINAL-By-The-Numbers.pdf>.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> ANDREW REAMER, GEO. WASH. U. INST. OF PUB. POL’Y, COUNTING FOR DOLLARS 2020: MEDICAID 1 (June 13, 2017), available at <https://gwipp.gwu.edu/sites/g/files/zaxdzs2181/f/downloads/Medicaid%20CFD%2008-18-17.pdf>.

<sup>53</sup> U.S. DEP’T OF ED., FISCAL YEAR 2019 BUDGET SUMMARY AND BACKGROUND INFORMATION 9 (Feb. 2018), available at <https://www2.ed.gov/about/overview/budget/budget19/summary/19summary.pdf>.

<sup>54</sup> U.S. DEP’T OF ED., NAT’L CTR. FOR ED STATISTICS, FAST FACTS, <https://nces.ed.gov/fastfacts/display.asp?id=158>.

<sup>55</sup> ANDREW REAMER, GEO. WASH. U. INST. OF PUB. POL’Y, COUNTING FOR DOLLARS 2020: TITLE I GRANTS TO LOCAL EDUCATION AGENCIES 1 (Aug. 18, 2017), available at <https://gwipp.gwu.edu/sites/g/files/zaxdzs2181/f/downloads/Title%20I%20CFD%2008-18-17.pdf>.

<sup>56</sup> *Id.*

- **Special Education Grants (IDEA)** – \$11.9 billion (Part B only).<sup>57</sup> Through the Individuals with Disabilities Education Act (IDEA), the federal government provides grants to states to assist them in ensuring a free and appropriate public education that will allow students with disabilities to thrive. In 2015-16, IDEA part B served 6.7 million students, 13% of total public school enrollment.<sup>58</sup> Through additional funding in IDEA part C, federal funds assist states in providing early intervention services for infants and toddlers (birth through age 2) and their families. IDEA part C covered almost 400,000 infants and toddlers and their families in 2015-16.<sup>59</sup> The grants are allocated based on the number of children and low-income children in a community, data obtained through Census datasets.<sup>60</sup> Consequently, if young children, particularly low-income young children, are missed in a school district, then that state and school district will not get its fair share of IDEA funds.<sup>61</sup>
- **Children’s Health Insurance Program (CHIP)** – \$16.2 billion.<sup>62</sup> CHIP provides subsidized health coverage to children in low-income families. The federal government pays most of the costs of the program, and the federal share of the costs varies by state using an enhanced match based on the FMAP. CHIP covers 8.9 million children,<sup>63</sup> and is an important source of coverage for children of color,<sup>64</sup> providing them with critical coverage that includes routine doctor visits, preventive care, prescription medication, dental services, and immunizations.<sup>65</sup> In addition to providing coverage to children, a number of states also cover certain adults and pregnant women. Nineteen states extend coverage to approximately 320,000 pregnant women, with 16 of those states providing coverage regardless of immigration status, giving them coverage they would otherwise be unable to afford.<sup>66</sup> If many children in poverty are missed in the Census in a state,

---

<sup>57</sup> U.S. DEP’T OF ED., FISCAL YEAR 2019 BUDGET SUMMARY AND BACKGROUND INFORMATION, *supra* note 53, at 18.

<sup>58</sup> U.S. DEP’T OF ED., IDEA SECTION 618 DATA PRODUCTS: STATIC TABLES, PART B CHILD COUNT AND EDUCATIONAL ENVIRONMENTS #1: NUMBER OF CHILDREN AND STUDENTS SERVED UNDER IDEA, PART B, BY AGE GROUP AND STATE, <https://www2.ed.gov/programs/osepidea/618-data/static-tables/index.html> [hereinafter IDEA STATIC TABLES].

<sup>59</sup> IDEA STATIC TABLES, PART C CHILD COUNT AND SETTINGS #1: NUMBER OF INFANTS AND TODDLERS AGES BIRTH THROUGH 2 AND 3 AND OLDER, AND PERCENTAGE OF POPULATION, RECEIVING EARLY INTERVENTION SERVICES UNDER IDEA, PART C, BY AGE AND STATE.

<sup>60</sup> ANDREW REAMER, GEO. WASH. U. INST. OF PUB. POL’Y, COUNTING FOR DOLLARS 2020: SPECIAL EDUCATION GRANTS (IDEA) 1 (Aug. 18, 2017), available at <https://gwipp.gwu.edu/sites/g/files/zaxdzs2181/f/downloads/Special%20Ed%20IDEA%20CFD%2008-18-17.pdf>

<sup>61</sup> *Id.*

<sup>62</sup> CMS FY 2019 BUDGET, *supra* note 47, at 133.

<sup>63</sup> CTR. FOR MEDICARE & MEDICAID SERVS., FY 2016 NUMBER OF CHILDREN EVER ENROLLED REPORT 2 (2017), available at <https://www.medicaid.gov/chip/downloads/fy-2016-childrens-enrollment-report.pdf>.

<sup>64</sup> KAISER FAMILY FOUND., NEXT STEPS FOR CHIP: WHAT IS AT STAKE FOR CHILDREN? (Jun. 2017), available at <http://files.kff.org/attachment/Fact-Sheet-Next-Steps-for-CHIP-What-is-at-Stake-for-Children>.

<sup>65</sup> PATRICK, TUCKER & MATSUI, *supra* note 48, at 3.

<sup>66</sup> *Id.*

then the FMAP will be impacted and the share of CHIP reimbursements paid by the federal government will not be accurate for the state's needs.<sup>67</sup>

- **Head Start** – \$9.2 billion.<sup>68</sup> The Head Start program provides grants to local public and private nonprofit and for-profit agencies to provide comprehensive early education and child development services to low-income children and families, to help children get a strong start in school. In 2016, the Head Start preschool program served 857,198 young children.<sup>69</sup> Among children in Head Start preschool, 31% were Black and 24% were white, non-Hispanic.<sup>70</sup> The Early Head Start program served 195,673 children under age three and 15,094 pregnant women.<sup>71</sup> Among the children in Early Head Start, 28% were Black and 26% were white, non-Hispanic.<sup>72</sup> Head Start expansion funds are allocated based on numbers of low-income children, so undercounting families with young children in poverty would result in those communities getting less expansion funding for Head Start and early Head Start.<sup>73</sup>
- **Women, Infants, and Children (WIC) Special Supplemental Nutrition Program** – \$6.4 billion.<sup>74</sup> On average, in each month of FY 2017, WIC provided supplemental nutritious foods, nutrition education, and referrals to health and social services to 7.3 million low-income pregnant, breastfeeding and postpartum women, infants, and children to age five who have been determined to be at nutritional risk.<sup>75</sup> Women of color were about 60% of adult women recipients in 2016.<sup>76</sup> The ACS, which uses the decennial census and annual populations estimates based on the decennial census to design its sampling frame, is used to determine each state's fair share target for foods funding.<sup>77</sup> Grants for supplemental food equal about 70% of WIC grants to states.<sup>78</sup> Undercounting communities in a state risks lower estimates of young children and infants in lower-

---

<sup>67</sup> See, e.g., GW COUNTING FOR DOLLARS 2020 REPORT #2, *supra* note 1, at 15-16 (providing an estimate of the reduction of CHIP and other FMAP-based funds based on a one percent undercount in the 2010 Census).

<sup>68</sup> U.S. DEP'T OF HEALTH & HUMAN SERVS., ADMIN. FOR CHILDREN AND FAMILIES, FY 2017 HEAD START FUNDING INCREASE (2017), available at [https://eclkc.ohs.acf.hhs.gov/sites/default/files/pi/downloads/acf-pi-hs-17-02\\_0.pdf](https://eclkc.ohs.acf.hhs.gov/sites/default/files/pi/downloads/acf-pi-hs-17-02_0.pdf).

<sup>69</sup> PATRICK, TUCKER & MATSUI, *supra* note 48, at 4.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> ANDREW REAMER, GEO. WASH. U. INST. OF PUB. POL'Y, COUNTING FOR DOLLARS 2020: HEAD START/EARLY HEAD START 1 (Aug. 18, 2017), available at <https://gwipp.gwu.edu/sites/g/files/zaxdzs2181/f/downloads/Head%20Start%20CFD%2008-18-17.pdf>.

<sup>74</sup> U.S. DEP'T OF AGRIC., 2019 USDA BUDGET SUMMARY 42 (Feb. 2018), available at <https://www.usda.gov/sites/default/files/documents/usda-fy19-budget-summary.pdf>.

<sup>75</sup> PATRICK, TUCKER & MATSUI, *supra* note 48, at 7.

<sup>76</sup> *Id.*

<sup>77</sup> ANDREW REAMER, GEO. WASH. U. INST. OF PUB. POL'Y, COUNTING FOR DOLLARS 2020: SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, CHILDREN (WIC) 1 (Aug. 18, 2017), available at <https://gwipp.gwu.edu/sites/g/files/zaxdzs2181/f/downloads/WIC%20CFD%2008-18-17.pdf>.

<sup>78</sup> *Id.*

income households, which could result in a lower state fair share target funding for supplemental food.<sup>79</sup>

- **Child Care and Development Block Grant (CCDBG)** – \$8.1 billion (for FY 2018).<sup>80</sup> CCDBG helps low-income families who are working, participating in training or education programs, or looking for work afford child care and supports activities that improve the quality of care for all families. In FY 2016, CCDBG served a monthly average of more than 823,000 families with nearly 1.4 million children.<sup>81</sup> On an average month in FY 2016, 1% of children receiving assistance through CCDBG were Asian, 42% were Black, 17% were Latinx, 4% were multi-racial, 1% were Native, and 28% were white, non-Hispanic.<sup>82</sup> Funds to states are allocated based on numbers of children under 5, numbers under 13, and state median income, so undercounting communities would reduce the state’s child care funding.<sup>83</sup>
- **Section 8 Housing Assistance Payments Program** – \$20 billion.<sup>84</sup> Section 8 vouchers are the nation’s leading source of housing assistance for low-income seniors, people with disabilities, and families with children, helping approximately 5.2 million people and 2.2 million families to secure affordable rental housing in the private market.<sup>85</sup> Half of households served by this program were families with children, and 43% were headed by women.<sup>86</sup> Of the heads of households receiving vouchers, 22% are low-income elderly people and 27% are non-elderly people with disabilities.<sup>87</sup> Of non-elderly women receiving rental assistance, including through Section 8 vouchers, 2.5% were Asian, 38.5% were Black, 20% were Latina, and 36% were white, non-Hispanic.<sup>88</sup> The ACS is one of the data sources used to determine voucher allocations and Median Family Income

---

<sup>79</sup> *Id.*

<sup>80</sup> CCDBG received an additional \$2.37 billion in discretionary funding for FY 2018. Consolidated Appropriations Act, 2018, Pub. L. No. 115-141. This additional funding brought total discretionary funding to \$5.2 billion. There is also \$2.9 billion in mandatory funding, bringing overall federal CCDBG funding to \$8.1 billion. U.S. DEP’T OF HEALTH & HUMAN SERVS., ADMIN. FOR CHILDREN & FAMILIES, OFFICE OF CHILD CARE, FY 2018 CCDF ALLOCATIONS (May 2018), <https://www.acf.hhs.gov/occ/resource/fy-2018-ccdf-allocations-based-on-appropriations> [hereinafter FY 2018 CCDF ALLOCATIONS]. FY 2017 funding was \$5.8 billion. U.S. DEP’T OF HEALTH & HUMAN SERVS., ADMIN. FOR CHILDREN & FAMILIES, OFFICE OF CHILD CARE, FISCAL YEAR 2017 FEDERAL CHILD CARE AND RELATED APPROPRIATIONS (2017), *available at* <https://www.acf.hhs.gov/occ/fiscal-year-2017-federal-child-care-and-related-appropriations>.

<sup>81</sup> PATRICK, TUCKER & MATSUI, *supra* note 48, at 4.

<sup>82</sup> *Id.*

<sup>83</sup> FY 2018 CCDF ALLOCATIONS, *supra* note 80.

<sup>84</sup> U.S. DEP’T OF HOUSING AND URBAN DEV., FY 2019 CONGRESSIONAL JUSTIFICATIONS, BUDGET AUTHORITY BY PROGRAM COMPARATIVE SUMMARY, FISCAL YEARS 2017-2019, at 1-3 (Feb. 2018), *available at* [https://www.hud.gov/sites/dfiles/CFO/documents/FY\\_2019\\_Congressional\\_Justifications\\_-\\_Combined\\_PDF\\_-\\_Updated.pdf](https://www.hud.gov/sites/dfiles/CFO/documents/FY_2019_Congressional_Justifications_-_Combined_PDF_-_Updated.pdf).

<sup>85</sup> PATRICK, TUCKER & MATSUI, *supra* note 48, at 14.

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

from the Census is used to determine household eligibility.<sup>89</sup> A local area miscount risks less accurate estimates of voucher needs, distorted family eligibility standards, and inappropriate average rents per unit.<sup>90</sup>

### **C. Inaccurate Census data negatively impacts state and local decision-making.**

The consequences of an undercount go far beyond federal funding. If many young children are missed in a particular area, school demographers will not know which areas need to build schools or add classrooms or target much needed educational resources, creating overcrowded classrooms and a lower quality of education for children who live in those areas.

In addition, state and local governments often decide where to build or operate health centers and provide other medical resources based on the number of people and low-income people in a community. Undercounting any community may lead to inadequate medical resource allocations.

Furthermore, businesses use census data for planning where to put new enterprises. If a local community is undercounted, that may result in, for example, no business being willing to start a grocery store there and people having less access to healthy food.

### **D. Undercounting impacts redistricting.**

Census data is used to allocate Congressional seats and to redistrict. Under the Equal Protection Clause of the Fourteenth Amendment, congressional districts must have roughly equal populations, and census data is used to draw district lines. When communities such as young children, people of color, low-income people, and LGBTQ people are undercounted, political boundaries may not accurately represent the population. This means that communities have less representation in Congress, state legislation, and school boards, and their needs may not be prioritized.

## **VIII. IMPROVING THE CENSUS QUESTIONNAIRE AND IMPLEMENTATION PROCESS WILL ENHANCE THE QUALITY, UTILITY, AND CLARITY OF THE INFORMATION COLLECTED.**

A full, fair, and accurate census is absolutely critical for women and their families. It will shape the lives of the nation's youngest children at the most critical points in their development. It

---

<sup>89</sup> ANDREW REAMER, GEO. WASH. U. INST. OF PUB. POL'Y, COUNTING FOR DOLLARS 2020: SECTION 8 HOUSING CHOICE VOUCHERS 1 (Aug. 18, 2017), available at <https://gwipp.gwu.edu/sites/g/files/zaxdzs2181/f/downloads/Section%208%20HCVs%20CFD%2008-18-17.pdf>.

<sup>90</sup> *Id.*

will lead to better representation and resource allocation for women and families of all ages, races, ethnicities, sexual orientations, gender identities, disability status, and income status.

For the reasons discussed above, the Center strongly opposes asking about citizenship status in the 2020 Census and urges the Census Bureau to remove the proposed citizenship question from the questionnaire. The Center also asks the Census Bureau to expand its efforts to include a thorough investigation of, and implementation of, the best methods to accurately count families with young children, people of color, and low-income people.

Sincerely,



Melissa Boteach  
Vice President for Income  
Security and Child Care/  
Early Learning  
National Women's Law Center



Amy K. Matsui  
Senior Counsel & Director of  
Income Security  
National Women's Law Center



Sarah Hassmer  
Income Security Fellow  
National Women's Law Center