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September 8, 2000

NEWS ALERT

Early Fall Update:

Commerce Weighs Comments On Proposed Adjustment  
Decision Rule; House Members Spar Over Census Investigation;  
Virginia Redistricting Case Attracts More Litigants

Plus: Funding Bills Top Congressional Agenda;  
Census Operational Update; Upcoming Stakeholder Events

The U.S. Commerce Department is reviewing comments from members of Congress, former Census Bureau directors, data users, advocacy groups, and other stakeholders on a proposed rule to give the Census Bureau director final say over the decision to release statistically-corrected census numbers next spring. Former Secretary of Commerce William Daley announced the proposed rule in June; the 45-day comment period ended in early August. The department is expected to issue a final rule this fall.

The Census 2000 Initiative's August 10th News Alert summarized comments in favor of the proposed rule submitted by four former Census Bureau directors, as well as advocacy groups such as the Leadership Conference on Civil Rights and nearly 200 statisticians, demographers, and other census experts. Since then, the Census Bureau has posted additional comments on its web site, both supporting and opposing the proposal. Among those favoring the delegation of decision-making authority are the American Sociological Association and the Consortium of Social Science Associations, as well as 27 Democratic members of the California congressional delegation. Among those submitting comments critical of the proposed delegation are Michigan Governor John Engler and the Southeastern Legal Foundation. House Census Subcommittee Chairman Dan Miller (R-FL) and several Republican colleagues, who co-signed a letter criticizing the rule, said Congress has vested decision-making authority exclusively in the Secretary of Commerce.

The proposed rule creates a steering committee of senior Census Bureau career professionals to evaluate the results of the Accuracy and Coverage Evaluation (A.C.E.) survey (designed to measure under- and overcounts in the direct enumeration) and statistical estimation process (adjusting the census counts based on the A.C.E. results). The committee would issue a report to the director, recommending whether data based solely on the direct enumeration or corrected based on statistical methods are more accurate. The director's decision on whether to release statistically corrected data would be final and shielded from review or reversal by the Secretary of Commerce.

By law, the Census Bureau must release population totals for each state by December 31, to be used as the basis for apportioning seats in the U.S.

House of Representatives among the 50 states. The Supreme Court ruled in 1999 that a provision of the Census Act bars the use of sampling methods to derive the population counts used for congressional apportionment. (The Court issued its opinion in a lawsuit filed by SLF Executive Director Matthew Glavin.) The Court did not rule out the use of sampling to produce census data used for other purposes, such as drawing political district boundaries and allocating federal program funds to states and municipalities. The Bureau must transmit more detailed population counts, including race and voting age information, to the states by April 1, 2001.

Comments submitted as part of the rule-making process are posted on the Census Bureau's web site, at [www.census.gov/dmd/www/Feascom.htm](http://www.census.gov/dmd/www/Feascom.htm)  
<<http://www.census.gov/dmd/www/Feascom.htm>>.

Congressional oversight update: Rep. Carolyn Maloney (D-NY), ranking Democrat on the Subcommittee on the Census, accused congressional Republicans of impeding the census with requests for investigations, which she said were part of an effort "to stop the professionals at the Census Bureau from using modern statistical methods" to eliminate the undercount of racial minorities. At a Capitol Hill press conference yesterday, the congresswoman said allegations of fraud and rushed operations were "a thinly veiled attempt to cast a cloud on the census" and that nearly 100 letters of inquiry to the Census Bureau this year, from the subcommittee's chairman, were intended "to slow down and disrupt the process" and "prevent an accurate count." Reps. Eddie Bernice Johnson (D-TX) and Carrie Meek (D-FL) joined Rep. Maloney in seeking signatures on a letter to House Speaker J. Dennis Hastert (R-IL), calling for an end to "senseless investigations" of the Bureau's activities and Census 2000 operations.

Responding on behalf of Speaker Hastert to the draft letter, subcommittee Chairman Miller wrote, "It would be irresponsible to write the Bureau a 6.5 billion dollar check to conduct the census and turn our backs, as you would do." He called his panel's oversight of the Census Bureau "fully warranted" and said the scope of the census required "more oversight, not less." The congressman pointed to several requests Rep. Maloney and Rep. Meek had made for investigations of reported operational problems. Rep. Maloney told reporters she had sought "isolated" reviews, compared to a "barrage" of requests by the subcommittee's Republican members.

The letter being circulated by Reps. Maloney, Johnson, and Meek referenced three investigations related to Census 2000. In July, Rep. Miller asked the Census Bureau to review counting operations in 15 Local Census Offices, which he said may have used "improper or fraudulent procedures" in order to finish their follow-up visit caseloads early. Later that month, the chairman asked the U.S. General Accounting Office (GAO) to review e-mails and other communications among Census Bureau employees pertaining to requests for information from the GAO, Congress, and other oversight bodies. Rep. Maloney urged the GAO to limit the scope of its review, calling the proposed request an "unprecedented invasion of privacy."

Last month, Chairman Miller asked three federal agencies to investigate the Census Bureau's involvement in a symposium on "challenges facing the African American community," held in Los Angeles days before the start of the Democratic National Convention. In a letter to the Justice Department's Office of Special Counsel, the Commerce Department's Inspector General, and the U.S. General Accounting Office, Rep. Miller said "taxpayer resources," including the Census 2000 logo and staff time, might have been used for "partisan political activities." He requested "full disclosure of all those who planned, authorized, or participated in the event," materials distributed, costs, and "financial donations."

The August 12th symposium, held at the University of Southern California, was organized by Tavis Smiley, a Black Entertainment Television talk show host and commentator on the nationally syndicated, daily radio talk show, "The Tom Joyner Morning Show." Materials announcing the public event said the forum was "ideally timed to the eve of the Democratic National

convention" and "has the potential to ignite the voter participation, coalition-building, and grass roots activism [needed] to effect change." The materials listed several sponsors, including "Census 2000," Microsoft, AT&T, and US Airways. The Democratic National Convention Committee included the symposium on a list of events taking place in the vicinity of the convention, which began on August 14, but was not a sponsor of the symposium and was not represented at the event. During subsequent radio broadcasts, Mr. Smiley, who signed a partnership agreement with the Census Bureau, and Mr. Joyner said three regional Census Bureau employees distributed outreach materials from an exhibit booth at the symposium. In a written statement, Census Bureau Director Kenneth Prewitt said Census 2000 'partners' are authorized to use the Census 2000 logo and may ask partnership specialists to hand out promotional materials at their events.

State legislative activities update: Led by the City of Los Angeles, a group of 15 cities and counties has joined a lawsuit over the use of adjusted census data for legislative redistricting, filed by the State of Virginia last April against the U.S. Department of Justice. Virginia enacted a law last spring, barring the use of statistically corrected census data for drawing congressional and state legislative district boundaries. The state is one of 16 with a history of racial discrimination in the electoral process, required by section 5 of the Voting Rights Act to obtain approval from the Justice Department for any changes in election law.

Virginia's Attorney General asked the federal district court for the District of Columbia to declare the new law valid, in light of the 1999 Supreme Court ruling prohibiting the use of adjusted census numbers for congressional apportionment. The Justice Department subsequently asked the three-judge court to put off hearing the case, saying it would be premature to assess the effect on minority voting rights of using unadjusted census numbers for redistricting until the data are released next spring. A hearing on that issue is set for September 21.

The municipalities filed a motion in July to join the lawsuit as 'intervenor-defendants,' saying that Virginia's request for a ruling that the use of statistically adjusted census data for redistricting violates the U.S. Constitution and the Census Act "goes beyond the parochial interests" of the state. They said Virginia's new law, which cannot take effect without approval from the Justice Department or a federal court, "def[ies] logic" because it requires the use of data the Census Bureau believes is less accurate than data corrected on the basis of sampling methods. State Attorney General Mark Earley opposed the localities' request to intervene.

Joining Los Angeles as intervenor-defendants in the lawsuit are the cities of Richmond, VA; San Francisco; Inglewood, CA; Houston; Denver; Oakland, CA; Stamford, CT; Dearborn, MI; and San Antonio, TX; and the counties of Los Angeles; San Francisco; Dade, FL; Santa Clara, CA; San Bernadino, CA; and Alameda, CA. The case is Commonwealth of Virginia v. Reno, et al (Civil Action No. 1:00CV00751).

Commerce/Census appropriations update: Funding bills for the fiscal year beginning October 1st top the agenda for legislators returning to Washington this week from their summer recess. The Fiscal Year 2001 Commerce, Justice, State, and the Judiciary Appropriations bill, which includes funding for Census 2000, cleared the House on June 26 and is awaiting further action by the Senate. The Senate appropriations committee passed its version of the measure on July 18 (the Senate language was approved as a substitute to the House bill, leaving only one numbered bill, H.R. 4690, for consideration). The House and Senate measures both allocate about \$390 million, roughly the amount the Administration requested, for the Census Bureau to complete Census 2000 operations and begin tabulating and disseminating the data. The House provided about \$50 million less than requested for non-decennial census statistical programs, while Senate appropriators shaved about \$25 million from non-decennial activities. Current year funding for all government agencies runs out on September 30.

Census operations update: The Census Bureau has completed its field work and begun the enormous task of tabulating the data collected in Census 2000, Director Prewitt said at a press briefing yesterday in Washington, DC. Ten of the 520 local census offices shut down last week, with another 160 set to close within a few weeks. All local offices will be closed by mid-October.

In order to meet legal deadlines, the Census Bureau is tabulating the state population totals for apportionment, which include members of the armed forces and federal civilian personnel stationed overseas, and the more detailed block-level counts that it transmits to the states next spring for redistricting. The Bureau will tabulate and disseminate other data collected in the census on the nation's population, housing, social, and economic characteristics, for various levels of geography, on a flow basis over the next few years.

Stakeholder activities: The Jerome Levy Economics Institute of Bard College (Annandale-on-Hudson, New York) will host a conference on "Multiraciality: How Will the New Census Data Be Used?" on September 22-23. Participants will discuss the new federal standards for collecting racial data, which allow respondents to select more than one race for the first time, and the implications for statistics, civil and voting rights law, and projecting racial composition in the future. Joel Perlmann, Senior Scholar at the Institute, and Mary Waters, Professor of Sociology at Harvard, organized the event. The program and registration information are available on the Internet at [www.levy.org](http://www.levy.org) <<http://www.levy.org>> or by calling 845/758-7700.

The Commerce Department's Decennial Census Advisory Committee will meet September 21-22, at the Hilton Alexandria Mark Center Hotel, 5000 Seminary Road, Alexandria, VA. An agenda will be available shortly; the meeting, which runs from 9:00 am - 5:00 pm on September 21 and 9:00 am - 12:00 noon on September 22, is open to the public.

Questions about the information contained in this News Alert may be directed to Terri Ann Lowenthal at 202/484-2270 or, by e-mail at [terriann2k@aol.com](mailto:terriann2k@aol.com). For copies of previous News Alerts and other information, use our web site [www.census2000.org](http://www.census2000.org) <<http://www.census2000.org>>. Please direct all requests to receive News Alerts, and all changes in address/phone/fax/e-mail, to the Census 2000 Initiative at [Census2000@ccmc.org](mailto:Census2000@ccmc.org) or 202/326-8700. Please feel free to circulate this information to colleagues and other interested individuals.