

Legal Issues With the Census



Library Staff's Learning Goals :

1. Legal Reasons Why We Perform a Census Every Ten Years;
2. Census Answers are Confidential and Protected by Federal Law;
3. How to Respond to Law Enforcement Activity In the Library.

Why Do We Need a Census?

Mandated by U.S. Constitution, Article 1, Section 2:

“Representatives and direct Taxes shall be apportioned among the several States ... according to their respective Numbers ...”



The Census is administered by the U.S. Census Bureau, which is part of the U.S. Department of Commerce



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- First Census after the American Revolution- Taken in 1790 Under Secretary of State Thomas Jefferson;
- 22 federal Censuses since 1790



USUAL RESIDENCE Rule

- Rule: The place a person lives and sleeps most of the time
- Every residence must respond
 - Requires actual counts of persons dwelling in U.S. residential structures
 - Citizens, non-citizen legal residents, non-citizen long term visitors, undocumented immigrants



• P R I S O N S



- Census Practice: Prisoners are residents of prisons (where they live and sleep most of the time) and are not residents of their pre-incarceration address
- Controversy: Misleading Information about racial demographics and population numbers

- **Trump's Citizen Question**

- There is NO Citizen Question on the 2020 Census

- Ruling by U.S. Supreme Court in June, 2019

 - Upshot: Counting Citizens in a Legislative District instead of Residents Hurts Latinos

 - Upshot: Immigrants can Return their Forms without Fear of being counted as A Non-Citizen.



• Confidentiality, Part 1

- CENSUS BUREAU'S Sworn Affidavit of Nondisclosure for all employees:

“I will not disclose any information contained in the schedules, lists, or statements obtained for or prepared by the Census Bureau to any person or persons either during or after employment”

- **Confidentiality, Part 2** : All Answers Protected by Federal Law
- For Current and Former Census Bureau Employees- If they Release or Share personal identifiable data: Prison: Up to 5 Years; Fines up to \$250,000.00 or both.
- Individual Census Records SEALED FOR 72 YEARS.
- Most recently released public Census Data from 1940 Census, released on April 2, 2012



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• Confidentiality, Part 3 :

Census Bureau Prohibited by Law to Share personal Census Responses with:

- Any government agency (at any level, local, state or federal);
- Any Court of Law;
- Any Private Entity or Person (such as landlords); or
- For any purpose (e.g., for law enforcement, Immigration Enforcement, Housing Code Enforcement)



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- Library Staff: How can We Help??

- Response Options: Online, Phone, Mail, or Census Taker Visit to their home;



- Guide Them Through the Online Questionnaire in English and 59 other languages and Help Navigate online Pages

BUT → Only Census Bureau Employees may collect responses directly from individuals. Only those Employees are sworn for life to keep an individual's responses Confidential.

• What If I Do Not Return My Census Answers?

→ Whoever Refuses or Willfully Neglects to Respond to Census Questions = **Fine up to \$1000**

→ Whoever Willfully Gives False Answers = **Fine up to \$500**

(Rarely enforced in the Past)



When in Doubt,



CONTACT THE CENSUS BUREAU WITH
QUESTIONS:

1-800-923-8282 (M – F, 7:00 a.m. –
4:00 p.m. CST)



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•Fraudulent Mailings - Beware

- “Republican Party sends fundraising mail disguised as census as real count is about to start” -- New York Daily News, Feb. 15, 2020
- Questions never asked by Census Bureau- Beware of a scam if you are asked for:
 - your full Social Security number
 - money or donations
 - anything on behalf of a political party
 - your full bank or credit card account numbers
 - your mother’s maiden name



Law Enforcement or Immigration (ICE) Officers (Part 1):



“Sensitive Areas” into which ICE Agents may not go without exigent circumstances:

→ schools, hospitals, places of worship, and public demonstrations

BUT: Public Libraries and Library Districts are NOT CONSIDERED “SENSITIVE AREAS” Except for the Non-public areas of library where a Warrant is Required.

Law Enforcement or Immigration (ICE) Officers

(Part 2):

The U.S. Census Bureau Pledges that it:

“will never share a respondent’s personal information with immigration enforcement agencies, like ICE; law enforcement agencies like the FBI or police; or allow it to be used to determine their eligibility for government benefits.”



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Law Enforcement or Immigration (ICE) Officers (Part 3)

- U.S. Immigration and Customs Enforcement (ICE) arrests rose 11% in 2018.
- The Agency has detained or arrested undocumented immigrants in homes, parking lots, courthouses, places of work, and even hospitals.
- No raids to date reported in Libraries.
- **ALA Official Guidelines for Libraries to Respond to Law Enforcement:**

<http://www.ala.org/advocacy/privacy/lawenforcement/guidelines#immigration>



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Questions?

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