



General Government Division

B-281921

February 1, 1999

The Honorable Judd Gregg
Chairman
The Honorable Ernest F. Hollings
Ranking Minority Member
Subcommittee on Commerce, Justice, and State,
the Judiciary, and Related Agencies
Committee on Appropriations
United States Senate

Subject: Scheduling of the 2000 Decennial Census

This letter responds to our mandate in Senate Report 105-235 concerning the impact of delaying the 2000 Decennial Census and options to ensure its success. Because the Census Bureau encountered a number of operational problems in its recent dress rehearsal for the 2000 Census, the Committee was concerned about whether the basic components for a successful census are in place.

As agreed with your offices, this letter describes (1) the basis for the scheduling of Census Day and the time frame for reporting population counts to the President, Congress, and the states, and (2) the requirements driving states' needs for census data by specific dates. As also agreed, we will provide the Subcommittee with additional information on operational issues facing the Census Bureau as the information becomes available.

To describe the basis for the scheduling of Census Day and the time frame for reporting population counts, we analyzed the constitutional and statutory provisions affecting the decennial census schedule. To describe the requirements affecting states' needs for census data, we reviewed available Bureau documents that discuss the scheduling of the census and redistricting data developed by the Redistricting Task Force of the National Conference of State Legislatures. We also interviewed an official of the Census Bureau's Redistricting Data Office. To help verify this information and obtain additional perspectives on how delays in the reporting of census redistricting data might affect the states, we interviewed redistricting officials in Kansas, Louisiana, New Jersey, Texas, and Virginia. These states were judgmentally selected to provide diverse locations and thus a diverse range of state perspectives.

On January 25, 1999, we requested comments on a draft of this letter from the Secretary of Commerce, or his designated representative, by January 29, 1999. None were provided in this time frame. A senior Census Bureau official updated some information the Bureau had previously given us concerning the delivery of census data to the states. We did our audit

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work in Washington, D.C., between October 1998 and January 1999 in accordance with generally accepted government auditing standards.

Results in Brief

The scheduling of the decennial census is determined by constitutional mandate and federal statutory deadlines. The Constitution requires a census every 10 years to determine legislative apportionment. The first decennial census was conducted in 1790, and in keeping with the constitutional prescription, a census has been conducted every 10 years since then.

Statutory provisions, rather than the Constitution, set forth the specific date on which the census is to take place, as well as the time frames in which census data must be presented to the President, Congress, and the states for purposes of legislative apportionment. Current provisions mandate April 1 as the decennial census date. In the past, other dates within the decennial year have also been used for Census Day.

The scheduling of the census must also accommodate states' needs for census data. According to the sources we contacted, states use the data for congressional and state legislative redistricting. State constitutions and statutes require states to complete their redistricting plans by a certain date, while provisions of the Voting Rights Act also may have an impact on when redistricting plans need to be completed for certain states. Failure to complete a redistricting plan on time can, depending on the state, result in costly special legislative sessions, subject the state to litigation, and possibly delay scheduled elections.

Background

The decennial census is the nation's most comprehensive and expensive statistical data-gathering program. The Constitution requires a decennial census of the population in order to reapportion seats in the House of Representatives. The Constitution vests Congress with the authority to conduct the decennial census in such manner as it determines, and Congress in turn has granted the Secretary of Commerce considerable latitude in carrying out the census.

Census data are used by states to redraw the boundaries of congressional districts whether or not the state's apportionment of representatives is changed. States also use census data to draw the boundaries for state legislative districts, board of education districts, public service districts, and parishes. Although there is no federal requirement for states to use census data for any of these purposes, states have done so because census data are the most accurate and complete available, and because using them obviates the need for states to conduct their own population counts.

Census data are used for many other purposes as well. They include allocating government funding as well as a variety of public and private sector planning and evaluation activities, such as selecting sites for schools and health clinics, and market research.

Despite the decennial census' importance to the nation, however, the Bureau's readiness for the 2000 Census remains an open question. In our past reviews of the Bureau's preparations

for the 2000 Census, we have identified a number of major challenges and uncertainties that have led us to conclude that the 2000 Census faces the risk of being less accurate and more costly than previous censuses.¹ For example, Congress and the administration have long disagreed over the design of the census because of congressional concerns over legal and methodological issues surrounding the Bureau's planned use of statistical sampling. On January 25, 1999, the Supreme Court ruled that the Census Act prohibits the Bureau from using sampling for purposes of congressional apportionment. Although the Bureau had been developing plans for a nonsampling census, little time remains for the Bureau to finalize such an approach. Moreover, the Bureau faces a number of formidable challenges to a successful census irrespective of the sampling issue. These challenges include such critical census-taking operations as building an accurate address list, securing an acceptable level of public cooperation through outreach and promotion, and completing field operations effectively and efficiently.

The Constitution Establishes the Census Year

The year in which a census must be conducted is prescribed by the Constitution. The Constitution requires that "Representatives . . . shall be apportioned among the several States . . . according to their respective Numbers" and that "[t]he actual Enumeration shall be made within three Years after the first Meeting of the Congress . . . and within every subsequent Term of ten Years, in such Manner as they shall by Law direct." The first decennial census took place in 1790, and consistent with the Constitutional mandate, one has been conducted every 10 years since then.

Statutes Establish Census Day and Reporting Time Frames

Although the Constitution prescribes the year in which a decennial census is to be conducted, it does not specify an actual date. Thus, for the current census cycle, it could be argued that the constitutional requirement for a decennial census would be satisfied if the census were conducted at any time during the year 2000. The specific date for the census is established by statute.

Since 1790, when the first census was conducted, there have been several different census dates. The dates for the first four decennial censuses were August 2, 4, 6, and 7, respectively. The date of the next eight censuses (1830-1900) was June 1. The 1910 Census was conducted on April 15, and the 1920 Census was conducted on January 1. Since 1930, the decennial census has been conducted on April 1. The April 1 date has been mandated by statute since

¹ See, for example, 2000 Census: Preparations for Dress Rehearsal Leave Many Unanswered Questions (GAO/GGD-98-74, Mar. 26, 1998) and Performance and Accountability Series: Major Management Challenges and Program Risks—The Department of Commerce (GAO/OCG-99-3, Jan. 1999).

the 1960 Census.² Thus, under current law, the Secretary of Commerce is required to conduct the next decennial census on April 1, 2000.

The timetable for reporting population counts derived from census data is also mandated by statute. The Census Act requires the Secretary to tabulate the “total population by States” and report these data to the President for purposes of congressional reapportionment within 9 months after the census date.³

Once the President receives the census data, he must transmit to Congress a statement showing the total number of persons in each state as ascertained by the decennial census and the number of representatives to which each state is entitled. The President must transmit this statement “on the first day, or within 1 week thereafter, of the first regular session of the Eighty-second Congress and of each fifth Congress thereafter....”⁴ Thus, for purposes of reapportionment following the 2000 Census, the President is required to transmit the statement to Congress on the first day, or within 1 week, of the first regular session of the 107th Congress, which will begin in January 2001.

The Census Act also requires the Secretary of Commerce to send census population tabulations to the states as expeditiously as possible, but no later than 1 year after the April 1 decennial census date.⁵ These tabulations, which are used by the states for redistricting, are broken out by various geographical levels within a state, such as counties and census blocks. After the 2000 Decennial Census is conducted, current law requires the Secretary to report census tabulations to the states by April 1, 2001.

States Need Census Data by Certain Dates

Another requirement affecting the scheduling of the census is the states’ dependence on receiving census data by certain dates. States rely on census data for redrawing their congressional and state legislative boundaries, and have established requirements for completing their redistricting predicated on April 1 being Census Day.

According to a Bureau redistricting document, failure to meet redistricting deadlines can, depending on the state, result in costly special legislative sessions, subject the state to litigation, delay scheduled elections, and possibly have other consequences. For example, a Texas redistricting official we interviewed noted that failure to complete the state’s redistricting on time could result in the transfer of its redistricting authority to a five member state redistricting board.

² 13 USC § 141(a).

³ 13 U.S.C. § 141(b).

⁴ 2 U.S.C. § 2a(a).

⁵ 13 U.S.C. § 141(c).

During the 1991 redistricting cycle, more than two-thirds of the states were required to complete their redistricting within 1 year of Census Day. In some cases, however, states need census data well before the 1-year deadline. For example, in 2001, all members of the Virginia House of Delegates and members of some county governing bodies and school boards will be elected. Consequently, Virginia needs redistricting data as early as possible in the year following the 2000 Census. New Jersey is also scheduled to hold legislative elections in 2001.

Other legal mandates also affect the time frame in which some states must complete their redistricting efforts. According to the Redistricting Task Force of the National Conference of State Legislatures, 16 states may be required to submit their legislative and/or congressional redistricting plans to the Department of Justice's Civil Rights Division for "pre-clearance." These reviews are required under section 5 of the 1965 Voting Rights Act and can take up to 90 days or more to complete. If additional data or reviews are needed, the review time is to be extended.

In the 1970s, the Bureau established a program to provide for the timely delivery of census data to the states for redistricting purposes. This program is intended to encourage cooperation between the Bureau and the states and to identify which data are needed for redistricting and when the states need the data.

The delivery dates for data from the 1990 Census, agreed upon with the states, ranged from January 15, 1991, to March 8, 1991, which were weeks earlier than the April 1 deadline specified by federal statute. According to a senior Bureau official, for the 2000 Census cycle, the Bureau is reexamining its schedule for delivering census data to the states by the April 1 deadline required by law. This reexamination is being done in light of the Supreme Court's recent ruling that the Census Act prohibits the Bureau from using sampling for purposes of congressional apportionment.

Overall, while the Constitution does not specify the day on which the decennial census must be taken, April 1 is designated as Census Day by federal statute, and an elaborate chain of post-census needs for the data is predicated upon that date.

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We are sending copies of this letter to the Chairman and Ranking Minority Member of the Senate Committee on Appropriations; the Chairman and Ranking Minority Member of the House Committee on Appropriations; the Chairman and Ranking Minority Member of the

Senate Committee on Governmental Affairs; the Chairman and Ranking Minority Member of the Subcommittee on the Census, House Committee on Government Reform; the Secretary of Commerce; and the Director of the Bureau of the Census. Copies will be made available to others on request. Please contact me on (202) 512-8786 if you have any questions.

A handwritten signature in black ink, appearing to read "J. Christopher Mihm". The signature is fluid and cursive, with the first letter of each name being capitalized and prominent.

J. Christopher Mihm
Associate Director, Federal Management
and Workforce Issues

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