



Maryland

DEPARTMENT OF PLANNING

March 12, 2020

Dr. Steven Dillingham
Director
U.S. Census Bureau
4600 Silver Hill Road
Washington, DC 20233

Re: 2020 Census Disclosure Avoidance System

Dr. Dillingham,

I hope that this letter finds you well as the counting phase of the Census gets underway. We share the same desire for a complete and accurate count.

I was recently briefed on the U.S. Census Bureau's proposed use of differential privacy accomplished through a Disclosure Avoidance System (DAS). I understand that the intent behind this initiative is to keep individual information secure. The effort to protect the privacy of respondents and maintain the confidentiality of the data is a laudable goal.

The proposed approach, however, raises some concerns about the viability of Census data in making informed decisions with distorted data at the state and local levels. My first concern involves the use of the data for redistricting. It is a process that will likely draw legal scrutiny, but the arguments are not generally focused on the quality of the underlying data. Maryland relies on the Redistricting Data File for constitutionally-mandated legislative and congressional redistricting. Despite the accuracy of the data for the state as a whole, the law requires an exact number of people in each district. This would be problematic if the Census Data is not accurate at the Census Block level. The redrawing of map lines to include exact numbers of population is not assured if the Census data is distorted by DAS and it can be especially problematic if it affects minority populations disproportionately. The test data circulated from the 2010 Census indicates there would be a difference of 1,629 people in Maryland's Second Congressional District. The African American population in that current district was shown to be skewed by 656 persons.

The proposed differential privacy approach may cause additional issues for redistricting. A decade ago, Maryland's expert witness in the redistricting process predicted more Voting Rights Act challenges to districts that would involve not only African Americans, but other minority populations such as Hispanics and Asians. The problem is compounded by the non-availability of the final version of noise-infused data for comparison with the 2010 Census data that would

allow Maryland to make a determination regarding the expected variance in the 2020 data. This also presents problems to adequately evaluate the data for potential Voting Rights Act violations, which would include comparisons to voting patterns and populations that will not be noise-infused.

Beyond redistricting, my second concern with DAS is that Maryland and most other states rely on Census data as the gold standard. If this data is not reliable then it impacts decision making and reporting for the state and local governments, businesses, healthcare providers and grant makers. It has the potential to affect funding as well as policy. It is unclear how Census-derived funding will be distributed based on data that is distorted at the lowest level. This could reduce the value of the data and may drive erroneous decisions and outcomes.

It is my understanding that the Census Bureau has not made a final decision regarding the parameters of the DAS system. Once a decision is made, we are very much interested in learning about the levels of data integrity by geography. We would like to know if the Census Bureau has considered any plans to make the unaltered data available to state data centers under a non-disclosure agreement or a similar arrangement. In addition, we would urge you to carefully consider the potential ramifications for Voting Rights Act challenges that will inevitably arise after the Census.

I appreciate the cooperation you and your staff have extended through the 2020 Census outreach process. I would very much appreciate an opportunity to discuss this issue at greater length at your earliest convenience. I can be reached at 410-767-4510, or robert.mccord@maryland.gov.

Sincerely,



Robert S. McCord, Esq.
Secretary