

United States Senate

WASHINGTON, DC 20510

November 21, 2018

The Honorable Eric S. Dreiband
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW, Room 1145
Washington, DC 20530

Dear Assistant Attorney General Dreiband:

We are writing to express our deep concerns with reports that the Justice Department discussed the possibility of violating the confidentiality of information collected during the decennial census.ⁱ We urge you to clarify immediately your understanding of existing law and reiterate your commitment to the confidentiality of information collected through the decennial census.

Court filings have revealed a willingness by staff in the Justice Department to leave open the possibility that the Department would reevaluate an existing legal opinion, which found no provision within the USA PATRIOT Act that could be used to compel the Commerce Secretary to release confidential census information.

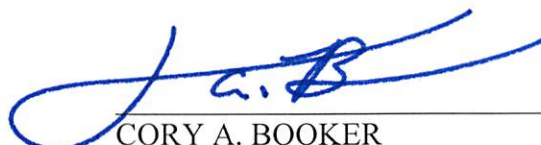
Title 13, Section 9 of the U.S. Code explicitly prevents the Commerce Department and any of its bureaus or agencies from sharing personally identifiable information collected by the census with any external entity or individual. However, even consideration of information sharing between the Commerce Department and, for example, the Justice Department or Immigration and Customs Enforcement will have a chilling effect on participation in the 2020 Census. A national study commissioned by the Census Bureau indicated that the last-minute, untested citizenship question “may be a major barrier” to participation, with respondents citing a distrust in the federal government’s commitment to maintaining the confidentiality of census data.ⁱⁱ

It is of utmost importance that the 2020 Census—a constitutionally mandated activity—be conducted in a full, fair, and accurate manner to count *all* persons in our country. Any attempt by the Justice or Commerce Departments to diminish the count of particular communities would be in contravention of the U.S. Constitution.

Thank you for your attention to this matter, and we look forward to your response.

Sincerely,


BRIAN SCHATZ
United States Senator


CORY A. BOOKER
United States Senator



JACK REED
United States Senator

cc: The Honorable Wilbur Ross
Secretary
U.S. Department of Commerce

Dr. Ron S. Jarmin
Acting Director
U.S. Census Bureau

ⁱ Hansi Lo Wang, "DOJ, Asked About Census Confidentiality, Crafted Intentionally Vague Answer, *NPR*, 19 Nov. 2018, <https://www.npr.org/2018/11/19/669378077/confidentiality-of-responses-to-u-s-census-may-come-up-for-renewed-debate>.

ⁱⁱ U.S. Census Bureau, "2020 Census Barriers, Attitudes, and Motivators Study (CBAMS) Survey and Focus Groups: Key Findings for Creative Strategy," 31 Oct. 2018, <https://apps.npr.org/documents/document.html?id=5026590-Oct-31-2018-Slide-Deck-On-2020-Census-Barriers>.