

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<https://oversight.house.gov>

September 18, 2024

The Honorable Robert L. Santos
Director
U.S. Census Bureau
4600 Silver Hill Rd.
Suitland, MD 20746

Dear Director Santos:

The Committee on Oversight and Accountability is conducting oversight of inaccuracies in the 2020 Census and their consequences on apportionment of representation among the states in the U.S. House of Representatives and the electoral college. This oversight is critical to ensure steps are being taken to facilitate an accurate 2030 Census. As the Committee with primary legislative jurisdiction over the decennial census, we request documents and communications to assist the Committee in understanding any deficiencies that led to the inaccurate count and resulting apportionment, and whether legislation is necessary to ensure the 2030 Census does not suffer from avoidable errors.

Article I of the U.S. Constitution requires a census of the population be taken every ten years to form the basis of apportionment and empowers Congress to carry out the decennial census “in such Manner as they shall by Law direct.”¹ An accurate census ensures that the national population is fairly represented in Congress, and by extension, that the Electoral College approximates demographic realities. On April 26, 2021, the U.S. Census Bureau announced results of the 2020 Census and Secretary of Commerce Gina Raimondo delivered those total population counts to President Biden for apportionment of representation in the U.S. House of Representatives.²

However, the Census Bureau’s 2020 Post-Enumeration Survey (“PES”)—designed “to measure the accuracy of” the decennial census—identified significant errors in the counts of

¹ U.S. Constitution, Article I, §2, cl. 3 (... “The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct...”).

² U.S. Census Bureau, Press Release, *2020 Census Apportionment Results Delivered to the President* (Apr. 26, 2021), available at <https://www.census.gov/newsroom/press-releases/2021/2020-census-apportionment-results.html>; see also 13 U.S.C. § 141(b) (relating to reporting by the Secretary to the President of the United States the tabulation of total population by States).

numerous states.³ Significantly, these errors likely led to an erroneous apportionment of representatives among the states.⁴

Even relatively small differences in population count can affect congressional representation,⁵ as a single congressional seat cannot be divided among multiple states. Undercounts or overcounts can be the deciding factor between a state gaining or losing an additional representative in its delegation.

The 2020 PES identified statistically significant *overcounts* in New York, Massachusetts, Rhode Island, Hawaii, Delaware, Minnesota, Utah, and Ohio, while finding *undercounts* in states like Texas, Florida, Mississippi, Arkansas, Tennessee, and Illinois.⁶ Of the eight states overcounted in the 2020 Census, six states have typically voted for electors for the Democratic Party candidate in presidential elections for the last three decades.⁷ Of the six states undercounted in the 2020 Census, all but one have tended to vote for electors for the Republican Party candidate in elections over the same time period.⁸

Because of the 2020 Census's failure to accurately count, Colorado gained a seat it did not deserve, Rhode Island and Minnesota kept seats they should have lost, and Texas and Florida were not awarded seats they should have gained.⁹ No states had statistically significant miscounts in the 2010 Census.¹⁰ The Census Bureau must explain the marked discrepancies in the 2020 Census, especially when compared to the 2010 Census.

In a response to my letter sent April 30, 2021,¹¹ then-Acting Director of the U.S. Census Bureau assured Committee Members in the 117th Congress of the Census Bureau's "commitment to transparency, quality, and accountability" in evaluating the results of the 2020 Census."¹² The Acting Director also assured Members that "the process to prepare and release the 2020 Census apportionment data was managed by the Census Bureau, not the White

³ U.S. Census Bureau, Post-Enumeration Surveys, available at <https://www.census.gov/programs-surveys/decennial-census/about/coverage-measurement/pes.html>; see also U.S. Census Bureau, Press Release, *2020 Census Post-Enumeration Survey Results Available for 50 States and DC in May* (Mar. 17, 2022), available at <https://www.census.gov/newsroom/press-releases/2022/2020-census-pes-survey-results.html>.

⁴ Hans von Spakovsky, "Census Bureau Errors Distort Congressional Representation for the States," THE HERITAGE FOUNDATION (Aug. 2, 2022), <https://www.heritage.org/election-integrity/report/census-bureau-errors-distort-congressional-representation-the-states>.

⁵ See U.S. Census Bureau, *Table B2. Additional Apportionment Population Needed for First Runner-Up State to Gain Another Congressional Seat: 1940 to 2020*, available at <https://www2.census.gov/programs-surveys/decennial/2020/data/apportionment/apportionment-2020-tableB.pdf>.

⁶ *Supra*, n.3; see also Interactive Visualization, *2020 Post-Enumeration Survey* (May 19, 2022), available at <https://www.census.gov/library/visualizations/interactive/2020-post-enumeration-survey.html>.

⁷ See *Historical Presidential Elections, 270TOWIN*, available at <https://www.270towin.com/historical-presidential-elections/>

⁸ *Id.*

⁹ *Supra*, n.4.

¹⁰ See America Counts Staff, *2020 Census Undercounts in Six States, Overcounts in Eight*, U.S. CENSUS BUREAU (May 19, 2022), available at <https://www.census.gov/library/stories/2022/05/2020-census-undercount-overcount-rates-by-state.html>.

¹¹ Letter from James Comer, Ranking Member, Committee on Oversight & Reform, to Hon. Gina Raimondo, Secretary, U.S. Dep't of Commerce (Apr. 30, 2021).

¹² See Letter from Acting Director Ron Jarmin, U.S. Census Bureau, to Ranking Member James Comer, Committee on Oversight & Reform, (Aug. 4, 2021).

House,”¹³ noting the need to avoid outside influence on government statistical products.¹⁴ However, the miscounts in the 2020 Census—particularly given that overrepresentation appears to have tended to noticeably skew in favor of one political party over another—demands additional scrutiny of potential political influence by the Biden-Harris Administration or other deficiencies that would explain these errors.


To assist the Committee’s oversight in this matter, we request the following documents and communications, covering the time period January 20, 2021 to the present unless otherwise indicated, as soon as possible but no later than October 2, 2024:

1. All documents and communications containing any discussion of or reference to an overcount or undercount of total population within a state;
2. All documents and communications relating to any identified errors or deficiencies in the 2020 decennial census count or any subsequent tabulation;
3. All documents or communications between Census Bureau officials and officials within the Office of the Secretary of the U.S. Department of Commerce or the White House relating to or referencing the 2020 PES.

An attachment to this letter provides additional instructions for responding to the Committee’s request. To arrange for the delivery of documents or to ask any follow-up questions, please contact Committee on Oversight and Accountability Majority staff at (202) 225-5074.

The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. The Committee is also charged under that Rule with primary legislative jurisdiction over “[p]opulation and demography generally, including the Census.” Thank you in advance for your cooperation with this inquiry.

Sincerely,



James Comer
Chairman
Committee on Oversight and Accountability

cc: The Honorable Jamie Raskin, Ranking Member
Committee on Oversight and Accountability

¹³ *Id.*

¹⁴ *Id.*