

PHOTOCOPY
PRESERVATION



U.S. Department of Justice
Immigration and Naturalization Service

HQINV 50/18

Office of the Executive Associate Commissioner

425 I Street NW
Washington, DC 20536

MAR 13 2000

MEMORANDUM FOR REGIONAL DIRECTORS

FROM: Michael A. Pearson
Executive Associate Commissioner
Office of Field Operations

Imm -
INS/Census

SUBJECT: Guidelines for INS Operations During Census 2000

During the year 2000, the Census Bureau will conduct the decennial census of all persons residing in the United States. The Immigration and Naturalization Service (INS) supports the Census Bureau's efforts to have full participation by all persons regardless of immigration status. While the Service will continue to enforce the immigration laws during the census period, steps will be taken to avoid adverse effects on census participation. Attached are detailed guidelines for INS field operations during Census 2000. Please review these guidelines carefully.

It is the longstanding view of the Department of Justice that the Constitution requires that all inhabitants of the United States, including illegal aliens, be enumerated in the census. It is generally believed that census counts taken in recent decades have undercounted the illegal alien population. The willingness of illegal aliens to participate in Census 2000 depends much on their confidence that INS will not be able to access the information collected. It is crucial that undocumented as well as documented aliens understand that they are expected to respond to census takers and questionnaires, and that there is no nexus between the census and INS enforcement activities.

Under law, census data for individuals and establishments receive confidential treatment. As required by the confidentiality provisions of Title 13, United States Code (U.S.C.), the Census Bureau may not give the INS access to any individually identifiable census data or information. See 13 U.S.C. §§ 8 & 9. The Department of Justice has determined that Section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which limits federal, state, and local authorities from restricting the exchange of immigration and citizenship information with the Service, does not abridge the protection given to census records.

Memorandum for: Regional Directors
Subject: Guidelines for INS Operations During Census 2000

Page 2

Service officers shall under no circumstances seek, accept or use any census information in violation of 13 U.S.C. §§ 8 & 9.

During Census 2000, INS shall conduct its activities to support and encourage full participation in the census by all persons residing, legally or illegally, in all areas of the United States. INS managers will consider census activities when proposing and planning all operational activity. Interior enforcement activity must be planned and executed in a manner designed to minimize possible negative impact on the census. This includes avoiding actual interference with census workers and community-based census outreach sites, as well as avoiding any appearance that INS activities are linked to census operations. For example, conducting an enforcement operation shortly before or after census workers are active in a particular location could create the appearance that there is a connection between the two agencies. That perception may chill the willingness of some aliens to participate in the census. Census-related activities may not be used as a source of leads or intelligence-gathering for INS operations in any way.

Regional Directors must maintain close oversight of all enforcement activities throughout the national census period, with special consideration required during peak census activity periods. Further, Regional Directors must approve in advance any high visibility interior operations that might have an impact on census participation (see "Guidelines" 3 and 4). All other interior enforcement activity that might impact census participation must be approved at a level no lower than the Deputy District Director or Deputy Chief Patrol Agent.

"Peak Census 2000 activity period" is defined as the period during which census takers will visit the homes of those who did not respond by mail. Length of peak periods will vary based on the number of homes that must be visited in a given jurisdiction and cannot be determined until after the mailed responses have been received. Peak periods are expected to fall in May and June 2000, but in some areas they may begin as early as March or end as late as August 2000. Census Bureau regional representatives will establish contacts with their INS counterparts at the district level so that they can advise INS officials as soon as the dates of the peak period in each jurisdiction are decided. Census Bureau regional offices will contact INS district offices in the first quarter of calendar year 2000 to discuss timelines and census operations. Regional Directors should designate a point of contact at the regional level. The Deputy District Directors, Officers in Charge, and Deputy Chief Patrol Agents will serve as the points of contact for the districts, suboffices, and sectors.

All INS employees should be reminded that they are not to intentionally engage in conduct that would inhibit or deter persons from full participation in the census count. Field offices should share the INS position and guidelines for Census 2000 with local organizations

Memorandum for: Regional Directors

Page 3

Subject: Guidelines for INS Operations During Census 2000

and other Government agencies, placing special emphasis on the confidentiality of census data and the fact that there is no connection between census operations and INS enforcement activities.

Attachment

**Guidelines for Immigration and Naturalization Service Enforcement Operations
During Census 2000**

1. In keeping with established standards of conduct of INS employees, no officer or other employee of the INS shall deliberately or intentionally engage in any conduct that is intended to inhibit or deter any person or group of persons from the fullest possible participation in the upcoming Census 2000.
2. While the INS must continue to fulfill its mission to enforce the Immigration and Nationality Act and related civil and criminal provisions, enforcement operations during the period of the census should be planned and conducted to avoid adverse effects on census participation. These guidelines apply throughout the national census period, March through August, 2000.
3. Accordingly, the INS will minimize its visibility during peak Census 2000 activity periods, exercising particular consideration in primarily residential areas. "Residential areas" include all locations where individuals may reside and be counted, including migrant workers camps and shelters for people without housing, such as the homeless, runaways, or abused women and children. INS enforcement operations that may result in large numbers of arrests, other than standard patrols of the border and public transportation facilities, should not be planned in residential areas during Census 2000 enumeration. This does not preclude INS officers from entering residential areas in order to conduct ongoing investigations. Examples include following a load of smuggled aliens to a drop house, executing a warrant of arrest on a criminal alien in a residential area, or other activity related to organized crime, alien smuggling, or production or sale of fraudulent documents.
4. INS Regional Directors must concur in advance with any high visibility interior operations that might have an impact on census participation (e.g., where the size, scope or nature of the operation is likely to draw significant public attention). All other interior enforcement activity that might impact census participation must be approved at a level no lower than the Deputy District Director or Deputy Chief Patrol Agent. It is a longstanding policy that INS does not conduct neighborhood sweeps and care should be taken to avoid creating a public perception that such enforcement operations occur.
5. Press and public informational material shall be sensitive to the impression and impact such information may have on responses to the census. Press materials and statements referring to activities described in paragraph 4 of these guidelines must be coordinated with Yvette La Gonterie, INS Headquarters' Office of Field Operations, and Nancy Cohen, Office of Public Affairs, prior to release to the media.
6. Relationships shall be established and maintained at the headquarters, regional and district levels with Census Bureau counterparts so that procedures will be developed to resolve complaints, concerns, and rumors relating to INS operations during Census 2000.
7. Census enumeration records receive confidential treatment pursuant to Title 13 United States Code (U.S.C.) §§ 8 and 9. As required by these confidentiality provisions, the Census

Bureau may not give the Immigration and Naturalization Service access to any individually identifiable census data or information. INS officers shall under no circumstances seek, accept or use any census information in violation of 13 U.S.C. §§ 8 and 9. Further, census-related activity may not be used as a source of leads or intelligence-gathering for INS operations in any way.

8. Upon request, efforts should be made to communicate to the public that the INS will have no access whatsoever to information collected by the Census Bureau and that there is no connection between census participation and INS enforcement activities.

U.S. Department of Justice

IMMIGRATION AND NATURALIZATION SERVICE

RESPONSE TO QUERY

03/13/00

INS Statement on Census 2000

The Immigration and Naturalization Service (INS) fully supports the Census Bureau's effort to have all persons participate in Census 2000, regardless of immigration status. It is the longstanding view of the Department of Justice that the Constitution requires all inhabitants of the United States, including illegal aliens, be counted in the census.

Census data receive confidential treatment under the law. Individual responses collected and maintained by the Census Bureau cannot be obtained or reviewed by the INS. INS employees will under no circumstances seek, accept, or use any census information in violation of the law.

There is no connection at all between census participation and INS enforcement activities. INS employees will avoid contact or interference with census workers and community-based census outreach sites. Census-related activities may not be used as a source of leads or intelligence-gathering for INS operations in any way, and INS will strive to avoid any appearance that they could be connected.

While INS will continue to enforce the Immigration and Nationality Act during the census, INS will take special care in residential neighborhoods and defer some routine and discretionary enforcement operations during peak census activity periods. Special consideration and supervisory review of enforcement actions will occur during the census. National security and public safety operations, however, will go forward.

The INS issued guidance to its field offices emphasizing the special steps to be taken in regard to enforcement operations during Census 2000.

3/13/00

**Questions and Answers for Internal Use Only
Census 2000**

Q1: Is the INS declaring a moratorium on enforcement actions during Census 2000? If not, why?

A1: The INS is responsible for enforcing our nation's immigration laws and will continue to do so during the census. Therefore, the INS is not declaring a moratorium or suspending enforcement actions during the census. However, in our effort to support and encourage full participation in Census 2000, special steps are being taken to avoid adverse impact of INS activity on census data collection. To ensure that INS employees avoid contact or interference with census workers and community-based census outreach sites, each INS region and district office will be told of peak census activity times in their areas. In addition, special consideration and supervisory review of enforcement actions will occur during the census and some routine or discretionary enforcement operations will be deferred during peak census activity periods.

Q2: You have said that "special consideration" and "additional supervisory review" of enforcement actions will occur during the census. What does this mean? Please provide examples.

A2: INS will minimize its enforcement activity in primarily residential areas and any high visibility operations during peak census activity periods. Enforcement operations that could result in large numbers of arrests, other than standard patrols of the border and public transportation facilities, will generally not be planned in residential areas during peak census activities.

This does not, however, prevent INS officers from conducting ongoing criminal and time sensitive investigations, even in residential neighborhoods. Examples of ongoing investigations include following a load of smuggled aliens to a drop house, executing warrants of arrest on criminal aliens, and activities related to organized crime, alien smuggling and the production or sale of fraudulent documents.

INS regional Directors must approve any high visibility interior enforcement operations that may have a significant impact on census participation, such as where the size, scope or nature of the operation is likely to draw significant public attention during peak census activity periods.

Q3: Critics say that illegal aliens will not participate in the census without an INS moratorium on enforcement operations. How do you respond to that criticism?

A3: The law requires that census data be treated confidentially. (13 U.S.C. Sections 8 & 9.) The INS does not have access to any individual response to the census. The INS

will not use census operations or participation as a basis for enforcement in any way. All inhabitants of the United States, regardless of immigration status, should participate in the census without fear that INS will use it, i.e., information or fact of participation, against them. It just will not happen.

Q4: Community-based sites, known as Questionnaire Assistance Centers and Be Counted Sites, will be helping with the census. Are people who seek assistance at these sites safe from INS enforcement?

A4: Yes, INS will not target these census-related sites for immigration enforcement. There is absolutely no connection between census activities and INS operations.

Q5: What about worksite enforcement activities during the census?

A5: As with other enforcement operations during the census, with high visibility operations that may have a significant impact on census participation, such as where the size, scope or nature of the operation is likely to draw public attention during peak census activity, INS regional Directors must approve the operation.

Q6: Why are illegal aliens counted in the census? This means that congressional districts are based on where illegal aliens live.

A6: The basis for counting all persons residing in the United States, regardless of immigration status, is the U.S. Constitution. Census information has various important purposes. For example, census information is used to distribute government funds to communities and states for highways, schools, and health facilities. Communities may not receive their fair share of this valuable funding without a complete, accurate census.

Q7: What timeframe will the INS guidelines regarding the census be in effect?

A7: The INS guidelines regarding census participation sensitivity apply throughout the national census period, March through August 2000.

Q8: Does the field guidance apply to the new Quick Response Teams (QRTs)?

A8: Yes, QRTs operate under the supervision of the district offices and are subject to the guidance.

THE WHITE HOUSE
WASHINGTON

FAX COVER SHEET

TO: *Eric Loh*
Fax: *6-2878*

FROM: **Irene B. Bueno, Special Assistant to the President
for Domestic Policy**
217 Old Executive Office Building
Washington, DC 20502
Phone: 202-456-6558 Fax: 202-456-5581
E-mail: irene_bueno@opd.eop.gov

DATE: *3/1/00*

PAGES: *2* 1 INCLUDING COVER

- ☒ Per my e-mail or voice mail.
☐ For your information or review.
☐ Per your request.

COMMENTS:

Census / INS guidance

February 23, 2000

Ms. Barbara L. Strack
Special Assistant
Office of Policy and Planning
U.S. Department of Justice
Immigration and Naturalization Service
425 I Street NW
Room 6052
Washington, DC 20536

VIA FACSIMILE: 202-305-0134

Dear Ms. Strack:

Thank you for meeting with us on February 16, 2000 to discuss the guidance to be issued shortly by the Immigration and Naturalization Service addressing enforcement activity during Census 2000. As emphasized during the meeting, we strongly believe that the INS should postpone enforcement activity that will deter participation in the census, which is of paramount importance to immigrant communities, elected officials and our nation. We appreciate the willingness of the INS to issue official guidance to the field, which demonstrates its commitment to an accurate census.

We understand that the INS plans to postpone routine enforcement actions that would interfere with the census, minimize presence in residential areas, and subject high visibility operations to advance review when census activities are being conducted. We suggest that all enforcement activities be subject to advance supervisory review during the non-response follow-up phase of the census (April 27th through July 7th). Further, we urge that any non-criminal routine enforcement activities in residential and non-residential areas that are not deemed to involve public safety, as determined by supervisory review, be postponed during the non-response follow-up phase.

Last week, the Legal Consortium and the National Network for Immigrant and Refugee Rights convened a grassroots conference call to address the issue of INS enforcement activity during Census 2000. The 18 service providers and community-based organizations who participated in

AFFILIATED

Los Angeles
Asian Pacific American
Legal Center

New York
Asian American Legal
Defense & Education Fund

San Francisco
Asian Law Caucus

02/29/00 TUE 19:28 FAX 202 305 0134
02/23/00 WED 19:13 FAX 2962318

the call agreed unanimously on several points, which are outlined below. There was strong concurrence that the INS guidance should explicitly address these points. We offer them below for your consideration.

- (A) **The INS guidance should explicitly state that enforcement activities will merit advance review in order to avoid inconsistent application or abuse of discretion by field offices.**

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We believe that the INS guidance should indicate that routine enforcement activities will merit advance review and be postponed, when there is the slightest possibility of interference with the census process. Leaving the decision whether or not to review an enforcement operation for its effect on the census to the discretion of district offices could lead to inconsistent application of the guidance.

We also urge the INS guidance to specifically mention certain enforcement activities which are most likely to interfere with census participation and thus should merit advance review and be postponed. Below we have delineated some examples of such enforcement activities:

- (1) *As part of its planned efforts to minimize its presence in neighborhoods, the INS guidance should adopt the Census Bureau's concept of residence and the accompanying residence rules.*

✓

The concept of the "usual residence" of a person as the place where he/she is to be counted has long been used by the Census Bureau and should be adopted by the INS as it attempts to minimize its presence in "residential areas" during the census.

We especially want the guidance to indicate that residential areas such as migrant worker camps and other areas where migrant workers gather to live should be avoided for enforcement purposes during the census. In addition, shelters and sleeping facilities for people without housing, including shelters for people without housing, for abused women and children, and for runaway or neglected youth should also be considered "residential areas" for the purposes of a minimized INS presence and mentioned in the guidance.

✓

- (2) *Certain routine targets and methods for interior enforcement should be avoided during the census, unless targets are part of urgent criminal enforcement.*

Enforcement operations such as routine traffic stops which often target immigrant workers going to and from work, visits by the INS to pick up sites for day laborers, home arrests, workplace audits and industry-wide sweeps

would make a number of people fearful of participating in the census. We believe that, without some urgent reason, these sites and methods should be postponed during the critical non-response follow-up period.

- (3) *We urge the INS to postpone enforcement operations and minimize its presence at or near Census Questionnaire Assistance Centers (QAC's) and at "Be Counted Sites."* ✓

It is imperative that every effort be made to prevent the perception that there is a connection between INS enforcement and the Census. Since even a routine enforcement act during the census can lead to widespread fear and chill participation, we urge the INS to avoid enforcement activity at or near QAC's and Be Counted Sites.

QAC's are sites designated by the Census Bureau within communities as places where people can go to receive assistance in filling out their census forms. "Be Counted Sites" are locations that have volunteered to provide back-up census forms for persons who did not receive the census form via mail. It is necessary that the guidance instruct the INS field offices to coordinate with local Census Bureau officials, Census partners, and CBO's who can provide the INS offices with the location of these sites.

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- (B) **The INS should postpone enforcement during the non-response follow-up period of the census and be especially sensitive during the Accuracy and Coverage evaluation time period.**

The non-response follow-up phase, when Census Bureau enumerators will be collecting information door to door, begins April 27th and continues for 11 weeks through July 7th. Suspending INS presence and enforcement activity during this relatively short time period will ensure that immigrants who have not responded via mail will answer their doors to census enumerators.

The INS' assumption that enumeration will be conducted on a region by region level is erroneous. We understand that the Census Bureau is conducting the enumeration in all areas at the same time. By the time enumeration begins on April 27th, the Bureau will have determined which areas will need to be enumerated and whether or not there will be an extension of the enumeration period beyond the eleven-week period. Therefore, the guidance should not indicate that postponement of enforcement be implemented on a regional basis at different times, but that it should be postponed during the *entire* non-response follow-up phase in *all* areas. It is imperative that the INS be in close communication with the Census Bureau during the crucial preparation period in April.

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w/ Census
Bureau info.

In addition, once the traditional enumeration process is completed, certain geographic areas will be selected by the Census Bureau to conduct a sample survey called the Accuracy and Coverage Evaluation (ACE). The ACE is used to determine who was missed by the traditional enumeration and what their characteristics are, and will be the basis for eliminating the chronic historical undercount, primarily consisting of recently-arrived immigrants and limited-English proficient individuals. It is important then that the INS coordinate with the Census Bureau so that no high-profile immigration activities will occur in the areas in which the ACE will take place.

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Census*

- (C) The INS should issue a clear and concise statement to the public that explains the scope of the postponement of activity and underscores the importance of participating in the census.

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In addition to the guidelines that the INS will send to its district offices, we urge the INS to provide a clear and concise summary of those guidelines to immigrant communities, ethnic press and advocacy groups. Immigrants tend to trust information coming directly from the INS. To that end, press releases or other communications from district offices, or coordinated communications through the Census Bureau's paid advertising campaign would be helpful as well. Community-based organizations are more than willing to echo the message from the INS in census outreach materials and presentations.

Thank you in advance for your consideration of our suggestions. As we indicated during our meeting, we would appreciate seeing a draft of the guidelines before they are officially released. Please do not hesitate to contact Christina Chavez Cook at MALDEF at (202) 298-2828 or Deepa Iyer at NAPALC at (202) 296-2300 if you have any questions or concerns.

Sincerely yours,

Mexican American Legal Defense and Education Fund
(MALDEF)

National Asian Pacific American Legal Consortium
(NAPALC)

National Association of Latino Elected and Appointed
Officials Educational Fund (NALEO)

03/01/00 WED 15:58 FAX 202 456 5581
02/29/00 TUE 19:30 FAX 202 305 0134
02/23/00 WED 19:15 FAX 2962318

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HQ
NAPALC

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National Council for La Raza (NCLR)

**National Network for Immigrant and Refugee Rights
(NNIRR)**

cc:

Maria Echaveste, Chief of Staff Office, White House

**James E. Castello, Associate Deputy Attorney General,
Department of Justice**

**Kenneth Elwood, Deputy Executive Associate Commissioner,
Field Operations**

Yvette La Gonterrie, Director, Parole Branch, INS



U.S. Department of Justice
Immigration and Naturalization Service

HQINV 50/18

Office of the Executive Associate Commissioner

425 I Street NW
Washington, DC 20536

MEMORANDUM FOR REGIONAL DIRECTORS

FROM: Michael A. Pearson
Executive Associate Commissioner
Office of Field Operations

SUBJECT: Guidelines for INS Operations During Census 2000

During the year 2000, the Census Bureau will conduct the decennial census of all persons residing in the United States. The Immigration and Naturalization Service (INS) supports the Census Bureau's efforts to have full participation by all persons regardless of immigration status. While the Service will continue to enforce the immigration laws during the census period, steps will be taken to avoid adverse effects on census participation. Attached are detailed guidelines for INS field operations during Census 2000. Please review these guidelines carefully.

It is the longstanding view of the Department of Justice that the Constitution requires that all inhabitants of the United States, including illegal aliens, be enumerated in the census. It is generally believed that census counts taken in recent decades have undercounted the illegal alien population. The willingness of illegal aliens to participate in Census 2000 depends much on their confidence that INS will not be able to access the information collected. It is crucial that undocumented as well as documented aliens understand that they are expected to respond to census takers and questionnaires, and that there is no nexus between the census and INS enforcement activities.

Under law, census data for individuals and establishments receive confidential treatment. As required by the confidentiality provisions of Title 13, United States Code, the Census Bureau may not give the Immigration and Naturalization Service access to any individually identifiable census data or information. See 13 U.S.C. §§ 8 & 9. The Department of Justice has determined that Section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which limits federal, state, and local authority from restricting the exchange of immigration and citizenship information with the Service, does not abridge the protection

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During Census 2000, INS shall conduct its activities to support and encourage full participation in the census by all persons residing, legally or illegally, in all areas of the United States. INS managers will consider census activities when proposing and planning all operational activity. Interior enforcement activity must be planned and executed in a manner designed to minimize possible negative impact on the census. This includes avoiding actual interference with census workers as well as minimizing the appearance that INS activities are linked to census operations in any way. For example, conducting an enforcement operation shortly before or after census workers are active in particular location could create the appearance that there is a connection between the two agencies, and that perception may chill the willingness of some aliens to participate in the census. Census-related activities may not be used as a source of leads or intelligence-gathering for INS operations in any way.

Regional Directors will maintain approval authority and close oversight of all enforcement activities that may impact alien participation in the census count throughout the national census period, with special consideration required during peak census activity periods. "Peak Census 2000 activity period" is defined as the period during which census takers will visit the homes of those who did not respond by mail. Length of peak periods will vary based on the number of homes that must be visited in a given jurisdiction and cannot be determined until after the mailed responses have been received. Peak periods are expected to fall in May and June 2000, but in some areas may begin as early as March or end as late as July 2000. Census Bureau regional representatives will establish relationships with their INS counterparts at the district level and will advise as soon as the dates of the peak period in each jurisdiction are decided. Census Bureau regional offices will contact INS district offices in the first quarter of calendar year 2000 to schedule meetings to review the census operational plans. Regional Directors should designate a point of contact at the regional level. The Deputy District Directors, Officers in Charge, and Deputy Chief Patrol Agents will serve as the points of contact for the districts, suboffices, and sectors.

All Service employees should be reminded that they are not to intentionally engage in conduct that would inhibit or deter persons from full participation in census count. Field offices should share the INS position and guidelines for Census 2000 with local organizations and other Government agencies, placing special emphasis on the confidentiality of census data and the fact that there is no connection between census operations and INS enforcement activities.

Attachment

Guidelines for INS Enforcement Operations During Census 2000

1. In keeping with established standards of conduct of Service employees, no officer or other employee of the Service shall deliberately or intentionally engage in any conduct that is intended to inhibit or deter any person or group of persons from the fullest possible participation in the upcoming Census 2000.
2. While the Service must continue to fulfill its mission to enforce the Immigration and Nationality Act and related civil and criminal provisions, enforcement operations during the period of the census should be planned and conducted to avoid adverse effects on census participation.
3. Accordingly, the INS will minimize its visibility during peak Census 2000 activity periods, exercising particular consideration in primarily residential areas. INS enforcement operations that may result in large numbers of arrests, other than standard patrols of the border and public transportation facilities, should not be planned in residential areas during Census 2000 enumeration. This does not preclude INS officers from entering residential areas in order to conduct ongoing investigations. Examples include following a load of smuggled aliens to a drop house, executing a warrant of arrest on a criminal alien in residential areas, or other activity related to organized crime, alien smuggling, production or sale of fraudulent documents.

“Residential areas” include all locations where individuals may reside and be counted, including migrant workers camps and shelters for people without housing, such as the homeless, runaways, or abused women and children.

4. Regional Directors must concur in advance with any high visibility interior operations that might have a significant impact on census participation (e.g., where the size, scope or nature of the operation is likely to draw significant public attention). INS officers should avoid creating a public perception that INS conducts neighborhood sweeps.
5. Press and public informational material shall be sensitive to the impression and impact such information may have on responses to the census. Press materials and statements referring to activities described in paragraph 4 of these guidelines must be coordinated with HQ OPS and Public Affairs prior to release to the media.
6. Relationships shall be established and maintained at the headquarters, regional and district levels with Census Bureau counterparts through which procedures will be developed to resolve complaints, concerns, and rumors relating to INS operations during Census 2000.
7. Census enumeration records receive confidential treatment (13 USC §§ 8 and 9). As required by the confidentiality provisions of Title 13, United States Code, the Census Bureau may not give the Immigration and Naturalization Service access to any individually identifiable census data or information. Service officers shall under no circumstances seek, accept or use any census information in violation of 13 U.S.C. §§ 8 and 9. Further, census-

related activity may not be used as a source of leads or intelligence-gathering for INS operations in any way.

8. Upon request, efforts should be made to communicate to the public that the Service will have no access whatsoever to information collected by the Census Bureau and that there is no connection between census participation and INS enforcement activities.

February 8, 2000

To: Karen Tramontano

From: Irene Bueno
Robin Bachman, Census

CC: Eric Liu

RE: **CENSUS/LULAC SPEECH - RECOMMENDATIONS**

As you requested, we considered possible Presidential announcements for the speech to the League of United Latin American Citizens (LULAC) and recommend that the President: (1) make a strong statement about the confidentiality of the Census; (2) announce the Census in the Schools Challenge; (3) give a status report on federal efforts to support Census 2000; (4) and direct federal agencies to encourage grantees to partner with the Census.

We do not recommend that the President announce the INS guidance. First, the guidance is not ready to be released until later next week. Second, it is not a clear “winner” of an announcement. Some may take the INS guidance to mean the President does not want to enforce immigration laws. Others may think the guidance does not go far enough, because it does not provide a blanket enforcement moratorium during the entire Census period. (Instead, it directs INS field offices to not undertake high visibility enforcement activities during the peak Census period.)

Below are more details about the announcements we recommend.

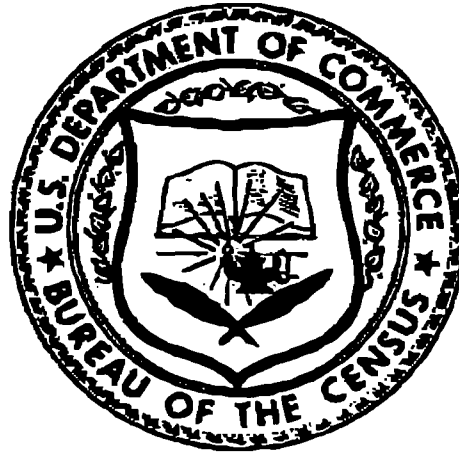
1. Strong Confidentiality Message – The President should make a strong, clear and unequivocal statement that census information will not be shared with anyone – not federal enforcement agencies, credit bureaus, or any government entity. This will help allay one of the key concerns of groups like LULAC. Also, Census may be prepared to release three PSAs featuring Texas Ranger catcher Pudge Rodriguez in which he encourages participation in the Census and emphasizes that Census information is confidential. The PSAs with Pudge Rodriguez could be played at the speech and he could be invited to attend the speech.
2. Census in the Schools Challenge – The President could announce the **Census in the Schools Challenge** that will involve teachers, Cabinet Secretaries, Congressional members and others all over the country participating in **Census in the Schools Week** beginning February 21st.
 - a. Proclamation – The President could issue a proclamation designating February 21, 2000 as “Census in the Schools” week.

b. White House Web Page – The President could announce the White House Webpage will include a link to Census Bureau's **Census in the Schools** teaching materials. Over 85,000 teachers have requested these materials and there has been a slight backlog but the links to these materials will get teaching materials out to teachers more quickly.

3. Federal Agencies Activities in Support the Census – The President could announce some of the activities that federal agencies are undertaking to support the Census in response to his Executive Memorandum from last year. For example, the Social Security Administration (SSA) plans to mail out reminders with Social Security checks. Also, USDA just released a waiver to allow food stamp recipients to continue receiving food stamps if they are hired as census enumerators.
4. Census Partnerships with Corporations, NGA and others – The President could highlight the many partnerships that Census Bureau has with state, local and tribal governments, Fortune 500 corporations and community organizations such as LULAC to help with the Census 2000. In addition, the President could direct federal agencies to encourage their grantees to partner with the Census. These partnerships would expand on other Census outreach efforts to heighten public awareness and participation.

FEB-09-2000 12:33

CENSUS CONG AFFAIRS

**OFFICE OF CONGRESSIONAL AFFAIRS**

Bureau of the Census
U. S. Department of Commerce
Washington, D C 20233

• *Telecopier Cover Sheet*

DATE: February 9, 2000

FROM: **Robin Bachman**

Telecopier
301-457-3679

Telephone
301-457-2123

TO: Irene Bueno

202/456-5581

No. of pages attached: 3

Scripts of confidentiality PSAs. If we are going to use these on Monday, we need to know ASAP - we will have to step up final production.

FEB-09-2000 12:33

CENSUS CONG AFFAIRS

Privacy (Barry Bonds) – TV PSA :30

Bonds: I'm not afraid to take an extra base.
Meet a wall head on.
Or even go against a 100 mph fast ball.
So why should I be afraid to fill out my census form?
A few questions are about all most people get asked.
Like whether I own a home, or rent, how old I am and
my race.
And another thing, your answers are confidential.
So don't be afraid to fill out your Census.
In baseball everyone knows your stats.
On the Census no one does.

Bonds: Fill out your census form.
Your answers are confidential.

Super: *Census 2000*
This is your future. Don't leave it blank.

FEB-09-2000 12:33

CENSUS CONG AFFAIRS

Privacy (Ivan Rodriguez) – TV PSA :30

Ivan: hi, my name is Ivan....

I'm 28, I'm a Puerto Rican and I own a home.

When I fill out my Census form, my answers are
confidential.

Nobody knows me.

You want to be famous? Put on a mask.

Ivan: Fill out your census form.
Your answers are confidential.

Super: *Census 2000*
This is your future. Don't leave it blank.

FEB-09-2000 12:33

CENSUS CONG AFFAIRS

Privacy (Derek Jeter) – TV PSA :30

Jeter: My name is Derek.

I'm single.

I live in Manhattan, and work in the Bronx.

Now I wasn't afraid to tell you that.

Then why should you be afraid to fill out your Census form.

Just a few questions. That's about all most people get asked. Really that's it.

I also hit .349

I wish they'd ask me that.

Fill out your census form.
Your answers are confidential.

Census 2000

This is your future. Don't leave it blank.

Irene Bueno

02/01/2000 09:19:14 PM

Record Type: Record

To: Eric P. Liu/OPD/EOP@EOP

cc: Anna Richter/OPD/EOP@EOP

Subject: INS Guidance during the Census

As I mentioned during the team leaders meeting today, INS is planning to issue guidance to their field on their activities during the Census. Attached is memo on this subject and the INS draft guidance. I am also faxing a letter that the National Asian Pacific American Legal Consortium (NAPALC) sent that goes with the memo.

Please let me know if you have any questions or would like to discuss this issue or my recommendations. INS is anxious to send this out so if you could get back to me by the end of the week that would be great. Thanks.



censusmemo-guidance020100



censusinsguidance013100

*1/11/00
Richter
Census/INS*



U.S. Department of Justice
Immigration and Naturalization Service

HQINV 50/18

Office of the Executive Associate Commissioner

*425 I Street NW
Washington, DC 20536*

MEMORANDUM FOR REGIONAL DIRECTORS

FROM: Michael A. Pearson
Executive Associate Commissioner
Office of Field Operations

SUBJECT: Guidelines for INS Operations During Census 2000

During the year 2000, the Census Bureau will conduct the decennial census of all persons residing in the United States. The Immigration and Naturalization Service (INS) supports the Census Bureau's efforts to have full participation by all persons regardless of immigration status. While the Service will continue to enforce the immigration laws during the census period, we will take steps to minimize the adverse effects of our enforcement activities on census participation. Attached are detailed guidelines for INS field operations during Census 2000. Please review these guidelines carefully.

It is generally believed that census counts taken in recent decades have undercounted the illegal alien population. The willingness of illegal aliens to participate in Census 2000 depends much on their confidence that INS will not be able to access the information collected. It is crucial that undocumented as well as documented aliens understand that they are expected to respond to census takers and questionnaires, and that there is no nexus between the census and INS enforcement activities.

It is the longstanding view of the Department of Justice that the Constitution requires that all inhabitants of the United States, including illegal aliens, be enumerated in the census. Under law, census data for individuals and establishments receive confidential treatment. As required by the confidentiality provisions of Title 13, United States Code, the Census Bureau may not give the Immigration and Naturalization Service access to any individually identifiable census data or information. See 13 U.S.C. §§ 8 & 9. The Department of Justice has determined that Section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which limits federal, state, and local authority from restricting the exchange of immigration and citizenship information with the Service, does not abridge the protection

Subject: Guidelines for INS Operations During Census 2000

given to census records. Service officers shall under no circumstances seek, accept or use any census information in violation of 13 U.S.C. §§ 8 & 9.

During Census 2000, INS shall conduct its activities to support and encourage full participation in the census by all persons residing, legally or illegally, in all areas of the United States. INS managers will consider census activities when proposing and planning operational activity. Interior enforcement activity must be planned and executed in a manner designed to minimize possible negative impact on the census.

Regional Directors will maintain approval authority and close oversight of all enforcement activities that may impact alien participation in the census count during peak census activity periods. "Peak Census 2000 activity period" is defined as the period during which census takers will visit the homes of those who did not respond by mail. Length of peak periods will vary based on the number of homes that must be visited in a given jurisdiction and cannot be determined until after the mailed responses have been received. Peak periods are expected to fall in May or June 2000, but in some areas may begin as early as March or end as late as July 2000. Census Bureau regional representatives will establish relationships with their INS counterparts at the district and regional levels and will advise as soon as the dates of the peak period in each jurisdiction are decided. Census Bureau regional offices will contact INS regional offices early in the first quarter of calendar year 2000 to schedule meetings to review the census operational plans.

All Service employees should be reminded that they are not to intentionally engage in conduct that would inhibit or deter persons from full participation in census count. Field offices should share the INS position and guidelines for Census 2000 with local organizations and other Government agencies.

Attachment

Guidelines for INS Enforcement Operations During Census 2000

1. In keeping with established standards of conduct of Service employees, no officer or other employee of the Service shall deliberately or intentionally engage in any conduct that is intended to inhibit or deter any person or group of persons from the fullest possible participation in the upcoming Census 2000.
2. In keeping with the Service mission of enforcement of the Immigration and Nationality Act and related civil and criminal provisions, it is the official policy of the Service that enforcement operations will continue throughout the period of the census.
3. INS will minimize its visibility in primarily residential areas during peak Census 2000 activity periods. INS enforcement operations that may result in large numbers of arrests, other than standard patrols of the border and public transportation facilities, should not be planned in residential areas during Census 2000 enumeration. This does not preclude INS officers from entering residential areas in order to conduct ongoing investigations. Examples include following a load of smuggled aliens to a drop house, executing a warrant of arrest on a criminal alien in residential areas, or other activity related to organized crime, alien smuggling, production or sale of fraudulent documents.
4. Regional Directors must concur in advance with high visibility interior operations that may have a significant impact on census participation (e.g. where the size, scope or nature of the operation is likely to draw significant public attention). INS officers should avoid creating a public perception that INS conducts neighborhood sweeps.
5. Press and public informational material shall be sensitive to the impression and impact such information may have on responses to the census. Press materials and statements referring to activities described in paragraph 4 of these guidelines should be coordinated with HQ OPS and Public Affairs prior to release to the media.
6. Relationships shall be established and maintained at the headquarters, regional and district levels with Census Bureau counterparts through which procedures will be developed to resolve complaints, concerns, and rumors relating to INS operations during Census 2000.
7. Census enumeration records receive confidential treatment (13 USC §§ 8 and 9). As required by the confidentiality provisions of Title 13, United States Code, the Census Bureau may not give the Immigration and Naturalization Service access to any individually identifiable census data or information. Service officers shall under no circumstances seek, accept or use any census information in violation of 13 U.S.C. §§ 8 and 9.

DRAFT

C:\My Documents\census8b.doc
Revised by Yvette M La Gonterie 01/14/00

February 1, 2000

TO: Eric Liu

From: Irene Bueno

RE: INS Guidance on the Census

Introduction

This memorandum summarizes the draft INS guidance on their enforcement activities during the Census period and discusses the issues raised in a letter from the National Asian Pacific American Legal Consortium (NAPALC) to Eric Holder dated 1/31/00 regarding this guidance. I am seeking approval on this guidance pending resolution of one issue.

Background

Many immigrant communities fear participating in the Census because they fear the INS. In 1990, the INS issued a statement to its field offices directing them to minimize their enforcement activities during the peak Census period when census workers go to homes to conduct follow-up on those who have not submitted their census forms. INS is planning to issue similar guidance this year for Census 2000. The attached guidance has been cleared by the INS, Census Bureau and awaiting White House approval.

On January 31, 2000 NAPALC sent a letter to Eric Holder expressing their concern that the proposed INS Guidance does not go far enough to assure immigrant communities that INS officers will not be in their community during the Census follow up period for two reasons: (1) it does not provide a moratorium on INS enforcement activities and (2) does not include a specific time frame when the INS guidelines are effective (I will fax you the letter). I believe at some point during the clearance process, this document was leaked to groups and prompting this letter.

While NAPALC raises important issues, INS has considered these issues and has struck the right balance with the exception of the timeframe issue that is discussed below.

INS GUIDANCE

The proposed INS Guidance states that all individuals living in the United States are to be enumerated in the Census and that INS supports the Census. While the INS will continue to enforce immigration laws during the Census period, it will minimize the adverse effects of INS enforcement activities on census activities. Also, the INS guidance clarifies that census information is not shared with the INS.

To this end, the INS will issue guidelines to its field offices directing that:

- INS officers shall not inhibit or deter any person from participating in the Census.
- INS will minimize visibility in primarily residential areas during the “peak period” of Census 2000 which is defined as a period during which census takers will visit the homes of those who did not respond by mail. The peak period varies but starts as early as end of March to late July but the main period is May and June. Census Bureau regional representatives will establish relationship with local INS to advise as to when the peak period is determined.
- In residential areas, INS enforcement operations that may result in large number of arrests should not be planned during the Census 2000 with some exception such as INS officers may enter residential area in follow up to ongoing investigations (serious criminal aliens, smuggling rings, etc.).
- In any high visibility interior operations (e.g. workplace raids) that may get press and therefore may have a significant impact on census participation, INS Regional Directors must approve these operations in advance.
- Also, the guidance reiterates that Census records are confidential and the Census Bureau may not give the INS access to any info.

RESPONSES TO NAPALC CONCERNS

In the letter to Eric Holder, NAPALC requests the following:

1. INS must consider a complete suspension enforcement activities during the most critical time period of the count.

For a number of obvious reasons, INS cannot suspend its enforcement or other activities during the peak Census period. However, INS is issuing guidance that states that enforcement operations that may result in high number of arrest in residential areas should not place during the census peak period. In addition, a Regional Director must approve high visibility enforcement actions. I think that INS has attempted to go as far as it can to minimize its presence during the peak Census period. Going beyond their current position would put INS in an untenable political position.

2. It is imperative that the INS specifies a time frame for the period of restricted enforcement activity. They propose April –July.

I understand NAPALC concerns about the importance of designating a firm period of time that the immigrant community should be certain that Census workers will be knocking on their door and not the INS. However, I recommend designating May-July, which is the main time during which Census workers will be going to homes. . The risk is that if you designate

the 4 month period as proposed by NAPALC, it could be subject to considerable criticism as too long.

As mentioned earlier, because the peak periods vary from each area, INS has not set forth a period that this guidance is effective. INS prefers to have a targeted time period when their activities are minimized that will be determined at some point when local Census officials inform INS officials when they will be in certain areas

I am recommending that INS and Census agree to a specific timeframe of May –June for several reasons. First, the 1990 INS directive had a specific timeframe. Second, the absence of a specific time frame undermines the purpose of this guidance which to assure immigrant community during a certain period of time rather than a date that will be determined later.

When this date is designated, the immigrant communities will not know the date that is determined unless INS and Census does substantial outreach. I think it's easier and clearer to have a national timeframe that is set forth in this guidance. — *INS coming w/ May-July?*

I am awaiting a response from INS and Census on my recommendation and will let you know. *May 1-2011?*

3. NAPALC also request a meeting with DOJ and INS to discuss.

I do not know the status of this meeting. Given that DOJ has cleared this guidance, I doubt that DOJ will meet with NAPALC prior to issuance of this guidance but I will check with DOJ.

RECOMMENDATION

I recommend that we approve the INS guidance with the exception of the timeframe issue. On that issue, I recommend that the INS specify the timeframe in which this guidance will be effective.

OK
— simpler, good, but can we fight further?

NEXT STEPS

I will continue to work with INS and Census on the timeframe issue.

QTB — do we really expect a court ruling?

I will give a heads up to Karen Tramentano and Maria that we are reviewing this guidance and the issues raised by NAPALC and that we are trying to work through these issues.

— to whom and the court?

I will also make sure that INS and Census has a rollout strategy given that this guidance may raise some concerns on both sides – it does not far enough and it goes to far.

THE WHITE HOUSE
WASHINGTON

FAX COVER SHEET

TO: *Anna*

Fax: *6-2878*

**FROM: Irene B. Bueno, Special Assistant to the President
for Domestic Policy**

217 Old Executive Office Building
Washington, DC 20502

Phone: 202-456-6558 Fax: 202-456-5581

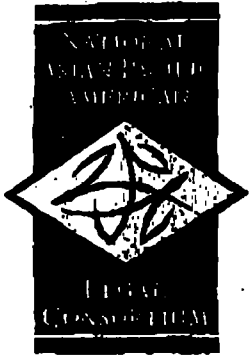
E-mail: irene_bueno@opd.eop.gov

DATE: *2/7/00*

PAGES: *3* **INCLUDING COVER**

- ☒ **Per my e-mail or voice mail.**
☐ **For your information or review.**
☐ **Per your request.**

COMMENTS:



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January 31, 2000

The Honorable Eric Holder, Jr.
Deputy Attorney General
U.S. Department of Justice
Washington, D.C. 20530

**VIA FACSIMILE
HARD COPY TO FOLLOW**

Dear Deputy Attorney General Holder:

I am writing to you on behalf of the National Asian Pacific American Legal Consortium to follow up on a conversation we had during a recent meeting. I had mentioned to you our concern that the Immigration and Naturalization Service is not adequately developing or publicizing a policy regarding the suspension of raids during Census 2000.

I am enclosing the letter we sent to the INS in September of 1999 and the response we recently received from the agency. The letter indicates that there will not be a suspension of all enforcement activity at any point during the census, although neighborhood and random workplace raids will be discontinued. We believe that the INS must do more to ensure that its enforcement activities do not compromise the census count.

First, we believe that the INS must consider a complete suspension of enforcement activity during the most critical time period of the census count. The INS could elucidate a policy, as it did during the 1990 Census. During that census, the INS issued a directive to its agency offices that required *high-level agency clearance* for employment-related and non-criminal searches. The policy also required *advance headquarters approval* for high visibility operations that could affect participation in the census. Unlike criminal activity where lives may be at stake, it is clear that the INS can wait to act on tips; there is no immediate threat to health or safety.

We believe that the INS should issue a similar directive for this year's census, indicating that there will be no neighborhood or random workplace raids, and that high-level agency clearance or advance headquarters approval should be sought prior to enforcement activities that could jeopardize participation by immigrants in Census 2000.

AFFILIATES

Los Angeles
Asian Pacific American
Legal Center

New York
Asian American Legal
Defense & Education Fund

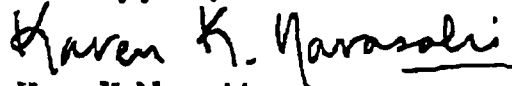
San Francisco
Asian Law Caucus

An INS directive, tailored to agency offices and the immigrant community, will encourage greater participation in Census 2000. Our experience in advocating for a public policy confirming that census responses would not be shared of census responses with other agencies including the INS has proven that immigrants were more likely to be convinced when the INS confirmed. Indeed, Commissioner Meissner's public statement regarding the strict confidentiality of census responses aided us in convincing our community that it need not fear disclosure of census responses to the INS. A well-publicized statement directly from the INS regarding the suspension of raids is equally important in addressing the concerns of noncitizens.

Second, it is imperative that the INS specifies a time frame for the period of restricted enforcement activity. Past history shows that many noncitizens will not respond to the census form they receive in the mail but may participate during the non-response follow-up period when census enumerators visit their homes. It is important then that noncitizens are not fearful of responding when census enumerators visit nonresponsive households between the months of April and July.

We would be glad to work with your office, the INS and the Census Bureau to resolve this issue. We would appreciate a meeting with your office and INS-officials to further discuss the matter. In the meantime, please do not hesitate to contact Deepa Iyer, Staff Attorney, at (202) 296-2300 for further information.

Sincerely yours,



Karen K. Narasaki
Executive Director

cc: Representative Carolyn Maloney
Representative Janice Schakowsky
Karen Tramantano, Office of Chief of Staff, White House
Laura Eford, Deputy Assistant to the President and Deputy Director of Public Liaison
Marisa Demeo, Census 2000 Advisory Committee
Catherine Tactaquin, National Network for Immigrant and Refugee Rights
Chung-Wha Hong, National Korean American Service and Education Consortium
Glenn Magpantay, Asian American Legal Defense and Education Fund
Susan Nakaoka, Asian Pacific American Legal Center
Sally Kinoshita, Asian Law Caucus

The National Asian Pacific American Legal Consortium is a nonprofit, non-partisan civil rights organization dedicated to advancing and preserving the civil and legal rights of Asian Pacific Americans through public policy development, litigation, legislative advocacy and community education. The Consortium is affiliated with the Asian American Legal Defense and Education Fund in New York, the Asian Law Caucus in San Francisco and the Asian Pacific American Legal Center in Los Angeles.