



TESTIMONY OF
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BEFORE HOUSE COMMITTEE ON OVERSIGHT AND REFORM
SUBCOMMITTEE ON CIVIL RIGHTS AND CIVIL LIBERTIES

28 May 2019.
The Little Theater at LaGuardia Community College
31-10 Thomson Avenue
Long Island City, NY 11101

Greetings on behalf of LatinoJustice PRLDEF (LJP), a national civil rights institution in the Latinx community, headquartered in New York with offices in New York City, Long Island, New York and Orlando, Florida that champions an equitable society by using the power of the law together with advocacy and education. Since being founded in 1972 as *the Puerto Rican Legal Defense and Education Fund*, LJP has advocated for and defended the constitutional rights and the equal protection of all Latinos under the law and has worked to secure the voting rights and political participation of Latino voters. LJP since its inception has actively engaged in state and federal litigation concerning Latino political representation and voting rights, including constitutional legal challenges to discriminatory redistricting plans or efforts seeking to disenfranchise Latinx communities in New York, New Jersey, Florida and many other states.

After the 2010 Census, New York state failed to timely promulgate new congressional districts which led to litigation in which LatinoJustice and other civil rights groups intervened. The federal court ultimately adopted congressional redistricting maps which largely mirrored the “*Unity Plan*” submitted by LJP, the Asian American Legal Defense and Education Fund (AALDEF) and the Medgar Evers College Center for Law and Social Justice (CLSJ) in *Favors v. Cuomo (Favors I)* (881 F. Supp. 2d 356, E.D.N.Y. 2012). The Unity Map approved by the court had created four new Congressional Districts each with populations that were over 44 percent Latina/o, with Congressional Districts 15 (Bronx) and 13 (Washington Heights, Harlem, Inwood) now representing populations over 50 percent Latina/o.

I thank you for the invitation to share our views on the upcoming decennial Census and its effect on the Latinx community – the nation’s largest racial and ethnic minority.

With your permission I would like to outline a few basic points to underscore how the 2020 Census will impact the Latinx community and the country. My written testimony has numerous citations that will assist you and your staff in documenting the foundation of the brief points I would like to make today.

The inevitable undercounting of Latinos will harm the Latino community in three ways. First, it will cause the communities in which Latinos live to lose federal funding in critical areas such as education, healthcare, and other social services. Second, it will cause a dilution of political power in the Latino community and may actual prevent non-English-speaking Latino citizens from exercising their right to vote. Finally, it will reduce capital investments in the Latino community and may hinder emergency responders from adequately preparing to deal with natural disasters in the Latino community

1. Loss of Federal Funding and Related Programs.

One of the main purposes of collecting information through the decennial Census is to allow

Congress to “adapt the public measures to the particular circumstances of the community.”¹ And to account for those circumstances, Congress uses the data collected in the decennial Census. Indeed, several hundred federal financial assistance programs rely on data derived from the decennial Census to guide the geographic distribution of \$800 billion of federal funds used for programs that support health care, education, job training, and community development.² These include:

- \$13.9 billion in Title I Grants to Local Education Agencies, which provide financial assistance to local educational agencies and schools of primarily low-income children to ensure that all children are meeting state academic standards.³ In the 2014-15 school year, Title I served more than 24 million children, about 34 percent of which (over 8 million) were Latino.⁴
- \$11.2 billion in Special Education Grants. To help schools comply with the Individuals with Disabilities Education Act (IDEA), Special Education Grants are used to provide resources to students with a disability and to help states provide early intervention services for 1.3 million Latino infants and toddlers (0-2) and their families.⁵
- \$8.3 billion in Head Start Program Grants. These grants to local public and private nonprofit and for-profit agencies provide child development services to low-income children and families.⁶ In the 2015-16 school year, Latino children comprised 37 percent (about 340,000) of all participants in the Head Start Program.⁷
- \$2.9 billion in Child Care and Development Fund. Latino children made up about 21 percent (294,000) of the children who received care through this program in 2014, which assists low-income families, families receiving temporary public assistance, and families transitioning from public assistance in obtaining childcare so they can work or attend training and education.⁸
- \$4.6 billion in Federal Foster Care Program. Latinos made up 21 percent of all foster youth in 2015.⁹ This program helps to support by providing safe and stable out-of-home care for children until they are safely returned home, permanently placed with adoptive families, or placed in other planned arrangements for permanency.¹⁰
- \$69.5 billion in Supplemental Nutrition Assistance Program (SNAP). Nearly 21 percent of Latinos receive SNAP benefits.¹¹
- \$11.6 billion in National School Lunch Program (NSLP). NSLP provides nutritionally balanced, low-cost, or free lunches to children in low-income homes in public and nonprofit schools. In

¹ Summary of debate on Census Bill, House of Representatives, 25–26 Jan., 2 Feb. 1790. (The Founders’ Constitution, 1987, University of Chicago, Volume 2, Article 1, Section 2, Clause 3, Document 19).

² Reamer, Andrew. “Counting for Dollars: The Role of the Decennial Census in the Geographic Distribution of Federal Funds.” GW Institute of Public Policy, 17 April 2018, taken from *Factsheet: Will You Count? Latinos in the 2020 Census*. The Leadership Conference Education Fund, Center on Poverty and Inequality, Georgetown, and Economic Security and Opportunity Initiative, April 17, 2018, at p. 1; *see also*, *Threatening us through the US Census*, Unidos US Blog, August 1, 2018, referring to federal funding budget of over \$600 billion.

³ *Factsheet: Will You Count? Latinos in the 2020 Census*. The Leadership Conference Education Fund, Center on Poverty and Inequality, Georgetown, and Economic Security and Opportunity Initiative, April 17, 2018, at p. 2.

⁴ *Id.*, at p. 3

⁵ <http://civilrightsdocs.info/pdf/census/2020/Fact-Sheet-Latino-HTC.pdf> at 3

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ <http://civilrightsdocs.info/pdf/census/2020/Fact-Sheet-Latino-HTC.pdf> at 3

¹⁰ <http://civilrightsdocs.info/pdf/census/2020/Fact-Sheet-Latino-HTC.pdf> at 3.

¹¹ *Id.*

2004-2005 Latinos comprised 24% of all participants in this program.¹²

- \$6.3 billion in Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). WIC gives nutrition assistance through vouchers used to buy nutrient-rich food for pregnant women and children under five.¹³ Latino women and children made up 42 percent (more than 4 million) of all WIC participants in 2012.¹⁴
- \$19.1 billion in Section 8 Housing Choice Vouchers Program. Section 8 vouchers help secure affordable housing for low-income seniors, people with disabilities, and families with children.¹⁵ About 16 percent of Section 8 voucher recipients, or more than 300,000 households, are Latino.¹⁶
- \$312 billion in Medicaid. Medicaid is a federal-state insurance program that provides health coverage to low-income families and individuals, parents, seniors, and people with disabilities. Approximately 20 percent of those enrolled in Medicaid in 2012 were Latino.¹⁷
- \$11.1 billion in Children’s Health Insurance Program (CHIP). CHIP provides funds to enable states to maintain and expand child health assistance to uninsured, low-income children. Approximately 60 percent of all Latinos eligible for CHIP participate in the program.¹⁸

Any undercounting of the Latino population—even a small one—will result in an artificially low allocation of federal funding for these programs that benefit the Latino community.

2. Dilution of Latino Political Power.

At the conclusion of the 2020 Census, the Census Bureau will deliver the results to the Office of the President to aid in calculating “the number of House memberships to which each state is entitled.”¹⁹ An undercount of Latinos will likely affect the amount of congressional representation that is afforded to their community.²⁰ Additionally, a Latino undercount will dilute local Latino political power because “Census data also underpin state legislative districts and local boundaries like City Councils and school boards.”²¹

According to the Pew Research Center, Latinos account for approximately 32 million of all eligible voters in the 2020 election.²² Latinos between the ages of 16 to 24 make up the highest ethnic plurality of U.S. citizens – the largest of any minority group.²³ These statistics are significant because U.S. citizens between the ages of 18 to 35 are predicted to represent the highest percentage of actual voters in 2020 and following years.²⁴ Based on these numbers, Latinos should have greater political influence than ever before.²⁵ An undercount of Latino communities in the 2020 Census threatens to leave the Latino community without proper federal, state or local representation.

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ *Id.*

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ <https://www.census.gov/topics/public-sector/congressional-apportionment/about.html>; 2 U.S.C. § 2(a).

²⁰ <https://www.apnews.com/4032a7a610d3456c90ba226a62bda1af>

²¹ <https://www.nytimes.com/2018/03/27/us/politics/census-citizenship-question.html>

²² <http://www.pewsocialtrends.org/essay/an-early-look-at-the-2020-electorate/>

²³ FFF: Hispanic Heritage Month 2016.” U.S. Census Bureau, 12 October, 2016. Available at: <https://census.gov/newsroom/facts-for-features/2016/cb16-ff16.html>

²⁴ <https://www.pewresearch.org/fact-tank/2018/04/03/millennials-approach-baby-boomers-as-largest-generation-in-u-s-electorate/>.

²⁵ <https://www.nbcnews.com/news/latino/latino-voters-will-have-more-say-2020-new-primary-schedule-n955791>; see also <http://www.pewsocialtrends.org/essay/an-early-look-at-the-2020-electorate/>

An undercount in the Latino population may also have adverse consequences on the right to a Spanish ballot for those citizens with limited English proficiencies. Census data will be used to determine whether a minority citizen is entitled to voting language assistance under Section 203 of the Voting Rights Act.²⁶ Under Section 203, voters are entitled to a Spanish ballot if their community has a Spanish designation, which is given when a specified number or percentage of people within that area are Spanish speakers with limited English proficiency.²⁷

The Section 203 language provisions are necessary to ensure that Latinos can effectively exercise their right to vote. Without Section 203 designation, many eligible Latino voters would not be able to cast a ballot because one third of Latinos are not proficient in English and would likely have troubling reading an English-language ballot.²⁸ An undercount of Latinos in the 2020 Census may prevent eligible Latino voters from participating in the democratic process, and prevent them from exercising their full political power. Such a result would violate the U.S. Constitution. As Alexander Hamilton declared: “There can be no truer principle than this—that every individual of the community at large has an equal right to the protection of government.”²⁹

3. Reduction in Capital Investments and Destabilization of the Latino Community.

Census Bureau data are used for purposes other than the allocation of federal funding and apportionment of representatives. Private businesses depend on reliable Census data in their economic and strategic planning decisions. The Census Bureau’s own website provides several illustrations.³⁰ Census data is a primary source used to support business investment in local communities. Without accurate census data, there will be an inevitable decline in investments in the Latino communities.

As a financial force in the economy, Latinos spent \$1.3 trillion in 2015 and their buying power is expected to increase to \$1.7 trillion by 2020.³¹ With such enormous buying power, accurate Census data is critical for any business interested in marketing and developing products to meet the needs of the Latino consumer.

Flawed Census data, however, would divert corporate investments and resources from Latino communities. Businesses use Census data to plan best locations to open their stores, facilities and offices.³² Likewise, a grocery store uses Census data to determine the merchandise it will stock based on the needs of the population that it serves. Federally funded programs designed to stimulate investments in distressed communities, for example, Opportunity Zones, including many Latino communities, would similarly be threatened by inaccurate Census data.³³

Government actors also use Census data to plan for the provision of emergency services. For example, emergency management officials in Florida use Census data to plan for natural disasters.³⁴

²⁶ <https://www.justice.gov/crt/about-language-minority-voting-rights>.

²⁷ Id.

²⁸ <https://www.pewhispanic.org/2015/05/12/english-proficiency-on-the-rise-among-latinos/>

²⁹ 1 Records of the Federal Convention of 1787, p. 473 (M. Farrand ed. 1911).

³⁰ U.S. Census Bureau, *Economic Census: Uses of Data*, available at: <https://www.census.gov/programs-surveys/economic-census/guidance/data-uses.html>. The Census Bureau even provides a free, comprehensive on-line tutorial on how to use Census data to advance your business. U.S.

Census Bureau, *Census Academy: Free courses on how to use Census data*, available at: <https://uscensusbureau.github.io/census-academy/>.

³¹ Buying Power of Hispanic Consumers in the United States from 1990 to 2020.

³² COUNCIL OF ECONOMIC ADVISERS, THE USE OF CENSUS DATA: AN ANALYTICAL REVIEW (2000),

<https://clintonwhitehouse4.archives.gov/media/pdf/censusreview.pdf>.

³³ <https://home.treasury.gov/news/press-releases/sm0341> ; see also <https://www.cdfifund.gov/Pages/Opportunity-Zones.aspx>

³⁴ U.S. Census Bureau, *Economic Census: Uses of Data*, available at: <https://www.census.gov/programs-surveys/economic-census/guidance/data-uses.html>.

Similarly, hospitals use Census data to determine how many health care providers and what types of doctors are needed in a particular area.³⁵

Approximately, 4.4 million Latino-owned businesses in the U.S. contribute more than \$700 billion to the economy annually, according to the U.S. Hispanic Chamber of Commerce.³⁶ Without an accurate count of the population in Latino communities, Latino-owned businesses would not know how best to and where to market its products and services. For example, a restaurant owner in New Mexico used Census data to determine it would be profitable to add a drive-through window to each of his five restaurants. He obtained a small business loan to help pay for the installation and his sales increased enough that he was able to pay off his loan in three years.³⁷ A television station in Philadelphia used zip code level data to obtain viewer profile data to design and implement its advertising strategies. Similarly, a real estate company in Colorado used census data to determine which languages to use on a series of instructional tapes on buying and selling real estate. An undercount of the Latino community would prevent these Latino entrepreneurs from maximizing their potential in the communities they serve.

In sum, ensuring an “actual Enumeration” through an accurate count of all people in the U.S. is crucial to the apportionment of political power, the allocation of federal funding, and the investment of corporate dollars where they are truly needed.³⁸ Anything less than an “actual Enumeration” would have long-term negative effects on the Latino community.

³⁵ National Research Council, *Modernizing the U.S. Census* 297 (1995).

³⁶ *Latinos: A Powerful Force Turbocharging small-business growth and driving \$700 billion into the U.S. Economy*, Rohit Arora, CNBC, September 25, 2018.

³⁷ U.S. Census Bureau, *Economic Census: Uses of Data*, available at: <https://www.census.gov/programs-surveys/economic-census/guidance/data-uses.html>.

³⁸ See U.S. Const., Art. I, § 2, cl. 3.