

Census Taking and Census Undercount: Prickly Statistical, Political and Constitutional Issues

*National Poverty Center
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CONSTITUTION OF THE UNITED STATES, ARTICLE I, SECTION 2

“Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. 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.”

GRADUAL EMERGENCE OF CENSUS UNDERCOUNT AS AN ISSUE

Census of 1870: Many areas of the South were still troubled after the Civil War. Union soldiers were still stationed in several states. Northerners were, apparently, hired to take the census in many areas, so Southern residents felt they did a poor job. After the enumerations of 1880 and 1890, it became clear to some statisticians that there was probably a substantial undercount of the southern population in 1870. That is, the southern population appeared to grow very, very slowly in the 1860s, but very, very rapidly in the 1880s, suggesting that Census 1870 missed many individuals. In the 1890s, statisticians in the Census Office offered some estimates of undercount in the South in Census 1870.

After Census 1870, both California and Nebraska elected one more representative to Congress than they were permitted according to the Census count. Officials in those states did this to rectify the undercount in their population in the federal census. Congress determines the number of seats and rejected the additional representatives from Nebraska and California.

1942: Demographer Daniel Price observed that the number of young men registering for the World War II draft was greater than the number expected to do so on the basis of the 1940 census count. The discrepancy was much greater for black men than for white suggesting a differential in census coverage.

***Census of 1950:** To determine rates of net omission, Census 1950 included a large Post Enumeration Survey (PES) in which sampled household were enumerated a second time by experienced and highly trained personnel. Presumably, this second “enumera-

tion” would turn up many people who were missed in the census and identify others who were counted twice.

1955: The Census Bureau’s PES estimated a net omission rate of 1.5 %. At about the same time, Ansley Coale used an innovative iterative demographic technique and estimated that 3.5% of the population was missed in the Census of 1950. In subsequent decades demographers agreed that the iterative demographic technique perfected by Ansley Coale was the preferable method for estimating net undercount. This method provides rates of net omission by age, race and sex but not by location. Census 1950 marks a turning point toward the scientific estimation of net undercount.

1962: The Baker v. Carr decision—one person, one vote—gave all political entities strong incentives to make certain that their population were completely counted.

1965: The Voting Rights Act of this year and subsequent amendments provided much greater incentives for minorities to be counted. This led to OMB directives about the classification of races and enumeration of the Spanish-origin population. In 1975, Congress defined a language minority thereby mandating local area counts for Indians, Asians, Alaskan Natives, the Spanish-origin population and African Americans.

1967: Daniel Patrick Moynihan organized the conference “Social Statistics and the City.” For the first time, differential coverage in the census was an important civil rights matter.

Early 1970s: To distribute excess federal revenue following the end of warfare in Vietnam, the Nixon Administration instituted a short-lived revenue sharing program sending federal funds to upwards 32,000 local governments. Population size was one criteria—but only one—in this distribution. However, this greatly increased the perception that census undercount would minimize the flow of federal funds to a local government.

Mid-1970s: A dozen or so demographic studies of net undercount appeared, several of them suggesting that net undercount in 1940 and 1960 was larger than Ansley Coale estimated in his path-breaking 1955 paper and that the black-white gap in coverage was larger than previously estimated.

Late 1970: Rather than being seen largely as a civil rights issue, census undercount was taken up as an important issue by central city mayors of both parties who feared that undercounts in their municipalities would shift power and resources to suburban rings and to small towns.

April 1, 1980: As the census went into the field, civil rights organization filed, Young v. Klutznik in Detroit arguing—with the support of many scientists including a former Associate Director of the Bureau—that the enumeration would inevitable lead to a differential undercount of minorities. In the plaintiffs view, the only appropriate remedy was an adjustment for undercount. The district federal court ruled in favor of adjustment but the Sixth Circuit overturned their ruling. The New York version of census undercount litigation, Carey v. Klutznik progressed to the Supreme Court. It was resolved in 1987 with a decision that turned down adjusting census data for net undercounts.

November 3, 1988: Fearing that the city would be harmed by net census undercount, New York and other municipalities sued the Department of Commerce arguing that

the Reagan Administration was not devoting sufficient resources to studies that would accurately estimate net omission in Census 1990. In 1989, the first Bush administration agreed to a settlement in which panels of experts would be appointed, a reentries study of 300,000 households would be carried out and, after the data were collected, the Secretary of Commerce would decide whether to use adjusted or unadjusted census figures. Although many Census Bureau experts recommended the use of adjusted figures, Secretary Mossbacher—in 1991—upheld the use of the actual count in 1990 provoking the law suit that eventually got to the Supreme Court as Wisconsin v. City of New York. The Supreme Court approved Secretary Mossbacher's decision in 1997.

1991 through 1993: Studies of coverage in Census 2000 using Demographic Analysis suggested that Census 1990 was less complete than Census 1980 and that racial minorities were less completely counted than the white population. A National Academy of Sciences/National Resource Council committee was appointed. They suggested that census costs could be substantially reduced and the quality improved if sampling were used to first complete the count and then, secondly, to adjust the count using a post-enumeration survey.

February 28, 1996: President Clinton's Secretary of Commerce, Ronald Brown, announced the Clinton Administration's plans for Census 2000. Sampling would be used to complete the count since census taking efforts would stop once 90% of the housing units in a local area were contacted. In other words, the final 10 percent of population in local areas would not be counted. Rather, their size would be estimated on the basis of the count of the first 90 percent of housing units in that geographic area. Using different procedures involving sampling, the complete count would be adjusted for net census undercount using the results of a large post-enumeration survey known as the Accuracy and Coverage Evaluation (ACE) Study.

Early 1997: Republican Speaker of the House Newt Gingrich argued that the Constitution does not permit the use of sampling in the census. He successfully won approval from Congress to sue President Clinton with regard to how Census 2000 would be conducted. His major legal argument was that the Constitution does not permit the use of sampling in the Census. Lawyers for the Clinton Administration contended that the Constitution grants Congress the power to fund and direct the census and that earlier Congressional acts had given the Administration the right to use sampling in the census.

January 25 1999: Department of Commerce v. House of Representatives, 525 U. S. 316. After hearings and deliberations, the Supreme Court, in a 5-4 decision, ruled that the Constitution did not permit the use of sampling for the count of population that was used to allocate seats in Congress. Presumably, they allowed the using of sampling to adjust census counts when census data were used for other purposes such as allocating seats in local representative bodies or for allocating federal funds.

January, 1999 to March, 2000: The Census Bureau redesigned the procedures to count the population in April, 2000. Although sampling could not be used for the count to reapportion Congress, the Census Bureau carried out a 314,000 household ACE survey to ascertain net undercount rates.

December 28, 2000: Census Bureau Director Kenneth Prewitt announced a census count of 281.4 million.

SOME RELEVANT AND CONTROVERSIAL NUMBERS – ALL APPLY TO APRIL 1, 2000

The Actual Census Count of April 1, 2000	281,400,000
The Census Bureau's Official Estimate for April 1, 2000	275,500,000
The Census Bureau Original Demographic Adjustment Estimate	279,600,000
The Census Bureau's Alternative Demographic Adjustment Estimate	282, 300,000
The Accuracy and Coverage Evaluation Estimate	285,600,000
March, 2003 Revised ACE demographic Estimate	280,100,000

NOTE: Census Bureau demographers believe that the original demographic estimate for 2000 was too small by about three million primarily because they underestimated the size of the foreign born population. They originally assumed that 10.3% of the population in 2000 was foreign born but subsequent evidence from Census 2000 and Census Bureau surveys suggested that 11.1% were foreign born. The booming economy of the late 1990s may have encouraged immigrants and visitors to the United States to remain in the country because jobs were readily available.

The ACE estimates of the population were rejected primarily because of evidence that ACE failed to exclude many people who were really counted twice. College students are at high risk of being counted both in dormitories or apartments and their parent's home. Military personnel are at risk of being counted both on base and at an off base home or apartment. Snow birds are at risk of being counted both in the South and North.

In the waning months of the 2000, the Clinton Administration delegated to the Director of the Bureau of the Census the decision about whether or not to publish two sets of census counts – the actual count and then the count adjusted for net census undercount using either the demographic analysis of ACE figures. In the first weeks of the new administration, the Bush Administration ruled that the Administration, not the director of the Census Bureau, would decide about releasing one or two sets of figures. In the late summer of 2001, the Bush Administration decided not to release census figures adjusted for net census undercount. That is the final decision.

ESTIMATES OF NET CENSUS UNDERCOUNT IN 2000
(MINUS SIGN MEANS OVERCOUNT)

	Adjusted Demographic Estimate	ACE Estimate
Total Population	0.3%	1.2%
Black, Total	1.7	2.1
Black, Men	4.0	2.4
Black, Women	-0.6	1.8
Not Black, Total	0.1	1.0
Not Black, Men	0.4	1.4
Not Black, Women	-0.2	0.6
Black-Not Black Difference	1.5	1.1

NOTE: The Census Bureau’s March, 2003 estimate of coverage in Census 2000 implies an overcount of about 1.3 percent. But African-Americans were undercounted by an estimated 1.8 percent, and Hispanics by about 0.7 %.

THE UTAH V. EVANS DECISION (122 S. CT. 2191, JUNE 20, 2002)

If the count of Utah’s population in Census 2000 had been approximately 500 greater, they would have taken one seat in the House of Representatives away from North Carolina. The Utah Attorney general originally sued the second Bush Administration arguing that there were many Utah residents overseas in April, 2000 who should have been counted as Utah residents for purposes of representation. Massachusetts (Franklin v. Massachusetts 505 U. S., 788) litigated this matter after Census 1990 and the Supreme Court ruled in 1992 in favor of the first Bush Administration—e.g., there is no constitutional requirement that American citizens overseas be counted for purposes of allocating Congressional seats. The district federal court rejected this argument from Utah.

Having failed once, the Utah Attorney General next sued the Bush Administration arguing that imputation was used to complete the count in 2000 and that imputation was nothing by a different name for unconstitutional sampling. If all imputed persons were thrown out of the census count, Utah would have taken a congressional seat from North Carolina. The Supreme Court in a mixed 5-3-1 decision decided that imputation was not just another name for unconstitutional sampling.

THE JUSTICE DEPARTMENT’S DECISION CONCERNING RELEASE OF THE ORIGINAL ACE ESTIMATES.

The first estimates of the “true” population from ACE were 285.6 million in contrast to the 281.4 million counted in the census. Census Bureau demographers and administrators thought the ACE process was flawed so they refused to release these ACE estimates for local areas. Legislators in Los Angeles and in Oregon litigated this seques-

tering of data thinking, presumably, that they local districts might financially for larger census counts. District federal counts split with regard to the constitutionality of the administration's withholding these population estimates. The Ninth Circuit Court of Appeals ruled in favor of the plaintiffs and ordered the Bush Administration to release local area counts based on the first ACE estimates. Rather than carrying this matter to the Supreme Court for a final ruling, the Bush Administration decided to release these data. This was done in late winter of 2003.

In May 2003, the Census Bureau also posted on their website the revised ACE/Demographic based estimate which reports a net overcount of about 1.3 percent.

**APPROXIMATE MAIL-BACK RESPONSE RATES FOR HOUSING UNITS RECEIVING
CENSUS ENUMERATION FORMS IN THE MAIL**

<u>Year</u>	<u>Percent Returning by Mail</u>
1970	78%
1980	75
1990	65
2000	67