(b) (5)

[redacted]

Re: Agencies Requesting SOGI

Reist, Burton H (CENSUS/ADDC FED)

Thu 3/30/2017 10:42 AM

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[redacted]

Re: Questions on ACS

Lisa M Blumerman (CENSUS/ADDC FED)

Fri 3/3/2017 2:04 PM

(b) (5)

[redacted]

(b) (5) [redacted]

Office (b) (5) [redacted]
lisa.m.blumerman@census.gov

census.gov
Connect with us on Social Media

(b) (5) [redacted]

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MEETING FEDERAL NEEDS

Race is key to implementing any number of federal laws and is a critical factor in the basic research behind numerous policies. Race data are required by federal programs promoting equal employment opportunity and are needed to assess racial disparities in health and access to care, among other uses. Racial classifications used by the Census Bureau and other federal agencies meet the requirements of standards issued by the Office of Management and Budget in 1997 (Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity). These standards set forth guidance for statistical collection and reporting on race and ethnicity used by all federal agencies.

COMMUNITY BENEFITS

Education

Under Title 20, race is used as part of the formula to fund programs that foster equal opportunity through post-secondary education for African Americans. This is achieved by funding programs at historically Black colleges and universities in professional and academic areas where African Americans are underrepresented in society.

Employment

Race, under the Civil Rights Act, is used to assess fairness of employment practices.

Social Services

For the Public Health Service Act, race is a key factor in identifying segments of the population who may not be receiving needed medical services.

Government

States require data about the racial make-up of the voting-age population to meet legislative redistricting requirements.

Data about race are needed to monitor compliance with the Voting Rights Act by local jurisdictions.

SELECTED STATUTORY USES

EDUCATION ..... Higher Education Resources and Student Assistance [20 U.S.C. 1057 et seq., 1062a(4), 1063(c), 1063b(e)(2)(a), Chapter 28, Subchapter III], School-to-Work Opportunities Act [20 U.S.C. 6145 & 6177, Chapter 69, Subchapter II-Part B and Subchapter III]

EEOC ..... Federal Affirmative Action Plans [5 U.S.C. 7201(a)(1)], Civil Rights Act [42 U.S.C. 2000e-2 and 42 U.S.C. 2000e-16(b)(1); 29 CFR 1607.4]

FEDERAL RESERVE ..... Home Mortgage Disclosure Act of 1975 [12 U.S.C. 2809(a)]

HHS ..... Older Americans Act [42 U.S.C. 3002(28)-(30), 3025(a)(1)(E) & (2)(E), and 3026(a)(1)], Public Health Service Act [42 U.S.C. 254b(b)(3)(A) & (B), 254e(b) & (d) & 254f-1], Indian Health Care Improvement Act (P.L. 94-437) [25 U.S.C. 1621(b)(2), 1621(e)(1) & (2), and 1621o]

HUD ..... Community Development Block Grant (CDBG) Program [42 U.S.C. 5306(a)(1); 24 CFR 1003.101], National Affordable Housing Act [42 U.S.C. 12705 (b)(1); 24 CFR 91.205(a)]

JUSTICE ..... Voting Rights Act-Bilingual Election Requirements [42 U.S.C. 1973aa-1a; 28 CFR Part 55], Civil Rights Act (Prohibition Against Discrimination in Housing, Education, Employment, and Federally Assisted Programs) [42 U.S.C. 1975c and 42 U.S.C. 2000c-2, d, & e], Legislative Redistricting [13 U.S.C. 141(c)]

USDA ..... Nutrition Education Program [7 U.S.C. 3175(c)(2)(B)(ii)]

VA ..... Veterans Benefits Program [38 U.S.C. 317 & 318, Chapter 3]

Note: These statutory uses were last confirmed in 2002. Work is underway with other Federal agencies to develop a comprehensive list of the most current statutory uses supporting each 2010 Census and American Community Survey question. An updated list will be included in the March 2008 submission of *Questions Planned for the 2010 Census and American Community Survey.*

D. NEW FOR THE AMERICAN COMMUNITY SURVEY

MEETING FEDERAL NEEDS

This subject is being proposed to be added to the American Community Survey (ACS) to enable the Department of Health and Human Services (HHS) and other federal agencies to more accurately distribute resources and better understand state and local health insurance needs.

Planning and implementing many federal health programs requires accurate state and local information on health insurance status. The continuing high uninsured rate among Americans during a time of economic prosperity is of great concern to policy makers at federal, state and local levels. What makes the increasing number of uninsured particularly troubling is the well-known fact that millions of individuals are eligible for government programs such as Medicaid and the State Children's Health Insurance Program (SCHIP) but remain unenrolled and uninsured. Such eligible but unenrolled individuals needlessly go uninsured, face severely restricted access to health care for acute and chronic conditions, and rarely get needed preventive health care.

COMMUNITY BENEFITS

Social Services

Data regarding health insurance is used to distribute $5 billion in annual federal grants to states for the SCHIP. The current source of the insurance data, the Current Population Survey, has annual sample sizes that are too small for many states. Adding a health insurance question to the ACS would offer an improved data source for distributing these funds.

State and localities would use the statistically reliable county-level data on the uninsured to more efficiently target outreach and enrollment efforts to those who are eligible for Medicaid and SCHIP but not enrolled, thereby facilitating increased insurance coverage.

Public Health

Measuring health insurance status on the ACS would help the HHS better target its public health grant resources to locations where need is great.

SELECTED STATUTORY USES

HHS..... State Children's Health Insurance Program
[Title XXI of the Social Security Act],
Community Health Center Program (section 330, Public Health Service Act)
Definition of "medically underserved area/population"
National Health Service Corps
(Section 332, Public Health Service Act) Definition of Health Professional
Shortage Area (HPSA)
The HPSA designation is also used as a factor in other grant programs and
carries with it bonus payments in Medicare.

Note: Work is underway with other Federal agencies to develop a comprehensive list of the most current statutory uses supporting each 2010 Census and American Community Survey question. An updated list will be included in the March 2008 submission of *Questions Planned for the 2010 Census and American Community Survey.*

MEETING FEDERAL NEEDS

Marital history is being proposed to be added to the American Community Survey (ACS) to enable multiple agencies to more accurately measure the effects of federal and state policies and programs that focus on the well-being of families.

Measures of marital transitions will allow the ACS to provide estimates of marriage and divorce rates, as well as flows into and out of marriage. Information about rates, flows, and duration are critical for more refined analyses of eligibility for program services and benefits and of behavioral changes resulting from federal policies and programs. Besides the ACS, no other data sources exist that can provide the level of detail necessary to plan for and evaluate the effects of federal policies and programs related to marriage.

For the Department of Health and Human Services, the Temporary Assistance for Needy Families Program will use the marriage and divorce data at the national, state, and sub-state level to plan for and assess state and community activities designed to influence marital and divorce behavior. Equally important are tax and entitlement forecasting functions in Medicare, Medicaid, and other federal and state agencies such as the Department of the Treasury, state tax departments, and the Social Security Administration.

COMMUNITY BENEFITS

Social Services

Data will be used for formulation and assessment of Temporary Assistance for Needy Families policies and programs at both the federal and state level.

Data will be used to plan for and assess the success of grantees funded under the new Healthy Marriage grant program.

Rates of marriage and divorce data are used to track and forecast changes in areas with large numbers of single-parent families, and thus identify needs for childcare, child support, and other social services.

Employment

Community organizations use data about marital status to identify needs for job training and housing for displaced homemakers.

Social Security

The Social Security Administration will use marriage and divorce data to improve Social Security projections and analyses, as well as the formulation and assessment of Social Security policy.

Government

Marital history will permit analyses and projections of tax policies that can create or mitigate "marriage penalties" – increased taxes for a married couple compared with what the same couple would pay if filing as unmarried individuals.

Local governments use data about marital status in assessing needs for housing and other community development services under the Community Development Block Grant Evaluation.

STATUTORY USES

HHS ..... Older Americans Act
[42 U.S.C. 3002, 3026(a)(1), 3027(a)(8)],
Public Health Service Act
[42 U.S.C. 254b(b)(3)(A) & (B), 254e(b) & (d), 254f-1],
Child Welfare Act [42 U.S.C. 192],
Voluntary Family Planning Programs
[42 U.S.C. 300a-2],
Hospital Insurance Benefits for Aged and Disabled
[42 USC 1395i-2(d)(4)(B) and (d)(5)(B)]
Child Support Enforcement (Part D of the Social Security Act)
[42 U.S.C. 652(a)(1), 652(g)(3)(A), 652(j) 667, 669b]
Temporary Assistance for Needy Families (TANF) Program
(Part A of the Social Security Act (SSA))
[42 U.S.C. 601 et seq]
Marriage Promotion and Responsible Fatherhood Grant program
(Sec 403(a)(2) of the SSA) [42 U.S.C. 603(a)(2)]

HUD ..... Low-Income Housing Tax Credits
[26 U.S.C. 42(d)(5)(A)],
Mortgage Revenue Bonds Program
[26 U.S.C. 143(j) & (k)],
Community Development Block Grant (CDBG) Evaluation
[42 U.S.C. 12701],
Comprehensive Housing Affordability Strategies (CHAS)
[42 U.S.C. 12701 & 12705(b)]

LABOR ..... Immigration Act of 1990
[8 U.S.C. 1182 note & 1182(a)(5)(A)],
Immigration Reform and Control Act of 1986
[8 U.S.C. 1364]

NATIONAL SCIENCE FOUNDATION ..... National Science Foundation Act of 1950
[42 U.S.C. 1862],
National Science Foundation Biennial Report
[42 U.S.C. 1885d]

Note: Work is underway with other Federal agencies to develop a comprehensive list of the most current statutory uses supporting each 2010 Census and American Community Survey question. An updated list will be included in the March 2008 submission of *Questions Planned for the 2010 Census and American Community Survey.*

VA SERVICE-CONNECTED DISABILITY RATING *proposed. 2008 ACS*

MEETING FEDERAL NEEDS

VA service-connected disability rating is being proposed to be added to the American Community Survey (ACS) to enable the Department of Veterans Affairs (VA) to measure a veteran's service-connected disability compensation entitlement status. This information will improve VA's ability to accurately anticipate the need for VA care and its associated cost.

VA is required to provide annually a report to Congress that determines whether VA health care appropriations for the coming fiscal year are sufficient to cover expenditures associated with the expected demand for VA health care services. Adding the proposed service-connected disability status measure to the ACS would enable VA to make county-level estimates of veterans classified by income, service-connected status, and several other characteristics that are needed to classify enrollment priorities.

This information would fundamentally improve VA's capability to describe the total veteran population in terms of age, priority, and market area and to more accurately estimate the demand for VA care.

COMMUNITY BENEFITS

VA medical centers and their associated outpatient clinics would use these data to measure key determinants of the demand for VA care.

Data on service-connected disability ratings would allow VA medical centers (and their regional networks) to engage in meaningful local area planning that accounts for expectations of the future demand for VA care.

SELECTED STATUTORY USES

HHS ..... Older Americans Act
[42 U.S.C. 3002, 3026(a)(1), 3027(a)(8)],
Public Health Service Act
[42 U.S.C. 254b(b)(3)(A) & (B), 254e(b) & (d) & 254f-1]

LABOR ..... Veterans Employment and Training Program
[38 U.S.C. 4103A(a)(1), 4103(c)(1)(A), (c)(2 & 3), (c)(6), (c)(8), & (c)(15)(B)],
Job Training Partnership Act
[29 U.S.C. 1501 et seq.]

VA ..... State Projections of Veteran Population
[38 U.S.C. 8131(1)],
Disabled Veterans Outreach Program
[38 U.S.C. 4103A(a)(1) & (b)(2)],
Evaluation of Veterans Programs
[38 U.S.C. 527],
State Estimates of Nursing Home Care Needs for Veterans
[38 U.S.C. 8134(a)(1)],
Equal Employment Opportunity Data on Veterans
[38 U.S.C. 4212],
Veterans Benefits Program
[38 U.S.C. 317],
Reports to Congress on Veterans Needs
[38 U.S.C. 542, 4107(c)],
VA Health Care Demand Estimates Classified by VA Health Care Enrollment Priority
Enrollment Level Decision Analysis (ELDA)
[38 U.S.C 1705 and implementing regulation CFR 17.36(c)(1)]

Note: Work is underway with other Federal agencies to develop a comprehensive list of the most current statutory uses supporting each 2010 Census and American Community Survey question. An updated list will be included in the March 2008 submission of *Questions Planned for the 2010 Census and American Community Survey.*

(b) (5) [redacted]

Re: Questions on ACS

Lisa M Blumerman (CENSUS/ADDC FED)

Thu 3/2/2017 5:32 PM

(b) (5) [redacted]

Hi (b) (5) [redacted] - giving you a quick call now.

Lisa

(b) (5) [redacted]

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RE: Questions on ACS

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DOJ_outgoing_letter_SOGI_request_update

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(b) (5)

[redacted]

(b) (5)

Re: DOJ American Community Survey and Decennial Survey Topics

(b) (5)

1 attachments (502 KB)

ACS Content Request_DOJ_SOGI.pdf;

Attached for your reference is the written request from DOJ.

(b) (5)

Confidentiality Notice: This e-mail message is intended only for the named recipients. The information contained in this e-mail and any attachments may be confidential, privileged, attorney-work product, or otherwise exempt from disclosure. If you have received this message in error, are not the named recipient, or are not an employee or agent responsible for delivering this message to the named recipient, then be advised that any review, disclosure, use, dissemination, distribution, or reproduction of this message, its contents, or attachments is strictly prohibited. If you have received this e-mail in error, then please notify the sender and permanently delete the e-mail and any attachments immediately. Thank you.

(b) (5)

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Begin forwarded message:

(b) (5)

(b) (5) [redacted]

From: "James Whitehorne (CENSUS/ADDC FED)" <James.Whitehorne@census.gov>
Date: February 23, 2017 at 4:54:52 PM EST
To: "Victoria Velkoff (CENSUS/ACSO FED)" <Victoria.A.Velkoff@census.gov>, "Lisa M Blumerman (CENSUS/ADDC FED)" <Lisa.M.Blumerman@census.gov>, "Reist, Burton H (CENSUS/ADDC FED)" <burton.h.reist@census.gov>, "Deborah Stempowski (CENSUS/DCMD FED)" <Deborah.M.Stempowski@census.gov>
Subject: Fwd: DOJ American Community Survey and Decennial Survey Topics

Lisa and Tori -
I received a call late this afternoon from Tom Wheeler, the Assistant Attorney General for Civil Rights. Although his description below of our conversation contains a few misunderstandings, he is in need of more information to reconstruct their understanding. There are two issues here as best I understood:
1. They want to know what started all of this (the initial request for content)?
And
2. They are asking about the contacts we had with DOJ and the sequence/initiator of those contacts.

Please feel free to contact me on my personal cell tonight (I am available until 7:30pm) or tomorrow morning at the office.

****

James Whitehorne
Chief
Census Redistricting & Voting Rights Data Office
Associate Director for the Decennial Census
U.S. Census Bureau

Office: (b) (6) [redacted]
Fax: 301-763-4348
james.whitehorne@census.gov

census.gov
Connect with us on Social Media

Begin forwarded message:

From: "Wheeler, Tom (CRT)" <Tom.Wheeler@usdoj.gov>
Date: February 23, 2017 at 4:36:39 PM EST
To: "james.whitehorne@census.gov" <james.whitehorne@census.gov>
Cc: "Raman, Sujit (ODAG)" <Sujit.Raman2@usdoj.gov>, "Aminfar, Amin (ODAG)" <Amin.Aminfar3@usdoj.gov>, "McHenry, James (OASG)" <James.McHenry2@usdoj.gov>
Subject: DOJ American Community Survey and Decennial Survey Topics

(b) (5) [redacted]

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[redacted]

Thank you for taking the time to speak with me on this issue. Your inquiry regarding the DOJ inserts into the American Community Survey (https://www.census.gov/programs-surveys/acs) and by implication, the Decennial Survey (https://www.census.gov/programs-surveys/decennial-census.html) were referred to me as the Acting Assistant Attorney General for Civil Rights. It is my understanding that in the DOJ response of July 1, 2016, "the Department of Justice had no needs to amend the current content" of these surveys. At some point communications between Justin Levitt, a policy person in the Civil Rights Division, and your office took place, and "[c]onsistent with those communications, [the DOJ] formally requests that the Census Bureau consider a new topic in the ACS relating to LGBT populations" according to a November 4, 2016 letter from the Justice Management Division.

It is my understanding that you asked in your e-mail of February 15, 2017, "if this still represents the position of DoJ." Lee Loftus, Assistant Attorney General for the Justice Management Division (which sent the November 4, 2016 letter) reached out to you today, and was advised that you needed to know the answer quickly, and that you had two versions of a document, one with the topic inserted, and one without.

As I requested in our telephone conversation, it would be very helpful to us if you could forward us the "new" topic to be included in the ACS. You indicated that you would need the permission of the ACS Director and the Decennial Survey Director to do so. I would appreciate it if you could communicate this request to them, and as soon as we get the draft topic we can review and respond.

Thank you for your assistance.

U.S. Department of Justice

Justice Management Division

Office of General Counsel

Washington, D.C. 20530

November 4, 2016

John H. Thompson
Director
Economics and Statistics Administration
U.S. Census Bureau
Unites States Department of Commerce
Washington, D.C. 20233-0001

Re: Legal Authority for American Community Survey Questions

Dear Mr. Thompson:

This letter supplements my letter of July 1, 2016, in which I advised that, at that time, the Department of Justice had no needs to amend the current content and uses or to request new content in the American Community Survey (ACS) for the 2020 Census. In 2014, the Department affirmed its continuing needs and legal justification for existing subjects and questions in the ACS. I understand your office recently has been in communication with Department officials regarding new uses sought by the Department relating to LGBT populations. Consistent with those communications, this letter formally requests that the Census Bureau consider a new topic in the ACS relating to LGBT populations. The attached spreadsheet accurately reflects the legal authority supporting the necessity for the collection of this information.

Please let me know if you have any questions about this letter or wish to discuss this request. I can be reached at (202) 514-3452, or at Arthur.Gary@usdoj.gov.

Sincerely yours,

Arthur E. Gary
General Counsel

Attachment

Cc: Civil Rights Division
Office of the Deputy Attorney General

DEPARTMENT OF JUSTICE, CIVIL RIGHTS DIVISION
REQUIREMENTS FOR AMERICAN COMMUNITY SURVEY DATA

The following statutes enforced by the Department bar discrimination on the basis of sexual orientation, gender identity, or both.

Statutory Requirement					
Title	Citations	Classification	Uses	Lowest geography	Frequency
Violence Against Women Reauthorization Act of 2013	42 USC 13925(b)(13)	R	Would be used to enforce prohibitions against discrimination in programs or activities receiving financial assistance administered by the Office on Violence Against Women.	Place	Annual
Violence Against Women Act of 1994, as amended, Victims of Trafficking and Violence Protection Act of 2000, Violence Against Women and Department of Justice Reauthorization Act of 2005, Violence Against Women Reauthorization Act of 2013	42 USC 3796gg(b)(5), 3796gg(b)(19), 3796gg-7(d), 10420(c)(1)(B), 13925(a)(39), 13971(b), 13971(d)(4), 13975(a), 13975(g)(3)(C)(ii), 14041(b)(1), 14041(b)(4), 14045(a)(1), 14045(c)-(d), 14045b(b)(10).	P	Would be used to help administer grants, and plan education about and enforcement of prohibitions against discrimination in programs or activities receiving financial assistance administered by OVW.	Census block group	Annual
Title VII of the Civil Rights Act of 1964	42 USC 2000e et seq.; 42 USC 2000e-2(k); *Wards Cove Packing Co.* v. *Atonio*, 490 U.S. 642 (1989)	R	Would be used to enforce the prohibition against unlawful employment discrimination.	Place	Annual
Title VII of the Civil Rights Act of 1964	42 USC 2000e et seq.	P	Would be used to help plan education and enforcement efforts concerning the prohibition against unlawful employment discrimination.	Census block group	Annual
Title IX of the Education Amendments of 1972	20 USC 1701 et seq.; 34 CFR 106.21(b)(2), 106.23(b), 106.37(b)(1), 106.51(a)(3)-(4), 106.52, 106.53	R	Would be used to enforce the prohibition against unlawful discrimination in education programs and activities receiving federal financial assistance.	Place	Annual

DEPARTMENT OF JUSTICE, CIVIL RIGHTS DIVISION
REQUIREMENTS FOR AMERICAN COMMUNITY SURVEY DATA

Statutory Requirement					
Title	Citations	Classification	Uses	Lowest geography	Frequency
Title IX of the Education Amendments of 1972	20 USC 1701 et seq.	P	Would be used to help plan education and enforcement efforts concerning the prohibition against unlawful discrimination in education programs and activities receiving federal financial assistance.	Census block group	Annual
Fair Housing Act of 1968	42 USC 3601 *et seq.* ; 24 CFR 100.500; Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project, Inc., 135 S. Ct. 2507 (2015).	R	Would be used to enforce the prohibition against unlawful discrimination in housing.	Place	Annual
Fair Housing Act of 1968	42 USC 3601 *et seq.*; 24 CFR 100.500.	P	Would be used to help plan education, testing and enforcement efforts to eliminate unlawful discrimination in housing.	Census block group	Annual
Equal Credit Opportunity Act	15 USC 1691 *et seq* .; 12 CFR 202.6 n.2	R	Would be used to enforce the prohibition against unlawful discrimination in lending.	Place	Annual
Equal Credit Opportunity Act	15 USC 1691 *et seq* .	P	Would be used to help plan education and enforcement efforts to eliminate unlawful discrimination in lending.	Census block group	Annual
Omnibus Crime Control and Safe Streets Act of 1968	42 USC 3789d(c); 28 CFR 42.203(c), (e)	R	Would be used to enforce the prohibition against unlawful discrimination in criminal justice programs receiving federal financial assistance.	Place	Annual

DEPARTMENT OF JUSTICE, CIVIL RIGHTS DIVISION
REQUIREMENTS FOR AMERICAN COMMUNITY SURVEY DATA

Statutory Requirement					
Title	Citations	Classification	Uses	Lowest geography	Frequency
Omnibus Crime Control and Safe Streets Act of 1968	42 USC 3789d(c)	P	Would be used to help plan education and enforcement efforts to eliminate unlawful discrimination in criminal justice programs receiving federal financial assistance.	Census block group	Annual
Juvenile Justice and Delinquency Prevention Act of 1974	42 USC 5672(b)	R	Would be used to enforce the prohibition against unlawful discrimination in juvenile justice programs receiving federal financial assistance.	Place	Annual
Juvenile Justice and Delinquency Prevention Act of 1974	42 USC 5672(b)	P	Would be used to help plan education and enforcement efforts to eliminate unlawful discrimination in juvenile justice programs receiving federal financial assistance.	Census block group	Annual
Civil Rights of Institutionalized Persons Act	42 USC 1997 et seq.	R	Would be used to enforce the prohibition against egregious or flagrant violations of law for persons residing in or confined to covered institutions.	Census block group	Annual
Civil Rights of Institutionalized Persons Act	42 USC 1997 et seq.	P	Would be used to help plan education and enforcement efforts to eliminate egregious or flagrant violations of law for persons residing in or confined to covered institutions.	Census block group	Annual

DEPARTMENT OF JUSTICE, CIVIL RIGHTS DIVISION
REQUIREMENTS FOR AMERICAN COMMUNITY SURVEY DATA

Statutory Requirement					
Title	Citations	Classification	Uses	Lowest geography	Frequency
Violent Crime Control and Law Enforcement Act of 1994	42 USC 14141	R	Would be used to enforce the prohibition against patterns or practices of unlawful conduct by law enforcement or by officials in the juvenile justice system.	Place	Annual
Violent Crime Control and Law Enforcement Act of 1994	42 USC 14141	P	Would be used to help plan education and enforcement efforts to eliminate patterns or practices of unlawful conduct by law enforcement or by officials in the juvenile justice system.	Census block group	Annual
Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009	18 USC 249	P	Would be used to help plan education and enforcement efforts to prosecute and deter covered hate crimes against LGBT individuals.	Census block group	Annual
Victims of Crime Act of 1984	42 USC 10604(e)	P	Would be used to help plan education and enforcement efforts to eliminate unlawful discrimination in crime victim compensation programs receiving federal financial assistance.	Census block group	Annual

(b) (5) [redacted]

Re: DOJ American Community Survey and Decennial Survey Topics

(b) (5) [redacted]

(b) (5) [redacted]

(b) (5) [redacted]

Begin forwarded message:

From: "James Whitehorne (CENSUS/ADDC FED)" <James.Whitehorne@census.gov>
Date: February 23, 2017 at 4:54:52 PM EST
To: "Victoria Velkoff (CENSUS/ACSO FED)" <Victoria.A.Velkoff@census.gov>, "Lisa M Blumerman (CENSUS/ADDC FED)" <Lisa.M.Blumerman@census.gov>, "Reist, Burton H (CENSUS/ADDC FED)" <burton.h.reist@census.gov>, "Deborah Stempowski (CENSUS/DCMD FED)" <Deborah.M.Stempowski@census.gov>
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James Whitehorne
Chief
Census Redistricting & Voting Rights Data Office
Associate Director for the Decennial Census
U.S. Census Bureau

Office: (b) (6) [redacted]
Fax: 301-763-4348
james.whitehorne@census.gov

census.gov
Connect with us on Social Media

Begin forwarded message:

From: "Wheeler, Tom (CRT)" <Tom.Wheeler@usdoj.gov>
Date: February 23, 2017 at 4:36:39 PM EST
To: "james.whitehorne@census.gov" <james.whitehorne@census.gov>
Cc: "Raman, Sujit (ODAG)" <Sujit.Raman2@usdoj.gov>, "Aminfar, Amin (ODAG)"

(b) (5) [redacted]

(b) (5) [redacted]

<Amin.Aminfar3@usdoj.gov>, "McHenry, James (OASG)" <James.McHenry2@usdoj.gov>
Subject: DOJ American Community Survey and Decennial Survey Topics

Thank you for taking the time to speak with me on this issue. Your inquiry regarding the DOJ inserts into the American Community Survey (https://www.census.gov/programs-surveys/acs) and by implication, the Decennial Survey (https://www.census.gov/programs-surveys/decennial-census.html) were referred to me as the Acting Assistant Attorney General for Civil Rights. It is my understanding that in the DOJ response of July 1, 2016, "the Department of Justice had no needs to amend the current content" of these surveys. At some point communications between Justin Levitt, a policy person in the Civil Rights Division, and your office took place, and "[c]onsistent with those communications, [the DOJ] formally requests that the Census Bureau consider a new topic in the ACS relating to LGBT populations" according to a November 4, 2016 letter from the Justice Management Division.

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(b) (5)

Re: SOGI Question Wording

(b) (5)

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Questions

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Fw: SOGI Question Wording

(b) (5)

1 attachments (129 KB)

SOGI Questions 1-6-17.pptx;

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Re: Additional request for new content from DOJ

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(b) (5) [redacted]

(b) (5) [redacted]

- https://fcsm.sites.usa.gov/files/2014/04/WorkingGroupPaper1_CurrentMeasures_08-16.pdf
- https://sites.usa.gov/fcsm/files/2014/04/Evaluations_of_SOGI_Questions_20160923.pdf
- https://fcsm.sites.usa.gov/files/2014/04/SOGI_Research_Agenda_Final_Report_20161020.pdf

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(b) (5) [redacted]

From: James Whitehorne (CENSUS/ADDC FED)
Sent: Sunday, November 6, 2016 10:22 AM
To: Deborah Stempowski (CENSUS/DCMD FED); Marisa Tegler Hotchkiss (CENSUS/ADDC FED)
Cc: Lisa M Blumerman (CENSUS/ADDC FED)
Subject: Fwd: Example of a well formed data request for new content in the census or ACS

FYI - copy of letter sent to Census from Justice is attached.
James

****

James Whitehorne
Chief
Census Redistricting & Voting Rights Data Office
Associate Director for the Decennial Census
U.S. Census Bureau

Office: (b) (6) [redacted]
Fax: 301-763-4348
james.whitehorne@census.gov

census.gov
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(b) (5)

Re: Additional request for new content from DOJ

(b) (5)

- https://fcsm.sites.usa.gov/files/2014/04/WorkingGroupPaper1_CurrentMeasures_08-16.pdf
- https://sites.usa.gov/fcsm/files/2014/04/Evaluations_of_SOGI_Questions_20160923.pdf
- https://fcsm.sites.usa.gov/files/2014/04/SOGI_Research_Agenda_Final_Report_20161020.pdf

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(b) (5) [redacted]

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(b) (5) [redacted]

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(b) (5) [redacted]

(b) (5) [redacted]

(b) (5) [redacted]

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(b) (5) [redacted]

U.S. Department of Justice

Justice Management Division

Office of General Counsel

Washington, D.C. 20530

March 7, 2017

Barry K. Robinson
Chief Counsel of Economic Affairs
U.S. Department of Commerce
Office of the General Counsel
Washington, DC 20230

RE: Legal Authority for American Community Survey Questions

Dear Mr. Robinson:

This letter is in response to your letter of March 1, 2017, concerning proposed new content on the American Community Survey (ACS) for the 2020 Census. The Department of Justice(Department) officially advised you on July 1, 2016, that, consistent with recent practice, it had no need to amend the current content or to request new content in the ACS. A subsequent Department letter of November 4, 2016, suggested new topics for the ACS. Your March 1, 2017, letter asks if the Department still wishes to maintain that request, and you have further indicated that a response is needed immediately. Because such a request requires thorough analysis and careful consideration, the Department is unable to reaffirm its request of November 4, 2016. Accordingly, the Department stands by its earlier position articulated in the July 1, 2016 letter.

Sincerely,

Arthur E. Gary

Arthur E. Gary
General Counsel

U.S. Department of Justice

Justice Management Division

Office of General Counsel

Washington, D.C. 20530

November 4, 2016

John H. Thompson
Director
Economics and Statistics Administration
U.S. Census Bureau
Unites States Department of Commerce
Washington, D.C. 20233-0001

Re: Legal Authority for American Community Survey Questions

Dear Mr. Thompson:

This letter supplements my letter of July 1, 2016, in which I advised that, at that time, the Department of Justice had no needs to amend the current content and uses or to request new content in the American Community Survey (ACS) for the 2020 Census. In 2014, the Department affirmed its continuing needs and legal justification for existing subjects and questions in the ACS. I understand your office recently has been in communication with Department officials regarding new uses sought by the Department relating to LGBT populations. Consistent with those communications, this letter formally requests that the Census Bureau consider a new topic in the ACS relating to LGBT populations. The attached spreadsheet accurately reflects the legal authority supporting the necessity for the collection of this information.

Please let me know if you have any questions about this letter or wish to discuss this request. I can be reached at (202) 514-3452, or at Arthur.Gary@usdoj.gov.

Sincerely yours,

Arthur E. Gary
General Counsel

Attachment

Cc: Civil Rights Division
Office of the Deputy Attorney General

DEPARTMENT OF JUSTICE, CIVIL RIGHTS DIVISION
REQUIREMENTS FOR AMERICAN COMMUNITY SURVEY DATA

The following statutes enforced by the Department bar discrimination on the basis of sexual orientation, gender identity, or both.

Statutory Requirement					
Title	Citations	Classification	Uses	Lowest geography	Frequency
Violence Against Women Reauthorization Act of 2013	42 USC 13925(b)(13)	R	Would be used to enforce prohibitions against discrimination in programs or activities receiving financial assistance administered by the Office on Violence Against Women.	Place	Annual
Violence Against Women Act of 1994, as amended, Victims of Trafficking and Violence Protection Act of 2000, Violence Against Women and Department of Justice Reauthorization Act of 2005, Violence Against Women Reauthorization Act of 2013	42 USC 3796gg(b)(5), 3796gg(b)(19), 3796gg-7(d), 10420(c)(1)(B), 13925(a)(39), 13971(b), 13971(d)(4), 13975(a), 13975(g)(3)(C)(ii), 14041(b)(1), 14041(b)(4), 14045(a)(1), 14045(c)-(d), 14045b(b)(10).	P	Would be used to help administer grants, and plan education about and enforcement of prohibitions against discrimination in programs or activities receiving financial assistance administered by OVW.	Census block group	Annual
Title VII of the Civil Rights Act of 1964	42 USC 2000e et seq.; 42 USC 2000e-2(k); *Wards Cove Packing Co.* v. *Atonio*, 490 U.S. 642 (1989)	R	Would be used to enforce the prohibition against unlawful employment discrimination.	Place	Annual
Title VII of the Civil Rights Act of 1964	42 USC 2000e et seq.	P	Would be used to help plan education and enforcement efforts concerning the prohibition against unlawful employment discrimination.	Census block group	Annual
Title IX of the Education Amendments of 1972	20 USC 1701 et seq.; 34 CFR 106.21(b)(2), 106.23(b), 106.37(b)(1), 106.51(a)(3)-(4), 106.52, 106.53	R	Would be used to enforce the prohibition against unlawful discrimination in education programs and activities receiving federal financial assistance.	Place	Annual

DEPARTMENT OF JUSTICE, CIVIL RIGHTS DIVISION
REQUIREMENTS FOR AMERICAN COMMUNITY SURVEY DATA

Statutory Requirement					
Title	Citations	Classification	Uses	Lowest geography	Frequency
Title IX of the Education Amendments of 1972	20 USC 1701 et seq.	P	Would be used to help plan education and enforcement efforts concerning the prohibition against unlawful discrimination in education programs and activities receiving federal financial assistance.	Census block group	Annual
Fair Housing Act of 1968	42 USC 3601 *et seq.* ; 24 CFR 100.500; Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project, Inc., 135 S. Ct. 2507 (2015).	R	Would be used to enforce the prohibition against unlawful discrimination in housing.	Place	Annual
Fair Housing Act of 1968	42 USC 3601 *et seq.*; 24 CFR 100.500.	P	Would be used to help plan education, testing and enforcement efforts to eliminate unlawful discrimination in housing.	Census block group	Annual
Equal Credit Opportunity Act	15 USC 1691 *et seq* .; 12 CFR 202.6 n.2	R	Would be used to enforce the prohibition against unlawful discrimination in lending.	Place	Annual
Equal Credit Opportunity Act	15 USC 1691 *et seq* .	P	Would be used to help plan education and enforcement efforts to eliminate unlawful discrimination in lending.	Census block group	Annual
Omnibus Crime Control and Safe Streets Act of 1968	42 USC 3789d(c); 28 CFR 42.203(c), (e)	R	Would be used to enforce the prohibition against unlawful discrimination in criminal justice programs receiving federal financial assistance.	Place	Annual

DEPARTMENT OF JUSTICE, CIVIL RIGHTS DIVISION
REQUIREMENTS FOR AMERICAN COMMUNITY SURVEY DATA

Statutory Requirement		Classification	Uses	Lowest geography	Frequency
Title	Citations				
Omnibus Crime Control and Safe Streets Act of 1968	42 USC 3789d(c)	P	Would be used to help plan education and enforcement efforts to eliminate unlawful discrimination in criminal justice programs receiving federal financial assistance.	Census block group	Annual
Juvenile Justice and Delinquency Prevention Act of 1974	42 USC 5672(b)	R	Would be used to enforce the prohibition against unlawful discrimination in juvenile justice programs receiving federal financial assistance.	Place	Annual
Juvenile Justice and Delinquency Prevention Act of 1974	42 USC 5672(b)	P	Would be used to help plan education and enforcement efforts to eliminate unlawful discrimination in juvenile justice programs receiving federal financial assistance.	Census block group	Annual
Civil Rights of Institutionalized Persons Act	42 USC 1997 et seq.	R	Would be used to enforce the prohibition against egregious or flagrant violations of law for persons residing in or confined to covered institutions.	Census block group	Annual
Civil Rights of Institutionalized Persons Act	42 USC 1997 et seq.	P	Would be used to help plan education and enforcement efforts to eliminate egregious or flagrant violations of law for persons residing in or confined to covered institutions.	Census block group	Annual

DEPARTMENT OF JUSTICE, CIVIL RIGHTS DIVISION
REQUIREMENTS FOR AMERICAN COMMUNITY SURVEY DATA

Statutory Requirement					
Title	Citations	Classification	Uses	Lowest geography	Frequency
Violent Crime Control and Law Enforcement Act of 1994	42 USC 14141	R	Would be used to enforce the prohibition against patterns or practices of unlawful conduct by law enforcement or by officials in the juvenile justice system.	Place	Annual
Violent Crime Control and Law Enforcement Act of 1994	42 USC 14141	P	Would be used to help plan education and enforcement efforts to eliminate patterns or practices of unlawful conduct by law enforcement or by officials in the juvenile justice system.	Census block group	Annual
Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009	18 USC 249	P	Would be used to help plan education and enforcement efforts to prosecute and deter covered hate crimes against LGBT individuals.	Census block group	Annual
Victims of Crime Act of 1984	42 USC 10604(e)	P	Would be used to help plan education and enforcement efforts to eliminate unlawful discrimination in crime victim compensation programs receiving federal financial assistance.	Census block group	Annual