‘It’s None of Their Damn Business’: Privacy and Disclosure Control in the U.S. Census, 1790-2020

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Definitions and Thesis

Definitions

- At least since 1850, advocates of a limited census have cast the argument in terms of privacy. We define privacy as individuals’ control over the transfer of information about themselves to others.
- The Census has responded by conflating privacy with confidentiality. We define confidentiality as the promise by government to prevent disclosure of personal information to the public.

Thesis

- In response to concerns about privacy and government overreach, Census officials made promises of confidentiality. Those promises were ineffectual because privacy and confidentiality are two different things.
- Recent reinterpretation of census law and precedent has taken confidentiality to an extreme that threatens the core utility of the census.

The Open Census 1790-1840

Letter from Madison to Jefferson, 1790: “A Bill for taking a census has passed the House of Representatives. It contains a schedule for ascertaining the component classes of the society, a kind of information extremely requisite to the legislature, and may be considered a branch of the science of Political Economy... It was thrown out by the Senate as a waste of trouble and supplying materials for idle people to make a book.”

The Census expanded dramatically between 1790 and 1840, but there was no significant discussion of disclosure confidentiality before 1840.

1790
1840

The Census Acts of 1790 through 1840 specified that census returns “to be set up at two of the most public places” in the district, “there to remain for the inspection of all concerned.”

1910 Census of manufactures
1929 Extended to individuals
1954 Identical language used for Title 13

• Enumerators were subject to increasing disclosure mandates between 1840 and 1880, even as information remained open and accessible to the public.
• Disclosure control for population census publications was introduced in 1929 and is unchanged since then.
• Access to the enumeration forms was gradually limited in the 20th century, and in 1962 access was prohibited for government agencies.

John Heppeland Pleads on the Census of Agriculture: “Is this Federal pryke into the domestic economy of the people a wise or a just thing? is it wise to escape its Inquisition or its tax levies? Are even our own friends and kin and to be listed and an authenticated expose to the world Washington?” —Richmond Whig, July 17, 1840

Disclosure Control for Enumerators, 1850-1890

1850 Circular to Marshals
1870 Instructions to Assistant Marshals
1880 Sanction for disclosure of establishment data
1890 Sanction for disclosure of personal data

No publications in which: the data furnished by any particular establishment can be identified

Disclosure Control for Publications, 1910-1954

1910 Census of manufactures
1929 Extended to individuals
1954 Identical language used for Title 13

The New York Times

Make responses voluntary to counter “prying Big Brotherism”

Three Waves of Census Hysteresis 1940-2000

Wave 1 1940: Senator Charles W. Tobey (R-New Hampshire) made a move to eliminate new questions on income

The New York Times

Beyond any doubt we are living the heyday of official curiosity.

Wave 2 1970: Rep. Jackson E. Betti (R-Ohio) led a movement to eliminate new questions on income

The New York Times

Could Make Small Changes to the Census

Wave 3 2000: Senators Chuck Hagel (R-Nebraska) and Trent Lott (R-Mississippi), along with presidential candidate George Bush (R-Texas), endorsed non-response to intrusive questions.

The New York Times

Conclusions

- Beginning in 1840, Census officials made promises of confidentiality.
- Those promises did not address privacy concerns. The public was concerned about privacy, not disclosure.
- Three waves of hysteria about privacy in the 20th century apparently had little impact on response rates.
- The Census Bureau is now in the midst of an extreme escalation of disclosure control based on a radical reinterpretation of census law.
- The new approach is inconsistent with the statutory obligations, history, and core mission of the Census Bureau. Reducing data quality may backfire, as it will erode public trust and weaken the core justification for census data collection.