

[From the ACS recipient to the Census Bureau]

Dr. Ron Jarmin, Director
United States Census Bureau
4600 Silver Hill Road
Washington, DC 20244

[Date]

Dear Director Jarmin:

My household recently received the American Community Survey (ACS). I am shocked at the breadth and depth of the information requested, and outraged at the contempt for my privacy that the ACS's questions imply. This survey obviously goes far beyond the constitutional mandate of a decennial census, both in the frequency of its administration and the scope of questions asked. Therefore I respectfully request that you take appropriate measures to end your department's distribution of this survey.

I realize courts have ruled that surveys other than the decennial census are supposed to ensure that "the fulfillment of the governmental function may be wise and useful."¹ Yet I find it hard to see how questions about my bathing habits have any direct bearing on government functions, and I certainly don't think the Census Bureau's interest in my answer is worth more than my right to keep such a highly personal habit to myself. I also wonder why the ACS collects piecemeal information about habits such as my commute, when any data the federal government needs about traffic and other factors related to my commute could be obtained more comprehensively and accurately through studies of publicly-available information. Similarly, matters such as water usage and public health, implicated by my bathing habits, are better understood through data from the agencies created to deal with those issues. Perhaps most disturbingly, this survey is an identity thief's dream come true, and you should know better than I do that government bureaucracies have a difficult time keeping even classified information secure.

I understand that there are statutes requiring my response to census surveys generally,² but I believe that the Census Bureau's authority to collect the type of information collected on the ACS is subject to legal challenge. The "right to be left alone" has been characterized as "the right most valued by civilized men."³ The United States Supreme Court has indicated that citizens' constitutional right to privacy is implicated by the government's collection of massive amounts of private information.⁴ The information required of citizens by the ACS raised precisely these concerns based on the sheer breadth of coverage.

The Supreme Court has also recognized that privacy concerns may be heightened where a summary of private information about a person is stored in a single file,⁵ such as the kind your

¹ *United States v. Moriarity*, 106 F. 886, 891-92 (S.D.N.Y. 1901).

² 13 U.S.C. § 141

³ *Olmstead v. United States*, 277 U.S. 438, 478, (Brandeis, J., dissenting).

⁴ *Whalen v. Roe*, 429 U.S. 589, 599-600 (1977).

⁵ See *United States Dept. of Justice v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 764 (1989)

department would use to store my answers to the ACS. Regardless of the ultimate fate of my answers to this “anonymous” survey, my information would necessarily be identifiable, perhaps through my address, for at least some period of time.

Moreover, Title 13 of the U.S. Code allows for monetary penalties only when the ACS’s inquiries are within the scope of questions included in the complete census, and only if the Secretary has published a determination that the information requested “is needed to aid or permit the efficient performance of essential governmental functions or services, or has significant application to the needs of the public, business, or industry and is not publicly available from nongovernmental or other governmental sources.”⁶

I hereby respectfully request that the Census Bureau cease and desist from calling or visiting my home or neighbors regarding the ACS. I will be closely monitoring any Census Bureau agents who still try to contact me, and I will log any and all indiscretions they may commit (including looking through my windows to check whether I am home, approaching my residence from the back or sides, calling at unreasonable hours, or otherwise unduly invading my privacy and/or making me feel threatened). I further respectfully repeat my request that the Census Bureau take the necessary steps to end distribution of the American Community Survey, out of consideration for my right to informational privacy. I am actively encouraging my representatives in Congress to do the same. I have established contact with an attorney on this matter, and am prepared to explore my legal options if your department persists in seeking my response to the ACS.

Sincerely,
/s/
John Q. Public
U.S. Citizen

⁶ 13 U.S.C. § 225