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September 17, 2004

The Honorable Donald L. Evans
Secretary of Commerce
U.S. Department of Commerce
Fourteenth Street and Constitution Avenue, NW
Washington, DC 20230

Dear Mr. Secretary:

The U.S. Census Bureau has recently received well-justified criticism for providing tabulations on where Arabs live to law enforcement officials at the Department of Homeland Security. We are writing because we have learned of another instance in which the Census Bureau intends to provide data to law enforcement officials, in this case foreign officials. This situation involves an agreement by the Census Bureau to provide export data collected from U.S. businesses to the Mexican government for tax enforcement.

The Census Bureau has recently informed our staffs that the United States has entered an agreement with the government of Mexico to establish an ongoing relationship to provide the government of Mexico with access to individual records filed by businesses on exports to Mexico. This data is collected by the Census Bureau from the Shipper's Export Declaration forms to provide statistical information on the value of exports from the United States and to compile balance of trade statistics which track the dollar value of goods shipped from the United States and goods imported into the United States from other countries. Chapter 9 of Title 13 of the U.S. Code, which authorizes the collection of this data, prohibits the Census Bureau from disclosing this information unless the Secretary of Commerce makes a determination that disclosure is in the national interest.

As Census Bureau officials explained it, the purpose of the agreement with Mexico is to provide data that the Mexican government can use for law enforcement purposes. Specifically, we understand that the data will be used by the Mexicans to assure that companies importing goods into Mexico paid the appropriate value added tax (VAT).

We were also informed that you authorized this disclosure under pressure from the Department of Homeland Security. Our understanding is that the Department urged you to release this data to Mexico as part of a quid pro quo for other data the Department wanted. Apparently, Mexico had refused to provide the Department of Homeland Security with

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information on airline passengers traveling into Mexico unless given access to the trade data collected by the Census Bureau.

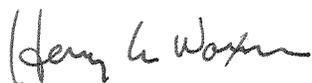
This agreement shares several features with the agreement you entered into with the Department of Homeland Security to provide tabulations of decennial census data on the location of persons who identify themselves as having Arab ancestry. In that situation, the Census Bureau provided a tabulation that identified all towns with 1,000 or more persons of Arab ancestry. A second tabulation provided detailed ancestry by country of origin for every zip code in the United States. Organizations that worked with the Census Bureau to improve minority representation during the 2000 census objected strongly to this activity, indicating that providing data to the Department of Homeland Security would make minorities less likely to participate in future censuses.¹

These agreements to disclose data collected by the Census Bureau are a serious mistake. The ability of the Census Bureau to collect information depends on maintaining the confidentiality of information collected. If individuals believe the information provided to the Census Bureau will be used for law enforcement purposes, they may alter their responses or not respond at all. The agreement with Mexico — combined with the disclosure of the Arab ancestry data to law enforcement officials at the Department of Homeland Security — will erode public trust in the confidentiality of data provided to the Census Bureau.

We urge you to stop this practice of providing data collected by the Census Bureau to law enforcement officials in the United States and other nations. It is important that you act quickly to protect the integrity of the agency and to restore public confidence in the ability of the government to maintain a separation between statistical and law enforcement activities.

Thank you for your attention to these concerns.

Sincerely,



Henry A. Waxman
Ranking Minority Member



Wm. Lacy Clay
Ranking Minority Member
Subcommittee on Technology,
Information Policy,
Intergovernmental Relations,
and the Census



Carolyn B. Maloney
Member of Congress

¹ Letter from Helen Samhan, Executive Director, Arab American Institute, to Census Bureau Director Louis Kincannon (Aug. 12, 2004), posted on the Arab American Institute web site at http://www.aaiusa.org/census_letter.htm.