

Events in the Chronological Development of Privacy and Confidentiality at the U.S. Census Bureau

The chronology below tracks the Census Bureau's legal requirements regarding data confidentiality from the organizational act in 1902 through the E-Government Act of 2002. It also lists major events and activities, such as Presidential proclamations or Census Bureau Annual Reports, that interpret or suggest future changes in the interpretations of confidentiality.

Reading from the left, the first column provides the relevant date; the second column identifies the item of concern and, when needed, provides a brief description of its effect; the third column outlines the salient points; and the fourth column places the action within a category.

This chronology is a working document, with revisions and additions occurring frequently. Thus, it should be considered a work in progress.

Year	Event or Issue	Description/Exception to Confidentiality Rule	Basis: Law or Policy
Mar. 6, 1902	Permanent Census Act	Sec. 10 (13-8). Census Director authorized "upon the request of a governor of any State or Territory, or the chief officer of any municipal government, to furnish...copies of so much of the files or records of the eleven decennial enumerations from 1790 to 1890, inclusive, as may be requested, at the discretion of the Director of the Census..."	Statute
July 2, 1909	Thirteenth Decennial Census Act Director's discretion retained but increase in confidentiality	Sec. 30 (32). Census Director authorized "at his discretion, upon the written request of the governor of any State or Territory, or of a court of record to furnish...copies of so much of the population or agricultural returns as may be requested...; and...to furnish to individuals such data from the population schedules as may be desired for genealogical or other proper purposes..."	Statute
March 1910	Presidential Proclamation Early move toward "detrimental effects"	"The sole purpose of the Census is to secure general statistical information....No person can be harmed in any way....every employee of the Census Bureau is prohibited, under heavy penalty, from disclosing information which may thus come to his knowledge..."	Policy: Presidential Proclamation

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1916	<p>Annual Report, pp. 15-16</p> <p>Names and addresses of people and businesses supplied</p>	<p>1) Lists of names and addresses of about 30,000 large manufacturing establishments "were furnished the Secretary of the Navy" for "military and naval preparedness."</p> <p>2) "Lists of this character" also given to the Federal Trade Commission and the Department of Agriculture (Forest Service and Bureau of Animal Husbandry).</p> <p>3) The Census Bureau received and responded to 4,200 requests from the Pension Bureau for "data from the enumerators' returns for use in establishing the ages of pensioners and applicants..."</p>	<p>Legally permitted; Bureau policy was to provide information</p>
1918	<p>Annual Report, pp. 14-15</p> <p>Census information to help war effort (W W I)</p>	<p>1) Census Bureau furnished transcripts of the ages of people who failed to register under the selective service law; transcripts "were supplied to the Department of Justice, to local registration boards, and to the individuals concerned." Many of these people were in jail awaiting the settlement of their cases.</p> <p>2) The Census Bureau assisted the Treasury Department by sending out Liberty Loan literature to various mailing lists.</p> <p>3) The Census Bureau gave the U.S. Fuel Administration a list of cotton ginneries in Georgia.</p>	<p>Legally permitted; Bureau policy was to provide information</p>

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Mar 3, 1919	<p>Fourteenth Decennial Census Act</p> <p>Initial use of "detrimental purposes"; Director's discretion continued</p>	<p>1) Sec. 29 (25). Individual responses to the census "shall be used only for the statistical purposes for which [they are] supplied....nor shall the Director of the Census permit anyone other than the sworn employees of the Census Office to examine the individual reports."</p> <p>2) Sec. 29 (33). "That the Director of the Census be, and he is hereby, authorized, at his discretion, upon the written request of the governor of any State or Territory or of a court of record, to furnish such governor or court of record with certified copies of so much of the population or agricultural returns as may be requested....and that the Director of the Census is further authorized, in his discretion, to furnish to individuals such data from the population schedules as may be desired for genealogical or other proper purposes...<i>Provided, however,</i> That in no case shall information furnished under the authority of this Act be used to the detriment of the person or persons to whom such information relates."</p>	Statute
1919	<p>Annual Report, p.21</p> <p>Census information to help war effort (W W I)</p>	<p>1) Census Bureau provided district attorneys and other officials of the Department of Justice "at their request" age certificates for men who, "although of military age, had not registered for the selective draft."</p> <p>2) Liberty Loan work—same as above (see 1918).</p>	Legally permitted; Bureau policy was to provide information
Jan 15, 1920	<p>Solicitor General's opinion</p> <p>Census information to Selective Service</p>	<p>1) Census Director "might...furnish" to the Selective Service "information in regard to names and ages of individuals, as it did not appear that any person would be harmed..."</p> <p>2) 1920 Census Act prohibits the Director "from disclosing information about private business concerns, but not his discretionary disclosure of individual information...."</p>	Policy

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1921	Annual Report, pp. 24-5 State agents copying of census data	1) NY, PA, and AR and several city governments maintain corps of clerks at Bureau headquarters to "copy special material from these records [census schedules]." 2) USDA, Bureau of Internal Revenue, Bureau of Prisons, and other Federal offices constantly calling on Census Bureau for information from its schedules; and individuals and societies interested in genealogy and other research asking for info contained in returns of earlier censuses.	Policy
1923	Annual Report, pp. 25-6	Census Bureau permitted State sponsored clerical force to compile names and addresses of illiterates from the returns of the 1920 census.	Policy
Jun 18 1929	Fifteenth Decennial Census Act Referred to as the first case of multi year census law; codification of what became title 13	1) Sec. 28 (11). Responses to the census "shall be used only for the statistical purposes for which [they are] supplied." The Bureau will not publish any data that would allow the identification of responding individuals or companies. "... nor shall the Director of the Census permit anyone other than the sworn employees of the Census Office to examine the individual reports" 2) Sec. 28 (18). The Director is authorized "...at his discretion, upon the written request of the governor of any State or Territory or of a court of record to furnish...copies of so much of the population or agricultural returns as may be required...[and] to furnish to individuals such data from the population schedules as may be desired for genealogical or other proper purposes... Provided, however, That in no case shall information furnished under the authority of this Act be used to the detriment of the person or persons to whom such information relates."	Statute
Sep 29 1930	Opinion of the Attorney General Census tightens confidentiality	Determination that the Census Bureau could not release a list of names, addresses, occupations, and employment status of women living in Rochester, NY, to the Women's Bureau.	Policy

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Nov. 1939- Feb. 1940	Cited in Seltzer & Anderson paper, Aug. 2002 FDR suggests release of census data in some instances (NOT ILLEGAL)	U.S. Attorney General drafted a bill to amend the Census statute to give military and intelligence agencies access to individual census data. Was strenuously opposed by Bureau officials. David Nyles asked Pres. Roosevelt for guidance. Roosevelt's response—unrestricted access to Census files should not be given to Army or Navy Intelligence or to FBI. However if Army Intelligence, ONI, or FBI need information on an identified individual, it should be provided. NOT CLEAR THIS WAS EVER IMPLEMENTED BY THE BUREAU. Seltzer and Anderson allege: "Roosevelt was proposing something that was illegal." The law seems to indicate that Seltzer & Anderson's statement is incorrect.	Legally permitted; policy revision under consideration
May 1, 1941	Secretary of Commerce Executive Order 111. Census gets responsibility for foreign trade data collection and attendant confidentiality responsibilities.	Transfers personnel and functions of the Bureau of Foreign and Domestic Commerce to the Census Bureau; see Title 15 U.S.C. (sections 176(a) & (b)) on confidentiality of data collected by the Bureau of Foreign and Domestic Commerce.	Policy
June 1941- March 1942	Cited in Seltzer & Anderson paper, August 2002 Director proposes making data available for national defense.	In June 1941, Bureau Director J.C. Capt proposes legislative change that includes making individual census information available for national defense purposes. Capt supports making census data about individuals and companies available as needed in the war effort. Capt pushes legislation and suggests Executive Order when legislation gets bogged down. Justice Dept. objected to proposal to void confidentiality provisions of Census Law.	Proposed legal and policy changes

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Mar 27, 1942	<p>Second War Powers Act</p> <p>This statute overrides confidentiality provisions of Census law</p> <p>Executive Order No. 9157</p>	<p>Sec. 1402. "...notwithstanding any other provision of law, any record, schedule, report, or return, or any information or data contained therein, now or hereafter in the possession of the Department of Commerce, or any bureau or division thereof, may be made available by the Secretary of Commerce to any branch or agency of the Government, the head of which shall have made written request therefor for use in connection with the conduct of the war. The President shall issue regulations...."</p> <p>Sec. 1403. "For purposes of this title the term 'person' shall include any individual, partnership, association, business trust, corporation, or any organized group of persons...."</p> <p>It has been documented that information on individual companies was shared with other government agencies. For evidence of disclosures about individuals, see the entry for August 1943.</p> <p>Provides a set of regulations for implementing Section 1402 of the Second War Powers Act.</p>	Statute
Aug. 1943	<p>Cited in Seltzer & Anderson paper, March 2007</p> <p>Individual-level data from the 1940 census were released under Section 1402 of the Second War Powers Act, and thus their release was lawful.</p>	<p>The Census Bureau provided individual-level data from the 1940 census – including name, address, sex, age, and citizenship – on persons of Japanese ancestry living in the Washington, DC area in response to a request from the Treasury Department under the provisions of Executive Order No. 9157. The information was requested for use by the Secret Service (a component of the Treasury Department), because of an unspecified threat against President Franklin D. Roosevelt.</p>	
March 1947		<p>Most of Second War Powers Act, including section overriding census confidentiality, repealed.</p>	Statute

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1949	Robert H. Holley paper, 1949 Inconsistent to prohibit publications that allow identification of respondents yet allow Director to release individual data	Holley notes the inconsistency of prohibiting publication of data and sharing of individual respondents' answers to the population census but giving the Directors the discretion to release data on individuals to state and territorial governors, courts of record, and individuals for genealogical or other proper purposes.	Policy
Aug 26 1952	Letter, Archivist of the U.S. to Director	Established 72-year rule of public access to population census records. Later codified under Title 44, Sec. 1208b.	Letter, later Statute
1954	Title 13 Very similar to 1929 Census Act including governors, courts, and individual access	Codification of census laws into a single statute (title 13) Sec. 8. At Secretary of Commerce's discretion to furnish individual data for "proper purposes" to governors, courts of record, and individuals... Sec. 9. Information confidential except as noted.	Statute
1958	Court Case Business data confidentiality	U.S. vs. Bethlehem Steel Corp. U.S. district court (southern NY) held that the Government could not be required to supply the defendant companies with copies of the reports of other steel producers "since such reports were confidential under the statute."	U.S. District Court: U.S. v. Bethlehem Steel
1960	Court Case Business data confidentiality	Federal Trade Commission v. Dilger; 7 th Circuit Court ruled that Beatrice Foods Company did not have to comply with an FTC subpoena demanding company-retained file copies of census reports.	U.S. Court of Appeals for the 7 th Circuit: FTC v. Dilger
1962	Court Case Business data confidentiality: File copies of census data not protected by confidentiality	The Supreme Court ruled that copies of census returns retained by establishments in their own files were not covered under the confidentiality provisions of title 13, and could be used as evidence in legal proceedings. In this case, the FTC had subpoenaed the files of the St. Regis Paper Co. which contained the census copies.	Supreme Court: St. Regis Paper v. U.S.
Oct 15, 1962	Amendment to title 13	President signs P.L. 87-813 which amended sec. 9 of title 13 to extend confidentiality to company-retained copies of census reports.	Statute

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1966	Change in Census Bureau Organization to improve confidentiality	Census Bureau establishes a Committee on Confidentiality of Census Records to review requests by governmental and non-governmental organizations for the use of census records in various forms and for many purposes.	Policy
1973	<p>Proposed amendments to title 13 (change to confidentiality law implemented in 1976, see below)</p> <p>Reasons for ending Directors' discretion to release census data on individuals to governors, courts, and individuals</p> <p>Early concern about government data banks</p>	<p>Proposal: to remove Director's discretion to provide confidential material from the census of population to state and territorial governors, upon request, and to individuals for genealogical or other "proper purposes."</p> <p>One of the goals of the proposed amendments was to "further strengthen...the confidentiality provisions of title 13, United States Code, by incorporating into law present administrative procedures for guaranteeing confidentiality of individual information, by amplifying the scope of the existing statute, and by sharply increasing the severity of the punishment for divulging confidential information."</p> <p>The committee report states that this amendment to title 13 "guarantees that the confidentiality of the individual information collected under authority of title 13, United States Code, cannot, with the sole exception of the limited genealogical access to the 1900 and prior censuses provided in the amendment to the reported bill, be abrogated, abridged or breached for any reason whatsoever."</p> <p>Early congressional and private concern with governmental data banks.</p>	Proposed statute

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Sep 27, 1975	Privacy Act of 1974 5 U.S.C. § 552a (amended 1997, 5 U.S.C.A. § 552a)	<p>The Act is primarily concerned with the confidentiality and accuracy of personal information and seeks to restrict both the amount of personal information collected by federal agencies and the amount that is transferred or disseminated to other agencies and third parties. It gives individuals the right to see records about themselves held in systems of records, to obtain copies of their records, to have their records corrected or amended with agency approval, and to have a statement of disagreement filed in their record if the agency doesn't allow the correction or amendment.</p> <p>The Act states that no agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13.</p>	Statute
Oct 17, 1976	Amendments to title 13 (PL 94-521)	Proposed amendments described immediately above enacted (see 1973 proposed modifications)	Statute
Aug. 1980	<p>Bohme & Pemberton, 1991 paper</p> <p>Census Bureau stops FBI from reviewing census respondents' data</p>	FBI removed boxes of completed census questionnaires from the Colorado Springs district office pursuant to a federal warrant and an investigation of falsifying census forms. After a discussion between Vincent Barabba (Director, Census Bureau) and William Webster (Director, FBI), boxes still sealed with evidentiary tape were returned to the district office.	Not legally permitted or allowed by Bureau policy. Breach avoided by joint action of agency Directors.
1982	Court Case	Supreme Court ruled that the Census Bureau's address list for the 1980 census, and for future censuses, was subject to confidentiality restrictions and was not subject to civil discovery or to the Freedom of Information Act.	Supreme Court decision: Baldrige v. Shapiro

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1994	Title 13 amended	Amended title 13 to permit the sharing of census address information with state and local governments for the purpose of developing complete and accurate address lists to be used in carrying out censuses and surveys.	Statute
Nov 26 1997	Title 13 amended by P.L. 105-119, Title II, Section 210	Title 13 (Section 9a) was amended in 1997 by provisions of the Department of Commerce's FY 1998 appropriations act creating a Census Monitoring Board to observe and monitor all aspects of the preparation and implementation of the 2000 decennial census. These provisions specifically grant members of this board access to confidential census information in the course of their official duties.	Statute
Dec 17 2002	<p>E-Government Act of 2002, P.L. 107-347</p> <p>Amended title 13 to permit the sharing of identifiable business, but not individual, information among the Census Bureau, BEA, and BLS.</p>	<p>Title V. Confidential Information Protection and Statistical Efficiency Act of 2002</p> <p>1) Sec. 504 (c). Prohibits "the disclosure for nonstatistical purposes of demographic data or information collected by the Census Bureau..."</p> <p>2) Sec. 512 (a). Prohibits nonstatistical uses of information acquired under a pledge of confidentiality for exclusively statistical purposes.</p> <p>3) Sec. 512 (b). Data acquired as described in 512 (a) above "shall not be disclosed by an agency in identifiable form, for any use other than an exclusively statistical purpose, except with the informed consent of the respondent." Disclosure can be authorized only by the head of the agency and if "the disclosure is not prohibited by any other law."</p> <p>4) Sec. 523. Heads of the Census Bureau, BEA, and BLS will "protect the confidentiality of individually identifiable information acquired for statistical purposes by adhering to safeguard principles..."</p> <p>5) Sec. 524. The Census Bureau, BEA, and BLS "may provide business data in an identifiable form" to each other under the terms of a written agreement.</p> <p>6) Sec. 525. Census, BEA, and BLS can share identifiable business data only for statistical purposes.</p>	Statute