

City of Detroit

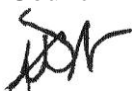
CITY COUNCIL

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TO: The Detroit City Council

FROM: David Whitaker 
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DATE: March 25, 2011

RE: **2010 DECENNIAL CENSUS RESULTS AND INFORMATION RELATIVE TO CHALLENGING THOSE RESULTS**

The Research & Analysis Division (RAD) was requested by this Honorable Body to research and report on the process to file a protest of the City of Detroit's 2010 U.S. Census count. Mayor Bing has already publicly stated he will pursue such a challenge on the City's behalf. This memorandum covers both the U.S. Census Bureau's process as well as redistricting considerations and past legal challenges.

Official 2010 Census results for the State of Michigan were released March 22, 2011.¹ They report the following population totals and corresponding percentage change from the 2000 census results:

- **City of Detroit – 713,777 (25% decrease from 951,270)**
- County of Wayne – 1,820,584 (11.7% decrease)
- State of Michigan – 9,883,640 (0.6% decrease)

According to Census data released to date, only Michigan (-0.6%) and Puerto Rico (-2.2%) have sustained population loss. Highlights of Michigan's 2010 Census data prepared by the Michigan Department of Technology, Management and Budget is attached to this memo. The Census Bureau will deliver final result data state-by-state on a rolling basis through March. It has already reported that the resident population of the United States on April 1, 2010 was 308,745,538. The Detroit Economic Growth Corporation (DEGC), anticipating a census undercount of Detroit, released an estimated count of 850,259, which is based on market research conducted by the non-profit Social Compact.

¹ Under state law, this final Census tally triggers the 60-day period for the running of council by district.

PROCESS TO CHALLENGE CENSUS RESULTS

Governmental units may challenge their jurisdiction's census count through the Count Question Resolution (CQR) program. The Census Bureau will only accept challenges from the highest elected or appointed official of the state, local or tribal governmental unit or those designated in writing to represent them or act on their behalf for the specific purpose of preparing and submitting a CQR challenge.² Therefore, Mayor Bing (or his designee) has the ability to file a CQR challenge on behalf of the City of Detroit.³ The Administration has already publicly expressed its intention to challenge the results. Because the federal program will not recognize a challenge from a local legislative body, City Council has the ability via resolution to support the Administration in regard to the filing of a CQR. Resources and personnel will be needed to assemble the data and documentation for the CQR. The Administration has indicated it plans to reach out to individuals involved in past census challenges.

The CQR process addresses three specific types of instances where a state, local or tribal government feels an error was made in the results for counts of housing units and group quarters in their area. The three bases for a challenge, which must be articulate in the challenge, are:

1. Boundary. This addresses inaccurate reporting or recording of boundaries legally in effect on January 1, 2010.⁴
2. Geocoding. These challenges affect the placement of living quarters and associated population within the correct governmental unit boundaries and census tabulation blocks.
3. Coverage. The challenges, if upheld, result in the addition or deletion of specific living quarters and persons associated with them that were erroneously included as duplicates or excluded due to processing errors.

Challenge submissions will be accepted during a three-year window beginning **June 1, 2011** and must be received (i.e. postmarked, faxed, or emailed) no later than **June 1, 2013** and are handled in the order received.

The Census Bureau stresses that it will not collect any additional data or conduct any additional surveys during the challenge process. More plainly stated the Bureau does not engage in a physical "recount." The Bureau researches CQR challenges using existing census records, materials and files in conjunction with the documents received from the challenging governmental unit. It does not collect additional data to resolve CQR challenges and requires documentation from the local unit before it commits resources to investigate a challenge. This documentation includes specific maps and address lists.⁵

² The highest elected or appointed official must submit a CQR designation on government letterhead or from their email address. The Bureau provides templates online for electronic submission of supporting data.

³ The State of Michigan and County of Wayne also have the ability to submit a challenge on behalf of the City of Detroit because the City is an incorporated place within their jurisdictions.

⁴ Documentation is required to ensure the geographic assignment information provided by governmental units does not reflect boundary changes made after that date.

⁵ Acceptable maps and address lists, as well as additional information regarding the required documentation can be found at 75 Fed. Reg. 25908 (May 26, 2010) (initial notice of CQR program) and 76 Fed. Reg. 12694 (March 8, 2011) (final notice of CQR program).

It is important to note a CQR challenge of 2010 Census results is not a mechanism or process to challenge or revise the population counts which were sent to President Obama by December 31, 2010 and used to apportion the U.S. House of Representatives.⁶ The Census Bureau will not make any changes to the apportionment, redistricting counts, or official 2010 Census data products.

If a CQR challenge is successful, the Census Bureau will:

- Notify all affected governmental units of any corrections to their official counts because of a CQR decision.
- Issue new official Census counts to the affected governmental units that reflect the revised data for use in future programs requiring official 2010 U.S. Census data.
- The CQR corrections will be used by the Census Bureau in subsequent annual population estimates⁷ beginning in December 2012.
- List the revised data as errata on American FactFinder website in the fall of 2011.⁸

For CQR challenges that do not result in the issuance of a revised count, the Bureau will retain the supporting documentation from the challenging governmental unit for consideration in the context of future address list updating activities.

LOCAL REDISTRICTING CONSIDERATIONS

Federal law requires the decennial census data be provided to the States by April 1st of the year following the census.⁹ Based on this data, it is anticipated that Detroit will lose two (2) State Representative seats and one (1) State Senator.

Section 3-106 of the 1997 Detroit City Charter (as amended November 16, 2009) mandates that the boundaries of the districts¹⁰ be drawn within sixty (60) days after the federal decennial census becomes available.¹¹ The release of the census data for the State of Michigan on March 22, 2011, triggers this 60-day redistricting for council-by-district. However, it is currently in litigation whether the City Council or the Election Commission will draw the districts. The apportionment plan must be filed with the city clerk and copies made available at cost to any registered voter of the City.¹² The plan must provide for districts that are as nearly of equal population as practicable and contiguous and compact.

⁶ This apportionment will divide 435 seats in the U.S. House of Representatives among the 50 states (not the District of Columbia or Commonwealth of Puerto Rico).

⁷ These annual postcensal population estimates are used in federal funding allocations, monitoring recent demographic trends and benchmarking federally funded survey tools. The Census Bureau utilizes existing data series such as birth, death, and tax records as well as Medicare enrollment, immigration, and housing information to update the decennial census counts during the estimating process between censuses.

⁸ <http://factfinder2.census.gov>

⁹ Public Law 94-171, amending 13USC §141.

¹⁰ Creating seven (7) council districts and one (1) at-large district.

¹¹ New district boundaries created within 120 days of a City Primary Election become effective after the election. This provision does not apply in the upcoming redistricting.

¹² Home Rule City Act, MCL 117.27a.

PREVIOUS CHALLENGES AND LEGAL ACTION

The City of Detroit has challenged census results in the past. The results have been both favorable and unfavorable. Mayor Young challenged both the 1980 and 1990 census results. The 1990 challenge was successful and the corrected population number kept Detroit's population over the 1 million mark. Additionally, there were two unsuccessful lawsuits filed contesting both the 1980¹³ and 1990¹⁴ results. In both instances, the Courts found that the City of Detroit did not have standing to sue based on arguments related to the powers of the dilution of voting powers. However, in the 1990 suit the courts found that the City did have standing based on the argument that the undercount would directly result in the loss of federal funds.¹⁵ The City overcame the standing hurdle, but lost that argument on the merits. Even though Detroit requested only a Michigan adjustment, the Court refused to consider an isolated adjustment and viewed the request as a request for a nationwide adjustment. Nationwide adjustments of population was rejected by the court when it held that the Census Bureau's decision not to adjust was neither arbitrary nor capricious. It further held that any adjustments, if made, would not result in a net improvement in accuracy and would only shift inequities.¹⁶

¹³ *Young v. Klutznick*, 652 F.2d 617 (6th Cir. 1981).

¹⁴ *City of Detroit v. Franklin*, 4 F.3d 1367 (6th Cir. 1993).

¹⁵ *Id.* at 1374.

¹⁶ *Id.* at 1378.