

## **Extended Justifications for Parents Place of Birth**

Based on the results of the 2010 ACS Content Test, the Census Bureau recommended to OMB that two questions on parental place of birth (In what country was your father born? In what country was your mother born?) be included on the 2013 production ACS questionnaire.

Questions on parental place of birth are important because they divide the population into “first generation” (the foreign born), “second generation” (the children of immigrants), and “third or higher generation” (native born with no foreign-born parents) categories, allowing policymakers and researchers to examine questions about adaptation and integration of immigrants and their descendants over generations. Also, questions on parental place of birth are useful to examine the social and economic characteristics of the children of immigrants because they clearly define the second generation.

### *Programmatic Justification for Parental Place of Birth*

Several federal agencies have expressed specific needs for data on parental place of birth.

#### *U.S. Department of Justice, Civil Rights Division*

The Department of Justice, Civil Rights Division (CRT) would use parental place of birth data from the ACS to advance their mission in significant ways, particularly with respect to their enforcement of statutes that prohibit discrimination on the basis of national origin. The Supreme Court has defined “national origin” to embrace not only a person’s country of birth but, “more broadly, the country from which his or her ancestors came.” *Espinoza v. Farah Mfg. Co., Inc.*, 414 U.S. 83 (1973). Parental place of birth data would improve CRT’s enforcement of civil rights laws in two principal ways: by improving outreach to particular national-origin groups in specific geographic areas, and by allowing CRT to more accurately measure the potentially discriminatory disparate impacts of practices subject to federal civil rights laws.

First, parental place of birth data would significantly advance CRT’s outreach to specific national-origin communities, which is essential to CRT’s law enforcement and other statutorily mandated missions. CRT investigates allegations of national-origin discrimination by federal funding recipients in violation of Title VI of the Civil Rights Act of 1964 and other federal civil rights laws, and by employers in violation of Title VII of the Civil Rights Act and the Immigration and Nationality Act (INA), which prohibits national-origin discrimination in hiring, firing, and paid-recruitment processes. In cases alleging discrimination against a particular national-origin group, because the ACS provides annual data estimates by detailed geographic areas, ACS parental place of birth data would help CRT locate the communities and neighborhoods with high concentrations of the national-origin group at issue. Identifying these communities would help CRT to conduct outreach to find more witnesses of the alleged discrimination, uncover additional victims, or simply inform

the community about their civil rights. Additionally, CRT's Office of Special Counsel for Immigration-Related Unfair Employment Practices is statutorily obligated to disseminate information to the public about employees' and employers' rights and responsibilities under the INA. In this respect, CRT uses Census and ACS data to target its outreach to employee populations in the general public based on factors such as the individual's place of birth, ancestry, and citizenship. Parental place of birth data is more accurate and specific than the data currently solicited in the ACS and would therefore allow us to more efficiently and effectively target our statutorily required outreach efforts.

Second, parental place of birth data would allow CRT to measure the potentially disparate and unlawful impacts of practices subject to federal civil rights law. Policies or practices of employers, federal programs, or recipients of federal funds that have a disparate and discriminatory impact on a certain national-origin group violate federal non-discrimination statutes. Determining whether a program has a disparate and discriminatory impact involves a comparison of the proportion of persons in the protected class who are adversely impacted by the program with the proportion of other persons who are adversely impacted. *See Tsombanidis v. West Haven Fire Dep't*, 352 F.3d 565, 577 (2d Cir. 2003). To determine the proportion of class members impacted, one must "take into account the correct population base and its racial makeup." *See Darensburg v. Metro. Transp. Comm'n*, 636 F.3d 511, 520 (9th Cir. 2011). In a disparate impact case, ACS parental place of birth data would help CRT to identify the appropriate population base and its national origin makeup. The data would allow CRT to more accurately measure the discriminatory disparate impact on the national-origin group at issue, and allow CRT to pursue appropriate relief for the unlawful discriminatory practices.

#### U.S. Department of Health and Human Services (HHS), Administration for Children and Families

Information regarding parental place of birth can be of key importance to several ACF programs. For example, Migrant and Seasonal Head Start (MSHS) serves rural agricultural workers, offering child care/early education support to young children and their families. For effective supports that are responsive to the Head Start Performance standards, MSHS interventions, curricula and assessments must be culturally and linguistically appropriate (The Improving Head Start for School Readiness Act of 2007). In addition, standards are in place requiring staffing adjustments to match to the linguistic variations within a classroom (45 CFR 1304.52). A simple way to identify the potential variations within a community population is through identification of the families' countries of origin. In the short term, understanding more about country of origin gives the Office of Head Start a tool to inform programs' outreach and organizational response and to assess programs' efforts to meet the needs of their communities. In the long term, it could inform programs regarding population trends within the local setting, allowing for timely adaptations in their classroom and family involvement efforts. Further, the recent Head Start reauthorization emphasizes that whenever there is consideration of modifying program standards, the HHS

Secretary must take into consideration "changes in the characteristics of the population of children who are eligible to participate in Head Start programs, including country of origin..."(Section 641A of the Head Start).

Another need for parental place of birth data by HHS is for the administration of the Temporary Assistance for Needy Families (TANF) program. The data will provide valuable information to local and state administrators, helping them gain insight into the characteristics of current and potential clients and enabling them to plan appropriate service approaches for their client populations. Of particular note, U.S. citizen children of aliens comprise an important segment of the TANF caseload; information on parents' place of birth would help ACF better understand this subgroup and local data would help state and local TANF administrators plan effective service approaches for this subgroup.

#### National Institute Health (NIH)

Data on parental place of birth would be of use to the NIH in planning targeted research programs designed to address the health of second- and higher-generation groups and the processes of language acquisition and other aspects of development in second-generation children. It has been well established that while immigrant populations tend to be quite healthy, this health advantage relative to the overall population disappears among second- and third-generation populations. Behaviors that compromise health also increase across successive generations. To more effectively target both research programs and the design of effective interventions for these groups, NIH science administrators would benefit from having data on the population by generation in combination with social, demographic, and economic characteristics. These data would also contribute to the targeting of research programs on racial/ethnic health disparities, since increasing numbers of ethnic/racial minority group members are immigrants themselves or the children of immigrants. Finally, such data would enable NIH science administrators in the fields of child development and language acquisition to better target programs for research on multi-lingual education and the cognitive and behavioral development of second-generation children.

#### U.S. Citizenship and Immigration Services, Department of Homeland Security (USCIS)

The USCIS Office of Citizenship frequently uses and cites ACS data in reports and analysis for intra-agency and intra-departmental officials, as well as for external stakeholders. The existing Census data on the foreign-born population in the United States are valuable to ascertain a more complete population and immigration picture than the direct data available to DHS/USCIS through formal immigration channels and direct engagement with legal immigrants. According to USCIS, adding questions on parental place of birth to the ACS would greatly improve their ability to assess the second generation independently and compare the lifestyle and achievement of the children of immigrants with the already rich data provided by the Census Bureau on

the foreign born. The Office of Citizenship, which is responsible for developing educational resources, initiatives, and outreach programs, is especially interested in the ability to compare first- and second-generation data. Tools to better understand both the successes and challenges of the second generation would be used to help shape the educational resources, initiatives, and other outreach programs developed by USCIS to integrate immigrants. Further, data on the second generation will enable USCIS to assess their existing programs and initiatives, providing them the opportunity to address policy gaps.

The USCIS Office of Policy and Strategy Research and Evaluation Division is also interested in data on parental place of birth. As an Agency, the Department of Homeland Security maintains statistics on people that come to the United States. However, most of the detailed data collected are about principle immigrants, not their dependents. Also, data are only collected at the time that the immigrant enters the country or changes status. Therefore, the administrative data collected by and available to USCIS analysts does not have complete data on the children of immigrants, whether they were born in the United States or abroad. USCIS feels data on parental place of birth, available annually and at low levels of geography (such as zip codes), would be invaluable.

Once available, USCIS suggests there are several policy issues that could be explored with parental place of birth data, including:

- Statistical information about the derivative citizenship population (i.e., children who naturalize when their parents naturalize) – currently, there is no way to access information on these children unless they apply for a certificate of citizenship.
- Population studies of the children of immigrants – comparisons of native-born and foreign-born children of immigrants, measures of integration in their communities, future workload forecasting (i.e., do they plan on sponsoring a relative), etc.
- Comparison studies of different immigrant generations, naturalization rates, cohort comparisons, etc.

#### U.S. Department of Agriculture (USDA)

The USDA's Economic Research Service conducts social and economic research on rural and small-town America. This population, represented by OMB-defined nonmetropolitan counties, has undergone substantial change. In the past two decades, foreign-born residents have settled in many nonmetropolitan counties with demographically stagnant but numerically dominant non-Hispanic White residents. For example, Hispanics made up less than 7 percent of the rural population in 2006 but accounted for over 40 percent of all rural population growth between 2000 and 2006. Critical information about this population, such as data on parental place of birth, improves our understanding of rural communities and their public policy challenges.

The Economic Research Service produces several products that would use the parental place of birth data, if available. For example, the annually updated "briefing room" chapter entitled "Racial and Ethnic Diversity Increases in Rural America" presents key

descriptive statistics on minorities in rural areas. Data on parental place of birth would be displayed alongside such critical indicators as population growth rates, educational attainment, and age structure. Also, as a key determinant of social and economic integration and mobility, data on parental place of birth would be included in several other reports and analyses, including the lengthier *Economic Research Report* that focuses on high priority topics related to the growing Hispanic population and hired farm labor.

#### Congressional Budget Office (CBO)

Data on parental place of birth would be used by CBO analysts to supplement their statistical modeling. The CBO's Long-Term Model (CBOLT) is a dynamic microsimulation model of the United States population and economy, completed annually. For each of the 300,000 simulated individuals in the model, CBOLT simulates birth, death, immigration, marital transitions, marital pairings, labor force participation, hours, earnings, Social Security benefit claiming, and Social Security benefit levels. It was originally developed to model Social Security finances. However, it now also makes non-Social Security projections (other spending and revenues other than payroll taxes), though on an aggregated basis.

CBO analysts would use information on parental place of birth to enhance correlations in the long-term microsimulation model. In particular, they would look at correlations between parental place of birth and fertility, mortality, education, earnings and labor force participation, migration, health status, and possibly marital patterns. CBO's analysis of earnings mobility and volatility might also benefit from this additional information.

#### Bureau of Economic Analysis (BEA)

Every year, BEA estimates the amount of money sent by U.S. residents to friends and family abroad. BEA currently estimates remittances using ACS data and a model of remittances. At the moment, BEA's model of remittances assumes that native-born Americans send no money abroad. However, BEA may revise its model of remittances after incorporating data on remittances from the CPS Migration Supplement (fielded by the U.S. Census Bureau of August 2008). Currently, BEA is analyzing the results of incorporating parental place of birth into their model of remittances and, if the results are positive, will require annual data on parental place of birth.

#### Legislative Justification for Parental Place of Birth

Legislative justification for the inclusion of questions on parental place of birth on the ACS questionnaire is provided by the Civil Rights Act and U.S. Code Title 8 – Aliens and Nationality, Title 20 – Education, and Title 42 – The Public Health and Welfare. The titles and citations are summarized in Table 1.

The Civil Rights Act and other U.S. Code (such as Title 5 – Government Organization and Employees, Title 29 – Labor, and Title 42 – The Public Health and Welfare) use the term “national origin.” Although not clearly defined under federal law, the concept of national origin, as generally discussed in both the *EEOC Compliance Manual* and the *EEOC Guidelines on Discrimination Because of National Origin*, is best measured by parental place of birth data. For example, according to the *Compliance Manual* a “national origin group,” often also referred to as an “ethnic group,” is a group of people sharing a common language, culture, ancestry, and/or other similar characteristics (13-II (B)). According to the *Guidelines* “national origin discrimination” is defined “broadly as including, but not limited to, the denial of equal opportunity because of an individual’s, or his or her ancestor’s, place of origin; or because an individual has the physical, cultural or linguistic characteristics of a national origin group” (29 CFR § 1606.1). National origin discrimination also includes discrimination on the basis of accent, manner of speaking, or language fluency (*EEOC Compliance Manual*, 2-II (A)(1)(b)). “Place of origin” usually refers to a country (e.g., Colombia) or a former country (e.g., Yugoslavia) but also includes places that have never been countries and are associated with groups of people who share a common language, culture, ancestry, and/or other similar social characteristics (e.g., Kurdistan) (*EEOC Compliance Manual*, 13-II (A)).

The data from the ancestry question on the ACS questionnaire is currently used to meet the need for information on national origin. However, the intent of the ancestry question was not to measure the degree of attachment the respondent has to a particular ethnicity. The ancestry data represent self-classification by people according to the group or groups with which they most closely identify. Ancestry refers to a person’s ethnic origin or descent, “roots,” heritage, or the place of birth of the person, of the person’s parents, or of their ancestors before their arrival in the United States. For example, a response of “Italian” might reflect total involvement in an Italian community or only a memory of ancestors several generations removed from the individual. However, the concept of national origin, especially in the context of discrimination, refers most directly to those either from a particular place of origin (i.e., the first generation) or who exhibit the physical, cultural, or linguistic characteristics associated with that national origin group (i.e., the first and second generation). In other words, national origin discrimination refers more specifically to the denial of equal opportunity because of an individual’s recent migration history, not that several generations in the past.<sup>1</sup> Questions on parental place of birth, by dividing the population into generation groups, provide data that reflect a person’s recent migration history and, by extension, national origin.

Table 1. **Statutory Requirements**

Statutory requirement		Classi- fication	Uses	Lowest Geography	Frequency
Title	Citation				

<sup>1</sup> Beyond the second generation, it is likely that claims of discrimination would be made based on race, Hispanic origin, or gender, rather than national origin.

Civil Rights Act of 1964 (Unlawful Employment Practices)	42 USC 2000e-2	R	Used to determine if a group is under-represented in the employer's workforce, requires a comparison between the composition of the employer workforce and the composition of the qualified population in the relevant civilian labor force.	Place	Yearly
Title VII of the Civil Rights Act of 1964	42 USC 2000e-2 and 2000e-16 b(1); 29 CFR 1607.4	R	To enforce the non-discrimination provisions under Title VII of the Civil Rights Act, data may be used to assess employment status by national origin.	County, place	Yearly
The Public Health and Welfare	42 USC 245b	P	To provide basic health services for medically underserved populations, including migratory and seasonal agricultural workers and members of their families.	County, place	Yearly
Immigration Reform and Control Act	8 USC 1364	P	Information is used to assess the impact of immigration on the economy, labor and housing markets, educational system, social services, foreign policy, environmental quality and resources, the rate, size, and distribution of population growth, and the impact on states and local units of government of high rates of immigration settlement.	County	Yearly
Education Research, Statistics, Evaluation, Information, and Dissemination	20 USC 9543	P	Collect, analyze, and report information by gender, race, ethnicity, socioeconomic status, limited English proficiency, mobility, disability, urban-rural, suburban districts, and other population characteristics, when such disaggregated information will facilitate educational and policy decision making.	State, county, place	Yearly
Education of Migratory Children	20 USC 6393 and 6399	P	To meet the educational needs of migratory children to help reduce the educational disruptions and other problems that result from repeated moves.	State, county	Yearly
Language Enhancement and Academic Achievement Act	20 USC 6812 and 6821	P	To meet the educational needs of limited English proficient children.	State, county	Yearly
Improving Language Instruction Educational Programs	20 USC 6917, 6932, and 6983	P	To ensure that limited English proficient children master English and meet the same standards for academic achievement as all children	State	Yearly
<p>M (Mandatory): if there is a federal law that explicitly calls for the use of decennial census or American Community Survey data on that question. R (Required): if there is a federal law (or implementing regulation) that explicitly requires the use of data and the decennial census or the American Community Survey is the historical source; or if the data are needed for case law requirements imposed by the U.S. federal court system. P (Programmatic): if the data are needed for programming planning, implementation, or evaluation <u>and</u> there is no explicit requirement for the use of the data as explained for Mandatory or Required.</p>					

Parental place of birth data would also provide useful information about migratory and seasonal agricultural workers and their families, called for by U.S. Code focusing on public health and education (Title 42 – The Public Health and Welfare and Title 20 – Education). According to the 2007 American Community Survey, about half of all

workers in agricultural occupations were foreign born. Estimates of this population by generation groups would enable health care providers to tailor their programs, providing services in the language and cultural context most appropriate to their patients, which would include first-generation adults and many second-generation children. According to the 2008 Current Population Survey, of all children under age 18, about 5 percent are first generation while 20 percent are second generation. Having local estimates of the population by generation group would help school districts to plan and implement programs directed at the special needs of both immigrant and second-generation children. U.S. Code focusing on education also emphasizes the need to develop special programs for limited-English proficiency (LEP) students (including, for example, the Language Enhancement and Academic Achievement Act). Although it is assumed that the majority of LEP students are immigrant children, many are likely to be second generation. Data on parental place of birth at the state and local level would provide school districts the ability to estimate the total number of potential LEP students – both first and second generation – that may require special training. It would also provide education policymakers with data on children under age 5, which could help with planning.<sup>2</sup>

Finally, parental place of birth data, when combined with other demographic, economic, and migration-related statistics, such as age, sex, occupation, year of arrival, and citizenship status, can be used to assess the impact of immigration on, for example, the economy, labor markets, education system, social services, etc. U.S. Code focusing on the impact of immigration (Title 8 – Aliens and Nationality) call for data that can help address the impact of immigration, including the rate, size, and distribution of population growth in the United States. While the size of the immigrant population can increase only through additional in-migration, immigrants contribute to the overall population by having children (who are native if born in the United States). Questions on parental place of birth will give policymakers and planners a way to assess the immediate impact of immigration and the longer-term impact of immigrant fertility.

#### *Future Research on Parental Place of Birth*

The Census Bureau believes there is added value in collecting information about parental place of birth, though some may feel that this topic is somewhat duplicative when collected in connection with existing survey questions on race, Hispanic origin, and ancestry. Adding the parental place of birth questions to the questionnaire in 2013 would be done as part of a multi-year process to further examine the relationship of the data for these topics. The ACS data would also be evaluated in connection with results from the 2010 Census Alternative Questionnaire Experiment, and this combined research would be used in determining recommendations for which questions would remain on the ACS at the conclusion of this process. The Census Bureau plans to provide various opportunities for public comment as well as dialogue

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<sup>2</sup> Data on language spoken at home and the ability to speak English is collected for individuals age 5 and over. By estimating the number of children under age 5 who are either immigrants or second generation, parental place of birth data could provide to education planners early statistics on those likely to need special language training.



with groups that are especially interested in these data as we refine the plans and share results on this cross-topical research.