

## Discussion

### Statistics in the National Interest

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Dr. Habermann is unusually, even uniquely, qualified to consider the issues highlighted by the statistical product provided to the Department of Homeland Security by the U. S. Census Bureau – issues of law, of ethics, of prudence, of agency responsibility, of the common good. Drawing on his deep experience in the nation's and the world's statistical systems, it is no surprise that the result is a thoughtful essay on difficult decisions that frequently confront statistical agencies. His experience and wisdom notwithstanding, I do not find his essay persuasive on one key issue, labeled later in my comments as “mission harm.”

Habermann starts with the well-known principles of an individual-based policy of confidentiality, and reiterates that in neither the Japanese-American relocation of 1942 nor the more recent tabulation of Arab ancestry for Homeland Security was there violation of the U.S. Census Bureau's bedrock confidentiality pledge. Critics replied: But did not the U.S. Census Bureau cooperate with security agencies in ways that could lead to group harm? That question, argues Habermann, cannot guide a statistical agency. I agree.

Social and economic policy is about population groups. Statistics describe the size, the characteristics, and the projected changes in the conditions of those groups. It is inevitable that in the application of statistics to public policy the benefits and costs will be unevenly distributed across various population groups. These benefits and costs also will be imperfectly predicted and will in any case change over the course of a policy's history. Think of statistical proportionality as a tool designed to redress the legacy of racial discrimination during the several decades in which policy and its statistical underpinnings shifted from black-white differences to people of color and then, broader yet, to all groups historically discriminated against, including women, and more recently to the complexities of a diversity agenda that sweeps in recent immigrants.

A statistical agency cannot make “group harm” a criterion in releasing data. Down that path is not better statistical information for better policy but fewer and fewer statistics and less informed policy. It is the task of politics, not statistical agencies, to ameliorate group harm associated with policy interventions.

But let us back up to Habermann's starting point: confidentiality protection. This principle is so critical that statistical agencies adopt extraordinary practices – including

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adding “noise” in their own data products – to ensure it. Why so? Because *there are no national statistics* unless millions of people tick boxes, fill in forms, respond to queries, and otherwise cooperate when asked to give information about themselves and their households. Absent these individual acts of cooperation the statistical system comes up empty. It is the premise of statistical agencies that cooperation will be forthcoming only if they deliver on the promise that information provided can never be used to harm the person providing it. The confidentiality pledge is widely taken to be a necessary prior condition of there being national statistics in the first place.

The stakes are high. We cannot even imagine a modern democracy in the absence of statistical information. Democracy differs from other forms of rule in requiring that its leaders justify their policies. A monarch or a dictator has no such burden – an order is an order. Not so for the democratically elected leader. And justifications for this or that policy intervention are endlessly couched in arguments that draw on statistics – this tax policy is fair because it helps the middle-class; given the age structure of society the future of social security is at risk; our education system is failing to improve math skills; we can control inflation by judicious changes in the interest rate; on and on. Elections in a democracy are in large part assertions that “my policies will work better than my opponent’s,” assertions buttressed with whatever data can be reasonably brought to bear.

Seen in this light, the pledge of confidentiality made by a statistical agency is instrumental to its more fundamental task – ensuring that a democracy has quality information about its economy and society. If an agency behaves in such a way as to put that responsibility at risk, it has messed up.

With this argument in mind, I rephrase Habermann’s starting question – asking not what the U.S. Census Bureau owes to the individual respondent but what the U.S. Census Bureau owes to the nation. Along with its partners in the federal statistical system the Bureau’s mission is to provide reliable and accurate information. It cannot do so unless the people cooperate with its censuses and surveys; this is why the confidentiality pledge looms so large in statistical practice and principles.

On the eve of Census 2000, an academic paper was given examining the role of the U.S. Census Bureau in the relocation of Japanese-Americans in 1942. At about the same time there erupted a loud and wide-spread privacy debate focused on the Census 2000 long form. Conservative talk show hosts and editorial writers often referenced the 1942 relocation as part of their more general attack on government intrusiveness. The larger privacy debate took on a life of its own. Late night comics were quick to join in, as were politicians from mayors to a presidential candidate. George W. Bush said he understood “why people don’t want to give over that information to the government. If I had the long form, I’m not so sure I would do it either.” The Senate majority leader, Trent Lott, urged voters to skip any questions they felt violated their privacy. Congressman Tom Coburn of Oklahoma said he was “appalled and outraged by the intrusiveness” of the long-form questions. The U.S. Senate got in the act, passing a nonbinding resolution urging that “no American be prosecuted, fined, or in any way harassed” by the government for refusing to complete the census long form.

At census headquarters (I was then Director) there was well-grounded concern about how much the census would be harmed by a media campaign that threatened to turn the

long form into a poster child for an intrusive government. We were in the early stages of the census mailback phase; forms were coming in more slowly than expected. Our overriding focus at that phase of the census was a high mailback rate.

One element in play was the sense among a number of advocacy groups, particularly those working with minority populations, that the privacy debate would depress cooperation and thus an accurate count of America's racial minorities. Some of these groups were focused on how the Japanese-American relocation in 1942 was echoing across the media coverage, knowing that their constituencies were already wary about government misuse of census answers. They brought to my attention that the U.S. Census Bureau had never apologized for its proactive role in the relocation effort, even though the federal government had issued a general apology. Against the advice of members of the senior staff, I did apologize on behalf of the U.S. Census Bureau.<sup>2</sup>

My reasoning started from the fear that the privacy outcry could influence the mailback rate. (This was subsequently confirmed, see Prewitt (2004) and Hillygus et al. (2006)) The apology was among many actions taken. I hoped, in however small a way that a formal apology would motivate advocacy groups to continue their strong support of Census 2000, and also give them needed ammunition to counter the incessant media message that the government, and its census, could not be trusted. My decision in this matter did not reflect personal views about the rightness or wrongness of the Japanese-American relocation in 1942. It was about protecting census operations in 2000.

In the latter part of his article, Habermann looks to the resignation of Attorney General Elliott Richardson during the Watergate crisis to offer comment on individual ethics. I see Richardson's resignation as more instructive about the potential of mission harm. Richardson, I believe, did not "reject the authority of the President of the United States to define the common good" as suggested by Habermann. Rather, he believed the President to be mistaken in presuming that the common good would be advanced by having the Justice Department fire the Special Prosecutor. Richardson acted to protect the credibility of the Justice Department *because* a Justice Department lacking credibility was not in the national interest.

Habermann's otherwise compelling article fails to address the key question posed by Richardson's resignation. If the Census Bureau Director believes that a given action (or inaction) will harm the ability of the Bureau to provide reliable and accurate statistics to the nation, what is to be done? This question is not about the Director's personal ethics. It is solely concerned with how the agency can best carry out the mission it is assigned.

To complicate the question – what if the Director believes that a given action will harm the Bureau's mission, but Homeland Security or even the President, from a perspective much broader than response rates to government surveys, sees it otherwise? To draw a fanciful analogy, but one that helps make the point, what if the head of NASA believes that

<sup>2</sup> After submitting this commentary, it came to my attention that the U.S. Census Bureau did release micro-data as part of its cooperation in facilitating Japanese-American relocation. This is much more serious than releasing aggregate data, as had been the claim of the U.S. Census Bureau. Had I known about the micro-data release at the time, my apology would have been worded differently. See William Seltzer and Margo Anderson, *Census Confidentiality under the Second War Powers Act (1942-1947)*, Population Association of America, 2007. Abstract at <<http://paa2007.princeton.edu/>>

the President is mistaken about the risks attendant on a given shuttle launch? We would certainly expect the NASA head to draw on personal expertise (not personal ethics) to decide whether to launch – not simply to carry out the President’s wishes. We expect no less from the Director of the U.S. Census Bureau – whose job it is to bring personal expertise to bear when calculating the potential of a given action to harm the Bureau’s mission.

Put more generally, because

- the mission of the U.S. Census Bureau (and by extension any statistical agency) is vulnerable to the withdrawal of public cooperation; and because
- without that cooperation the bureau cannot provide statistical products to the nation, to the best of its ability the U.S. Census Bureau
- should not act in ways that will lessen the public’s willingness to cooperate with the census or with statistical surveys conducted by the government.

It is too narrow a construction of the Bureau’s mission responsibility to treat a violation of the confidentiality pledge as the only action that might reduce public cooperation with the census and other statistical surveys.

It is of course possible to agree to this line of reasoning and yet disagree about the likely effect of a given action.

I came to the conclusion that a formal apology for the Bureau’s proactive engagement in the 1942 relocation of Japanese-Americans was called for in the context of the 2000 Census. Others in the U.S. Census Bureau came to a different conclusion. (Habermann’s article does not consider how the Bureau’s 1942 actions were being used against the Census in April, 2000.)

To apply the same line of reasoning to current circumstances, I believe that the U.S. Census Bureau would have better served its mission had it refused Homeland Security’s request for the Arab ancestry tabulation, and explained to the Department how such an action would be viewed by Arab-Americans and other groups wary about the misuse of personal information given to the government.

One can hypothesize about other circumstances, when a broader national purpose might trump harm to census cooperation. But in the instance at hand, saying yes to Homeland Security has costs that easily outweigh the benefits.

More generally, principles to guide the U.S. Census Bureau as it decides what statistical products to release should take account of the circumstances in which they are to be applied. Specifically, in the present historical moment, it is useful to keep in mind that

- . . . the public has serious privacy and confidentiality anxieties, for reasons that extend well beyond actions of the federal government;
- . . . rates of voluntary cooperation with surveys, including government surveys, are declining;
- . . . Arab-Americans have particular reasons to be concerned about surveillance and the possible misuse of government power;
- . . . wariness about the government’s information collection efforts is not limited to Arab-Americans.

Given these conditions, which are likely to be with us for some time, the U.S. Census Bureau should be especially sensitive about whether a given statistical product might lead to public mistrust and withdrawal of cooperation – even if the mistrust exaggerates the actual circumstances.

There is an issue beyond that of group harm or individual ethics or the particular vs. the common good. It is *mission harm*: how to define it, how to weigh it. We would all benefit if Dr. Habermann would turn his formidable intelligence to that issue as well as those he has considered.

### References

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