Selendy Gay Represents Political Scientist Investigating Census Bias

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Represented by Selendy Gay, Dr. Justin Phillips, a professor of political science at Columbia University, has sued the U.S. Census Bureau in New York federal court, seeking the release of data that experts need to evaluate a potential source of distortion in the 2020 Census.

Dr. Phillips—represented pro bono by Selendy Gay and the Election Law Clinic at Harvard Law School— filed a Freedom of Information Act ("FOIA") request with the Census Bureau in July 2022, but the Bureau did not respond within its legal deadline. On Monday, October 31, Dr. Phillips brought an action in the Southern District of New York, seeking an order to compel the Bureau to comply with FOIA.

Dr. Phillips is researching a hypothesis that the U.S. Census Bureau's current method of protecting individuals' privacy is inadvertently introducing biases, with serious consequences. Experts have raised concerns that a component of the Census Bureau's privacy algorithm is systematically inflating the populations of more sparsely populated areas while shrinking denser population centers, which are typically more diverse.

If communities' reported populations are being artificially reduced in the census, these communities will not receive an equitable share of political power and public resources. Published census data are used to redraw legislative districts and distribute hundreds of billions of dollars in government funding.

Currently, census data undergoes three steps to protect the privacy of individuals. First, the Census Bureau collects raw data, which cannot be released to the public until 72 years after its collection. Second, the raw data is injected with computer-generated error, resulting in "noisy" data. The goal of this step is to protect individual census responses from being reverse engineered. Third, in a step known as "post-processing," the Bureau attempts to clean up the noisy data by eliminating negative and fractional numbers.

Dr. Phillips seeks access to the noisy data so that this data can be compared to the Bureau's final, official statistics. This comparison could reveal whether the Bureau's post-processing step is introducing bias, as experts suspect. Dr. Phillips does not seek the release of raw, non-privacy-protected census data.

Selendy Gay partner Jordan Goldstein and associate Jeff Zalesin, together with the Harvard Election Law Clinic, represent Dr. Phillips in his litigation against the Census Bureau.

Attorneys
- Jordan A. Goldstein
- Jeff Zalesin

Practice
- Public Interest and Pro Bono