

September 24, 2018

The Honorable Jesse M. Furman
United States District Court for the Southern District of New York
40 Centre Street, Room 2202
New York, NY 10007

RE: Plaintiffs' letter-motion to compel production of documents in *State of New York, et al. v. U.S. Dep't of Commerce, et al.*, 18-CV-2921 (JMF).

Dear Judge Furman,

Plaintiffs seek disclosure of seventeen documents that Defendants have withheld on privilege grounds: (1) one email exchange, withheld on a claim of attorney-client privilege, reflecting the Commerce Department's alteration of the Census Bureau's description of its protocols to add a question to the census, Ex. 1 (AR 9190); and (2) sixteen documents, each withheld on attorney-client and deliberative process grounds, that include copies of and emails regarding James Uthmeier's August 11, 2017 memo to the Secretary on the citizenship question, Ex. 2.¹ Plaintiffs have been unable to resolve this dispute through good faith meet-and-confer discussions with Defendants' counsel. Plaintiffs therefore request, pursuant to Rule 2(C) of this Court's Individual Rules, an informal discovery conference or an order compelling disclosure of the challenged documents. *See* Ex. 3 (privilege log with challenged documents highlighted).

1. *The Commerce Department's alteration of the Census Bureau's responses.* Census Bureau Chief Scientist Dr. John Abowd concluded in a January 19, 2018 memo that adding a citizenship question to the census was "very costly, harms the quality of the census count," and was not the best option to "meet[] DoJ's stated uses." Ex. 4. On January 30, Earl Comstock asked the Bureau for responses to 35 separate questions about Dr. Abowd's memo. Ex. 5. The resulting Q&A document was placed in Defendants' initial Administrative Record. Ex. 6.

Question 31 asked: "What was the process that was used in the past to get questions added to the decennial Census or do we have something similar where a precedent was established?" *Id.* The Census Bureau prepared a response that it transmitted to the Commerce Department several days later, and which stated in part:

The Census Bureau follows a well-established process when adding or changing content on the census or ACS to ensure the data fulfill legal and regulatory requirements established by Congress. Adding a question or making a change to the Decennial Census or the ACS involves extensive testing, review, and evaluation. This process ensures the change is necessary and will produce quality, useful information for the nation.

- The Census Bureau and the Office of Management and Budget (OMB) have laid

¹ The sixteen documents include (a) six copies of the Uthmeier memo and associated emails, *see* AR 11342, AR 11346, AR 11349, AR 11352, AR 11363, AR 12464; and (b) ten emails between Mr. Uthmeier, Mr. Comstock, and Leonard Shambon, *see* AR 11301, AR 11302, AR 11303, AR 11305, AR 11306, AR 11312, AR 11333, AR 11335, AR 11353, AR 11355. Of these sixteen documents, nine were withheld in full; the seven withheld in part are attached as Ex. 2 to this letter motion.

- out a formal process for making content changes.
- First, federal agencies evaluate their data needs and propose additions or changes to current questions through OMB.
 - In order to be included, proposals must demonstrate a clear statutory or regulatory need for data at small geographies or for small populations.
 - Final proposed questions result from extensive cognitive and field testing to ensure they result in the proper data, with an integrity that meets the Census Bureau's high standards. . . .
 - The final decision is made in consultation with OMB.

Ex. 7. This description of the Census Bureau's "well-established" process for adding a question to the census is consistent with other documents in the Administrative Record. Ex. 8. Census Bureau witnesses testified Secretary Ross did not follow a number of these well-established steps in adding the question to the census questionnaire. Ex. 9; Ex. 10.

After the Census Bureau transmitted its response to Question 31 to Commerce, however, Commerce officials substantively revised the Census Bureau's response to read: "Because no new questions have been added to the Decennial Census (for nearly 20 years), *the Census Bureau did not [feel] bound by past precedent* when considering the Department of [Justice's] request." Ex. 6 (emphasis added). Census Bureau witnesses have testified they did not know why the response to that question was altered. Ex. 9; Ex. 10. The record indicates that Commerce appointee Sahra Park-Su transmitted a revised response to Question 31 to senior Commerce Department and Census Bureau staff on February 23, and that Census Bureau Senior Advisor Christa Jones responded, but Defendants have redacted most of the exchange on a claim of attorney-client privilege. Ex. 1, Ex. 3.

The attorney-client privilege "protects communications (1) between a client and his or her attorney (2) that are intended to be, and in fact were, kept confidential (3) for the purpose of obtaining or providing legal assistance." *Brennan Ctr. for Justice v. DOJ*, 697 F.3d 184, 207 (2d Cir. 2012). These requirements are not met here. Neither Ms. Park-Su nor Ms. Jones was acting as an attorney, and Defendants' privilege log makes no claim that they were. Ex. 3. The log states only that the email reflects "[c]ommunications with counsel re draft answer to question." *Id.* Defendants later asserted on September 19 during the meet-and-confer process (after the Court's final August 21 deadline for curing deficiencies in the privilege log, *see* Docket No. 241), that because Michael Walsh – a Commerce Department lawyer – assisted in the response, the privilege could attach. But Mr. Walsh is a passive participant on the exchange, and merely copying a lawyer on an email is insufficient grounds for invoking attorney-client privilege. *See, e.g., Retail Brand All., Inc. v. Factory Mut. Ins. Co.*, No. 05 Civ. 1031 (RJH) (HBP), 2008 WL 622810, at *2 (S.D.N.Y. May 7, 2008). Even if Mr. Walsh re-wrote the response to Question 31, attorney-client privilege would not apply because a "communication intended for publication is not intended to be confidential, . . . and therefore is not within the privilege." *See, e.g., Favors v. Cuomo*, 285 F.R.D. 187, 198 (E.D.N.Y. 2012) (citation omitted). Moreover, Defendants have produced many other emails concerning the review of materials prepared for the Administrative Record in which lawyers (including Mr. Walsh) are copied. Ex. 11. This selective disclosure constitutes a subject matter waiver of any applicable attorney-client privilege regarding the review or editing of materials disclosed in the Administrative Record, like the challenged document here. *See, e.g., In re von Bulow*, 828 F.2d 94, 102-03 (2d Cir. 1987).

Second, nothing about the email exchange gives any indication that it is a request for or involves the communication of legal advice; and again, the privilege log makes no claim that it does. “[T]he privilege attaches only if ‘the predominant purpose is to render or solicit legal advice.’” *In re General Motors LLC Ignition Switch Litig.*, 80 F. Supp. 3d 521, 529 (S.D.N.Y. 2015) (quoting *In re County of Erie*, 473 F.3d 413, 420 (2d Cir. 2007)). Because nothing about this email exchange reflects that *any* part of its purpose was to render or solicit legal advice, the privilege cannot attach and this document should be disclosed.

2. *The August 2017 Uthmeier Memo.* On August 10, 2017, in response to an observation from Secretary Ross that an unnamed person “seem[s] d[u]g in about not [asking] the citizenship question,” Mr. Comstock responded “we are preparing a memo and full briefing for you on the citizenship question.” Ex. 12. The following day, Mr. Uthmeier sent a memo to Secretary Ross. Ex. 3. Defendants have withheld on attorney-client and deliberative process grounds six copies of this memo, as well as ten related communications between Mr. Uthmeier, Mr. Comstock, and Leonard Shambon, who conducted fact-gathering for the memo. *See infra* 1 n.1; Ex. 3.

As to the attorney-client privilege claims, Defendants themselves have characterized the Uthmeier memo and related correspondence as including non-legal advice. Mr. Uthmeier’s communications indicate that Mr. Shambon was gathering historical and factual information for the August 11 memo, which Mr. Shambon referred to as a “chronology” and “timeline.” Ex. 2. In addition, Mr. Comstock’s September 12, 2018 declaration stated the contents of the memo consisted of “analyzing various issues and history associated with the citizenship question.” Docket No. 315-2 (AR 11363). And Mr. Uthmeier’s August 15, 2018 declaration regarding a contemporaneous briefing book he prepared reflects it contained substantial factual information. Docket No. 253 ¶¶ 3, 6(d), 6(e). There is substantial reason to believe that the August 11 memo and Mr. Uthmeier’s related communications included presentation of historical or other facts, rather than purely legal analysis or advice. To the extent the memo and other communications convey this factual information rather than legal advice, they are not protected: “the communication of factual information is not protected by the attorney-client privilege.” *Women’s InterArt Ctr., Inc. v. N.Y.C. Econ. Dev.*, 223 F.R.D. 156, 160-61 (S.D.N.Y. 2004); *see also Nat’l Hockey League Players’ Ass’n v. Bettman*, No. 93-cv-5769-KMW, 1994 WL 38130, at *12 (S.D.N.Y. Feb. 4, 1994).

Defendants have also claimed deliberative process privilege over these documents. Applying the balancing test set out in *Winfield v. City of N.Y.*, 2018 WL 716013 (S.D.N.Y. Feb. 1, 2018), the seriousness of the litigation and the role of the agency weigh heavily in favor of disclosure. *See* Tr. of Sept. 14 Conference, at 9-10. Even if disclosure may inhibit future candid debate among agency actors, *see id.* at 10, the remaining two factors – relevance of the evidence, and availability of other evidence – weigh in favor of disclosure. The Uthmeier memo was presented to the Secretary immediately after, and in apparent response to, his complaint about the “citizenship question,” Ex. 12, and may go to central issues in the case, including the Secretary’s intent. Although some of this information could be obtained through the Secretary’s deposition, *see* Docket No. 345, this factor does not weigh against disclosure where Defendants are planning to seek interlocutory review of the Court’s order, *see* Docket No. 320 at 3. The October 12 discovery deadline does not allow for abating document productions while the deposition question is resolved. These documents should be reviewed *in camera* to determine whether they, or any portion thereof, may be produced.

Respectfully submitted,

ARNOLD & PORTER KAYE SCHOLER LLP
AMERICAN CIVIL LIBERTIES UNION

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Exhibit 1

To: Park-Su, Sahra (Federal) [REDACTED]
Cc: Ron S Jarmin (CENSUS/ADEP FED); Ron S Jarmin (Census.gov); Enrique Lamas (CENSUS/ADEP FED)[Enrique.Lamas@census.gov]; Kelley, Karen (Federal) [REDACTED]; Walsh, Michael (Federal) [REDACTED]; Lenihan, Brian (Federal) [REDACTED]
From: Christa Jones (CENSUS/ADEP FED)
Sent: Sat 2/24/2018 7:01:41 PM
Importance: Normal
Subject: Re: Draft Response to Question
Received: Sat 2/24/2018 7:01:42 PM

Sahra, I'm fine with this. [REDACTED]
[REDACTED]

On Feb 23, 2018, at 6:50 PM, Park-Su, Sahra (Federal) <[REDACTED]> wrote:

Ron/Enrique/Christa,

Thank you again for you all your assistance. Below is [REDACTED]
Please let us know if you have any questions, comments, or concerns. Have a great weekend.

Sahra

What was the process that was used in the past to get questions added to the decennial Census or do we have something similar where a precedent was established?

[REDACTED]

Senior Policy Advisor

Office of Policy and Strategic Planning

U.S. Department of Commerce

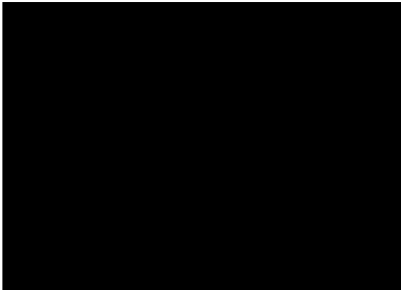


Exhibit 2

To: Uthmeier, James (Federal) [REDACTED]
Cc: Shambon, Leonard (Federal) [REDACTED]
From: Shambon, Leonard (Federal)
Sent: Wed 8/16/2017 10:23:51 PM
Importance: Normal
Subject: second chronology
Received: Wed 8/16/2017 10:23:53 PM
[REDACTED]

Here's my first cut at the second topic. Again, it's pretty correct. [REDACTED]
[REDACTED]

LS

Leonard M. Shambon

Special Legal Advisor

Office of the Chief Counsel for Economic Affairs

U.S. Department of Commerce
[REDACTED]

To: Uthmeier, James (Federal) [REDACTED]
Cc: Shambon, Leonard (Federal) [REDACTED]
From: Comstock, Earl (Federal)
Sent: Fri 8/11/2017 10:52:16 PM
Importance: Normal
Subject: Re: Census Timeline
Received: Fri 8/11/2017 10:52:17 PM

Thanks James and Lenny. I look forward to reviewing. Will let you know if I have questions. Earl

Sent from my iPhone

On Aug 11, 2017, at 6:34 PM, Uthmeier, James (Federal) <[REDACTED]> wrote:

Earl-

Lenny Shambon, [REDACTED]
[REDACTED] We are happy to discuss next week.

Keep me posted if you need anything over the weekend.

James

Begin forwarded message:

From: "Shambon, Leonard (Federal)" <[REDACTED]>
Date: August 11, 2017 at 6:16:58 PM EDT
To: "Uthmeier, James (Federal)" <[REDACTED]>
Cc: "Shambon, Leonard (Federal)" <[REDACTED]>
Subject: Here's

[REDACTED] It's still marked draft, but I'm pretty confident about its content.
Just haven't had time to check it. You'll find it's pretty interesting.

I haven't had a chance to look at your draft. I'm printing it out now to look over at home. Will let you know.

Special Legal Advisor

Office of the Chief Counsel for Economic Affairs

U.S. Department of Commerce

[REDACTED]

[REDACTED]

To: Uthmeier, James (Federal [REDACTED])
Cc: Shambon, Leonard (Federal [REDACTED])
From: Shambon, Leonard (Federal)
Sent: Fri 8/11/2017 10:16:58 PM
Importance: Normal
Subject: Here's
Received: Fri 8/11/2017 10:17:01 PM
[REDACTED]

[REDACTED] It's still marked draft, but I'm pretty confident about its content. Just haven't had time to check it. You'll find it's pretty interesting.

I haven't had a chance to look at your draft. I'm printing it out now to look over at home. Will let you know.

Leonard M. Shambon

Special Legal Advisor

Office of the Chief Counsel for Economic Affairs

U.S. Department of Commerce
[REDACTED]

To: Uthmeier, James (Federal) [REDACTED]
From: Shambon, Leonard (Federal)
Sent: Fri 8/11/2017 6:56:17 PM
Importance: Normal
Subject: RE: Census paper
Received: Fri 8/11/2017 6:56:19 PM

Got it and will shoot you the timeline. Updating it now.

Leonard M. Shambon

Special Legal Advisor

Office of the Chief Counsel for Economic Affairs

U.S. Department of Commerce

[REDACTED]

From: Uthmeier, James (Federal)
Sent: Friday, August 11, 2017 1:59 PM
To: Shambon, Leonard (Federal) [REDACTED]
Subject: Fwd: Census paper

Hey Lenny,

I just wanted to shoot you a current copy of the census paper. Earl is currently reviewing, [REDACTED]

[REDACTED]

[REDACTED]

Thank you and happy Friday!

James

Begin forwarded message:

From: "Uthmeier, James (Federal)" [REDACTED]
Date: August 11, 2017 at 10:18:56 AM EDT
To: "Comstock, Earl (Federal)" [REDACTED]
Subject: Re: Census paper

Made a couple small edits for clarity. [REDACTED]

Cc: Shambon, Leonard (Federal)
To: Comstock, Earl (Federal)
From: JUthmeier@doc.gov
Sent: Fri 8/11/2017 10:34:31 PM
Importance: Normal
Subject: Fwd: Census Timeline
Received: Fri 8/11/2017 10:34:33 PM

[ATT00001.htm](#)

Earl-

Lenny Shambon,

We are happy to discuss next week.

Keep me posted if you need anything over the weekend.

James

Begin forwarded message:

From: "Shambon, Leonard (Federal)"
Date: August 11, 2017 at 6:16:58 PM EDT
To: "Uthmeier, James (Federal)"
Cc: "Shambon, Leonard (Federal)"
Subject: Here's

It's still marked draft, but I'm pretty confident about its content. Just haven't had time to check it. You'll find it's pretty interesting.

I haven't had a chance to look at your draft. I'm printing it out now to look over at home. Will let you know.

Leonard M. Shambon

Special Legal Advisor

Office of the Chief Counsel for Economic Affairs

U.S. Department of Commerce

0011333



To: Shambon, Leonard (Federal)[REDACTED]
From: Uthmeier, James (Federal)
Sent: Mon 8/7/2017 12:28:38 PM
Importance: Normal
Subject: Census
Received: Mon 8/7/2017 12:28:00 PM

Hi Lenny,

Hope you had a very nice weekend. Before you head off in a couple weeks, I was wondering if you might be willing to help out with some of the Census work that Austin was helping me with over the last month. [REDACTED]
I'm not sure what else you may be trying to get off your plate, so no worries if you are too tied up.

Thanks!

James

To: Shambon, Leonard (Federal) [REDACTED]
From: Uthmeier, James (Federal)
Sent: Tue 6/27/2017 12:23:22 PM
Importance: Normal
Subject: Census
Received: Tue 6/27/2017 12:23:23 PM

Hey Lenny,

Hope you're doing well. As we discussed last week, [REDACTED]
[REDACTED] 'm tied up until around 1030, but perhaps
we could chat after that? Let me know!

Thanks,
James

Exhibit 3

Prod.: Beg. Bates	Prod.: End Bates	Prod.: Beg. Attach.	Prod.: End Attach.	To	From	CC	Date/Sent	AUTHOR	DATE TIME CRTD	File Name	Privilege	Privilege Comments
0009094	0009094	0009091	0009094	N/A	N/A		3/00/2018	Taylor V. Ruggles	3/8/2018 5:26 PM	CQAS-08761b.docx	PII - Personal Privacy	Pre-decisional draft inter-agency memo regarding data sharing
0009179	0009181	0009179	0009181	Kenneth Prewitt	John H. Thompson	Vince Barabba; Arturo Vargas; Sallie Keller; Ron S Jarmin; Steve Murdock; Vanita Gupta; Tom Cook; Stephanie Shipp; Cathie Woteki; B. Groves; Kimberly A Lyman	12/11/2017 12:50			Re: thoughts.msg	PII - Personal Privacy	
0009183	0009183	0009182	0009183	N/A	N/A		3/26/2018	Christa Jones (CENSUS/DEPDI R FED)	3/14/2018 2:47 PM	TickTock Mar 26-29.docx	DP - Deliberative Process	Pre-decisional draft timing document
0009190	0009191	0009190	0009191	Park-Su, Sahra (Federal)	Christa Jones	Ron S Jarmin; Enrique Lamas; Kelley, Karen (Federal); Walsh, Michael (Federal); Lenihan, Brian (Federal)	2/24/2018 14:01			Re: Draft Response to Question.msg	AC - Attorney Client Privilege; PII - Personal Privacy	Communications with counsel re draft answer to question
0009192	0009192	0009192	0009192	Ron S Jarmin	Kasey O'Connor		2/23/2018 11:10			Fwd: 10.31 QFRs.msg	PII - Personal Privacy	
0009195	0009196	0009194	0009196	N/A	N/A			Jennifer Shopkorn (CENSUS/ADCO M FED)	2/13/2018 4:01 PM	STAKEHOLDERS.docx	PII - Personal Privacy	
0009197	0009198	0009197	0009201	Ron S Jarmin	Kelley, Karen (Federal)		2/5/2018 15:55			FW: DOJ Letter.msg	PII - Personal Privacy	

Prod.: Beg. Bates	Prod.: End Bates	Prod.: Beg. Attach.	Prod.: End Attach.	To	From	CC	Date/Sent	AUTHOR	DATE TIME CRTD	File Name	Privilege	Privilege Comments
0011298	0011298	0011296	0011298	Secretary Wilbur Ross, Wendy Teramoto, Earl Comstock	James Uthmeier		8/11/2017	Austin Schnell	8/11/2017 4:00 PM	Census Memo Draft Aug 11 2017.docx	AC - Attorney Client Privilege; DP - Deliberative Process	Draft legal memo discussing citizenship question and the census
0011299	0011299	0011299	0011299	Uthmeier, James (Federal); Langdon, David (Federal)	Robinson, Barry (Federal)		1/25/2018 12:54			RE: Census Process for Adding Questions.msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	discussion between counsel regarding follow- up questions and research for legal opinion
0011300	0011300	0011300	0011300	Uthmeier, James (Federal); Keller, Catherine (Federal)	Willard, Aaron (Federal)	Park-Su, Sahra	9/12/2017 18:14			follow-up.msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	Email exchange including Commerce counsel discussing further research on legal issues relating to citizenship data, as well as other unrelated issues
0011301	0011301	0011301	0011302	Uthmeier, James (Federal)	Shambon, Leonard (Federal)	Shambon, Leonard (Federal)	8/16/2017 18:23			second chronology.msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	Discussion of draft legal memo and personal plans
0011302	0011302	0011301	0011302	n/a	Leonard Shambon		8/16/2017	Shambon, Leonard (Federal)	8/16/2017 5:14 PM	foreigners included in enumeration Aug 16 2017.docx	AC - Attorney Client Privilege; DP - Deliberative Process	Draft outline of history related to census, prepared by counsel
0011303	0011304	0011303	0011304	Uthmeier, James (Federal)	Comstock, Earl (Federal)	Shambon, Leonard (Federal)	8/11/2017 18:52			Re: Census Timeline.msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	Discussion of draft legal memo and personal plans
0011305	0011305	0011305	0011306	Uthmeier, James (Federal)	Shambon, Leonard (Federal)	Shambon, Leonard (Federal)	8/11/2017 18:16			Here's .msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	Discussion of draft legal memo and personal plans
0011306	0011306	0011305	0011306	n/a	Leonard Shambon		8/11/2017, 6:13 p.m.	Shambon, Leonard (Federal)	8/11/2017 6:13 PM	Census category chronology August 11 2017.docx	AC - Attorney Client Privilege; DP - Deliberative Process	Draft legal memo on citizenship and the census
0011307	0011308	0011307	0011308	Uthmeier, James (Federal)	Comstock, Earl (Federal)		8/11/2017 16:07			Re: Census paper.msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	Discussion of draft legal memo; material on an unrelated issue

Prod.: Beg. Bates	Prod.: End Bates	Prod.: Beg. Attach.	Prod.: End Attach.	To	From	CC	Date/Sent	AUTHOR	DATE TIME CRTD	File Name	Privilege	Privilege Comments
0011309	0011310	0011309	0011311	Uthmeier, James (Federal)	Comstock, Earl (Federal)		8/11/2017 15:40			Re: Census paper.msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	Discussion of draft legal memo; material on an unrelated issue
0011311	0011311	0011309	0011311	Secretary Wilbur Ross, Wendy Teramoto, Earl Comstock	James Uthmeier		8/11/2017	Austin Schnell	8/11/2017 2:42 PM	Census Memo Draft Aug 11 2017 ec edits.docx	AC - Attorney Client Privilege; DP - Deliberative Process	Draft legal memo on citizenship question and the census in track changes mode
0011312	0011313	0011312	0011313	Uthmeier, James (Federal)	Shambon, Leonard (Federal)		8/11/2017 14:56			RE: Census paper.msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	Discussion of draft legal memo
0011314	0011315	0011314	0011315	Uthmeier, James (Federal)	Comstock, Earl (Federal)		8/11/2017 13:10			Re: Census paper.msg	AC - Attorney Client Privilege; DP - Deliberative Process	Discussion of draft legal memo; discussion of unrelated issue
0011316	0011316	0011316	0011316	Uthmeier, James (Federal)	Comstock, Earl (Federal)		8/11/2017 08:11			Re: Census paper.msg	PII - Personal Privacy	
0011317	0011317	0011317	0011318	Uthmeier, James (Federal)	Schnell, Austin (Federal)		7/11/2017 14:23			Hearing Prep - Census.msg	PII - Personal Privacy	
0011318	0011318	0011317	0011318	n/a	n/a		n/a	Schnell, Austin (Federal)	7/11/2017 1:40 PM	Hearing Prep - Census.docx	AC - Attorney Client Privilege; DP - Deliberative Process	Draft Qs&As on citizenship question for hearing prep
0011319	0011319	0011319	0011319	Uthmeier, James (Federal)	Keller, Catherine (Federal)		6/23/2017 13:30			2020 Census.msg	PII - Personal Privacy	
0011320	0011320	0011320	0011320	Walsh, Michael (Federal)	Uthmeier, James (Federal)	Comstock, Earl (Federal); Kelley, Karen (Federal)	3/25/2018 12:00			Re: proposed insert on response rate.msg	AC - Attorney Client Privilege; PII - Personal Privacy; WP - Work Product; DP - Deliberative Process	Email exchange including Commerce counsel discussing draft decision memo and proposing edits

Prod.: Beg. Bates	Prod.: End Bates	Prod.: Beg. Attach.	Prod.: End Attach.	To	From	CC	Date/Sent	AUTHOR	DATE TIME CRTD	File Name	Privilege	Privilege Comments
0011329	0011330	0011329	0011330	A M Neuman	Uthmeier, James (Federal)		9/13/2017 16:33			Re: Questions re Census.msg	AC - Attorney Client Privilege; PII - Personal Privacy	Matter on which legal advice has been sought; PII
0011331	0011331	0011331	0011331	Davidson, Peter (Federal)	Uthmeier, James (Federal)		8/14/2017 17:33			Re: Close Hold Census paper.msg	AC - Attorney Client Privilege; DP - Deliberative Process	Discussion among counsel on citizenship question decision and advice given to Secretary
0011332	0011332	0011332	0011332	Shambon, Leonard (Federal)	Uthmeier, James (Federal)		8/14/2017 11:12			Re: Census paper.msg	PII - Personal Privacy	
0011333	0011334	0011333	0011335	Comstock, Earl (Federal)	Uthmeier, James (Federal)	Shambon, Leonard (Federal)	8/11/2017 18:34			Fwd: Census Timeline.msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	Discussion of draft legal memo
0011335	0011335	0011333	0011335	n/a	n/a		8/11/2017 6:13 p.m.	Shambon, Leonard (Federal)	8/11/2017 6:13 PM	Census category chronology August 11 2017.docx	AC - Attorney Client Privilege; DP - Deliberative Process	Draft legal memo on citizenship question history
0011336	0011336	0011336	0011336	Schnell, Austin (Federal)	Uthmeier, James (Federal)		7/11/2017 17:56			Re: Hearing Prep - Census.msg	AC - Attorney Client Privilege; PII - Personal Privacy	
0011337	0011337	0011337	0011338	Walsh, Michael (Federal); Kelley, Karen (Federal); Comstock, Earl (Federal)	Uthmeier, James (Federal)		3/25/2018 09:35			Re: proposed insert on response rate.msg	AC - Attorney Client Privilege; WP - Work Product; DP - Deliberative Process	Email exchange, including counsel, discussing draft decision memo and including proposed language
0011338	0011338	0011337	0011338	n/a	n/a		n/a	Comstock, Earl (Federal)	3/25/2018 5:21 AM	Outline for Census Decision Memo v3.docx	AC - Attorney Client Privilege; WP - Work Product; DP - Deliberative Process	Draft decision memo in track changes mode
0011339	0011339	0011339	0011340	Uthmeier, James (Federal)	Schnell, Austin (Federal)		7/11/2017 16:05			RE: Hearing Prep - Census.msg	PII - Personal Privacy	

Prod.: Beg. Bates	Prod.: End Bates	Prod.: Beg. Attach.	Prod.: End Attach.	To	From	CC	Date/Sent	AUTHOR	DATE TIME CRTD	File Name	Privilege	Privilege Comments
0011340	0011340	0011339	0011340	n/a	n/a		n/a	Schnell, Austin (Federal)	7/11/2017 1:40 PM	Hearing Prep - Census.docx	AC - Attorney Client Privilege; DP - Deliberative Process	Draft Qs&As for hearing prep, prepared by counsel
0011341	0011341	0011341	0011342	Shambon, Leonard (Federal)	Uthmeier, James (Federal)		8/14/2017 09:50			FW: Census paper.msg	PII - Personal Privacy	
0011342	0011342	0011341	0011342	Secretary Wilbur Ross, Wendy Teramoto, Earl Comstock	James Uthmeier		8/11/2017	Austin Schnell	8/11/2017 4:00 PM	Census Memo Draft Aug 11 2017.docx	AC - Attorney Client Privilege; DP - Deliberative Process	Draft legal memo addressing citizenship question and the census
0011343	0011345	0011343	0011346	Comstock, Earl (Federal)	Uthmeier, James (Federal)		8/11/2017 16:05			Re: Census paper.msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	Discussion of draft legal memo; discussion of unrelated matter
0011346	0011346	0011343	0011346	Secretary Wilbur Ross, Wendy Teramoto, Earl Comstock	James Uthmeier		8/11/2017	Austin Schnell	8/11/2017 4:00 PM	Census Memo Draft Aug 11 2017.docx	AC - Attorney Client Privilege; DP - Deliberative Process	Draft legal memo on citizenship question and census
0011347	0011348	0011347	0011349	Comstock, Earl (Federal)	Uthmeier, James (Federal)		8/11/2017 10:18			Re: Census paper.msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	Discussion of draft legal memo; discussion of unrelated matter
0011349	0011349	0011347	0011349	Secretary Wilbur Ross, Wendy Teramoto, Earl Comstock	James Uthmeier		8/11/2017	Austin Schnell	8/11/2017 7:17 AM	Census Memo Aug 11 2017.docx	AC - Attorney Client Privilege; DP - Deliberative Process	Draft legal memo on citizenship question and the census
0011350	0011351	0011350	0011352	Comstock, Earl (Federal)	Uthmeier, James (Federal)		8/11/2017 09:55			Re: Census paper.msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	Discussion of draft legal memo; discussion of unrelated matter
0011352	0011352	0011350	0011352	Secretary Wilbur Ross, Wendy Teramoto, Earl Comstock	James Uthmeier		8/11/2017	Austin Schnell	8/11/2017 7:17 AM	Census Memo Aug 11 2017.docx	AC - Attorney Client Privilege; DP - Deliberative Process	Draft legal memo on citizenship question and the census
0011353	0011353	0011353	0011353	Shambon, Leonard (Federal)	Uthmeier, James (Federal)		8/7/2017 08:28			Census.msg	AC - Attorney Client Privilege; PII - Personal Privacy	Attorney's opinions on client matter

Prod.: Beg. Bates	Prod.: End Bates	Prod.: Beg. Attach.	Prod.: End Attach.	To	From	CC	Date/Sent	AUTHOR	DATE TIME CRTD	File Name	Privilege	Privilege Comments
0011354	0011354	0011354	0011354	Schnell, Austin (Federal)	Uthmeier, James (Federal)		7/11/2017 17:56			Re: Hearing Prep - Census.msg	PII - Personal Privacy	
0011355	0011355	0011355	0011355	Shambon, Leonard (Federal)	Uthmeier, James (Federal)		6/27/2017 08:23			Census.msg	AC - Attorney Client Privilege; PII - Personal Privacy; DP - Deliberative Process	discussion of request for legal advice
0011356	0011356	0011356	0011356	Comstock, Earl (Federal); Uthmeier, James (Federal); Kelley, Karen (Federal)	Walsh, Michael (Federal)		3/24/2018 12:26			proposed insert on response rate.msg	AC - Attorney Client Privilege; PII - Personal Privacy; WP - Work Product; DP - Deliberative Process	Discussion of proposed language for decision memo
0011357	0011360	0011357	0011361	Walsh, Michael (Federal); Comstock, Earl (Federal); Kelley, Karen (Federal)	Uthmeier, James (Federal)		3/24/2018 11:22			Re: Draft DOC Decision Memo.msg	AC - Attorney Client Privilege; PII - Personal Privacy; WP - Work Product; DP - Deliberative Process	Email exchange including Commerce counsel and DOJ litigation counsel discussing draft decision memo and proposing edits
0011361	0011361	0011357	0011361	n/a	n/a		n/a	Uthmeier, James (Federal)	3/24/2018 8:22 AM	Census decision memo draft 3.23.18.docx	AC - Attorney Client Privilege; WP - Work Product; DP - Deliberative Process	Draft decision memo in track changes mode
0011362	0011362	0011362	0011363	Ross, Wilbur	Comstock, Earl (Federal)	Teramoto, Wendy (Federal)	8/11/2017 16:12			Memo on Census Question.msg	PII - Personal Privacy; DP - Deliberative Process	Discussion of process for preparing and reviewing legal memo.
0011363	0011363	0011362	0011363	Secretary Wilbur Ross, Wendy Teramoto, Earl Comstock	James Uthmeier		8/11/2017	Austin Schnell	8/11/2017 4:07 PM	Census Memo Draft2 Aug 11 2017.docx	AC - Attorney Client Privilege; DP - Deliberative Process	Draft legal memo on citizenship question and the census
0011364	0011364	0011364	0011365	Uthmeier, James (Federal)	Schnell, Austin (Federal)		7/13/2017 18:30			Census Responses .msg	PII - Personal Privacy	
0011365	0011365	0011364	0011365	n/a	n/a		n/a	Schnell, Austin (Federal)	7/11/2017 1:40 PM	Hearing Prep - Census.docx	AC - Attorney Client Privilege; DP - Deliberative Process	Draft Qs&As for hearing prep

Prod.: Beg. Bates	Prod.: End Bates	Prod.: Beg. Attach.	Prod.: End Attach.	To	From	CC	Date/Sent	AUTHOR	DATE TIME CRTD	File Name	Privilege	Privilege Comments
0011366	0011366	0011366	0011367	Uthmeier, James (Federal)	Schnell, Austin (Federal)		7/11/2017 16:05			RE: Hearing Prep - Census.msg	PII - Personal Privacy	
0011367	0011367	0011366	0011367	n/a	n/a		n/a	Schnell, Austin (Federal)	7/11/2017 1:40 PM	Hearing Prep - Census.docx	AC - Attorney Client Privilege; DP - Deliberative Process	Draft Qs&As for hearing prep
0011368	0011368	0011368	0011369	Uthmeier, James (Federal)	Schnell, Austin (Federal)		7/11/2017 14:23			Hearing Prep - Census.msg	PII - Personal Privacy	
0011369	0011369	0011368	0011369	n/a	n/a		n/a	Schnell, Austin (Federal)	7/11/2017 1:40 PM	Hearing Prep - Census.docx	AC - Attorney Client Privilege; DP - Deliberative Process	Draft Qs&As for hearing prep, prepared by counsel
0012464	0012464	0012464	0012464	Secretary Wilbur Ross, Wendy Teramoto, Earl Comstock	James Uthmeier		8/11/2017			Citizenship Inquiry Memo Aug 11 2017.pdf	AC - Attorney Client Privilege; DP - Deliberative Process	Draft legal memo on citizenship question and the census

Exhibit 4



UNITED STATES DEPARTMENT OF COMMERCE
Economics and Statistics Administration
U.S. Census Bureau
Washington, DC 20233-0001

January 19, 2018

MEMORANDUM FOR: Wilbur L. Ross, Jr.
Secretary of Commerce

Through: Karen Dunn Kelley
Performing the Non-Exclusive Functions and Duties of the Deputy Secretary

Ron S. Jarmin
Performing the Non-Exclusive Functions and Duties of the Director

Enrique Lamas
Performing the Non-Exclusive Functions and Duties of the Deputy Director

From: John M. Abowd
Chief Scientist and Associate Director for Research and Methodology

Subject: Technical Review of the Department of Justice Request to Add
Citizenship Question to the 2020 Census

The Department of Justice has requested block-level citizen voting-age population estimates by OMB-approved race and ethnicity categories from the 2020 Census of Population and Housing. These estimates are currently provided in two related data products: the PL94-171 redistricting data, produced by April 1st of the year following a decennial census under the authority of 13 U.S.C. Section 141, and the Citizen Voting Age Population by Race and Ethnicity (CVAP) tables produced every February from the most recent five-year American Community Survey data. The PL94-171 data are released at the census block level. The CVAP data are released at the census block group level.

We consider three alternatives in response to the request: (A) no change in data collection, (B) adding a citizenship question to the 2020 Census, and (C) obtaining citizenship status from administrative records for the whole 2020 Census population.

We recommend either Alternative A or C. Alternative C best meets DoJ's stated uses, is comparatively far less costly than Alternative B, does not increase response burden, and does not harm the quality of the census count. Alternative A is not very costly and also does not harm the quality of the census count. Alternative B better addresses DoJ's stated uses than Alternative A. However, Alternative B is very costly, harms the quality of the census count, and would use substantially less accurate citizenship status data than are available from administrative sources.

<i>Summary of Alternatives</i>			
	<i>Alternative A</i>	<i>Alternative B</i>	<i>Alternative C</i>
Description	No change in data collection	Add citizenship question to the 2020 Census (i.e., the DoJ request), all 2020 Census microdata remain within the Census Bureau	Leave 2020 Census questionnaire as designed and add citizenship from administrative records, all 2020 Census microdata and any linked citizenship data remain within the Census Bureau
Impact on 2020 Census	None	Major potential quality and cost disruptions	None
Quality of Citizen Voting-Age Population Data	Status quo	Block-level data improved, but with serious quality issues remaining	Best option for block-level citizenship data, quality much improved
Other Advantages	Lowest cost alternative	Direct measure of self-reported citizenship for the whole population	Administrative citizenship records more accurate than self-reports, incremental cost is very likely to be less than \$2M, USCIS data would permit record linkage for many more legal resident noncitizens
Shortcomings	Citizen voting-age population data remain the same or are improved by using small-area modeling methods	Citizenship status is misreported at a very high rate for noncitizens, citizenship status is missing at a high rate for citizens and noncitizens due to reduced self-response and increased item nonresponse, nonresponse followup costs increase by at least \$27.5M, erroneous enumerations increase, whole-person census imputations increase	Citizenship variable integrated into 2020 Census microdata outside the production system, Memorandum of Understanding with United States Citizen and Immigration Services required to acquire most up-to-date naturalization data

Approved: _____ Date: _____

John M. Abowd, Chief Scientist
and Associate Director for Research and Methodology

Detailed Analysis of Alternatives

The statistics in this memorandum have been released by the Census Bureau Disclosure Review Board with approval number CBDRB-2018-CDAR-014.

Alternative A: Make no changes

Under this alternative, we would not change the current 2020 Census questionnaire nor the planned publications from the 2020 Census and the American Community Survey (ACS). Under this alternative, the PL94-171 redistricting data and the citizen voting-age population (CVAP) data would be released on the current schedule and with the current specifications. The redistricting and CVAP data are used by the Department of Justice to enforce the Voting Rights Act. They are also used by state redistricting offices to draw congressional and legislative districts that conform to constitutional equal-population and Voting Rights Act nondiscrimination requirements. Because the block-group-level CVAP tables have associated margins of error, their use in combination with the much more precise block-level census counts in the redistricting data requires sophisticated modeling. For these purposes, most analysts and the DoJ use statistical modeling methods to produce the block-level eligible voter data that become one of the inputs to their processes.

If the DoJ requests the assistance of Census Bureau statistical experts in developing model-based statistical methods to better facilitate the DoJ's uses of these data in performing its Voting Rights Act duties, a small team of Census Bureau experts similar in size and capabilities to the teams used to provide the Voting Rights Act Section 203 language determinations would be deployed.

We estimate that this alternative would have no impact on the quality of the 2020 Census because there would be no change to any of the parameters underling the Secretary's revised life-cycle cost estimates. The estimated cost is about \$350,000 because that is approximately the cost of resources that would be used to do the modeling for the DoJ.

Alternative B: Add the question on citizenship to the 2020 Census questionnaire

Under this alternative, we would add the ACS question on citizenship to the 2020 Census questionnaire and ISR instrument. We would then produce the block-level citizen voting-age population by race and ethnicity tables during the 2020 Census publication phase.

Since the question is already asked on the American Community Survey, we would accept the cognitive research and questionnaire testing from the ACS instead of independently retesting the citizenship question. This means that the cost of preparing the new question would be minimal. We did not prepare an estimate of the impact of adding the citizenship question on the cost of reprogramming the Internet Self-Response (ISR) instrument, revising the Census Questionnaire Assistance (CQA), or redesigning the printed questionnaire because those components will not be finalized until after the March 2018 submission of the final questions. Adding the citizenship question is similar in scope and cost to recasting the race and ethnicity questions again, should that become necessary, and would be done at the same time. After the 2020 Census ISR, CQA and printed questionnaire are in final form, adding the citizenship question would be much more expensive and would depend on exactly when the implementation decision was made during the production cycle.

For these reasons, we analyzed Alternative B in terms of its adverse impact on the rate of voluntary cooperation via self-response, the resulting increase in nonresponse followup (NRFU), and the consequent effects on the quality of the self-reported citizenship data. Three distinct analyses support the conclusion of an adverse impact on self-response and, as a result, on the accuracy and quality of the 2020 Census. We assess the costs of increased NRFU in light of the results of these analyses.

B.1. Quality of citizenship responses

We considered the quality of the citizenship responses on the ACS. In this analysis we estimated item nonresponse rates for the citizenship question on the ACS from 2013 through 2016. When item nonresponse occurs, the ACS edit and imputation modules are used to allocate an answer to replace the missing data item. This results in lower quality data because of the statistical errors in these allocation models. The analysis of the self-responses responses is done using ACS data from 2013-2016 because of operational changes in 2013, including the introduction of the ISR option and changes in the followup operations for mail-in questionnaires.

In the period from 2013 to 2016, item nonresponse rates for the citizenship question on the mail-in questionnaires for non-Hispanic whites (NHW) ranged from 6.0% to 6.3%, non-Hispanic blacks (NHB) ranged from 12.0% to 12.6%, and Hispanics ranged from 11.6 to 12.3%. In that same period, the ISR item nonresponse rates for citizenship were greater than those for mail-in questionnaires. In 2013, the item nonresponse rates for the citizenship variable on the ISR instrument were NHW: 6.2%, NHB: 12.3% and Hispanic: 13.0%. By 2016 the rates increased for NHB and especially Hispanics. They were NHW: 6.2%, NHB: 13.1%, and Hispanic: 15.5% (a 2.5 percentage point increase). Whether the response is by mail-in questionnaire or ISR instrument, item nonresponse rates for the citizenship question are much greater than the comparable rates for other demographic variables like sex, birthdate/age, and race/ethnicity (data not shown).

B.2. Self-response rate analyses

We directly compared the self-response rate in the 2000 Census for the short and long forms, separately for citizen and noncitizen households. In all cases, citizenship status of the individuals in the household was determined from administrative record sources, not from the response on the long form. A noncitizen household contains at least one noncitizen. Both citizen and noncitizen households have lower self-response rates on the long form compared to the short form; however, the decline in self-response for noncitizen households was 3.3 percentage points greater than the decline for citizen households. This analysis compared short and long form respondents, categories which were randomly assigned in the design of the 2000 Census.

We compared the self-response rates for the same household address on the 2010 Census and the 2010 American Community Survey, separately for citizen and noncitizen households. Again, all citizenship data were taken from administrative records, not the ACS, and noncitizen households contain at least one noncitizen resident. In this case, the randomization is over the selection of household addresses to receive the 2010 ACS. Because the ACS is an ongoing survey sampling fresh households each month, many of the residents of sampled households completed the 2010 ACS with the same reference address as they used for the 2010 Census. Once again, the self-response rates were lower in the ACS than in the 2010 Census for both citizen and noncitizen households. In this 2010 comparison, moreover, the decline in self-response was 5.1 percentage points greater for noncitizen households than for citizen households.

In both the 2000 and 2010 analyses, only the long-form or ACS questionnaire contained a citizenship question. Both the long form and the ACS questionnaires are more burdensome than the shortform. Survey methodologists consider burden to include both the direct time costs of responding and the indirect costs arising from nonresponse due to perceived sensitivity of the topic. There are, consequently, many explanations for the lower self-response rates among all household types on these longer questionnaires. However, the only difference between citizen and noncitizen households in our studies was the presence of at least one noncitizen in noncitizen households. It is therefore a reasonable inference that a question on citizenship would lead to some decline in overall self-response because it would make the 2020 Census modestly more burdensome in the direct sense, and potentially much more burdensome in the indirect sense that it would lead to a larger decline in self-response for noncitizen households.

B.3. Breakoff rate analysis

We examined the response breakoff paradata for the 2016 ACS. We looked at all breakoff screens on the ISR instrument, and specifically at the breakoffs that occurred on the screens with the citizenship and related questions like place of birth and year of entry to the U.S. Breakoff paradata isolate the point in answering the questionnaire where a respondent discontinues entering data—breaks off—rather than finishing. A breakoff is different from failure to self-respond. The respondent started the survey and was prepared to provide the data on the Internet Self-Response instrument, but changed his or her mind during the interview.

Hispanics and non-Hispanic non-whites (NHNW) have greater breakoff rates than non-Hispanic whites (NHW). In the 2016 ACS data, breakoffs were NHW: 9.5% of cases while NHNW: 14.1% and Hispanics: 17.6%. The paradata show the question on which the breakoff occurred. Only 0.04% of NHW broke off on the citizenship question, whereas NHNW broke off 0.27% and Hispanics broke off 0.36%. There are three related questions on immigrant status on the ACS: citizenship, place of birth, and year of entry to the United States. Considering all three questions Hispanics broke off on 1.6% of all ISR cases, NHNW: 1.2% and NHW: 0.5%. A breakoff on the ISR instrument can result in follow-up costs, imputation of missing data, or both. Because Hispanics and non-Hispanic non-whites breakoff much more often than non-Hispanic whites, especially on the citizenship-related questions, their survey response quality is differentially affected.

B.4. Cost analysis

Lower self-response rates would raise the cost of conducting the 2020 Census. We discuss those increased costs below. They also reduce the quality of the resulting data. Lower self-response rates degrade data quality because data obtained from NRFU have greater erroneous enumeration and whole-person imputation rates. An erroneous enumeration means a census person enumeration that should not have been counted for any of several reasons, such as, that the person (1) is a duplicate of a correct enumeration; (2) is inappropriate (e.g., the person died before Census Day); or (3) is enumerated in the wrong location for the relevant tabulation (<https://www.census.gov/coverage-measurement/definitions/>). A whole-person census imputation is a census microdata record for a person for which all characteristics are imputed.

Our analysis of the 2010 Census coverage errors (Census Coverage Measurement Estimation Report: Summary of Estimates of Coverage for Persons in the United States, Memo G-01) contains the relevant data. That study found that when the 2010 Census obtained a valid self-response (219 million persons),

the correct enumeration rate was 97.3%, erroneous enumerations were 2.5%, and whole-person census imputations were 0.3%. All erroneous enumeration and whole-person imputation rates are much greater for responses collected in NRFU. The vast majority of NRFU responses to the 2010 Census (59 million persons) were collected in May. During that month, the rate of correct enumerations was only 90.2%, the rate of incorrect enumeration was 4.8%, and the rate of whole-person census imputations was 5.0%. June NRFU accounted for 15 million persons, of whom only 84.6% were correctly enumerated, with erroneous enumerations of 5.7%, and whole-person census imputations of 9.6%. (See Table 19 of 2010 Census Memorandum G-01. That table does not provide statistics for all NRFU cases in aggregate.)

One reason that the erroneous enumeration and whole-person imputation rates are so much greater during NRFU is that the data are much more likely to be collected from a proxy rather than a household member, and, when they do come from a household member, that person has less accurate information than self-responders. The correct enumeration rate for NRFU household member interviews is 93.4% (see Table 21 of 2010 Census Memorandum G-01), compared to 97.3% for non-NRFU households (see Table 19). The information for 21.0% of the persons whose data were collected during NRFU is based on proxy responses. For these 16 million persons, the correct enumeration rate is only 70.1%. Among proxy responses, erroneous enumerations are 6.7% and whole-person census imputations are 23.1% (see Table 21).

Using these data, we can develop a cautious estimate of the data quality consequences of adding the citizenship question. We assume that citizens are unaffected by the change and that an additional 5.1% of households with at least one noncitizen go into NRFU because they do not self-respond. We expect about 126 million occupied households in the 2020 Census. From the 2016 ACS, we estimate that 9.8% of all households contain at least one noncitizen. Combining these assumptions implies an additional 630,000 households in NRFU. If the NRFU data for those households have the same quality as the average NRFU data in the 2010 Census, then the result would be 139,000 fewer correct enumerations, of which 46,000 are additional erroneous enumerations and 93,000 are additional whole-person census imputations. This analysis assumes that, during the NRFU operations, a cooperative member of the household supplies data 79.0% of the time and 21.0% receive proxy responses. If all of these new NRFU cases go to proxy responses instead, the result would be 432,000 fewer correct enumerations, of which 67,000 are erroneous enumerations and 365,000 are whole-person census imputations.

For Alternative B, our estimate of the incremental cost proceeds as follows. Using the analysis in the paragraph above, the estimated NRFU workload will increase by approximately 630,000 households, or approximately 0.5 percentage points. We currently estimate that for each percentage point increase in NRFU, the cost of the 2020 Census increases by approximately \$55 million. Accordingly, the addition of a question on citizenship could increase the cost of the 2020 Census by at least \$27.5 million. It is worth stressing that this cost estimate is a lower bound. Our estimate of \$55 million for each percentage point increase in NRFU is based on an average of three visits per household. We expect that many more of these noncitizen households would receive six NRFU visits.

We believe that \$27.5 million is a conservative estimate because the other evidence cited in this report suggests that the differences between citizen and noncitizen response rates and data quality will be amplified during the 2020 Census compared to historical levels. Hence, the decrease in self-response for citizen households in 2020 could be much greater than the 5.1 percentage points we observed during the 2010 Census.

Alternative C: Use administrative data on citizenship instead of add the question to the 2020 Census

Under this alternative, we would add the capability to link an accurate, edited citizenship variable from administrative records to the final 2020 Census microdata files. We would then produce block-level tables of citizen voting age population by race and ethnicity during the publication phase of the 2020 Census using the enhanced 2020 Census microdata.

The Census Bureau has conducted tests of its ability to link administrative data to supplement the decennial census and the ACS since the 1990s. Administrative record studies were performed for the 1990, 2000 and 2010 Censuses. We discuss some of the implications of the 2010 study below. We have used administrative data extensively in the production of the economic censuses for decades. Administrative business data from multiple sources are a key component of the production Business Register, which provides the frames for the economic censuses, annual, quarterly, and monthly business surveys. Administrative business data are also directly tabulated in many of our products.

In support of the 2020 Census, we moved the administrative data linking facility for households and individuals from research to production. This means that the ability to integrate administrative data at the record level is already part of the 2020 Census production environment. In addition, we began regularly ingesting and loading administrative data from the Social Security Administration, Internal Revenue Service and other federal and state sources into the 2020 Census data systems. In assessing the expected quality and cost of Alternative C, we assume the availability of these record linkage systems and the associated administrative data during the 2020 Census production cycle.

C.1. Quality of administrative record versus self-report citizenship status

We performed a detailed study of the responses to the citizenship question compared to the administrative record citizenship variable for the 2000 Census, 2010 ACS and 2016 ACS. These analyses confirm that the vast majority of citizens, as determined by reliable federal administrative records that require proof of citizenship, correctly report their status when asked a survey question. These analyses also demonstrate that when the administrative record source indicates an individual is not a citizen, the self-report is “citizen” for no less than 23.8% of the cases, and often more than 30%.

For all of these analyses, we linked the Census Bureau’s enhanced version of the SSA Numident data using the production individual record linkage system to append an administrative citizenship variable to the relevant census and ACS microdata. The Numident data contain information on every person who has ever been issued a Social Security Number or an Individual Taxpayer Identification Number. Since 1972, SSA has required proof of citizenship or legal resident alien status from applicants. We use this verified citizenship status as our administrative citizenship variable. Because noncitizens must interact with SSA if they become naturalized citizens, these data reflect current citizenship status albeit with a lag for some noncitizens.

For our analysis of the 2000 Census long-form data, we linked the 2002 version of the Census Numident data, which is the version closest to the April 1, 2000 Census date. For 92.3% of the 2000 Census long-form respondents, we successfully linked the administrative citizenship variable. The 7.7% of persons for whom the administrative data are missing is comparable to the item non-response for self-responders in the mail-in pre-ISR-option ACS. When the administrative data indicated that the 2000 Census respondent was a citizen, the self-response was citizen: 98.8%. For this same group, the long-form response was

noncitizen: 0.9% and missing: 0.3%. By contrast, when the administrative data indicated that the respondent was not a citizen, the self-report was citizen: 29.9%, noncitizen: 66.4%, and missing: 3.7%.

In the same analysis of 2000 Census data, we consider three categories of individuals: the reference person (the individual who completed the census form for the household), relatives of the reference person, and individuals unrelated to the reference person. When the administrative data show that the individual is a citizen, the reference person, relatives of the reference person, and nonrelatives of the reference person have self-reported citizenship status of 98.7%, 98.9% and 97.2%, respectively. On the other hand, when the administrative data report that the individual was a noncitizen, the long-form response was citizen for 32.9% of the reference persons; that is, reference persons who are not citizens according to the administrative data self-report that they are not citizens in only 63.3% of the long-form responses. When they are reporting for a relative who is not a citizen according to the administrative data, reference persons list that individual as a citizen in 28.6% of the long-form responses. When they are reporting for a nonrelative who is not a citizen according to the administrative data, reference persons list that individual as a citizen in 20.4% of the long-form responses.

We analyzed the 2010 and 2016 ACS citizenship responses using the same methodology. The 2010 ACS respondents were linked to the 2010 version of the Census Numident. The 2016 ACS respondents were linked to the 2016 Census Numident. In 2010, 8.5% of the respondents could not be linked, or had missing citizenship status on the administrative data. In 2016, 10.9% could not be linked or had missing administrative data. We reached the same conclusions using 2010 and 2016 ACS data with the following exceptions. When the administrative data report that the individual is a citizen, the self-response is citizen on 96.9% of the 2010 ACS questionnaires and 93.8% of the 2016 questionnaires. These lower self-reported citizenship rates are due to missing responses on the ACS, not misclassification. As we noted above, the item nonresponse rate for the citizenship question has been increasing. These item nonresponse data show that some citizens are not reporting their status on the ACS at all. In 2010 and 2016, individuals for whom the administrative data indicate noncitizen respond citizen in 32.7% and 34.7% of the ACS questionnaires, respectively. The rates of missing ACS citizenship response are also greater for individuals who are noncitizens in the administrative data (2010: 4.1%, 2016: 7.7%). The analysis of reference persons, relatives, and nonrelatives is qualitatively identical to the 2000 Census analysis.

In all three analyses, the results for racial and ethnic groups and for voting age individuals are similar to the results for the whole population with one important exception. If the administrative data indicate that the person is a citizen, the self-report is citizen at a very high rate with the remainder being predominately missing self-reports for all groups. If the administrative data indicate noncitizen, the self-report is citizen at a very high rate (never less than 23.8% for any racial, ethnic or voting age group in any year we studied). The exception is the missing data rate for Hispanics, who are missing administrative data about twice as often as non-Hispanic blacks and three times as often as non-Hispanic whites.

C.2. Analysis of coverage differences between administrative and survey citizenship data

Our analysis suggests that the ACS and 2000 long form survey data have more complete coverage of citizenship than administrative record data, but the relative advantage of the survey data is diminishing. Citizenship status is missing for 10.9 percent of persons in the 2016 administrative records, and it is missing for 6.3 percent of persons in the 2016 ACS. This 4.6 percentage point gap between administrative and survey missing data rates is smaller than the gap in 2000 (6.9 percentage points) and 2010 (5.6

percentage points). Incomplete (through November) pre-production ACS data indicate that citizenship item nonresponse has again increased in 2017.

There is an important caveat to the conclusion that survey-based citizenship data are more complete than administrative records, albeit less so now than in 2000. The methods used to adjust the ACS weights for survey nonresponse and to allocate citizenship status for item nonresponse assume that the predicted answers of the sampled non-respondents are statistically the same as those of respondents. Our analysis casts serious doubt on this assumption, suggesting that those who do not respond to either the entire ACS or the citizenship question on the ACS are not statistically similar to those who do; in particular, their responses to the citizenship question would not be well-predicted by the answers of those who did respond.

The consequences of missing citizenship data in the administrative records are asymmetric. In the Census Numident, citizenship data may be missing for older citizens who obtained SSNs before the 1972 requirement to verify citizenship, naturalized citizens who have not confirmed their naturalization to SSA, and noncitizens who do not have an SSN or ITIN. All three of these shortcomings are addressed by adding data from the United States Citizen and Immigration Services (USCIS). Those data would complement the Census Numident data for older citizens and update those data for naturalized citizens. A less obvious, but equally important benefit, is that they would permit record linkage for legal resident aliens by allowing the construction of a supplementary record linkage master list for such people, who are only in scope for the Numident if they apply for and receive an SSN or ITIN. Consequently, the administrative records citizenship data would most likely have both more accurate citizen status and fewer missing individuals than would be the case for any survey-based collection method. Finally, having two sources of administrative citizenship data permits a detailed verification of the accuracy of those sources as well.

C.3. Cost of administrative record data production

For Alternative C, we estimate that the incremental cost, except for new MOUs, is \$450,000. This cost estimate includes the time to develop an MOU with USCIS, estimated ingestion and curation costs for USCIS data, incremental costs of other administrative data already in use in the 2020 Census but for which continued acquisition is now a requirement, and staff time to do the required statistical work for integration of the administrative-data citizenship status onto the 2020 Census microdata. This cost estimate is necessarily incomplete because we have not had adequate time to develop a draft MOU with USCIS, which is a requirement for getting a firm delivery cost estimate from the agency. Acquisition costs for other administrative data acquired or proposed for the 2020 Census varied from zero to \$1.5M. Thus the realistic range of cost estimates, including the cost of USCIS data, is between \$500,000 and \$2.0M

Questions on the Jan 19 Draft Census Memo on the DoJ Citizenship Question Reinstatement Request

- 1. With respect to Alternatives B and C, what is the difference, if any, between the time when the data collected under each alternative would be available to the public?**

Since the collection of this data, whether from administrative records or from an enumerated question, occurs prior to the creation of the Microdata Detail File (MDF) from which all tabulations will be performed, there is no difference in the timing of when the data collected under either alternative B or C could be made available to the public. The exact date for completion of the MDF is still being determined as the 2020 Census schedule is matured. However, the 2020 Census is working towards publishing the first post-apportionment tabulation data products as early as the first week of February 2021.

- 2. What is the “2020 Census publication phase” (page 1 of the Detailed Analysis for Alternative B) versus Alternative C? Would there be any difference?**

The 2020 Census publication phase is a broad window stretching from the release of the apportionment counts by December 31, 2020 through the last data product or report published in FY 2023, the final year of decennial funding for the 2020 Census. However, as stated in the answer to question 1, these data could be made available to the public on the same schedule as any other post-apportionment tabulated data product regardless of whether alternative B or C is used in its collection.

- 3. What is the non-response rate for: (A) each question on the 2000 and 2010 Decennial Census short form and (B) each question on the 2010 ACS and most recent ACS?**

The table below shows the item non-response (INR) rate for each question on the 2000 and 2010 Decennial Census short form. This is the percentage of respondents who did not provide an answer to an item.

Item Nonresponse Rates for 2000 and 2010 Short Form Person Questions

	Relationship	Sex	Age	Hispanic Origin	Race	Tenure
2010	1.5	1.5	3.5	3.9	3.3	4.5
2000	1.3	1.1	3.7	3.1	2.9	4.1

Source: Rothhaas, Lestina and Hill (2012) Tables

Notes and Soucre:

Rothhaas, C., Lestina, F. and Hill, J. (2012) “2010 Decennial Census Item Nonresponse and Imputation Assessment Report” 2010 Census Program for Evaluations and Experiments, January 24, 2012.

From report:

The INR rate is essentially the proportion of missing responses before pre-editing or imputation procedures for a given item (i.e., the respondent did not provide an answer to the item). For INR, missing values are included in the rates, but inconsistent responses (i.e., incompatible with other responses) are considered non-missing responses.

Online link to 2010 report that has 2000 information as well.

https://www.census.gov/2010census/pdf/2010_Census_INR_Imputation_Assessment.pdf

See attached spreadsheet for the item allocation rates by questions for the ACS for 2010, 2013, and 2016.

- 4. What was the total survey response rate (i.e., percentage of complete questionnaires) for the 2000 long form and the 2000 short form? Of the incomplete long forms, what percentage left the citizenship question blank? Of the completed long forms, what percentage (if known) contained incorrect responses to the citizenship question?**

We do not have measures of total survey response rates from the 2000 long form and 2000 short form available at this time. The mail response rate in 2000 was 66.4 percent for short forms and 53.9 percent for long forms. No analysis that we were aware of was conducted on the incomplete long forms that left the citizenship question blank. The Census 2000 Content Reinterview Survey showed low inconsistency of the responses to the citizenship question. Only 1.8 percent of the respondents changed answers in the reinterview.

Source for 2000 mail response rates:

<https://www.census.gov/pred/www/rpts/A.7.a.pdf>

Source for 2000 Content Reinterview Survey. Page 32 source.

https://www.census.gov/pred/www/rpts/B.5FR_RI.PDF

- 5. For the 2000 long and short forms, what was the percentage unanswered (left blank) for each question (i.e., what percentage of the responses for each question (sex, race, ethnicity, income, citizenship, etc.) were left blank)?**

For the 2000 shortform, the table in question 3a provides the percentage unanswered for each question.

For the 2000 longform, Griffin, Love and Obenski (2003) summarized the Census 2000 longform responses. Allocation rates for individual items in Census 2000 were computed, but because of the magnitude of these data, summary allocation measures were derived.

These rates summarize completeness across all data items for occupied units (households) and are the ratio of all population and housing items that had values allocated to the total number of population and housing items required to have a response. These composite measures provide a summary picture of the completeness of all data. Fifty-four population items and 29 housing items are included in these summary measures. The analysis showed that 9.9 percent of the population question items and 12.5 percent of the housing unit question items required allocation. Allocation involves using statistical procedures, such as within-household or nearest neighbor matrices, to impute missing values.

<https://ww2.amstat.org/sections/srms/Proceedings/y2003/Files/JSM2003-000596.pdf>

6. What was the incorrect response rate for the citizenship question that was asked on the Long Form during the 2000 Decennial Census? Does the response rate on the 2000 Long Form differ from the incorrect response rate on the citizenship question for the ACS?

In the 2000 long form, 2.3 percent of persons have inconsistent answers, 89.4 percent have consistent answers, and 8.2 percent have missing citizenship data in the SSA Numident and/or the 2000 long form. Among persons with nonmissing citizenship data in the SSA Numident and/or the 2000 long form, 2.6 percent have inconsistent answers and 97.4 percent have consistent answers.

In the 2010 ACS, 3.1 percent of persons have inconsistent answers, 86.0 percent have consistent answers, and 10.8 percent have missing citizenship data in the SSA Numident and/or the 2010 ACS. Among persons with nonmissing citizenship data in the SSA Numident and/or the 2010 ACS, 3.6 percent have inconsistent answers and 96.4 percent have consistent answers.

In the 2016 ACS, 2.9 percent of persons have inconsistent answers, 81.2 percent have consistent answers, and 15.9 percent have missing citizenship data in the SSA Numident and/or the 2016 ACS. Among persons with nonmissing citizenship data in the SSA Numident and/or the 2016 ACS, 3.5 percent have inconsistent answers and 96.5 percent have consistent answers.

These ACS and 2000 Census long form rates are based on weighted data.

This shows that inconsistent response rates are higher in the 2010 and 2016 ACS than in the 2000 long form.

7. What is the incorrect response rate on other Decennial or ACS questions for which Census has administrative records available (for example, age, sex or income)?

Table 7a shows the agreement rates between the 2010 Census response and the SSA Numident for persons who could be linked and had nonmissing values, and Table 7b shows

the agreement rates between the 2010 ACS and the SSA Numident. Gender has low disagreement (0.4-0.5 percent), and white alone (0.9 percent), black alone (1.7-2 percent), and age (2.1 percent) also have low disagreement rates. Disagreement rates are greater for other races (e.g., 46.4-48.6 percent for American Indian or Alaska Native alone). Hispanic origin is not well measured in the Numident, because it contains a single race response, one of which is Hispanic.

Table 7a. Demographic Variable Agreement Rates Between the 2010 Census and the SSA Numident

2010 Census Response	Percent Agreement with SSA Numident
Hispanic	54.2
Not Hispanic	99.7
White Alone	99.1
Black Alone	98.3
American Indian or Alaska Native Alone	51.4
Asian Alone	84.3
Native Hawaiian or Other Pacific Islander Alone	74.4
Some Other Race Alone	17.7
Age	97.9
Gender	99.4

Source: Rastogi, Sonya, and Amy O'Hara, 2012, "2010 Census Match Study," 2010 Census Planning Memoranda Series No. 247.

Table 7b. Demographic Variable Agreement Rates Between the 2010 Census and the SSA Numident

2010 ACS Response	Percent Agreement with SSA Numident
White Alone	99.1
Black Alone	98.0
American Indian or Alaska Native Alone	53.6
Asian Alone	82.9
Native Hawaiian or Other Pacific Islander Alone	72.9
Some Other Race Alone	17.2
Age 0-2 Date of Birth	95.2
Age 3-17 Date of Birth	95.6
Age 18-24 Date of Birth	95.2
Age 25-44 Date of Birth	95.8
Age 45-64 Date of Birth	95.9
Age 65-74 Date of Birth	96.5
Age 75 and older Date of Birth	92.7
Male	99.5
Female	99.5

Source: Bhaskar, Renuka, Adela Luque, Sonya Rastogi, and James Noon, 2014, "Coverage and Agreement of Administrative Records and 2010 American Community Survey Demographic Data," CARRA Working Paper #2014-14.

Abowd and Stinson (2013) find correlations of 0.75-0.89 between Survey of Income and Program Participation (SIPP) and SSA Detailed Earnings Record annual earnings between 1990-1999.¹

8. How does the Census presently handle responses on the (A) Decennial Census and (B) the ACS when administrative records available to the Census confirm that the response on the Decennial Census or ACS is incorrect? Is the present Census approach to incorrect responses based on practice/policy or law (statute or regulation)?

We have always based the short form Decennial Census and the ACS on self-response, and while we have procedures in place to address duplicate or fraudulent responses, we do not check the accuracy of the answers provided to the specific questions on the Census questionnaire. This is a long established practice at the Census Bureau that has been thoroughly tested and in place since 1970, when the Census Bureau moved to a mail-out/respond approach to the Decennial Census. Title 13 of the U.S. Code allows the Census Bureau to use alternative data sources, like administrative records, for a variety of purposes, and we are using data in new ways in the 2020 Census. While this includes the use of administrative records data to fill in areas where a respondent does not provide an answer, we have not explored the possibility of checking or changing responses that a responding household has provided in response to the questionnaire.

9. Please explain the differences between the self-response rate analysis and the breakoff rate analysis. The range of breakoff rates between groups was far smaller than the range of self-response rates between groups.

Self-response means that a household responded to the survey by mailing back a questionnaire or by internet, and a sufficient number of core questions were answered so that an additional field interview was not required.

A breakoff occurs when an internet respondent stops answering questions prior to the end of the questionnaire. In most cases the respondent answers the core questions before breaking off, and additional fieldwork is not required. The breakoff rates are calculated separately by which question screen was the last one reached before the respondent stopped answering altogether.

The share of Hispanic respondents who broke off at some point before the end of the questionnaire (17.6 percent) is much higher than for non-Hispanic whites (9.5 percent).

¹ Abowd, John M., and Martha H. Stinson, 2013, "Estimating Measurement Error in Annual Job Earnings: A Comparison of Survey and Administrative Data," Review of Economics and Statistics, Vol. 95(55), pp. 1451-1467.

Spreading the overall breakoff rates over 134 screens in the questionnaire works out to quite small rates per screen. It works out to an average breakoff rate of 0.131 percent per screen for Hispanics and 0.066 percent for non-Hispanic whites.

10. The NRFU numbers are comparatively small – approximately one additional household for NRFU per Census enumerator. Is this really a significant source of concern?

Yes, this is a significant concern. First, it gives rise to incremental NRFU cost of at least \$27.5 million. This is a lower bound because it assumes the households that do not self-respond because we added a question on citizenship have the same follow-up costs as an average U.S. household. They won't because these households overwhelmingly contain at least one noncitizen, and that is one of our acknowledged hard-to-count subpopulations.

11. Given that the breakoff rate difference was approximately 1 percent, why did Census choose to use the 5.1 percent number for assessing the cost of Alternative B?

If a household breaks off an internet response at the citizenship, place of birth, or year of entry screens, this means it would have already responded to the core questions. This would not trigger follow-up fieldwork and thus would not involve additional fieldwork costs. In contrast, if a household does not mail back a questionnaire or give an internet response, fieldwork will be necessary and additional costs will be incurred. Thus, the 5.1 percent number for differential self-response is more appropriate for estimating the additional fieldwork cost of adding a citizenship question.

12. Alternative C states that Census would use administrative data from the Social Security Administration, Internal Revenue Service, and “other federal and state sources.” What are the other sources?

In addition to continuing the acquisition of the Social Security Administration and Internal Revenue Service data, the Census Bureau is in discussion with the U.S. Citizen and Immigration Services (USCIS) staff to acquire additional citizenship data.

13. Is Census confident that administrative data will be able to be used to determine citizenship for all persons (e.g., not all citizens have social security numbers)?

We are confident that Alternative C is viable and that we have already ingested enough high-quality citizenship administrative data from SSA and IRS. The USCIS data are not required. They would, however, make the citizenship voting age tabulations better, but the administrative data we've got are very good and better than the data from the 2000 Census and current ACS. The type of activities required for Alternative C already occur daily and routinely at the Census Bureau. We have been doing this for business data products,

including the Economic Censuses, for decades. We designed the 2020 Census to use this technology too.

14. For Alternative C, the memo says, “we assume the availability of these record linkage systems and associated administrative data” – does Census already have in place access to this data or would this need to be negotiated? If negotiated, for which data sets specifically?

The Census Bureau has longstanding contractual relationships with the Social Security Administration and the Internal Revenue Service that authorize the use of data for this project. For new data acquired for this project (i.e., USCIS) we would estimate a six-month development period to put a data acquisition agreement in place. That agreement would also include terms specifying the authorized use of data for this project.

15. Are there any privacy issues / sensitive information prohibitions that might prevent other agencies from providing such data?

There are no new privacy or sensitivity issues associated with other agencies providing citizenship data. We have received such information in the past from USCIS. We are currently authorized to receive and use the data from SSA and IRS that are discussed in Alternative C.

16. How long would Census expect any negotiation for access to data take? How likely is it that negotiations would be successful? Are MOA’s needed/required?

Current data available to the Census Bureau provide the quality and authority to use that are required to support this project. Additional information potentially available from USCIS would serve to supplement/validate those existing data. We are in early discussions with USCIS to develop a data acquisition agreement and at this time have no indications that this acquisition would not be successful.

17. What limitations would exist in working with other agencies like IRS, Homeland Security, etc. to share data?

The context for sharing of data for this project is for a one-way sharing of data from these agencies to the Census Bureau. Secure file transfer protocols are in-place to ingest these data into our Title 13 protected systems. For those data already in-place at the Census Bureau to support this project, provisions for sharing included in the interagency agreement restrict the Census Bureau from sharing person-level microdata outside the Census Bureau’s Title 13 protections. Aggregates that have been processed through the Bureau’s disclosure avoidance procedures can be released for public use.

18. If Alternative C is selected, what is Census's backup plan if the administrative data cannot be completely collected and utilized as proposed?

The backup plan is to use all of the administrative data that we currently have, which is the same set that the analyses of Alternative C used. We have verified that this use is consistent with the existing MOUs. We would then use estimation and modeling techniques similar to those used for the Small Area Income and Poverty Estimates (SAIPE) to impute missing citizenship status for those persons for whom we do not have administrative records. These models would also include estimates of naturalizations that occurred since the administrative data were ingested.

19. Does Census have any reason to believe that access to existing data sets would be curtailed if Alternative C is pursued?

No we do not believe that any access to existing data sets would be curtailed if we pursue Alternative C.

20. Has the proposed Alternative C approach ever been tried before on other data collection projects, or is this an experimental approach? If this has been done before, what was the result and what were lessons learned?

The approach in Alternative C has been routinely used in processing the economic censuses for several decades. The Bureau's Business Register was specifically redesigned for the 2002 Economic Census in order to enhance the ingestion and use of administrative records from the IRS and other sources. The data in these administrative records are used to substitute for direct responses in the economic censuses for the unsampled entities. They are also used as part of the review, edit, and imputation systems for economic censuses and surveys. On the household side, the approach in Alternative C was used extensively to build the residential characteristics for OnTheMap and OnTheMap for Emergency Management.

21. Is using sample data and administrative records sufficient for DOJ's request?

The 2020 Census data combined with Alternative C are sufficient to meet DoJ's request. We do not anticipate using any ACS data under Alternative C.

22. Under Alternative C, If Census is able to secure interagency agreements to provide needed data sets, do we know how long it would take to receive the data transmission from other agencies and the length of time to integrate all that data, or is that unknown?

With the exception of the USCIS data, the data used for this project are already integrated into the 2020 Census production schema. In mid-to late 2018, we plan to acquire the USCIS data and with those data and our existing data begin to develop models and business rules to select citizenship status from the composite of sources and attach that characteristic to

each U.S. person. We expect the development and refinement of this process to continue into 2019 and to be completed by third quarter calendar year 2019.

23. Cross referencing Census decennial responses with numerous governmental data sets stored in various databases with differing formats and storage qualities sounds like it could be complicated. Does Census have an algorithm in place to efficiently combine and cross reference such large quantities of data coming from many different sources? What cost is associated with Alternative C, and what technology/plan does Census have in place to execute?

Yes, the 2018 Census End-to-End test will be implementing processing steps to be able to match Census responses to administrative record information from numerous governmental data sets. The Census Bureau has in place the Person Identification Validation System to assign Protected Identification Keys to 2020 Census responses. The required technology for linking in the administrative records is therefore part of the 2020 Census technology. This incremental cost factored into the estimate for Alternative C is for integrating the citizenship variable specifically, since that variable is not currently part of the 2020 Census design. No changes are required to the production Person Identification Validation system to integrate the administrative citizenship data.

24. For section C-1 of the memo, when did Census do the analyses of the incorrect response rates for non-citizen answers to the long form and ACS citizenship question? Were any of the analyses published?

The comparisons of ACS, 2000 Decennial Census longform and SSA Numident citizenship were conducted in January 2018. This analysis has not been published.

25. Has Census corrected the incorrect responses it found when examining non-citizen responses? If not, why not?

In the American Community Survey (ACS), and the short form Decennial Census, we do not change self-reported answers. The Decennial Census and the ACS are based on self-response and we accept the responses provided by households as they are given. While we have procedures in place to address duplicate or fraudulent responses, we do not check the accuracy of the answers provided to the specific questions on the Census questionnaires. This is a long established process at the Census Bureau that has been thoroughly tested and in place since 1970, when the Census Bureau moved to a mail-out/respond approach to the Decennial Census.

26. Has the Department of Justice ever been made aware of inaccurate reporting of ACS data on citizenship, so that they may take this into consideration when using the data?

Not exactly. The Census Bureau is in close, regular contact with the Department of Justice (DOJ) regarding their data requirements. Our counterparts at DOJ have a solid understanding of survey methodology and the quality of survey data, and they are aware of the public documentation on sampling and accuracy surrounding the ACS. However, the specific rate of accuracy regarding responses to the ACS question on citizenship has never been discussed.

27. Why has the number of persons who cannot be linked increased from 2010 to 2016?

The linkage between the ACS and administrative data from the SSA Numident and IRS ITIN tax filings depends on two factors: (a) the quality of the personally identifiable information (PII) on the ACS response and (b) whether the ACS respondent is in the SSN/ITIN universe.

With respect to the quality of the PII on the ACS, there may be insufficient information on the ACS due to item nonresponse or proxy response for the person to allow a successful match using the production record linkage system. There may also be more than one record in the Numident or ITIN IRS tax filings that matches the person's PII. Finally, there may be a discrepancy between the PII provided to the ACS and the PII in the administrative records.

Alternatively, the person may not be in the Numident or ITIN IRS tax filing databases because they are out of the universe for those administrative systems. This happens when the person is a citizen without an SSN, or when the person is a noncitizen who has not obtained an SSN or ITIN.

Very few of the unlinked cases are due to insufficient PII in the ACS or multiple matches with administrative records. The vast majority of unlinked ACS persons have sufficient PII, but fail to match any administrative records sufficiently closely. This means that most of the nonmatches are because the ACS respondent is not in the administrative record universe.

The incidence of ACS persons with sufficient PII but no match with administrative records increased between 2010 and 2016. One contributing factor is that the number of persons linked to ITIN IRS tax filings in 2016 was only 39 percent as large as in 2010, suggesting that either fewer of the noncitizens in the 2016 ACS had ITINs, or more of them provided PII in the ACS that was inconsistent with their PII in IRS records.

28. Independent of this memo, what action does Census plan to take in response to the analyses showing that non-citizens have been incorrectly responding to the citizenship question?

The Census Bureau does not have plans to make any changes to procedures in the ACS. However, we will continue to conduct thorough evaluations and review of census and survey data. The ACS is focusing our research on the potential use of administrative records

in the survey. For instance, we are exploring whether we can use IRS data on income to reduce the burden of asking questions on income on the ACS. We are concentrating initially on questions that are high burden, e.g., questions that are difficult to answer or questions that are seen as intrusive.

29. Did Census make recommendations the last time a question was added?

Since the short form Decennial Census was established in 2010, the only requests for new questions we have received have been for the ACS. And, in fact, requests for questions prior to 2010 were usually related to the Decennial Census Long Form. We always work collaboratively with Federal agencies that request a new question or a change to a question. The first step is to review the data needs and the legal justification for the new question or requested changes. If, through this process, we determine that the request is justified, we work with the other agencies to test the question (cognitive testing and field testing). We also work collaboratively on the analysis of the results from the test which inform the final recommendation about whether or not to make changes or add the question.

30. Does not answering truthfully have a separate data standard than not participating at all?

We're not sure what you're asking here. Please clarify the question.

31. What was the process that was used in the past to get questions added to the decennial Census or do we have something similar where a precedent was established?

Because no new questions have been added to the Decennial Census (for nearly 20 years), the Census Bureau did not feel bound by past precedent when considering the Department of Justice's request. Rather, the Census Bureau is working with all relevant stakeholders to ensure that legal and regulatory requirements are filled and that questions will produce quality, useful information for the nation. As you are aware, that process is ongoing at your direction.

32. Has another agency ever requested that a question be asked of the entire population in order to get block or individual level data?

Not to our knowledge. However, it is worth pointing out that prior to 1980 the short form of the Decennial Census included more than just the 10 questions that have been on the short form since 1990.

33. Would Census linking of its internal data sets, with other data sets from places like IRS and Homeland Security, have an impact on participation as well (i.e., privacy concerns)?

The potential that concerns about the use of administrative records could have an impact on participation has always been a concern of ours, and it's a risk that we're managing on our risk register. We've worked closely with the privacy community throughout the decade, and we established a working group on our National Advisory Committee to explore this issue. We've also regularly briefed the Congress about our plans. At this stage in the decade there does not appear to be extensive concerns among the general public about our approach to using administrative records in the Nonresponse Operation or otherwise. We will continue to monitor this issue.

34. Would Alternative C require any legislation? If so, what is the estimated time frame for approval of such legislation?

No.

35. Census publications and old decennial surveys available on the Census website show that citizenship questions were frequently asked of the entire population in the past. Citizenship is also a question on the ACS. What was the justification provided for citizenship questions on the (A) short form, (B) long form, and (C) ACS?

In 1940, the Census Bureau introduced the use of a short form to collect basic characteristics from all respondents, and a long form to collect more detailed questions from only a sample of respondents. Prior to 1940, census questions were asked of everyone, though in some cases only for those with certain characteristics. For example, in 1870, a citizenship question was asked, but only for respondents who were male and over the age of 21.

Beginning in 2005, all the long-form questions -- including a question on citizenship -- were moved to the ACS. 2010 was the first time we conducted a short-form only census. The citizenship question is included in the ACS to fulfill the data requirements of the Department of Justice, as well as many other agencies including the Equal Employment Opportunities Commission, the Department of Health and Human Services, and the Social Security Administration.

Exhibit 5

From: Comstock, Earl (Federal) [PII]
Sent: 1/30/2018 11:50:49 PM
To: Ron S Jarmin (CENSUS/ADEP FED) [Ron.S.Jarmin@census.gov]; Enrique Lamas (CENSUS/ADDP FED) [Enrique.Lamas@census.gov]
CC: Kelley, Karen (Federal) [PII]; Willard, Aaron (Federal) [PII]; Uthmeier, James (Federal) [PII]; Davidson, Peter (Federal) [PII]
Subject: Questions on the January 19 Alternatives Memo
Attachments: Questions on the 19 Jan Draft Census Memo 01302017.docx
Importance: High

Hi Ron and Enrique –

Thank you for a good start on the draft memo for the Secretary on the citizenship question. As you know, with Karen's absence [PII], I have been working with Aaron, James and David to review the draft. Attached are questions that are raised by the memo. The answers will provide additional information to inform the Secretary that should be included in a revised memo.

Please answer as many of the questions as possible by 10:30 am tomorrow. In particular, if you could provide a response to questions 24, 25, and 26 by 10:30 am tomorrow (Wednesday, Jan. 31) that would be greatly appreciated.

If you have questions you can reach me at [PII] or contact Karen.

Thanks again!

Earl

Exhibit 6

Questions on the Jan 19 Draft Census Memo on the DoJ Citizenship Question Reinstatement Request

- 1. With respect to Alternatives B and C, what is the difference, if any, between the time when the data collected under each alternative would be available to the public?**

Since the collection of this data, whether from administrative records or from an enumerated question, occurs prior to the creation of the Microdata Detail File (MDF) from which all tabulations will be performed, there is no difference in the timing of when the data collected under either alternative B or C could be made available to the public. The exact date for completion of the MDF is still being determined as the 2020 Census schedule is matured. However, the 2020 Census is working towards publishing the first post-apportionment tabulation data products as early as the first week of February 2021.

- 2. What is the “2020 Census publication phase” (page 1 of the Detailed Analysis for Alternative B) versus Alternative C? Would there be any difference?**

The 2020 Census publication phase is a broad window stretching from the release of the apportionment counts by December 31, 2020 through the last data product or report published in FY 2023, the final year of decennial funding for the 2020 Census. However, as stated in the answer to question 1, these data could be made available to the public on the same schedule as any other post-apportionment tabulated data product regardless of whether alternative B or C is used in its collection.

- 3. What is the non-response rate for: (A) each question on the 2000 and 2010 Decennial Census short form and (B) each question on the 2010 ACS and most recent ACS?**

The table below shows the item non-response (INR) rate for each question on the 2000 and 2010 Decennial Census short form. This is the percentage of respondents who did not provide an answer to an item.

Item Nonresponse Rates for 2000 and 2010 Short Form Person Questions

	Relationship	Sex	Age	Hispanic Origin	Race	Tenure
2010	1.5	1.5	3.5	3.9	3.3	4.5
2000	1.3	1.1	3.7	3.1	2.9	4.1

Source: Rothhaas, Lestina and Hill (2012) Tables

Notes and Soucre:

Rothhaas, C., Lestina, F. and Hill, J. (2012) “2010 Decennial Census Item Nonresponse and Imputation Assessment Report” 2010 Census Program for Evaluations and Experiments, January 24, 2012.

From report:

The INR rate is essentially the proportion of missing responses before pre-editing or imputation procedures for a given item (i.e., the respondent did not provide an answer to the item). For INR, missing values are included in the rates, but inconsistent responses (i.e., incompatible with other responses) are considered non-missing responses.

Online link to 2010 report that has 2000 information as well.

https://www.census.gov/2010census/pdf/2010_Census_INR_Imputation_Assessment.pdf

See attached spreadsheet for the item allocation rates by questions for the ACS for 2010, 2013, and 2016.

- 4. What was the total survey response rate (i.e., percentage of complete questionnaires) for the 2000 long form and the 2000 short form? Of the incomplete long forms, what percentage left the citizenship question blank? Of the completed long forms, what percentage (if known) contained incorrect responses to the citizenship question?**

We do not have measures of total survey response rates from the 2000 long form and 2000 short form available at this time. The mail response rate in 2000 was 66.4 percent for short forms and 53.9 percent for long forms. No analysis that we were aware of was conducted on the incomplete long forms that left the citizenship question blank. The Census 2000 Content Reinterview Survey showed low inconsistency of the responses to the citizenship question. Only 1.8 percent of the respondents changed answers in the reinterview.

Source for 2000 mail response rates:

<https://www.census.gov/pred/www/rpts/A.7.a.pdf>

Source for 2000 Content Reinterview Survey. Page 32 source.

https://www.census.gov/pred/www/rpts/B.5FR_RI.PDF

- 5. For the 2000 long and short forms, what was the percentage unanswered (left blank) for each question (i.e., what percentage of the responses for each question (sex, race, ethnicity, income, citizenship, etc.) were left blank)?**

For the 2000 shortform, the table in question 3a provides the percentage unanswered for each question.

For the 2000 longform, Griffin, Love and Obenski (2003) summarized the Census 2000 longform responses. Allocation rates for individual items in Census 2000 were computed, but because of the magnitude of these data, summary allocation measures were derived.

These rates summarize completeness across all data items for occupied units (households) and are the ratio of all population and housing items that had values allocated to the total number of population and housing items required to have a response. These composite measures provide a summary picture of the completeness of all data. Fifty-four population items and 29 housing items are included in these summary measures. The analysis showed that 9.9 percent of the population question items and 12.5 percent of the housing unit question items required allocation. Allocation involves using statistical procedures, such as within-household or nearest neighbor matrices, to impute missing values.

<https://ww2.amstat.org/sections/srms/Proceedings/y2003/Files/JSM2003-000596.pdf>

6. What was the incorrect response rate for the citizenship question that was asked on the Long Form during the 2000 Decennial Census? Does the response rate on the 2000 Long Form differ from the incorrect response rate on the citizenship question for the ACS?

In the 2000 long form, 2.3 percent of persons have inconsistent answers, 89.4 percent have consistent answers, and 8.2 percent have missing citizenship data in the SSA Numident and/or the 2000 long form. Among persons with nonmissing citizenship data in the SSA Numident and/or the 2000 long form, 2.6 percent have inconsistent answers and 97.4 percent have consistent answers.

In the 2010 ACS, 3.1 percent of persons have inconsistent answers, 86.0 percent have consistent answers, and 10.8 percent have missing citizenship data in the SSA Numident and/or the 2010 ACS. Among persons with nonmissing citizenship data in the SSA Numident and/or the 2010 ACS, 3.6 percent have inconsistent answers and 96.4 percent have consistent answers.

In the 2016 ACS, 2.9 percent of persons have inconsistent answers, 81.2 percent have consistent answers, and 15.9 percent have missing citizenship data in the SSA Numident and/or the 2016 ACS. Among persons with nonmissing citizenship data in the SSA Numident and/or the 2016 ACS, 3.5 percent have inconsistent answers and 96.5 percent have consistent answers.

These ACS and 2000 Census long form rates are based on weighted data.

This shows that inconsistent response rates are higher in the 2010 and 2016 ACS than in the 2000 long form.

7. What is the incorrect response rate on other Decennial or ACS questions for which Census has administrative records available (for example, age, sex or income)?

Table 7a shows the agreement rates between the 2010 Census response and the SSA Numident for persons who could be linked and had nonmissing values, and Table 7b shows

the agreement rates between the 2010 ACS and the SSA Numident. Gender has low disagreement (0.4-0.5 percent), and white alone (0.9 percent), black alone (1.7-2 percent), and age (2.1 percent) also have low disagreement rates. Disagreement rates are greater for other races (e.g., 46.4-48.6 percent for American Indian or Alaska Native alone). Hispanic origin is not well measured in the Numident, because it contains a single race response, one of which is Hispanic.

Table 7a. Demographic Variable Agreement Rates Between the 2010 Census and the SSA Numident

2010 Census Response	Percent Agreement with SSA Numident
Hispanic	54.2
Not Hispanic	99.7
White Alone	99.1
Black Alone	98.3
American Indian or Alaska Native Alone	51.4
Asian Alone	84.3
Native Hawaiian or Other Pacific Islander Alone	74.4
Some Other Race Alone	17.7
Age	97.9
Gender	99.4
Source: Rastogi, Sonya, and Amy O'Hara, 2012, "2010 Census Match Study," 2010 Census Planning Memoranda Series No. 247.	

Table 7b. Demographic Variable Agreement Rates Between the 2010 Census and the SSA Numident

2010 ACS Response	Percent Agreement with SSA Numident
White Alone	99.1
Black Alone	98.0
American Indian or Alaska Native Alone	53.6
Asian Alone	82.9
Native Hawaiian or Other Pacific Islander Alone	72.9
Some Other Race Alone	17.2
Age 0-2 Date of Birth	95.2
Age 3-17 Date of Birth	95.6
Age 18-24 Date of Birth	95.2
Age 25-44 Date of Birth	95.8
Age 45-64 Date of Birth	95.9
Age 65-74 Date of Birth	96.5
Age 75 and older Date of Birth	92.7
Male	99.5
Female	99.5

Source: Bhaskar, Renuka, Adela Luque, Sonya Rastogi, and James Noon, 2014, "Coverage and Agreement of Administrative Records and 2010 American Community Survey Demographic Data," CARRA Working Paper #2014-14.

Abowd and Stinson (2013) find correlations of 0.75-0.89 between Survey of Income and Program Participation (SIPP) and SSA Detailed Earnings Record annual earnings between 1990-1999.¹

8. How does the Census presently handle responses on the (A) Decennial Census and (B) the ACS when administrative records available to the Census confirm that the response on the Decennial Census or ACS is incorrect? Is the present Census approach to incorrect responses based on practice/policy or law (statute or regulation)?

We have always based the short form Decennial Census and the ACS on self-response, and while we have procedures in place to address duplicate or fraudulent responses, we do not check the accuracy of the answers provided to the specific questions on the Census questionnaire. This is a long established practice at the Census Bureau that has been thoroughly tested and in place since 1970, when the Census Bureau moved to a mail-out/respond approach to the Decennial Census. Title 13 of the U.S. Code allows the Census Bureau to use alternative data sources, like administrative records, for a variety of purposes, and we are using data in new ways in the 2020 Census. While this includes the use of administrative records data to fill in areas where a respondent does not provide an answer, we have not explored the possibility of checking or changing responses that a responding household has provided in response to the questionnaire.

9. Please explain the differences between the self-response rate analysis and the breakoff rate analysis. The range of breakoff rates between groups was far smaller than the range of self-response rates between groups.

Self-response means that a household responded to the survey by mailing back a questionnaire or by internet, and a sufficient number of core questions were answered so that an additional field interview was not required.

A breakoff occurs when an internet respondent stops answering questions prior to the end of the questionnaire. In most cases the respondent answers the core questions before breaking off, and additional fieldwork is not required. The breakoff rates are calculated separately by which question screen was the last one reached before the respondent stopped answering altogether.

The share of Hispanic respondents who broke off at some point before the end of the questionnaire (17.6 percent) is much higher than for non-Hispanic whites (9.5 percent).

¹ Abowd, John M., and Martha H. Stinson, 2013, "Estimating Measurement Error in Annual Job Earnings: A Comparison of Survey and Administrative Data," Review of Economics and Statistics, Vol. 95(55), pp. 1451-1467.

Spreading the overall breakoff rates over 134 screens in the questionnaire works out to quite small rates per screen. It works out to an average breakoff rate of 0.131 percent per screen for Hispanics and 0.066 percent for non-Hispanic whites.

10. The NRFU numbers are comparatively small – approximately one additional household for NRFU per Census enumerator. Is this really a significant source of concern?

Yes, this is a significant concern. First, it gives rise to incremental NRFU cost of at least \$27.5 million. This is a lower bound because it assumes the households that do not self-respond because we added a question on citizenship have the same follow-up costs as an average U.S. household. They won't because these households overwhelmingly contain at least one noncitizen, and that is one of our acknowledged hard-to-count subpopulations.

11. Given that the breakoff rate difference was approximately 1 percent, why did Census choose to use the 5.1 percent number for assessing the cost of Alternative B?

If a household breaks off an internet response at the citizenship, place of birth, or year of entry screens, this means it would have already responded to the core questions. This would not trigger follow-up fieldwork and thus would not involve additional fieldwork costs. In contrast, if a household does not mail back a questionnaire or give an internet response, fieldwork will be necessary and additional costs will be incurred. Thus, the 5.1 percent number for differential self-response is more appropriate for estimating the additional fieldwork cost of adding a citizenship question.

12. Alternative C states that Census would use administrative data from the Social Security Administration, Internal Revenue Service, and “other federal and state sources.” What are the other sources?

In addition to continuing the acquisition of the Social Security Administration and Internal Revenue Service data, the Census Bureau is in discussion with the U.S. Citizen and Immigration Services (USCIS) staff to acquire additional citizenship data.

13. Is Census confident that administrative data will be able to be used to determine citizenship for all persons (e.g., not all citizens have social security numbers)?

We are confident that Alternative C is viable and that we have already ingested enough high-quality citizenship administrative data from SSA and IRS. The USCIS data are not required. They would, however, make the citizenship voting age tabulations better, but the administrative data we've got are very good and better than the data from the 2000 Census and current ACS. The type of activities required for Alternative C already occur daily and routinely at the Census Bureau. We have been doing this for business data products,

including the Economic Censuses, for decades. We designed the 2020 Census to use this technology too.

14. For Alternative C, the memo says, “we assume the availability of these record linkage systems and associated administrative data” – does Census already have in place access to this data or would this need to be negotiated? If negotiated, for which data sets specifically?

The Census Bureau has longstanding contractual relationships with the Social Security Administration and the Internal Revenue Service that authorize the use of data for this project. For new data acquired for this project (i.e., USCIS) we would estimate a six-month development period to put a data acquisition agreement in place. That agreement would also include terms specifying the authorized use of data for this project.

15. Are there any privacy issues / sensitive information prohibitions that might prevent other agencies from providing such data?

There are no new privacy or sensitivity issues associated with other agencies providing citizenship data. We have received such information in the past from USCIS. We are currently authorized to receive and use the data from SSA and IRS that are discussed in Alternative C.

16. How long would Census expect any negotiation for access to data take? How likely is it that negotiations would be successful? Are MOA’s needed/required?

Current data available to the Census Bureau provide the quality and authority to use that are required to support this project. Additional information potentially available from USCIS would serve to supplement/validate those existing data. We are in early discussions with USCIS to develop a data acquisition agreement and at this time have no indications that this acquisition would not be successful.

17. What limitations would exist in working with other agencies like IRS, Homeland Security, etc. to share data?

The context for sharing of data for this project is for a one-way sharing of data from these agencies to the Census Bureau. Secure file transfer protocols are in-place to ingest these data into our Title 13 protected systems. For those data already in-place at the Census Bureau to support this project, provisions for sharing included in the interagency agreement restrict the Census Bureau from sharing person-level microdata outside the Census Bureau’s Title 13 protections. Aggregates that have been processed through the Bureau’s disclosure avoidance procedures can be released for public use.

18. If Alternative C is selected, what is Census's backup plan if the administrative data cannot be completely collected and utilized as proposed?

The backup plan is to use all of the administrative data that we currently have, which is the same set that the analyses of Alternative C used. We have verified that this use is consistent with the existing MOUs. We would then use estimation and modeling techniques similar to those used for the Small Area Income and Poverty Estimates (SAIPE) to impute missing citizenship status for those persons for whom we do not have administrative records. These models would also include estimates of naturalizations that occurred since the administrative data were ingested.

19. Does Census have any reason to believe that access to existing data sets would be curtailed if Alternative C is pursued?

No we do not believe that any access to existing data sets would be curtailed if we pursue Alternative C.

20. Has the proposed Alternative C approach ever been tried before on other data collection projects, or is this an experimental approach? If this has been done before, what was the result and what were lessons learned?

The approach in Alternative C has been routinely used in processing the economic censuses for several decades. The Bureau's Business Register was specifically redesigned for the 2002 Economic Census in order to enhance the ingestion and use of administrative records from the IRS and other sources. The data in these administrative records are used to substitute for direct responses in the economic censuses for the unsampled entities. They are also used as part of the review, edit, and imputation systems for economic censuses and surveys. On the household side, the approach in Alternative C was used extensively to build the residential characteristics for OnTheMap and OnTheMap for Emergency Management.

21. Is using sample data and administrative records sufficient for DOJ's request?

The 2020 Census data combined with Alternative C are sufficient to meet DoJ's request. We do not anticipate using any ACS data under Alternative C.

22. Under Alternative C, If Census is able to secure interagency agreements to provide needed data sets, do we know how long it would take to receive the data transmission from other agencies and the length of time to integrate all that data, or is that unknown?

With the exception of the USCIS data, the data used for this project are already integrated into the 2020 Census production schema. In mid-to late 2018, we plan to acquire the USCIS data and with those data and our existing data begin to develop models and business rules to select citizenship status from the composite of sources and attach that characteristic to

each U.S. person. We expect the development and refinement of this process to continue into 2019 and to be completed by third quarter calendar year 2019.

23. Cross referencing Census decennial responses with numerous governmental data sets stored in various databases with differing formats and storage qualities sounds like it could be complicated. Does Census have an algorithm in place to efficiently combine and cross reference such large quantities of data coming from many different sources? What cost is associated with Alternative C, and what technology/plan does Census have in place to execute?

Yes, the 2018 Census End-to-End test will be implementing processing steps to be able to match Census responses to administrative record information from numerous governmental data sets. The Census Bureau has in place the Person Identification Validation System to assign Protected Identification Keys to 2020 Census responses. The required technology for linking in the administrative records is therefore part of the 2020 Census technology. This incremental cost factored into the estimate for Alternative C is for integrating the citizenship variable specifically, since that variable is not currently part of the 2020 Census design. No changes are required to the production Person Identification Validation system to integrate the administrative citizenship data.

24. For section C-1 of the memo, when did Census do the analyses of the incorrect response rates for non-citizen answers to the long form and ACS citizenship question? Were any of the analyses published?

The comparisons of ACS, 2000 Decennial Census longform and SSA Numident citizenship were conducted in January 2018. This analysis has not been published.

25. Has Census corrected the incorrect responses it found when examining non-citizen responses? If not, why not?

In the American Community Survey (ACS), and the short form Decennial Census, we do not change self-reported answers. The Decennial Census and the ACS are based on self-response and we accept the responses provided by households as they are given. While we have procedures in place to address duplicate or fraudulent responses, we do not check the accuracy of the answers provided to the specific questions on the Census questionnaires. This is a long established process at the Census Bureau that has been thoroughly tested and in place since 1970, when the Census Bureau moved to a mail-out/respond approach to the Decennial Census.

26. Has the Department of Justice ever been made aware of inaccurate reporting of ACS data on citizenship, so that they may take this into consideration when using the data?

Not exactly. The Census Bureau is in close, regular contact with the Department of Justice (DOJ) regarding their data requirements. Our counterparts at DOJ have a solid understanding of survey methodology and the quality of survey data, and they are aware of the public documentation on sampling and accuracy surrounding the ACS. However, the specific rate of accuracy regarding responses to the ACS question on citizenship has never been discussed.

27. Why has the number of persons who cannot be linked increased from 2010 to 2016?

The linkage between the ACS and administrative data from the SSA Numident and IRS ITIN tax filings depends on two factors: (a) the quality of the personally identifiable information (PII) on the ACS response and (b) whether the ACS respondent is in the SSN/ITIN universe.

With respect to the quality of the PII on the ACS, there may be insufficient information on the ACS due to item nonresponse or proxy response for the person to allow a successful match using the production record linkage system. There may also be more than one record in the Numident or ITIN IRS tax filings that matches the person's PII. Finally, there may be a discrepancy between the PII provided to the ACS and the PII in the administrative records.

Alternatively, the person may not be in the Numident or ITIN IRS tax filing databases because they are out of the universe for those administrative systems. This happens when the person is a citizen without an SSN, or when the person is a noncitizen who has not obtained an SSN or ITIN.

Very few of the unlinked cases are due to insufficient PII in the ACS or multiple matches with administrative records. The vast majority of unlinked ACS persons have sufficient PII, but fail to match any administrative records sufficiently closely. This means that most of the nonmatches are because the ACS respondent is not in the administrative record universe.

The incidence of ACS persons with sufficient PII but no match with administrative records increased between 2010 and 2016. One contributing factor is that the number of persons linked to ITIN IRS tax filings in 2016 was only 39 percent as large as in 2010, suggesting that either fewer of the noncitizens in the 2016 ACS had ITINs, or more of them provided PII in the ACS that was inconsistent with their PII in IRS records.

28. Independent of this memo, what action does Census plan to take in response to the analyses showing that non-citizens have been incorrectly responding to the citizenship question?

The Census Bureau does not have plans to make any changes to procedures in the ACS. However, we will continue to conduct thorough evaluations and review of census and survey data. The ACS is focusing our research on the potential use of administrative records

in the survey. For instance, we are exploring whether we can use IRS data on income to reduce the burden of asking questions on income on the ACS. We are concentrating initially on questions that are high burden, e.g., questions that are difficult to answer or questions that are seen as intrusive.

29. Did Census make recommendations the last time a question was added?

Since the short form Decennial Census was established in 2010, the only requests for new questions we have received have been for the ACS. And, in fact, requests for questions prior to 2010 were usually related to the Decennial Census Long Form. We always work collaboratively with Federal agencies that request a new question or a change to a question. The first step is to review the data needs and the legal justification for the new question or requested changes. If, through this process, we determine that the request is justified, we work with the other agencies to test the question (cognitive testing and field testing). We also work collaboratively on the analysis of the results from the test which inform the final recommendation about whether or not to make changes or add the question.

30. Does not answering truthfully have a separate data standard than not participating at all?

We're not sure what you're asking here. Please clarify the question.

31. What was the process that was used in the past to get questions added to the decennial Census or do we have something similar where a precedent was established?

Because no new questions have been added to the Decennial Census (for nearly 20 years), the Census Bureau did not feel bound by past precedent when considering the Department of Justice's request. Rather, the Census Bureau is working with all relevant stakeholders to ensure that legal and regulatory requirements are filled and that questions will produce quality, useful information for the nation. As you are aware, that process is ongoing at your direction.

32. Has another agency ever requested that a question be asked of the entire population in order to get block or individual level data?

Not to our knowledge. However, it is worth pointing out that prior to 1980 the short form of the Decennial Census included more than just the 10 questions that have been on the short form since 1990.

33. Would Census linking of its internal data sets, with other data sets from places like IRS and Homeland Security, have an impact on participation as well (i.e., privacy concerns)?

The potential that concerns about the use of administrative records could have an impact on participation has always been a concern of ours, and it's a risk that we're managing on our risk register. We've worked closely with the privacy community throughout the decade, and we established a working group on our National Advisory Committee to explore this issue. We've also regularly briefed the Congress about our plans. At this stage in the decade there does not appear to be extensive concerns among the general public about our approach to using administrative records in the Nonresponse Operation or otherwise. We will continue to monitor this issue.

34. Would Alternative C require any legislation? If so, what is the estimated time frame for approval of such legislation?

No.

35. Census publications and old decennial surveys available on the Census website show that citizenship questions were frequently asked of the entire population in the past. Citizenship is also a question on the ACS. What was the justification provided for citizenship questions on the (A) short form, (B) long form, and (C) ACS?

In 1940, the Census Bureau introduced the use of a short form to collect basic characteristics from all respondents, and a long form to collect more detailed questions from only a sample of respondents. Prior to 1940, census questions were asked of everyone, though in some cases only for those with certain characteristics. For example, in 1870, a citizenship question was asked, but only for respondents who were male and over the age of 21.

Beginning in 2005, all the long-form questions – including a question on citizenship -- were moved to the ACS. 2010 was the first time we conducted a short-form only census. The citizenship question is included in the ACS to fulfill the data requirements of the Department of Justice, as well as many other agencies including the Equal Employment Opportunities Commission, the Department of Health and Human Services, and the Social Security Administration.

Exhibit 7

To: Comstock, Earl (Federal)
Cc: Jarmin, Ron [ron.s.jarmin@census.gov]; Lamas, Enrique[enrique.lamas@census.gov]; Fontenot, Albert E[albert.e.fontenot@census.gov]; Abowd, John Maron[john.maron.abowd@census.gov]; Velkoff, Victoria A[victoria.a.velkoff@census.gov]; Whitehorne, James[james.whitehorne@census.gov]; Therrien, Melissa L[melissa.l.therrien@census.gov]
From: Burton H Reist (CENSUS/ADDC FED)
Sent: Fri 2/2/2018 7:36:06 PM
Importance: Normal
Subject: Citizenship Questions -- Complete Set
Received: Fri 2/2/2018 7:36:27 PM
[Citizenship Question Questions on the 19 Jan Memo 01312017 Responses from Census_02-02_Final.docx](#)
[Citizenship Questions ACS Item Allocation Rates_2016, 2013, 2010.xlsx](#)

Earl,

Our answers to all of the questions you asked us are attached. I'm sending the spreadsheet again too. Please note that we've asked for clarification on Q-30. We also expanded our answer to Q-1 in response to your request earlier today.

Please let us know if you need additional information.

Thanks,

Burton

Chief, Decennial Communications and Stakeholder Relations

Decennial Programs Directorate, U.S. Census Bureau

301.763.4155 (office)

[REDACTED]

burton.h.reist@census.gov

Questions on the Jan 19 Draft Census Memo on the DoJ Citizenship Question Reinstatement Request

1. **With respect to Alternatives B and C, what is the difference, if any, between the time when the data collected under each alternative would be available to the public?**

Since the collection of this data, whether from administrative records or from an enumerated question, occurs prior to the creation of the Microdata Detail File (MDF) from which all tabulations will be performed, there is no difference in the timing of when the data collected under either alternative B or C could be made available to the public.

2. **What is the “2020 Census publication phase” (page 1 of the Detailed Analysis for Alternative B) versus Alternative C? Would there be any difference?**

The 2020 Census publication phase is a broad window stretching from the release of the apportionment counts by December 31, 2020 through the last data product or report published in FY 2023, the final year of decennial funding for the 2020 Census. However, as stated in the answer to question 1, this data could be made available to the public on the same schedule as any other post-apportionment tabulated data product regardless of whether alternative B or C is used in its collection.

3. **What is the non-response rate for: (A) each question on the 2000 and 2010 Decennial Census short form and (B) each question on the 2010 ACS and most recent ACS?**

The table below shows the item non-response (INR) rate for each question on the 2000 and 2010 Decennial Census short form. This is the percentage of respondents who did not provide an answer to an item.

Item Nonresponse Rates for 2000 and 2010 Short Form Person Questions

	Relationship	Sex	Age	Hispanic Origin	Race	Tenure
2010	1.5	1.5	3.5	3.9	3.3	4.5
2000	1.3	1.1	3.7	3.1	2.9	4.1

Source: Rothhaas, Lestina and Hill (2012) Tables

Notes and Soucre:

Rothhaas, C., Lestina, F. and Hill, J. (2012) “2010 Decennial Census Item Nonresponse and Imputation Assessment Report” 2010 Census Program for Evaluations and Experiments, January 24, 2012.

From report:

The INR rate is essentially the proportion of missing responses before pre-editing or imputation procedures for a given item (i.e., the respondent did not provide an answer to the item). For INR, missing values are included in the rates, but inconsistent responses (i.e., incompatible with other responses) are considered non-missing responses.

Online link to 2010 report that has 2000 information as well.

https://www.census.gov/2010census/pdf/2010_Census_INR_Imputation_Assessment.pdf

See attached spreadsheet for the item allocation rates for the ACS.

- 4. What was the total survey response rate (i.e. percentage of complete questionnaires) for the 2000 long form and the 2000 short form? Of the incomplete long forms, what percentage left the citizenship question blank? Of the completed long forms, what percentage (if known) contained incorrect responses to the citizenship question?**

We do not have measures of total survey response rates from the 2000 long form and 2000 short form available at this time. The mail response rate in 2000 was 66.4 percent for short forms and 53.9 percent for long forms. No analysis that we were aware of was conducted on the incomplete long forms that left the citizenship question blank. The Census 2000 Content Reinterview Survey showed low inconsistency of the responses to the citizenship question. Only 1.8 percent of the respondents changed answers in the reinterview.

Source for 2000 mail response rates:

<https://www.census.gov/pred/www/rpts/A.7.a.pdf>

Source for 2000 Content Reinterview Survey. Page 32 source.

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- 5. For the 2000 long and short forms, what was the percentage unanswered (left blank) for each question (i.e., what percentage of the responses for each question (sex, race, ethnicity, income, citizenship, etc.) were left blank)?**

For the 2000 shortform, the table in question 3a provides the percentage unanswered for each question.

For the 2000 longform, Griffin, Love and Obenski (2003) summarized the Census 2000 longform responses. Allocation rates for individual items in Census 2000 were computed, but because of the magnitude of these data, summary allocation measures were derived. These rates summarize completeness across all data items for occupied units (households) and are the ratio of all population and housing items that had values allocated to the total number of population and housing items required to have a response. These composite measures provide a summary picture of the completeness of all data. Fifty-four population

items and 29 housing items are included in these summary measures. The analysis showed that 9.9 percent of the population question items and 12.5 percent of the housing unit question items required allocation. Allocation involves using statistical procedures, such as within-household or nearest neighbor matrices, to impute missing values.

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These ACS and 2000 Census long form rates are based on weighted data.

This shows that inconsistent response rates are higher in the 2010 and 2016 ACS than in the 2000 long form.

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Table 7a. shows the agreement rates between the 2010 Census response and the SSA Numident for persons who could be linked and had nonmissing values, and Table 7b shows the agreement rates between the 2010 ACS and the SSA Numident. Gender has low disagreement (0.4-0.5 percent), and white alone (0.9 percent), black alone (1.7-2 percent), and age (2.1 percent) also have low disagreement rates. Disagreement rates are greater for other races (e.g., 46.4-48.6 percent for American Indian or Alaska Native alone). Hispanic

origin is not well measured in the Numident, because it contains a single race response, one of which is Hispanic.

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- 9. Please explain the differences between the self-response rate analysis and the breakoff rate analysis. The range of breakoff rates between groups was far smaller than the range of self-response rates between groups.**

Self-response means that a household responded to the survey by mailing back a questionnaire or by internet, and a sufficient number of core questions were answered so that an additional field interview was not required.

A breakoff occurs when an internet respondent stops answering questions prior to the end of the questionnaire. In most cases the respondent answers the core questions before breaking off, and additional fieldwork is not required. The breakoff rates are calculated separately by which question screen was the last one reached before the respondent stopped answering altogether.

The share of Hispanic respondents who broke off at some point before the end of the questionnaire (17.6 percent) is much higher than for non-Hispanic whites (9.5 percent). Spreading the overall break off rates over 134 screens in the questionnaire works out to quite small rates per screen. It works out to an average breakoff rate of 0.131 percent per screen for Hispanics and 0.066 percent for non-Hispanic whites.

- 10. The NRFU numbers are comparatively small – approximately one additional household for NRFU per Census enumerator. Is this really a significant source of concern?**

Yes, this is a significant concern. First, it gives rise to incremental NRFU cost of at least \$27.5 million. This is a lower bound because it assumes the households that do not self-respond because we added a question on citizenship have the same follow-up costs as an average U.S. household. They won't because these households overwhelmingly contain at least one noncitizen, and that is one of our acknowledged hard-to-count subpopulations.

- 11. Given that the breakoff rate difference was approximately 1 percent, why did Census choose to use the 5.1 percent number for assessing the cost of Alternative B?**

Given that the breakoff rate difference was approximately 1 percent, why did Census choose to use the 5.1 percent number for assessing the cost of Alternative B?

If a household breaks off an internet response at the citizenship, place of birth, or year of entry screens, this means it would have already responded to the core questions. This would not trigger follow-up fieldwork and thus would not involve additional fieldwork costs. In contrast, if a household does not mail back a questionnaire or give an internet response, fieldwork will be necessary and additional costs will be incurred. Thus, the 5.1 percent number for differential self-response is more appropriate for estimating the additional fieldwork cost of adding a citizenship question.

12. Alternative C states that Census would use administrative data from the Social Security Administration, Internal Revenue Service, and “other federal and state sources.” What are the other sources?

In addition to continuing the acquisition of the Social Security Administration and Internal Revenue Service data, the Census Bureau is in discussion with the U.S. Citizen and Immigration Services (USCIS) staff to acquire additional citizenship data.

13. Is Census confident that administrative data will be able to be used to determine citizenship for all persons (e.g., not all citizens have social security numbers)?

We are confident that Alternative C is viable and that we have already ingested enough high-quality citizenship administrative data from SSA and IRS. The USCIS data are not required. They would, however, make the citizenship voting age tabulations better, but the administrative data we’ve got are very good and better than the data from the 2000 Census and current ACS. The type of activities required for Alternative C already occur daily and routinely at the Census Bureau. We have been doing this for business data products, including the Economic Censuses, for decades. We designed the 2020 Census to use this technology too.

14. For Alternative C, the memo says, “we assume the availability of these record linkage systems and associated administrative data” – does Census already have in place access to this data or would this need to be negotiated? If negotiated, for which data sets specifically?

The Census Bureau has longstanding contractual relationships with the Social Security Administration and the Internal Revenue Service that authorize the use of data for this project. For new data acquired for this project (i.e., USCIS) we would estimate a six-month development period to put a data acquisition agreement in place. That agreement would also include terms specifying the authorized use of data for this project.

15. Are there any privacy issues / sensitive information prohibitions that might prevent other agencies from providing such data?

There are no new privacy or sensitivity issues associated with other agencies providing citizenship data. We have received such information in the past from USCIS. We are currently authorized to receive and use the data from SSA and IRS that are discussed in Alternative C.

16. How long would Census expect any negotiation for access to data take? How likely is it that negotiations would be successful? Are MOA's needed/required?

Current data available to the Census Bureau provide the quality and authority to use that are required to support this project. Additional information potentially available from USCIS would serve to supplement/validate those existing data. We are in early discussions with USCIS to develop a data acquisition agreement and at this time have no indications that this acquisition would not be successful.

17. What limitations would exist in working with other agencies like IRS, Homeland Security, etc. to share data?

The context for sharing of data for this project is for a one-way sharing of data from these agencies to the Census Bureau. Secure file transfer protocols are in-place to ingest these data into our Title 13 protected systems. For those data already in-place at the Census Bureau to support this project, provisions for sharing included in the interagency agreement restrict the Census Bureau from sharing person-level microdata outside the Census Bureau's Title 13 protections. Aggregates that have been processed through the Bureau's disclosure avoidance procedures can be released for public use.

18. If Alternative C is selected, what is Census's backup plan if the administrative data cannot be completely collected and utilized as proposed?

The backup plan is to use all of the administrative data that we currently have, which is the same set that the analyses of Alternative C used. We have verified that this use is consistent with the existing MOUs. We would then use estimation and modeling techniques similar to those used for the Small Area Income and Poverty Estimates (SAIPE) to impute missing citizenship status for those persons for whom we do not have administrative records. These models would also include estimates of naturalizations that occurred since the administrative data were ingested.

19. Does Census have any reason to believe that access to existing data sets would be curtailed if Alternative C is pursued?

No we do not believe that any access to existing data sets would be curtailed if we pursue Alternative C.

20. Has the proposed Alternative C approach ever been tried before on other data collection projects, or is this an experimental approach? If this has been done before, what was the result and what were lessons learned?

The approach in Alternative C has been routinely used in processing the economic censuses for several decades. The Bureau's Business Register was specifically redesigned for the 2002 Economic Census in order to enhance the ingestion and use of administrative records from the IRS and other sources. The data in these administrative records are used to substitute for direct responses in the economic censuses for the unsampled entities. They are also used as part of the review, edit, and imputation systems for economic censuses and surveys. On the household side, the approach in Alternative C was used extensively to build the residential characteristics for OnTheMap and OnTheMap for Emergency Management.

21. Is using sample data and administrative records sufficient for DOJ's request?

The 2020 Census data combined with Alternative C are sufficient to meet DoJ's request. We do not anticipate using any ACS data under Alternative C.

22. Under Alternative C, If Census is able to secure interagency agreements to provide needed data sets, do we know how long it would take to receive the data transmission from other agencies and the length of time to integrate all that data, or is that unknown?

With the exception of the USCIS data, the data used for this project are already integrated into the 2020 Census production schema. In mid-to late 2018, we plan to acquire the USCIS data and with those data and our existing data begin to develop models and business rules to select citizenship status from the composite of sources and attach that characteristic to each U.S. person. We expect the development and refinement of this process to continue into 2019 and to be completed by third quarter calendar year 2019.

23. Cross referencing Census decennial responses with numerous governmental data sets stored in various databases with differing formats and storage qualities sounds like it could be complicated. Does Census have an algorithm in place to efficiently combine and cross reference such large quantities of data coming from many different sources? What cost is associated with Alternative C, and what technology/plan does Census have in place to execute?

Yes, the 2018 Census End-to-End test will be implementing processing steps to be able to match Census responses to administrative record information from numerous governmental data sets. The Census Bureau has in place the Person Identification Validation System to assign Protected Identification Keys to 2020 Census responses. The required technology for linking in the administrative records is therefore part of the 2020 Census technology. This incremental cost factored into the estimate for Alternative C is for integrating the citizenship variable specifically, since that variable is not currently part of the 2020 Census design. No changes are required to the production Person Identification Validation system to integrate the administrative citizenship data.

24. For section C-1 of the memo, when did Census do the analyses of the incorrect response rates for non-citizen answers to the long form and ACS citizenship question? Were any of the analyses published?

The comparisons of ACS, 2000 Decennial Census longform and SSA Numident citizenship were conducted in January 2018. This analysis has not been published.

25. Has Census corrected the incorrect responses it found when examining non-citizen responses? If not, why not?

In the American Community Survey (ACS), and the short form Decennial Census, we do not change self-reported answers. The Decennial Census and the ACS are based on self-response and we accept the responses provided by households as they are given. While we have procedures in place to address duplicate or fraudulent responses, we do not check the accuracy of the answers provided to the specific questions on the Census questionnaires. This is a long established process at the Census Bureau that has been thoroughly tested and in place since 1970, when the Census Bureau moved to a mail-out/respond approach to the Decennial Census.

26. Has the Department of Justice ever been made aware of inaccurate reporting of ACS data on citizenship, so that they may take this into consideration when using the data?

Not exactly. The Census Bureau is in close, regular contact with the Department of Justice (DOJ) regarding their data requirements. Our counterparts at DOJ have a solid understanding of survey methodology and the quality of survey data, and they are aware of the public documentation on sampling and accuracy surrounding the ACS. However, the specific rate of accuracy regarding responses to the ACS question on citizenship has never been discussed.

27. Why has the number of persons who cannot be linked increased from 2010 to 2016?

There are several potential reasons a person might not be linked between the ACS and the SSA Numident and ITIN IRS tax filings. There may be insufficient personally identifiable information (PII) in the ACS response for the person to allow a search for the person in the Numident or ITIN IRS tax filings at all. There may be more than one record in the Numident or ITIN IRS tax filings that matches the person's PII. There may be a discrepancy between the PII provided to the ACS and administrative records. Or the person may not be in the Numident or ITIN IRS tax filing databases, either because the person is a citizen without an SSN, or the person is a noncitizen who has not obtained an SSN or ITIN. Very few of the unlinked cases are due to insufficient PII in the ACS or multiple matches with administrative records. The vast majority of unlinked ACS persons have sufficient PII, but fail to match any administrative records sufficiently closely.

The incidence of ACS persons with sufficient PII, but no match with administrative records increased between 2010 and 2016. One contributing factor is that the number of persons linked to ITIN IRS tax filings in 2016 was only 39 percent as large as in 2010, suggesting that either fewer of the undocumented persons in the 2016 ACS had ITINs, or more of them provided PII in the ACS that was inconsistent with their PII in IRS records.

28. Independent of this memo, what action does Census plan to take in response to the analyses showing that non-citizens have been incorrectly responding to the citizenship question?

The Census Bureau does not have plans to make any changes to procedures in the ACS. However, we will continue to conduct thorough evaluations and review of census and survey data. The ACS is focusing our research on the potential use of administrative records in the survey. For instance, we are exploring whether we can use IRS data on income to reduce the burden of asking questions on income on the ACS. We are concentrating initially on questions that are high burden, e.g., questions that are difficult to answer or questions that are seen as intrusive.

29. Did Census make recommendations the last time a question was added?

Since the short form Decennial Census was established in 2010, the only requests for new questions we have received have been for the ACS. And, in fact, requests for questions prior to 2010 were usually related to the Decennial Census Long Form. We always work collaboratively with Federal agencies that request a new question or a change to a question. The first step is to review the data needs and the legal justification for the new question or requested changes. If, through this process, we determine that the request is justified, we work with the other agencies to test the question (cognitive testing and field testing). We also work collaboratively on the analysis of the results from the test which inform the final recommendation about whether or not to make changes or add the question.

30. Does not answering truthfully have a separate data standard than not participating at all?

We're not sure what you're asking here. Please clarify the question.

31. What was the process that was used in the past to get questions added to the decennial Census or do we have something similar where a precedent was established?

The Census Bureau follows a well-established process when adding or changing content on the census or ACS to ensure the data fulfill legal and regulatory requirements established by Congress. Adding a question or making a change to the Decennial Census or the ACS involves extensive testing, review, and evaluation. This process ensures the change is necessary and will produce quality, useful information for the nation.

The Census Bureau and the Office of Management and Budget (OMB) have laid out a formal process for making content changes.

- First, federal agencies evaluate their data needs and propose additions or changes to current questions through OMB.
- In order to be included, proposals must demonstrate a clear statutory or regulatory need for data at small geographies or for small populations.
- Final proposed questions result from extensive cognitive and field testing to ensure they result in the proper data, with an integrity that meets the Census Bureau's high standards.
- This process includes several opportunities for public comment.
- The final decision is made in consultation with OMB.
- If approved, the Census Bureau implements the change.

32. Has another agency ever requested that a question be asked of the entire population in order to get block or individual level data?

Not to our knowledge. However, it is worth pointing out that prior to 1980 the short form of the Decennial Census included more than just the 10 questions that have been on the short form since 1990.

33. Would Census linking of its internal data sets, with other data sets from places like IRS and Homeland Security, have an impact on participation as well (i.e. privacy concerns)?

The potential that concerns about the use of administrative records could have an impact on participation has always been a concern of ours, and it's a risk that we're managing on our risk register. We've worked closely with the privacy community throughout the decade, and we established a working group on our National Advisory Committee to explore this issue. We've also regularly briefed the Congress about our plans. At this stage in the decade there does not appear to be extensive concerns among the general public about our approach to using administrative records in the Nonresponse Operation or otherwise. We will continue to monitor this issue.

34. Would Alternative C require any legislation? If so, what is the estimated time frame for approval of such legislation?

No.

35. Census publications and old decennial surveys available on the Census website show that citizenship questions were frequently asked of the entire population in the past. Citizenship is also a question on the ACS. What was the justification provided for citizenship questions on the (A) short form, (B) long form, and (C) ACS?

In 1940, the Census Bureau introduced the use of a short form to collect basic characteristics from all respondents, and a long form to collect more detailed questions from only a sample of respondents. Prior to 1940, census questions were asked of everyone, though in some cases only for those with certain characteristics. For example, in 1870, a citizenship question was asked, but only for respondents who were male and over the age of 21.

Since moving to the short form in 1940, we have never asked a question about citizenship on the short form.

Beginning in 2005, all the long-form questions – including a question on citizenship -- were moved to the ACS. 2010 was the first time we conducted a short-form only census. The citizenship question is included in the ACS to fulfill the data requirements of the Department of Justice, as well as many other agencies including the Equal Employment Opportunities Commission, the Department of Health and Human Services, and the Social Security Administration.

Exhibit 8

Template sent by email

January XX, 2018

Senator Harris, et al.

Thank you for your January 5, 2018, expressing concern regarding the Department of Justice's request to add a citizenship question to the 2020 Census questionnaire.

The U.S. Census Bureau has a well-established process for considering requests for new questions to the Decennial Census and the American Community Survey. The requested data must fulfill legal and regulatory requirements established by the Congress, and the Census Bureau works with the Office of Management and Budget (OMB) to review and assess the justification of the new content or question.

While the discretionary authorization for defining new content or questions resides with the Secretary of Commerce, the 5-step process below is employed by the Census Bureau and OMB to make a determination. Once each of these steps are completed, a new question can be added to the 2020 Census.

Step One: With the exception of technical questions needed to collect accurate data, all questions on the various census forms generate data in response to request for the Congress or other agencies in the Executive Branch.

Step Two: Upon determining that a new question is warranted, the Census Bureau must notify the Congress of its intent to add the question. As you may know, by law, the Census Bureau notified the Congress of the topics to be covered in the 2020 Census on March 31, 2017, and must deliver the specific questions by March 31, 2018.

Step Three: The Census Bureau then must notify the public, and invite comments regarding the change in the questionnaire with a Federal Register Notice.

Step Four: The Census Bureau must test the wording of the new question.

Step Five: The Census Bureau must make additional operational adjustments, beyond testing, to include new content. This includes redesigning each data capture method as well as training modules for enumerators.

We will keep you apprised of any developments regarding the citizenship question. If you have any additional questions or would like to discuss the formal process in detail, please have a

Interim pre-decisional

member of your staff contact the Census Bureau's Office of Congressional and Intergovernmental Affairs on (301) 763-6100.

Sincerely,

Wilbur L. Ross, Jr.
Secretary
Department of Commerce

DRAFT

Talking Points

- The Census Bureau today received a letter from the Department of Justice requesting that a question on citizenship be added to the 2020 Census.
- The Census Bureau follows a well-established process when adding questions to the decennial census based on the recognition that the data must fulfill legal and regulatory requirements established by the Congress. While the discretionary authority for defining the questions on either the American Community Survey or the Decennial Census questionnaire resides with the Secretary of Commerce, the Census Bureau works with the Office of Management and Budget (OMB) to review and assess the justification of the new question.
- By law, the Census Bureau must provide the questions for the 2020 Census and American Community Survey to Congress by March 31 – two years prior to taking the national headcount.
- Historically, a citizenship question was asked periodically over the history of the census, and most recently from 1980 to 2000 as part of a decennial census long form questionnaire that provided socio-economic and housing characteristic data of the population.
- The Census Bureau currently asks citizenship on its nationwide American Community Survey, a survey conducted nationwide every year among 3.5 million addresses.

Response to Query

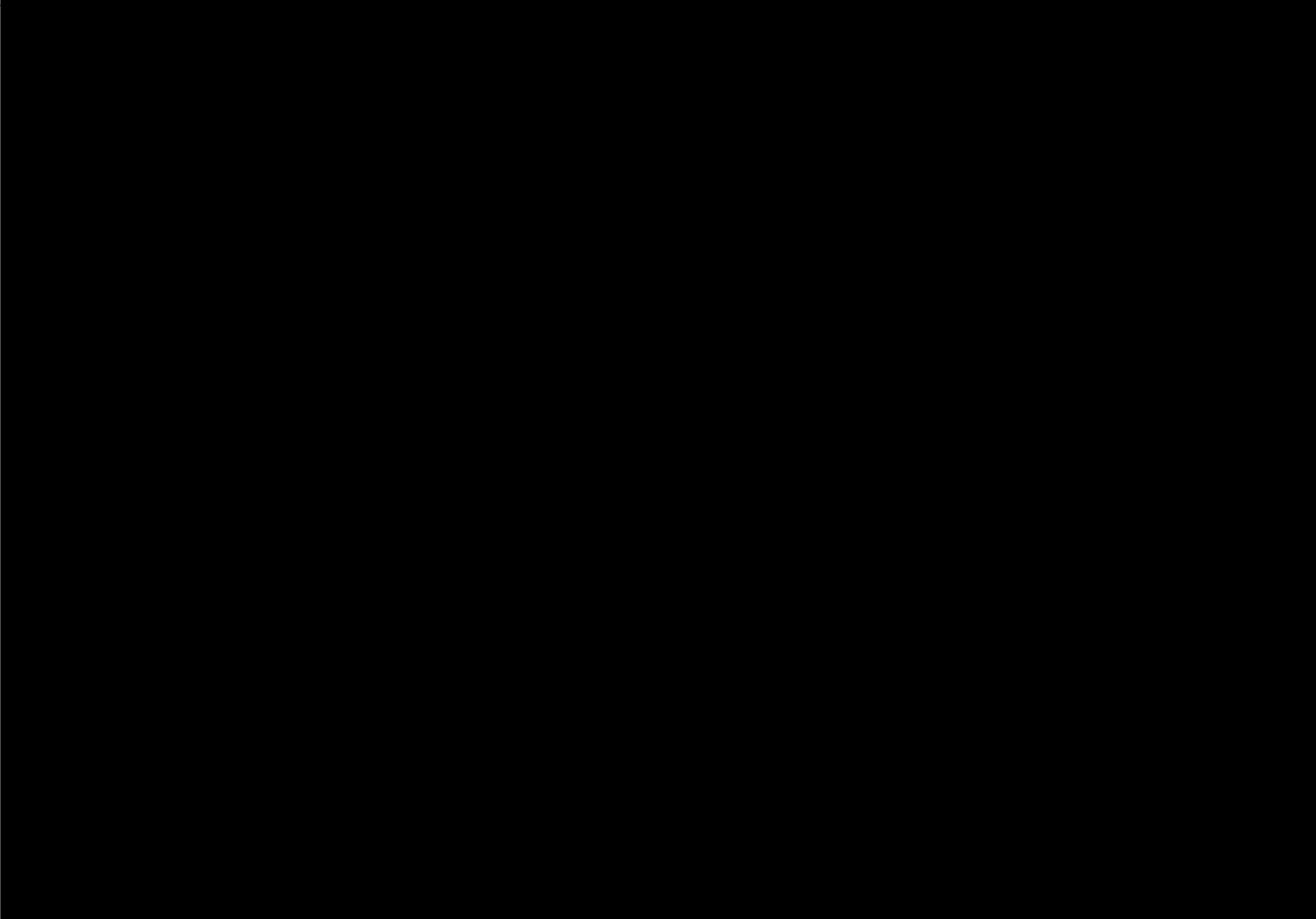
“The Census Bureau today received a letter from the Department of Justice requesting that a question on citizenship be added to the 2020 Census. The Census Bureau follows a well-established process when adding questions to the decennial census based on the recognition that the data must fulfill legal and regulatory requirements established by the Congress. While the discretionary authority for defining the questions on either the American Community Survey or the Decennial Census questionnaire resides with the Secretary of Commerce, the Census Bureau works with the Office of Management and Budget (OMB) to review and assess the justification of the new question. The Census Bureau does ask citizenship on its nationwide American Community Survey, a survey conducted nationwide every year among 3.5 million addresses.”

Process of Adding Content to the Census/Survey Questionnaire

- **Step One** – With the exception of operational questions needed to collect accurate data, all questions on the various census questionnaires generate data in response to requests from the Congress or other agencies in the Executive Branch. Upon receiving a request lawyers at the Department of Commerce work closely with the Census Bureau staff to determine whether the data fulfill legal, regulatory or Constitutional requirements. Within this process, the Census Bureau also consults with the OMB.
- **Step Two** – Upon determining that a new question is warranted, the Census Bureau notifies Congress of its intent to add the question through its submission of the proposed questions for the 2020 Census. By law, the Census Bureau notified the Congress of the subjects to be covered by the 2020 Census on March 28, 2017. The Census Bureau must deliver the specific questions

by March 31, 2018. This is an intentional process designed to give the Congress the ability to review the subjects and questions on the questionnaire before they are finalized.

- **Step Three** – The Census Bureau must test the wording of the new question. It is too late to add a question to the 2018 End-to-End Census Test, so additional testing on a smaller scale would need to be developed and implemented as soon as possible. This test would also require approval from OMB, which includes notifying the public and inviting comments through a Federal Register Notice (FRN). The updated FRN needs to be cleared by OMB prior to a new 30-day FRN posting. The Census Bureau must respond to comments from the public after 30 days. Then OMB can issue final approval.
- **Step Four** – The Census Bureau must make additional operational adjustments, beyond testing, to include new content. This includes re-designing the paper questionnaires and adjusting the paper data capture system. For all automated data collection instruments (including Internet self-response, Census Questionnaire Assistance, and Nonresponse Followup), the additional question will require system redevelopment, for English and all supported non-English languages. In addition, the training for the enumerators and Census Questionnaire Assistance agents will need redevelopment.
- **Step Five** – Based on the result of the testing, the Census Bureau must finalize the actual 2020 Census questionnaires (paper and automated). The Census Bureau then must submit for OMB approval of the 2020 Census information collection. This submission also requires notifying the public and inviting comments through a Federal Register Notice (FRN), as detailed in Step 3.



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U.S. Department of Justice
Justice Management Division
Office of General Counsel

Washington, D.C. 20530

DEC 12 2017

VIA CERTIFIED RETURN RECEIPT
7014 2120 0000 8064 4964

Dr. Ron Jarmin
Performing the Non-Exclusive Functions and Duties of the Director
U.S. Census Bureau
United States Department of Commerce
Washington, D.C. 20233-0001

Re: Request To Reinstate Citizenship Question On 2020 Census Questionnaire

Dear Dr. Jarmin:

The Department of Justice is committed to robust and evenhanded enforcement of the Nation's civil rights laws and to free and fair elections for all Americans. In furtherance of that commitment, I write on behalf of the Department to formally request that the Census Bureau reinstate on the 2020 Census questionnaire a question regarding citizenship, formerly included in the so-called "long form" census. This data is critical to the Department's enforcement of Section 2 of the Voting Rights Act and its important protections against racial discrimination in voting. To fully enforce those requirements, the Department needs a reliable calculation of the citizen voting-age population in localities where voting rights violations are alleged or suspected. As demonstrated below, the decennial census questionnaire is the most appropriate vehicle for collecting that data, and reinstating a question on citizenship will best enable the Department to protect all American citizens' voting rights under Section 2.

The Supreme Court has held that Section 2 of the Voting Rights Act prohibits "vote dilution" by state and local jurisdictions engaged in redistricting, which can occur when a racial group is improperly deprived of a single-member district in which it could form a majority. See *Thornburg v. Gingles*, 478 U.S. 30, 50 (1986). Multiple federal courts of appeals have held that, where citizenship rates are at issue in a vote-dilution case, citizen voting-age population is the proper metric for determining whether a racial group could constitute a majority in a single-member district. See, e.g., *Reyes v. City of Farmers Branch*, 586 F.3d 1019, 1023-24 (5th Cir. 2009); *Barnett v. City of Chicago*, 141 F.3d 699, 704 (7th Cir. 1998); *Negrn v. City of Miami Beach*, 113 F.3d 1563, 1567-69 (11th Cir. 1997); *Romero v. City of Pomona*, 883 F.2d 1418, 1426 (9th Cir. 1989), *overruled in part on other grounds by Townsend v. Holman Consulting Corp.*, 914 F.2d 1136, 1141 (9th Cir. 1990); see also *LULAC v. Perry*, 548 U.S. 399, 423-442 (2006) (analyzing vote-dilution claim by reference to citizen voting-age population).

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The purpose of Section 2's vote-dilution prohibition "is to facilitate participation ... in our political process" by preventing unlawful dilution of the vote on the basis of race. *Campos v. City of Houston*, 113 F.3d 544, 548 (5th Cir. 1997). Importantly, "[t]he plain language of section 2 of the Voting Rights Act makes clear that its protections apply to United States citizens." *Id.* Indeed, courts have reasoned that "[t]he right to vote is one of the badges of citizenship" and that "[t]he dignity and very concept of citizenship are diluted if noncitizens are allowed to vote." *Barnett*, 141 F.3d at 704. Thus, it would be the wrong result for a legislature or a court to draw a single-member district in which a numerical racial minority group in a jurisdiction was a majority of the total voting-age population in that district but "continued to be defeated at the polls" because it was not a majority of the citizen voting-age population. *Campos*, 113 F.3d at 548.

These cases make clear that, in order to assess and enforce compliance with Section 2's protection against discrimination in voting, the Department needs to be able to obtain citizen voting-age population data for census blocks, block groups, counties, towns, and other locations where potential Section 2 violations are alleged or suspected. From 1970 to 2000, the Census Bureau included a citizenship question on the so-called "long form" questionnaire that it sent to approximately one in every six households during each decennial census. See, e.g., U.S. Census Bureau, *Summary File 3: 2000 Census of Population & Housing—Appendix B at B-7* (July 2007), available at <https://www.census.gov/prod/cen2000/doc/sf3.pdf> (last visited Nov. 22, 2017); U.S. Census Bureau, Index of Questions, available at https://www.census.gov/history/www/through_the_decades/index_of_questions/ (last visited Nov. 22, 2017). For years, the Department used the data collected in response to that question in assessing compliance with Section 2 and in litigation to enforce Section 2's protections against racial discrimination in voting.

In the 2010 Census, however, no census questionnaire included a question regarding citizenship. Rather, following the 2000 Census, the Census Bureau discontinued the "long form" questionnaire and replaced it with the American Community Survey (ACS). The ACS is a sampling survey that is sent to only around one in every thirty-eight households each year and asks a variety of questions regarding demographic information, including citizenship. See U.S. Census Bureau, *American Community Survey Information Guide at 6*, available at [https://www.census.gov/content/dam/Census/programs-surveys/acs/about/ACS Information Guide.pdf](https://www.census.gov/content/dam/Census/programs-surveys/acs/about/ACS%20Information%20Guide.pdf) (last visited Nov. 22, 2017). The ACS is currently the Census Bureau's only survey that collects information regarding citizenship and estimates citizen voting-age population.

The 2010 redistricting cycle was the first cycle in which the ACS estimates provided the Census Bureau's only citizen voting-age population data. The Department and state and local jurisdictions therefore have used those ACS estimates for this redistricting cycle. The ACS, however, does not yield the ideal data for such purposes for several reasons:

- Jurisdictions conducting redistricting, and the Department in enforcing Section 2, already use the total population data from the census to determine compliance with the Constitution's one-person, one-vote requirement, see *Evenwel v. Abbott*, 136 S. Ct. 1120 (Apr. 4, 2016). As a result, using the ACS citizenship estimates means relying on two different data sets, the scope and level of detail of which vary quite significantly.

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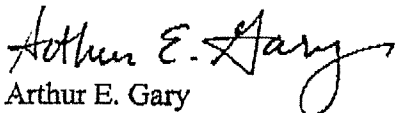
- Because the ACS estimates are rolling and aggregated into one-year, three-year, and five-year estimates, they do not align in time with the decennial census data. Citizenship data from the decennial census, by contrast, would align in time with the total and voting-age population data from the census that jurisdictions already use in redistricting.
- The ACS estimates are reported at a ninety percent confidence level, and the margin of error increases as the sample size—and, thus, the geographic area—decreases. See U.S. Census Bureau, *Glossary: Confidence interval (American Community Survey)*, available at https://www.census.gov/glossary/#term_ConfidenceintervalAmericanCommunitySurvey (last visited November 22, 2017). By contrast, decennial census data is a full count of the population.
- Census data is reported to the census block level, while the smallest unit reported in the ACS estimates is the census block group. See *American Community Survey Data* 3, 5, 10. Accordingly, redistricting jurisdictions and the Department are required to perform further estimates and to interject further uncertainty in order to approximate citizen voting-age population at the level of a census block, which is the fundamental building block of a redistricting plan. Having all of the relevant population and citizenship data available in one data set at the census block level would greatly assist the redistricting process.

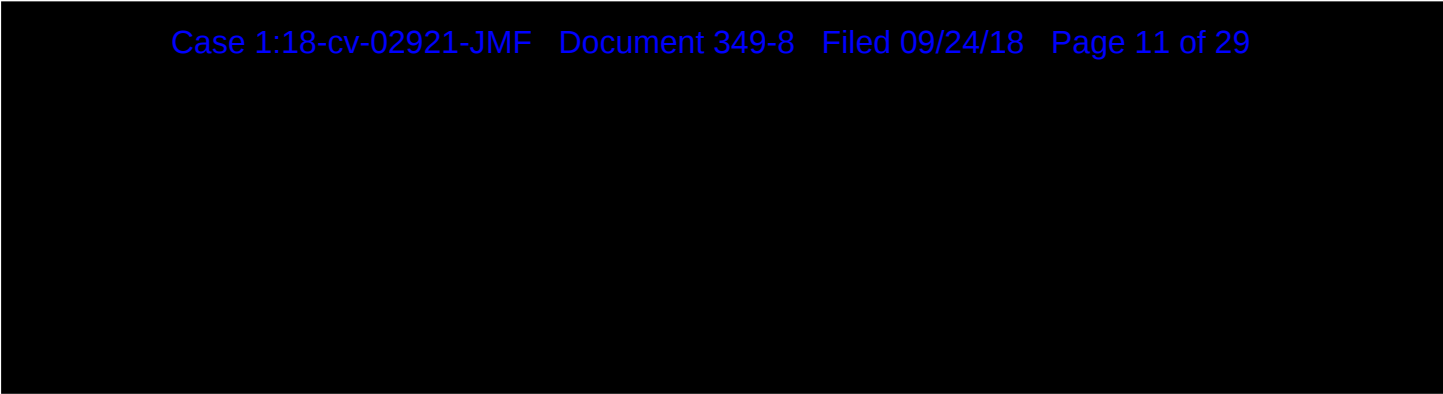
For all of these reasons, the Department believes that decennial census questionnaire data regarding citizenship, if available, would be more appropriate for use in redistricting and in Section 2 litigation than the ACS citizenship estimates.

Accordingly, the Department formally requests that the Census Bureau reinstate into the 2020 Census a question regarding citizenship. We also request that the Census Bureau release this new data regarding citizenship at the same time as it releases the other redistricting data, by April 1 following the 2020 Census. At the same time, the Department requests that the Bureau also maintain the citizenship question on the ACS, since such question is necessary, *inter alia*, to yield information for the periodic determinations made by the Bureau under Section 203 of the Voting Rights Act, 52 U.S.C. § 10503.

Please let me know if you have any questions about this letter or wish to discuss this request. I can be reached at (202) 514-3452, or at Arthur.Gary@usdoj.gov.

Sincerely yours,


Arthur E. Gary
General Counsel
Justice Management Division



2020 Census: Adding Content to the Questionnaire

The Census Bureau follows a well-established process when adding questions to the decennial census based on the recognition that the data must fulfill legal and regulatory requirements established by the Congress. While the discretionary authority for defining the questions on either the American Community Survey or the Decennial Census Short Form resides with the Secretary of Commerce, the Census Bureau works with the Office of Management and Budget (OMB) to review and assess the justification of the new content or question.

- **Step One** – With the exception of technical questions needed to collect accurate data, all questions on the various census forms generate data in response to requests from the Congress or other agencies in the Executive Branch. Upon receiving a request lawyers at the Department of Commerce work closely with OMB to determine whether the data fulfill legal, regulatory or Constitutional requirements.
- **Step Two** – Upon determining that a new question is warranted, the Census Bureau must notify Congress of its intent to add the question. This is particularly important for the 2020 Census Questionnaire. By law, the Census Bureau notified the Congress of the topics to be covered by the 2020 Census on March 31, 2017. The Census Bureau must deliver the specific questions by March 31, 2018. This is an intentionally process designed to give the Congress the ability to review the topics and questions on the questionnaire before they are finalized. If an additional topic is required, it is imperative that Congress be notified as soon as possible.
- **Step Three** – The Census Bureau then must notify the public, and invite comments regarding the change in the questionnaire with a Federal Register Notice (FRN). The updated FRN needs to be cleared by OMB prior to a new 30-day FRN posting. The Census Bureau must respond to comments from the public after 30 days. Then OMB can issue final approval.
- **Step Four** – The Census Bureau must test the wording of the new question. It is too late to add a question to the 2018 End-to-End Census Test, so additional testing on a smaller scale would need to be developed and implemented as soon as possible.
- **Step Five** – The Census Bureau must make additional operational adjustments, beyond testing, to include new content. This includes re-designing the paper questionnaire and adjusting the paper data capture system. For Internet self-response, the additional question will require system redevelopment, once for English and then again for Spanish. The Census Questionnaire Assistance operation will require development as well. Finally, the Nonresponse Followup data collection instruments will need to be redesigned, and the training modules for the enumerators will need further development.

Once each of these steps are completed a new question can be added to the 2020 Census.

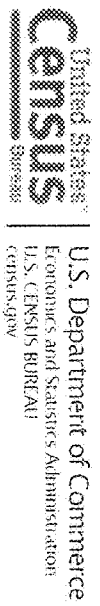
2020 Census: Adding Content to the Questionnaire

The Census Bureau follows a well-established process when adding questions to the decennial census based on the recognition that the data must fulfill legal and regulatory requirements established by the Congress. While the discretionary authority for defining the questions on either the American Community Survey or the Decennial Census short form resides with the Secretary of Commerce, the Census Bureau works with the Office of Management and Budget (OMB) to review and assess the justification of the new question.

- **Step One** – With the exception of operational questions needed to collect accurate data, all questions on the various census questionnaires generate data in response to requests from the Congress or other agencies in the Executive Branch. Upon receiving a request lawyers at the Department of Commerce work closely with the Census Bureau staff to determine whether the data fulfill legal, regulatory or Constitutional requirements. Within this process, the Census Bureau also consults with the OMB.
- **Step Two** – Upon determining that a new question is warranted, the Census Bureau notifies Congress of its intent to add the question through its submission of the proposed questions for the 2020 Census. By law, the Census Bureau notified the Congress of the subjects to be covered by the 2020 Census on March 28, 2017. The Census Bureau must deliver the specific questions by March 31, 2018. This is an intentional process designed to give the Congress the ability to review the subjects and questions on the questionnaire before they are finalized.
- **Step Three** – The Census Bureau must test the wording of the new question. It is too late to add a question to the 2018 End-to-End Census Test, so additional testing on a smaller scale would need to be developed and implemented as soon as possible. This test would also require approval from OMB, which includes notifying the public and inviting comments through a Federal Register Notice (FRN). The updated FRN needs to be cleared by OMB prior to a new 30-day FRN posting. The Census Bureau must respond to comments from the public after 30 days. Then OMB can issue final approval.
- **Step Four** – The Census Bureau must make additional operational adjustments, beyond testing, to include new content. This includes re-designing the paper questionnaires and adjusting the paper data capture system. For all automated data collection instruments (including Internet self-response, Census Questionnaire Assistance, and Nonresponse Followup), the additional question will require system redevelopment, for English and all supported non-English languages. In addition, the training for the enumerators and Census Questionnaire Assistance agents will need redevelopment.
- **Step Five** – Based on the result of the testing, the Census Bureau must finalize the actual 2020 Census questionnaires (paper and automated). The Census Bureau then must submit for OMB approval of the 2020 Census information collection. This submission also requires notifying the public and inviting comments through a Federal Register Notice (FRN), as detailed in Step 3.

2020 Census Program Update Briefing for the Department of Commerce

December 18, 2017

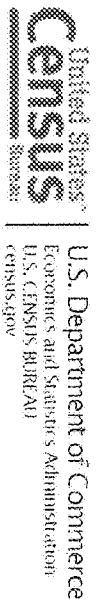


Opening Remarks

Today's Agenda

- 2020 Census Program Update
- 2020 Systems Readiness

2020 Census Program Update



2018 End-to-End Census Test

Key Activities and Accomplishments

30-Day Look Back

Address Canvassing

- All field operations (production and quality control) are complete.
- Closeout activities continue. Lessons Learned sessions are ongoing.

Enumerations

• [REDACTED] recruitment status (as of December 11) was 21.7% of total recruitment goal of 5,340 (behind the 50.7% goal for print in time.) Mitigation activities continue.

Readiness

• C TRR #2 conducted on November 17. Workload on, Printing & Mailing, Self-Response, and Census onnaire Assistance operations were given approval to join into the Systems Integration Testing activity.

• D TRR #1—Update Leave and Nonresponse Followup operations—conducted on December 6.

• M Increment (PI)-23 concluded on December 6.

• Release Train Planning Session was held on

ber 7.

• g Release 2 (Nonresponse Followup) and Release C 2 (Self-Response—Printing, Mailing, Workload, and s Questionnaire Assistance) program-level testing in ss.

30-Day Look Ahead

Address Canvassing

- Geographic Programs operation team will deliver:
 - Transaction files, metrics, and tallies from In-Field Address Canvassing by December 28.
 - Geographic Reference File-Codes files, Geographic Reference File-Names files, Master Address File Extract files, and spatial data for production enumeration operations on January 5.

Peak Operations

- Print Nonresponse Followup enumerator materials.
- Continue to build knowledge base articles and training materials for staff at the regional census centers and area census offices.
- Continue to work with stakeholders in placing kiosks in post offices to promote internet self-response.

Systems Readiness

- In support of TRR Releases C and D, system teams and the infrastructure team have developed and are executing plans to obtain their authority to operate (ATO).
- Training Release 2 Production Readiness Review will be held on January 12.

2020 Census

2020 Census Operational Readiness

30-Day Look Back

2020 Census In-Office Address Conveying

- Interactive Review (IR) production continues and is meeting the expected production goals: 77% of blocks show no signs of change and require no further review.

Local Update of Census Addresses (LUCA)

- 8,874 governments have registered, representing 87.4% of the population and 87.1% of housing units.
- Last registration reminder mailings began November 15.
- December 15 registration deadline extended to January 31 for areas impacted by recent natural disasters.

Redistributing Data Program

- Letters to solicit any changes to the 116th Congressional and 2018 State Legislative district plans were mailed November 29.

Operational Planning

- Six-day presubmission Federal Register Notice for using postal workers as enumerators closed on November 20.
- 30-day FRN for the 2020 Census Participants Statistical Areas Program posted on November 27.
- Request for Lease Proposal for furniture for the six regional census centers was released on December 8.
- As of December 11, five of the 40 Wave 1 area census offices have a lease award/signed occupancy agreement.
- The 2020 Census Integrated Master Schedule was baselined on December 14 and released into production on December 15.

Field Operations

- Received approval to close the Hagerstown Contact Center.

30-Day Look Ahead

Local Update of Census Addresses (LUCA)

- Closeout mailing to nonresponding governments (excluding areas impacted by recent natural disasters) will begin the week of January 8.
- Approximately 125 training sessions scheduled over the next year for participating governments.

Redistributing Data Program

- Phase 2 begins: mailing of guides, software, and data to official program liaisons from each state, the District of Columbia, and the Commonwealth of Puerto Rico.
- National training webinar on Phase 2 participation scheduled for January 11.

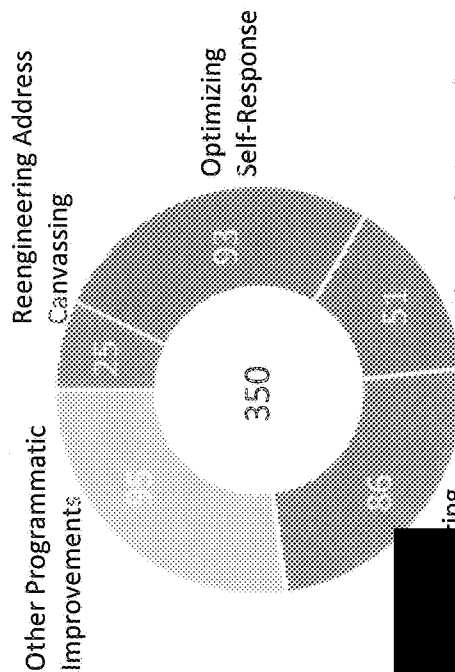
Operational Planning

- OPM training contract is scheduled to be awarded in December.
- 2020 Census Operational Plan Executive Summary will be released on December 29.
- 2018 Boundary and Annexation Survey emails requesting boundary updates will begin on January 3.
- 30-day FRN for the pilot test of using postal carriers as enumerators will be sent to OMB.
- Security, Privacy, and Confidentiality operation team is working with the Policy and Coordination Office to develop a checklist for privacy threshold analysis.
- U.S. Postal Service coordination team is organizing win meeting with USPS to provide program-wide updates and establish common goals and practices.

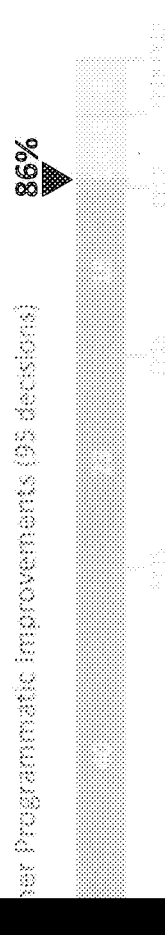
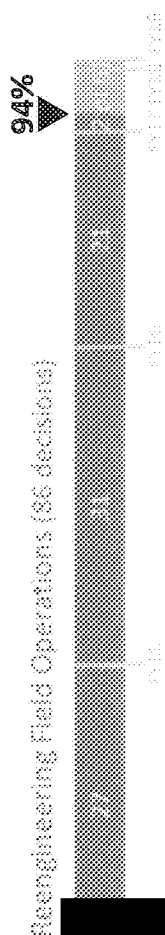
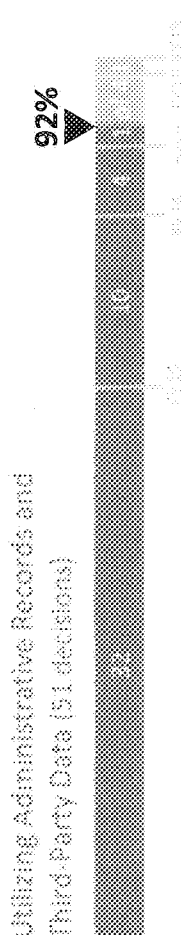
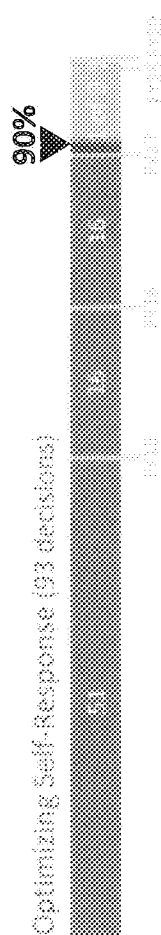
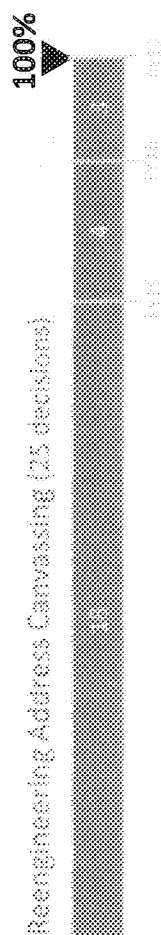
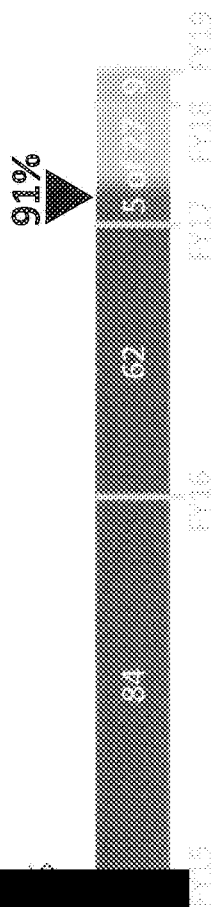
Integrated Partnership and Communications

- Team Y&R will conduct deep dive on the ICC risks and potential mitigation efforts for unfunded components.

Decisions by Innovation Area



U.S. Department of
Economics and Statistics A
U.S. CENSUS BUREAU
census.gov



2020 Census

Budget

30-Day Look Back

2020 Census Life Cycle Cost Estimate (LCCE)

- In support of the 2020 Census LCCE, the Basis of Estimate and its suite of detailed documentation artifacts were transmitted to GAO, OIG, DOC OB, and OMB on December 11. They were transmitted to DOC OAM on December 8. These detailed documentation artifacts not published for the general public but rather are intended for official government use, including by oversight and auditors.
- In support of the 2020 Census LCCE, the Census Bureau has incorporated all DOC feedback on the Executive Summary of the Basis of Estimate, and the documents went to OMB on December 12 for expedited review can be delivered to Congress as soon as possible.
 - This executive summary is intended to provide public with messaging and a high-level overview of the November 2017 version of the 2020 Census LCCE and the supporting Basis of Estimate and related documentation.
- Continued efforts to support budget request to OMB information requested.

FY 2019 Funding

30-Day Look Ahead

FY 2018 Funding

- With input from the Decennial Budget Office, 2020 Census leadership will be conducting a top-to-bottom budget execution review for FY 2018 to ensure all current allocations are rigorously managed, and

red is redirected to emergent
es in a timely manner.

office, in conjunction with
and all 2020 Census program
development of detailed operating
January, consistent with
in the FY 2019 President's

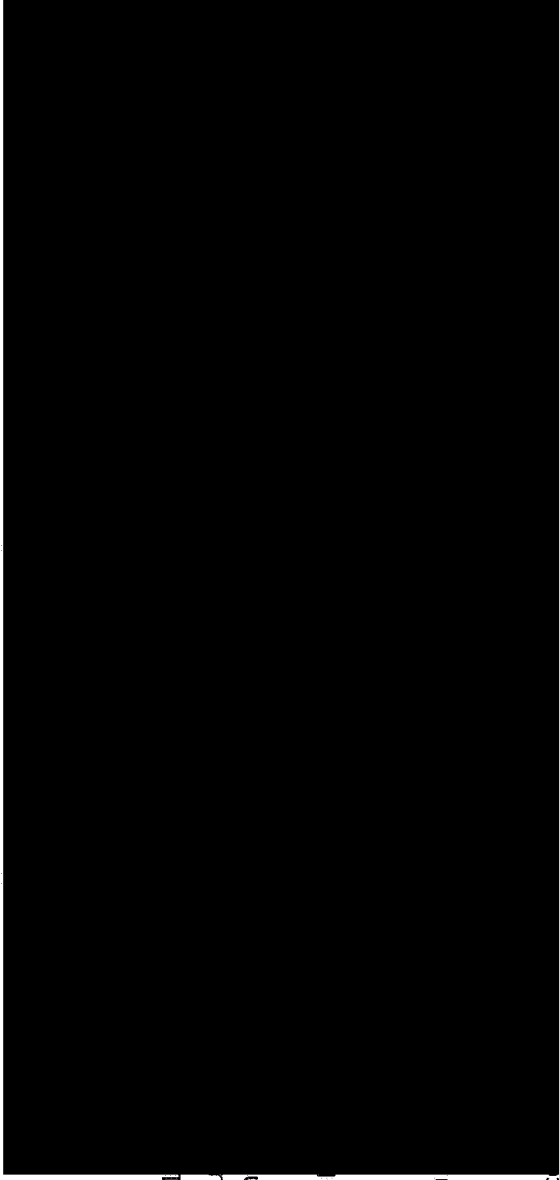
2020 Census Major Contracts

Decentralist Device as a Service (dDaas)

- Kick-off meeting with CDW-G occurred on November 1.
- Census Bureau is developing a recovery schedule, including mitigations needed for peak operations of the 2018 End Census Test.
- CDW-G will provide the following for the 2018 End-to-End Census Test's Nonresponse Followup operations:
 - Approximately 1,400 smartphones (iPhone 7) for enumerators to operate the Enterprise Census Surveys Enabling (ECaSE) platform enumeration software.
 - Approximately 80 tablets (iPad, 2017 edition) for field supervisors to run operational control software.
 - Local cellular coverage in the area census office.
 - Property accountability via a vendor-operated property system.

Technical Integrator (TI)

- TI will provide the AirWatch mobile device management system for the 2018 End-to-End Census Test (originally stood up as part of the Census Bureau contingency during the October 5–November 9 CDW-G protest period).
- TI Integrated Baseline Review occurred on November 16.
- TI monthly Program Management Review occurred on November 29.



November 14. This was an internal vendor status briefing on the CQA contract.

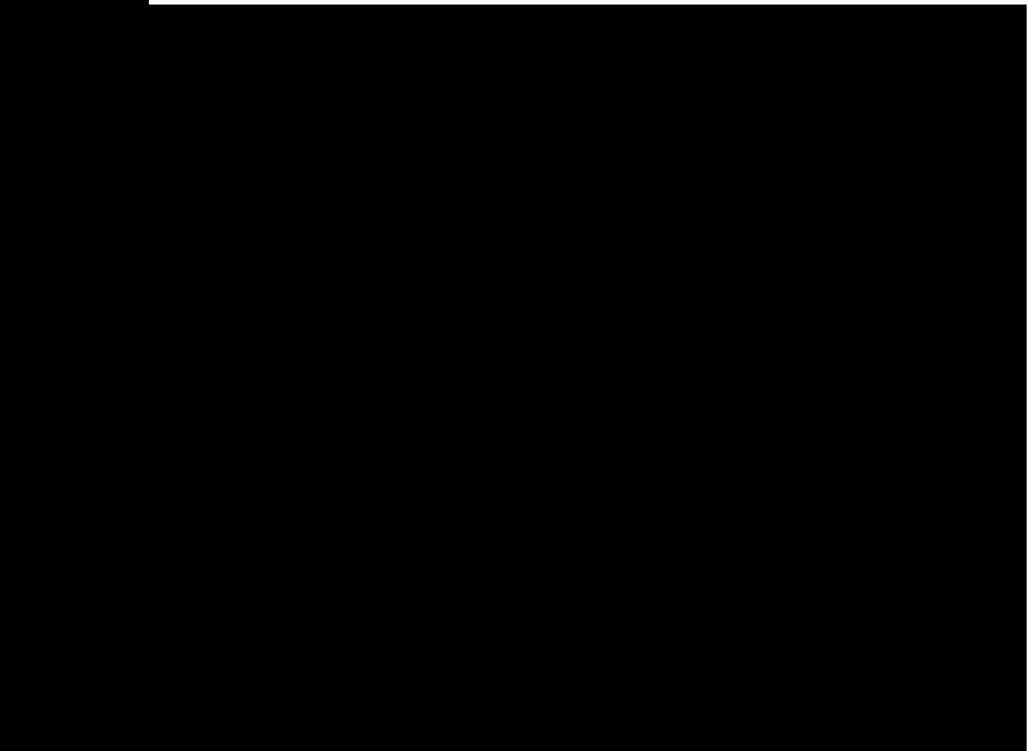
2020 Census

Stakeholders and Oversight

30-Day Look Back

GAO and OIG

- Entrance meeting for OIG's audit of CEDCap and Internet Self-Response preparedness for the 2018 End-to-End Census Test occurred on November 14. OIG broadened the audit's focus to encompass preparedness of all systems, not just ISR.
- Exit meeting for OIG's audit of revised background check policies and procedures, as well as plan for accommodating background check and hiring needs of the 2020 Census occurred on November 16.
- Census Bureau conducted a P6 Primavera demonstration on November 30 to OIG audit staff on the scheduling tool that will be used for the 2020 Census. The P6 upgrade adds capabilities for governance, project-team participation, and project visibility.
- GAO auditors (from the team auditing IT readiness for the 2018 End-to-End Census Test) attended the Census Bureau's Integrated Baseline Review of the TI contractor on November 16. They were also briefed by the Census Bureau on fraud detection, system status, and the overall program on November 17.



2020 Census

Systems Readiness

30-Day Look Back Program Increments

Systems Engineering & Integration (SE&I), the Technical Integrator (TI), and systems teams are preparing for Test Readiness Reviews (TRR), Program Increments (PI), and Release Train Planning Sessions in support of the 2018 End-to-End Census Test. TRRs ensure appropriate test objectives, methods procedures, scope, and environments. They assess readiness of systems to begin independent program-level testing. The Release Train is compiled of 40-day Program Increments that are scheduled to meet a schedule milestone date on the

30-Day Look Ahead

Systems Readiness Reviews

- System Readiness Review (SRR) #4 is scheduled for January 9.
 - This encompasses the Publish Data and Test and Evaluation areas of operations:
 - Archiving, Census Question Resolution, Count Review, Coverage Measurement Design and Estimation, Coverage Measurement Matching, Coverage Measurement Field Operations, Data Processing Dissemination, Evaluation and Experiments, and Redistricting Data Program.

DRAFT – FOUO – CONFIDENTIAL

CENSUS AUTHORIZING COMMITTEES – NOTIFICATION - MEMBERS OF CONGRESS – KEY CONTACTS

Senate Committee on Homeland Security and Governmental Affairs

1. Chairman Ron Johnson (D-WI)

Patrick Bailey Chief Counsel for Governmental Affairs [REDACTED]

2. Ranking Member Claire McCaskill (D-MO)

Margaret Daum Staff Director [REDACTED] - 202-224-2627
Chief Counsel *Brandon Reavis, 202-224-9523; Sarah Garcia – 202-224-5602

Senate Committee on Commerce, Science, and Transportation

3. Chairman John Thune (R-SD)

*Nick Rossi Staff Director - Republican Staff Director [REDACTED] 202-224-1251

4. Ranking Member Bill Nelson (D-FL)

Kim Lipsky, Democratic Staff Director [REDACTED] 202-224-0411

Senate Appropriations Committee

Senate Appropriations Committee CJS Subcommittee

5. Chairman Richard Shelby (R-AL)

Jeremy Weirich – Clerk, Kolo Rathburn – Professional Staff,

6. Ranking Member Jean Shaheen (D-NH)

Jean Toal-Eisen – Clerk [REDACTED]
Molly McCarthy – Professional Staff [REDACTED]

House Committee on Oversight and Government Reform

7. Chairman Trey Gowdy (R-SC)

Rob Borden - 202-225-5074 – [REDACTED]

8. Ranking Member Elijah Cummings, (D-MD)

Elizabeth Gollin, (202) 225-5051 | [REDACTED]
Charles Davis < [REDACTED]

House Subcommittee on Government Operations

9. Chairman Mark Meadows (R-NC)

*Tristan Leavitt, Majority Staff Director - 202-225-5074

10. Ranking Member Gerald Connolly (D-VA)

*Courtney French, Minority Staff Director – 202-225-5051

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House Appropriations Committee

House Appropriations Committee's Commerce, Justice, Science, and Related Agencies Subcommittee

11. Chairman John Culberson (R-TX)

*Colin Samples, Committee Staff Assistant, [REDACTED] 202-225-3351

12. Ranking Member Jose Serrano (D-NY)

*Bob Bonner, Professional Staff [REDACTED] 202-225-3481

Congressional Leadership

13. Senate Republican Majority Leader Mitch McConnell (R-KY)

Steven Donaldson [REDACTED]

14. House Speaker Paul Ryan (R-WI)

*Geoff Antell, Policy Director [REDACTED] 202-226-3863

Minority Leader Schumer

Minority Leader Pelosi

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Minority Leader Schumer

Minority Leader Pelosi

Exhibit 9

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----
4 NEW YORK IMMIGRATION COALITION, ET AL.,

5 Plaintiffs,

6 vs. Case No. 1:18-CF-05025-JMF

7 UNITED STATES DEPARTMENT OF COMMERCE, ET AL.,
8 Defendants.
9 -----

10 Washington, D.C.

11 Wednesday, August 15, 2018

12 Deposition of:

13 DR. JOHN ABOWD

14 called for oral examination by counsel for
15 Plaintiffs, pursuant to notice, at the office of
16 Arnold & Porter, 601 Massachusetts Avenue NW,
17 Washington, D.C., before KAREN LYNN JORGENSEN,
18 RPR, CSR, CCR of Capital Reporting Company,
19 beginning at 9:08 a.m., when were present on
20 behalf of the respective parties:
21
22

1 P R O C E E D I N G S

2 WHEREUPON,

3 VIDEOGRAPHER: Good morning, ladies and
4 gentlemen. We're going on the record at 9:07 a.m.
5 August 15, 2018. This begins Media Unit 1 of the
6 video-recorded deposition of Dr. John Abowd taken
7 in the matter of the State of New York, et al.,
8 Plaintiff, versus United States Department of
9 Commerce, Defendant, Case Number 18-CV-2921 (JMF),
10 and New York Immigration Coalition, et al.,
11 plaintiff, versus U.S. Department of Commerce,
12 et al. defendants case Number 18-CV-5025 (JMF)
13 filed in the U.S. District Court for the
14 Southern District of New York.

15 This deposition is being held at the law
16 offices of Arnold & Porter located at
17 601 Massachusetts Avenue, Northwest,
18 Washington D.C.

19 My name is Solomon Francis from the firm
20 of Veritext Legal Solutions, and I'm the
21 videographer. The court reporter is
22 Karen Jorgenson with Veritext Legal Solutions.

1 Counsel, your appearances will be noted
2 on the stenographic record.

3 At this time, will the court please swear
4 in the witness and we can proceed.

5 DR. JOHN ABOWD,
6 called as a witness, and having been first duly
7 sworn, was examined and testified as follows:

8 THE WITNESS: I do.

9 EXAMINATION BY MR. FREEDMAN:

10 Q Dr. John Abowd, good morning. I'm John
11 Freedman from the law firm of Arnold & Porter. I
12 represent the plaintiffs in the New York
13 Immigration Coalition case.

14 Could you state your name for the record?

15 A My name is John Abowd.

16 Q And what is your professional address?

17 A United States Census Bureau Headquarters,
18 4600 Silver Lake Road, Room 8H-120,
19 Washington, D.C. 20223.

20 Q Dr. Abowd, have you been deposed before?

21 A Yes.

22 Q If you don't understand my question,

1 MR. CASE: I don't know if these talking
2 points were introduced before or not. Have these
3 been introduced before?

4 MR. GARDNER: No.

5 MR. CASE: So we've got 21 here.

6 MR. GARDNER: Make sure you tell them the
7 Bates number.

8 THE WITNESS: Twenty-two, I think.

9 MR. CASE: Twenty-two. This Bates number
10 is 3890.

11 (Plaintiffs' Exhibit 22, Talking points,
12 was marked.)

13 BY MR. CASE:

14 Q Have you seen this document before?

15 A I have seen the talking points. I don't
16 think I've seen the rest of it.

17 Q The process of adding content to the
18 census survey questionnaire; is that what you mean
19 you haven't seen?

20 A I haven't seen this -- what looks like
21 www.census.gov fact sheet.

22 Q Okay.

1 A But I've seen -- I've seen most of the
2 content. The organization of it might be
3 different --

4 Q Okay.

5 A -- from the way I'd seen it.

6 Q So I want you to look at the steps for
7 adding content to the survey questionnaire, and I
8 want to specifically look at Step 3. "The
9 Census Bureau must test the wording of the new
10 question. It is too late to add a question to the
11 2018 end-to-end test, so additional testing on a
12 smaller scale would need to be developed and
13 implemented as soon as possible."

14 Was additional testing on a smaller scale
15 developed and implemented as soon as possible?

16 A That is among the questions that the
17 internal expert committee is expected to opine on
18 or to develop a decision memo on.

19 Q Okay. But that's a fact question
20 whether -- whether testing has been done as of
21 today?

22 A As far as of today, I know no testing has

1 been done outside of the American Community
2 Survey.

3 Q And the first talking point on the first
4 page references the request from the
5 Department of Justice. So this was drafted after
6 that request was made?

7 A After that request was made public, yes.

8 Q So the -- the idea that the question has
9 already been tested on the American Community
10 Survey would have been known to the author of this
11 document?

12 MR. GARDNER: Calls for speculation.
13 Lack of foundation.

14 THE WITNESS: The contents of the
15 American Community Survey were certainly known to
16 the author of this document.

17 BY MR. CASE:

18 Q Do you know who wrote this document?

19 A I do not.

20 Q What's the ordinary testing process for a
21 request to add a new question or content to the
22 census?

1 A As far as I can determine from
2 examination of the historical record and questions
3 posed to long-time census employees and experts,
4 we haven't asked to add a question to the census
5 in working memory. So the process that
6 Lisa Blumnerman describes in the memo you had me
7 address first is primarily the process that we
8 have used for the longer form on the
9 American Community Survey for a while, and
10 specifically for the American Community Survey.

11 Q You say that you haven't been asked to
12 add a question. Has the Census Bureau been asked
13 to obtain specific data to provide the agencies?

14 A I believe we routinely asked questions
15 like that, yes.

16 Q So the -- is there a different process
17 when you're asked for a type of data rather than
18 asked for a specific question?

19 MR. GARDNER: Objection. Lack of
20 foundation.

21 THE WITNESS: I don't know that there's a
22 different process. I believe that the right way

1 to characterize the process for the
2 American Community Survey is that the addition of
3 a question is a -- is a last resort, in the sense
4 that it needs to have a firm statutory agency use
5 case and alternative ways of delivering the
6 information without adding burden to the
7 American Community Survey are considered first.

8 BY MR. CASE:

9 Q And is it a more dramatic step to add a
10 step to the decennial census than to the
11 American Community Survey?

12 MR. GARDNER: Objection. Vague.

13 THE WITNESS: I think that's a reasonable
14 statement, yes.

15 BY MR. CASE:

16 Q And so any process to add a question to
17 the American Community Survey would inform a
18 process for adding a question to the census,
19 wouldn't it?

20 A It could, yes.

21 Q Would the process for adding a question
22 to a census be more rigorous than adding a

1 question to the American Community Survey?

2 MR. GARDNER: Objection. Calls for
3 speculation.

4 THE WITNESS: The process of testing the
5 content on the census is a decade-long process
6 involving multiple tests and various RCTs. And
7 given adequate time, I'm sure that we would
8 subject any request to such testing.

9 BY MR. CASE:

10 Q And was the citizenship question
11 subjected to such testing?

12 A No.

13 Q And I want to turn to these 35 questions
14 that were asked after the January 19th memo. I
15 think we have one set of them at Exhibit 11 and
16 another Exhibit 16.

17 A So I have Exhibit 16. I don't think it
18 was 11.

19 Q No?

20 MR. GARDNER: Just 16. Eleven is a memo.

21 MR. CASE: No. But at the -- at the --
22 attached at the end of the memo are attached these

1 questions, I believe.

2 MR. GARDNER: I don't think that's right.

3 MR. CASE: Then I need to get another
4 version of that memo because of that memo with it
5 attached.

6 MR. GARDNER: Exhibit 16 has a complete
7 collection of the questions --

8 MR. CASE: Yeah, but they change over
9 time.

10 MR. GARDNER: -- the version -- no. I
11 understand. But the version you have is not the
12 version that --

13 MR. CASE: Okay. Then I have to
14 introduce another document this time.

15 First, I want to introduce 10950.

16 (Plaintiffs' Exhibit 23, Spreadsheet, was
17 marked.)

18 BY MR. CASE:

19 Q What is this?

20 A This is the spreadsheet that I was using
21 to keep track of who was assigned to write an
22 answer to one of the 35 questions and whether they

1 had delivered a completed answer.

2 Q And who is assigned to Question 31?

3 A Tori Velkoff.

4 Q And who is that?

5 A Victoria Velkoff is the chief of the
6 American Community Survey Office.

7 Q Okay.

8 A ACSO.

9 Q And who is assigned to Question 35?

10 A Burton Reist --

11 Q And --

12 A -- who then assigned it to Jim Dinwiddie.

13 Q Okay. Introduce 109850. This is an
14 intermediate draft of the answers to the
15 questions. This is Number 24.

16 (Plaintiffs' Exhibit 24, Draft answers to
17 questions, was marked.)

18 BY MR. CASE:

19 Q I want you to look just at Question 35
20 here. Is that your note? Is that you, JMA?

21 A I'm reading the whole document.

22 Q Okay.

1 A The whole answer.

2 Q Okay. That's fine.

3 A Yes. That is my note.

4 Q Why did you make that note?

5 A I'm skeptical of "never" and "always"
6 claims inside the Census Bureau, because, often,
7 in checking of the historical record reveals
8 something that could be reasonably interpreted as
9 an exception to that statement.

10 Q And your -- your note makes this document
11 more accurate, correct?

12 A I think so, yes.

13 Q And accuracy is very important in this
14 document?

15 A Yes, of course.

16 Q And who has ultimate responsibility for
17 this document being accurate?

18 A That's a good question. I believe that
19 Ron Jarmin intended for me to take responsibility
20 for making sure that an accurate answer was
21 provided, and I believe that those answers were
22 reviewed by a number of other people, including

1 Enrique Lamas and Ron Jarmin before they were
2 transmitted.

3 Q Great. I'm going to show you the version
4 of the March 1 memorandum that has the -- what I
5 believe are the Census Bureau final versions
6 attached. This is 9812, and we're on Number 25.

7 (Plaintiffs' Exhibit 25, March 1, 2018
8 Memorandum, was marked.)

9 BY MR. CASE:

10 Q Looking at the front first, this document
11 is dated March 1, 2018, and this is a memo from
12 you, through Kelley, Jarmin and Lamas, to the
13 Secretary. Is this the last version of this
14 document that you worked on?

15 A I can't read the watermark clearly --

16 Q Yep.

17 A -- on this, but I think it says 1.0. And
18 if that's the case, the answer is yes.

19 Q And did you work on the 35 questions
20 after March 1, 2018?

21 A I don't believe so.

22 Q I want to turn to Question 35 and just

1 note that the sentence that you edited as itself
2 has just been removed; is that correct?

3 A That appears to be correct, yes.

4 Q Do you remember removing that sentence?

5 A I'm not sure who removed the sentence.

6 Q But it was removed before this document
7 was sent to Commerce?

8 A It should -- well, the version that's
9 here -- we sent the answers to Commerce on a flow
10 basis. And in spite of that, some of them were
11 changed, so I assembled the final version that we
12 agreed were the -- were the complete answers to
13 the questions. I believe that's what you have
14 here. It looks like the final version.

15 Q Great. And looking to Question 31, is
16 this the final version of this question that the
17 Census Department submitted to Commerce?

18 A Seems to be, yes.

19 Q And this states that adding a question to
20 the decennial census or the ACS involves extensive
21 testing, review and evaluation?

22 A It does state that, yes.

1 Q As of March 1, 2018, did you believe
2 adding a new question to the decennial census or
3 the ACS involved extensive testing, review and
4 evaluation?

5 A Yes.

6 Q Let me show you one more version of this
7 document. This is 1286.

8 MR. CASE: And we're at 25 or 26?

9 MR. GARDNER: Twenty-six.

10 MR. CASE: I'm going to get that wrong
11 all day. Sorry.

12 (Plaintiffs' Exhibit 26, Questions on the
13 January 19th draft census memo, was marked.)

14 BY MR. CASE:

15 Q This is from the administrative record
16 originally produced. You can see from the court
17 stamp at the top. I'd like you to turn to
18 Question 31.

19 A Okay.

20 Q Can you read the answers to 31, just to
21 yourself? I want to make sure you have it --

22 A "Because no new questions have added" --

1 Q You don't have to read it out loud. You
2 don't have to.

3 Have you read it?

4 A Yes, I have.

5 Q Did you write that?

6 A I don't remember writing it. I'm not
7 sure who did.

8 Q Do you -- have you seen that answer to
9 that question before?

10 A Yes. I -- I -- once the answers started
11 circulating in email, it became extremely
12 difficult to maintain a controlled copy. So I
13 kept one on the secure disk. I think that's where
14 this came from. Although -- no. It's got a Bates
15 number below, 1300, so this came from an email
16 attachment.

17 Q How do you know this came from an email
18 attachment?

19 A Because, as far as I know, the only
20 things -- sorry. I don't know that it came from
21 an email attachment. It came from documents that
22 we could demonstrate had been conveyed to Commerce

1 like to enter Exhibit 27, which is Bates
2 number 8291.

3 (Plaintiffs' Exhibit 27, 2020 Census:
4 Adding content to the questionnaire, was marked.)

5 MS. FIDLER: And I apologize, I only have
6 one copy.

7 BY MS. FIDLER:

8 Q It is yet another sort of version of
9 steps taken on adding content to the
10 questionnaire.

11 Have you seen this document before?

12 A I don't think I have, no.

13 Q Is the content at all familiar to you?

14 A The content looks similar to other
15 content that I have seen about the process that we
16 use for the American Community Survey.

17 Q Do you have any idea who wrote the
18 document?

19 A I do not.

20 Q Or when it was drafted?

21 A I do not.

22 Q Okay. It does state at the top that the

1 Census Bureau follows a well-established process
2 when adding questions to the census.

3 Do you recognize the steps -- I mean,
4 they're very similar to what were -- was put into
5 the Question 31, correct, that we've been talking
6 about?

7 MR. GARDNER: Objection. Compound.

8 THE WITNESS: I recognize the steps now.
9 I think they were summarized in our answer to
10 Question 31.

11 BY MS. FIDLER:

12 Q And so you believe -- do you agree that
13 these steps are a well-established process of the
14 Census Bureau for adding content to the
15 questionnaire?

16 MR. GARDNER: Objection. Lack of
17 foundation. Calls for speculation.

18 THE WITNESS: To the extent that there
19 exists a well-established process for adding, as
20 opposed to modifying the content on the census
21 questionnaire, this is as good a description of it
22 as we have, and it was summarized in our answers

1 to the questions delivered to us by Commerce.

2 BY MS. FIDLER:

3 Q In the process of receiving a request,
4 that says that Step 1 is to "work with" --
5 "closely with O&B to determine whether the data
6 fulfill legal, regulatory or Constitutional
7 requirements."

8 Was that done with regard to adding the
9 census question?

10 A Not to my knowledge.

11 Q Step 2, "If an additional topic is
12 required, it is imperative that Congress be
13 notified as soon as possible and whether the
14 question is warranted."

15 Who decides whether the question is
16 warranted?

17 MR. GARDNER: Objection. Calls for
18 speculation. Lack of foundation.

19 BY MS. FIDLER:

20 Q If you know.

21 A I don't.

22 Q Was -- how was Congress given

1 notification of the new topic of citizenship in --

2 MR. GARDNER: Objection.

3 BY MS. FIDLER:

4 Q -- this case?

5 MR. GARDNER: Sorry.

6 Objection. Lack of foundation. Calls
7 for speculation.

8 BY MS. FIDLER:

9 Q If you know.

10 A In March of -- March 31st of 2017, we
11 delivered a content summary to Congress, as we are
12 required to do. And because the citizenship
13 question is on the American Community Survey, that
14 content was explicitly -- the notice of the intent
15 to ask questions on that content was delivered to
16 Congress, but it was at that time on the
17 American Community Survey.

18 Q But it wasn't for -- at the time, it
19 wasn't being presented for the decennial?

20 A My recollection of that document is that
21 the questions were -- the topics -- excuse
22 me -- were sorted by whether they would be on the

1 decennial or the ACS, but I haven't reviewed that
2 document.

3 Q Okay. Turning to Step 4, it says, "The
4 Census Bureau must test the wording of the new
5 question. With respect to a possible question of
6 citizenship, no testing would be required because
7 we would use a question identical to what we
8 already use on the ACS."

9 Just a -- we talked earlier about the
10 applicability of the testing of the ACS question
11 of citizenship. Is there any reason to do less
12 rigorous testing for decennial than for the ACS?

13 A I think what Step 4 refers to here is the
14 cognitive and wording testing that we do to make
15 sure that the question is understood by the -- the
16 intended respondents. I believe that we were when
17 this was written -- although I'm not sure when
18 this was written -- and are still confident that
19 that kind of testing in the context of the ACS is
20 sufficient for the census.

21 Q But aren't the environments very
22 different?

1 A That's why I was very specific in talking
2 about the cognitive testing. Is the question
3 recognized? Do the respondents understand what
4 they're being asked? And when they are asked
5 that, do they respond with content that we believe
6 is -- is appropriate to the questions?

7 So if -- if we ask them the ACS
8 citizenship question, we believe that they give us
9 the answers that we -- that they understand to be
10 to a citizenship question. They know what the
11 words mean. They know what the question's asking
12 for. So that's the kind of testing I mean.

13 And we have used multiple ways of
14 incorporating what we learn from surveys, like the
15 American Community Survey, into our understanding
16 of how to ask questions on the census. We do rely
17 on specific tests for the census, but we also rely
18 on tests and the practice in the
19 American Community Survey, and sometimes in
20 other's surveys, but primarily the American
21 Community Survey.

22 Q But isn't it also fair to say that

1 the -- the goal of the decennial survey is
2 different than the goal of the ACS survey -- or
3 some of them are?

4 A If the question includes the qualifiers,
5 some I agree.

6 Q And one of them, obviously, is needing to
7 get as complete a response, correct, to the -- to
8 the decennial?

9 MR. GARDNER: Objection. Vague.

10 THE WITNESS: It is certainly a
11 high-priority objective of the decennial to get an
12 accurate count. And it is also an objective of
13 the American Community Survey to keep that
14 count -- to provide data that helps keep that
15 count up-to-date as we move through the decades.
16 So while it's not a primary purpose of the
17 American Community Survey, they do share
18 contributors -- they are contributors -- the
19 survey is a contributor to our knowledge base in
20 forming population estimates through that --
21 through the course of the decade.
22 BY MS. FIDLER:

1 Q Well, just in the interest of time, to be
2 a bit more succinct about it, isn't it fair to say
3 that not all of the goals and the environment
4 under which the citizenship question was tested
5 for the ACS would apply to the environment and the
6 goals of the -- of the decennial survey?

7 A Yeah. That's a fair statement.

8 Q So in light of that, in your professional
9 opinion, wouldn't it be important to field test
10 the question for the decennial before putting it
11 on the decennial survey?

12 A We would have preferred to test a
13 questionnaire that included all the content of the
14 2020 census.

15 Q In fact, there had been
16 concerns -- strike that.

17 You mentioned that one of the
18 difficulties you had was that there was no
19 quantitative evidence in trying to make an
20 assessment about putting this question on the time
21 you were being asked to do it. Is that a fair
22 assessment of your testimony today?

1 A I think I specifically said that the gold
2 standard evidence for internal validity were
3 randomized controlled trials and there were none.

4 Q And in cases such as that, it's not
5 unusual to look at qualitative analysis to
6 supplement, you know, a sort of determination
7 of -- strike that.

8 The agency also uses qualitative analysis
9 to make decisions, correct?

10 MR. GARDNER: Objection. Vague.

11 BY MS. FIDLER:

12 Q I'd like to introduce to the record
13 Exhibit 28, I believe it is, which has Bates stamp
14 10386.

15 (Plaintiffs' Exhibit 28, September 20,
16 2017 Memorandum, was marked.)

17 BY MS. FIDLER:

18 Q Have you seen this document before?

19 A I'm not sure I've seen this specific
20 version of this document. I'm aware of its
21 content. The Center for Survey Measurement is a
22 part of the research and methodology directorate,

* * * * *

I, KAREN LYNN JORGENSEN, RPR, CSR, CCR the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in stenotype and thereafter reduced to typewriting under my direction; that the said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Karen Lynn Jorgensen

KAREN LYNN JORGENSEN, RPR, CCR, CSR

Dated this day
of , 2018.

Exhibit 10

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----
4 NEW YORK IMMIGRATION COALITION, ET AL.,

Plaintiffs,

5 vs. Case No. 1:18-CF-05025-JMF

6 UNITED STATES DEPARTMENT OF COMMERCE, ET AL.,

7 Defendants.
8 -----

9 Washington, D.C.

10 Monday, August 20, 2018

11 Deposition of:

12 DR. RON JARMIN

13 called for oral examination by counsel for
14 Plaintiffs, pursuant to notice, at the office of
15 Arnold & Porter, 601 Massachusetts Avenue NW,
16 Washington, D.C., before KAREN LYNN JORGENSEN,
17 RPR, CSR, CCR of Capital Reporting Company,
18 beginning at 9:03 a.m., when were present on
19 behalf of the respective parties:

20 Veritext Legal Solutions

Mid-Atlantic Region

1250 Eye Street NW - Suite 350

21 Washington, D.C. 20005
22

1 P R O C E E D I N G S

2 WHEREUPON,

3 MR. YEOMANS: I'd like the same order as
4 Dr. Abowd.

5 VIDEOGRAPHER: Good morning. We're going
6 on the record at 9:03 a.m., August 20, 2018. This
7 begins Media Unit 1 of the video recorded
8 deposition of Dr. Ron Jarmin taken in the matter
9 of New York Immigration Coalition, plaintiffs
10 v. U.S. Department of Commerce and all defendants,
11 Case Number is 1:18-CV-05025-JMF and
12 1:18-CV-2921-JMF filed in the U.S. District Court
13 for the Southern District of New York.

14 This deposition is being held at the law
15 office of Arnold & Porter Kaye Scholer, LLP,
16 located 601 Massachusetts Avenue Northwest,
17 Washington D.C.

18 My name is Solomon Francis with the firm
19 of Veritext Legal Solutions. I am the
20 videographer. The court reporter is
21 Karen Jorgenson with Veritext Legal Solutions.
22 Counsels' appearances will be noted on the

1 stenographic record.

2 Will the court reporter please swear in
3 the witness, and you may proceed?

4 DR. RON JARMIN,
5 called as a witness, and having been first duly
6 sworn, was examined and testified as follows:

7 THE WITNESS: Yes, I do.

8 EXAMINATION BY MS. GOLDSTEIN:

9 Q Can you please state your name for the
10 record?

11 A Ron Jarmin.

12 Q Good morning. My name is
13 Elena Goldstein. I'm one of the attorneys for the
14 State of New York in this case, and I'll be
15 starting the deposition today.

16 Have you ever been deposed before?

17 A Not like this, no.

18 Q So I'm just going to go through some of
19 the basic ground rules. I'm going to ask, because
20 we have the court reporter who is taking down all
21 of my questions and your answers, that you ask --
22 answer questions orally rather than nodding your

1 folks from the White House about the citizenship
2 question?

3 A No.

4 Q Prior to receiving the Gary letter, did
5 you have communications with anyone associated
6 with the White House about the citizenship
7 question?

8 A No.

9 Q And after receiving the Gary letter, did
10 you have communications with anyone affiliated
11 with the White House about the citizenship
12 question?

13 A No.

14 Q I'll take that.

15 MS. GOLDSTEIN: I apologize I do not have
16 a lot of those exhibits.

17 (Plaintiffs' Exhibit 6, 2020 Census:
18 Adding Content to the Questionnaire, was marked.)

19 BY MS. GOLDSTEIN:

20 Q I'm showing you what's been Bates stamped
21 Plaintiffs' Exhibit 6. It is a two-page document
22 marked 9865 and 9867 entitled 2020 Census: Adding

1 Content to the Questionnaire.

2 Do you recognize this document? Let's
3 look at the first page first.

4 A You know, I recognize -- I mean, I'm not
5 sure where this came from, but I think this looks
6 like the process, yes.

7 Q When you say this looks like the process,
8 what does that mean?

9 A The process for adding questions to
10 the -- the ACS and decennial.

11 Q And the process for adding to the ACS and
12 decennial is the same, correct?

13 A Yes. We call it the ACS, used to be the
14 long form of the census.

15 Q And when we refer to the decennial or the
16 census, we're referring to the short form?

17 A The short form.

18 Q So if you look at the very top, it says,
19 "The Census Bureau follows a well-established
20 process when adding questions to the decennial
21 census."

22 A Uh-huh.

1 Q Do you agree with that statement?

2 A Uh-huh. Yes.

3 Q And it says that -- and is it part of
4 that well-established process having those
5 technical meetings that you just referred to?

6 A Yes. I mean, it's not laid out in here,
7 but that is generally part of the process.

8 Q So looking at Step 1 --

9 A Uh-huh.

10 Q -- do you agree that typ- -- the
11 typical -- well -- or I'm sorry. Withdrawn.

12 Do you agree the well-established process
13 first provides that upon receiving requests,
14 lawyers at the Department of Commerce work closely
15 with OMB to determine whether data fulfill legal,
16 regulatory or constitutional requirements?

17 A Yes.

18 Q And Step 2, do you agree that upon
19 determining that a new question is warranted, that
20 the Census Bureau must notify Congress of its
21 intent to answer the question?

22 A Uh-huh.

1 Q I'm sorry. I need --

2 A Yes. Yes.

3 Q Thank you.

4 And how does the Census Bureau determine
5 that a new question is warranted?

6 A So, again, that's -- you know,
7 there's -- whether there's a legal or statutory,
8 regulatory reason, and then whether it's feasible
9 to ask that question.

10 Q What does that mean?

11 A That we can actually get valid responses
12 from respondents.

13 Q How do you -- how does the Census Bureau
14 determine that?

15 A Often through testing or what have you.
16 So we do cognitive testing to see if people
17 understand questions.

18 Q What other kinds of testing do you do?

19 A That's really the primary type of
20 testing. You know, look at the quality of the
21 data we get back from that, determine how best to
22 word the question.

1 Q Other than testing wording, are there
2 other things the Census Bureau looks at to
3 determine whether or not a question is feasible?

4 A So not -- so they -- the -- you know, on
5 the business side, we look to see whether the
6 companies keep records of the thing that we're
7 requesting. On the household side, that's usually
8 less formal. So it's whether they understand the
9 question and can answer it, so.

10 Q Are there other issues that go into
11 whether or not a question will lead to a valid
12 response from respondents?

13 A So, you know, there's testing. There's
14 comparing it to other sources of information,
15 trying to understand whether we're getting
16 high-quality responses. That's not always
17 possible.

18 Q What do you mean?

19 A Sometimes there's not another source of
20 data.

21 Q Is there another source of data for the
22 citizenship information?

1 A In this case, yes, there is another
2 source of data.

3 Q And what was that source of data?

4 A Administrative records from, primarily
5 from the Social Security Administration, but also
6 from USCIS and the State Department.

7 Q Are there any other aspects of this
8 process of determining whether or not a new
9 question is warranted?

10 MS. BAILEY: Objection. Vague.

11 THE WITNESS: So the warranted is a
12 different term. Census Bureau is usually looking
13 for feasible. So the subject matter expert
14 requesting the information is assumed to know
15 whether the information is needed or not, and we
16 look for a way to see if we can provide the
17 information that they need.

18 BY MS. GOLDSTEIN:

19 Q And that, again, goes back to those
20 technical meetings --

21 A Yes.

22 Q -- between the subject matter experts at

1 Census and the subject matter experts at the
2 agency --

3 A Correct.

4 Q -- correct?

5 A Correct.

6 Q So continuing on Step 2, this says,
7 skipping down a line, "This is an intentionally
8 [sic] process designed to give Congress the
9 ability to review the topics and questions on the
10 questionnaire before they're finalized?"

11 A Uh-huh.

12 Q Do you agree with that statement?

13 A Uh-huh. Yes. Sorry.

14 Q "If an additional topic is required, it
15 is imperative that Congress be notified as soon as
16 possible."

17 Do you agree?

18 MR. ROSENBERG: Excuse me. I think
19 people that are dialed in can no longer hear the
20 deposition.

21 MS. GOLDSTEIN: Can we go off the
22 deposition for a minute?

1 VIDEOGRAPHER: The time is 9:46 a.m.

2 We're going off the record.

3 (Off the record.)

4 VIDEOGRAPHER: The time is 9:48 a.m. We
5 are back on the record.

6 Please proceed, Counsel.

7 BY MS. GOLDSTEIN:

8 Q So we're still on 9865. And if we look
9 to Step 3, "The Census Bureau must notify the
10 public and invite comments regarding the change in
11 the questionnaire with the Federal Register
12 notice."

13 Is that correct?

14 A Yes.

15 Q And do you agree that that is also part
16 of the well-established process?

17 A Yes.

18 Q And has this step of the process been
19 followed for the citizenship question?

20 A It has not. This is in process. This
21 part is to have the Paperwork Reduction Act
22 package that goes to the Office of Management and

1 Budget, to Nancy Potok's office. I'm not sure
2 where in the process, but the whole package for
3 the census will be sent out. The citizenship
4 question will be part of that package.

5 Q And Step 4, "The Census Bureau must test
6 the wording of the new question."

7 A Right.

8 Q Do you agree that that is also part of
9 the well-established process of adding content to
10 the census questionnaire?

11 A Yes.

12 Q And the citizenship question has not been
13 tested, correct?

14 A That's -- that's not correct.

15 Q Okay. The citizenship question has not
16 been tested in the context of the decennial
17 census, correct?

18 A That's correct.

19 Q The next sentence says, "It is too late
20 to add a question to the 2018 end-to-end test, so
21 additional testing on a smaller scale would need
22 to be developed and implemented as soon as

1 possible."

2 Do you agree that this is part of the
3 well-established process of adding content to the
4 questionnaire?

5 A No. No. This is in addition.

6 Q Can you explain?

7 A I'm just saying it's too late to add
8 something to 2018 end-to-end test, and if there
9 was a new question, we would have to find another
10 way to test it.

11 Q Do you know when 9865, Exhibit 6, was
12 created?

13 A I'm not sure.

14 Q Do you know who created it?

15 A Census staff, I believe.

16 Q Do you know who on census staff?

17 A I'm not sure.

18 Q What is the 2018 end-to-end test?

19 A It's a test in three different sites
20 that's just wrapping up right now in
21 Providence, Rhode Island, where we did a full
22 end-to-end test to make sure all the systems and

1 everything work so we are ready to go into the
2 field in 2020.

3 Q And when you say a full end-to-end test,
4 can you just tell me a little bit what that means?

5 A So it wasn't all of the operations, but
6 most of the major operations that are involved in
7 the 2020, from address canvassing, all the way
8 through nonresponse follow-up and publishing the
9 data will be our test.

10 Q And what's the purposes of the end-to-end
11 testing?

12 A To work out any bugs or kinks, things
13 that -- that we didn't foresee in sort of the
14 smaller scale system specific testing that we do
15 all the time.

16 Q And why is that important?

17 A So that we're prepared.

18 Q Was the citizenship question tested on
19 the -- on any of the end-to-end testing --

20 A No.

21 Q -- for the 2020 census?

22 A It was not.

1 Q And did additional testing on a smaller
2 scale get developed for the 20- -- for the
3 citizenship question --

4 A No.

5 Q -- for the 2020 census?

6 A No.

7 Q And was additional testing on a smaller
8 scale implemented for the citizenship question on
9 the 2020 census?

10 A No.

11 Q Why not?

12 A The citizenship question that we'll be
13 using on the 2020 census is the same question
14 that's on the American Community Survey and has
15 been answered by between 40 and 50 million
16 households over many years. The question performs
17 quite well, so we're confident that -- that it's
18 fully tested.

19 Q Step 4 was not followed with respect to
20 the citizenship question, correct?

21 A The Step 4 was obviated by the fact that
22 the -- it has been on the ACS for many years. We

1 did not think that this step was necessary.

2 Q So Step 4 was not followed, correct?

3 A No.

4 Q I'm sorry?

5 A It was not.

6 Q Okay. Step 5 is, "The Census Bureau must
7 make additional operational adjustments beyond
8 testing to include new content. This includes
9 redesigning the paper questionnaire and adjusting
10 the paper data capture system."

11 Has that occurred for the citizenship
12 question?

13 A I believe this is ongoing.

14 Q So it's in progress for the citizenship
15 question?

16 A Yes.

17 Q "For Internet self-response, the
18 additional question will require system
19 redevelopment, once for English and then again for
20 Spanish."

21 Has that occurred for the citizenship
22 question?

1 A Ongoing.

2 Q "The census questionnaire assistance
3 operation will require development, as well."

4 Has that occurred for the citizenship
5 question?

6 A Ongoing.

7 Q "Finally, the nonresponse follow-up data
8 collection instruments will need to be redesigned
9 and the training modules for enumerators will need
10 further development."

11 Have the nonresponse follow-up data
12 collection instruments been redesigned for the
13 citizenship question?

14 A It's ongoing.

15 Q And have training modules for the
16 enumerators been further developed?

17 A Ongoing.

18 Q If you turn to 9867, it is another
19 document that is entitled 2020 census adding
20 content to the questionnaire.

21 Do you recognize this document?

22 A It's another stab at the same process.

1 Q Is it fair to say it's another -- another
2 version of the process that's listed on 9865?

3 A Yes.

4 Q And do you agree that this is another
5 version of the well-established process when
6 adding questions to the decennial census?

7 A Sure. Yes.

8 Q Anything you disagree with in 9867?

9 MS. BAILEY: Objection. Vague.

10 THE WITNESS: No.

11 BY MS. GOLDSTEIN:

12 Q I'll take that back.

13 After you learned of the citizenship
14 question, were you given any instructions
15 about -- withdrawn.

16 After you learned about this citizenship
17 question, a couple of weeks before receiving the
18 Gary letter, were you given any instructions?

19 A No.

20 Q After receiving the Gary letter, were you
21 given any instructions about next steps?

22 A I don't think we were given explicit

1 instructions. I think it was taken for granted
2 that we were going to start this process.

3 Q The well-established process for adding a
4 question to the census?

5 A Yes.

6 Q The first step of which is the technical
7 meetings.

8 A Technical meetings.

9 Q Did you have any conversations about
10 getting this process started after you received
11 the letter?

12 A Well, I recall meeting with my staff and
13 discussing, you know, how we were going to
14 proceed, and we were trying to take as broad a
15 view as possible. So I believe, you know, it was
16 agreed that we would -- we would explore the use
17 of administrative records to fulfill the request,
18 as well.

19 Q And why was that an area that you were
20 exploring?

21 MS. BAILEY: Objection. Vague.

22 THE WITNESS: Well, it's an area that we

1 February 2, 2018 the complete set of those 35
2 questions were sent to Commerce, correct?

3 A If that's what that means, yeah.

4 Q Let me give you the attachment to this
5 email.

6 (Plaintiffs' Exhibit 20, Questions on the
7 Jan 19 draft Census Memo on the DOJ Citizenship
8 Question Reinstatement Request attachment, was
9 marked.)

10 BY MS. GOLDSTEIN:

11 Q I'm showing you what's been marked as
12 Plaintiffs' Exhibit 20 -- I'm sorry.

13 MS. BAILEY: Thank you.

14 BY MS. GOLDSTEIN:

15 Q It is 2294 --

16 A Right.

17 Q -- to 2305. It is another copy of the 35
18 questions that we had just reviewed on Exhibit 16,
19 correct?

20 A Okay.

21 Q Yes?

22 A Yes.

1 Q And this is, as I understand it, the
2 attachment to Exhibit 19.

3 A Okay.

4 Q So would this be the final version that
5 is sent over to Commerce?

6 A I'm not sure that's the final version,
7 but it's probably pretty close.

8 Q Do you recall any changes that were made
9 after this?

10 A I -- after February 2nd, I -- you know, I
11 can't tell you whether there were or not.

12 Q From Census?

13 A Yeah.

14 Q Do you recall asking for any changes
15 after December 2nd to the 35 questions?

16 A No.

17 Q If someone had made changes, from Census,
18 to these questions, would you have seen it?

19 A Probably. But I'm just saying I
20 don't -- I don't recall whether this was the last
21 version or not, so.

22 Q If you go to Question 31 --

1 A Okay.

2 Q -- it begins on 2303 to 2304, this is the
3 same language that we saw on Exhibit 16, correct?

4 A I think so.

5 Q And, to your knowledge, is this -- this
6 is the well-established process, correct?

7 A Yes, a summary of it.

8 Q And this Question 31 on 2303 and 2304,
9 this is the language that the Census Bureau
10 believes describes that well-established process,
11 correct?

12 MS. BAILEY: Objection. Form.

13 THE WITNESS: Yes.

14 BY MS. GOLDSTEIN:

15 Q The Census Bureau wrote the language in
16 31?

17 A Yes.

18 Q To your knowledge, did Census ever change
19 the language in Question 31?

20 A Again, I don't know. I don't know for
21 sure that this is the last version we sent.

22 Q Do you recall anyone at Census proposing

1 any changes to the language in Question 31?

2 A No. I mean, but, obviously, we're still
3 editing responses here, so that -- that could
4 happen. It's a relatively longer answer than most
5 of the other ones, so.

6 Q But you do not recall anyone at Census
7 changing the language of Question 31 following
8 this language, correct?

9 A No. I don't recall, one way or the
10 other.

11 Q And is there anything that would help
12 your recollection?

13 A I mean, again, if this is not the last
14 version, the last version would answer that
15 question.

16 Q Well, this one was in -- okay.

17 So who is Mr. Reist?

18 A He works for Al.

19 Q Who is Al?

20 A Al Fontenot.

21 Q And what is Al Fontenot's job?

22 A He's the head of decennial.

1 Q And what is Mr. Reist's job?

2 A So he's the head of their budget and
3 communications area.

4 Q And Mr. Reist sends this, to among
5 others, Earl Comstock, correct?

6 A Uh-huh.

7 Q I'm sorry. I need a yes or no.

8 A Yes.

9 Q And you were cc'd on this?

10 A Yes.

11 Q And had you reviewed these responses
12 before Mr. Reist sent them to Mr. Comstock?

13 A You know, I probably perused them. I
14 certainly didn't proof them or anything like that.

15 Q But as we had talked about before, these
16 responses, these 1 to 35 questions were, in your
17 view, accurate, correct?

18 A Yes.

19 Q Because you wouldn't --

20 So -- and that includes Question 31,
21 correct?

22 A Yes.

1 Q I'll take that back.

2 I'm going to show you what had been
3 previously marked as Exhibit 16 to the Abowd
4 deposition. If you bear with me for just a
5 moment.

6 It is another version of those 35
7 questions, this time that were received in the
8 original administrative record. It is Bates
9 stamped 1286 to 1297. And if we could go back
10 over to Question 31, it is on 1296.

11 The answer to Question 31 in this version
12 says, "Because no new questions had been added to
13 the decennial census for nearly 20 years, the
14 Census Bureau did not feel bound -- bound by past
15 precedent when considering the
16 Department of Justice's request. Rather, the
17 Census Bureau is working with all relevant
18 stakeholders to make ensure that the legal and
19 regulatory requirements are filled and that
20 questions will produce quality and useful
21 information for the nation. As you're aware, that
22 process is ongoing at your direction."

1 That's pretty different than the language
2 of Question 31 we've seen before, right?

3 A Yes.

4 Q It does not describe the well-established
5 process we've been discussing, correct?

6 A It does not.

7 Q It does not talk about the
8 well-established process, at all, correct?

9 A Correct.

10 Q It doesn't --

11 A Well, it sort of summarizes.

12 Q Where?

13 A To work with all relevant stakeholders to
14 ensure the legal and regulatory requirements are
15 filled and questions will produce quality
16 information, so --

17 Q Does this --

18 A -- that's what the process is meant to
19 do.

20 Q Does this answer to Question 31 discuss
21 the process by which agencies evaluate their data
22 needs?

1 A No.

2 Q And does it say that in order to be
3 included, proposals must demonstrate a clear
4 statutory and regulatory need for data?

5 A It does say legal and regulatory
6 requirements are filled.

7 Q Does it mention testing, at all?

8 A No.

9 Q Does it mention public comment?

10 A No.

11 Q Does it mention --

12 A No -- I don't -- it says all relevant
13 stakeholders. That includes public comment.

14 Q Okay. Does it mention OMB specifically?

15 A It says relevant stakeholders, so, you
16 know --

17 Q Does it mention OMB specifically?

18 A No. It does not.

19 Q Okay. Do you know who wrote the language
20 in Number 31?

21 A I do not.

22 Q When was the first time you saw the

1 language in -- on 1296?

2 A On 1296, I think I've seen a version like
3 this before, but, you know, I'm not sure where
4 this came from.

5 Q Have you seen it before today?

6 A Yes.

7 Q On Question 31?

8 A On Question 31.

9 Q Do you know if Commerce wrote this
10 language or Census Bureau wrote this language?

11 A I don't know.

12 Q What would tell you?

13 A I -- you know, seeing who wrote -- who
14 sent the last version. So, I don't know.

15 Q So I previously showed you a version that
16 Dr. Abowd represented was the final version --

17 A Right.

18 Q -- do you recall?

19 A Yeah.

20 Q And that version had the longer
21 Question 31 language --

22 A Right.

* * * * *

CERTIFICATE OF REPORTER

I, KAREN LYNN JORGENSEN, RPR, CSR, CCR the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in stenotype and thereafter reduced to typewriting under my direction; that the said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



KAREN LYNN JORGENSEN, RPR, CSR, CCR

Dated this 23rd day
of August , 2018.

Exhibit 11

From: Ron S Jarmin (CENSUS/ADEP FED) [Ron.S.Jarmin@census.gov]
Sent: 3/1/2018 4:32:58 PM
To: Kelley, Karen (Federal) [REDACTED] Comstock, Earl (Federal) [REDACTED]; Walsh, Michael (Federal) [REDACTED]
CC: Lamas, Enrique [enrique.lamas@census.gov]; Jones, Christa D [christa.d.jones@census.gov]; Abowd, John Maron [john.maron.abowd@census.gov]; Semsar, Joseph (Federal) [REDACTED]
Subject: DOJ request items
Attachments: Alt C vs Alt D Summary.pdf; 20180215-MEMORANDUM-ALTERNATIVE D DRAFT.pdf; 20180118-MEMORANDUM-DOJ RESPONSE VERSION 2.6 (DRAFT).pdf

Karen, Earl and Mike

Here are the original two documents plus the brief summary of alt c vs alt D.

Let me know if you have any questions.

Ron Jarmin, PhD.

Associate Director for Economic Programs, and
Performing the Non-Exclusive Functions and Duties of the Director
U.S. Census Bureau
Office 301.763.1858, Ron.S.Jarmin@census.gov

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Summary Analysis of the Key Differences Between Alternative C and Alternative D

This short note describes the Census Bureau's current assumptions about two alternatives to address the need for block level data on citizen voting age populations. The goal is to measure the citizenship status of all people enumerated in the 2020 Decennial Census. Both alternatives utilize administrative data on the citizenship status of individuals, however one option, Alternative D, proposes to also include the current American Community Survey (ACS) question on citizenship status on the 2020 Decennial Census short form.

In both alternatives described here, the methodology requires linking 2020 census response data and administrative records. However, as illustrated both alternatives would also need to assign/impute citizenship for a portion of the population. The Census Bureau will have to assign citizenship in cases of questionnaire non-response and item non-response. Additionally, it is important to note, that even when a self-response is available it is not always possible to link response data with administrative records data. Poor data quality (e.g., name and age) and nonresponse or incomplete 2020 Census responses mean that we will not have a direct measure of citizenship status for all residents enumerated in 2020. The Census Bureau will need to employ an imputation model for these cases.

One of the key differences between the two alternatives described below is the number of cases requiring imputation. The other key difference is the impact of errors in the citizenship status reported on the 2020 Census.

In the most recent version of the 2020 Decennial Life Cycle Cost Estimate, the Census Bureau projects counting 330 million residents in 2020. Figure 1 summarizes how citizenship status will be measured under Alternative C that does not employ a citizenship question on the 2020 Census. Figure 2 summarizes how this will be done using both administrative records and a 2020 citizenship question under Alternative D.

Alternative C is a simplified process for assigning citizenship through direct linkage and modelling, without including the question on the 2020 Census. The Census Bureau will link the responses for the 330 million census records to administrative records that contain information on the citizenship status of individuals. The Census Bureau expects to successfully link and observe this status for approximately 295 million people. The Census Bureau would need to impute this status for approximately 35 million people under Alternative C whose 2020 responses cannot be linked to administrative data. Although the Census Bureau has fully developed and tested the imputation model, it has high confidence that an accurate model can be developed and deployed for this purpose. Further, we will most likely never possess a fully adequate truth deck to benchmark it to.

Measuring citizenship status is slightly more complex under Alternative D where all U.S. households will be given the opportunity to provide the citizenship status of each household member. Based on response data for the ACS citizenship and other response data research, we know that not all households that respond to the 2020 Census will answer this question, leaving the question blank or with otherwise invalid responses. Additionally, Alternative D, must also account for those households that do not respond at all or will have proxy responses. Due to these reasons, we estimate that we will get 2020 citizenship status responses for approximately 294.6 million people, a slightly higher estimate

than Alternative C. For the 35.4 million people without a 2020 citizenship response, the Census Bureau will employ the same methodology as in Alternative C, linking the 2020 Census responses to the administrative records. The Census Bureau estimates that it will be able to link these cases to administrative records where we observe citizenship status for approximately 21.5 million people. For the remaining 13.8 million will be imputed through a model as described above. Thus, there will be a need for imputing many cases across either alternative.

The Census Bureau will link the 294.6 million records from the 2020 Census with the administrative records. This will be done both for potential quality assurance purposes and to improve the quality of future modeling uses. Based on the current research from the ACS, the Census Bureau expects to successfully link approximately 272.5 million of these cases. Of these, 263 million will have citizenship statuses that agree across the 2020 response and administrative record. The Census Bureau estimates there will be 9.5 million cases where there is disagreement across the two sources. Historic Census Bureau practice is to use self-reported data in these situations. However, the Census Bureau now knows from linking ACS responses on citizenship to administrative data that nearly one third of noncitizens in the administrative data respond to the questionnaire indicating they are citizens, indicating that this practice should be revisited in the case of measuring citizenship. Finally, for those 22.2 million cases that do not link to administrative records (non-linkage occurs for the same data quality reasons discussed above), the Census Bureau will use the observed 2020 responses. Again, Census Bureau expect some quality issues with these responses. Namely, the Census Bureau estimates that just under 500 thousand noncitizens will respond as citizens.

The relative quality of Alternative C versus Alternative D will depend on the relative importance of the errors in administrative data, response data, and imputations. To be slightly more but not fully precise consider the following description of errors under both alternatives. First note that all possible measurement methods will have errors. Under Alternative C, there will be error in the administrative records, but we believe these to be relatively limited due to the procedure following by SSA, USCIS and State. In both Alternative, the modeled cases will be subject to prediction error. Prediction error occur when the model returns the incorrect status of a case. As there are more modeled cases in Alternative C, prediction error will be a bigger issue there. Alternative D has an additional source of error, response error. This is where 2020 respondent give the incorrect status. Statisticians often hope these error are random and cancel out. However, we know from prior research that citizenship status responses are systematically biased for a subset of noncitizens. Response error is only an issue in alternative D. Unfortunately, the Census Bureau cannot quantify the relative magnitude of the errors across the alternatives at this time.

Figure 1

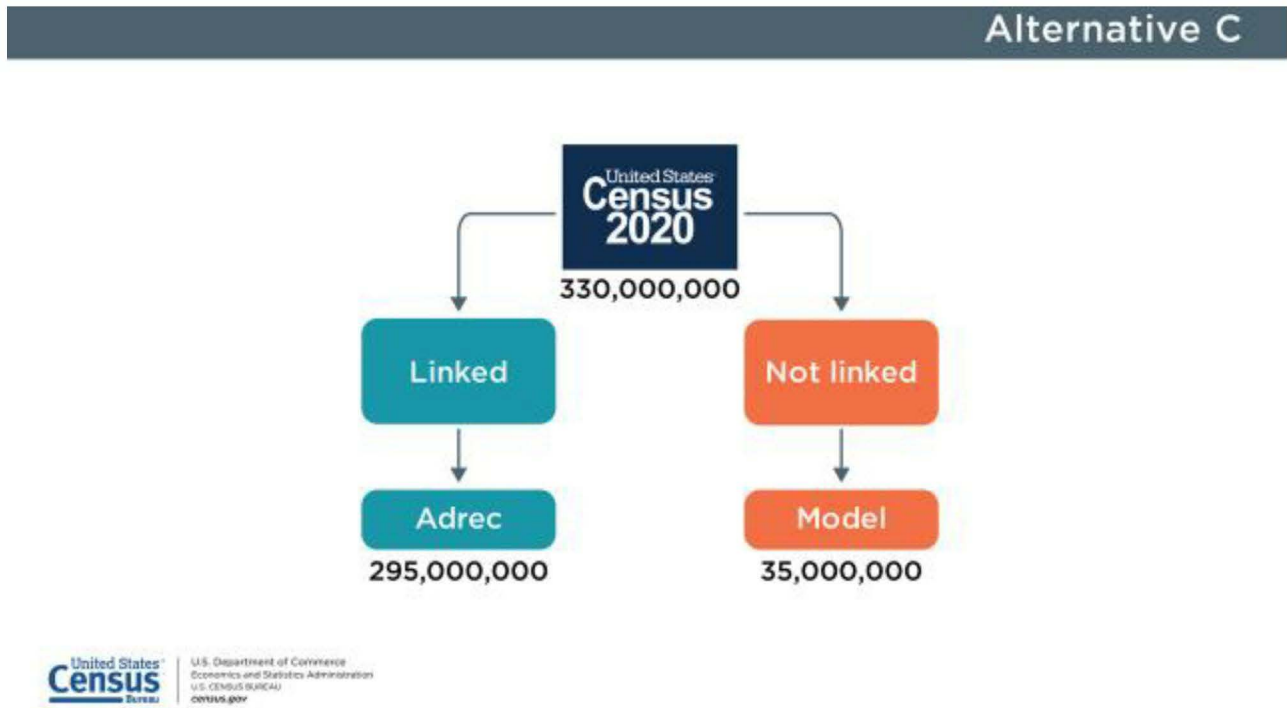
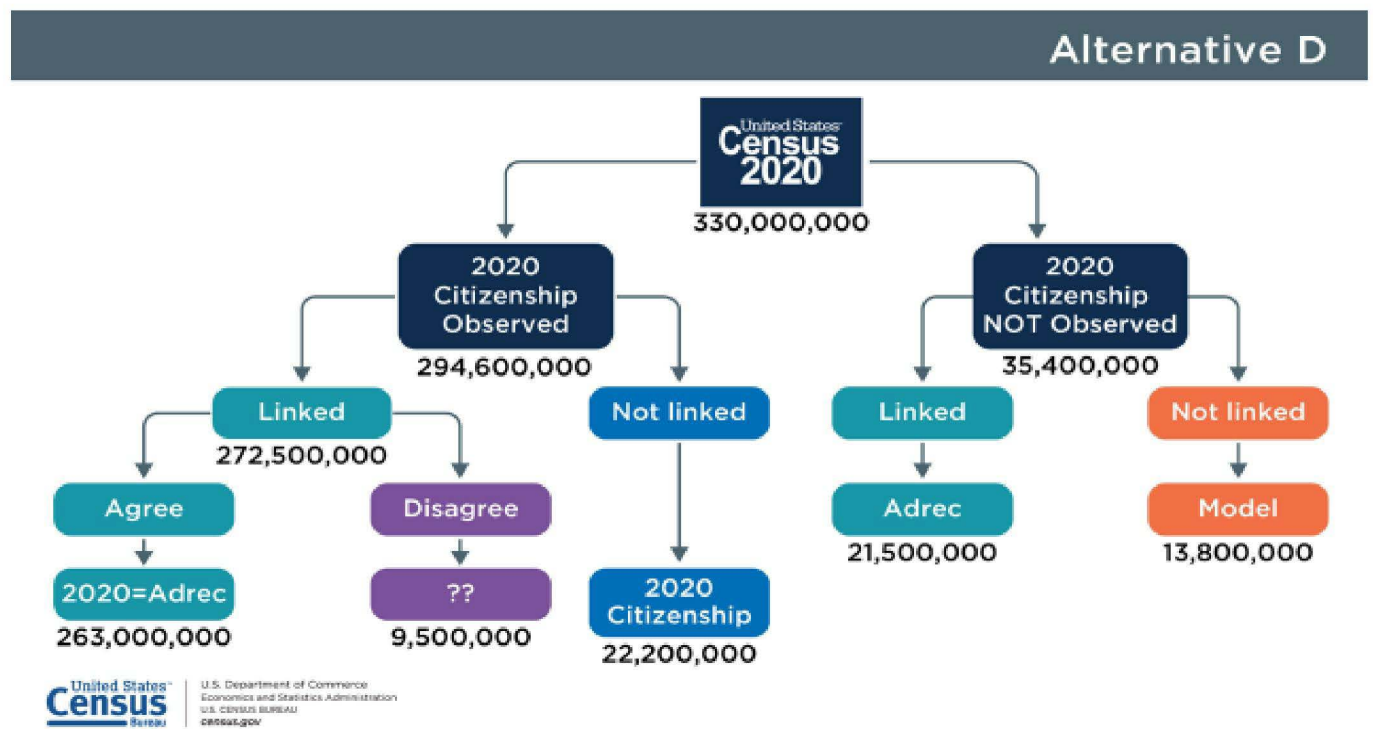


Figure 2



From: Christa Jones (CENSUS/ADEP FED) [Christa.D.Jones@census.gov]
Sent: 3/23/2018 8:48:58 PM
To: Michael Walsh [REDACTED]
CC: Ron S Jarmin (CENSUS/ADEP FED) [Ron.S.Jarmin@census.gov]; Enrique Lamas (CENSUS/ADDP FED) [Enrique.Lamas@census.gov]
Subject: Fwd: Questions - Need Answers ASAP
Attachments: Response rates for ACS 2000-2016.xlsx; ATT00001.htm; Percent of ACS response rates by mode 2010-2017.pptx; ATT00002.htm; ACS Item Allocation Rates_2016, 2013, 2010.xlsx; ATT00003.htm

Mike,

Here are the first answers (I have only seen via iPhone). We are flowing them to you as we get the answers and find the right people to get information.

Let us know if you have questions.

Christa

Begin forwarded message:

From: "Victoria Velkoff (CENSUS/ACSO FED)" <Victoria.A.Velkoff@census.gov>
Date: March 23, 2018 at 4:24:56 PM EDT
To: "Christa Jones (CENSUS/ADEP FED)" <Christa.D.Jones@census.gov>, "John Maron Abowd (CENSUS/ADRM FED)" <john.maron.abowd@census.gov>
Cc: "Enrique Lamas (CENSUS/ADDP FED)" <Enrique.Lamas@census.gov>, "Ron S Jarmin (CENSUS/ADEP FED)" <Ron.S.Jarmin@census.gov>
Subject: Re: Questions - Need Answers ASAP
Hi Christa

I have attached a few things.

In response to question 1, please see the attached response rates for the ACS for 2000-2016.

In response to question 2, please see the attached PPT slide that has the distribution of ACS responses by mode.

I am also reattaching the item allocation rates that we sent earlier this year.

I am working on getting the response rates by mode and I will send when I have it. I am also having someone working on the breakoffs and I will send when I have it.

Thanks

Tori

Victoria Velkoff

Division Chief
American Community Survey Office
U.S. Census Bureau

Office 301.763.1372

victoria.a.velkoff@census.gov

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From: Christa Jones (CENSUS/ADEP FED)

Sent: Friday, March 23, 2018 3:12 PM

To: Victoria Velkoff (CENSUS/ACSO FED); John Maron Abowd (CENSUS/ADRM FED)

Cc: Enrique Lamas (CENSUS/ADDP FED); Ron S Jarmin (CENSUS/ADEP FED)

Subject: Questions - Need Answers ASAP

Hi,

DOC has reached out with a couple of questions regarding the materials we sent earlier in March.

- 1) What is the difference (%) between the ACS and 2010 Census response rates overall?
- 2) What are the ACS responses rates by collection mode (paper, internet...)?
- 3) Do we have any breakoff analysis data for other response modes?
- 4) Did we do a comparison of the citizenship response in the 2000 Census long-form to the Numident? (If so, can we provide.)
- 5) Do we have a simple figure to describe how many people/population size are hard-to-enumerate?

Thanks,

Christa

From: Ron S Jarmin (CENSUS/ADEP FED) [Ron.S.Jarmin@census.gov]
Sent: 2/23/2018 5:03:21 PM
To: Christa Jones (CENSUS/ADEP FED) [Christa.D.Jones@census.gov]; Enrique Lamas (CENSUS/ADDP FED) [Enrique.Lamas@census.gov]; Karen Kelley [PII]; Sahra Park-Su [PII]
Subject: q's
Attachments: DOJ question 27 response-cleared.docx; Citizenship Question_Questions on the 19 Jan Memo 01312018_Responses from Census-delivered 20180131_1730.docx

Ron Jarmin, PhD.
Associate Director for Economic Programs, and
Performing the Non-Exclusive Functions and Duties of the Director
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27. Why has the number of persons who cannot be linked increased from 2010 to 2016?

There are several potential reasons a person might not be linked between the ACS and the SSA Numident and ITIN IRS tax filings. There may be insufficient personally identifiable information (PII) in the ACS response for the person to allow a search for the person in the Numident or ITIN IRS tax filings at all. There may be more than one record in the Numident or ITIN IRS tax filings that matches the person's PII. There may be a discrepancy between the PII provided to the ACS and administrative records. Or the person may not be in the Numident or ITIN IRS tax filing databases, either because the person is a citizen without an SSN, or the person is a noncitizen who has not obtained an SSN or ITIN. Very few of the unlinked cases are due to insufficient PII in the ACS or multiple matches with administrative records. The vast majority of unlinked ACS persons have sufficient PII, but fail to match any administrative records sufficiently closely.

The incidence of ACS persons with sufficient PII, but no match with administrative records increased between 2010 and 2016. One contributing factor is that the number of persons linked to ITIN IRS tax filings in 2016 was only 39 percent as large as in 2010, suggesting that either fewer of the undocumented persons in the 2016 ACS had ITINs, or more of them provided PII in the ACS that was inconsistent with their PII in IRS records.

Questions on the Jan 19 Draft Census Memo on the DoJ Citizenship Question Reinstatement Request

1. **With respect to Alternatives B and C, what is the difference, if any, between the time when the data collected under each alternative would be available to the public?**

Since the collection of this data, whether from administrative records or from an enumerated question, occurs prior to the creation of the Microdata Detail File (MDF) from which all tabulations will be performed, there is no difference in the timing of when the data collected under either alternative B or C could be made available to the public.

2. **What is the “2020 Census publication phase” (page 1 of the Detailed Analysis for Alternative B) versus Alternative C? Would there be any difference?**

The 2020 Census publication phase is a broad window stretching from the release of the apportionment counts by December 31, 2020 through the last data product or report published in FY 2023, the final year of decennial funding for the 2020 Census. However, as stated in the answer to question 1, this data could be made available to the public on the same schedule as any other post-apportionment tabulated data product regardless of whether alternative B or C is used in its collection.

3. **What is the non-response rate for: (A) each question on the 2000 and 2010 Decennial Census short form and (B) each question on the 2010 ACS and most recent ACS?**

The table below shows the item non-response (INR) rate for each question on the 2000 and 2010 Decennial Census short form. This is the percentage of respondents who did not provide an answer to an item.

Item Nonresponse Rates for 2000 and 2010 Short Form Person Questions

	Relationship	Sex	Age	Hispanic Origin	Race	Tenure
2010	1.5	1.5	3.5	3.9	3.3	4.5
2000	1.3	1.1	3.7	3.1	2.9	4.1

Source: Rothhaas, Lestina and Hill (2012) Tables

Notes and Soucre:

Rothhaas, C., Lestina, F. and Hill, J. (2012) “2010 Decennial Census Item Nonresponse and Imputation Assessment Report” 2010 Census Program for Evaluations and Experiments, January 24, 2012.

From report:

The INR rate is essentially the proportion of missing responses before pre-editing or imputation procedures for a given item (i.e., the respondent did not provide an answer to the item). For INR, missing values are included in the rates, but inconsistent responses (i.e., incompatible with other responses) are considered non-missing responses.

Online link to 2010 report that has 2000 information as well.

https://www.census.gov/2010census/pdf/2010_Census_INR_Imputation_Assessment.pdf

See attached spreadsheet for the non-response rates for the ACS. Note that these are internal use data.

- 4. What was the total survey response rate (i.e. percentage of complete questionnaires) for the 2000 long form and the 2000 short form? Of the incomplete long forms, what percentage left the citizenship question blank? Of the completed long forms, what percentage (if known) contained incorrect responses to the citizenship question?**
- 5. For the 2000 long and short forms, what was the percentage unanswered (left blank) for each question (i.e., what percentage of the responses for each question (sex, race, ethnicity, income, citizenship, etc.) were left blank)?**

For the 2000 shortform, the table in question 3a provides the percentage unanswered for each question.

For the 2000 longform, Griffin, Love and Obenski (2003) summarized the Census 2000 longform responses. Allocation rates for individual items in Census 2000 were computed, but because of the magnitude of these data, summary allocation measures were derived. These rates summarize completeness across all data items for occupied units (households) and are the ratio of all population and housing items that had values allocated to the total number of population and housing items required to have a response. These composite measures provide a summary picture of the completeness of all data. Fifty-four population items and 29 housing items are included in these summary measures. The analysis showed that 9.9 percent of the population question items and 12.5 percent of the housing unit question items required allocation. Allocation involves using statistical procedures, such as within-household or nearest neighbor matrices, to impute missing values.

<https://ww2.amstat.org/sections/srms/Proceedings/y2003/Files/JSM2003-000596.pdf>

- 6. What was the incorrect response rate for the citizenship question that was asked on the Long Form during the 2000 Decennial Census? Does the response rate on the 2000 Long Form differ from the incorrect response rate on the citizenship question for the ACS?**

7. What is the incorrect response rate on other Decennial or ACS questions for which Census has administrative records available (for example, age, sex or income)?

Table 7a. shows the agreement rates between the 2010 Census response and the SSA Numident for persons who could be linked and had nonmissing values, and Table 7b shows the agreement rates between the 2010 ACS and the SSA Numident. Gender has low disagreement (0.4-0.5 percent), and white alone (0.9 percent), black alone (1.7-2 percent), and age (2.1 percent) also have low disagreement rates. Disagreement rates are greater for other races (e.g., 46.4-48.6 percent for American Indian or Alaska Native alone). Hispanic origin is not well measured in the Numident, because it contains a single race response, one of which is Hispanic.

Table 7a. Demographic Variable Agreement Rates Between the 2010 Census and the SSA Numident

2010 Census Response	Percent Agreement with SSA Numident
Hispanic	54.2
Not Hispanic	99.7
White Alone	99.1
Black Alone	98.3
American Indian or Alaska Native Alone	51.4
Asian Alone	84.3
Native Hawaiian or Other Pacific Islander Alone	74.4
Some Other Race Alone	17.7
Age	97.9
Gender	99.4

Source: Rastogi, Sonya, and Amy O'Hara, 2012, "2010 Census Match Study," 2010 Census Planning Memoranda Series No. 247.

Abowd and Stinson (2013) find correlations of 0.75-0.89 between Survey of Income and Program Participation (SIPP) and SSA Detailed Earnings Record annual earnings between 1990-1999.¹

¹ Abowd, John M., and Martha H. Stinson, 2013, "Estimating Measurement Error in Annual Job Earnings: A Comparison of Survey and Administrative Data," Review of Economics and Statistics, Vol. 95(5), pp. 1451-1467.

- 8. How does the Census presently handle responses on the (A) Decennial Census and (B) the ACS when administrative records available to the Census confirm that the response on the Decennial Census or ACS is incorrect? Is the present Census approach to incorrect responses based on practice/policy or law (statute or regulation)?**

We have always based the short form Decennial Census and the ACS on self-response, and while we have procedures in place to address duplicate or fraudulent responses, we do not check the accuracy of the answers provided to the specific questions on the Census questionnaire. This is a long established practice at the Census Bureau that has been thoroughly tested and in place since 1970, when the Census Bureau moved to a mail-out/respond approach to the Decennial Census. Title 13 of the U.S. Code allows the Census Bureau to use alternative data sources, like administrative records, for a variety of purposes, and we are using data in new ways in the 2020 Census. While this includes the use of administrative records data to fill in areas where a respondent does not provide an answer, we have not explored the possibility of checking or changing responses that a responding household has provided in response to the questionnaire.

- 9. Please explain the differences between the self-response rate analysis and the breakoff rate analysis. The range of breakoff rates between groups was far smaller than the range of self-response rates between groups.**
- 10. The NRFU numbers are comparatively small – approximately one additional household for NRFU per Census enumerator. Is this really a significant source of concern?**
- Yes, this is a significant concern. First, it gives rise to incremental NRFU cost of at least \$27.5 million. This is a lower bound because it assumes the households that do not self-respond because we added a question on citizenship have the same follow-up costs as an average U.S. household. They won't because these households overwhelmingly contain at least one noncitizen, and that is one of our acknowledged hard-to-count subpopulations.
- 11. Given that the breakoff rate difference was approximately 1 percent, why did Census choose to use the 5.1 percent number for assessing the cost of Alternative B?**
- 12. Alternative C states that Census would use administrative data from the Social Security Administration, Internal Revenue Service, and "other federal and state sources." What are the other sources?**

In addition to continuing the acquisition of the Social Security Administration and Internal Revenue Service data, the Census Bureau is in discussion with the U.S. Citizen and Immigration Services (USCIS) staff to acquire additional citizenship data.

13. Is Census confident that administrative data will be able to be used to determine citizenship for all persons (e.g., not all citizens have social security numbers)?

We are confident that Alternative C is viable and that we have already ingested enough high-quality citizenship administrative data from SSA and IRS. The USCIS data are not required. They would, however, make the citizenship voting age tabulations better, but the administrative data we've got are very good and better than the data from the 2000 Census and current ACS. The type of activities required for Alternative C already occur daily and routinely at the Census Bureau. We have been doing this for business data products, including the Economic Censuses, for decades. We designed the 2020 Census to use this technology too.

14. For Alternative C, the memo says, "we assume the availability of these record linkage systems and associated administrative data" – does Census already have in place access to this data or would this need to be negotiated? If negotiated, for which data sets specifically?

The Census Bureau has longstanding contractual relationships with the Social Security Administration and the Internal Revenue Service that authorize the use of data for this project. For new data acquired for this project (i.e., USCIS) we would estimate a six month development period to put a data acquisition agreement in place. That agreement would also include terms specifying the authorized use of data for this project.

15. Are there any privacy issues / sensitive information prohibitions that might prevent other agencies from providing such data?

16. How long would Census expect any negotiation for access to data take? How likely is it that negotiations would be successful? Are MOA's needed/required?

Current data available to the Census Bureau provide the quality and authority to use that are required to support this project. Additional information potentially available from USCIS would serve to supplement/validate those existing data. We are in early discussions with USCIS to develop a data acquisition agreement and at this time have no indications that this acquisition would not be successful.

17. What limitations would exist in working with other agencies like IRS, Homeland Security, etc. to share data?

The context for sharing of data for this project is for a one-way sharing of data from these agencies to the Census Bureau. Secure file transfer protocols are in-place to ingest these

data into our Title 13 protected systems. For those data already in-place at the Census Bureau to support this project, provisions for sharing included in the interagency agreement restrict the Census Bureau from sharing person-level microdata outside the Census Bureau's Title 13 protections. Aggregates that have been processed through the Bureau's disclosure avoidance procedures can be released for public use.

18. If Alternative C is selected, what is Census's backup plan if the administrative data cannot be completely collected and utilized as proposed?

The backup plan is to use all of the administrative data that we currently have, which is the same set that the analyses of Alternative C used. We have verified that this use is consistent with the existing MOUs. We would then use estimation and modeling techniques similar to those used for the Small Area Income and Poverty Estimates (SAIPE) to impute missing citizenship status for those persons for whom we do not have administrative records. These models would also include estimates of naturalizations that occurred since the administrative data were ingested.

19. Does Census have any reason to believe that access to existing data sets would be curtailed if Alternative C is pursued?

No we do not believe that any access to existing data sets would be curtailed if we pursue Alternative C.

20. Has the proposed Alternative C approach ever been tried before on other data collection projects, or is this an experimental approach? If this has been done before, what was the result and what were lessons learned?

21. Is using sample data and administrative records sufficient for DOJ's request?

The 2020 Census data combined with Alternative C are sufficient to meet DoJ's request. We do not anticipate using any ACS data under Alternative C.

22. Under Alternative C, If Census is able to secure interagency agreements to provide needed data sets, do we know how long it would take to receive the data transmission from other agencies and the length of time to integrate all that data, or is that unknown?

With the exception of the USCIS data, the data used for this project are already integrated into the 2020 Census production schema. In mid-to late 2018, we plan to acquire the USCIS data and with those data and our existing data begin to develop models and business rules to select citizenship status from the composite of sources and attach that characteristic to

each U.S. person. We expect the development and refinement of this process to continue into 2019 and to be completed by third quarter calendar year 2019.

23. Cross referencing Census decennial responses with numerous governmental data sets stored in various databases with differing formats and storage qualities sounds like it could be complicated. Does Census have an algorithm in place to efficiently combine and cross reference such large quantities of data coming from many different sources? What cost is associated with Alternative C, and what technology/plan does Census have in place to execute?

Yes, the 2018 Census End-to-End test will be implementing processing steps to be able to match Census responses to administrative record information from numerous governmental data sets. The Census Bureau has in place the Person Identification Validation System to assign Protected Identification Keys to 2020 Census responses. The required technology for linking in the administrative records is therefore part of the 2020 Census technology. This incremental cost factored into the estimate for Alternative C is for integrating the citizenship variable specifically, since that variable is not currently part of the 2020 Census design. No changes are required to the production Person Identification Validation system to integrate the administrative citizenship data.

24. For section C-1 of the memo, when did Census do the analyses of the incorrect response rates for non-citizen answers to the long form and ACS citizenship question? Were any of the analyses published?

The comparisons of ACS, 2000 Decennial Census longform and SSA Numident citizenship were conducted in January 2018. This analysis has not been published.

25. Has Census corrected the incorrect responses it found when examining non-citizen responses? If not, why not?

In the American Community Survey (ACS), and the short form Decennial Census, we do not change self-reported answers. The Decennial Census and the ACS are based on self-response and we accept the responses provided by households as they are given. While we have procedures in place to address duplicate or fraudulent responses, we do not check the accuracy of the answers provided to the specific questions on the Census questionnaires. This is a long established process at the Census Bureau that has been thoroughly tested and in place since 1970, when the Census Bureau moved to a mail-out/respond approach to the Decennial Census.

26. Has the Department of Justice ever been made aware of inaccurate reporting of ACS data on citizenship, so that they may take this into consideration when using the data?

Not exactly. The Census Bureau is in close, regular contact with the Department of Justice (DOJ) regarding their data requirements. Our counterparts at DOJ have a solid understanding of survey methodology and the quality of survey data, and they are aware of the public documentation on sampling and accuracy surrounding the ACS. However, the specific rate of accuracy regarding responses to the ACS question on citizenship has never been discussed.

27. Why has the number of persons who cannot be linked increased from 2010 to 2016?

28. Independent of this memo, what action does Census plan to take in response to the analyses showing that non-citizens have been incorrectly responding to the citizenship question?

The Census Bureau does not have plans to make any changes to procedures in the ACS. However, we will continue to conduct thorough evaluations and review of census and survey data. The ACS is focusing our research on the potential use of administrative records in the survey. For instance, we are exploring whether we can use IRS data on income to reduce the burden of asking questions on income on the ACS. We are concentrating initially on questions that are high burden, e.g., questions that are difficult to answer or questions that are seen as intrusive.

29. Did Census make recommendations the last time a question was added?

Since the short form Decennial Census was established in 2010, the only requests for new questions we have received have been for the ACS. And, in fact, requests for questions prior to 2010 were usually related to the Decennial Census Long Form. We always work collaboratively with Federal agencies that request a new question or a change to a question. The first step is to review the data needs and the legal justification for the new question or requested changes. If, through this process, we determine that the request is justified, we work with the other agencies to test the question (cognitive testing and field testing). We also work collaboratively on the analysis of the results from the test which inform the final recommendation about whether or not to make changes or add the question.

30. Does not answering truthfully have a separate data standard than not participating at all?

We're not sure what you're asking here. Please clarify the question.

31. What was the process that was used in the past to get questions added to the decennial Census or do we have something similar where a precedent was established?

The Census Bureau follows a well-established process when adding or changing content on the census or ACS to ensure the data fulfill legal and regulatory requirements established by

Congress. Adding a question or making a change to the Decennial Census or the ACS involves extensive testing, review, and evaluation. This process ensures the change is necessary and will produce quality, useful information for the nation.

The Census Bureau and the Office of Management and Budget (OMB) have laid out a formal process for making content changes.

- First, federal agencies evaluate their data needs and propose additions or changes to current questions through OMB.
- In order to be included, proposals must demonstrate a clear statutory or regulatory need for data at small geographies or for small populations.
- Final proposed questions result from extensive cognitive and field testing to ensure they result in the proper data, with an integrity that meets the Census Bureau's high standards.
- This process includes several opportunities for public comment.
- The final decision is made in consultation with OMB.
- If approved, the Census Bureau implements the change.

32. Has another agency ever requested that a question be asked of the entire population in order to get block or individual level data?

Not to our knowledge. However, it is worth pointing out that prior to 1980 the short form of the Decennial Census included more than just the 10 questions that have been on the short form since 1990.

33. Would Census linking of its internal data sets, with other data sets from places like IRS and Homeland Security, have an impact on participation as well (i.e. privacy concerns)?

The potential that concerns about the use of administrative records could have an impact on participation has always been a concern of ours, and it's a risk that we're managing on our risk register. We've worked closely with the privacy community throughout the decade, and we established a working group on our National Advisory Committee to explore this issue. We've also regularly briefed the Congress about our plans. At this stage in the decade there does not appear to be extensive concerns among the general public about our approach to using administrative records in the Nonresponse Operation or otherwise. We will continue to monitor this issue.

34. Would Alternative C require any legislation? If so, what is the estimated time frame for approval of such legislation?

No.

35. Census publications and old decennial surveys available on the Census website show that citizenship questions were frequently asked of the entire population in the past. Citizenship is also a question on the ACS. What was the justification provided for citizenship questions on the (A) short form, (B) long form, and (C) ACS?

In 1940, the Census Bureau introduced the use of a short form to collect basic characteristics from all respondents, and a long form to collect more detailed questions from only a sample of respondents. Prior to 1940, census questions were asked of everyone, though in some cases only for those with certain characteristics. For example, in 1870, a citizenship question was asked, but only for respondents who were male and over the age of 21.

Since moving to the short form in 1940, we have never asked a question about citizenship on the short form.

Beginning in 2005, all the long-form questions – including a question on citizenship -- were moved to the ACS. 2010 was the first time we conducted a short-form only census. The citizenship question is included in the ACS to fulfill the data requirements of the Department of Justice, as well as many other agencies including the Equal Employment Opportunities Commission, the Department of Health and Human Services, and the Social Security Administration.

To: Letitia W McKoy (CENSUS/PCO FED)[Letitia.W.McKoy@census.gov]
From: Melissa L Creech (CENSUS/PCO FED) Case 1:18-cv-02021-MF Document 349-11 Filed 09/24/18 Page 21 of 29
Sent: Fri 2/2/2018 6:50:19 PM
Importance: Normal
Subject: Fw: Strange question
Received: Fri 2/2/2018 6:50:20 PM
Citizenship Question Questions on the 19 Jan Memo 01312017 Responses from Census 02-02 1230pm.docx
Citizenship Questions ACS Item Allocation Rates 2016, 2013, 2010.xlsx

I haven't read all of the way through, but it looks like they are follow-up questions based on the memo sent to KDK/the Secretary (basically from Abowd) on alternatives to DOJ's request.

Melissa L. Creech

Deputy Chief Counsel

Office of the Chief Counsel for Economic Affairs

U.S. Department of Commerce

Telephone (301) 763-9844

PII

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From: Burton H Reist (CENSUS/ADDC FED)
Sent: Friday, February 2, 2018 1:46 PM
To: Melissa L Creech (CENSUS/PCO FED)
Subject: Re: Strange question

I sure do. There were actually 35. We've answered all but 4. We got them at 8:30 Wednesday morning with the direction that we answer them immediately. The latest iteration of the document is attached.

Burton

Burton Reist

Chief, Decennial Communications and Stakeholder Relations

Decennial Programs Directorate, U.S. Census Bureau

301.763.4155 (office)



burton.h.reist@census.gov

From: Melissa L Creech (CENSUS/PCO FED)
Sent: Friday, February 2, 2018 1:41 PM
To: Burton H Reist (CENSUS/ADDC FED)

0011222

Burton:

Do you know anything about 33 questions having been sent to Census by DOC?

Barry mentioned something about substituting respondent answers and 33 questions, but it is not making any sense to me.

Thought something may have come across your desk.

Thanks, Melissa

Melissa L. Creech

Deputy Chief Counsel

Office of the Chief Counsel for Economic Affairs

U.S. Department of Commerce

PII

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Case 1:18-cv-02021-MF Document 349-11 Filed 09/24/18 Page 25 of 29

To: Letitia W McKoy (CENSUS/PCO FED)[Letitia.W.McKoy@census.gov]
From: Melissa L Creech (CENSUS/PCO FED)
Sent: Fri 3/23/2018 7:58:48 PM
Importance: Normal
Subject: Fwd: Draft Language,
Received: Fri 3/23/2018 7:58:49 PM
[POB, Citizenship, and YOE for the ACS.pdf](#)
[ATT00001.htm](#)
[Simple Demo.pdf](#)
[ATT00002.htm](#)

Sent from my iPhone

Begin forwarded message:

From: "Christa Jones (CENSUS/ADEP FED)" <Christa.D.Jones@census.gov>
Date: March 23, 2018 at 3:38:03 PM EDT
To: Michael Walsh [REDACTED] Barry Robinson [REDACTED]
Cc: "Victoria Velkoff (CENSUS/ACSO FED)" <Victoria.A.Velkoff@census.gov>, "Ron S Jarmin (CENSUS/ADEP FED)" <Ron.S.Jarmin@census.gov>, "Enrique Lamas (CENSUS/ADDP FED)" <Enrique.Lamas@census.gov>, "Melissa L Creech (CENSUS/PCO FED)" <Melissa.L.Creech@census.gov>
Subject: Draft Language,

Mike/Barry,

As promised here is the draft language (below) describing the citizenship information for the question book for your review.

By way of reference, I'm also attaching the draft page with the existing language for the ACS on the page that includes the citizenship question and a second doc that shows where this language would be inserted in short form context.

We have not finalized this language and have not sent any new wording or direction to layout team.

Christa

TITLE: Citizenship

Caption 1 (below graphic, column a): A question about a person's citizenship are used to create statistics about citizen and noncitizen population.

These statistics are essential for agencies and policymakers setting and evaluating voting rights and immigration policies and laws, seeking to understand the experience of different immigrant groups, and for enforcing laws, policies, and regulations against discrimination.

Caption 2 (column b): Citizenship Data Help Communities:

Ensure Equal Opportunity

Knowing how many people reside in the community, and how many of those people are citizens, in combination with information about their race and age, provides the statistical information that helps the government and communities enforce Section 2 of the Voting Rights Act and its protections against racial discrimination in voting.

Knowing how many citizens and non-citizens in combination with information about race and age is of interest to researchers, advocacy groups, and policymakers.

###

From: Comstock, Earl (Federal) [REDACTED PII]
Sent: 2/2/2018 4:51:44 PM
To: Uthmeier, James (Federal) [REDACTED PII]
Subject: FW: Q/As on Citizenship
Attachments: Citizenship Question_Questions on the 19 Jan Memo 01312018_Responses from Census.docx

Per our discussion. Pinged Enrique just now about the outstanding answers. Earl

From: "Enrique Lamas (CENSUS/ADDP FED)" <Enrique.Lamas@census.gov>
Date: Wednesday, January 31, 2018 at 6:49 PM
To: "Comstock, Earl (Federal)" <[REDACTED PII]>, Karen Dunn Kelley <[REDACTED PII]>, "Willard, Aaron (Federal)" <[REDACTED PII]>
Cc: "Jarmin, Ron S" <ron.s.jarmin@census.gov>, "Fontenot, Albert E" <albert.e.fontenot@census.gov>, "Abowd, John Maron" <john.maron.abowd@census.gov>, "Reist, Burton H" <burton.h.reist@census.gov>, "Velkoff, Victoria A" <victoria.a.velkoff@census.gov>
Subject: Fw: Q/As on Citizenship

Earl,

See Burton's email below and the attachment for a status of the responses.

Let us know if you have follow-up questions on these responses.

Enrique Lamas

Associate Director for Demographic Programs, and
 Performing the Non-Exclusive Functions and Duties of the

Deputy Director

U.S. Census Bureau

Office: 301-763-2138

From: Burton H Reist (CENSUS/ADDC FED)
Sent: Wednesday, January 31, 2018 5:22 PM
To: Ron S Jarmin (CENSUS/ADEP FED); Enrique Lamas (CENSUS/ADDP FED); John Maron Abowd (CENSUS/ADRM FED); Albert E Fontenot (CENSUS/ADDC FED); Victoria Velkoff (CENSUS/ACSO FED); James Whitehorne (CENSUS/ADDC FED)
Subject: Q/As on Citizenship

Ron/Enrique -- The Citizenship Q/As that we completed today are attached. The spreadsheet that goes with question #3 will be sent tomorrow once we have DRB clearance for it. We were able to answer 28 of the 35 questions. The following will be completed tomorrow: 4,6,9,11,15,20 & 27.

Burton

Burton Reist

Chief, Decennial Communications and Stakeholder Relations

Decennial Programs Directorate, U.S. Census Bureau

301.763.4155 (office)

PII (cell)

burton.h.reist@census.gov

Exhibit 12

From: Wilbur Ross [PII]
Sent: 8/10/2017 7:38:25 PM
To: Comstock, Earl (Federal); [PII]
Subject: Re: Census Matter

I would like to be briefed on Friday by phone. I probably will need an hour or so to study the memo first. We should be very careful about everything, whether or not it is likely to end up in the SC. WLR

Sent from my iPad

> On Aug 9, 2017, at 10:24 AM, Comstock, Earl (Federal) [PII] wrote:

>
> PREDECISIONAL AND ATTORNEY-CLIENT PRIVILEGED

> Mr. Secretary - we are preparing a memo and full briefing for you on the citizenship question. The memo will be ready by Friday, and we can do the briefing whenever you are back in the office. Since this issue will go to the Supreme Court we need to be diligent in preparing the administrative record.

> Earl

> On 8/8/17, 1:20 PM, "Wilbur Ross" [PII] wrote:

> [Not Responsive / Deliberative]

[Not Responsive / Deliberative] Were you on the call this morning about Census? They seem dig in about not solving the citizenship question and that raises the question of where is the DOJ in their analysis? If they still have not come to a conclusion please let me know your contact person and I will call the AG. Wilbur Ross

> Sent from my iPhone

>> On Aug 8, 2017, at 10:52 AM, Comstock, Earl (Federal) [PII] wrote:

>> [Not Responsive / Deliberative]

>
>