

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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October 9, 2018

The Honorable Peg Gustafson
Inspector General
Department of Commerce
1401 Constitution Avenue N.W.
Washington, D.C. 20230

Dear Inspector General Gustafson:

We request that you investigate the actions of Commerce Secretary Wilbur Ross and other Department of Commerce (DOC) officials in orchestrating the addition of a question regarding citizenship status to the 2020 Census.

In sworn testimony before multiple Committees of Congress in both the House and Senate, Secretary Ross and other Department officials repeatedly claimed that they decided to add the citizenship question “solely” in response to the request from the Department of Justice (DOJ) on December 12, 2017.¹

However, documents made public as part of ongoing litigation in *New York v. United States Commerce Department* demonstrate that the request in fact was initiated by DOC and coordinated with then-White House Chief Strategist Steve Bannon long before the December 2017 request from DOJ. These documents also reveal the involvement of other DOC officials in adding the citizenship question to the 2020 Census:

- On February 2, 2017, Ellen Herbst, the Chief Financial Officer and Assistant Secretary for Administration at DOC, requested a briefing from the Census Bureau for Earl Comstock, the Director of the department’s Office of Policy and Strategic Planning, on “the upcoming Congressional notification of decennial and ACS [American Community Survey] topics, noting that “Earl is very interested and thinks the Secretary will be as well.”²

¹ House Committee on Appropriations, Subcommittee on Commerce, Justice, Science, and Related Agencies, *FY19 Budget Hearing: Department of Commerce* (Mar. 20, 2018) (emphasis added).

² Email from Ellen Herbst, Chief Financial Officer and Assistant Secretary for Administration, Department of Commerce, to David Langdon, Senior Policy Advisor, Economics and Statistics Administration, Department of Commerce (Feb. 2, 2017) (online at www.osec.doc.gov/opog/FOIA/Documents/CensusProd001.zip).

- On March 10, 2017, Mr. Comstock sent an email to Secretary Ross regarding “Your Question on the Census,” which included an article from the *Wall Street Journal* entitled, “The Pitfalls of Counting Illegal Immigrants.”³
- On August 11, 2017, Earl Comstock sent a draft memo on the citizenship question that was drafted by James Uthmeier in the Office of General Counsel on the citizenship question to Secretary Ross. On August 16, 2017, Secretary Ross’ then-chief of staff, Wendy Teramoto responded to that e-mail to set up a meeting between Mr. Comstock, Peter Davidson, the department’s General Counsel, and Karen Dunn Kelly, the Under Secretary for Economic Affairs at the Department.⁴

Since Secretary Ross’ decision to add the citizenship question to the 2020 Census, Democrats on the Oversight and Government Reform Committee have sought documents from DOC and DOJ, as well as the Census Bureau, in order to conduct oversight on the matter. Unfortunately, our efforts have been frustrated by Secretary Ross’ refusal to comply with our oversight requests, DOC’s failure to provide documentation due to “ongoing litigation,” and the failure of Republican Committee Members to join our requests to obtain information, documents, or testimony.

Congress and Inspectors General have an obligation to conduct independent oversight of Executive Branch agencies. We should avoid interfering with ongoing litigation, but we also should not allow the existence of litigation to prevent us from doing our own jobs. Therefore, we request that your office investigate the DOC’s process in adding the citizenship question to the 2020 Census, whether Secretary Ross and DOC meaningfully considered concerns expressed by experts at the Census Bureau, and the extent to which Secretary Ross and other DOC officials were involved in this decision.

Thank you for your immediate attention to this urgent request.

Sincerely,



Elijah E. Cummings
Ranking Member



Gerald E. Connolly
Vice Ranking Member

cc: The Honorable Trey Gowdy, Chairman

³ Email from Earl Comstock, Director, Office of Policy and Strategic Planning, Department of Commerce, to Secretary Wilbur Ross, Department of Commerce (Mar. 10, 2017) (online at www.osec.doc.gov/opog/FOIA/Documents/CensusProd001.zip).

⁴ Email from Earl Comstock, Director, Office of Policy and Strategic Planning, Department of Commerce, to Secretary Wilbur Ross, Department of Commerce (Aug. 11, 2017) (online at www.documentcloud.org/documents/4616788-August-11-2017-Email-From-Earl-Comstock.html#document/p1/a451880).

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The Honorable Mark Meadows, Chairman
Subcommittee on Government Operations