

Statement of Chairman Elijah E. Cummings

Resolution Authorizing Issuance of Subpoenas Related to the 2020 Census

Full Committee Business Meeting April 2, 2019

This resolution relates to our investigation of the Trump Administration's decision to add a citizenship question to the census. It authorizes me to issue three subpoenas: (1) for a deposition of John Gore, a senior official at the Department of Justice (DOJ); (2) for documents withheld by DOJ; and (3) for documents withheld by the Department of Commerce.

As we all know, last year Wilbur Ross, the Secretary of Commerce, decided to add a citizenship question to the census, even though his own Census Bureau warned that the question "harms the quality of the census count."

Secretary Ross testified repeatedly that he added the citizenship question "solely" at the request of DOJ, but the record shows that this was a pretext. In fact, Secretary Ross began a secret campaign to orchestrate the addition of the citizenship question months before receiving the DOJ request.

The Committee is trying to determine the real reason Secretary Ross added the citizenship question, and the documents and testimony covered by these subpoenas are critical to answering that question.

None of these requests is new. They are all items we asked for repeatedly, but the Trump Administration refused to produce. Let me walk through each subpoena in turn.

First is the subpoena for John Gore. On March 7, Mr. Gore sat for a voluntary interview with Committee staff. However, at the instruction of DOJ counsel, he refused to answer more than 150 questions about the citizenship question. The reason they gave was because there is separate, ongoing litigation regarding this issue.

Secretary Ross tried to make the same argument before our Committee, refusing to produce key documents because of "pending litigation."

Let me be clear: The Administration may not withhold information from Congress because of separate litigation. That is not a valid legal argument.

The Supreme Court has rejected this claim repeatedly. It is not the law, and it would lead to absurd results. If this were the policy, we would have to shut down our investigations every time a private party decided to sue a federal agency.

I am genuinely surprised that my Republican colleagues would make this argument themselves, especially when they routinely conducted investigations of the Obama Administration while there was separate ongoing litigation.

They investigated the Keystone XL Pipeline, the Affordable Care Act and Cover Oregon, the Flint water crisis, the Equifax data breach, and many other issues—all while outside litigation was ongoing.

So, based on this flawed legal argument, we asked DOJ to bring Mr. Gore back. As an accommodation, we agreed to limit our request to just 18 key questions he refused to answer. But DOJ refused. That is why this subpoena is necessary.

With respect to the second and third subpoenas, they each seek documents that the Department of Justice and the Department of Commerce refused to turn over or refused to produce without redactions.

Now, they will claim that they have turned over thousands of pages of documents. You will hear that repeatedly—thousands and thousands of documents. But these are just numbers without any substantive meaning.

When you actually read those thousands of pages, you can see that many are already public, many are heavily redacted, and many are simply missing.

For example, we know they have a secret memo that an official at the Department of Commerce hand-delivered to Mr. Gore at DOJ. But they will not produce it.

We don't want thousands of pieces of paper. We want the specific priority documents we asked for—unredacted and in full.

We have bent over backwards to try to work with the Administration. We identified priority documents, we extended deadlines, and we even offered to review certain documents *in camera*. But the Trump Administration's stonewalling has left the Committee no choice but to obtain this information by compulsory process.

I hope my Republican colleagues will join us today, particularly given the urgency of ensuring that the rapidly approaching census accurately counts every person.

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