

I. EXECUTIVE SUMMARY

The Committee on Oversight and Reform is investigating the Trump Administration's decision to add a question to the 2020 Decennial Census asking whether each member of a household is a U.S. citizen. Attorney General William P. Barr and Secretary of Commerce Wilbur L. Ross, Jr. have obstructed and delayed the Committee's investigation by defying lawful subpoenas for documents issued by Chairman Elijah E. Cummings and authorized by the Committee in a bipartisan vote. Attorney General Barr also ordered a subordinate Department of Justice (DOJ) official, John Gore, to defy a bipartisan deposition subpoena. As a result, the Committee has been left with no choice but to move to contempt proceedings and to seek enforcement of its subpoenas to enable the Committee to fulfill its duties under the Constitution.

The Decennial Census is a cornerstone of our democracy. Article I of the Constitution requires the federal government to conduct a Census every ten years and to count every person in the United States.¹ The Census provides the basis for apportioning seats in Congress and for distributing more than \$675 billion in federal funds. These funds support vital healthcare, nutrition, education, infrastructure, housing, and other programs on which many Americans rely.² The accuracy of the Census is important to every American.

On March 26, 2018, Secretary Ross announced that, for the first time in seventy years, the upcoming 2020 Census would ask every person in America whether he or she is a U.S. citizen.³ Experts—including the Census Bureau's Chief Scientist, former Census Bureau Directors who served under Republican and Democratic administrations, and many others—raised concerns that this question had not been adequately tested and was likely to discourage participation by non-citizens and immigrants, degrading the quality of the 2020 Census and negatively affecting funds appropriated for certain districts.

Secretary Ross asserted in testimony before Congress that he added the citizenship question solely in response to a December 12, 2017, request from DOJ in order to gather data needed to enforce the Voting Rights Act.

Over the last year, however, evidence has emerged that Secretary Ross' rationale was merely a pretext. In truth, members of the Trump Administration were seeking to add a citizenship question long before DOJ sent its December 2017 request. Members of President

¹ U.S. Const., Art. 1, sec. 2.

² *Uses of Census Bureau Data in Federal Funds Distribution*, U.S. Census Bureau (Sept. 2017) (online at www2.census.gov/programs-surveys/decennial/2020/program-management/working-papers/Uses-of-Census-Bureau-Data-in-Federal-Funds-Distribution.pdf).

³ The Census Bureau has not included a citizenship question on the Decennial Census since 1950. In 1970, the Census Bureau began sending two different Census surveys to Americans. The short-form Census asked the basic information of every household and did not include a citizenship question. The long-form Census, which went to about one in six households, asked about citizenship. In 2005, the Bureau converted the long-form Census into the American Community Survey, which includes a citizenship question, but is sent to only a small fraction of households. See *FACT CHECK: Has Citizenship Been A Standard Census Question?*, National Public Radio (Mar. 27, 2018) (online at www.npr.org/2018/03/27/597436512/fact-check-has-citizenship-been-a-standard-census-question).

Trump's campaign and transition team discussed the issue before President Trump took office. After his inauguration, the President and his top advisors, including Chief Strategist and Senior Counselor Steve Bannon and Chief of Staff Reince Priebus, met in the White House to discuss the citizenship question. Secretary Ross directed Commerce Department staff to get the citizenship question added to the Census questionnaire long before any request from DOJ. In September 2017, Secretary Ross personally called Attorney General Jeff Sessions to seek DOJ's assistance. DOJ then drafted its request letter while receiving input from Secretary Ross' staff and a member of the Trump Transition Team.

The Trump Administration has claimed that the Committee's investigation is intended to interfere with separate ongoing litigation that is now before the Supreme Court. However, Committee Democrats launched an investigation into the citizenship question just days after Secretary Ross announced his decision in March 2018. Since they were in the minority at the time, their efforts were blocked. In 2019, after Rep. Cummings became Chairman, he renewed these requests and made this investigation a priority for the Committee, well before the Supreme Court took up this case.

The Trump Administration, however, still has failed to cooperate. On April 2, 2019, after the Department of Commerce and DOJ refused to produce key documents voluntarily despite numerous accommodations from the Committee, Chairman Cummings issued document subpoenas to Secretary Ross and Attorney General William Barr. He also issued a deposition subpoena to John Gore, a DOJ official who had refused to answer more than 150 questions during a voluntary interview with Committee staff. The subpoenas were authorized by a bipartisan vote of the Committee.

The Trump Administration defied all three subpoenas. The Department of Commerce and DOJ produced thousands of pages of documents that were largely heavily redacted or already public—but withheld the key unredacted documents identified in the subpoenas. Rather than allow Mr. Gore to testify, the Attorney General instructed him not to appear based on a complaint about a Committee rule that has been in place for over a decade.

The Administration has also tried to stymie the Committee's investigation in other ways. The Department of Commerce refused for more than two months to make three current and former Department officials available for voluntary transcribed interviews. The Department relented only after the Committee scheduled a business meeting to consider issuing subpoenas for these individuals' testimony.

The White House has also aggressively interfered with the Committee's work by instructing Kris Kobach, a private citizen, not to answer questions about his meetings with the President and his senior White House advisors about the citizenship question. The White House claimed that such meetings "fall squarely within the scope of executive privilege," even though it had previously said the decision to add the citizenship question was "made at the department level" rather than at the White House.