

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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June 11, 2019

The Honorable Elijah E. Cummings
Chairman
Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

On Monday, June 10, 2019, at 5:48 p.m., you noticed a business meeting for Wednesday, June 12, 2019, at 10:00 a.m. to consider legislation, including a resolution recommending that the House of Representatives find Attorney General William Barr and Commerce Secretary Wilbur Ross in contempt of Congress over documents relating to the reinstatement of a citizenship question on the 2020 Census (“contempt resolution”). I write to alert you that in your haste to manufacture a controversy around the citizenship question, you have violated Committee rules and called into question the legal sufficiency of your contempt proceeding.

Under the Rule 2(f) of the Committee’s rules, you must provide “every member of the Committee . . . with a memorandum *at least three calendar days (excluding Saturdays, Sundays, and legal holidays . . .) before each meeting or hearing.*”¹ The memorandum for the business meeting scheduled for Wednesday, June 12 should have been distributed no later than Friday, June 7.² It was not. I am unaware of any “unusual circumstances” that would necessitate a business meeting without a timely memorandum.³ If you intend to proceed in considering the contempt resolution at the business meeting scheduled for June 12, you risk undermining the ability of the House of Representatives to enforce a finding of contempt.

¹ H. Comm. on Oversight & Reform R. 2(f) (emphasis added). This requirement is separate from the notice requirement under Committee Rule 2(e). *Id.* at R. 2(e) (citing House of Representatives R. XI, cl. 2(g)(3)(A)). Rule 2(e) incorporates House Rule XI, clause 2(g)(3)(A), which states that a committee meeting “*may not commence earlier than the third calendar day* (excluding Saturdays, Sundays, and legal holidays . . .) on which members have notice thereof.” House of Representatives R. XI, cl. 2(g)(3)(A)(ii) (emphasis added).

² This has been the Committee’s practice. *See, e.g.*, Business Meeting of the H. Comm. on Oversight & Reform, 116th Cong. (May 8, 2019) (memorandum distributed May 3, 2019); Business Meeting of the H. Comm. on Oversight & Gov’t Reform, 115th Cong. (Sept. 27, 2018) (memorandum distributed September 24, 2018); Business Meeting of the H. Comm. on Oversight & Gov’t Reform, 115th Cong. (July 17, 2018) (memorandum distributed July 12, 2018); Business Meeting of the H. Comm. on Oversight & Gov’t Reform, 115th Cong. (May 23, 2018) (memorandum distributed May 18, 2018); Business Meeting of the H. Comm. on Oversight & Gov’t Reform, 115th Cong. (Mar. 15, 2018) (memorandum distributed March 12, 2018); Business Meeting of the H. Comm. on Oversight & Gov’t Reform, 115th Cong. (Feb. 6, 2018) (memorandum distributed February 1, 2018).

³ H. Comm. on Oversight & Reform R. 2(f).

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Your entire course of action relating to the reinstatement of a citizenship question on the 2020 Census has been a transparent attempt to influence the Supreme Court's consideration of the issue. Rep. Gomez admitted that your investigation sought to obtain information that the "courts can use" in the ongoing litigation.⁴ Now you have resorted to cherry-picking facts to create false narratives and peddling conspiracy theories about the citizenship question in the hope that it sways the Justices.⁵

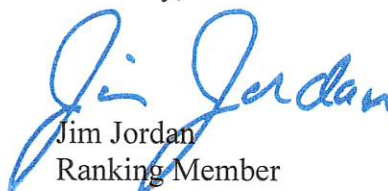
The record before the Committee does not support contempt of Congress at this time. Both Attorney General Barr and Secretary Ross have cooperated—and continue to cooperate—with your investigation. In fact, the Committee has received over 30,000 pages of documents from the Administration. The Committee's fact-finding is ongoing, and you have scheduled three transcribed interviews with witnesses in the upcoming weeks.

If you were serious about getting to the facts on the Administration's decision to reinstate a citizenship question on the 2020 Census, you should attempt to obtain the information from other sources before rushing to contempt of Congress. It is possible that the Committee could learn information in subsequent investigative steps that would alleviate any need for the Committee to consider the drastic measure of recommending that the House find two cabinet members in contempt of Congress.

As Chairman, you wield immense authority to initiate and direct the Committee's business. However, you must operate within the bounds of the Committee's rules. I urge you to reconsider your rushed approach to the very serious matter of contempt of Congress when the Committee's fact-finding remains ongoing. I hope that your obsession with the Trump Administration and your desperation to score political points will not affect your commitment to operating the Committee's business by the book.

I look forward to hearing back from you.

Sincerely,



Jim Jordan
Ranking Member

⁴ Hansi Lo Wang, *Commerce Secretary To Face Lawmakers In Hearing On Census Citizenship Question*, NAT'L PUB. RADIO, (March 14, 2019).

⁵ See, e.g., *Census Target: John Roberts*, THE WALL ST. J. (June 3, 2019).