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CITY OF SAN JOSE and BLACK ALLIANCE FOR JUST IMMIGRATION

[Additional Counsel Listed Below]

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

CITY OF SAN JOSE, a municipal corporation; and BLACK ALLIANCE FOR JUST IMMIGRATION, a California nonprofit corporation, Plaintiffs, vs. WILBUR L. ROSS, JR., in his official capacity as Secretary of the U.S. Department of Commerce; U.S. DEPARTMENT OF COMMERCE; RON JARMIN, in his official capacity as Acting Director of the U.S. Census Bureau; U.S. CENSUS BUREAU, Defendants.	3:18-cv-02279-RS **DECLARATION OF ANDREW CASE IN SUPPORT OF PLAINTIFFS' REPLY MEMORANDUM IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT** Date: December 7, 2018 Time: 10:00 a.m. Dept: 3 Judge: The Hon. Richard Seeborg Trial Date: January 7, 2019

I, Andrew Case, declare as follows:

1. I am an attorney at Manatt, Phelps, & Phillips, LLP, counsel for Plaintiffs City of San Jose and Black Alliance for Just Immigration in the above-captioned litigation. I submit this declaration in support of Plaintiffs' Reply Memorandum in Support of their Motion for Partial Summary Judgment.

2. Attached as **Exhibit 1** is a true and accurate copy of excerpts from the October 12, 2018 expert deposition of Dr. John Abowd.

3. Attached as **Exhibit 2** is a true and accurate copy of excerpts from the November 14, 2018 Trial Transcript in *New York et al. v. Commerce et al.*, 18-cv-2921 (S.D.N.Y.).

4. Attached as **Exhibit 3** is a true and accurate copy of excerpts from the October 24, 2018 expert deposition of Dr. Stuart Gurrea.

5. Attached as **Exhibit 4** is a true and accurate copy of the United States Census Bureau's American FactFinder report DP02, *Selected Social Characteristics in the United States*, 2012-2016 American Community Survey 5-year Estimates, for San Diego, Los Angeles, Santa Ana, Miami, Houston, New York City, Phoenix, and San Jose. The table was printed to PDF from the Census Bureau's website on November 21, 2018. The United States Census Bureau allows for access to individual tables at https://factfinder.census.gov/faces/nav/jsf/pages/guided_search.xhtml (select "I want to search for a **table number** or a **table title,**" enter DP02, select cities).

6. Attached as **Exhibit 5** is a true and accurate copy of the United States Census Bureau's "QuickFacts" for the United States and the City of San Jose, downloaded on November 21, 2018 from https://www.census.gov/quickfacts/fact/table/US,sanjosecitycalifornia/PST045217.

7. Attached as **Exhibit 6** is a true and correct copy of a letter dated July 5, 2018 from Ross to Catherine E. Lhamon, Chair of the United States Commission on Civil Rights, available for review on the U.S. Commission on Civil Rights website at https://www.usccr.gov/press/2018/07-17-18-letter.pdf.

8. Attached as **Exhibit 7** is a true and accurate copy of a letter dated April 20, 2018 from Catherine E. Lhamon and other members of the United States Commission on Civil Rights

to Secretary Wilbur Ross, available for review on the U.S. Commission on Civil Rights website at https://www.usccr.gov/press/2018/04-20-Census-Letter.pdf.

9. Attached as **Exhibit 8** is a true and accurate copy of House Conference Report No. 94-1791, dated September 19, 1976 relating to Public Law 94-521, which was downloaded from Westlaw on November 23, 2018.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 26th day of November, 2018 in New York, New York.

s/ Andrew Case
Andrew Case

FILER'S ATTESTATION

Pursuant to Civil Local Rule 5-1(i)(3), regarding signatures, Ana G. Guardado hereby attests that concurrence in the filing of this document has been obtained from all the signatories above.

Dated: November 26, 2018

s/ Ana G. Guardado
Ana G. Guardado

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EXHIBIT 1

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
2
- - - - - - - - - - - - - - - -x
3 NEW YORK IMMIGRATION :
COALITION, et al., :
4 :
Plaintiffs, :
5 : Case No.
v. :
6 : 1:18-CF-05025-JMF
UNITED STATES DEPARTMENT :
7 OF COMMERCE, et al., :
:
8 Defendants. :
- - - - - - - - - - - - - - - -x
9 Friday, October 12,2018
Washington, D.C.
10
11
12 Videotaped Deposition of:
13 JOHN M. ABOWD, Ph.D.,
14 called for oral examination by counsel for the
15 Plaintiffs, pursuant to notice, at the law offices of
16 Arnold & Porter Kaye Scholer, LLP, 601 Massachusetts
17 Avenue, Northwest, Washington, D.C. 20001-3743,
18 before Christina S. Hotsko, RPR, CRR, of Veritext
19 Legal Solutions, a Notary Public in and for the
20 District of Columbia, beginning at 9:06 a.m., when
21 were present on behalf of the respective parties:
22

A. On page 16, the partial paragraph at the top of the page -- I'm going to mark it as number 3 and initial it -- Mr. Thompson concludes, "Given that the Census Bureau has provided research indicating that it is very likely that the 2020 census self-response rates will be lowered by the addition of a citizenship question, it follows that the number of hard-to-count areas will increase and it is, therefore, likely that undercounts will also increase."

I disagree with that conclusion. I'm going to summarize my own conclusions, because I think that's the most effective way to state why.

I believe that we have provided credible quantitative evidence of the harmful effects of the citizenship question on the conduct of the 2020 census. They included specific ranges of estimates for the degradation of the quality of the census data in terms of the coverage measurement components that have traditionally been used.

Those coverage measurement components

enter into the computation of net undercount in a very complicated way, and as a consequence, I have not been able to make a reasonable, credible, quantitative evidence of the effect on undercount.

I accept that it's possible that the undercount will go up. I accept that it's possible that the undercount will go down. I provided evidence that components of the undercount will change, but those components don't enter into the calculation of the undercount with the same sign. So when one of them changes, you have to also compensate by calculating the changes in the others. And if you don't have magnitude estimates, you can't get an estimate for the net undercount effect.

So --

Q. Thank you. We'll --

A. So you can't say it's likely without that qualitative evidence. It's certainly possible. And the quality degradation associated with the components is documented and was sufficient for us, as a bureau, to recommend that the question

are you aware of evidence from any source that the addition of a citizenship question will affect the net undercount of particular demographic groups?

A. I am aware of considerable evidence that the addition of the citizenship question might affect the net undercount because analysts, including myself, have produced credible evidence that self-response is directly related to the quality of components of that net undercount measurement and directly related to the quality of the dual system estimate that you are going to have to have to independently estimate the population you're trying to see whether you over or underestimated in the census.

And if you -- as a matter of altering the operations -- well, not the operations. Altering the particular response patterns that you get in the actual census, if you move them in the direction of additional non-response follow-up, my opinion is that you will have more erroneous enumerations, more whole-person census imputations, and more gross omissions. But you

1 won't be able to say that the net undercount went
2 up, because those offset each other in the net
3 analysis to some extent.
4 And if it were possible to quantify an
5 effect on the net undercount that was reliably
6 related to the component effects that I think not
7 just I but others have identified, I would do so.
8 And the others, I believe, are obligated to do so.
9 Unless you do that, your statement should be it
10 might affect the net undercount. And I agree.
11 But credible evidence that it will in one
12 direction doesn't exist, in my opinion.
13 Q. What evidence is there that the addition
14 of the citizenship question will cause erroneous
15 enumerations to go up?
16 A. We developed that estimate by tracing
17 through the effects of increasing the non-response
18 follow-up load by the amount that we predicted
19 that it would increase due to the addition of the
20 citizenship question driving down self-response
21 rates, and then tracing it through the summary
22 analysis from the 2010 census coverage

them to be outside of that, and the vast majority of them are inside it.

So you can't draw a statistical conclusion about net undercount, given those large margins of error.

FURTHER EXAMINATION BY COUNSEL FOR THE NEW YORK IMMIGRATION COALITION, ET AL.

BY MR. FREEDMAN:

Q. Okay. I want to go back to some things that we were discussing. The term "credible quantitative evidence" which appears numerous times in your report, is that a term of art?

A. So there are different ways to say it. Statistical analysis that's appropriate for the decisionmaking that you're doing -- in the Census Bureau we often say fitness for use. We mean by it the same thing I mean by credible evidence, which is an estimate and a measure of uncertainty associated with that estimate that is a direct estimate or a modeled estimate of the effect that you're trying to quantify.

Q. Would others -- do others in the Census

Bureau use that term, credible quantitative evidence?

A. So they might say fit for use or suitable for use.

Q. In your analysis, the January 19th analysis you prepared for the Secretary, do you remember whether you used that term, credible quantitative evidence, or not?

A. I probably just said quantitative.

Q. And similarly, your March 1st analysis, did you use the term "credible quantitative evidence"?

A. I probably just said quantitative.

Q. Dr. Brown, in the August 6th white paper, does he use the term "credible quantitative evidence"?

A. He doesn't use that term, I don't think. Actually, I didn't search for it. He uses the term that -- in the social sciences we say we produced estimates of an effect that can be modeled appropriately, done appropriate diagnostic checks on it and presented it, along with its

associated standard error, allowing you to assess the range of credible estimates or the range of estimates that are consistent with the data analysis.

Q. So is it fair to say credible quantitative evidence is your term?

A. I didn't make the term up. There's quantitative evidence -- for example, we walked through a lot of it this morning --

Q. Yes.

A. -- that I don't consider credible because it wouldn't stand up to the rigorous analysis that I would give it: Are other things controlled for? Are there margins of error presented? Is the input data properly constructed to answer the question?

There's a lot of things that go into professional scientific judgments about credible quantitative evidence.

And I think I very carefully said that I'm not claiming that none exist. I'm claiming that I couldn't produce any, and that I don't

the effects of adding the citizenship question?
A. No.
Q. Is it your view that the Census Bureau can make adjustments to the Integrated Partnership and Communications Program that would eliminate the effects of adding a citizenship question?
A. Highly unlikely.
Q. Is it your view that the Census Bureau can eliminate the differential net undercount through making adjustments to the Integrated Partnership and Communications Program?
A. The existing one?
Q. Yes. I do believe the Integrated Partnership and Communication Program can help reduce the net undercounts, yes.
A. Yes.
Q. Can it eliminate the differential undercount?
A. Highly unlikely.
Q. And can the Census Bureau eliminate the differential undercount through making adjustments to NRFU?

A. Highly unlikely.

Q. When we were -- page 5, related question. Second full paragraph.

You say, "The Census Bureau is prepared to conduct the 2020 census NRFU operations and believes that those efforts will result in a complete enumeration."

What do you mean by complete enumeration?

A. A net undercount comparable to 2010 or better. Or I literally mean every person once, only once, and in the right place. Notice that that doesn't say anything about whether that person is white, black, Hispanic, 10 or 50.

Q. But do you think the Census Bureau is going to count every person once, only once and in the right place? That's a goal. Do you think you're going to achieve it?

A. It's been a persistent goal. I think we only modified -- if we modified that phrase at all from the one we used in 2010 as our goal, I'd be surprised. That is a consistent goal of the census, and we hold ourselves to high standards,

EXHIBIT 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------x
STATES OF NEW YORK, COLORADO, CONNECTICUT, DELAWARE, ILLINOIS, IOWA, MARYLAND, MINNESOTA, NEW JERSEY, NEW MEXICO, NORTH CAROLINA, OREGON, RHODE ISLAND, VERMONT, and WASHINGTON, *et al.*,

Plaintiffs,

v. 18 Civ. 2921 (JMF)

UNITED STATES DEPARTMENT OF COMMERCE, *et al.*,

Trial

Defendants.

----------x

NEW YORK IMMIGRATION COALITION,*et al.*,

Consolidated Plaintiffs,

v. 18 Civ. 5025 (JMF)

UNITED STATES DEPARTMENT OF COMMERCE, *et al.*,

Defendants.
----------x

New York, N.Y.
November 14, 2018
9:00 a.m.

Before:

HON. JESSE M. FURMAN,

District Judge

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CARLOTTA P. WELLS
Assistant United States Attorneys

2020 census that identifies the citizenship question itself as the likely or one of the likely causal elements associated with the changes in the outcomes and that would stand up to extensive peer review within the Census Bureau and within the scientific community.

Q. You also used the term sub population.

Can you describe what that term means?

A. In the Census Bureau, we variously refer to components of the U.S. population as a racial population or sometimes we say a racial sub population, and they are synonymous.

Q. Can you describe your third opinion referenced here, nonresponse followup or NRFU?

A. My opinion is that the consequences of the decline in the self-response rate attributable to the addition of the citizenship question can be addressed with the nonresponse followup -- I'll say NRFU from now on -- the NRFU system that was designed to implement and tested for the 2020 census, and that that system can be expected to produce an accurate actual count.

Q. Are you expressing any opinion with respect to NRFU and the integrated partnership and communications program?

A. Yes. I believe that an important part of the mitigation of the decline in the self-response rate will be to modify components of the partnership and integrated partnership and communication program so that the message that the census data

are confidential, that they are only used to produce statistical tabulations, that they are not given to any other government agency for the purposes of enforcing any law, will be an important message, and we acknowledge that the addition of the citizenship question has made it necessary to augment that part of the integrated communication and partnership program.

Q. Before delving into these opinions in more depth, I want to back up for just a moment and talk about the broader context here.

If we turn to slide five here of defendants' demonstrative. Can you describe how the Census Bureau figures out who to count when it is taking a census?

A. Yes, I can.

So from a conceptual point of view, you have to define the universe that the census applies to. There are two components of the universe that matter. The first component is that the person, a human being, has to be alive on census day, which will be April 20 of 2020. It can't have been born after 2020, can't have died before April 1 of 2020.

The second component is the definition of a resident of the United States, that we use a set of residency criteria that are about six pages long, and they were published in the federal register in February that define for every contingency that we have ever encountered, how that particular contingency resolves

A. Yes, it might.
Q. You're not saying that there is credible quantitative evidence indicating that a citizenship question will not affect the undercount, correct?
A. That's correct.
MR. HO: So let's look again at PDX-1 and Dr. Hillygus's opinions.
Q. You disagree with Dr. Hillygus's opinions about undercount because you believe that NRFU, nonresponse follow-up, will adequately address a decline in self-response caused by the citizenship question, right?
A. Yes.
Q. Dr. Abowd, the Census Bureau has not produced credible quantitative evidence indicating whether or not NRFU will be sufficient to address the marginal increase in nonresponse caused by the citizenship question, correct?
A. By the standards I've defined, we have used the modeling assumptions from the 2020 census, and so that's correct, yes.
Q. Dr. Abowd, you would agree with me that if a household self-responds accurately and completely, then that household will be counted in the decennial enumeration, right?
A. Yes.
Q. Those households, by definition, will not be omitted from the enumeration count, right?
A. That's correct.

EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

STATE OF CALIFORNIA, by and through Attorney General Xavier Becerra,

Plaintiff,

vs. Case No. 3:18-cv-01865

WILBUR L. ROSS, JR., in his official capacity as Secretary of the U.S. Department of Commerce; et al.,

Defendants.

CITY of SAN JOSE, a municipal corporation; et al.,

Plaintiffs,

vs. Case No. 5:18-cv-02279

WILBUR L. ROSS, JR., in his official capacity as Secretary of the U.S. Department of Commerce; et al.,

Defendants.

VIDEO DEPOSITION OF STUART D. GURREA, PhD

October 24, 2018

10:06 a.m.

101 Mission Street, Suite 1000

San Francisco, California

Reported by: QUYEN N. DO, CSR No. 12447

A Yes. So, many of the quantitative methods that I have seen political scientists use, for example, in this case --

Q Okay.

A -- overlap with the tools that economists use.

Q Okay. Do you have expertise in analyzing data from the U.S. Census Bureau?

A Yes.

Q How many -- for how many matters have you done that before?

A Okay, so I don't know.

Q More than five?

A Yes.

Q Okay. Are you an expert in the manner in which the Census Bureau conducts the decennial census?

A No.

Q Are you -- do you -- are you an expert in analyzing Census Bureau data? I might have already said that. Yeah, I already said that. Never mind.

Are you an expert in congressional apportionment?

A What -- what is -- I'm not sure what area of expertise is that.

Q Let's do the same thing as before.
In what -- in what -- in what -- is there an aspect of the subject of -- of apportionment of congressional representatives in which you would consider yourself an expert?
A Well, I've offered an opinion. Just my understanding of -- of congressional apportionment is the application of a formula --
Q Mm-hm.
A -- and I have the expertise to independently apply that formula, and I have done that in this report. I've been able to replicate congressional apportionment using that mathematical formula. So, I have that type of expertise that comes from my familiarity with, and expertise with, quantitative methods. I'm not sure if there's anything beyond that.
Q Okay. Are you an expert in federal funding?
MS. FEDERIGHI: Objection. Vague.
BY MS. BOUTIN:
Q Was your -- would your answer be similar to the last one, to the last answer?
A I just don't understand the question.
Q Okay. Would you say you're an expert in

BY MS. BOUTIN:
Q Okay. So I'll ask my next question.
A Okay.
Q Do you have any opinions about any variation in nonresponse rate, as a result of the citizenship question, across either -- either geographic areas or demographic groups?
A So I haven't formed any independent opinions on that issue. I'm familiar with what I have read in this -- as part of my preparation for this report.
Q Okay. And what -- can you think of any articles in particular that have related to the subjects that you've reviewed?
A No.
Q Okay. Do you have any opinions on how effective the Census Bureau's nonresponse follow-up efforts are likely to be for the 2020 census?
MS. FEDERIGHI: Objection. Vague.
THE WITNESS: No.
BY MS. BOUTIN:
Q Okay. And this is a little -- little bit related to the last one. Do you have any opinions on how effective the Census Bureau's nonresponse follow-up efforts -- and I'm going to -- I'm going

to call that NRFU (you may have seen that acronym before) -- how effective NRFU is likely to be for the 2020 census as compared to the 2010 census?

A No, I'm not offering an opinion on that.

Q And, again, this is -- I'll try and formulate this similarly as I did for self-response. Do you have any opinions regarding any variation in NRFU effectiveness across different geographic areas or demographic groups?

MS. FEDERIGHI: Objection. Vague and lack of foundation.

MS. BOUTIN: Trying to speed this along.

THE WITNESS: Beyond what I've read --

MS. BOUTIN: Okay.

THE WITNESS: -- I don't.

BY MS. BOUTIN:

Q Okay, so, during the course of this case, our -- our understanding has been that there are two different -- at least two different types of imputation: account imputation, which relates to imputing the number of people in a household, and characteristic imputation, which is when you impute someone's demographic information.

So, during this deposition, unless I specify otherwise, I mean count imputation which

in-person interviews. There are proxy interviews. There's imputation. So there's much more beyond what Dr. Barreto has, apparently, modeled or tried to capture through his questionnaire.

Q But that understanding of NRFU isn't based on your own expertise in NRFU, correct?

A I don't have an independent opinion about what are the components of NRFU.

Q Do you have independent opinion about -- relating to NRFU in any way?

MS. FEDERIGHI: Objection. Vague.

THE WITNESS: As I just stated, this is an independent --

MS. BOUTIN: Okay.

THE WITNESS: -- opinion.

BY MS. BOUTIN:

Q Page 18, paragraph 49. Says:

"In Scenario D, Dr. Fraga assumes a NRFU success rate of 86.63 percent. Dr. Fraga does not offer any basis at all for this assumption or how it relates to the expected success rate of the 2020 Census NRFU operation."

It's possible that a basis exists for that NRFU success rate that was not explained in

analysis.
Q Okay. Is it fair to say that you took the number that was provided with you and just applied it to the data that you were working with?
A Yeah. That's my assignment.
Q Okay. Since -- since, I believe, you stated earlier that you have not spoken about this -- these cases with anyone at the Census Bureau, is it fair to say you did not discuss the Historical NRFU-Rate Scenario with anyone at the Census Bureau?
A That's correct.
Q Okay. Did you communicate about it in any other way with the Census Bureau other than --
A No.
Q -- through the memo?
A Just -- other than through the memo, I -- I mean, I -- I guess, yeah, I -- I -- I wasn't communicating. I'm -- I did receive it. I guess it is a communication.
Q Okay.
A Yes, no --
Q Okay.
A -- nothing else.
Q Okay. Are you aware whether the memo was

EXHIBIT 4

DP02

SELECTED SOCIAL CHARACTERISTICS IN THE UNITED STATES
2012-2016 American Community Survey 5-Year Estimates

Legend: show/hide rows and columns; collapse/expand data categories; rearrange columns; rearrange rows; sort ascending/descending; filter rows

Note: This is a modified view of the original table.

Tell us what you think. Provide feedback to help make American Community Survey data more useful for you.

Although the American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities and towns and estimates of housing units for states and counties.

Supporting documentation on code lists, subject definitions, data accuracy, and statistical testing can be found on the American Community Survey website in the Data and Documentation section.

Sample size and data quality measures (including coverage rates, allocation rates, and response rates) can be found on the American Community Survey website in the Methodology section.

1 - 52 of 52

Subject	San Diego CCD, San Diego County, California		Los Angeles city, California		Santa Ana city, California		Miami city, Florida		Houston-The Woodlands-Sugar Land, TX Metro Area		New York-Newark-Jersey City, NY-NJ-PA Metro Area		Phoenix-Mesa-Scottsdale, AZ Metro Area		San Jose city, CA; San Jose-Sunnyvale-Santa Clara, CA Metro Area	
	Estimate	Percent	Estimate	Percent	Estimate	Percent	Estimate	Percent	Estimate	Percent	Estimate	Percent	Estimate	Percent	Estimate	Percent
HOUSEHOLDS BY TYPE																
Total households	817,735	817,735	1,356,311	1,356,311	75,097	75,097	161,605	161,605	2,223,829	2,223,829	7,138,559	7,138,559	1,596,641	1,596,641	317,317	317,317
Family households (families)	533,270	65.2%	813,848	60.0%	61,256	81.6%	88,199	54.6%	1,566,793	70.5%	4,716,637	66.1%	1,052,618	65.9%	233,403	73.6%
Nonfamily households	284,465	34.8%	542,463	40.0%	13,841	18.4%	73,406	45.4%	657,036	29.5%	2,421,922	33.9%	544,023	34.1%	83,914	26.4%
Households with one or more people under 18 years	272,526	33.3%	420,324	31.0%	39,461	52.5%	40,593	25.1%	876,477	39.4%	2,328,266	32.6%	527,776	33.1%	126,222	39.8%
Households with one or more people 65 years and over	205,073	25.1%	321,084	23.7%	17,609	23.4%	48,155	29.8%	453,112	20.4%	2,015,660	28.2%	434,340	27.2%	79,256	25.0%
Average household size	2.84	(X)	2.83	(X)	4.38	(X)	2.61	(X)	2.88	(X)	2.75	(X)	2.76	(X)	3.13	(X)
Average family size	3.46	(X)	3.62	(X)	4.59	(X)	3.56	(X)	3.48	(X)	3.41	(X)	3.38	(X)	3.59	(X)
RELATIONSHIP																
Population in households	2,320,823	2,320,823	3,834,817	3,834,817	328,887	328,887	422,085	422,085	6,403,578	6,403,578	19,616,347	19,616,347	4,411,302	4,411,302	994,465	994,465
MARITAL STATUS																
Males 15 years and over	967,200	967,200	1,581,834	1,581,834	128,707	128,707	180,949	180,949	2,469,879	2,469,879	7,813,212	7,813,212	1,752,912	1,752,912	407,064	407,064
Females 15 years and over	977,464	977,464	1,631,395	1,631,395	126,664	126,664	185,242	185,242	2,540,783	2,540,783	8,556,052	8,556,052	1,799,561	1,799,561	402,944	402,944
FERTILITY																
Number of women 15 to 50 years old who had a birth in the past 12 months	28,792	28,792	48,074	48,074	5,291	5,291	5,263	5,263	98,153	98,153	237,001	237,001	56,548	56,548	13,835	13,835
GRANDPARENTS																
Number of grandparents living with own grandchildren under 18 years	63,378	63,378	109,327	109,327	15,787	15,787	11,714	11,714	185,037	185,037	484,844	484,844	108,695	108,695	34,394	34,394

Versions of this table are available for the following years:

2016

2015
2014
2013

Subject	San Diego CCD, San Diego County, California		Los Angeles city, California		Santa Ana city, California		Miami city, Florida		Houston-The Woodlands-Sugar Land, TX Metro Area		New York-Newark-Jersey City, NY-NJ-PA Metro Area		Phoenix-Mesa-Scottsdale, AZ Metro Area		San Jose city, CA; San Jose-Sunnyvale-Santa Clara, CA Metro Area	
	Estimate	Percent	Estimate	Percent	Estimate	Percent	Estimate	Percent	Estimate	Percent	Estimate	Percent	Estimate	Percent	Estimate	Percent
Number of grandparents responsible for own grandchildren under 18 years	16,443	16,443	23,430	23,430	3,167	3,167	2,476	2,476	66,490	66,490	119,523	119,523	38,346	38,346	5,960	5,960
SCHOOL ENROLLMENT																
Population 3 years and over enrolled in school	652,035	652,035	1,031,409	1,031,409	101,269	101,269	86,152	86,152	1,829,363	1,829,363	5,067,426	5,067,426	1,185,041	1,185,041	275,228	275,228
EDUCATIONAL ATTAINMENT																
Population 25 years and over	1,592,452	1,592,452	2,644,815	2,644,815	199,054	199,054	319,595	319,595	4,112,029	4,112,029	13,752,080	13,752,080	2,942,226	2,942,226	679,878	679,878
Percent high school graduate or higher	(X)	87.0%	(X)	75.9%	(X)	55.5%	(X)	74.2%	(X)	82.3%	(X)	85.7%	(X)	86.8%	(X)	82.9%
Percent bachelor's degree or higher	(X)	38.7%	(X)	32.5%	(X)	12.4%	(X)	25.0%	(X)	31.3%	(X)	38.1%	(X)	29.8%	(X)	40.2%
VETERAN STATUS																
Civilian population 18 years and over	1,810,834	1,810,834	3,071,457	3,071,457	239,532	239,532	354,585	354,585	4,724,211	4,724,211	15,597,707	15,597,707	3,361,342	3,361,342	772,202	772,202
DISABILITY STATUS OF THE CIVILIAN NONINSTITUTIONALIZED POPULATION																
Total Civilian Noninstitutionalized Population	2,316,684	2,316,684	3,892,930	3,892,930	330,115	330,115	425,726	425,726	6,431,084	6,431,084	19,850,286	19,850,286	4,433,845	4,433,845	1,005,963	1,005,963
Under 18 years	522,446	522,446	844,822	844,822	93,864	93,864	77,833	77,833	1,754,473	1,754,473	4,416,393	4,416,393	1,119,167	1,119,167	236,814	236,814
18 to 64 years	1,503,263	1,503,263	2,608,634	2,608,634	210,707	210,707	278,879	278,879	4,049,865	4,049,865	12,688,099	12,688,099	2,683,403	2,683,403	655,586	655,586
65 years and over	290,975	290,975	439,474	439,474	25,544	25,544	69,014	69,014	626,746	626,746	2,745,794	2,745,794	631,275	631,275	113,563	113,563
With a disability	103,270	35.5%	169,153	38.5%	9,775	38.3%	25,839	37.4%	226,795	36.2%	914,093	33.3%	209,715	33.2%	39,155	34.5%
RESIDENCE 1 YEAR AGO																
Population 1 year and over	2,350,812	2,350,812	3,872,555	3,872,555	328,771	328,771	426,667	426,667	6,391,993	6,391,993	19,802,865	19,802,865	4,430,826	4,430,826	996,837	996,837
PLACE OF BIRTH																
Total population	2,380,035	2,380,035	3,918,872	3,918,872	333,605	333,605	432,622	432,622	6,482,592	6,482,592	20,031,443	20,031,443	4,486,153	4,486,153	1,009,363	1,009,363
Native	1,787,338	75.1%	2,435,606	62.2%	179,678	53.9%	183,231	42.4%	4,997,360	77.1%	14,282,364	71.3%	3,844,682	85.7%	617,163	61.1%
Born in United States	1,739,741	73.1%	2,391,917	61.0%	177,374	53.2%	171,696	39.7%	4,913,166	75.8%	13,731,746	68.6%	3,786,152	84.4%	602,375	59.7%
State of residence	1,148,945	48.3%	1,788,350	45.6%	159,948	47.9%	126,245	29.2%	3,526,570	54.4%	10,939,281	54.6%	1,703,855	38.0%	480,519	47.6%
Different state	590,796	24.8%	603,567	15.4%	17,426	5.2%	45,451	10.5%	1,386,596	21.4%	2,792,465	13.9%	2,082,297	46.4%	121,856	12.1%
Born in Puerto Rico, U.S. Island areas, or born abroad to American parent(s)	47,597	2.0%	43,689	1.1%	2,304	0.7%	11,535	2.7%	84,194	1.3%	550,618	2.7%	58,530	1.3%	14,788	1.5%
Foreign born	592,697	24.9%	1,483,266	37.8%	153,927	46.1%	249,391	57.6%	1,485,232	22.9%	5,749,079	28.7%	641,471	14.3%	392,200	38.9%
U.S. CITIZENSHIP STATUS																

Subject	San Diego CCD, San Diego County, California		Los Angeles city, California		Santa Ana city, California		Miami city, Florida		Houston-The Woodlands-Sugar Land, TX Metro Area		New York-Newark-Jersey City, NY-NJ-PA Metro Area		Phoenix-Mesa-Scottsdale, AZ Metro Area		San Jose city, CA; San Jose-Sunnyvale-Santa Clara, CA Metro Area	
	Estimate	Percent	Estimate	Percent	Estimate	Percent	Estimate	Percent	Estimate	Percent	Estimate	Percent	Estimate	Percent	Estimate	Percent
Foreign-born population	592,697	592,697	1,483,266	1,483,266	153,927	153,927	249,391	249,391	1,485,232	1,485,232	5,749,079	5,749,079	641,471	641,471	392,200	392,200
Naturalized U.S. citizen	306,375	51.7%	667,243	45.0%	51,912	33.7%	116,615	46.8%	549,890	37.0%	3,131,580	54.5%	247,240	38.5%	217,690	55.5%
Not a U.S. citizen	286,322	48.3%	816,023	55.0%	102,015	66.3%	132,776	53.2%	935,342	63.0%	2,617,499	45.5%	394,231	61.5%	174,510	44.5%
YEAR OF ENTRY																
Population born outside the United States	640,294	640,294	1,526,955	1,526,955	156,231	156,231	260,926	260,926	1,569,426	1,569,426	6,299,697	6,299,697	700,001	700,001	406,988	406,988
Native	47,597	47,597	43,689	43,689	2,304	2,304	11,535	11,535	84,194	84,194	550,618	550,618	58,530	58,530	14,788	14,788
Foreign born	592,697	592,697	1,483,266	1,483,266	153,927	153,927	249,391	249,391	1,485,232	1,485,232	5,749,079	5,749,079	641,471	641,471	392,200	392,200
WORLD REGION OF BIRTH OF FOREIGN BORN																
Foreign-born population, excluding population born at sea	592,697	592,697	1,483,246	1,483,246	153,927	153,927	249,391	249,391	1,485,232	1,485,232	5,749,043	5,749,043	641,471	641,471	392,200	392,200
LANGUAGE SPOKEN AT HOME																
Population 5 years and over	2,229,470	2,229,470	3,672,082	3,672,082	307,699	307,699	405,705	405,705	5,993,065	5,993,065	18,800,829	18,800,829	4,184,938	4,184,938	942,984	942,984
English only	1,340,952	60.1%	1,475,751	40.2%	55,155	17.9%	93,989	23.2%	3,703,272	61.8%	11,523,368	61.3%	3,099,740	74.1%	410,124	43.5%
Language other than English	888,518	39.9%	2,196,331	59.8%	252,544	82.1%	311,716	76.8%	2,289,793	38.2%	7,277,461	38.7%	1,085,198	25.9%	532,860	56.5%
Speak English less than "very well"	337,430	15.1%	989,826	27.0%	131,524	42.7%	171,920	42.4%	1,009,876	16.9%	3,178,864	16.9%	378,101	9.0%	236,238	25.1%
Spanish	550,149	24.7%	1,568,561	42.7%	218,449	71.0%	282,834	69.7%	1,743,082	29.1%	3,706,355	19.7%	839,104	20.1%	219,854	23.3%
Speak English less than "very well"	196,625	8.8%	725,383	19.8%	111,577	36.3%	160,298	39.5%	813,813	13.6%	1,678,151	8.9%	298,518	7.1%	91,893	9.7%
Other Indo-European languages	78,448	3.5%	261,449	7.1%	2,531	0.8%	24,786	6.1%	195,230	3.3%	2,016,241	10.7%	93,772	2.2%	60,032	6.4%
Speak English less than "very well"	22,370	1.0%	93,998	2.6%	718	0.2%	10,147	2.5%	50,686	0.8%	767,806	4.1%	22,312	0.5%	14,964	1.6%
Asian and Pacific Islander languages	214,109	9.6%	314,866	8.6%	30,915	10.0%	2,412	0.6%	276,890	4.6%	1,168,304	6.2%	99,009	2.4%	241,554	25.6%
Speak English less than "very well"	96,805	4.3%	154,743	4.2%	19,130	6.2%	1,262	0.3%	124,497	2.1%	620,718	3.3%	41,021	1.0%	125,378	13.3%
Other languages	45,812	2.1%	51,455	1.4%	649	0.2%	1,684	0.4%	74,591	1.2%	386,561	2.1%	53,313	1.3%	11,420	1.2%
Speak English less than "very well"	21,630	1.0%	15,702	0.4%	99	0.0%	213	0.1%	20,880	0.3%	112,189	0.6%	16,250	0.4%	4,003	0.4%
ANCESTRY																
Total population	2,380,035	2,380,035	3,918,872	3,918,872	333,605	333,605	432,622	432,622	6,482,592	6,482,592	20,031,443	20,031,443	4,486,153	4,486,153	1,009,363	1,009,363
COMPUTERS AND INTERNET USE																
Total households	(X)	(X)	(X)	(X)	(X)	(X)	(X)	(X)	(X)	(X)	(X)	(X)	(X)	(X)	(X)	(X)

Source: U.S. Census Bureau, 2012-2016 American Community Survey 5-Year Estimates

Explanation of Symbols:
An '**' entry in the margin of error column indicates that either no sample observations or too few sample observations were available to compute a standard error and thus the margin of error. A statistical test is not appropriate.
An '-' entry in the estimate column indicates that either no sample observations or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowest interval or upper interval of an open-ended distribution.

An '-' following a median estimate means the median falls in the lowest interval of an open-ended distribution.
An '+' following a median estimate means the median falls in the upper interval of an open-ended distribution.
An '***' entry in the margin of error column indicates that the median falls in the lowest interval or upper interval of an open-ended distribution. A statistical test is not appropriate.
An '*****' entry in the margin of error column indicates that the estimate is controlled. A statistical test for sampling variability is not appropriate.
An 'N' entry in the estimate and margin of error columns indicates that data for this geographic area cannot be displayed because the number of sample cases is too small.
An '(X)' means that the estimate is not applicable or not available.

Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error. The margin of error can be interpreted roughly as providing a 90 percent probability that the interval defined by the estimate minus the margin of error and the estimate plus the margin of error (the lower and upper confidence bounds) contains the true value. In addition to sampling variability, the ACS estimates are subject to nonsampling error (for a discussion of nonsampling variability, see Accuracy of the Data). The effect of nonsampling error is not represented in these tables.

Ancestry listed in this table refers to the total number of people who responded with a particular ancestry; for example, the estimate given for Russian represents the number of people who listed Russian as either their first or second ancestry. This table lists only the largest ancestry groups; see the Detailed Tables for more categories. Race and Hispanic origin groups are not included in this table because official data for those groups come from the Race and Hispanic origin questions rather than the ancestry question (see Demographic Table).

Data for year of entry of the native population reflect the year of entry into the U.S. by people who were born in Puerto Rico, U.S. Island Areas or born outside the U.S. to a U.S. citizen parent and who subsequently moved to the U.S.

Fertility data are not available for certain geographic areas due to problems with data collection. See Errata Note #92 for details.

Methodological changes to data collection in 2013 may have affected language data for 2013. Users should be aware of these changes when using 2013 data or multi-year data containing data from 2013. For more information, see: Language User Note.

The Census Bureau introduced a new set of disability questions in the 2008 ACS questionnaire. Accordingly, comparisons of disability data from 2008 or later with data from prior years are not recommended. For more information on these questions and their evaluation in the 2006 ACS Content Test, see the Evaluation Report Covering Disability.

While the 2012-2016 American Community Survey (ACS) data generally reflect the February 2013 Office of Management and Budget (OMB) definitions of metropolitan and micropolitan statistical areas; in certain instances the names, codes, and boundaries of the principal cities shown in ACS tables may differ from the OMB definitions due to differences in the effective dates of the geographic entities.

Estimates of urban and rural population, housing units, and characteristics reflect boundaries of urban areas defined based on Census 2010 data. As a result, data for urban and rural areas from the ACS do not necessarily reflect the results of ongoing urbanization.

EXHIBIT 5

QuickFacts

San Jose city, California; UNITED STATES

QuickFacts provides statistics for all states and counties, and for cities and towns with a ***population of 5,000 or more***.

Table

All Topics	San Jose city, California	UNITED STATES
Population estimates, July 1, 2017, (V2017)	**1,035,317**	**325,719,178**
PEOPLE		
Population		
Population estimates, July 1, 2017, (V2017)	**1,035,317**	**325,719,178**
Population estimates base, April 1, 2010, (V2017)	952,574	308,758,105
Population, percent change - April 1, 2010 (estimates base) to July 1, 2017, (V2017)	8.7%	5.5%
Population, Census, April 1, 2010	945,942	308,745,538
Age and Sex		
Persons under 5 years, percent	▲ 6.6%	▲ 6.1%
Persons under 18 years, percent	▲ 23.5%	▲ 22.6%
Persons 65 years and over, percent	▲ 11.4%	▲ 15.6%
Female persons, percent	▲ 49.6%	▲ 50.8%
Race and Hispanic Origin		
White alone, percent (a)	▲ 42.2%	▲ 76.6%
Black or African American alone, percent (a)	▲ 3.1%	▲ 13.4%
American Indian and Alaska Native alone, percent (a)	▲ 0.5%	▲ 1.3%
Asian alone, percent (a)	▲ 34.1%	▲ 5.8%
Native Hawaiian and Other Pacific Islander alone, percent (a)	▲ 0.4%	▲ 0.2%
Two or More Races, percent	▲ 5.0%	▲ 2.7%
Hispanic or Latino, percent (b)	▲ 32.6%	▲ 18.1%
White alone, not Hispanic or Latino, percent	▲ 26.9%	▲ 60.7%
Population Characteristics		
Veterans, 2012-2016	28,928	19,535,341
Foreign born persons, percent, 2012-2016	38.9%	13.2%
Housing		
Housing units, July 1, 2017, (V2017)	X	137,403,460
Owner-occupied housing unit rate, 2012-2016	57.1%	63.6%
Median value of owner-occupied housing units, 2012-2016	$658,000	$184,700
Median selected monthly owner costs -with a mortgage, 2012-2016	$2,776	$1,491
Median selected monthly owner costs -without a mortgage, 2012-2016	$619	$462
Median gross rent, 2012-2016	$1,689	$949
Building permits, 2017	X	1,281,977
Families & Living Arrangements		
Households, 2012-2016	317,317	117,716,237
Persons per household, 2012-2016	3.13	2.64
Living in same house 1 year ago, percent of persons age 1 year+, 2012-2016	86.5%	85.2%
Language other than English spoken at home, percent of persons age 5 years+, 2012-2016	56.5%	21.1%
Education		
High school graduate or higher, percent of persons age 25 years+, 2012-2016	82.9%	87.0%
Bachelor's degree or higher, percent of persons age 25 years+, 2012-2016	40.2%	30.3%
Health		
With a disability, under age 65 years, percent, 2012-2016	5.0%	8.6%
Persons without health insurance, under age 65 years, percent	▲ 10.2%	▲ 10.2%
Economy		
In civilian labor force, total, percent of population age 16 years+, 2012-2016	67.7%	63.1%
In civilian labor force, female, percent of population age 16 years+, 2012-2016	60.6%	58.3%
Total accommodation and food services sales, 2012 ($1,000) (c)	1,919,066	708,138,598
Total health care and social assistance receipts/revenue, 2012 ($1,000) (c)	4,708,445	2,040,441,203
Total manufacturers shipments, 2012 ($1,000) (c)	15,125,975	5,696,729,632
Total merchant wholesaler sales, 2012 ($1,000) (c)	49,902,322	5,208,023,478

Total retail sales, 2012 ($1,000) (c)	14,981,657	4,219,821,871
Total retail sales per capita, 2012 (c)	$15,245	$13,443
Transportation		
Mean travel time to work (minutes), workers age 16 years+, 2012-2016	28.5	26.1
Income & Poverty		
Median household income (in 2016 dollars), 2012-2016	$90,303	$55,322
Per capita income in past 12 months (in 2016 dollars), 2012-2016	$37,845	$29,829
Persons in poverty, percent	▲ 10.9%	▲ 12.3%

BUSINESSES

Businesses		
Total employer establishments, 2016	X	7,757,807
Total employment, 2016	X	126,752,238
Total annual payroll, 2016 ($1,000)	X	6,435,142,055
Total employment, percent change, 2015-2016	X	2.1%
Total nonemployer establishments, 2016	X	24,813,048
All firms, 2012	77,832	27,626,360
Men-owned firms, 2012	40,604	14,844,597
Women-owned firms, 2012	28,981	9,878,397
Minority-owned firms, 2012	45,686	7,952,386
Nonminority-owned firms, 2012	29,089	18,987,918
Veteran-owned firms, 2012	4,729	2,521,682
Nonveteran-owned firms, 2012	70,150	24,070,685

GEOGRAPHY

Geography		
Population per square mile, 2010	5,358.7	87.4
Land area in square miles, 2010	176.53	3,531,905.43
FIPS Code	0668000	00

About datasets used in this table

Value Notes

Estimates are not comparable to other geographic levels due to methodology differences that may exist between different data sources.

Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable. Click the Quick Info left of each row in TABLE view to learn about sampling error.

The vintage year (e.g., V2017) refers to the final year of the series (2010 thru 2017). *Different vintage years of estimates are not comparable.*

Fact Notes

- **(a)** Includes persons reporting only one race
- **(b)** Hispanics may be of any race, so also are included in applicable race categories
- **(c)** Economic Census - Puerto Rico data are not comparable to U.S. Economic Census data

Value Flags

- **D** Suppressed to avoid disclosure of confidential information
- **F** Fewer than 25 firms
- **FN** Footnote on this item in place of data
- **NA** Not available
- **S** Suppressed; does not meet publication standards
- **X** Not applicable
- **Z** Value greater than zero but less than half unit of measure shown
- **-** Either no or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowes interval of an open ended distribution.

QuickFacts data are derived from: Population Estimates, American Community Survey, Census of Population and Housing, Current Population Survey, Small Area Health Insurance Estimates, Small Area Poverty Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits.

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EXHIBIT 6

UNITED STATES DEPARTMENT OF COMMERCE
The Secretary of Commerce
Washington, D.C. 20230

July 5, 2018

Ms. Catherine E. Lhamon
Chair
United States Commission on Civil Rights
1331 Pennsylvania Avenue, NW, Room 1150
Washington, DC 20425

Dear Ms. Lhamon:

Thank you for your letter regarding the U.S. Department of Commerce's decision to reinstate a citizenship question to the 2020 decennial census. I appreciate your taking the time to share your views on this important matter.

At my direction, the Department and the U.S. Census Bureau conducted a thorough review of the U.S. Department of Justice's (DOJ) December 2017 request to reinstate a citizenship question on the 2020 Census. That review included legal, program, and policy considerations. On March 26, 2018, after taking a hard look at the request and ensuring that I considered all facts and data relevant to the question so I could make an informed decision on how to respond, I determined that reinstatement of a citizenship question on the 2020 Census is necessary to provide complete and accurate data in response to the DOJ's request. A copy of my memorandum directing the Census Bureau to reinstate the citizenship question is available on the Department's website: https://www.commerce.gov/sites/commerce.gov/files/2018-03-26_2.pdf.

I would also like to respond to some of the more troubling reactions to my decision, particularly those that encourage non-participation in the 2020 Census on the ground that Census responses could be shared with law enforcement and used against respondents. No one should be afraid to stand up and be counted. The law is clear – the answers a person provides on a Census form may not be used for law enforcement or any other purpose that would reveal his or her identity or how an individual responded to a question. Anyone who handles Census data swears an oath to keep those data confidential for life. Under Title 13, using Census responses for any other reason than to produce population statistics is punishable by fines and up to five years in prison.

I am asking Federal, state, and local leaders to reassure the public of these facts. Such public encouragement and reassurance would help achieve the goals that we share and are working very hard to achieve: a complete and accurate Census. By encouraging non-citizens, their friends, and their families to respond to the Census, you can help the Census Bureau conduct a complete and accurate count. This in turn would provide the anonymous enumeration of ALL persons. Better citizenship data will allow stronger enforcement of the Voting Rights

Act to protect minorities, and accurate numbers will help governments and civic organizations provide better services to all.

People should know the facts – their information is protected by law, and it is their civic duty, and in their own best interest, to stand up and be counted. I look forward to working with you to ensure a complete and accurate 2020 Census.

If you have any additional questions or would like to discuss this matter further, please contact Michael Walsh, Deputy General Counsel, at (202) 482-4772.

Sincerely,

Wilbur Ross

Wilbur Ross

EXHIBIT 7

UNITED STATES COMMISSION ON CIVIL RIGHTS

1331 Pennsylvania Avenue, NW• Suite 1150 • Washington, DC 20425 www.usccr.gov

April 20, 2018

The Honorable Wilbur Ross
Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230

Re.: 2020 Census Questionnaire

Dear Secretary Ross:

The undersigned members of the United States Commission on Civil Rights write to express our deep civil rights concern with your recent decision to add a citizenship question to the 2020 Census Questionnaire,[1] in response to a request from the Department of Justice,[2] and urge you to reconsider this decision.

As an independent, bipartisan federal agency charged with advising the President and Congress on civil rights matters, the Commission has long evaluated the U.S. Census and its accuracy.[3] Critical enforcement of our nation's civil rights laws depends in part on a true and fair count of all Americans, not a process that is jeopardized by a hasty decision to include a question that could have far-reaching ramifications for the health of our country. Our country relies on the Census in determining essential questions of our democracy, such as how many seats a state has in the U.S. House of Representatives. Even in years past without the introduction of an untested question, the Census has undercounted communities of color.[4]

[1] Memorandum from Secretary Wilbur Ross, U.S. Department of Commerce, to Karen Dunn Kelley, Under Secretary for Economic Affairs, Re: Reinstatement of a Citizenship Question on the 2020 Decennial Census Questionnaire, dated Mar. 26, 2018, https://www.commerce.gov/sites/commerce.gov/files/2018-03-26_2.pdf.
[2] Letter from Arthur E. Gary, General Counsel, Justice Management Division, Department of Justice to Dr. Ron Jarmin, Performing the Non-Exclusive Functions and Duties of the Director, U.S. Census Bureau, dated Dec. 12, 2017, https://www.documentcloud.org/documents/4340651-Text-of-Dec-2017-DOJ-letter-to-Census.html.
[3] See, e.g., U.S. Commission on Civil Rights, Counting the Forgotten: The 1970 Census Count of Persons of Spanish Speaking Background in the United States (Apr. 1974), https://www.law.umaryland.edu/marshall/usccr/documents/cr12sp22970.pdf; U.S. Commission on Civil Rights, Racial Categorization in the 2010 Census (Mar. 2009), http://www.usccr.gov/pubs/Racial_Categorization.pdf.
[4] U.S. Census Bureau, Census Bureau Releases Estimates of Undercount and Overcount in the 2010 Census, May 22, 2012, https://www.census.gov/newsroom/releases/archives/2010_census/cb12-95.html.

For these reasons, the Commission is particularly disturbed by your decision to include a citizenship question in the upcoming decennial Census questionnaire. In other questionnaires, the Census Bureau has inquired about citizenship status, including the "long form" questionnaire and the American Community Survey in more recent years, but it has been decades – since 1950 – that it was included in the decennial questionnaire as you now propose. The decennial Census questionnaire is the one survey that is sent to all American households, and the one survey that specifically fulfills the Constitutional directive to conduct an "actual enumeration" of all persons in the United States.[5] The need for an accurate count has typically led the Bureau to do extensive testing and preparation before making any changes to this decennial questionnaire, including changes to instructions, question order, and certainly the introduction of a wholly separate question. In 2017, the U.S. Census Bureau conducted studies in response to the "observation of increased rates of unusual respondent behaviors" during test surveys regarding concerns about confidentiality and data access relating to immigration.[6] The findings "point to an unprecedented ground swell in confidentiality and data sharing concerns, particularly among immigrants or those who live with immigrants" that could have an impact on participation and data quality for the 2020 Census.[7] The U.S. Department of Commerce dismissed these concerns by stating "the Census Bureau's analysis did not provide definitive, empirical support for that belief."[8] But, as your analysis also pointed out, neither does there exist definitive, empirical support for the belief that there will not be a negative response to the inclusion of a citizenship question. Moreover, there is an all- too-real potential for misuse of Census information, with a historically – and painfully – valid basis for concern with participating in a Census that includes such a question.[9]

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[5] U.S. Const. art. I, § 2.

[6] Mikelyn Meyers, U.S. Census Bureau, Economics and Statistics Administration, Respondent Confidentiality Concerns and Possible Effects on Response Rates and Data Quality for the 2020 Census, Nov. 20, 2017, https://www2.census.gov/cac/nac/meetings/2017-11/Meyers-NAC-Confidentiality-Presentation.pdf, at 3.

[7] *Id.* at 15.

[8] Memorandum from Secretary Wilbur Ross, *supra* note 1, at 4.

[9] Lori Aratani, Secret use of census info helped send Japanese Americans to internment camps in WWII, Washington Post, Apr. 6, 2018, https://www.washingtonpost.com/news/retropolis/wp/2018/04/03/secret-use-of-census-info-helped-send-japanese-americans-to-internment-camps-in-wwii/?utm_term=.28a845c6013a.

In the face of the studies by the Census Bureau raising this concern, as well as the concerns raised by Members of Congress,[10] mayors[11] and state attorneys general[12] from around the country, and the Census Bureau's own advisory committees,[13] we find it alarming that you did not obtain more conclusive information about the potential for damage to the accuracy of this critical survey of Americans before prematurely choosing to include an untested citizenship question. A group of former Directors of the Census Bureau from both Republican and Democratic administrations noted that it "is highly risky to ask untested questions," pointing to the "great deal of evidence that even small changes in survey question order, working, and instructions can have significant, and often unexpected, consequences for the rate, quality, and truthfulness of response."[14] You yourself noted in testimony to the House Committee on Oversight and Government Reform late last year that adding untested questions could reduce response rates,[15] a fact that in and of itself should counsel against this decision, let alone factoring in the additional concerns raised by a significant number of stakeholders and affected communities.

Thank you for your consideration and we look forward to your response.

Very truly yours,

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[10] See, e.g., Letter from Darren Soto, Congressional Hispanic Caucus and Voting Rights Chair and Michelle Lujan Grisham, Congressional Hispanic Caucus Chair, et al. to Secretary Wilbur Ross, dated Jan. 16, 2018, https://soto.house.gov/sites/soto.house.gov/files/documents/1%2016%2018%20CHC%20Letter_Census%20Citizenship%20Question.pdf.

[11] The United States Conference of Mayors, Nation's Mayors to Secretary Ross: Don't Politicize Census. Remove the Citizenship Question, Mar. 27, 2018, https://www.usmayors.org/2018/03/27/nations-mayors-to-secretary-ross-dont-politicize-census-remove-the-citizenship-question/.

[12] Letter from Eric T. Schneiderman, Attorney General of the State of New York, et al., to Secretary Wilbur Ross, dated Feb. 12, 2018, https://www.scribd.com/document/371446470/Multi-State-Attorney-General-Letter-Re-2020-Census#from_embed.

[13] Chase Gunter, Census advisers blast citizenship question, FCW, Mar. 29, 2018, https://fcw.com/articles/2018/03/29/census-advisers-blast-citizen-question.aspx.

[14] Letter from Vincent P. Barabba et al. to Secretary Wilbur Ross, dated Jan. 26, 2018, https://www.washingtonpost.com/r/2010-2019/WashingtonPost/2018/03/27/Editorial-Opinion/Graphics/DOJ_census_ques_request_Former_Directors_ltr_to_Ross.pdf.

[15] *Id.* at 1.

Catherine E. Lhamon, Chair

Patricia Timmons-Goodson, Vice-Chair

Debo Adegbile, Commissioner

David Kladney, Commissioner

Michael Yaki, Commissioner

CC:

Dr. Ron Jarmin
Performing the Nonexclusive Functions and Duties of the
Director for the U.S. Census Bureau
U.S. Census Bureau
4600 Silver Hill Road
Washington, DC 20233

Chair Trey Gowdy
House Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Ranking Member Elijah Cummings
House Committee on Oversight and Government Reform
2157 Rayburn House Office Building
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Arthur E. Gary
General Counsel, Justice Management Division
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Justice Management Division
950 Pennsylvania Avenue, NW
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EXHIBIT 8

H.R. CONF. REP. 94-1719, H.R. Conf. Rep. No. 1719, 94TH Cong.,
2ND Sess. 1976, 1976 U.S.C.C.A.N. 5476, 1976 WL 14025 (Leg.Hist.)
****5476** P.L. 94-521, POPULATION CENSUS
House Report (Post Office and Civil Service Committee) No. 94-944,
Mar. 24, 1976 (To accompany H.R. 11337)
Senate Report (Post Office and Civil Service Committee) No. 94-1256,
Sept. 16, 1976 (To accompany S. 3688)
House Conference Report No. 94-1719,
Sept 19, 1976 (To accompany H.R. 11337)
Cong. Record Vol. 122 (1976)
DATES OF CONSIDERATION AND PASSAGE
House April 7, October 1, 1976
Senate September 23, 30, 1976
The House bill was passed in lieu of the Senate bill after amending its language to contain much of the text of the Senate bill. The Senate Report and the House Conference Report are set out.

(CONSULT NOTE FOLLOWING TEXT FOR INFORMATION ABOUT OMITTED MATERIAL. EACH COMMITTEE REPORT IS A SEPARATE DOCUMENT ON WESTLAW.)

HOUSE CONFERENCE REPORT NO. 94-1719

Sept 19, 1976

* * * *

***9** JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11337) to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

DEFINITIONS

House bill.-- The first section of the House bill amends section 1 of title 13, United States Code, by adding a new subsection (b) to provide a definition of ‘respondent‘.

Senate amendment.-- The first section of the Senate amendment is the same as the House bill.

Conference substitute.-- The conference substitute is the same as the provisions of the House bill and the Senate amendment.

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****5477** SEAL OF THE BUREAU OF THE CENSUS

House bill.-- No provision.

Senate amendment.-- Section 2 of the Senate amendment makes a technical modification of section 3 of title 13, relating to the use of the Census Bureau's seal as proof of the authenticity of documents provided by the Bureau. Since section 8 of title 13 is amended by section 6 of the Senate amendment to refer to ‘authenticated transcripts‘ instead of ‘certified copies ‘ to conform with present practices, section 3 is modified to be consistent with that amendment.

Conference substitute.-- The conference substitute is the same as the Senate amendment, except that a clarifying amendment is made so that the seal of the Census Bureau will be affixed only to the documents authenticated by the Bureau.

REGULATIONS; DELEGATION OF AUTHORITY

House bill.-- No provision.

Senate amendment.-- Section 3 of the Senate amendment makes technical amendment to section 4 of title 13 to grant the Secretary of ***10** Commerce and his delegates authority to issue rules and regulations necessary to the performance of the functions and duties required under the title. This is a technical modification intended to bring the statute into conformance with existing law and current administrative practices.

Conference substitute.-- The conference substitute is the same as the Senate amendment except that a clarifying amendment is made to such amendment to preclude an interpretation that functions and duties of the Secretary of Commerce could be delegated by him to anyone outside of the Department of Commerce.

USE OF TERM ‘QUESTIONNAIRES‘

House bill.-- Section 2 of the House bill makes a technical change by substituting the term ‘questionnaires‘ for the term ‘schedules‘ as it appears in section 5 of title 13. The term ‘schedule‘ has been dropped from usage by the Bureau of the Census for many years.

Senate amendment.-- Section 4 of the Senate amendment is identical to the provisions of section 2 of the House bill.

Conference substitute.-- The conference substitute is the same as the provisions of the House bill and the Senate amendment.

INFORMATION OBTAINED FROM FEDERAL AGENCIES AND OTHER SOURCES

House bill.-- Section 3 of the House bill amends section 6 of title 13 by adding a new subsection (c), the provisions of which direct the Secretary of Commerce to acquire and use to the greatest extent possible statistical data available from other sources in lieu of making direct inquiries. While existing law authorizes the Secretary to purchase ****5478** or otherwise acquire such information, the amendment made by the House bill is intended to emphasize the Congress' desire that such authority be used whenever possible in the dual interests of economizing and reducing respondent burden.

Senate amendment.-- Section 5 of the Senate amendment is the same as section 3 of the House bill.

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Conference substitute.-- The conference substitute is the same as the provisions of the House bill and the Senate amendment.

AUTHENTICATED TRANSCRIPTS OR COPIES OF
CERTAIN CENSUS RETURNS; RESTRICTION ON USE

House bill.-- Section 4 of the House bill makes amendments to section 8 of title 13 with respect to the protection of individual privacy. Subsection (a) of section 8, as amended, eliminates the present authority of the Secretary to furnish data to Governors of States, territories, and courts of record. That authority is replaced by a new subsection which authorizes the Secretary to furnish authenticated transcripts of reports filed by or for respondents only to respondents, their heirs, or authorized agents.

Section 8(b) of title 13 currently allows the Secretary to furnish census records and to undertake special statistical activities for certain public and private entities upon the payment of the costs involved. As amended by the House bill, such section prohibits the furnishing of statistical information which would disclose information reported by or on behalf of any respondent.

***11** Section 8(c) of title 13 currently prohibits the use of information furnished under section 8 from being used to the detriment of the persons to whom that information relates. The House bill amends that provision by using the defined term 'respondent'.

Senate amendment.-- Section 6 of the Senate amendment is the same as section 4 of the House bill except that section 8(c) is amended by adding at the end thereof 'except in the prosecution of alleged violations of this title.' That amendment is intended to guarantee the privacy of respondents by assuring access to documentary evidence in the prosecution of those who violate the confidentiality of census records.

Conference substitute.-- The conference substitute is essentially the same as the Senate amendment.

MID-DECADE CENSUS

House bill.-- Section 141(c) of title 13, as added by section 5 of the House bill, authorizes the Secretary of Commerce to conduct a mid-decade census of population in 1985 and every ten years thereafter. The Secretary is required to take into account the extent to which information collected under section 141(c) is available from other sources.

Section 141(d)(1) of title 13, as amended by the House bill, provides that if decennial census data is used to determine eligibility for or the amount of benefits under any Federal program, and if the mid-decade census provides comparable data, the mid-decade data will be used to determine such eligibility and benefit levels.

****5479** Section 141(d)(2) of title 13, as amended by the House bill, prohibits the use of mid-decade census data for the apportionment of Representatives in Congress among the several States, and also prohibits the use of such information in prescribing Congressional districts.

Senate amendment.-- Section 141(d) of title 13, as added by section 7(a) of the Senate amendment, provides for a mid-decade census essentially similar to the one provided under the House bill, but varying in two respects. First, in lieu of taking into account the extent to which current information is available, the Secretary is to take into account 'the extent to which information to be obtained from such census will serve in lieu of information collected annually or less frequently in surveys or other statistical studies '. Second, for the dual purposes of economizing and reducing respondent

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burden, language is provided to express the intent that the Secretary will, whenever possible, use sampling procedures and special surveys in conducting such censuses.

Conference substitute.-- The conference substitute is the same as the Senate amendment.

PROVISIONS DIRECTLY RELATED TO DECENNIAL AND MID-DECADE CENSUSES

House bill.-- Section 141(a) of title 13, as amended by section 5(a) of the House bill, provides for the decennial census, and is essentially the same as the provisions of existing law, except that a reference is made (as in the case of the mid-decade census) to the use of sampling procedures and special surveys.

Section 141(b) of title 13 is amended by the House bill to require the tabulation of population by States for the reapportionment of the United States House of Representatives be completed within 9 months ***12** after the census date rather than within 8 months, as is required under existing law.

Section 141(e) of title 13, as added by the House bill, requires that the Secretary of Commerce submit at various intervals the subjects and questions to be used in the decennial and mid-decade censuses of population to the appropriate committees of Congress for their review and recommendations.

Section 141(g), as added by the House bill, defines the term 'census of population' to mean a census of population, housing, and related matters.

Senate amendment.-- Subsections (a) and (b) of section 141, as amended by section 7 of the Senate amendment, are the same as the House bill. Subsection (c) of such section is essentially the same as it was when created by Public Law 94-171, except that it is amended by inserting 'decennial' before 'census ' each place such term appears in order to make clear the intent that section 141(c) is to relate solely to decennial census tabulations for reapportionment or redistricting purposes.

Subsections (f) and (g) of section 141, as amended by the Senate amendment, are essentially the same as subsections (e) and (f) of such section, as proposed under the House bill.

Conference substitute.-- The conference substitute is essentially the same as the Senate amendment.

****5480** GEOGRAPHICAL SCOPE OF CENSUS

House bill.-- Section 6 of the House bill amends section 191 of title 13, which describes the geographical scope of census, to update the text of such provision and to conform it to present practices. Territorial references to Alaska and Hawaii are deleted in order to reflect their statehood.

Senate amendment.-- Section 191 of title 13 provided under section 9 of the Senate amendment, is essentially the same as it is under the House provision, except that the provision is updated to reflect the attainment of Commonwealth status by the Northern Mariana Islands.

Conference substitute.-- The conference substitute is essentially the same as the Senate amendment. A clerical correction is made to the heading of section 191.

INTERIM CURRENT DATA

House bill.-- No provision.

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Senate amendment.-- Under existing law, section 181 of title 13 grants the Secretary of Commerce authority to conduct such surveys as he deems necessary in order to provide annual or other interim current data on subjects covered by the censuses. As amended by section 8 of the Senate amendment, the section requires that during the intervals between each census of population as required under section 141 of title 13, there shall be published annually for each State, county, and local unit of general purpose government which has a population of 50,000 or more, current data on total population. Information for small local units of general purpose government shall be collected and published biennially. Data produced under this section shall account for ***13** each State, county, and local unit of government enumerated in the most recent population census. The Secretary may use statistical techniques such as sampling and surveys to produce current, comprehensive, and reliable data. If for any reason the Secretary is unable to produce this information for any county or local jurisdiction, he shall report to the Congress, specifying each government excluded and giving the reason for its exclusion.

Section 182 of title 13, under the Senate amendment, contains the original language of section 181, the purpose of which was discussed at the beginning of the preceding paragraph.

Section 183(a) of title 13, as added by the Senate amendment, requires the Secretary (except for those times when the data from the decennial or mid-decade census is most current) to transmit the information required under section 181 to the President for use by the appropriate agencies and departments of the executive branch in the administration of Federal benefit programs. Section 183(b) of such title provides that this section shall not apply to any law of the United States which, for the purpose of determining the amount of benefit to be received, requires that only population or population characteristics data obtained in the most recent decennial census be used in making such determinations.

****5481** Section 184 of title 13, as added by the Senate amendment, defines 'local unit of general purpose government' to include governing entities of counties, municipalities, townships, Indian tribes, and Alaskan native villages.

Conference substitute.-- The conference substitute is essentially the same as the Senate amendment, except that in section 184 of title 13 the term 'State ' is defined to include the District of Columbia.

USE OF SAMPLING

House bill.-- Section 7 of the House bill amends section 195 of title 13 to require that the Secretary of Commerce authorize the use of sampling procedures in carrying out the provisions of such title whenever he deems it feasible, except in the apportionment of the U.S. House of Representatives. This differs from the present provisions of section 195 which grant the Secretary discretion to use sampling when it is considered appropriate. The section, as amended, strengthens the congressional intent that, whenever possible, sampling shall be used.

Senate amendment.-- Section 10 of the Senate amendment is the same as section 7 of the House bill.

Conference substitute.-- The conference substitute is the same as the House bill and the Senate amendment.

SPECIAL CENSUSES

House bill.-- Section 8 of the House bill adds a new section 197 to title 13 to define more clearly the authority of the Secretary of Commerce to conduct special censuses, and sets forth the conditions under which they are to be conducted. Such censuses may be conducted for the government of any State, the District of Columbia, the government of any possession or territory, or the government of any political subdivision of any of the foregoing, on subjects covered by censuses provided for under title 13. The results of such censuses shall be certified ***14** as 'Official Census Statistics',

and may be used in the manner provided by applicable law. These amendments conform the provisions of title 13 to present practices.

Senate amendment.-- Section 11 of the Senate amendment is essentially the same as section 8 of the House bill.

Conference substitute.-- The conference substitute is essentially the same as the House bill and the Senate amendment.

WRONGFUL DISCLOSURE OF INFORMATION; TEMPORARY STAFF

House bill.-- Section 9(a) of the House bill revises section 214 of title 13 to increase the penalties applicable to wrongful disclosure of confidential census information by anyone now or formerly sworn to observe the confidentiality provisions of section 9 of title 13. In so doing, penalty provisions are extended to former as well as present employees of the Bureau of the Census and those who served temporarily as well as permanently. The fine for wrongful disclosure is raised from a maximum of $1,000 to $5,000, and the maximum term of imprisonment is extended from 2 years to 5 years.

****5482** Section 9(b) of the House bill adds a new subsection (c) to section 23 of title 13 to clarify existing practices whereby temporary staff are utilized to assist in the duties assigned under such title. That provision also requires that such staff are to be sworn to observe the limitations imposed by section 9 of title 13 and thus made subject to the penalties stated in section 214.

Senate amendment.-- Section 12 of the Senate amendment is essentially the same as section 9 of the House bill.

Conference substitute.-- The conference substitute is essentially the same as the House bill and the Senate amendment.

REFUSAL, NEGLECT TO ANSWER, OR FALSELY ANSWERING QUESTIONS;
REFUSAL TO DISCLOSE INFORMATION ON RELIGIOUS BELIEFS OR MEMBERSHIP

House bill.-- Section 10 of the House bill amends section 221 of title 13 by striking out the criminal penalties for an individual's refusing or willfully neglecting to answer questions asked of him on a census questionnaire, and by striking out the penalty of imprisonment of up to one year for the giving of a false answer to questions in a census.

Section 11 of the House bill also eliminated the penalties of imprisonment imposed under section 224 of title 13 (relating to failure to answer questions affecting companies, businesses, etc.) and reduced the maximum fine which can be imposed under that section from $10,000 to $1,000. Section 12 of the House bill made conforming changes to sections 225 and 241 of title 13 necessitated by the amendments made to section 224 of title 13 by section 11 of the House bill.

Section 10 of the House bill also added a new subsection (c) to section 221 of title 13 which provided that a person may not be compelled to disclose information regarding his religious beliefs or membership in a religious body.

Senate amendment.-- The Senate amendment does not provide for the reduction or elimination of criminal penalties for refusing, willfully failing to answer, or falsely answering census questions.

Conference substitute.-- The conference substitute amends sections 221 and 224 of title 13 so that a penalty of imprisonment may not be ***15** imposed under such sections, and retains the provisions of existing law under which fines can be imposed under those sections. The conference substitute also includes the provision contained in the House bill which provided that a person may not be compelled to disclose information regarding his religious beliefs or membership in a religious body.

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SEVERABILITY PROVISION

House bill.-- Section 13 of the House bill is a severability provision.

Senate amendment.-- The Senate amendment contains a severability provision which is identical to the provisions of section 13 of the House bill.

Conference substitute.-- The conference substitute is the same as the House bill and the Senate amendment.

****5483** EFFECTIVE DATE

House bill.-- Section 14 of the House bill provides that the amendments made by the bill take effect on October 1, 1976, or on the date of enactment, if after October 1, 1976.

Senate amendment.-- The Senate amendment contains an effective date which is the same as in section 14 of the House bill.

Conference substitute.-- The conference substitute is the same as the House bill and the Senate amendment.

DAVID N. HENDERSON,
PATRICIA SCHROEDER,
WILLIAM LEHMAN,
STEPHEN L. NEAL,
GLADYS NOON SPELLMAN,
WILLIAM M. BRODHEAD,
PAUL SIMON,
Managers on the Part of the House.
FRANK E. MOSS,
RICHARD (DICK) STONE,
TED STEVENS,
Managers on the Part of the Senate.

(Note: 1. PORTIONS OF THE SENATE, HOUSE AND CONFERENCE REPORTS, WHICH ARE DUPLICATIVE OR ARE DEEMED TO BE UNNECESSARY TO THE INTERPRETATION OF THE LAWS, ARE OMITTED. OMITTED MATERIAL IS INDICATED BY FIVE ASTERISKS: *****. 2. TO RETRIEVE REPORTS ON A PUBLIC LAW, RUN A TOPIC FIELD SEARCH USING THE PUBLIC LAW NUMBER, e.g., TO(99-495))

H.R. CONF. REP. 94-1719, H.R. Conf. Rep. No. 1719, 94TH Cong., 2ND Sess. 1976, 1976 U.S.C.C.A.N. 5476, 1976 WL 14025 (Leg.Hist.)

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