

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF THE DISTRICT OF COLUMBIA**

CITIZENS FOR CONSTITUTIONAL
INTEGRITY,

Plaintiff,

v.

THE U.S. DEPARTMENT OF
COMMERCE, *et al.*,

Defendants.

Case No. 1:23-cv-1481-JMC

**PLAINTIFF'S STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF
ITS MOTION FOR SUMMARY JUDGMENT**

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1. The Census Bureau announced its apportionment on April 26, 2021. 2020 Census Apportionment Results Delivered to the President, Press Release, ECF No. 1-2.

2. That Press Release stated, “Secretary Raimondo delivered to President Biden the population counts [<https://www.census.gov/data/tables/2020/dec/2020-apportionment-data.html>] to be used for apportioning the seats in the U.S. House of Representatives.”

3. Two weeks later, in May 2021, Citizens requested the 2021 Report under FOIA from the Census Bureau. Their request stated, in part:

Under [FOIA], Citizens for Constitutional Integrity . . . is requesting copies of the following documents from the Census Bureau. Under 13 U.S.C. § 141(b), the United States Code requires the Secretary of Commerce to deliver “The tabulation of total population by States under subsection (a) of this section as required for the apportionment of Representatives in Congress among the several States [and it] shall be completed within 9 months after the census date and reported by the Secretary to the President of the United States.” On April 26, 2021, the Census Bureau issued press release CB21-CN.30, in which it stated, “2020 Census Apportionment Results Delivered to the President.” <https://www.census.gov/newsroom/press-releases/2021/2020-censusapportionment-results.html>. Please provide a copy of the documents sent to the President.

Request Confirmation, ECF No. 1-3.

4. In June, the Census Bureau informed Citizens that, contrary to its press release, it did not actually possess the 2021 Report. Letter from Vernon E. Curry, FOIA/Privacy Act Officer Chief, FOIA Office, to Jared Pettinato (June 8, 2021), ECF No. 1-4.

5. The Census Bureau forwarded the request to the Immediate Office of the Secretary of the U.S. Department of Commerce. *Id.*

6. Citizens sent another FOIA request in July 2021. Request Confirmation, FOIA Online, DOC-OS-2021-001781 (July 12, 2021), ECF No. 1-5.

7. The U.S. Department of Commerce transferred that request to the Immediate Office of the Secretary of Commerce. FOIA Tracking Number Change for request DOC-OS-2021-001781 (to DOC-IO-2021-001781) (July 13, 2021), ECF No. 1-6.

8. In August 2022, Citizens reached out to the U.S. Department of Commerce to ask why it had not produced the 2021 Report. Email String among Jared Pettinato, Bobbie Parsons FOIA Officer, Immediate Office of the Secretary, Office of Privacy and Open Government, and Khadija Khaalis, FOIA Analyst (Contractor), U.S. Department of Commerce Office of Privacy and Open Government (OPOG) (August 31-October 21, 2022), ECF No. 1-7.

9. The U.S. Department of Commerce gave Citizens the runaround. *See id.*

10. In September 2022, Citizens appealed from the U.S. Department of Commerce's failure to produce the 2021 Report. Preview Appeal (Sept. 20, 2022), ECF No. 1-8; Appeal Confirmation (Sept. 20, 2022), ECF No. 1-9.

11. Still, the U.S. Department of Commerce has still not produced the 2021 Report.

Dated May 25, 2023,

/s/ Jared S. Pettinato
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