

**RESOLUTION RECOMMENDING THAT THE HOUSE OF REPRESENTATIVES  
FIND WILLIAM P. BARR, ATTORNEY GENERAL OF THE UNITED STATES, AND  
WILBUR L. ROSS, JR., SECRETARY OF COMMERCE, IN CONTEMPT OF  
CONGRESS FOR REFUSAL TO COMPLY WITH SUBPOENAS DULY ISSUED BY  
THE COMMITTEE ON OVERSIGHT AND REFORM**

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**June 24, 2019—Referred to the House Calendar and ordered to be printed**

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**Mr. Cummings, from the Committee on Oversight and Reform,  
submitted the following**

**R E P O R T**

**together with**

**MINORITY and SUPPLEMENTAL VIEWS**

The Committee on Oversight and Reform, having considered this Report, reports favorably thereon and recommends that the Report be approved.

The form of the Resolution that the Committee on Oversight and Reform would recommend to the House of Representatives for citing William P. Barr, Attorney General of the United States, and Wilbur L. Ross, Jr., Secretary of Commerce, for contempt of Congress pursuant to this Report is as follows:

*Resolved*, That William P. Barr, Attorney General of the United States, and Wilbur L. Ross, Jr., Secretary of Commerce, shall be found to be in contempt of Congress for failing to comply with subpoenas authorized by the Committee on Oversight and Reform and duly issued by Chairman Elijah E. Cummings relating to the 2020 Census.

*Resolved*, That the Attorney General (i) failed to comply with a Committee subpoena issued on April 2, 2019, to produce documents, and (ii) ordered a Department of Justice employee, John Gore, not to comply with a Committee subpoena requiring him to appear for deposition testimony before the Committee on April 11, 2019.

*Resolved*, That the Secretary of Commerce failed to comply with a Committee subpoena issued on April 2, 2019, to produce documents.

*Resolved*, That the Report of the Committee on Oversight and Reform details the refusal of the Attorney General to produce documents to the Committee as required by subpoena, the order from the Attorney General directing John Gore to defy a duly authorized Committee subpoena for deposition testimony, and the refusal of the Secretary of Commerce to produce documents to the Committee as required by subpoena.

*Resolved*, That pursuant to 2 U.S.C. §§ 192 and 194, the Speaker of the House of Representatives shall certify the Report of the Committee on Oversight and Reform, detailing the refusal of William P. Barr, Attorney General of the United States, to produce documents to the Committee on Oversight and Reform as directed by subpoena, to the United States Attorney for the District of Columbia, to the end that Mr. Barr be proceeded against in the manner and form provided by law.

*Resolved*, That pursuant to 2 U.S.C. §§ 192 and 194, the Speaker of the House of Representatives shall certify the Report of the Committee on Oversight and Reform, detailing the refusal of Wilbur L. Ross, Jr., Secretary of Commerce, to produce documents to the Committee as directed by subpoena, to the United States Attorney for the District of Columbia, to the end that Mr. Ross be proceeded against in the manner and form provided by law.

*Resolved*, That the Speaker of the House shall otherwise take all appropriate action to enforce the subpoenas.

*Resolved*, That the Chairman of the Committee on Oversight and Reform shall take all necessary steps to enforce the above-referenced subpoenas, including, but not limited to, seeking authorization from the House of Representatives through a vote of the Bipartisan Legal Advisory Group pursuant to clause 8(b) of rule II, and H. Res. 430, to initiate or to intervene in proceedings in any federal court of competent jurisdiction, to seek judgements affirming the duty of the subpoena recipients to comply with the above-referenced subpoenas, and to seek any appropriate ancillary relief, including injunctive relief.



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## 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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> 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

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<sup>1</sup> U.S. Const., Art. 1, sec. 2.

<sup>2</sup> *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](http://www2.census.gov/programs-surveys/decennial/2020/program-management/working-papers/Uses-of-Census-Bureau-Data-in-Federal-Funds-Distribution.pdf)).

<sup>3</sup> 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](http://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.

## II. AUTHORITY AND PURPOSE

Congress has a constitutional responsibility to conduct oversight of the Executive Branch, and the Supreme Court has repeatedly affirmed that duty. The Court held in *McGrain v. Daugherty* that “the power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function.”<sup>4</sup> In *Watkins v. United States*, the Court held that Congress’ oversight jurisdiction is far-reaching, stating: “The power of Congress to conduct investigations is inherent in the legislative process. That power is broad.”<sup>5</sup>

Legislation has codified the oversight powers of House and Senate Committees. For example, the Legislative Reorganization Act of 1946 directed committees to “exercise continuous watchfulness” over the Executive Branch’s implementation of programs within their jurisdictions, and the Legislative Reorganization Act of 1970 authorized committees to “review and study, on a continuing basis, the application, administration, and execution” of laws.<sup>6</sup>

The rules of the House of Representatives—adopted pursuant to the Rulemaking Clause of the Constitution—establish the Committee on Oversight and Reform as a standing committee of the House of Representatives. Under House Rule X, the Committee has legislative jurisdiction over issues including “population and demography generally, including the Census,” and the “overall economy, efficiency, and management of government operations and activities.”<sup>7</sup> As the principal oversight committee of the House of Representatives, the Committee also “may at any time conduct investigations of any matter.”<sup>8</sup>

Pursuant to House Rule XI, the Committee is authorized “to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of books, records, correspondence, memoranda, papers, and documents as it considers necessary.”<sup>9</sup> The Committee may delegate the “power to authorize and issue subpoenas” to its chair within the Committee rules.<sup>10</sup> The Committee is further authorized to “adopt a rule authorizing and regulating the taking of depositions by a member or counsel of the committee, including pursuant to subpoena.”<sup>11</sup>

Rules unanimously adopted by the Committee state that the Committee’s Chairman shall “Authorize and issue subpoenas as provided in House Rule XI, clause 2(m), in the conduct of any investigation or activity or series of investigations or activities within the jurisdiction of the

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<sup>4</sup> 273 U.S. 135 (1927).

<sup>5</sup> 354 U.S. 178 (1957).

<sup>6</sup> Pub. L. No. 79-601; Pub. L. No. 91-510.

<sup>7</sup> House Rule X, clause 1(n).

<sup>8</sup> House Rule X, clause 4(c)(2).

<sup>9</sup> House Rule XI, clause 2(m)(1)(B).

<sup>10</sup> House Rule XI, clause 2(m)(3)(A)(i).

<sup>11</sup> House Rule X, clause 4(c)(3)(A).

Committee.”<sup>12</sup> The Committee Rules further state that the Chairman, “upon consultation with the Ranking Member, may order the taking of depositions, under oath and pursuant to notice or subpoena.”<sup>13</sup>

The Committee’s investigation into the Trump Administration’s addition of a citizenship question to the 2020 Decennial Census is being undertaken pursuant to the authorities delegated to the Committee under the House Rules.

As a part of this investigation, the Committee is seeking information on the Administration’s actual reasons for adding the citizenship question and the process it followed to do so; how the citizenship question could impact Census response rates, accuracy, and cost; the potential negative impacts on certain congressional districts caused by inaccuracies resulting from undercounts; the accuracy of the Administration’s past statements to Congress and the public regarding these issues; and related issues.

The Constitution gives Congress sweeping power to carry out the Census “in such manner as they shall by law direct,” and the Committee’s investigation may lead Congress to pursue legislation.<sup>14</sup> To give just a few illustrative examples, such legislation could reform the process used to add questions to the Census, change the requirements for congressional notifications or testing of topics and questions, require the disclosure of Census questions proposed by third parties, add further protections regarding the use of Census data by federal agencies or others, mandate additional non-response follow-up procedures to prevent undercounts, alter funding levels for the upcoming Census, or prohibit the inclusion of a citizenship question altogether.

### **III. BACKGROUND ON THE COMMITTEE’S INVESTIGATION**

On March 26, 2018, Secretary of Commerce Wilbur Ross announced that he had decided to add a citizenship question to the 2020 Decennial Census.<sup>15</sup> Secretary Ross and other Commerce Department officials repeatedly testified that this decision was based solely on a December 12, 2017, letter from DOJ requesting that a citizenship question be added to the 2020 Census to “best enable the Department to protect all American citizens’ voting rights under Section 2” of the Voting Rights Act.<sup>16</sup>

Testifying before the House Committee on Appropriations on March 20, 2018, Secretary Ross stated: “We have had a request, as everyone is aware, from the Department of Justice, to

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<sup>12</sup> Rule 12(g) of the Committee on Oversight and Reform, 116th Cong.

<sup>13</sup> Rule 15(a) of the Committee on Oversight and Reform, 116th Cong.

<sup>14</sup> U.S. Const., Art. 1, sec. 2. Statutes governing the census are codified in Title 13 of the U.S. Code.

<sup>15</sup> Letter from Secretary Wilbur Ross, Jr., Department of Commerce, to Karen Dunn Kelley, Under Secretary for Economic, Department of Commerce (Mar. 26, 2018) (online at [www.documentcloud.org/documents/4426785-commerce2018-03-26-2.html](http://www.documentcloud.org/documents/4426785-commerce2018-03-26-2.html)).

<sup>16</sup> Letter from Arthur E. Gary, General Counsel, Justice Management Division, Department of Justice, to Ron Jarmin, Director, Census Bureau (Dec. 12, 2017) (online at [www.documentcloud.org/documents/4340651-Text-of-Dec-2017-DOJ-letter-to-Census.html](http://www.documentcloud.org/documents/4340651-Text-of-Dec-2017-DOJ-letter-to-Census.html)).

add a citizenship question to the 2020 census.” He continued: “We are responding **solely** to the Department of Justice’s request.”<sup>17</sup>

Two days later, on March 22, 2018, Secretary Ross testified before the Committee on Ways and Means. He stated: “The Department of Justice, as you know, initiated the request for inclusion of the citizenship question.”<sup>18</sup>

On May 8, 2018, at a hearing before the Committee on Oversight and Government Reform, Earl Comstock, Director of the Office of Policy and Strategic Planning at the Department of Commerce, testified: “We received a request from the Justice Department for this, and their rationale was that the level of information that they needed to enforce the Voting Rights Act was not available.”<sup>19</sup>

Two days later, before the Senate Committee on Appropriations, Secretary Ross again testified that the DOJ request letter was the basis of his decision to add the citizenship question, stating: “Well, the Justice Department is the one who made the request of us.”<sup>20</sup>

Information gathered by the Committee demonstrates that these statements were, at best, misleading. In fact, the December 2017 request from DOJ appears to have been no more than a pretext.

The Trump Administration actually began a campaign to add the citizenship question immediately after the President’s inauguration in January 2017. That campaign followed efforts to promote a citizenship question by Thomas Hofeller, a now-deceased Republican gerrymandering expert. In 2015, Mr. Hofeller wrote a secret study concluding that counting voting-age citizens, rather than total population, in legislative districts “would be advantageous to Republicans and Non-Hispanic Whites.” He also concluded: “Without a question on citizenship being included on the 2020 Decennial Census questionnaire, the use of citizen voting age population is functionally unworkable.”<sup>21</sup>

#### **A. The Trump Campaign and Trump Transition Team Discussed Adding a Citizenship Question**

Members of Donald Trump’s presidential campaign and transition team began discussing the potential addition of a citizenship question well before the President took office in January

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<sup>17</sup> House Committee on Appropriations, Subcommittee on Commerce, Justice, Science, and Related Agencies, *FY19 Budget Hearing: Department of Commerce*, 115th Cong. (Mar. 20, 2018) (emphasis added).

<sup>18</sup> House Committee on Ways and Means, *Hearing with Commerce Secretary Ross*, 115th Cong. (Mar. 22, 2018).

<sup>19</sup> Committee on Oversight and Government Reform, *Hearing on Progress Report on the 2020 Census*, 115th Cong. (May 8, 2018).

<sup>20</sup> Senate Committee on Appropriations, Subcommittee on Commerce, Justice, and Science and Related Agencies, *Hearing on FY 2019 Funding Request for the Commerce Department*, 115th Cong. (May 10, 2018).

<sup>21</sup> Thomas Hofeller, *The Use of Citizen Voting Age Population in Redistricting* (2015) (online at <https://assets.documentcloud.org/documents/6111284/May-31-2019-Unredacted-Exhibits.pdf>).

2017. Former Kansas Secretary of State Kris Kobach, who served as an “informal adviser to the President throughout the campaign,” told Committee staff during a transcribed interview that he had discussions about adding a citizenship question during the 2016 campaign. He explained, “I certainly discussed the issue with people during the campaign.”<sup>22</sup>

These discussions continued on President Trump’s Transition Team after the 2016 election. In a transcribed interview with Committee staff, a former member of the Transition Team, Gene Hamilton, testified that Mr. Kobach, who also served on the transition, contacted him in “early November of 2016” to discuss legislative proposals regarding the citizenship question.<sup>23</sup>

During the transition, gerrymandering expert Thomas Hofeller reportedly had direct communications with the Transition Team official responsible for the Census. That official, Mark Neuman, recalled that he spoke to Mr. Hofeller about the subject multiple times.”<sup>24</sup>

#### **B. The President and His Top Advisors Discussed Adding a Citizenship Question Within Days of the Inauguration**

Within days of President Trump’s inauguration, the President, the President’s Chief Strategist and Senior Counselor Steve Bannon, and the President’s Chief of Staff Reince Priebus held meetings with Mr. Kobach to discuss the addition of the citizenship question. Mr. Kobach told Committee staff during his interview that the meetings occurred in “late January-early February of 2017.” He recalled two meetings, one with Mr. Bannon, and a second with President Trump, who may have been accompanied by Mr. Bannon and Mr. Priebus.<sup>25</sup>

Although the White House instructed Mr. Kobach not to divulge to the Committee the content of those meetings—or whether he had other meetings with the White House on the citizenship question—Mr. Kobach has stated publicly that he raised the issue with the President because he “wanted to make sure the president was well aware” and that the President “absolutely was interested in this.”<sup>26</sup>

Secretary Ross was sworn in on February 28, 2017. Just ten days later, Secretary Ross received an email from Earl Comstock regarding “Your Question on the Census.” The email included a Q&A from the Census Bureau website explaining that “undocumented residents (aliens),” along with all other “citizens and noncitizens” residing in the United States, “are to be included in the census and thus in the apportionment counts.” The email also included a *Wall*

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<sup>22</sup> Committee on Oversight and Reform, Transcribed Interview of Kris Kobach (June 3, 2019).

<sup>23</sup> Committee on Oversight and Reform, Transcribed Interview of Gene Hamilton (May 30, 2019).

<sup>24</sup> Deposition of A. Mark Neuman, Civ. No. 8:18-cv-01041-GJH (D. Md. Oct. 28, 2018).

<sup>25</sup> Committee on Oversight and Reform, Transcribed Interview of Kris Kobach (June 3, 2019).

<sup>26</sup> *That Citizenship Question on the 2020 Census? Kobach Says He Pitched It to Trump*, Kansas City Star (Mar. 27, 2018) (online at [www.kansascity.com/news/politics-government/article207007581.html](http://www.kansascity.com/news/politics-government/article207007581.html)).



*Street Journal* article entitled, “The Pitfalls of Counting Illegal Immigrants,” and noted that “neither the 2000 nor the 2010 Census asked about citizenship.”<sup>27</sup>

In April 2017—eight months before DOJ sent its request letter— Secretary Ross’ assistant wrote in an email that “Steve Bannon asked that the Secretary talk to someone about the Census.”<sup>28</sup> In testimony before the Committee on March 14, 2019, Secretary Ross stated that Mr. Bannon had “requested that I consider taking a phone call from an individual called Kris Kobach.” He recalled that Mr. Bannon “said that Kobach had a question that he thought should be asked on the census.” Secretary Ross testified that, “shortly thereafter, possibly the next day, I did have a conversation with Kris Kobach.”<sup>29</sup> In a subsequent email, Mr. Kobach recalled that his conversation with Secretary Ross had been “at the direction of Steve Bannon.”<sup>30</sup>

A week after Mr. Bannon contacted Secretary Ross to connect him with Mr. Kobach, on April 13, 2017, Mr. Comstock emailed Mr. Neuman—the former Transition Team member who was informally advising Secretary Ross—to ask when the Department needed to notify Congress about the questions that would be on the American Community Survey and the Decennial Census.<sup>31</sup> Mr. Neuman replied, “there will be another opportunity next year.”<sup>32</sup>

**C. Commerce Secretary Ross Began a Campaign to Add the Citizenship Question Months Before the Department of Justice Sent a Request**

During spring 2017, Secretary Ross pressed his staff to move more aggressively to add a citizenship question to the 2020 Census. In an email to Mr. Comstock and the Department’s Chief Financial Officer Ellen Herbst on May 2, 2017, Secretary Ross wrote: “I am mystified why nothing have [sic] been done in response to my months old request that we include the citizenship question.”<sup>33</sup> Mr. Comstock responded:

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<sup>27</sup> Email from Earl Comstock, Director, Office of Policy and Strategic Planning, Department of Commerce, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Mar. 10, 2017) (online at <https://apps.npr.org/documents/document.html?id=4619371-Page-2521-Of-Administrative-Record-For-Census#document/p1/a443003>).

<sup>28</sup> Email from Brooke Alexander, Executive Assistant to the Secretary, Department of Commerce, to Hilary Gearsy Ross (Apr. 5, 2017) (online at <https://apps.npr.org/documents/document.html?id=4616790-April-5-2017-Email-From-Brooke-Alexander#document/p1/a441453>).

<sup>29</sup> Committee Oversight and Reform, *Hearing with Commerce Secretary Wilbur L. Ross, Jr.*, 116th Cong. (Mar. 14, 2019) (online at <https://oversight.house.gov/legislation/hearings/commerce-secretary-wilbur-l-ross-jr>).

<sup>30</sup> Email from Kris Kobach, to Wendy Teramoto, Chief of Staff, Department of Commerce (July 21, 2017) (online at <https://apps.npr.org/documents/document.html?id=4500011-1-18-Cv-02921-Administrative-Record#document/p775/a428456>).

<sup>31</sup> Email from Earl Comstock, Director, Office of Policy and Strategic Planning, Department of Commerce, to Mark Neuman (Apr. 13, 2017).

<sup>32</sup> Email from Mark Neuman, to Earl Comstock, Director, Office of Policy and Strategic Planning, Department of Commerce (Apr. 14, 2017).

<sup>33</sup> Email from Secretary Wilbur L. Ross, Jr., Department of Commerce, to Earl Comstock, Director, Office of Policy and Strategic Planning, and Ellen Herbst, Chief Financial Officer, Department of Commerce (May 2, 2017).

On the citizenship question we will get that in place. The broad topics were what were sent to Congress earlier this year as required. It is next March—in 2018—when the final 2020 decennial Census questions are submitted to Congress. **We need to work with Justice to get them to request that citizenship be added back as a census question**, and we have the court cases to illustrate that DoJ has a legitimate need for the question to be included. I will arrange a meeting with DoJ staff this week to discuss.<sup>34</sup>

In a subsequent memo to Secretary Ross, Mr. Comstock detailed his efforts to get another agency, the Department of Homeland Security, to request the citizenship question and noted that he was initially rebuffed by both DOJ and the Department of Homeland Security, leading him to consider whether the Department of Commerce could add the question even without a request from another agency. He wrote:

In early May, Eric Branstad put me in touch with Mary Blanche Hankey as the White House liaison at the Department of Justice. ... We met in person to discuss the citizenship question. She said she would locate someone at the Department who could address the issue. A few days later she directed me to James McHenry in the Department of Justice.

I spoke several times with James McHenry by phone, and after considering the matter further, James said that Justice staff did not want to raise the question given the difficulties Justice was encountering in the press at the time (the whole Comey matter). James directed me to Gene Hamilton at the Department of Homeland Security.<sup>35</sup>

On May 30, 2019, Committee staff conducted a voluntary transcribed interview with Mr. Hamilton. He informed Committee staff that he received a call from a White House official, John Zadrozny on the Domestic Policy Council, informing him that he “would be receiving a phone call from someone from the Department of Commerce related to the Census.”<sup>36</sup>

Mr. Comstock then contacted Mr. Hamilton. Mr. Hamilton told the Committee that Mr. Comstock called him to ask “if the Department of Homeland Security could use or had a need for the information for citizenship information of the Census that would facilitate a departmental mission.” Mr. Hamilton told the Committee that he checked with experts within the Department, but that nobody identified a need for this information. He then reported back to Mr. Comstock that the Department “didn’t really have a use for” the information.<sup>37</sup>

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<sup>34</sup> Email from Earl Comstock, Director, Office of Policy and Strategic Planning, to Secretary Wilbur L. Ross, Jr., Department of Commerce, and Ellen Herbst, Department of Commerce (May 2, 2017) (emphasis added).

<sup>35</sup> Memorandum from Earl Comstock, Director, Office of Policy and Strategic Planning, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Sept. 8, 2017) (online at <https://apps.npr.org/documents/document.html?id=4896064-Administrative-Record-For-Census-Citizenship#document/p2/a454666>).

<sup>36</sup> Committee on Oversight and Reform, Transcribed Interview of Gene Hamilton (May 30, 2019).

<sup>37</sup> *Id.*

In his memo to Secretary Ross, Mr. Comstock explained:

Gene and I had several phone calls to discuss the matter, and then Gene relayed that after discussion DHS really felt that it was best handled by the Department of Justice.

At that point, the conversation ceased, and I asked James Uthmeier, who had by then joined the Department of Commerce Office of General Counsel, to look into the legal issues and how Commerce could add the question to the Census itself.<sup>38</sup>

On July 14, 2017, Mr. Kobach emailed Secretary Ross to “follow up on our telephone discussion from a few months ago.” He wrote that adding a citizenship question to the Census was “essential” and would address “the problem that aliens who do not actually ‘reside’ in the United States are still counted for congressional apportionment purposes.”<sup>39</sup> He also included a sample citizenship question.<sup>40</sup>

Secretary Ross’ Chief of Staff, Wendy Teramoto, then arranged a call between Mr. Kobach and the Secretary on July 25, 2017.<sup>41</sup> Mr. Kobach told the Committee that he did not recall whether he had a second call with the Secretary, but the call is reflected on Secretary Ross’ calendar.<sup>42</sup>

On August 8, 2017, Secretary Ross emailed Mr. Comstock to follow up on his outreach to DOJ. He wrote: “where is DOJ in their analysis? If they still have not come to a conclusion please let me know your contact person and I will call the AG.”<sup>43</sup> Mr. Comstock replied:

Mr. Secretary—we are preparing a memo and full briefing for you on the citizenship question. The memo will be ready by Friday, and we can do the briefing whenever you are back in the office. Since this issue will go to the Supreme Court we need to be diligent in preparing the administrative record.<sup>44</sup>

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<sup>38</sup> Memorandum from Earl Comstock, Director, Office of Policy and Strategic Planning, Department of Commerce, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Sept. 8, 2017) (online at <https://apps.npr.org/documents/document.html?id=4896064-Administrative-Record-For-Census-Citizenship#document/p2/a454666>).

<sup>39</sup> *Id.*

<sup>40</sup> Email from Kris Kobach, Kansas Secretary of State, to Secretary Wilbur L. Ross, Jr., Department of Commerce (July 14, 2017) (online at <https://apps.npr.org/documents/document.html?id=4500011-1-18-Cv-02921-Administrative-Record#document/p776/a428457>).

<sup>41</sup> Email from Wendy Teramoto, Chief of Staff, Department of Commerce, to Kris Kobach, Kansas Secretary of State (July 24, 2017) (online at <https://apps.npr.org/documents/document.html?id=4500011-1-18-Cv-02921-Administrative-Record#document/p776/a428457>).

<sup>42</sup> Committee on Oversight and Reform, Transcribed Interview of Kris Kobach (June 3, 2019); Commerce Secretary Wilbur Ross’s Calendar for July 25, 2017 (“11:00 AM - 11:30 AM Call w/ Kris Kobach”) (online at [www.documentcloud.org/documents/5001734-COMM-17-0501-Ross-Cal.html#document/p1651/a461389](http://www.documentcloud.org/documents/5001734-COMM-17-0501-Ross-Cal.html#document/p1651/a461389)).

<sup>43</sup> Email from Secretary Wilbur L. Ross, Jr., Department of Commerce, to Earl Comstock, Director, Office of Policy and Strategic Planning, Department of Commerce (Aug. 8, 2017) (online at <https://apps.npr.org/documents/document.html?id=4872562-2018-09-11-Letter-Response#document/p40/a453277>).

<sup>44</sup> Email from Earl Comstock, Director, Office of Policy and Strategic Planning, Department of Commerce,

Secretary Ross responded:

I would like to be briefed Friday by phone. I will probably need an hour to study the memo first. [W]e should be very careful, about everything, whether or not it is likely to end up in the SC.<sup>45</sup>

On August 11, 2017, Mr. Comstock sent Secretary Ross a memorandum analyzing the citizenship question drafted by James Uthmeier, Senior Counsel to the General Counsel at the Department of Commerce.<sup>46</sup>

**D. The Department of Justice Sought to “Assist” Secretary Ross by Requesting a Citizenship Question**

In September 2017, officials at the Department of Commerce and DOJ arranged a call on the citizenship question between Secretary Ross and Attorney General Jeff Sessions. On September 17, 2017, Danielle Cutrona at DOJ wrote to Ms. Teramoto at the Department of Commerce: “From what John [Gore, Acting Assistant Attorney General] told me, it sounds like **we can do whatever you all need us to do** and the delay was due to a miscommunication. **The AG is eager to assist.**”<sup>47</sup>

Mr. Gore was the principal drafter of DOJ’s letter requesting a citizenship question. During the period when he was preparing that letter, Mr. Gore had multiple conversations with the Department of Commerce’s General Counsel, Peter Davidson, and Mr. Uthmeier about the citizenship question.<sup>48</sup>

Mr. Uthmeier had a memorandum on the citizenship question, along with a personal note, hand-delivered to Mr. Gore. In his interview with Committee staff, Mr. Gore refused to say why Mr. Uthmeier told him he wanted to deliver the memo by hand. DOJ attorneys directed Mr. Gore not to tell the Committee the substance of any of his conversations about the citizenship question with the Attorney General, Ms. Cutrona, Mr. Davidson, or Mr. Uthmeier.<sup>49</sup>

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to Secretary Wilbur L. Ross, Jr., Department of Commerce (Aug. 9, 2017) (online at <https://apps.npr.org/documents/document.html?id=4872562-2018-09-11-Letter-Response#document/p40/a453277>).

<sup>45</sup> *Id.*

<sup>46</sup> Email from Earl Comstock, Director, Office of Policy and Strategic Planning, Department of Commerce, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Aug. 11, 2017).

<sup>47</sup> Email from Danielle Cutrona, Senior Counsel, Department of Justice, to Wendy Teramoto, Chief of Staff, Department of Commerce (Sept. 17, 2017) (emphasis added) (online at <https://apps.npr.org/documents/document.html?id=5027607-Page-2637-Of-Administrative-Record-For-Census#document/p1/a464469>); *see also* Committee on Oversight and Reform, Interview of Gene Hamilton, 29 (May 30, 2019) (explaining that the Attorney General had spoken to Secretary Ross about whether the Department could use citizenship information from the Census, ).

<sup>48</sup> Committee on Oversight and Reform, Transcribed Interview of John Gore, 105-109 (Mar. 7, 2019).

<sup>49</sup> *Id.*

Mr. Gore also told the Committee that Mr. Davidson at the Department of Commerce contacted him and informed him that former Trump Transition Team member Mark Neuman would contact him about the citizenship question. Mr. Gore then spoke to Mr. Neuman and subsequently “reviewed some documents and information regarding the census” that Mr. Neuman provided to him. Among other documents, Mr. Neuman provided “a draft letter that would request reinstatement of the citizenship question on the census questionnaire.”<sup>50</sup>

The draft letter that Mr. Neuman provided to Mr. Gore contained language that matched, word-for-word, a document found on the hard drive of Mr. Hofeller that had been created in August 2017.<sup>51</sup> While this language did not appear in DOJ’s final letter to the Department of Commerce, it demonstrates a connection between Mr. Hofeller, Mr. Neuman, and Mr. Gore. DOJ has refused to provide the Committee with drafts of DOJ’s letter to the Department of Commerce.

In October 2017, Mr. Gore, along with another individual in DOJ’s Civil Rights Division, participated in a conference call about the citizenship question with White House Domestic Policy Council official John Zadrozny.<sup>52</sup> At the direction of DOJ attorneys, Mr. Gore refused to tell the Committee what was discussed on that conference call.

On November 27, 2017, Secretary Ross wrote to Mr. Davidson: “We are out of time. Please set up a call for me tomorrow with whoever is the responsible person at Justice. We must have this resolved.”<sup>53</sup>

Two weeks later, on December 12, 2017, DOJ sent its request letter. The letter contended that data from a citizenship question on the 2020 Decennial Census was “critical to the Department’s enforcement efforts under Section 2 of the Voting Rights Act and its important protections against racial discrimination in voting.” The letter argued that the data already provided through the American Community Survey was not accurate enough.<sup>54</sup>

Ten days after the letter was sent, on December 22, 2017, Acting Census Bureau Director Ron Jarmin emailed Arthur Gary, who signed DOJ’s request letter, to request a meeting. Mr. Jarmin noted that the Census Bureau believed it could provide DOJ with the data it requested

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<sup>50</sup> *Id.*

<sup>51</sup> *Deceased G.O.P. Strategist’s Hard Drives Reveal New Details on the Census Citizenship Question*, New York Times (May 30, 2019) (online at [www.nytimes.com/2019/05/30/us/census-citizenship-question-hofeller.html](http://www.nytimes.com/2019/05/30/us/census-citizenship-question-hofeller.html)).

<sup>52</sup> Committee on Oversight and Reform, Transcribed Interview of John Gore (Mar. 7, 2019).

<sup>53</sup> Email from Secretary Wilbur L. Ross, Jr., Department of Commerce, to Peter Davidson, General Counsel, Department of Commerce (Nov. 27, 2017) (online at <https://apps.npr.org/documents/document.html?id=4620785-Page-11193-Of-Administrative-Record-For-Census#document/p1/a443377>).

<sup>54</sup> Letter from Arthur E. Gary, General Counsel, Justice Management Division, Department of Justice, to Ron Jarmin, Director, Census Bureau (Dec. 12, 2017) (online at [www.documentcloud.org/documents/4340651-Text-of-Dec-2017-DOJ-letter-to-Census.html](http://www.documentcloud.org/documents/4340651-Text-of-Dec-2017-DOJ-letter-to-Census.html)).

without adding a citizenship question to the census, and that adding the citizenship question “would result in higher quality data produced at a lower cost.”<sup>55</sup>

DOJ officials, acting at the direction of Attorney General Sessions, refused to meet with the Census Bureau despite multiple requests.<sup>56</sup>

Documents produced to the Committee suggest that the White House was engaged on the citizenship question during this period. In February 2018, Mr. Zadrozny at the White House sought to arrange a meeting with Mr. Uthmeier from the Department of Commerce, Mr. Hamilton from DOJ, and others. He wrote that “I am trying to avoid phones on this one.”<sup>57</sup> He also noted, “We need to do this as a meeting because of the sensitivity of the content.”<sup>58</sup> Mr. Hamilton told the Committee that he did not recall the subject of this meeting or whether it occurred.<sup>59</sup>

On March 26, 2018, Secretary Ross officially announced he had made his decision: the citizenship question would be added to the 2020 Census.<sup>60</sup>

#### **E. Adding the Citizenship Question Will Harm the Accuracy of the Census**

Census experts have strongly and unanimously opposed adding a citizenship question.

On January 19, 2018, the Census Bureau’s Chief Scientist, Dr. John Abowd, wrote to Secretary Ross that “adding a citizenship question to the 2020 census” is “very costly, harms the quality of the census count, and would use substantially less accurate citizenship status data than are available from administrative sources.”<sup>61</sup>

On March 1, 2018, Dr. Abowd sent a second memorandum to Secretary Ross. This memo concluded that adding a citizenship question while also using administrative data on citizenship “would result in poorer quality citizenship data” than using administrative data alone

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<sup>55</sup> Email from Ron Jarmin, Acting Director, Census Bureau, to Arthur Gary, General Counsel, Justice Management Division, Department of Justice (Dec. 22, 2018).

<sup>56</sup> Committee on Oversight and Reform, Transcribed Interview of John Gore (Mar. 7, 2019).

<sup>57</sup> Email from John Zadrozny, Special Assistant to the President, The White House, to Gene Hamilton, Counselor to the Attorney General, Department of Justice (Feb. 26, 2018).

<sup>58</sup> Email from John Zadrozny, Special Assistant to the President, The White House, to Gene Hamilton, Counselor to the Attorney General, Department of Justice (Feb. 21, 2018).

<sup>59</sup> Committee on Oversight and Reform, Transcribed Interview of Gene Hamilton (May 30, 2019).

<sup>60</sup> Letter from Secretary Wilbur L. Ross, Jr., Department of Commerce, to Karen Dunn Kelley, Under Secretary for Economic, Department of Commerce (Mar. 26, 2018) (online at <https://apps.npr.org/documents/document.html?id=4500011-1-18-Cv-02921-Administrative-Record#document/p1329/a464493>).

<sup>61</sup> Memorandum from John Abowd, Chief Scientist, Census Bureau, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Jan. 19, 2018) (online at <https://apps.npr.org/documents/document.html?id=4500011-1-18-Cv-02921-Administrative-Record#document/p1289/a428453>).

and would “still have all the negative cost and quality implications” of adding the citizenship question.<sup>62</sup>

On January 26, 2018, six former Census Bureau Directors—who served in both Democratic and Republican administrations—sent a letter to Secretary Ross opposing the addition of the citizenship question. They wrote:

We strongly believe that adding an untested question on citizenship status at this late point in the decennial planning process would put the accuracy of the enumeration and success of the census in all communities at grave risk.<sup>63</sup>

This concern is not new. Indeed, as early as 1980, the Census Bureau argued that adding a citizenship question would “inevitably jeopardize the overall accuracy of the population count.”<sup>64</sup>

In the memo outlining his decision, Secretary Ross conceded that the “Census Bureau and many stakeholders expressed concern” that adding a citizenship question “would negatively impact the response rate for non-citizens” and that a “significantly lower response rate by non-citizens could reduce the accuracy of the decennial census and increase costs for non-response follow up (NRFU) operations.”<sup>65</sup> However, he claimed that there was a lack of “empirical data” to quantify the likely impact.

Dr. Abowd, however, estimated that adding the citizenship question would result in a decrease in self-response rates of more than 5% among households with at least one noncitizen.<sup>66</sup> A subsequent randomized controlled trial found the impact could be even more severe:

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<sup>62</sup> Memorandum from John Abowd, Chief Scientist, Census Bureau, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Mar. 1, 2018) (online at <https://apps.npr.org/documents/document.html?id=4500011-1-18-Cv-02921-Administrative-Record#document/p1321/a451503>).

<sup>63</sup> Letter from Former Census Bureau Directors, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Jan. 26, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/DOJ%20census%20ques%20request-Former%20Directors%20ltr%20to%20Ross.pdf>).

<sup>64</sup> *Fed’n for Am. Immigration Reform v. Klutznick*, 486 F. Supp. 564, 568 (D.D.C. 1980) (noting the Bureau’s concern that “Obtaining the cooperation of a suspicious and fearful population would be impossible if the group being counted perceived any possibility of the information being used against them. Questions as to citizenship are particularly sensitive in minority communities and would inevitably trigger hostility, resentment and refusal to cooperate.”).

<sup>65</sup> Memorandum from Secretary Wilbur L. Ross, Jr., Department of Commerce, to Karen Dunn Kelley, Under Secretary for Economic Affairs, Department of Commerce, *Reinstatement of a Citizenship Question to the 2020 Decennial Census Questionnaire* (Mar. 26, 2018) (online at [www.documentcloud.org/documents/4426785-commerce2018-03-26-2.html](http://www.documentcloud.org/documents/4426785-commerce2018-03-26-2.html)).

<sup>66</sup> Memorandum from John Abowd, Chief Scientist, Census Bureau, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Jan. 19, 2018) (online at <https://apps.npr.org/documents/document.html?id=4500011-1-18-Cv-02921-Administrative-Record#document/p1289/a428453>) (warning that, conservatively, a citizenship question would reduce response rates for households with at least one noncitizen by 5.1% and increase the costs of non-response follow up by \$27.5 million not including increases in other costs).

When extrapolated to the general population, our results imply that asking about citizenship will *reduce the number of Hispanics reported in the 2010 Census by approximately 6.07 million, or around 12.03 percent of the 2010 Hispanic population.*<sup>67</sup>

**F. Citizenship Data from the Decennial Census is Not Necessary to Enforce the Voting Rights Act**

DOJ’s request letter contended that “block-level” citizenship data was critical to its enforcement efforts under Section 2 of the Voting Rights Act and that the data already provided through the American Community Survey was not accurate enough.<sup>68</sup> Secretary Ross agreed, writing in his decision memo: “The citizenship data provided to DOJ will be more accurate with the question than without it.”<sup>69</sup>

These assertions are incorrect. On March 22, 2018, a coalition of the nation’s preeminent voting rights groups sent a letter to Secretary Ross explaining that the Department has not required this data since the passage of the Voting Rights Act in 1965 and does not require it today. The groups wrote:

[T]he DOJ maintains that a new citizenship question will ensure better enforcement of the Voting Rights Act. This is false. Since the passage of the Voting Rights Act in 1965, the Census has never asked all persons to report their citizenship. In other words, a mandatory question on citizenship has never been necessary to ensure robust protection of the right to vote. That is just as true now as it was in 1965 when the Voting Rights Act was passed.<sup>70</sup>

Similarly, the former head of DOJ’s Civil Rights Division—which is charged with enforcing the Voting Rights Act—stated:

I know firsthand that data from the ongoing American Community Survey was sufficient for us to do our work. Rigorous enforcement of the Voting Rights Act has never required the addition of a citizenship question on the census form sent to all households.<sup>71</sup>

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<sup>67</sup> *Estimating the Effect of Asking About Citizenship on the U.S. Census*, Harvard Shorenstein Center (April 2019) (online at <https://shorensteincenter.org/estimating-effect-asking-citizenship-u-s-census/>).

<sup>68</sup> Letter from Arthur E. Gary, General Counsel, Justice Management Division, Department of Justice, to Ron Jarmin, Director, Census Bureau (Dec. 12, 2017) (online at [www.documentcloud.org/documents/4340651-Text-of-Dec-2017-DOJ-letter-to-Census.html](http://www.documentcloud.org/documents/4340651-Text-of-Dec-2017-DOJ-letter-to-Census.html)).

<sup>69</sup> Letter from Secretary Wilbur L. Ross, Jr., Department of Commerce, to Karen Dunn Kelley, Under Secretary for Economic, Department of Commerce (Mar. 26, 2018) (online at <https://apps.npr.org/documents/document.html?id=4500011-1-18-Cv-02921-Administrative-Record#document/p1329/a464493>).

<sup>70</sup> Letter from Constitutional Accountability Center et al., to Secretary Wilbur L. Ross, Jr., Department of Commerce (Mar. 22, 2018) (online at [www.theusconstitution.org/wp-content/uploads/2018/03/CAC-Census-Letter-Groups.pdf](http://www.theusconstitution.org/wp-content/uploads/2018/03/CAC-Census-Letter-Groups.pdf)).

<sup>71</sup> *The Bitter Lie Behind the Census’s Citizenship Question*, Washington Post (Mar. 29, 2018) (online at [www.washingtonpost.com/opinions/the-bitter-lie-behind-the-census-citizenship-question/2018/03/29/f2991020-32cc-11e8-8bdd-cdb33a5eef83\\_story.html?utm\\_term=.1a02760cf3eb](http://www.washingtonpost.com/opinions/the-bitter-lie-behind-the-census-citizenship-question/2018/03/29/f2991020-32cc-11e8-8bdd-cdb33a5eef83_story.html?utm_term=.1a02760cf3eb)).



#### **IV. THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF JUSTICE HAVE OBSTRUCTED THE COMMITTEE'S INVESTIGATION**

On March 27, 2018—one day after Secretary Ross announced his decision to add a citizenship question—then-Ranking Member Elijah E. Cummings called on the Committee to investigate the Administration's decision and the impact the citizenship question's addition could have on the accuracy of the enumeration.<sup>72</sup> Since becoming Chairman, he has made this investigation a priority for the Committee.

On April 2, 2019, after DOJ and Department of Commerce failed to comply voluntarily with the Committee's requests for documents and testimony, the Committee voted on a bipartisan basis to authorize document subpoenas to Attorney General Barr and Secretary Ross and a deposition subpoena to John Gore.<sup>73</sup> However, the Attorney General and Secretary Ross have defied those subpoenas by refusing to produce key documents and, in the case of the Attorney General, by instructing Mr. Gore not to appear for his deposition.

##### **A. The Department of Commerce Has Refused to Produce Key Documents Required by the Committee's Subpoena**

Committee Democrats first requested documents from the Department of Commerce on April 4, 2018, in advance of an April 11, 2018, briefing from Census Bureau and Commerce Department officials.<sup>74</sup> The Department produced no documents and instead told Members during the briefing that documents were being collected in response to separate, ongoing litigation requests and that the Committee could expect to receive them at the same time they were made public and provided to the parties in the lawsuits.<sup>75</sup>

On June 28, 2018, Rep. Cummings and Rep. Carolyn Maloney led more than 50 House Democrats in writing to Secretary Ross and requesting that he answer questions about the contradictory and misleading testimony he provided to Congress.<sup>76</sup> Secretary Ross did not reply.

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<sup>72</sup> Committee on Oversight and Government Reform Democrats, *Cummings Issues Statement Calling for Hearings on Trump Administration Plan to Add Citizenship Question to Census* (Mar. 27, 2018) (online at <https://oversight.house.gov/news/press-releases/cummings-issues-statement-calling-for-hearings-on-trump-administration-plan-to>).

<sup>73</sup> *Committee Approves Subpoenas in Security Clearance and Census Investigations*, Committee on Oversight and Reform (Apr. 2, 2019) (online at <https://oversight.house.gov/news/press-releases/committee-approves-subpoenas-in-security-clearance-and-census-investigations>).

<sup>74</sup> Letter from Ranking Member Elijah E. Cummings et. al, Committee on Oversight and Government Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce, and Dr. Ron Jarmin, Ph.D., Acting Director, Census Bureau (Apr. 4, 2018) (online at [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-04-04-20EEC%20Maloney%20Norton%20Clay%20Connolly%20&%20Gomez%20to%20Commerce%20re.Cens\\_...pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-04-04-20EEC%20Maloney%20Norton%20Clay%20Connolly%20&%20Gomez%20to%20Commerce%20re.Cens_...pdf)).

<sup>75</sup> Briefing from Acting Director Ron Jarmin, Census Bureau, Michael Walsh, Jr., Deputy General Counsel, Department of Commerce, and Jennifer Ortman, Assistant Division Chief, American Community Survey Office, Census Bureau, to Committee on Oversight and Government Reform (Apr. 11, 2018).

<sup>76</sup> Letter from Ranking Member Elijah E. Cummings et al., Committee on Oversight and Government Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce (June 28, 2018) (online at

On August 3, 2018, Reps. Cummings and Maloney, along with 43 Democrats, wrote again to request answers about the Secretary's misleading testimony.<sup>77</sup> Yet again, Secretary Ross declined to respond.

On December 21, 2018, Secretary Ross sent a brief letter to Rep. Cummings, which he characterized as a response to the Ranking Member's earlier questions. Rather than answer the questions, however, the Secretary's response largely repeated information in public court filings. The response contained no documents.<sup>78</sup>

On January 8, 2019, the Committee renewed Rep. Cummings' requests from the prior Congress, including for the documents initially requested in April 2018. In his letter to Secretary Ross, Chairman Cummings also asked him to testify before the Committee.<sup>79</sup> The Department of Commerce responded by producing thousands of pages of documents, most of which were already publicly available, heavily redacted, or non-responsive. The Department did not provide complete responses to the Committee's written questions.

On March 5, 2019, the Department of Commerce sent a letter seeking to postpone the Secretary's previously agreed upon testimony before the Committee. The letter requested that the Committee postpone the hearing until the end of April—more than six weeks—so Secretary Ross could have additional time to prepare his testimony and to produce documents.<sup>80</sup> Chairman Cummings responded on March 6, stating that the Secretary had already had nine weeks since the initial invitation, so the hearing would remain on March 14. In an effort to accommodate the Department's concerns, Chairman Cummings agreed to the Secretary's requests that the scope of the hearing be limited, and the Committee prioritized certain documents to be produced prior to the hearing. However, Chairman Cummings warned the Secretary that “the existence of separate civil litigation is not a valid basis to withhold these documents from the Committee.”<sup>81</sup>

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<https://maloney.house.gov/sites/maloney.house.gov/files/618%20Sec%20Ross%20Supplemental%20Memo%20Letter.pdf>).

<sup>77</sup> Letter from Rep. Carolyn Maloney et al., to Secretary Wilbur L. Ross, Jr., Department of Commerce (Aug. 3, 2018) (online at <https://maloney.house.gov/sites/maloney.house.gov/files/2018%200803%20Letter%20to%20Secretary%20Ross.pdf>).

<sup>78</sup> Letter from Secretary Wilbur L. Ross, Jr., Department of Commerce, to Ranking Member Elijah E. Cummings, Committee on Oversight and Government Reform (Dec. 21, 2018) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/DOC.122118.%20Response%20to%20EEC%20re%20Citizenship%20Questions.pdf>).

<sup>79</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Jan. 8, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-01-08.EEC%20to%20Ross-DOC%20re%20Citizenship%20Question.pdf>).

<sup>80</sup> Letter from Michael Platt Jr., Assistant Secretary for Legislative and Intergovernmental Affairs, Department of Commerce, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (Mar. 5, 2019) (online at [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019.03.05%20Letter%20to%20Chairman%20Cummings\\_0.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019.03.05%20Letter%20to%20Chairman%20Cummings_0.pdf)).

<sup>81</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Mar. 6, 2019) (online at

On March 7, Secretary Ross confirmed he would appear to testify on March 14 “to answer the Committee on Oversight and Reform’s (Committee) questions on the preparations for the 2020 Census and the addition of the citizenship question.”<sup>82</sup> He did not indicate that any documents or information would be withheld.

At the March 14 hearing, despite having agreed in advance to the Committee’s questions, Secretary Ross refused to provide key information or documents requested by the Committee, stating: “I will certainly address the question to my staff and to my counsel. To the degree that this is involved in pending litigation, there may be problems.” Chairman Cummings expressed frustration with Secretary Ross’ reversal, stating, “when I heard your testimony, I felt like you were trying to pull a fast one on me.” He asked Secretary Ross to “consult with your lawyers” and “produce all of the priority documents this committee has requested” by March 19, 2019. He explained that if Secretary Ross did not comply, the Committee would have no choice but to consider issuing a subpoena for documents and conducting transcribed interviews with staff from the Department of Commerce and DOJ who were involved in adding the citizenship question.<sup>83</sup>

The next day, Committee staff followed up with the Department of Commerce to offer additional accommodations. In an email to Department staff, Committee staff provided the Department with a subset of 11 key documents within the Committee’s set of priority documents and asked for their production, without redactions, by March 19, 2019.<sup>84</sup>

On March 19, 2019, the Department of Commerce failed to produce any of the 11 key documents without redactions. The Department asserted that Secretary Ross “stands by the answers and responses provided in the hearing.”<sup>85</sup>

On March 20, 2019, the Committee requested transcribed interviews with three Commerce Department officials who played critical roles in the addition of the citizenship question: Earl Comstock, Peter Davidson, and James Uthmeier.<sup>86</sup> The Department did not make them available for interviews.

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<https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-03-06.EEC%20to%20Ross-DOC%20re%20Documents%20and%20Testimony.pdf>

<sup>82</sup> Letter from Secretary Wilbur L. Ross, Jr., Department of Commerce, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (Mar. 7, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-03-07%20Letter%20to%20Chairman%20Cummings.pdf>).

<sup>83</sup> Committee Oversight and Reform, *Hearing with Commerce Secretary Wilbur L. Ross, Jr.* (Mar. 14, 2019).

<sup>84</sup> Email from Staff, Committee on Oversight and Reform, to Staff, Department of Commerce (Mar. 15, 2019).

<sup>85</sup> Letter from Ross Branson, Deputy Assistant Secretary for Legislative and Intergovernmental Affairs, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (Mar. 19, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/DOC.031919.Response%20to%20EEC%20re%20Citizenship%20Question.pdf>).

<sup>86</sup> Email from Staff, Committee on Oversight and Reform, to Staff, Department of Commerce (Mar. 20, 2019).

Further, the Department of Commerce did not produce the requested documents, despite receiving repeated follow-up by Committee staff. Instead, the Department demanded that the Committee identify “specific, particularized information needs” for each of the requested documents and transcribed interviews.<sup>87</sup>

On March 29, 2019, Chairman Cummings wrote to Secretary Ross:

Our need for these documents and interviews is clear. The Committee is seeking to understand the real reason that you added a citizenship question to the 2020 Census. ... The requested documents and interviews may provide contemporaneous evidence of the real reason that you added the citizenship question and the process you followed.<sup>88</sup>

Chairman Cummings listed six issues on which the requested documents and interviews could shed light, including the Secretary’s “apparent interest in adding a citizenship question beginning in early 2017,” “The role of the White House in coordinating the addition of a citizenship question,” and the Secretary’s “deliberations leading to the issuance of the pretextual decision memorandum in March 2018.”<sup>89</sup> Despite these explanations, the Department continued to withhold the documents and interviews.

On April 2, 2019, the Committee voted on a bipartisan basis to authorize a subpoena to Secretary Ross to compel production of key documents, including the 11 previously identified key documents and one category of documents from the Committee’s previous requests.<sup>90</sup> The documents required to be produced by this subpoena are shown in Appendix A. Following the issuance of the subpoena, the Department produced additional documents. However, many of those documents were heavily redacted, did not include attachments, or were not responsive to the subpoena. The Department failed to produce an unredacted copy of any of the 11 key documents required by the subpoena.

On May 7, 2019, Chairman Cummings and Rep. Jamie Raskin, the Chairman of the Subcommittee on Civil Rights and Civil Liberties, sent invitations directly to Mr. Comstock, Mr. Davidson, and Mr. Uthmeier for transcribed interviews.<sup>91</sup>

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<sup>87</sup> Letter from Ross Branson, Deputy Assistant Secretary for Legislative and Intergovernmental Affairs, Department of Commerce, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (Mar. 26, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/DOC.032619.%20Response%20to.pdf>).

<sup>88</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Mar. 29, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-03-29.EEC%20to%20Ross-DOC.pdf>).

<sup>89</sup> *Id.*

<sup>90</sup> *Committee Approves Subpoenas in Security Clearance and Census Investigations*, Committee on Oversight and Reform (Apr. 2, 2019) (online at <https://oversight.house.gov/news/press-releases/committee-approves-subpoenas-in-security-clearance-and-census-investigations>).

<sup>91</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Jamie Raskin, Subcommittee on Civil Rights and Civil Liberties, to Earl Comstock, Deputy Chief of Staff and Director of Policy, Department of Commerce (May 7, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-05-07.EEC%20JR%20to%20Comstock->

On May 8, 2019, Chairman Cummings again wrote to Secretary Ross, this time requesting a personal meeting to discuss the Department's refusal to produce documents. Chairman Cummings wrote:

I am writing to request a meeting to discuss the Department's refusal to produce documents pursuant to a subpoena authorized by the Committee on a bipartisan basis regarding your decision to add a citizenship question to the 2020 Census. I would like to meet with you in person, preferably in the next two weeks, to ensure that you are fully apprised of the actions of your staff and to determine whether there is any way to resolve this impasse before initiating potential enforcement action.<sup>92</sup>

The Secretary responded on May 20, 2019, declining to meet with Chairman Cummings. Instead, he reiterated the Department's already-fulfilled demands for the "particularized legislative need" for each of the documents and reasserted vague claims of Executive Branch confidentiality interests.<sup>93</sup> In a separate letter on May 21, 2019, the Department of Commerce refused to make the three witnesses available for transcribed interviews, again demanding a "demonstration of the Committee's particularized need" and "legislative purpose."<sup>94</sup>

Committee staff spoke to Department staff on May 31, 2019, to seek a resolution of these issues, again explaining the need for the documents. Department staff did not commit to providing any of the key unredacted documents identified by the Committee and did not commit to make any of the three witnesses available for transcribed interviews. Committee staff warned that if the Committee could not obtain compliance, the Committee would consider taking further

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DOC%20re%20TI.pdf); Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Jamie Raskin, Subcommittee on Civil Rights and Civil Liberties, to Peter Davidson, General Counsel, Department of Commerce (May 7, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-05-07.EEC%20JR%20to%20Davidson-DOC%20re%20TI.pdf>); Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Jamie Raskin, Subcommittee on Civil Rights and Civil Liberties, to James Uthmeier (May 7, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-05-07.EEC%20JR%20to%20Uthmeier%20re%20TI.pdf>).

<sup>92</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce (May 8, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-05-08.EEC%20to%20Ross-DOC%20re%20Meeting.pdf>).

<sup>93</sup> While the Committee has described its particularized need for these documents in detail, courts have never found a requirement that Congress justify its requests for information line-by-line. As District Court Judge Amit Mehta recently described: "Once a court finds that an investigation is one upon which legislation could be had, it must not entangle itself in judgments about the investigation's scope or the evidence sought ... [I]t is not the judicial officer's job to conduct a 'line-by-line review of the Committee's requests.'" *Bean LLC v. John Doe Bank*, 291 F. Supp. 3d, 44 (D.D.C. 2018). "There is no requirement that every piece of information gathered in such an investigation be justified before the judiciary." *McSurely*, 521 F. 2d at 1041." *Donald J. Trump, et al. v. Committee on Oversight and Reform of the U.S. House of Representatives*, et. al, 19-cv-01136 (May 20, 2019).

<sup>94</sup> Letter from Charles Kolo Rathburn, Performing the Duties of the Assistant Secretary for Legislative and Intergovernmental Affairs, Department of Commerce, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (May 21, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-05-21%20CKR%20to%20EEC.pdf>).

action, including an enforcement action with respect to documents and the issuance of subpoenas for public testimony from the three witnesses being withheld.

On June 3, 2019, the Committee notified Secretary Ross that it was scheduling a vote to hold him in contempt of Congress for failing to comply with the Committee's document subpoena. The Committee offered to postpone the vote if the 11 priority documents identified in Item 1 of the April 2 subpoena were produced without redactions by June 6, 2019.<sup>95</sup>

Also, on June 3, 2019, the Committee notified Members of a business meeting scheduled for 9:00 a.m. on June 5, 2019, to vote to authorize subpoenas for testimony from Mr. Comstock, Mr. Davidson, and Mr. Uthmeier, the three Department of Commerce witnesses who had not agreed to be interviewed voluntarily. Late in the evening on June 4, the Department of Commerce agreed to make all three witnesses available for transcribed interviews—as the Committee had requested more than two months earlier. The Committee then cancelled the subpoena vote.

However, the Department of Commerce produced no additional documents by the Committee's June 6 deadline. In a letter to the Committee that evening, the Department claimed that holding Secretary Ross in contempt was "premature," but refused to provide unredacted copies of any the key documents required by the Committee's subpoena and offered no accommodation with respect to those documents.<sup>96</sup>

## **B. The Department of Justice Has Refused to Produce Key Documents Required by the Committee's Subpoena**

On May 1, 2018, the Democratic Members of the Oversight Committee requested documents from DOJ.<sup>97</sup> The Department did not respond.

As Chairman, Rep. Cummings renewed his request for these documents on February 12, 2019.<sup>98</sup> In the weeks that followed, the Committee worked to provide accommodations to the

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<sup>95</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce (June 3, 2019) (online at [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-06-03.EEC%20to%20Ross-DOC%20re%20Transcribed%20Interviews\\_0.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-06-03.EEC%20to%20Ross-DOC%20re%20Transcribed%20Interviews_0.pdf)).

<sup>96</sup> Letter from Charles Kolo Rathburn, Performing the Duties of the Assistant Secretary for Legislative and Intergovernmental Affairs, Department of Commerce, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (June 6, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Letter%20from%20DOC%20to%20Chairman%20Cummings%20%5B6-6-2019%5D.pdf>).

<sup>97</sup> Letter from Ranking Member Elijah E. Cummings et al., Committee on Oversight and Government Reform, to John Gore, Acting Assistant Attorney General, Department of Justice (May 1, 2018) (online at <https://maloney.house.gov/sites/maloney.house.gov/files/2018-05-01.%20Dem.Members%20to%20DOJ-Gore%20re.Citizenship%20Question-2020%20Decennial%20Census.pdf>).

<sup>98</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Matthew Whitaker, Acting Attorney General, Department of Justice (Feb. 12, 2019) (online at [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-02-12.EEC%20to%20Whitaker-DOJ%20re%20Census\\_0.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-02-12.EEC%20to%20Whitaker-DOJ%20re%20Census_0.pdf)).

Department to facilitate its production. The Committee identified a subset of key documents to be produced first, including the memorandum and note described above from then-Senior Counsel to the General Counsel James Uthmeier that were hand-delivered to Principal Deputy Assistant Attorney General John Gore in the fall of 2017. DOJ did not provide the priority documents, instead producing only documents that were heavily redacted and already largely publicly available.

On March 20, 2019, Committee staff contacted Department staff and again requested the production of the priority documents. Committee staff noted that if the Department could not commit to producing them, “the Committee will have no choice but to consider taking additional steps to ensure compliance.”<sup>99</sup> The Department responded on March 22, 2019, declining to produce the documents and citing “litigation and confidentiality concerns.”<sup>100</sup>

On April 2, 2019, Chairman Cummings sent a letter to the Department explaining that the Supreme Court has made clear that ongoing litigation does not preclude Congress from investigating an issue.<sup>101</sup> Later that day, the Committee took a bipartisan vote in support of the Chairman compelling the production of these documents, and the Chairman issued a document subpoena to Attorney General Barr.<sup>102</sup> The documents required to be produced by that subpoena are listed in Appendix B.

Since that time, the Department has produced some documents, but many are heavily redacted, do not include attachments, and are not responsive to the subpoena. The Department has declined to produce unredacted copies of the priority documents required by the subpoena.

On June 3, 2019, the Committee notified Attorney General Barr that it was scheduling a vote to hold him in contempt of Congress for failing to comply with the Committee’s subpoena. The Committee offered to postpone the vote if a narrow subset of priority documents were produced by June 6, 2019.<sup>103</sup>

On June 6, DOJ sent a letter to the Committee that called a contempt vote “premature,” but refused to produce the documents identified in the subpoena and did not offer any accommodation with respect to those documents.<sup>104</sup>

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<sup>99</sup> Email from Staff, Committee on Oversight and Reform, to Staff, Department of Justice (Mar. 20, 2019).

<sup>100</sup> Email from Staff, Department of Justice, to Staff, Committee on Oversight and Reform (Mar. 22, 2019).

<sup>101</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Stephen E. Boyd, Assistant Attorney General, Department of Justice (Apr. 2, 2019) (online at [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-04-02.EEC%20to%20Boyd-DOJ%20re%20Census\\_0.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-04-02.EEC%20to%20Boyd-DOJ%20re%20Census_0.pdf)).

<sup>102</sup> *Committee Approves Subpoenas in Security Clearance and Census Investigations*, Committee on Oversight and Reform (Apr. 2, 2019) (online at <https://oversight.house.gov/news/press-releases/committee-approves-subpoenas-in-security-clearance-and-census-investigations>).

<sup>103</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Attorney General William P. Barr, Department of Justice (June 2, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-06-03.EEC%20to%20Barr-DOJ%20re%20Census.pdf>).

<sup>104</sup> Letter from Stephen E. Boyd, Assistant Attorney General, Department of Justice, to Chairman Elijah E.

**C. The Attorney General Ordered a Subordinate to Defy the Committee's Deposition Subpoena**

On May 18, 2018, then-Acting Assistant Attorney General John Gore testified at a hearing of the Committee on Oversight and Government Reform. Citing “ongoing litigation, the potential effect of public statements on pending court cases, and the Department’s litigation constraints,” Mr. Gore refused to disclose any information beyond what was already included in DOJ’s December 2017 letter requesting the citizenship question “or other publicly available information.”<sup>105</sup>

On February 14, 2019, Rep. Cummings, as Chairman, wrote to DOJ to request a transcribed interview of Mr. Gore, currently serving as Principal Deputy Assistant Attorney General.<sup>106</sup> During the interview on March 7, 2019, Mr. Gore was directed by DOJ counsel not to answer any questions about the content of conversations or documents relating to the citizenship question. Department counsel cited “ongoing litigation” and “other executive branch confidentiality interests” as the basis for instructing Mr. Gore not to answer the Committee’s questions. In total, Mr. Gore refused to answer more than 150 questions asked by Committee staff.<sup>107</sup>

Later that day, in an effort to accommodate the Department, Committee staff wrote to DOJ staff requesting answers to a subset of 18 priority questions Mr. Gore refused to answer during his interview. In an additional effort to accommodate the Department, Committee staff proposed that Mr. Gore return voluntarily to answer this narrow set of questions.<sup>108</sup>

The Department responded to the request on March 22, 2019, by declining to make Mr. Gore available due to “litigation and confidentiality concerns.”<sup>109</sup>

On April 2, 2019, the Committee voted on a bipartisan basis to authorize a subpoena compelling Mr. Gore to testify. The Chairman issued the subpoena on the same day requiring Mr. Gore to appear at a deposition on April 11, 2019.<sup>110</sup>

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Cummings, Committee on Oversight and Reform (June 6, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Letter%20from%20DOJ%20to%20COR%206-06-19.pdf>).

<sup>105</sup> Committee on Oversight and Government Reform, *Hearing on Progress Report on the 2020 Census*, 115th Cong. (May 18, 2018). Mr. Gore further explained: “Pending litigation is a limitation in these circumstances. Other limitations include the need for the Department of Justice to facilitate open and robust discussion before decisions are made. For that reason, the department does not talk about deliberations or privileged conversations that might happen in an attorney-client context.”

<sup>106</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to John Gore, Principal Deputy Assistant Attorney General, Department of Justice (Feb. 14, 2019) (online at [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-02-14.EEC%20to%20Gore-DOJ%20re%20Transcribed%20Interview%20Request\\_1.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-02-14.EEC%20to%20Gore-DOJ%20re%20Transcribed%20Interview%20Request_1.pdf)).

<sup>107</sup> Committee on Oversight and Reform, Transcribed Interview of John Gore (Mar. 7, 2019).

<sup>108</sup> Email from Staff, Committee on Oversight and Reform, to Staff, Department of Justice (Mar. 7, 2019).

<sup>109</sup> Email from Staff, Department of Justice, to Staff, Committee on Oversight and Reform (Mar. 22, 2019).

<sup>110</sup> *Committee Approves Subpoenas in Security Clearance and Census Investigations*, Committee on



On April 9, 2019, the Department wrote to the Committee that Attorney General Barr had personally directed Mr. Gore not to comply with the subpoena and not to appear for the deposition. The Department challenged the Committee’s longstanding deposition rule prohibiting agency counsel from attending—a rule that was adopted unanimously by the Committee in January 2019 and which has been in place for more than a decade under both Republican and Democratic Chairmen. During that period, no Executive Branch official or private sector individual has ever refused to attend a deposition on these grounds. The Department claimed that the bipartisan rule “unconstitutionally encroaches on fundamental Executive Branch interests.” The Department concluded: “As a result, the Attorney General has determined that Mr. Gore will not appear at the April 11 deposition unless a Department representative may accompany him.”<sup>111</sup>

On April 10, the Committee wrote to Attorney General Barr that he appeared to be “instructing Mr. Gore to defy a duly authorized congressional subpoena approved by the Committee on a bipartisan basis,” as well as the Committee’s rules. The letter warned that the Committee “expects Mr. Gore to testify in accordance with the Committee’s lawful subpoena and the Committee’s rules” and that if he failed to do so, “the Committee will consider him to be in contempt of Congress.” However, the letter also offered to accommodate the Department’s interests in protecting any valid privilege by making a separate room available at the Committee’s offices for Department counsel during the deposition and permitting Mr. Gore or his counsel to request a break to consult with Department counsel.<sup>112</sup>

The same day, in response to a request from Mr. Gore’s personal counsel, the Committee agreed to postpone the deposition until April 25, 2019.

On April 24, DOJ wrote a letter reiterating the Attorney General’s instruction to Mr. Gore to defy the Committee’s subpoena.<sup>113</sup> On April 25, 2019, Mr. Gore failed to appear for his deposition.<sup>114</sup>

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Oversight and Reform (Apr. 2, 2019) (online at <https://oversight.house.gov/news/press-releases/committee-approves-subpoenas-in-security-clearance-and-census-investigations>).

<sup>111</sup> Letter from Stephen E. Boyd, Assistant Attorney General, Department of Justice, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (Apr. 11, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-4-9%20HOCR%27s%20subpoena%20to%20John%20Gore%20%28CRT%29%20-%20Cummings%20%234235573.pdf>).

<sup>112</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Attorney General William P. Barr, Department of Justice (Apr. 10, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-04-10.EEC%20to%20Barr-DOJ%20re%20Gore%20Deposition.pdf>).

<sup>113</sup> Letter from Stephen E. Boyd, Assistant Attorney General, Department of Justice, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (Apr. 24, 2019) (online at [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-4-24%20HOCR%27s%20subpoena%20to%20John%20Gore%20%28CRT%29%20-%20Cummings%20%234235573\\_0.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-4-24%20HOCR%27s%20subpoena%20to%20John%20Gore%20%28CRT%29%20-%20Cummings%20%234235573_0.pdf)).

<sup>114</sup> See Letter from John D. Adams, McGuireWoods LLP, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (Apr. 24, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/April%2024%20ltr%20to%20The%20Hon.%2>

In its letter to the Committee on June 6, 2019, the Department once again refused to allow Mr. Gore to testify, claiming that the “exclusion of agency counsel” pursuant to the Committee’s rules would “unconstitutionally infringe upon the prerogatives of the Executive Branch.”<sup>115</sup>

**D. The President Has Asserted Executive Privilege**

On the evening before the scheduled date of the Committee’s business meeting to consider the resolution holding the Attorney General and Secretary of Commerce in contempt, and while negotiations were ongoing, the Committee received a letter from Assistant Attorney General Stephen E. Boyd that stated, “In the face of the Committee’s threatened contempt vote, the Attorney General is now compelled to request that the President invoke executive privilege with respect to the materials subject to subpoena to the Attorney General and the subpoena to the Secretary of the Department of Commerce.” The letter requested that the Committee “hold the subpoenas in abeyance and delay any vote on whether to recommend a citation of contempt for noncompliance with subpoenas, pending the President’s determination of this question.” Although Mr. Boyd clarified that this request was “not itself an assertion of executive privilege,” he explained that should the Committee decide “to proceed in spite of this request, the Department will be obliged to advise that the President assert executive privilege with respect to certain of the subpoenaed documents, and to make a protective assertion of executive privilege over the remainder of the documents, which undoubtedly include material covered by executive privilege, while the Department continues to review them.”

On the day of the Committee’s business meeting, the Committee received letters from the Department of Justice and Department of Commerce stating “that the President has asserted executive privilege” over the subpoenaed documents identified by the Committee in its June 3, 2019, letters to the Attorney General and the Secretary of Commerce. The letters, authored by Mr. Boyd and Charles K. Rathburn, Acting Assistant Secretary for Legislative and Intergovernmental Affairs at the Department of Commerce, stated that the President also made a protective assertion of executive privilege over the remainder of the documents responsive to the Committee’s April 2, 2019, subpoenas. Mr. Boyd attached a letter dated the day before the Committee’s meeting from Attorney General William P. Barr to the President requesting that the President “make a protective assertion of executive privilege.”

The Committee has a number of concerns about the validity of these privilege assertions, including that:

- (1) the blanket “protective assertion of executive privilege” is not a valid claim, in part because it inappropriately blurs the distinction between the constitutionally-

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<sup>115</sup> Letter from Stephen E. Boyd, Assistant Attorney General, Department of Justice, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (June 6, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Letter%20from%20DOJ%20to%20COR%206-06-19.pdf>).

based presidential communications privilege and the mere common-law deliberative process, attorney-client, and attorney-work product privileges;

- (2) both the “protective” assertion and the assertion with respect to specific documents are obstructive given that any assertion should have been made months ago to follow Committee Rule 16 (c), which provides the manner in which privilege may be asserted and requires that the assertion be made on or before the scheduled date of testimony or appearance, here, April 16, 2019;
- (3) these assertions are transparently invalid because the Departments of Justice and Commerce have failed to provide any details by which the Committee might evaluate the applicability of the privilege, such as the senders and recipients of the documents or the privilege log and other information called for under the subpoenas;
- (4) even if these assertions of privilege were valid as an initial matter, which they are not, they should be overcome here, because: (i) the Committee has demonstrated a sufficient need for the documents given that they are likely to contain evidence critical to the Committee’s inquiry; and (ii) the documents cannot expeditiously be obtained any other way; and
- (5) without these documents, the Committee cannot fully perform its constitutional duties to legislate and conduct oversight.

The President’s assertions of executive privilege do not change the fact that Attorney General William P. Barr and Secretary of Commerce Wilbur L. Ross are in contempt of Congress for failing to comply with the Committee’s lawfully issued subpoenas.

## **V. THE ADMINISTRATION’S JUSTIFICATIONS FOR DEFYING THE COMMITTEE’S SUBPOENAS ARE INVALID**

Both the Department of Commerce and DOJ have claimed that ongoing litigation, deliberative process privilege, and attorney-client privilege protect these documents from production to this Committee. None of these rationales is a valid basis for withholding information from the Committee.

### **A. The Administration Cannot Withhold Information from Congress Based on Ongoing Litigation**

Following the Secretary’s decision to add a citizenship question to the 2020 Census, the State of New York, along with several states, cities, and the U.S. Conference of Mayors, filed suit in the U.S. District Court for the Southern District of New York alleging that the question’s addition violates the “constitutional obligation to conduct an ‘actual Enumeration’” and the Administrative Procedure Act (APA).<sup>116</sup> District Judge Jesse Furman ruled that Secretary Ross

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<sup>116</sup> Plaintiff’s First Amended Complaint for Declaratory and Injunctive Relief, 1-4 (Apr. 30, 2018), *New*

violated the APA and Section 6(c) and Section 141(f) of the 1976 Census Act and enjoined the Census Bureau from adding the question to the 2020 questionnaire.<sup>117</sup> The Commerce Department appealed. The Supreme Court granted certiorari on February 15, 2019, and oral argument was heard on April 25, 2019.

The State of California also challenged the citizenship question in U.S. District Court for the Northern District of California. On March 6, 2019, District Judge Richard Seeborg held that Secretary Ross violated the APA, the Census Act, and the Enumeration Clause of the Constitution because the question would have a negative impact on “the prospect of achieving the central constitutional purpose of an actual enumeration in 2020.”<sup>118</sup> The Commerce Department appealed.

Residents of Maryland and Arizona also challenged the citizenship question in the U.S. District Court for the District of Maryland.<sup>119</sup> On April 5, 2019, the court held that the addition of the question violated the APA and the Enumeration Clause.<sup>120</sup> The Commerce Department appealed.

The Constitution provides Congress with its own responsibility to conduct oversight of, and to pass laws relating to, the Census, and the Committee has authority that is separate and independent from any litigation being pursued in civil courts. Chairman Cummings first called for an investigation into the citizenship question’s addition six days before the State of New York filed its lawsuit, and Democratic Members first requested documents from the Department of Commerce on April 4, 2018, and DOJ on May 1, 2018—more than nine months before for the Supreme Court granted certiorari. Chairman Cummings renewed his document requests to the Department of Commerce on January 8, 2019, and to DOJ on February 12, 2019—both before the Supreme Court agreed to hear the case.<sup>121</sup>

The Supreme Court has clearly and repeatedly ruled that parallel litigation does not preclude Congress from investigating an issue and is not a valid reason to withhold information from Congress. The Court explained in *Hutcheson v. United States*:

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*York et al. v. U.S. Dept. of Commerce et al.* (No. 1:18-cv-2921).

<sup>117</sup> *New York, et al., v. United States Department of Commerce, et al.*, 315 F. Supp. 3d 766 (S.D.N.Y. 2018).

<sup>118</sup> *California et al., v. Ross, et al.*, C 18-cv-01865-RS (N.D. Cal. Mar. 6, 2019).

<sup>119</sup> The court consolidated this case with another case brought by a coalition of Asian-American and Latino groups in California.

<sup>120</sup> *Kravitz, et al., v. United States Department of Commerce, et al.*, 336 F. Supp. 3d 545 (D. Md. 2018).

<sup>121</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Jan. 8, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-01-08.EEC%20to%20Ross-DOC%20re%20Citizenship%20Question.pdf>); Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Matthew Whitaker, Acting Attorney General, Department of Justice (Feb. 12, 2019) (online at [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-02-12.EEC%20to%20Whitaker-DOJ%20re%20Census\\_0.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-02-12.EEC%20to%20Whitaker-DOJ%20re%20Census_0.pdf)).

But surely a congressional committee which is engaged in a legitimate legislative investigation need not grind to a halt whenever responses to its inquiries might potentially be harmful to a witness in some distinct proceeding, *Sinclair v. United States*, supra, at 295, or when crime or wrongdoing is disclosed, *McGrain v. Daugherty*, 273 U.S. 135, 179-180.<sup>122</sup>

The Court also held in *Sinclair v. United States*:

It may be conceded that Congress is without authority to compel disclosure for the purpose of aiding the prosecution of pending suits; but the authority of that body, directly or through its committees to require pertinent disclosures in aid of its own constitutional power is not abridged because the information sought to be elicited may also be of use in such suits.<sup>123</sup>

The Committee, under both Republican and Democratic Chairmen, has routinely conducted investigations concurrent with parallel litigation and has received documents and testimony from federal and state agencies and private entities.

For example, in 2015, Chairman Jason Chaffetz conducted an investigation into the decision-making process related to the “Waters of the United States Rule” promulgated by the Environmental Protection Agency and the Army Corps of Engineers.<sup>124</sup> Despite a suit by 22 states challenging the rule,<sup>125</sup> the Chairman demanded and obtained documents in compliance with his request.<sup>126</sup>

The same year, Chairman Chaffetz, Rep. Jim Jordan, Rep. Mark Meadows, and Rep. Will Hurd conducted an extensive investigation into the State of Oregon’s switch from Cover Oregon to the federal healthcare exchange. Despite ongoing civil litigation between the Oracle Corporation and Cover Oregon, the Committee requested and obtained documents from the Governor’s office, the Centers for Medicare and Medicaid Services, Oracle Corporation, and

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<sup>122</sup> 369 U.S. 599 (1962).

<sup>123</sup> 279 U.S. 263 (1929).

<sup>124</sup> Army Corp of Engineers, Department of the Army, Department of Defense, and Environmental Protection Agency, *Clean Water Rule: Definition of “Waters of the United States*, 80 Fed. Reg. 37053 (June 29, 2019) (online at [www.federalregister.gov/documents/2015/06/29/2015-13435/clean-water-rule-definition-of-waters-of-the-united-states](http://www.federalregister.gov/documents/2015/06/29/2015-13435/clean-water-rule-definition-of-waters-of-the-united-states)).

<sup>125</sup> *22 States Sue EPA Over Water Rule*, Washington Examiner (June 30, 2015) (online at [www.washingtonexaminer.com/22-states-sue-epa-over-water-rule](http://www.washingtonexaminer.com/22-states-sue-epa-over-water-rule)).

<sup>126</sup> Letter from Chairman Jason Chaffetz, et al., Committee on Oversight and Government Reform, to Jo-Ellen Darcy, Assistant Secretary of the Army (Civil Works), U.S. Army Corps of Engineers (July 24, 2015); Letter from Chairman Jason Chaffetz, et al., Committee on Oversight and Government Reform, to Jo-Ellen Darcy, Assistant Secretary of the Army (Civil Works), U.S. Army Corps of Engineers (Oct. 28, 2015).

others.<sup>127</sup> Four subpoenas for depositions were issued, and testimony was obtained from key witnesses.<sup>128</sup>

Also in 2015, the Committee opened an investigation into the State Department's decision-making process surrounding the environmental impact statement and permitting for the Keystone XL pipeline. While the State Department raised concerns on June 7, 2016, about how its production of documents could impact the United States' ability to defend a pending lawsuit brought by TransCanada, it nevertheless produced sensitive documents the following day with the request they not be publicly released without notice and opportunity for the Department to argue against such release. Chairman Chaffetz issued a subpoena to the Department and obtained additional documents responsive to his request. The Committee conducted two transcribed interviews after the subpoena was issued.<sup>129</sup>

In 2016, Chairman Chaffetz and Ranking Member Cummings began a bipartisan investigation into the Flint water crisis.<sup>130</sup> The Committee sent multiple document requests and held a series of hearings. Although ongoing litigation existed against Michigan Governor Rick Snyder and state and local government officials, and although the Michigan Attorney General appointed a special prosecutor "to look into possible crimes," the Committee requested and obtained a number of documents and transcribed interviews with key individuals at the same time.<sup>131</sup>

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<sup>127</sup> *Oregon Settles Bitter Legal Fight with Oracle for \$100 Million*, The Oregonian (Sept. 15, 2016) (online at [www.oregonlive.com/politics/2016/09/post\\_183.html](http://www.oregonlive.com/politics/2016/09/post_183.html)).

<sup>128</sup> Letter from Chairman Jason Chaffetz, et al., Committee on Oversight and Government Reform, to John Kitzhaber, Governor of Oregon (Feb. 13, 2015); Letter from Chairman Jason Chaffetz, et al., Committee on Oversight and Government Reform, to Andrew M. Slavitt, Acting Administrator, Centers for Medicare and Medicaid Services (June 15, 2015); Letter from Chairman Jason Chaffetz, et al., Committee on Oversight and Government Reform, to Safra A. Cruz, Chief Executive Officer, Oracle Corporation (Dec. 3, 2015); Letter from Chairman Jason Chaffetz, et al., Committee on Oversight and Government Reform, to Loretta Lynch, Attorney General, Department of Justice (May 25, 2016).

<sup>129</sup> Letter from Chairman Jason Chaffetz, et al., Committee on Oversight and Government Reform, to Secretary John Kerry, Department of State (Feb. 24, 2016) (online at <https://republicans-oversight.house.gov/wp-content/uploads/2016/06/2016-02-24-JEC-to-Kerry-DOS-Keystone-XL-due-3-9.pdf>); Letter from Julia Frifield, Assistant Secretary Legislative Affairs, Department of State, to Chairman Jason Chaffetz, Committee on Oversight and Government Reform (June 7, 2016); Letter from Julia Frifield, Assistant Secretary Legislative Affairs, Department of State, to Chairman Jason Chaffetz, Committee on Oversight and Government Reform (June 8, 2016); Second Subpoena Issued to State Department for Keystone Documents (June 10, 2016) (online at <https://republicans-oversight.house.gov/release/second-subpoena-issued-state-department-keystone-documents/>).

<sup>130</sup> Letter from Chairman Jason Chaffetz and Ranking Member Elijah E. Cummings, Committee on Oversight and Government Reform, to Michigan Governor Rick Snyder (Feb. 26, 2016) (online at <https://republicans-oversight.house.gov/wp-content/uploads/2016/02/2016-02-26-JC-EEC-to-Snyder-Michigan-Gov.-doc-req.-due-3-11.pdf>); Committee on Oversight and Government Reform, *Cummings Issues Statement on Upcoming Flint Hearings* (Feb. 25, 2016) (online at <https://oversight.house.gov/news/press-releases/cummings-issues-statement-on-upcoming-flint-hearings>).

<sup>131</sup> *Amid Flint Water Crisis, the Lawsuits Are Piling Up*, CBS News (Feb. 8, 2016) (online at [www.cbsnews.com/news/flint-water-crisis-lawsuits-piling-up/](http://www.cbsnews.com/news/flint-water-crisis-lawsuits-piling-up/)); *Former Wayne County Prosecutor to Lead Probe of Flint Water Crisis*, Reuters (Jan. 25, 2016) (online at <https://news.yahoo.com/former-wayne-county-prosecutor-lead-probe-flint-water-153706726--business.html>); Letter from Nichole Distefano, Associate Administrator, Environmental Protection Agency, to Chairman Jason Chaffetz, Committee on Oversight and Government Reform

Similarly, in 2017, Chairman Trey Gowdy and Ranking Member Cummings joined Science Committee Chairman Lamar Smith and Ranking Member Eddie Bernice Johnson in launching a bipartisan investigation into the Equifax data breach. The Committees requested and obtained documents and testimony from key executives despite the ongoing litigation by consumers and financial institutions against Equifax, including a class action lawsuit.<sup>132</sup>

**B. Attorney-Client and Deliberative Process Privileges are Not Valid Bases to Withhold the Subpoenaed Information from Congress**

The Department of Commerce has claimed that the documents it has withheld are “covered by a variety of privileges, including the deliberative process privilege, the attorney-client privilege, and the attorney work product privilege.”<sup>133</sup> DOJ has made an identical argument, pointing out that such privilege claims have previously been used to withhold certain documents from private litigants.<sup>134</sup> However, the common law privileges cited by the Trump Administration are not valid reasons to withhold documents subject to a valid subpoena from Congress, which derives its investigative authority from the Constitution.

On May 2, 2017, Chairman Chaffetz and Ranking Member Cummings wrote to the Transportation Security Administration (TSA) after TSA cited attorney-client privilege as a reason to withhold documents from the Committee. They wrote:

The House of Representatives derives its authority from the United States Constitution and is bound only by the privileges derived therefrom. As the schedule instructions accompanying the subpoena provided, neither the Committee nor the United States House of Representatives recognizes purported non-disclosure privileges associated with the common law. Further, the mere possibility that a common law privilege may apply in a judicial proceeding is not, in and of itself, a legal justification to withhold documents from this Committee or the Congress.<sup>135</sup>

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(Oct. 20, 2016).

<sup>132</sup> Letter from Chairman Jason Chaffetz, et al., Committee on Oversight and Government Reform, to Paulino do Rogo Barros Jr., Interim Chief Executive Officer, Equifax, Inc. (Nov. 20, 2017); Letter from Theodore M. Hester, Partner, King & Spalding LLP, to Chairman Lamar Smith, Committee on Science, Space, and Technology, and Chairman Jason Chaffetz, Committee on Oversight and Government Reform (Dec. 15, 2017); *After the Breach, Equifax Now Faces the Lawsuits*, Washington Post (Sept. 27, 2017) (online at [www.washingtonpost.com/news/business/wp/2017/09/22/after-the-breach-equifax-now-faces-the-lawsuits/?utm\\_term=.20f39dc92b44](http://www.washingtonpost.com/news/business/wp/2017/09/22/after-the-breach-equifax-now-faces-the-lawsuits/?utm_term=.20f39dc92b44)).

<sup>133</sup> Letter from Charles Kolo Rathburn, Performing the Duties of the Assistant Secretary for Legislative and Intergovernmental Affairs, Department of Commerce, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (June 6, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Letter%20from%20DOC%20to%20Chairman%20Cummings%20%5B6-6-2019%5D.pdf>).

<sup>134</sup> Letter from Stephen E. Boyd, Assistant Attorney General, Department of Justice, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (June 6, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Letter%20from%20DOJ%20to%20COR%2006-06-19.pdf>).

<sup>135</sup> Letter from Chairman Jason Chaffetz, et al., Committee on Oversight and Government Reform, to Huban Gowadia, Acting Administrator, Transportation Security Administration (May 2, 2017) (online at

Similarly, this Committee has never recognized the deliberative process privilege as a valid reason to withhold documents from Congress. The D.C. Circuit has held that the deliberative process privilege is “primarily a common law privilege.” The court distinguished this from the presidential communications privilege, which it held was “rooted in constitutional separation of powers principles and the President’s unique constitutional role.”<sup>136</sup>

Only one District Court Judge has ever held that deliberative process may be invoked in response to a Congressional subpoena, but that case involved facts inapposite to the Committee’s current investigation. In that case, *Committee on Oversight and Government Reform v. Holder*, Congress sought documents “generated in the course of the deliberative process concerning [DOJ’s] response to congressional oversight and related media inquiries.”<sup>137</sup> The documents covered by the Committee’s April 2, 2019, subpoenas, however, were all generated prior to the Committee’s investigation and do not raise any of the possible separation-of-powers concerns that appeared to animate that decision.

Moreover, even the District Court in *Holder* recognized that the deliberative process privilege is a “qualified privilege, and it can be overcome by a sufficient showing of need.” The Court also clarified: “This is a lower threshold to overcome than the privilege that covers Presidential communications.”<sup>138</sup>

Such a “lower threshold” would easily be overcome here. The Committee has an urgent need to investigate the addition of a citizenship question to the 2020 Census. The Census is constitutionally mandated to occur in 2020, and questionnaires must be printed months in advance. Congress is responsible for ensuring that the Census counts every person, and the House of Representatives has delegated its responsibility to oversee the Census to this Committee. The documents and information the Committee seeks are critical to its investigation and may shed light on the actual reason the Administration added the citizenship question and many other issues.

Moreover, the D.C. Circuit has held that the deliberative process privilege “disappears altogether when there is any reason to believe government misconduct occurred.”<sup>139</sup> That is certainly the case here, where the Committee’s investigation has raised serious questions about whether the Trump Administration had an unconstitutional motive—such as drawing legislative boundaries that were “advantageous” to “Non-Hispanic Whites”—when it added the citizenship question to the Census.

In addition, the Administration has selectively made public statements regarding the information it is withholding from this Committee. For example, DOJ recently stated that Mr.

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<https://republicans-oversight.house.gov/wp-content/uploads/2017/05/2017-05-02-JEC-EEC-to-Gowadia-TSA.pdf>).

<sup>136</sup> *In re Sealed Case*, 121 F.3d 729 (D.C. Cir. 1997).

<sup>137</sup> *Comm. on Oversight & Gov’t Reform v. Holder*, 979 F. Supp. 2d 1 (D.D.C. 2013).

<sup>138</sup> *Comm. on Oversight & Gov’t Reform v. Holder*, Civ. No. 12-1332 (ABJ), 2014 U.S. Dist. LEXIS 200278 (D.D.C. Aug. 20, 2014).

<sup>139</sup> *Id.*



Hofeller’s study “played no role in the Department’s December 2017 request to reinstate a citizenship question to the 2020 decennial census”—but it has refused to produce emails and drafts that would allow the Committee to examine whether that claim is true.<sup>140</sup> It would defy logic that the Administration could hide behind “deliberative process privilege” to deny Congress these documents while also making public representations about the same issue.

**C. The Department of Justice Must Comply with the Committee’s Deposition Subpoena**

DOJ has asserted that Attorney General Barr ordered Mr. Gore to defy the Committee’s deposition subpoena because DOJ lawyers were prohibited from participating under longstanding Committee rules. The Department claimed that these rules lack a “legitimate legislative purpose” and “unconstitutionally infringe upon the prerogatives of the Executive Branch.” Both claims are false.

Committee Rule 15, which governs depositions, was adopted unanimously on January 29, 2019. Rule 15(e) states:

Witnesses may be accompanied at a deposition by counsel to advise them of their rights. No one may be present at depositions except members, Committee staff designated by the Chair of the Committee or the Ranking Minority Member of the Committee, an official reporter, the witness, and the witness’s counsel. ***Observers or counsel for other persons, or for agencies under investigation, may not attend.***<sup>141</sup>

The purpose of this rule is straightforward: it ensures that the Committee is able to depose witnesses in furtherance of its investigations without having in the room representatives of the agency under investigation. There are many circumstances when an agency counsel’s presence at a deposition could hinder the Committee’s investigation, such as situations when the witness may be disclosing misconduct at the agency, the witness is concerned about possible retaliation, or agency counsel may inappropriately interfere with witness testimony. The rule nevertheless protects the rights of witnesses by allowing them to be accompanied by personal counsel. In fact, Mr. Gore is represented by private counsel in this matter.

The constitutional basis for this rule is clear. The Committee’s rules are adopted pursuant to Congress’ constitutional authority to “determine the Rules of its Proceedings.”<sup>142</sup> The rule in question has been in place for more than a decade under multiple Democratic and Republican Chairmen.<sup>143</sup> During that time, the Committee has conducted multiple depositions

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<sup>140</sup> *Lawyers: Docs Show Census Changed to Give Republicans Edge*, New York Times (May 30, 2019) (online at [www.nytimes.com/aponline/2019/05/30/us/ap-us-census-citizenship-question-lawsuit.html](http://www.nytimes.com/aponline/2019/05/30/us/ap-us-census-citizenship-question-lawsuit.html)).

<sup>141</sup> Rules of the Committee on Oversight and Reform for the 116th Congress (emphasis added) (online at [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/CO R %20Rules%20-%20passed. pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/CO%20R%20Rules%20-%20passed.pdf)).

<sup>142</sup> U.S. Const., Art. I, sec. 5, cl. 2.

<sup>143</sup> See Committee on Oversight and Government Reform, Rule 15(e), 115th Congress (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/OGR-Cmte-Rules-115-FINAL.pdf>); Committee on Oversight and Government Reform, Rule 15(d), 114th Congress (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/OGR%20Rules%20114th%20.pdf>)

with federal officials without agency counsel present, including during the current Administration.

For example, in September 2018, under Republican Chairman Trey Gowdy, the Committee conducted a deposition of Principal Deputy General Counsel of the Department of Homeland Security, Joseph Maher. Mr. Maher's personal counsel attended, but agency counsel did not.<sup>144</sup> Similarly, in 2007, under Chairman Henry Waxman, the Committee conducted depositions of White House employees Sara Taylor, Matt Schlapp, and Mindy McLaughlin. Personal counsel attended each deposition, but the White House Counsel's Office did not.<sup>145</sup>

Moreover, the Department has had ample opportunity to protect its interests in connection with Mr. Gore's deposition. The Department is well aware of the scope of the deposition based on the issues raised at Mr. Gore's March 7, 2019, transcribed interview and the list of 18 key questions provided by Committee staff following that interview. To the extent the Department believes that an issue that would be raised at the deposition may implicate a valid privilege, the Department may assert that privilege with the Committee. The Committee also offered to make available a separate room in the Committee's offices for Department counsel during the deposition. Mr. Gore or his counsel would be permitted to request a break during the deposition to consult with Department counsel. DOJ did not accept this accommodation.

## VI. HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress, the Committee's March 14, 2019, hearing entitled, "Hearing with Commerce Secretary Wilbur L. Ross, Jr.," was used to develop this Report.<sup>146</sup> That hearing focused on issues related to the 2020 Census, and in particular on the decision by the Trump Administration to add a citizenship question.

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; Committee on Oversight and Government Reform, Rule 15(d), 113th Congress (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/OGR%20Committee-Rules-113th-Congress.pdf>); Committee on Oversight and Government Reform, Rule 15(d), 112th Congress (online at [https://web.archive.org/web/20110604181945/http://oversight.house.gov/images/stories/Other\\_Documents/ogr%20committee%20rules%20resolution.pdf](https://web.archive.org/web/20110604181945/http://oversight.house.gov/images/stories/Other_Documents/ogr%20committee%20rules%20resolution.pdf)); Committee on Oversight and Government Reform, Rule 22, 111th Congress (online at <https://web.archive.org/web/20090625011541/http://oversight.house.gov/rules/>); Committee on Oversight and Government Reform, Rule 22 (110th Congress) (online at <https://web.archive.org/web/20071226191125/http://oversight.house.gov/rules/>). The Committee had previously adopted the same rule in 1998, when the Committee was granted deposition authority as part of its investigation into fundraising issues in the Clinton Administration. See Committee on Government Reform Rule 20, 105th Congress (online at [www.govinfo.gov/content/pkg/CPRT-105HPRT49381/pdf/CPRT-105HPRT49381.pdf](http://www.govinfo.gov/content/pkg/CPRT-105HPRT49381/pdf/CPRT-105HPRT49381.pdf)).

<sup>144</sup> Committee on Oversight and Government Reform, Deposition of Joseph B. Maher, Principal Deputy General Counsel, Department of Homeland Security (Sept. 25, 2018).

<sup>145</sup> Committee on Oversight and Government Reform, Deposition of Sara Taylor (Apr. 3, 2008); Committee on Oversight and Government Reform, Deposition of Matt Schlapp (Aug. 27, 2007); Committee on Oversight and Government Reform, Deposition of Mindy McLaughlin (Apr. 3, 2008).

<sup>146</sup> Committee on Oversight and Reform, *Hearing with Commerce Secretary Wilbur L. Ross, Jr.*, 116th Cong. (Mar. 14, 2019) (online at <https://oversight.house.gov/legislation/hearings/commerce-secretary-wilbur-l-ross-jr>).

The Subcommittee on Civil Rights and Civil Liberties held a related hearing entitled, “Getting Counted: The Importance of the Census to State and Local Communities” on May 28, 2019. Witnesses included Dr. Gail Mellow, President, LaGuardia Community College; Julie Menin, Census Director, City of New York; Joseph Salvo, Chief Demographer, Population Division, NYC Department of City Planning; Melva Miller, Executive Vice President, Association for a Better New York; Steven Choi, Executive Director at New York Immigration Coalition, Marc Morial, President and CEO, National Urban League; Greta Byrum, Co-Director, New School Digital Equity Laboratory; Elizabeth OuYang, Community Advocate; Jorge Luis Vasquez, Jr., Associate Counsel, LatinoJustice PRLDF; Lurie Daniel Favors, General Counsel, Center for Law & Social Justice; and Kazi Fouzia, Desis Rising Up and Moving.

## **VII. COMMITTEE CONSIDERATION**

On June 12, 2019, the Committee met in open session and ordered the Report favorably reported to the House, with an amendment, by roll call vote of 24 to 15, a quorum being present.

## **VIII. COMMITTEE VOTES**

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee’s consideration of the Report:

**COMMITTEE ON OVERSIGHT AND REFORM**

116TH CONGRESS

RATIO 24-18

**ROLL CALL**

Date: 6-12-2019

VOTE #: 1

Vote on: Final Passage - REP.MEADOWS MOTION TO APPEAL THE RULING OF THE CHAIR REGARDING MEADOWS POINT OF ORDER MOTION OF COMMITTEE RULE 2(F)

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. CUMMINGS (MD)		X		MR. JORDAN (OH)	X		
MS. MALONEY (NY)		X		MR. AMASH (MI)	X		
MS. NORTON (DC)		X		MR. GOSAR (AZ)			
MR. CLAY (MO)				MS. FOXX (NC)	X		
MR. LYNCH (MA)		X		MR. MASSIE (KY)	X		
MR. COOPER (TN)		X		MR. MEADOWS (NC)	X		
MR. CONNOLLY (VA)		X		MR. HICE (GA)	X		
MR. KRISHNAMOORTHY (IL)		X		MR. GROTHMAN (WI)	X		
MR. RASKIN (MD)		X		MR. COMER (KY)	X		
MR. ROUDA (CA)		X		MR. CLOUD (TX)			
MS. HILL (CA)		X		MR. GIBBS (OH)	X		
MS. WASSERMAN SCHULTZ (FL)		X		MR. HIGGINS (LA)	X		
MR. SARBANES (MD)		X		MR. NORMAN (SC)	X		
MR. WELCH (VT)				MR. ROY (TX)	X		
MS. SPEIER (CA)				MS. MILLER (WV)	X		
MS. KELLY (IL)		X		MR. GREEN (TN)			
MR. DeSAULNIER (CA)		X		MR. ARMSTRONG (ND)	X		
MS. LAWRENCE (MI)		X		MR. STEUBE (FL)	X		
MS. PLASKETT (VI)							
MR. KHANNA (CA)		X					
MR. GOMEZ (CA)		X					
MS. OCASIO-CORTEZ (NY)		X					
MS. PRESSLEY (MA)		X					
MS. TLAIB (MI)		X					

Roll Call Totals:

Ayes: 15

Nays: 20

Present:

Passed: \_\_\_\_\_

Failed: X

**COMMITTEE ON OVERSIGHT AND REFORM**

116TH CONGRESS

RATIO 24-18

**ROLL CALL**

Date: 6-12-2019

VOTE #: 2

Vote on: Final Passage - REP. HICE AMENDMENT TO THE REP. CUMMINGS AMENDMENT IN THE NATURE OF A SUBSTITUTE TO THE COMMITTEE RESOLUTION & REPORT

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. CUMMINGS (MD)		X		MR. JORDAN (OH)	X		
MS. MALONEY (NY)		X		MR. AMASH (MI)		X	
MS. NORTON (DC)		X		MR. GOSAR (AZ)	X		
MR. CLAY (MO)		X		MS. FOXX (NC)	X		
MR. LYNCH (MA)		X		MR. MASSIE (KY)	X		
MR. COOPER (TN)		X		MR. MEADOWS (NC)	X		
MR. CONNOLLY (VA)		X		MR. HICE (GA)	X		
MR. KRISHNAMOORTHY (IL)		X		MR. GROTHMAN (WI)	X		
MR. RASKIN (MD)		X		MR. COMER (KY)	X		
MR. ROUDA (CA)		X		MR. CLOUD (TX)	X		
MS. HILL (CA)		X		MR. GIBBS (OH)	X		
MS. WASSERMAN SCHULTZ (FL)		X		MR. HIGGINS (LA)	X		
MR. SARBANES (MD)		X		MR. NORMAN (SC)	X		
MR. WELCH (VT)		X		MR. ROY (TX)			
MS. SPEIER (CA)		X		MS. MILLER (WV)	X		
MS. KELLY (IL)		X		MR. GREEN (TN)			
MR. DeSAULNIER (CA)				MR. ARMSTRONG (ND)	X		
MS. LAWRENCE (MI)		X		MR. STEUBE (FL)	X		
MS. PLASKETT (VI)		X					
MR. KHANNA (CA)		X					
MR. GOMEZ (CA)		X					
MS. OCASIO-CORTEZ (NY)		X					
MS. PRESSLEY (MA)		X					
MS. TLAIB (MI)		X					

Roll Call Totals:

Ayes: 15

Nays: 24

Present:

Passed: \_\_\_\_\_

Failed: X

**COMMITTEE ON OVERSIGHT AND REFORM**

116TH CONGRESS

RATIO 24-18

**ROLL CALL**

Date: 6-12-2019

VOTE #: 3

Vote on: Final Passage - REP. HIGGINS AMENDMENT TO THE REP. CUMMINGS AMENDMENT IN THE NATURE OF A SUBSTITUTE TO THE COMMITTEE RESOLUTION & REPORT

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. CUMMINGS (MD)		X		MR. JORDAN (OH)	X		
MS. MALONEY (NY)		X		MR. AMASH (MI)		X	
MS. NORTON (DC)		X		MR. GOSAR (AZ)	X		
MR. CLAY (MO)		X		MS. FOXX (NC)	X		
MR. LYNCH (MA)		X		MR. MASSIE (KY)	X		
MR. COOPER (TN)		X		MR. MEADOWS (NC)	X		
MR. CONNOLLY (VA)		X		MR. HICE (GA)	X		
MR. KRISHNAMOORTHY (IL)		X		MR. GROTHMAN (WI)	X		
MR. RASKIN (MD)		X		MR. COMER (KY)	X		
MR. ROUDA (CA)		X		MR. CLOUD (TX)	X		
MS. HILL (CA)		X		MR. GIBBS (OH)	X		
MS. WASSERMAN SCHULTZ (FL)		X		MR. HIGGINS (LA)	X		
MR. SARBANES (MD)		X		MR. NORMAN (SC)	X		
MR. WELCH (VT)		X		MR. ROY (TX)			
MS. SPEIER (CA)		X		MS. MILLER (WV)	X		
MS. KELLY (IL)		X		MR. GREEN (TN)			
MR. DeSAULNIER (CA)				MR. ARMSTRONG (ND)	X		
MS. LAWRENCE (MI)		X		MR. STEUBE (FL)	X		
MS. PLASKETT (VI)		X					
MR. KHANNA (CA)		X					
MR. GOMEZ (CA)		X					
MS. OCASIO-CORTEZ (NY)		X					
MS. PRESSLEY (MA)		X					
MS. TLAIB (MI)		X					

Roll Call Totals:

Ayes: 15

Nays: 24

Present:

Passed: \_\_\_\_\_

Failed: X

**COMMITTEE ON OVERSIGHT AND REFORM**

116TH CONGRESS

RATIO 24-18

**ROLL CALL**

Date: 6-12-2019

VOTE #: 4

Vote on: Final Passage - REP. NORMAN AMENDMENT TO THE REP. CUMMINGS AMENDMENT IN THE NATURE OF A SUBSTITUTE TO THE COMMITTEE RESOLUTION & REPORT

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. CUMMINGS (MD)		X		MR. JORDAN (OH)	X		
MS. MALONEY (NY)		X		MR. AMASH (MI)	X		
MS. NORTON (DC)		X		MR. GOSAR (AZ)	X		
MR. CLAY (MO)		X		MS. FOXX (NC)	X		
MR. LYNCH (MA)		X		MR. MASSIE (KY)	X		
MR. COOPER (TN)		X		MR. MEADOWS (NC)	X		
MR. CONNOLLY (VA)		X		MR. HICE (GA)	X		
MR. KRISHNAMOORTHY (IL)		X		MR. GROTHMAN (WI)	X		
MR. RASKIN (MD)		X		MR. COMER (KY)	X		
MR. ROUDA (CA)		X		MR. CLOUD (TX)	X		
MS. HILL (CA)		X		MR. GIBBS (OH)	X		
MS. WASSERMAN SCHULTZ (FL)		X		MR. HIGGINS (LA)	X		
MR. SARBANES (MD)		X		MR. NORMAN (SC)	X		
MR. WELCH (VT)		X		MR. ROY (TX)			
MS. SPEIER (CA)		X		MS. MILLER (WV)	X		
MS. KELLY (IL)		X		MR. GREEN (TN)			
MR. DeSAULNIER (CA)				MR. ARMSTRONG (ND)	X		
MS. LAWRENCE (MI)		X		MR. STEUBE (FL)	X		
MS. PLASKETT (VI)		X					
MR. KHANNA (CA)		X					
MR. GOMEZ (CA)		X					
MS. OCASIO-CORTEZ (NY)		X					
MS. PRESSLEY (MA)		X					
MS. TLAIB (MI)		X					

Roll Call Totals:

Ayes: 16

Nays: 23

Present:

Passed: \_\_\_\_\_

Failed: X

**COMMITTEE ON OVERSIGHT AND REFORM**

116TH CONGRESS

RATIO 24-18

**ROLL CALL**

Date: 6-12-2019

VOTE #: 5

Vote on: Final Passage - REP. CUMMINGS AMENDMENT TO THE REP. CUMMINGS AMENDMENT IN THE NATURE OF A SUBSTITUTE TO THE COMMITTEE RESOLUTION & REPORT

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. CUMMINGS (MD)	X			MR. JORDAN (OH)		X	
MS. MALONEY (NY)	X			MR. AMASH (MI)	X		
MS. NORTON (DC)	X			MR. GOSAR (AZ)		X	
MR. CLAY (MO)	X			MS. FOXX (NC)		X	
MR. LYNCH (MA)	X			MR. MASSIE (KY)		X	
MR. COOPER (TN)	X			MR. MEADOWS (NC)		X	
MR. CONNOLLY (VA)	X			MR. HICE (GA)		X	
MR. KRISHNAMOORTHY (IL)	X			MR. GROTHMAN (WI)		X	
MR. RASKIN (MD)	X			MR. COMER (KY)		X	
MR. ROUDA (CA)	X			MR. CLOUD (TX)		X	
MS. HILL (CA)	X			MR. GIBBS (OH)		X	
MS. WASSERMAN SCHULTZ (FL)	X			MR. HIGGINS (LA)		X	
MR. SARBANES (MD)	X			MR. NORMAN (SC)		X	
MR. WELCH (VT)	X			MR. ROY (TX)			
MS. SPEIER (CA)	X			MS. MILLER (WV)		X	
MS. KELLY (IL)	X			MR. GREEN (TN)			
MR. DeSAULNIER (CA)				MR. ARMSTRONG (ND)		X	
MS. LAWRENCE (MI)	X			MR. STEUBE (FL)		X	
MS. PLASKETT (VI)	X						
MR. KHANNA (CA)	X						
MR. GOMEZ (CA)	X						
MS. OCASIO-CORTEZ (NY)	X						
MS. PRESSLEY (MA)	X						
MS. TLAIB (MI)	X						

Roll Call Totals:

Ayes: 24

Nays: 15

Present:

Passed: X

Failed:



**COMMITTEE ON OVERSIGHT AND REFORM**

116TH CONGRESS

RATIO 24-18

**ROLL CALL**

Date: 6-12-2019

VOTE #: 6

Vote on: Final Passage - REP. MEADOWS AMENDMENT TO THE REP. CUMMINGS AMENDMENT IN THE NATURE OF A SUBSTITUTE TO THE COMMITTEE RESOLUTION & REPORT

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. CUMMINGS (MD)		X		MR. JORDAN (OH)	X		
MS. MALONEY (NY)		X		MR. AMASH (MI)		X	
MS. NORTON (DC)		X		MR. GOSAR (AZ)	X		
MR. CLAY (MO)		X		MS. FOXX (NC)	X		
MR. LYNCH (MA)		X		MR. MASSIE (KY)	X		
MR. COOPER (TN)		X		MR. MEADOWS (NC)	X		
MR. CONNOLLY (VA)		X		MR. HICE (GA)	X		
MR. KRISHNAMOORTHY (IL)		X		MR. GROTHMAN (WI)	X		
MR. RASKIN (MD)		X		MR. COMER (KY)	X		
MR. ROUDA (CA)		X		MR. CLOUD (TX)	X		
MS. HILL (CA)		X		MR. GIBBS (OH)	X		
MS. WASSERMAN SCHULTZ (FL)		X		MR. HIGGINS (LA)	X		
MR. SARBANES (MD)		X		MR. NORMAN (SC)	X		
MR. WELCH (VT)		X		MR. ROY (TX)			
MS. SPEIER (CA)		X		MS. MILLER (WV)	X		
MS. KELLY (IL)		X		MR. GREEN (TN)			
MR. DeSAULNIER (CA)				MR. ARMSTRONG (ND)	X		
MS. LAWRENCE (MI)		X		MR. STEUBE (FL)	X		
MS. PLASKETT (VI)		X					
MR. KHANNA (CA)		X					
MR. GOMEZ (CA)		X					
MS. OCASIO-CORTEZ (NY)		X					
MS. PRESSLEY (MA)		X					
MS. TLAIB (MI)		X					

Roll Call Totals:

Ayes: 15

Nays: 24

Present:

Passed: \_\_\_\_\_

Failed: X

**COMMITTEE ON OVERSIGHT AND REFORM**

116TH CONGRESS

RATIO 24-18

**ROLL CALL**

Date: 6-12-2019

VOTE #: 7

Vote on: Final Passage - REP. GIBBS AMENDMENT TO THE REP. CUMMINGS AMENDMENT IN THE NATURE OF A SUBSTITUTE TO THE COMMITTEE RESOLUTION & REPORT

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. CUMMINGS (MD)		X		MR. JORDAN (OH)	X		
MS. MALONEY (NY)		X		MR. AMASH (MI)		X	
MS. NORTON (DC)		X		MR. GOSAR (AZ)	X		
MR. CLAY (MO)		X		MS. FOXX (NC)	X		
MR. LYNCH (MA)		X		MR. MASSIE (KY)	X		
MR. COOPER (TN)		X		MR. MEADOWS (NC)	X		
MR. CONNOLLY (VA)		X		MR. HICE (GA)	X		
MR. KRISHNAMOORTHY (IL)		X		MR. GROTHMAN (WI)	X		
MR. RASKIN (MD)		X		MR. COMER (KY)	X		
MR. ROUDA (CA)		X		MR. CLOUD (TX)	X		
MS. HILL (CA)		X		MR. GIBBS (OH)	X		
MS. WASSERMAN SCHULTZ (FL)		X		MR. HIGGINS (LA)	X		
MR. SARBANES (MD)		X		MR. NORMAN (SC)	X		
MR. WELCH (VT)		X		MR. ROY (TX)			
MS. SPEIER (CA)		X		MS. MILLER (WV)	X		
MS. KELLY (IL)		X		MR. GREEN (TN)			
MR. DeSAULNIER (CA)				MR. ARMSTRONG (ND)	X		
MS. LAWRENCE (MI)		X		MR. STEUBE (FL)	X		
MS. PLASKETT (VI)		X					
MR. KHANNA (CA)		X					
MR. GOMEZ (CA)		X					
MS. OCASIO-CORTEZ (NY)		X					
MS. PRESSLEY (MA)		X					
MS. TLAIB (MI)		X					

Roll Call Totals:

Ayes: 15

Nays: 24

Present:

Passed: \_\_\_\_\_

Failed: X

**COMMITTEE ON OVERSIGHT AND REFORM**

116TH CONGRESS

RATIO 24-18

**ROLL CALL**

Date: 6-12-2019

VOTE #: 8

Vote on: Final Passage - REP. COMER AMENDMENT TO THE REP. CUMMINGS AMENDMENT IN THE NATURE OF A SUBSTITUTE TO THE COMMITTEE RESOLUTION & REPORT

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. CUMMINGS (MD)		X		MR. JORDAN (OH)	X		
MS. MALONEY (NY)		X		MR. AMASH (MI)		X	
MS. NORTON (DC)		X		MR. GOSAR (AZ)	X		
MR. CLAY (MO)		X		MS. FOXX (NC)	X		
MR. LYNCH (MA)		X		MR. MASSIE (KY)	X		
MR. COOPER (TN)		X		MR. MEADOWS (NC)	X		
MR. CONNOLLY (VA)		X		MR. HICE (GA)	X		
MR. KRISHNAMOORTHY (IL)		X		MR. GROTHMAN (WI)	X		
MR. RASKIN (MD)		X		MR. COMER (KY)	X		
MR. ROUDA (CA)		X		MR. CLOUD (TX)	X		
MS. HILL (CA)		X		MR. GIBBS (OH)	X		
MS. WASSERMAN SCHULTZ (FL)		X		MR. HIGGINS (LA)	X		
MR. SARBANES (MD)		X		MR. NORMAN (SC)	X		
MR. WELCH (VT)		X		MR. ROY (TX)			
MS. SPEIER (CA)		X		MS. MILLER (WV)	X		
MS. KELLY (IL)		X		MR. GREEN (TN)			
MR. DeSAULNIER (CA)				MR. ARMSTRONG (ND)	X		
MS. LAWRENCE (MI)		X		MR. STEUBE (FL)	X		
MS. PLASKETT (VI)		X					
MR. KHANNA (CA)		X					
MR. GOMEZ (CA)		X					
MS. OCASIO-CORTEZ (NY)		X					
MS. PRESSLEY (MA)		X					
MS. TLAIB (MI)		X					

Roll Call Totals:

Ayes: 15

Nays: 24

Present:

Passed: \_\_\_\_\_

Failed: X

**COMMITTEE ON OVERSIGHT AND REFORM**

116TH CONGRESS

RATIO 24-18

**ROLL CALL**

Date: 6-12-2019

VOTE #: 9

Vote on: Final Passage - RESOLUTION RECOMMENDING THAT THE HOUSE OF REPRESENTATIVES FIND WILLIAM P. BARR, ATTORNEY GENERAL OF THE UNITED STATES, AND WILBUR L. ROSS, JR., SECRETARY OF COMMERCE, IN CONTEMPT OF CONGRESS FOR REFUSAL TO COMPLY WITH SUBPOENAS DULY ISSUED BY THE COMMITTEE ON OVERSIGHT AND REFORM & REPORT, AS AMENDED

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. CUMMINGS (MD)	X			MR. JORDAN (OH)		X	
MS. MALONEY (NY)	X			MR. AMASH (MI)	X		
MS. NORTON (DC)	X			MR. GOSAR (AZ)		X	
MR. CLAY (MO)	X			MS. FOXX (NC)		X	
MR. LYNCH (MA)	X			MR. MASSIE (KY)		X	
MR. COOPER (TN)	X			MR. MEADOWS (NC)		X	
MR. CONNOLLY (VA)	X			MR. HICE (GA)		X	
MR. KRISHNAMOORTHY (IL)	X			MR. GROTHMAN (WI)		X	
MR. RASKIN (MD)	X			MR. COMER (KY)		X	
MR. ROUDA (CA)	X			MR. CLOUD (TX)		X	
MS. HILL (CA)	X			MR. GIBBS (OH)		X	
MS. WASSERMAN SCHULTZ (FL)	X			MR. HIGGINS (LA)		X	
MR. SARBANES (MD)	X			MR. NORMAN (SC)		X	
MR. WELCH (VT)	X			MR. ROY (TX)			
MS. SPEIER (CA)	X			MS. MILLER (WV)		X	
MS. KELLY (IL)	X			MR. GREEN (TN)			
MR. DeSAULNIER (CA)				MR. ARMSTRONG (ND)		X	
MS. LAWRENCE (MI)	X			MR. STEUBE (FL)		X	
MS. PLASKETT (VI)	X						
MR. KHANNA (CA)	X						
MR. GOMEZ (CA)	X						
MS. OCASIO-CORTEZ (NY)	X						
MS. PRESSLEY (MA)	X						
MS. TLAIB (MI)	X						

Roll Call Totals: Ayes: 24 Nays: 15 Present:

Passed:  X

Failed: \_\_\_\_\_

## **IX. COMMITTEE OVERSIGHT FINDINGS**

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this Report.

## **X. NEW BUDGET AUTHORITY AND TAX EXPENDITURES AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE**

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this Report from the Director of the Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this Report contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

## **XI. DUPLICATION OF FEDERAL PROGRAMS**

No provision of the Report establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## **XII. PERFORMANCE GOALS AND OBJECTIVES**

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the purpose of the Report is to enforce the Committee's authority to subpoena and obtain documents and testimony related to the Trump Administration's addition of a citizenship question to the 2020 Census.

## **XIII. ADVISORY ON EARMARKS**

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, the Report does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

## APPENDIX A

### DOCUMENTS REQUIRED BY APRIL 2, 2019, SUBPOENA TO SECRETARY OF COMMERCE WILBUR L. ROSS, JR.

1. Unredacted copies of the following documents, including all emails in each email chain, and all attachments:
  - a. Memorandum and note from James Uthmeier to John Gore in Fall 2017;
  - b. May 2, 2017, email from Earl Comstock to Wilbur Ross, cc: Ellen Herbst, subject: "Re: Census;"
  - c. May 2, 2017, email from Wilbur Ross to Wendy Teramoto, subject: "Re: Census;"
  - d. August 8, 2017, 7:44:29 p.m., email from Wilbur Ross to Earl Comstock, subject: "Re: [redacted];"
  - e. August 10, 2017, email from Wilbur Ross to Earl Comstock, subject: "Re: Census Matter;"
  - f. August 11, 2017, email from Earl Comstock to Wilbur Ross, cc: Wendy Teramoto, subject: "Memo on Census Question" (with attachment: "Census Memo Draft2 Aug 11 2017.docx");
  - g. September 1, 2017, email from Wilbur Ross to Earl Comstock, cc: Wendy Teramoto, subject: "Re: [redacted];"
  - h. September 1, 2017, email from Earl Comstock to Wilbur Ross, cc: Wendy Teramoto, subject: "Re: ITA Request for [redacted];"
  - i. September 7, 2017, email from James Uthmeier to Earl Comstock, cc: Peter Davidson, subject: "RE: Census Matter Follow-Up;"
  - j. December 20, 2017, email from John Zadrozny to James Uthmeier, subject: "RE: Census Question Request;" and
  - k. February 26, 2018, email from James Uthmeier to Michael Walsh, subject: "Re: Memos."
2. All communications from January 20, 2017, through December 12, 2017, between or among officials from the Department of Commerce, the Census Bureau, and any other office or entity inside or outside of the government regarding the addition of a citizenship question.

## **APPENDIX B**

### **DOCUMENTS REQUIRED BY APRIL 2, 2019, SUBPOENA TO ATTORNEY GENERAL WILLIAM P. BARR**

1. Memorandum and note from James Uthmeier to John Gore in Fall 2017.
2. All documents and communications from January 20, 2017, through December 12, 2017, within the Department of Justice and with outside entities regarding the request to add a citizenship question to the census, including but not limited to the White House, the Commerce Department, the Republican National Committee, the Trump Campaign, or Members of Congress.

## MINORITY VIEWS

### Report of the Committee on Oversight and Reform

#### **Resolution Recommending that the House of Representatives Find William P. Barr, Attorney General of the United States, and Wilbur L. Ross, Jr., Secretary of Commerce, in Contempt of Congress for Refusal to Comply with a Subpoena Duly Issued by the Committee on Oversight and Reform**

June 17, 2019

On June 12, 2019, the Committee adopted a resolution and report concluding that Attorney General William P. Barr and Secretary of Commerce Wilbur L. Ross, Jr., should be held in contempt of Congress over documents relating to the reinstatement of a citizenship question on the 2020 decennial census (“contempt citation”). Chairman Elijah E. Cummings issued subpoenas to Attorney General Barr and Secretary Ross for documents on April 2, 2019.

The contempt citation was premature, unnecessary, and designed to advance a partisan goal of influencing ongoing litigation presently before the Supreme Court of the United States. Both the Department of Justice and the Department of Commerce have cooperated extensively with Chairman Cummings’s investigation into the Trump Administration’s decision to reinstate a citizenship question on the census. The Administration has produced over 31,000 pages of documents in response to Committee requests. Secretary Ross voluntarily testified for over six hours in a public hearing, and the Administration has made four witnesses available for day-long transcribed interviews.

These views provide important—and missing—context to the contempt citation as adopted by the Committee. A question soliciting citizenship information appeared on the census in one form or another from 1820 to 2000 and has been asked annually on the Census Bureau’s American Community Survey since 2005. Other nations request citizenship information as part of their population surveys, which the United Nations recommends as a best practice. Information solicited as a part of the census is protected from dissemination by federal law.

In the face of these facts, the contempt citation spins baseless conspiracy theories and cherry-picks information to create false narratives about the Administration’s decision to reinstate the citizenship question. The contempt citation is the culmination of the Committee’s effort to use its oversight authority to influence the Supreme Court—first by gathering information the “courts can use”<sup>1</sup> and then by picking a public fight with the Administration to generate controversy around the issue. Meanwhile, the Committee has eschewed and abandoned its legislative function in this area, and instead chosen the path of publicity. By not considering any legislative proposals aimed at the propriety of the citizenship question, the Committee is misusing its oversight authority.

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<sup>1</sup> Hansi Lo Wang, *Commerce Secretary To Face Lawmakers In Hearing On Census Citizenship Question*, NAT’L PUB. RADIO (Mar. 14, 2019), <https://www.npr.org/2019/03/14/702185342/commerce-secretary-to-face-lawmakers-in-hearing-on-census-citizenship-question>.



These views seek to address the contempt citation’s shortcomings and inaccuracies. To provide as much context as possible, the views also hereby incorporate and attach a 72-page staff report and a 386-page staff report issued by Ranking Member Jim Jordan.

**I. The contempt citation is premature because Chairman Cummings’s investigation is active and ongoing**

The Committee’s action in approving the contempt citation was premature. The Committee’s fact-finding is active and ongoing. Because the Committee could obtain the information it seeks in future investigative steps, the Committee has not exhausted all avenues to obtaining the information such that contempt is appropriate at this time.

Upon assuming the chairmanship of the Committee in January 2019, Chairman Cummings formally initiated an inquiry into Secretary Ross’s decision to reinstitute a citizenship question on the 2020 census, requesting documents from both the Department of Commerce (DOC) and the Department of Justice (DOJ).<sup>148</sup> Since then, both the DOC and DOJ have cooperated with the Chairman’s investigation (Table 1). The DOC and DOJ have produced over 31,000 responsive documents—14,000 from DOC and 17,000 from DOJ (Table 2). In addition, the Committee has received testimony from Secretary Ross, three senior current and former DOC and DOJ officials, and the former Kansas Secretary of State. At the time of the Committee’s action, it had scheduled two transcribed interviews with senior DOC officials.

**TABLE 1 - TIMELINE: CITIZENSHIP INVESTIGATION**

<b>December 12, 2017</b>	DOJ sent a letter to the Census Bureau requesting reinstatement of a citizenship question on the 2020 census to better enforce Section 2 of the Voting Rights Act.
<b>March 26, 2018</b>	Secretary Ross announced his decision to reinstate a citizenship question on the 2020 census.
<b>March 29, 2018</b>	Secretary Ross formally submitted the 2020 census questions to Congress as required by law.
<b>May 8 and 18, 2018</b>	Chairman Gowdy held a hearing with senior officials from DOC and DOJ to discuss census oversight, including the citizenship question. At the hearing, the Administration committed to producing the administrative record to the Committee when it was produced to the court in the New York case.
<b>June 8, 2018</b>	DOC produced documents responsive to Chairman Gowdy’s request.
<b>July 3, 2018</b>	DOC produced additional documents responsive to Chairman Gowdy’s request.
<b>January 8, 2019</b>	Chairman Cummings requested documents from the Department of Commerce regarding the decision to reinstitute the citizenship question.

<sup>148</sup> Letter from Rep. Elijah Cummings, Chairman, H. Comm. on Oversight & Reform, to Hon. Wilbur Ross, Sec’y, Dep’t of Commerce (Jan. 8, 2019). Although Chairman Cummings previously sought some information about the 2020 census as Ranking Member, this request was his first following his selection as chairman and the Committee’s organizing meeting.

<b>TABLE 1 - TIMELINE: CITIZENSHIP INVESTIGATION</b>	
<b>March 7, 2019</b>	The Committee conducted a transcribed interview with Principal Deputy Assistant Attorney General John Gore.
<b>March 14, 2019</b>	The Committee held a day-long hearing with Secretary Ross.
<b>April 2, 2019</b>	Chairman Cummings issued subpoenas to the DOC and DOJ. The Chairman also subpoenaed Mr. Gore for a deposition.
<b>May 7, 2019</b>	Chairman Cummings sent letters requesting transcribed interviews with Earl Comstock, Peter Davidson and James Uthmeier from the Department of Commerce.
<b>May 8, 2019</b>	Chairman Cummings sent a letter to Secretary Wilbur Ross requesting a meeting to discuss the Committee's citizenship question investigation.
<b>May 30, 2019</b>	The Committee held a transcribed interview with Gene Hamilton, Counselor to the Attorney General.
<b>June 3, 2019</b>	Committee held a transcribed interview with Kris Kobach, former Kansas Secretary of State.
<b>June 3, 2019</b>	Chairman Cummings sent letters to Attorney General Barr and Secretary Ross threatening to hold them in contempt of Congress.
<b>June 11, 2019</b>	The Committee held a transcribed interview with James Uthmeier, former Senior Counsel, Department of Commerce Office of General Counsel.
<b>June 13, 2019</b>	The Committee approved a resolution and report concluding that Attorney General Barr and Secretary Ross should be held in contempt of Congress.
<b>June 18, 2019</b>	Scheduled transcribed interview with Peter Davidson, General Counsel, Department of Commerce.
<b>June 21, 2019</b>	Scheduled transcribed interview with Earl Comstock, Deputy Chief of Staff and Director of Policy, Department of Commerce.

<b>TABLE 2 - CITIZENSHIP QUESTION INVESTIGATION: DOCUMENT PRODUCTION SCHEDULE</b>	
<b>Total Number of Documents Produced: 31,000 pages<sup>149</sup></b>	
<i>Department of Commerce</i>	<i>Department of Justice</i>
(14,000 pages)	(17,000 pages)
June 8, 2018	February 25, 2019
July 3, 2019	March 15, 2019
January 29, 2019	March 29, 2019
February 19, 2019	April 11, 2019
March 5, 2019	April 16, 2019
March 15, 2019	April 26, 2019
March 19, 2019	May 10, 2019
March 28, 2019	May 24, 2019
April 25, 2019	
June 3, 2019	

<sup>149</sup> Total pages of documents produced as of June 7, 2019.

If not for Chairman Cummings’s decision to abruptly cease the constitutionally mandated accommodation process and proceed to contempt of Congress for two cabinet officials, there is no reason to believe that the DOC and DOJ would not continue to cooperate with the Committee’s investigation.

## **II. The contempt citation is unnecessary because the Supreme Court will decide the merits of the citizenship question soon**

The Committee’s contempt citation was an unnecessary act of political theater. The Supreme Court will issue its decision in *Department of Commerce v. New York* in a matter of weeks, settling any controversy around the reinstatement of the citizenship question on the 2020 census. The Court’s decision will have a direct effect on the Committee’s investigation. Accordingly, a prudent and responsible exercise of the Committee’s contempt authority would dictate waiting for the Court’s decision.

On April 23, 2019, the Supreme Court heard oral argument in *Department of Commerce* to review the lower court’s decision as well as a constitutional challenge to the Enumeration Clause of the Constitution, Article I, Section 2, Clause 3.<sup>150</sup> The Supreme Court is expected to issue its decision sometime in June 2019. Both the DOJ and DOC have explained to the Committee that producing some privileged documents at this time would harm litigation interests of the United States.<sup>151</sup>

The contempt citation seeks to punish Attorney General Barr and Secretary Ross for declining to harm the litigation interests of the United States. This manifest unfairness could have been avoided if the Committee deferred consideration of the contempt citation until after the Supreme Court issued its decision. Waiting, however, may have been antithetical to the Committee’s strategy—according to Rep. Jimmy Gomez (D-CA), the Committee sought information from the Commerce Department that “the courts can use” in the ongoing litigation.<sup>152</sup>

## **III. The contempt citation baselessly implies a vast conspiracy to use the census for partisan political gain**

The Committee’s action in approving the contempt citation stems from a baseless assumption: that Secretary Ross has not been truthful in articulating his reasons for reinstating a citizenship question on the 2020 census. Chairman Cummings has said the purpose of his investigation is “to understand the *real* reason that you [Secretary Ross] added a citizenship question to the 2020 Census.”<sup>153</sup> Although Secretary Ross explained his reasons in detail in a

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<sup>150</sup> *State of New York et al. v. United States Department of Commerce et al.*, 1-277 (S.D.N.Y. 2019).

<sup>151</sup> See, e.g., E-mail from Kira Antell, Office of Legislative Affairs, Dep’t of Justice (Mar. 22, 2019 3:27PM); *Commerce Secretary Wilbur L. Ross, Jr.: Hearing Before the H. Comm on Oversight and Reform*, 116th Congress, 47 (statement of Secretary Ross) (2019) [hereinafter “Ross hearing”].

<sup>152</sup> Wang, *supra*, note 147.

<sup>153</sup> Letter from Rep. Elijah Cummings, Chairman, H. Comm. on Oversight & Reform, to Hon. Wilbur Ross, Sec’y, Dep’t of Commerce (Mar. 29, 2019) (emphasis added).

public memorandum,<sup>154</sup> Chairman Cummings and the Committee refuse to believe them and instead search for evidence to show a nefarious plot carried out by shadowy and powerful political operatives. However, the Committee has no evidence to support such a conclusion.

The contempt citation cites a redistricting study authored in 2015 by a now-deceased man named Thomas Hofeller as evidence that Secretary Ross's reasons were pretextual.<sup>155</sup> In the study, conducted for the *Washington Free Beacon*, Mr. Hofeller made several general assertions about the effects of adding a citizenship question to the census:

- A shift from a redistricting determined using total population to adult population is a radical departure from the federal 'one person, one vote' rule presently used in the United States.
- Without a question on citizenship being included on the 2020 decennial census questionnaire, the use of citizen voting age population is functionally unworkable.
- The Obama Administration and congressional Democrats would probably be extremely hostile to the addition of a citizenship question on the 2020 Decennial questionnaire.
- The chances of the U.S. Supreme Court mandating the addition of a citizenship question to the 2020 decennial census are not high.
- A switch to the use of citizen voting age population as the population base for redistricting would be advantageous to Republicans and Non-Hispanic Whites.
- A proposal to use citizen voting age population can be expected to provoke a high degree of resistance.<sup>156</sup>

The plaintiffs suing the DOC over the citizenship question assert that Secretary Ross and DOC officials had knowledge of Mr. Hofeller's study before he decided to add a citizenship question to the 2020 census. Further, the plaintiffs allege that the DOC shared the study with Principal Deputy Assistant Attorney General John Gore, who signed a letter in which the DOJ

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<sup>154</sup> Letter from Hon. Wilbur Ross, Sec'y, Dep't of Commerce, to Karen Dunn Kelley, Undersecretary for Economic Affairs, Dep't of Commerce (Mar. 26, 2018).

<sup>155</sup> Thomas Hofeller was a Republican political consultant specializing in redistricting. Mr. Hofeller died in August 2018 and as part of the resolution of his estate, 18 hard drives of his work were passed to his daughter, Stephanie Hofeller. Ms. Hofeller was estranged from her parents after she and her ex-husband were accused of involvement in a series of domestic disputes and child abuse. Following these charges, Thomas Hofeller and his wife Kathleen were granted custody of their 2 year-old grandson. According to the *New York Times*, Stephanie Hofeller is a "political progressive who despises Republican partisanship." When Ms. Hofeller read her late father's papers, she contacted the Raleigh office of Common Cause, which is suing North Carolina over the state's legislative maps that Thomas Hofeller helped draw. These documents were then passed to the liberal plaintiffs in the *Department of Commerce, et al. v. State of New York, et al.* lawsuit. See Michael Wines, *Deceased G.O.P. Strategist's Hard Drives Reveal New Details on the Census Citizenship Question*, N.Y. TIMES (May 30, 2019).

<sup>156</sup> Thomas Hofeller, *The Use of Citizen Voting Age Population in Redistricting*, available at <https://www.brennancenter.org/sites/default/files/legal-work/2019-05-31-595-1-Unredacted%20Exhibits.pdf>.

requested the reinstatement of the citizenship question.<sup>157</sup> The DOJ and the DOC have strongly disputed these allegations in filings in federal court, calling them “smoke and mirrors.”<sup>158</sup>

The record before the Committee refutes and debunks the conspiracy claims surrounding Mr. Hofeller’s study. The Committee has no evidence that the DOC or DOJ relied on the Hofeller study. The Committee has conducted four transcribed interviews, and no witness had even heard of Thomas Hofeller or his study until the study was the subject of media reports.

For example, on June 11, 2019, the Committee interviewed James Uthmeier, a former Senior Counsel at DOC, who worked closely with Secretary Ross on the citizenship question. Mr. Uthmeier was the author of a legal memorandum about the citizenship question, which he provided to Secretary Ross and Principal Deputy Assistant Attorney General John Gore. Mr. Uthmeier testified unequivocally that he did not have contact with Mr. Hofeller, nor did he recall seeing anything written by Mr. Hofeller. Uthmeier testified:

**Q.** Mr. Uthmeier, do you know who Thomas Hofeller is? Or Hoffler [sic]?

**A.** I am familiar with the name. But I do not know this individual, no.

**Q.** Did you ever speak or communicate with him during the transition, or any other time?

**A.** I did not.

**Q.** Have you ever read anything or seen anything written by him?

**A.** No. To my knowledge, no, I have never seen anything written by him.

**Q.** Have you ever discussed him with anyone?

**A.** I discussed him with counsel in preparation for this interview. However, I had no other discussions. I was present for the deposition of Mark Newman, where I also would have heard the name mentioned.

**Q.** Are you familiar with his 2015 study or report?

**A.** I am not.<sup>159</sup>

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<sup>157</sup> Unredacted Exhibits in Support of Motion for Order to Show Cause, *New York v. United States Dep’t of Commerce*, no. 1:18-cv-02921-JMF (S.D.N.Y. May 31, 2019).

<sup>158</sup> Department of Justice Response on Motion to Compel Defendants to Show Cause, *State of New York v. United States Department of Commerce*, No. 18-cv-2921 (S.D.N.Y. June 3, 2019) (emphasis added).

<sup>159</sup> James Uthmeier Transcribed Interview 12, June 11, 2019 (on file with Committee) [hereinafter “Uthmeier interview”].

Gene Hamilton, a senior administration official working on immigration issues at DOJ, had direct knowledge about aspects of the decision-making process that led to the DOJ's request to reinsert the citizenship question on the 2020 census. Mr. Hamilton testified that he had "no idea" who Hofeller was. He explained:

**Q.** Did you ever hear of – did you ever speak to or hear of anyone speaking to Thomas Hofeller?

**A.** No.

**Q.** Also a member of the transition team.

**A.** Okay.

**Q.** Doesn't ring a bell?

**A.** No.

**Q.** Okay.

**Q.** That's H-o-f-e-l-l-e-r.

**A.** He could spell it H-o-e-f-l-e-r, and I have no ideas [sic] who he is.<sup>160</sup>

The Committee also conducted a transcribed interview with Kris Kobach, former Kansas Secretary of State. During the interview, Kobach testified:

**Q.** Mr. Kobach, during the campaign or transition, did you ever discuss adding a citizenship question to the 2020 census with Thomas Hofeller?

**A.** I don't recall ever meeting or talking with anyone by that name. I just read an article yesterday about I think it was that – but – and my recollection upon reading the article was that I've never heard of this guy.<sup>161</sup>

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**Q.** Mr. Kobach, were you aware of a 2015 study that Mr. Hofeller wrote about the citizenship question?

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<sup>160</sup> Gene Hamilton Transcribed Interview 68, May 30, 2019 (on file with Committee) [hereinafter "Hamilton interview"].

<sup>161</sup> Kris Kobach Transcribed Interview 13, June 3, 2019 (on file with Committee) [hereinafter "Kobach interview"] (emphasis added).

- A. No, I've never read any such study or heard of any such study. As I said, there was an article about that gentleman, I think I saw it yesterday, that alluded to a study, but I'd never heard of it until I read that article.<sup>162</sup>

In addition, Kobach testified that he fundamentally disagreed with Hofeller's assertions, explaining: "I don't agree with his assumption that when you count – when you count accurately the number of citizens, that that necessarily helps one party or another party. We don't know."<sup>163</sup>

Finally, although the Hofeller study was not publicly known at the time of the Committee's transcribed interview with Mr. Gore in March 2019, his testimony directly contradicts any conspiracy theories about the "real" reasons for the reinstatement of the citizenship question. Gore testified how specific, granular data about citizenship helps to enforce the Voting Rights Act, explaining:

- Q. Can you help us understand how the lack of data prior to, I guess, the current situation impacts the prosecution of Voting Rights Act cases?

- A. So, as I've explained, we've been making do with the ACS [American Community Survey] data –

- Q. Right.

- A. -- and extrapolating the ACS block group level estimates down to the block level to identify potential investigations and enforcement actions.

- Q. Right.

- A. *There's, I think, an acknowledgment that the ACS data is an estimate.* The Census Bureau puts confidence intervals and margins of error around it. And we don't bring cases unless we can win them. So we've been able to file cases and litigate them under -- using the ACS data.

*We would like to get an additional source of data because there may be districts or cases out there where that data provides a clearer picture of what's going on at the block level and within a particular district or redistricting plan, and we might be able to*

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<sup>162</sup> Kobach interview at 79.

<sup>163</sup> Kobach interview at 90 (emphasis added).

*identify additional cases for investigation and potential prosecution.*<sup>164</sup>

#### **IV. The contempt citation improperly and baselessly implies a nefarious White House connection to the decision to reinstitute a citizenship question**

The contempt citation suggests the existence of a vast Republican conspiracy to reinstate the citizenship question, one that was directed from the highest levels of the White House. Chairman Cummings has said repeatedly that the White House has orchestrated a “cover up” from the very “top.”<sup>165</sup> The Majority has sought to tie former Attorney General Jeff Sessions, former White House advisor Steven Bannon, and other senior Trump Administration officials to the effort to add a citizenship question to the census.<sup>166</sup> The record before the Committee, however, does not support these charges.

Mr. Uthmeier unequivocally stated that no one from the White House ever asked or directed him to seek the reinstatement of a citizenship question to the census. According to Mr. Uthmeier, he was never instructed to consult with White House officials about seeking the reinstatement of a citizenship question. Mr. Uthmeier further testified that he never spoke with Stephen Miller, Steve Bannon, Reince Priebus, or President Trump about the decision to add a citizenship question to the census.<sup>167</sup>

Similarly, Mr. Gore testified he did not have interactions related to the citizenship question with any of the senior Trump Administration officials whom the Majority believe were involved in a conspiracy to misuse the census. Mr. Gore testified:

**Q.** Were you aware of any conversations between Attorney General Jeff Sessions and Steve Bannon about the addition of a citizenship question?

**A.** No.

**Q.** Were you aware of any conversations with anyone else at the Department of Justice and Kris Kobach about an addition of a citizenship question?

**A.** No.

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<sup>164</sup> John Gore Transcribed Interview 87-88, Mar. 7, 2019 (on file with Committee) [hereinafter “Gore interview”] (emphasis added).

<sup>165</sup> See Letter from Rep. Elijah Cummings, Chairman, H. Comm. on Oversight & Reform, to Hon. William Barr, Attorney General, Dep’t of Justice (Jun. 3, 2019); Letter from Rep. Elijah Cummings, Chairman, H. Comm. on Oversight & Reform, to Hon. Wilber Ross, Sec’y, Dep’t of Commerce (Jun. 3, 2019); Press Release, H. Comm. on Oversight & Reform, Cummings Delivers Remarks on Resolution to Fully Enforce Committee Subpoenas and Hold the Trump Administration Accountable (Jun. 11, 2019), <https://oversight.house.gov/news/press-releases/cummings-delivers-remarks-on-resolution-to-fully-enforce-committee-subpoenas-and>.

<sup>166</sup> Ross hearing, *supra* note 151, at 142-143 (statement of Rep. Carolyn Maloney, Member, H. Comm. on Oversight & Reform).

<sup>167</sup> Uthmeier interview at 134-135.



**Q.** Were you aware of any conversations between anyone at the Department of Justice and Steve Bannon about an addition of a citizenship question?

**A.** No.<sup>168</sup>

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**Q.** Did you ever speak with a little known official named Steve Bannon?

**A.** I have never spoken to Mr. Bannon in my life.<sup>169</sup>

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**Q.** Have you ever had any discussions with Stephen Miller at the White House?

**A.** No, I have not.

**Q.** There's a fellow by the name of Thomas Brunell?

**A.** No, I have not, not on this issue.

**Q.** But on different issues?

**A.** Yes. I believe when I was in private practice, I had conversations with Mr. Brunell connected to a voting rights case, but it had nothing to do with the census or with the Department's request to reinstate a citizenship question on the census questionnaire.<sup>170</sup>

Like Mr. Uthmeier and Mr. Gore, Mr. Hamilton also testified he had no contact about the citizenship question with many of the officials whom the Majority accuses of conspiring to add the citizenship question. Hamilton testified:

**Q.** Aside from the communications we just talked about, are you aware of any communications with anybody at the White House that related to the census citizenship question?

**A.** Between whom?

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<sup>168</sup> Gore interview at 56.

<sup>169</sup> *Id.* at 78.

<sup>170</sup> *Id.* at 96-97.

Q. Between the White House and any agency. Are you aware of any conversations involving the White House? I think we've talked about a handful of conversations with John Zadrozny. Aside from those, are you aware of any conversations?

A. No, I don't think so.

Q. What about Steve Bannon when he was at the White House?

A. No.<sup>171</sup>

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Q. Have you ever had any conversations with Stephen Miller about census or citizenship question?

A. I think I answered that earlier.

Q. Just --

A. I don't remember having any conversation with Stephen.

Q. Did you ever become aware of him having conversations with anyone else about census or a citizenship question?

A. I couldn't tell you.<sup>172</sup>

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Q. Did you have any cause to or had you ever had any other discussions with James Uthmeier about other topics or about topics in general?

A. No. I don't recall having any discussions with James Uthmeier or Brian Lenihan. I couldn't pick them out of a lineup.<sup>173</sup>

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Q. Have you ever had discussions with Peter Davidson from the Department of Commerce?

A. I don't think -- I don't think so. I don't recall.<sup>174</sup>

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<sup>171</sup> Hamilton interview at 64.

<sup>172</sup> *Id.* at 66.

<sup>173</sup> *Id.* at 53.

<sup>174</sup> *Id.* at 53-54.

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Q. Did you ever have any conversations with someone named Mark Neuman about the citizenship question?

A. What was the name?

Q. Mark Neuman.

A. No.

Q. Do you know who that is, N-e-u-m-a-n, Mark Neuman?

A. No.

Q. He's a member of the President's transition team?

A. Mark Neuman? No.

Q. He also apparently served as some kind of outside adviser to the Department of Commerce on the issue of the citizenship question?

A. I have no idea who he is.

Q. Do you remember ever hearing that there were – that there was more outside advisers providing advice or guidance to the Department of Commerce or to the Department of Justice —

A. No.

Q. — relating to the citizenship question?

A. Huh uh, no.<sup>175</sup>

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Q. [S]o you mentioned that you had a discussion with Mr. Kobach during the transition about the citizenship question, correct, or you got an email from him?

A. I got an unsolicited email from him.

Q. Did you have any further conversations with him after the transition about this topic?

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<sup>175</sup> *Id.* at 67.

A. No.<sup>176</sup>

Finally, Mr. Kobach also testified that he had no contact about the citizenship question with many of the individuals who the Majority contends were central figures in the decision to add the citizenship question. The Majority even went as far as to ask Kobach if he spoke with the Republican National Committee about the citizenship question; Kobach responded that he had not. Kobach testified:

Q. Did you ever speak with Earl Comstock at the Department of Commerce?

A. What was the first name?

Q. Earl, and his last name is Comstock.

A. I don't recall ever speaking to that person. The name doesn't sound familiar.

Q. Did you ever speak with Peter Davidson, the general counsel at the Department of Commerce?

A. I don't specifically recall, but as I mentioned earlier, there was one – there was one individual, a male, who informed me about the notice and comment period, that if I wanted to send an official letter, I could, and I don't remember that person's name.

Q. Okay. Did you ever speak with James Uthmeier at the Department of Commerce, the Deputy General Counsel?

A. I don't remember that name. It is certainly possible that one of those people was the one I spoke to on the phone, but I don't remember those names specifically.<sup>177</sup>

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Q. During the campaign or transition, did you ever discuss adding a citizenship question to the 2020 census with a transition official named Mark Neuman, and I'm happy to spell that if that's helpful.

A. I don't recall anybody named Mark Neuman. It's possible I met him and forgot him, but that name does not ring a bell at this time.<sup>178</sup>

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<sup>176</sup> *Id.* at 68.

<sup>177</sup> Kobach interview at 69.

<sup>178</sup> *Id.* at 12.

**Q.** Have you ever had any conversations regarding the citizenship question with anybody at the Republican National Committee?

**A.** No.<sup>179</sup>

**V. The contempt citation fails to note the protections in federal law prohibiting the unauthorized use of census data**

The contempt citation ignores protections entrenched in federal law on the unauthorized use of census data. The purpose of the Census Bureau and all census surveys is to collect data used for apportionment and to better inform the public about the population, business, and economics of the United States. Title 13 of the U.S. Code protects all data provided to the Census Bureau. Disclosure of census data is a very serious federal crime punishable by five years in prison and a \$250,000 fine.<sup>180</sup> All officers, employees (permanent and temporary), contractors, volunteers, or anyone else handling census data must sign a lifetime oath to keep the data confidential.<sup>181</sup>

Once responses are collected, the Census Bureau goes to great lengths to ensure that any statistical data is anonymized and cannot be traced back to an individual person or household. Additionally, the Census Bureau does not share individual response information with other federal or state agencies. Data sets gleaned from responses may be shared with other agencies, but only for statistical purposes and only if the agency has requested the data from the Secretary of Commerce.

The Majority and others suggest that the responses to the citizenship question could be used for law enforcement or immigration proceedings. In the 1940s, census data was used to locate Japanese-Americans for relocation to internment camps.<sup>182</sup> However, in the 70 years since this tragedy, Congress has acted to codify and strengthen Title 13 privacy protections. Such disclosures would be unlawful today. At a Committee hearing in 2018, the DOJ and DOC refuted assertions that data would be used for law enforcement or immigration proceedings.<sup>183</sup>

Since then, the Committee has heard repeated testimony reinforcing the fact that information obtained from the citizenship question cannot and will not be used for any law enforcement proceeding. For example, Mr. Hamilton testified:

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<sup>179</sup> *Id.* at 96.

<sup>180</sup> 13 U.S.C. § 214 (1994).

<sup>181</sup> In 2018, Committee staff traveled to Rhode Island to conduct oversight of the 2018 Census Test. Committee staff was required to sign documents swearing not to disclose any private information, in perpetuity, which the staffer may come in contact over the course of the time conducting oversight.

<sup>182</sup> Lori Aratani, *Secret use of census info helped send Japanese Americans to internment camps in WWII*, WASH. POST (Apr. 6, 2018).

<sup>183</sup> *Progress Report on the 2020 Census: Hearing Before the H. Comm. on Oversight and Gov't Reform*, 115<sup>th</sup> Cong. 57-58 & 80-81 (May 8, 2018) (statement of Earl Comstock, Dept. of Commerce).

**Q.** Are you aware of any conversations that happened within the administration about whether adding a citizenship question would impact immigration policy or immigration enforcement?

**A.** No.

**Q.** Were you aware of any documents that came from the Department of Commerce to the Department of Justice about the citizenship question issue?

**A.** No.

**Q.** So you said you were not aware of any discussions about the citizenship question impacting immigration policy. Is that correct?

**A.** I don't recall having any discussions about that.

**Q.** Okay. How about impacting immigration enforcement?

**A.** I don't recall having any discussions about that.<sup>184</sup>

Mr. Hamilton later expressly stated, “*this citizenship question on the census has nothing to do with illegal immigration.*”<sup>185</sup>

Likewise, Mr. Uthmeier explained the statutory protections surrounding census response information. He testified:

**Q.** Do you recall the penalties under Title 13 for disclosing confidential responses to the citizenship question?

**A.** I only recall that there are significant penalties, but I cannot remember specifics, no.

**Q.** If I told you that the penalties were 5 years in prison and a \$250,000 fine, would that be consistent with your research into the topic?

**A.** Yes, that sounds right.

**Q.** Okay. To your knowledge, will the responses to the 2020 census question on citizenship be used by either the Department of Justice, the Department of Commerce, or any other law enforcement agency in any judicial proceeding?

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<sup>184</sup> Hamilton interview at 71-72.

<sup>185</sup> *Id.* at 80 (emphasis added).

A. *To my knowledge the data is not allowed to be used for those purposes pursuant to Federal law.*

Q. And to your knowledge, would responses to the 2020 census question be permitted to be used in any immigration or deportation proceeding?

A. No.

Q. If such information were to be used, either in a judicial proceeding, deportation proceeding, or other immigration related proceeding, and the Department of Commerce found out about it, what do you believe the Department's response would be?

A. Can you ask that question one more time?

Q. Sure. If the Department of Commerce became aware that data from the census was used in any sort of judicial deportation or immigration proceeding, what do you think the Department's response would be to that disclosure?

A. I don't want to speculate for the Department, but I can tell you if I was still there in my capacity as a senior lawyer, I would ask the Department of Justice to take immediate action.

Q. So when you were [at the Department of Commerce], you believe that if the census data was disclosed, you would recommend the Department immediately refer a criminal case to the Department of Justice?

A. Yes. Yes, absolutely. *The Title 13 protections are imperative to data collection to ensure that people across the country feel comfortable providing information to the government.* The data and studies show that Americans are generally suspect of the government coming in to their homes and asking questions about anything. So Title 13, we certainly at Commerce, I know the Census Bureau had some advertising that they were working on, that tries to make it known to the public, that this data cannot be used for anything other than statistical collection purposes, and it cannot be used for law enforcement or immigration purposes.

*I wish that attorneys general in all the States were also echoing that information rather than startling people through, you know, negative press and, you know, allegations.*<sup>186</sup>

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<sup>186</sup> Uthmeier interview at 113-114 (emphasis added).

## **VI. The contempt citation fails to note that a citizenship question on the census is not new**

During the Committee’s business meeting to consider the contempt citation, Rep. Ralph Norman (R-SC) offered an amendment to provide necessary context that soliciting citizenship information on a census is not new. The Committee did not approve this amendment, and therefore the contempt citation fails to recognize this important context.

Every decennial census from 1820 to 1950 asked about citizenship. From 1970 to 2000, the Census Bureau mailed a “long-form census” with the decennial census to five percent of American households.<sup>187</sup> In addition to asking the 10 basic census questions on the short form, the long-form census asked more expansive questions about a person’s dwelling and the composition of the household. From 1970 to 2000, each long-form census asked a citizenship question.

After the 2000 census, the Census Bureau replaced the long-form census with the American Community Survey (ACS).<sup>188</sup> Unlike the long-form census, the Census Bureau conducts the ACS on a continuing, annual basis, sending the survey to about 3.5 million households each year.<sup>189</sup> The ACS includes expanded questions on demographics, dwelling unit, and household composition, as well as a series of detailed citizenship questions.<sup>190</sup> The proposed question about citizenship on the 2020 census is similar to the question posed on the annual ACS survey.

Until Secretary Ross’s decision to reinstate a citizenship question on the 2020 census, there had been no constitutional challenge to the inclusion of a citizenship question on prior decennial censuses or the ACS.

## **VII. The contempt citation fails to note that state and federal entities regularly solicit citizenship information for a variety of reasons**

The contempt citation ignores the simple truth that a variety of agencies—at the federal and state level—currently solicit and collect citizenship data for a variety of reasons, including employment and licensure. For example:

- The U.S. Citizenship and Immigration Services requires each prospective employee in the United States to submit an Employment Eligibility Verification Form (I-9 form), which asks about the employee’s citizenship status;<sup>191</sup>

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<sup>187</sup> U.S. Census Bureau, History of Questionnaires available at [https://www.census.gov/history/www/through\\_the\\_decades/questionnaires/](https://www.census.gov/history/www/through_the_decades/questionnaires/).

<sup>188</sup> U.S. Census Bureau, History: American Community Survey, available at [https://www.census.gov/history/www/programs/demographic/american\\_community\\_survey.html](https://www.census.gov/history/www/programs/demographic/american_community_survey.html).

<sup>189</sup> *Id.*

<sup>190</sup> U.S. Census Bureau, American Community Survey: Questions on the Form and Why We Ask, available at <https://www.census.gov/acs/www/about/why-we-ask-each-question/>.

<sup>191</sup> Dep’t of Homeland Security, U.S. Citizenship & Immigration Servs., Employment Eligibility Verification, [https://www.uscis.gov/system/files\\_force/files/form/i-9-paper-version.pdf](https://www.uscis.gov/system/files_force/files/form/i-9-paper-version.pdf).



- The District of Columbia solicits citizenship status for individuals applying for a driver's license;<sup>192</sup>
- The state of Wisconsin similarly requests citizenship status for individuals applying for a driver's license;<sup>193</sup>
- The state of California asks about an individual's citizenship when applying to obtain a firearm;<sup>194</sup> and
- The state of Ohio requires an applicant for a concealed-carry license to state his or her citizenship.<sup>195</sup>

In addition, the collection of citizenship information during a population census is a common practice among countries. In fact, as part of its principles and recommendations for population censuses, the United Nations recommends that countries gather citizenship information about its population.<sup>196</sup> As Secretary Ross testified during the Committee's hearing:

The United Nations has recommended that countries ask the citizenship question or some form of it, and many countries do. I believe I mentioned a few. Australia, Canada, France, Germany, Ireland, Mexico, and the United Kingdom are a few that occurred to me offhand.<sup>197</sup>

### **VIII. The contempt citation makes unfounded and conclusory assertions about Executive Privilege**

The contempt citation, as amended during the business meeting, makes several unfounded legal conclusions about the sufficiency of the President's protective assertion of executive privilege. This protective assertion is only a result of the Committee's rush to contempt.

On June 12, 2019, Attorney General Barr sent a letter informing the Committee:

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<sup>192</sup> D.C. Dep't of Motor Vehicles, DC Driver License or Identification Card Application, [https://dmv.dc.gov/sites/default/files/dc/sites/dmv/publication/attachments/DMV%20BOE%20Application\\_2-25-19.pdf](https://dmv.dc.gov/sites/default/files/dc/sites/dmv/publication/attachments/DMV%20BOE%20Application_2-25-19.pdf).

<sup>193</sup> Wisc. Dep't of Transportation, Wisconsin Driver License (DL) Application, <https://wisconsin.gov/Documents/formdocs/mv3001.pdf>.

<sup>194</sup> CA Dep't of Justice, Bureau of Firearms, Personal Firearms Eligibility Check Application, <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/pfecapp.pdf>.

<sup>195</sup> State of Ohio, Application for a License to Carry a Concealed Handgun, <https://www.ohioattorneygeneral.gov/Files/Forms/Forms-for-Law-Enforcement/Concealed-Carry-License-and-Renewal-Application.aspx>.

<sup>196</sup> United Nations, Principles and Recommendations for Population and Housing Censuses (2017), [https://unstats.un.org/unsd/demographic-social/Standards-and-Methods/files/Principles\\_and\\_Recommendations/Population-and-Housing-Censuses/Series\\_M67rev3-E.pdf](https://unstats.un.org/unsd/demographic-social/Standards-and-Methods/files/Principles_and_Recommendations/Population-and-Housing-Censuses/Series_M67rev3-E.pdf).

<sup>197</sup> Ross hearing, *supra* note 151, at 64 (statement of Wilbur Ross, Secretary, Department of Commerce).

the President has asserted executive privilege over certain subpoenaed documents identified by the Committee . . . as well as drafts of the Department’s December 12, 2017 letter to the U.S. Census Bureau . . . . [T]his protective assertion ensures the President’s ability to make a final decision whether to assert privilege following a full review of these materials . . . . Regrettably, you [Chairman Cummings] have made these assertions necessary by your insistence upon scheduling a premature contempt vote.<sup>198</sup>

The contempt citation concludes that the President waived the privilege because he did not comply with the Committee’s rules for invoking a privilege. This characterization of an imputed waiver for a constitutional privilege is baseless. The Supreme Court held in *United States v. Nixon* that executive privilege is “fundamental to the operation of government and inextricably rooted in the separation of powers under the Constitution.”<sup>199</sup>

Additionally, in *In re Sealed Case*, the Court of Appeals for the District of Columbia Circuit examined whether the White House had waived executive privilege when it released a White House Counsel’s report. In its ruling, the court reasoned that “[s]ince executive privilege exists to aid the governmental decisionmaking process, a waiver should not be lightly inferred.”<sup>200</sup> The court ultimately determined that the White House had not waived executive privilege as to the documents generated in producing the final version of the released report but had waived the privilege as to documents it had voluntarily revealed to parties outside the White House.<sup>201</sup>

As a “fundamental” privilege rooted in constitutional separation of powers, executive privilege ought to be afforded serious consideration. In addition, because an executive privilege waiver should not be lightly inferred, the Committee should be careful in inputting a waiver for failure to comply with Committee Rule 16(c). The Committee’s contempt citation errs in concluding unilaterally that executive privilege can be waived when the President does not invoke executive privilege in accordance with Committee rules.

## **IX. The contempt citation shows how Chairman Cummings has changed his view on contempt of Congress under the Trump Administration**

Chairman Cummings’s position on holding executive branch officials in contempt of Congress has changed since the last time the Committee held an Attorney General in contempt of Congress. In 2012, the then-Committee on Oversight and Government Reform held former Attorney General Eric Holder in contempt of Congress for failing to produce documents related to the Committee’s Fast and Furious investigation. At the time, the Obama Administration had stonewalled the Committee’s subpoena for documents for over a year. During debate, then Ranking Member Cummings said:

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<sup>198</sup> Letter from Stephen Boyd, Assistant Attorney General, Dep’t of Justice, to Rep. Elijah Cummings, Chairman, H. Comm. on Oversight & Reform (Jun. 12, 2019).

<sup>199</sup> *United States v. Nixon*, 418 U.S. 683, 707-08 (1974).

<sup>200</sup> *In re Sealed Case*, 121 F.3d 729, 741 (1997).

<sup>201</sup> *Id.* at 740-742.

And there is something going on here that really should bother all of us, and that is that, you know, we do have an Attorney General who, just like we did, swear to uphold the Constitution of the United States, and it seems to be a presumption that when certain privileges are asserted, certain concerns are raised by that Attorney General with regard to deliberative documents that things have gone between staff and things that have traditionally been privileged, that so he has to be hiding something, that he has to be dishonest.

*And I think we do have to respect the separation of powers here. And so, you know, this whole idea, everybody, oh, what is he hiding? Well, I don't think he is hiding a damn thing.*<sup>202</sup>

Now, however, Chairman Cummings has held Trump Administration officials in contempt of Congress after only two months while the Committee continues its fact-finding and the Trump Administration continues to cooperate with the Committee's investigation. Whereas Chairman Cummings believed in 2012 that then-Attorney General Holder was not hiding a "damn thing" by withholding documents, the Chairman now believes these actions "beg[] the question—what is he hiding?"<sup>203</sup>

Similarly, while in the minority, then-Ranking Member Cummings often asserted ongoing litigation was a reason for the Obama Administration to withhold documents from the Committee. On June 16, 2011, then-Ranking Member Elijah Cummings urged former Chairman Issa that "the Committee should wait until the case is no longer pending" before moving forward with testimony.<sup>204</sup> In another letter dated, November 9, 2011, then-Ranking Member Cummings wrote:

As I have said repeatedly, I believe it is an inappropriate use of Committee resources to interfere with this ongoing legal action in order to benefit the corporate interests of a single company. . . . ***The ongoing legal proceeding should be allowed to take its full course***

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<sup>202</sup> Report recommending that the House of Representatives find Eric H. Holder, Jr., Attorney General, U.S. Department of Justice, in contempt of Congress: Full Committee Business Meeting, 112th Cong. 127 (2012) (statement of Rep. Elijah E. Cummings, Ranking Member, H. Comm on Oversight & Gov't Reform) (emphasis added).

<sup>203</sup> Press Release, H. Comm. on Oversight & Reform, Cummings Delivers Remarks on Resolution to Fully Enforce Committee Subpoenas and Hold the Trump Administration Accountable (Jun. 11, 2019), <https://oversight.house.gov/news/press-releases/cummings-delivers-remarks-on-resolution-to-fully-enforce-committee-subpoenas-and>.

<sup>204</sup> Letter from Rep. Elijah Cummings, Ranking Member, H. Comm. on Oversight & Gov't Reform and Rep. George Miller, Ranking Member, H. Comm. on Ed. & Workforce, to Rep. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov't Reform (Jun. 16, 2011), [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2011-06-16.GM%20and%20EEC%20Letter%20to%20Issa.NLRB\\_\\_0.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2011-06-16.GM%20and%20EEC%20Letter%20to%20Issa.NLRB__0.pdf).

*without any further interference from Members of Congress*  
(emphasis added).<sup>205</sup>

Now in the majority, Chairman Cummings has shifted his position. For example, during the March 2019 hearing with Secretary Ross, Chairman Cummings demanded full cooperation despite the ongoing litigation:

I expect Secretary Ross to fully answer all of our questions about the census *and not avoid our questions based on the meritless claim that there is a separate—there’s separate litigation going on* (emphasis added).<sup>206</sup>

In his concluding remarks in March 2019, Chairman Cummings expressed his frustration with Secretary Ross declining to answer certain questions that pertained to information involved in pending litigation before the Supreme Court:

But today when I heard your testimony, I felt like you were trying to pull a fast one on me. I’ve got to be honest with you, man. You went back to the old argument about ongoing litigation. I was a little disappointed . . . . And let me make this clear so that there would be absolutely no doubt, Mr. Secretary. *This committee does not accept the argument that you can withhold documents or testimony from us because you have other separate litigation.* That is not a valid basis to withhold information from the Congress of the United States of America.<sup>207</sup>

**X. The contempt citation is flawed because Chairman Cummings did not distribute the business meeting memorandum within the period required by Committee rules**

The contempt citation is procedurally flawed in that Chairman Cummings did not distribute to Committee Members a copy of the memorandum specifying the Committee’s business meeting as required by Committee rules. Rather than postpone the business meeting to cure this procedural defect, the Chairman offered an unpersuasive *ex post facto* interpretation of the relevant Committee rule—an interpretation contradicted by Chairman Cummings’s prior statement about the rule.

Under Rule 2(f) of the Committee’s rules, the Chairman must provide “ever member of the Committee . . . with a memorandum at least three calendar days (excluding Saturdays,

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<sup>205</sup> Letter from Rep. Elijah Cummings, Ranking Member, H. Comm. on Oversight & Gov’t Reform, to Rep. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov’t Reform (Nov. 9, 2011), <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2011-11-09.EEC%20to%20Issa.Boeing-NLRB.pdf>.

<sup>206</sup> Ross hearing, *supra* note 151, at 29 (statement of Chairman Elijah E. Cummings).

<sup>207</sup> *Id.* at 204 (statement of Chairman Elijah E. Cummings) (emphasis added).

Sundays, and legal holidays . . .) before each meeting or hearing.”<sup>208</sup> On Monday, June 10, 2019, at 5:48 p.m., Chairman Cummings noticed a business meeting for Wednesday, June 12, 2019, at 10:00 a.m. to consider the contempt citation. He distributed the business meeting’s agenda at the same time. Pursuant to Rule 2(f), however, the memorandum for the business meeting scheduled for Wednesday, June 12 should have been distributed no later than Friday, June 7.<sup>209</sup>

On June 11, 2019, Ranking Member Jordan wrote to Chairman Cummings to alert him that the delayed agenda had violated Committee rules and called into question the legal sufficiency of the contempt proceeding.<sup>210</sup>

On June 12, 2019, Chairman Cummings responded to Ranking Member Jordan, offering for the first time a new interpretation of Rule 2(f) in which the three days period under Rule 2(f) would “includ[e] the day on which the notice is sent and the day on which the business meeting is scheduled to occur.”<sup>211</sup> The Chairman noted that the Committee modified Rule 2(f) at the beginning of the 116th Congress, changing the rule’s wording from “at least 72 hours before each meeting or hearing” to “at least three calendar days . . . before each meeting or hearing.”<sup>212</sup> Chairman Cummings wrote that the Committee made this change to “conform the Committee’s rules to the rules of the House” regarding hearing notice.<sup>213</sup> As such, Chairman Cummings concluded, the memorandum was sufficiently noticed.

Chairman Cummings’s explanation is unpersuasive in two respects. First, if the Committee intended to amend Rule 2(f) to conform to the rules of the House, the Committee could have adopted *verbatim* the language found in the rules of the House. The Committee did not, choosing instead to adopt different language for Rule 2(f). Second, in explaining the justification for the change to Rule 2(f) at the beginning of the 116th Congress, Chairman Cummings specified then that the change was intended to provide “more advance notice for hearing memos.”<sup>214</sup> Yet, the Chairman’s interpretation as articulated on June 12 would actually provide *less* notice—effectively two days—than what was required before the change.

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<sup>208</sup> 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).

<sup>209</sup> This timing 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).

<sup>210</sup> Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on Oversight & Reform, to Rep. Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform (Jun. 11, 2019).

<sup>211</sup> Letter from Rep. Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform, to Rep. Jim Jordan, Ranking Member, H. Comm. on Oversight & Reform (Jun. 12, 2019).

<sup>212</sup> *Id.*

<sup>213</sup> *Id.* (citing House Rule XI, clause 2(g)(3)(A)).

<sup>214</sup> Business Meeting of the H. Comm. on Oversight & Reform, 116<sup>th</sup> Cong., 13 (Jan. 29, 2019) (statement of Chairman Elijah E. Cummings).

In the Majority's haste to manufacture a controversy around the citizenship question, the Committee violated its rules by failing to distribute the memorandum "at least three calendar days . . . before" the meeting. Because the Majority declined to postpone the business meeting to cure this procedural defect, this defect calls into question the legal sufficiency of the contempt proceeding.

## **XI. Conclusion**

The Committee's contempt citation will only harm the Committee's investigation into the citizenship question. By taking this step, the Majority has all but shut the door on obtaining the information it seeks. The Majority has chosen conflict over compromise.

A careful examination of the record before the Committee and publicly available information does not support contempt at this time. A question soliciting citizenship information has appeared on the census in one form or another since 1820. Federal and state agencies request citizenship information regularly for a variety of legitimate purposes. Other countries solicit citizenship information in their population censuses—a practice that the United Nations recommends as a best practice. Most importantly, any citizenship information obtained during the census is protected by federal law and cannot be used for any improper purpose.

Although the Majority resorts to conspiracy theories to delegitimize the reinstatement of a citizenship question on the census, these conspiracies are not supported by the facts of the Committee's investigation. The Committee has received testimony from several Administration officials to date showing that there was no direction from the White House to add a citizenship question to the census. In addition, several witnesses with firsthand knowledge of the decision-making process testified that they had no knowledge of a study—or its author—alleged to be the keystone in the nefarious conspiracy.

The Majority simply does not want to know the number of citizens present in the United States of America. Rather than attempt to legislate on the citizenship question, the Committee is using its oversight authority to create a controversy in the hopes of influencing the Supreme Court's imminent decision on the issue. For all the reasons set forth in these minority views, the Committee's contempt citation is unnecessary, premature, and designed merely to advance partisan political goals.

**JIM JORDAN**  
Ranking Member

## SUPPLEMENTAL VIEWS

### Memorandum for Business Meeting Was Properly Issued

On June 11, 2019, Ranking Member Jordan sent Chairman Cummings a letter contending that the Committee's memorandum for the business meeting on June 12, 2019, was not sent to Committee Members in compliance with Committee rules.<sup>215</sup>

The following day, prior to the Committee's business meeting, Chairman Cummings sent a letter responding to Ranking Member Jordan's concerns and explaining his interpretation of the Committee's rules.<sup>216</sup>

During the business meeting, Rep. Mark Meadows raised a point of order regarding this issue, and Chairman Cummings ruled that the Committee had complied with its rules. Rep. Meadows appealed the ruling of the Chairman, and his appeal failed by a vote of 15 to 20.<sup>217</sup>

As Chairman Cummings explained in his letter and at the Committee's business meeting, in the previous Congress, Committee Rules provided that the Chairman of the Committee circulate a memorandum to Committee Members at least 72 hours before a Committee meeting. In the 115th Congress, Committee Rule 2(f) stated:

Every member of the Committee, unless prevented by unusual circumstances, shall be provided with a memorandum at least 72 hours before each meeting or hearing explaining: (1) the purpose of the meeting or hearing; and (2) the names, titles, background and reasons for appearance of any witnesses.

Earlier this year, the Committee voted unanimously to adopt rules for the 116th Congress. Those rules included a change to Rule 2(f). Instead of requiring 72 hours' notice, the rules required three days' notice:

Every member of the Committee, unless prevented by unusual circumstances, shall be provided with a memorandum at least three calendar days (excluding Saturdays, Sundays, and legal holidays, unless the House is in session on such days) before each meeting or hearing explaining: (1) the purpose of the meeting or hearing; and (2) the names, titles, background and reasons for appearance of any witnesses.

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<sup>215</sup> Letter from Ranking Member Jim Jordan, Committee on Oversight and Reform, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (June 11, 2019) (online at <https://republicans-oversight.house.gov/wp-content/uploads/2019/06/2019-06-11-JDJ-to-EEC-re-Business-Meeting-Agenda.pdf>).

<sup>216</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Ranking Member Jim Jordan, Committee on Oversight and Reform (June 12, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-06-12.EEC%20to%20JJ%20re%20Business%20Meeting.pdf>).

<sup>217</sup> Committee on Oversight and Reform, *Business Meeting* (June 12, 2019) (online at <https://oversight.house.gov/legislation/markups/a-resolution-recommending-that-the-house-of-representatives-find-the-attorney>).



**Democrats' Investigation of the Citizenship Question:  
A Transparent Attempt to Improperly Influence the  
Supreme Court of the United States**

**Minority Staff Report  
Committee on Oversight and Reform  
U.S. House of Representatives**



April 2, 2019



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## Executive Summary

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Democrats do not want to know how many citizens there are in the United States. Although the Census Bureau has sought citizenship information regularly in the past, Democrats now fear that a full survey of U.S. citizens will hurt their political fortunes for years to come. Liberal state attorneys general and left-wing special interests have sued the Commerce Department to prevent the Census Bureau from reinstating a citizenship question on the 2020 Census. The case is now before the United States Supreme Court, which will hear arguments later this month.

Chairman Elijah Cummings and Democrats on the Oversight and Reform Committee are now interfering with the Supreme Court's proceedings in favor of the liberal special interests. They are seeking to conduct extra-judicial fact-finding about the Commerce Department's decision to reinstate the citizenship question on the decennial census. After the Supreme Court stopped a deposition with Commerce Secretary Wilbur Ross, Chairman Cummings demanded that Secretary Ross appear before the Committee under oath to testify directly on the issues before the Supreme Court. Chairman Cummings is demanding additional documents and testimony from key Commerce Department officials.

Chairman Cummings is pursuing this oversight in a transparent attempt to interfere with the ongoing litigation over the citizenship issue, at the Supreme Court and in lower courts. At the Committee's hearing, the Democrats sought to examine Secretary Ross's intent behind reinstating the citizenship question. Chairman Cummings asked Secretary Ross about his "interest" in reinstating the citizenship question to the census; Rep. Mark DeSaulnier asked *why* Secretary Ross reinstated the citizenship question; and Rep. Jamie Raskin asked Secretary Ross about the Supreme Court's interpretation of the citizenship question. Rep. Jimmy Gomez even admitted that the Democrats seek this information so that "the courts can use" it in the ongoing litigation.

In fact, in a recent letter to Secretary Ross, Chairman Cummings explicitly explained that he is seeking Commerce Department documents and testimony to discover "contemporaneous evidence of the real reason that you [Secretary Ross] added the citizenship question and the process you followed."<sup>1</sup> This is exactly the issue currently before the Supreme Court.

By interfering in ongoing litigation, Chairman Cummings is doing the very thing that he warned against just eight years ago during the Obama Administration. He said then that an "ongoing legal proceeding should be allowed to take its full course without any further interference from Members of Congress."<sup>2</sup> Outside experts—including both Republican and Democrat Justice Department officials—caution against using the Committee's power to interfere with court proceedings.

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<sup>1</sup> Letter to Hon. Wilbur Ross, Secretary, Dep't of Commerce, from Rep. Elijah Cummings, Chairman, H. Comm. on Oversight & Reform (Mar. 29, 2019) (on file with Committee).

<sup>2</sup> Letter from Rep. Elijah Cummings, Ranking Member, H. Comm. on Oversight & Gov't Reform, to Rep. Darrell Issa, Chairman, H. Comm. on Oversight & Gov't Reform (Nov. 9, 2011) (on file with Committee.)

Chairman Cummings's investigation of the Commerce Department's reinstatement of the citizenship question on the census is just another example of his partisan oversight of the Trump Administration. Chairman Cummings and left-wing special interests are desperate to prevent anyone from knowing the number of citizens in the United States. They see interfering with the Supreme Court's ongoing litigation as their last best chance, and Chairman Cummings and the Democrats are willing to influence the Court by any means necessary.

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## Background

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### *The Road to the Supreme Court*

On March 26, 2018, Commerce Secretary Wilbur Ross announced his intention to reinstate a question regarding citizenship on the 2020 Census.<sup>3</sup> On March 29, 2018, the Census Bureau presented the 2020 Census questions to Congress, including the question regarding citizenship.<sup>4</sup>

Reaction to Secretary Ross's decision was swift. Democrats in Congress, liberal states, and left-wing special interest groups decried the decision, arguing it would depress responses in states with large immigrant populations and lead to an inaccurate population count.<sup>5</sup> Almost immediately, multiple lawsuits were filed challenging Secretary Ross's decision. The first lawsuit to be decided by the lower courts was *State of New York, et al. v. U.S. Department of Commerce, et al.*

Judge Jesse Furman, an Obama appointee, presided over this case and initially authorized the deposition of Secretary Ross.<sup>6</sup> On October 22, 2018, however, the Supreme Court rebuked Judge Furman, issuing a stay to halt the deposition of Secretary Ross.<sup>7</sup> In a concurring statement, Justices Neil Gorsuch and Clarence Thomas questioned the lower court's determination that Secretary Ross had demonstrated bad faith in deciding to reinstate a citizenship question to the Census. The Justices wrote:

But there's nothing unusual about a new cabinet secretary coming to office inclined to favor a different policy direction, soliciting support from other agencies to bolster his views, disagreeing with staff, or cutting through red tape. Of course, some people may disagree with the policy and process. But until now, at least, this

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<sup>3</sup> Letter from Secretary Wilbur Ross, Department of Commerce, to Karen Dunn Kelley, Undersecretary for Economic Affairs, Department of Commerce (March 26, 2018).

<sup>4</sup> Questions Planned for the 2020 Census and American Community Survey: Federal Legislative Programs and Uses, U.S. Census Bureau (March 2018).

<sup>5</sup> Letter from The Leadership Conference on Civil and Human Rights, et. al. to Wilbur Ross, Secretary, U.S. Dep't of Commerce (January 10, 2018).

<sup>6</sup> Order re: Deposition of Secretary of Commerce Wilbur Ross, New York v. U.S. Dep't of Commerce, 315 F.Supp.3d 766 (S.D.N.Y. 2018) (No. 18-CV-2921).

<sup>7</sup> In re Department of Commerce, et al. on Application for Stay at 2, U.S. Dep't of Commerce, et al. v. State of New York, et al., 586 U.S. (2018) (No. 18A375).

much has never been thought enough to justify a claim of bad faith and launch an inquisition into a cabinet secretary's motives.<sup>8</sup>

On January 15, Judge Furman issued his ruling in *Department of Commerce*. Judge Furman held that Secretary Ross violated the Administrative Procedure Act (APA) in adding a citizenship question to the 2020 Census questionnaire. Given the immediacy of the 2020 Census timeline, the Department of Justice appealed the decision directly to the Supreme Court of the United States, which agreed to hear the case. The Court agreed to hear the case on February 15, 2019.<sup>9</sup>

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### **Democrats Seek the Same Information at Issue in the Supreme Court Litigation**

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The United States Supreme Court scheduled oral argument in *Department of Commerce* on April 23, 2019, to review Judge Furman's decision.<sup>10</sup> On March 15, 2019, at the request of the Trump Administration, the Supreme Court expanded the scope of oral arguments to include the constitutional challenge to the Enumeration Clause of the Constitution, Article I, Section 2, Clause 3.<sup>11</sup> The constitutional challenge to the Enumeration Clause is at issue in another case about the reinstatement of the citizenship question, *State of California, et al. v. Ross et al.*<sup>12</sup>

Under Chairman Cummings, the Democrats initiated a partisan inquiry into Secretary Ross's decision to add the citizenship question to the 2020 Census. Chairman Cummings is using the authority of the Committee to gather documentary and testimonial evidence at the heart of the case before the Supreme Court. One Democrat Member of the Committee even proclaimed that the Committee's oversight was intended to "reveal something that the courts can use" in the litigation.<sup>13</sup>

At issue before the Supreme Court is whether Secretary Ross's mental intent is necessary to determine the validity of his decision to reinstate the citizenship question when the Secretary had already memorialized the reasons for his decisions in writing.<sup>14</sup> The parties challenging the reinstatement of the citizenship question want to probe the Secretary's "mental processes." These parties even tried to depose Secretary Ross before the Supreme Court stopped it. Unfortunately, Chairman Cummings now seeks the same information from Secretary Ross.

On January 8, 2019, even before the Committee organized for the 116th Congress, Chairman Cummings wrote to Secretary Ross requesting documents.<sup>15</sup> He asked Secretary Ross for six broad categories of documents, as well as answers to fourteen questions about the

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<sup>8</sup> *Id.*

<sup>9</sup> Certiorari Granted, *U.S. Dep't of Commerce, et al. v. State of New York, et al.*, 586 U.S. (2019).

<sup>10</sup> *State of New York, et al. v. U.S. Dep't of Commerce, et al.*, No. 18-CV-2921 (S.D.N.Y. Jan. 15, 2019).

<sup>11</sup> U.S. CONST. art. I, § 2, cl. iii.

<sup>12</sup> *California v. Ross*, No. 18-cv-01865-RS (N.D. Cal. 2018).

<sup>13</sup> Hansi Lo Wang, Commerce Secretary to Face Lawmakers in Hearing on Census Citizenship Question, Nat'l Pub. Radio, Mar. 14, 2019.

<sup>14</sup> Petition for a Writ of Certiorari Before Judgment, *U.S. Dep't of Commerce, et al. v. State of New York, et al.*, 586 U.S. (2019).

<sup>15</sup> Letter from Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform, to Wilbur L. Ross, Jr., Sec'y, Dep't of Commerce (Jan. 8, 2019).

addition of the citizenship question to the census.<sup>16</sup> Chairman Cummings posed several questions that probed Secretary Ross’s actions and state of mind at the time that he decided to reinstate the citizenship question on the 2020 Census.<sup>17</sup>

On March 14, 2019, Chairman Cummings convened a hearing featuring sworn testimony from Secretary Ross about the 2020 decennial census and the reinstatement of a citizenship question.<sup>18</sup> In light of the Supreme Court’s decision to stay Secretary Ross’s deposition, demanding Secretary Ross’s sworn testimony is in effect an end-run around the Supreme Court’s stay order. Secretary Ross appeared voluntarily before the Committee knowing Chairman Cummings would issue a subpoena for his appearance.<sup>19</sup>

At the outset of the hearing, Chairman Cummings characterized the purpose of the hearing to “examine Secretary Ross’s decision” to reinstate the question and noted that he expected Secretary Ross to testify fully on these issues.<sup>20</sup> The Democrats posed questions to Secretary Ross designed to litigate the merits of the citizenship question and probe Secretary Ross’s intent in reinstating the question.<sup>21</sup> For example:

- Chairman Cummings (D-MD) asked Secretary Ross about his “interest” in reinstating the citizenship question;<sup>22</sup>
- Rep. Raskin (D-MD) asked Secretary Ross if there is “anything that you would tell [the Committee] that would somehow alter the Supreme Court’s interpretation of whether or not your judgment to add the citizenship question is constitutional”;<sup>23</sup>
- Rep. DeSaulnier (D-CA) asked Secretary Ross *why* he requested an internal Commerce Department memorandum about reinstating the citizenship question;<sup>24</sup>
- Rep. Tlaib (D-MI) and Rep. Pressley (D-MA) asked Secretary Ross about his communications with other Administration officials about reinstating the citizenship question;<sup>25</sup> and
- Rep. Gomez (D-CA) asked Secretary Ross whether he had any communications with the White House about reinstating the citizenship question.<sup>26</sup>

In his concluding remarks, Chairman Cummings again complained about Secretary Ross’s reluctance to answer questions that involved information related to pending litigation before the Supreme Court:

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<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Commerce Secretary Wilbur L. Ross, Jr.: Hearing Before the H. Comm on Oversight and Reform*, 116th Congress (March 14, 2019).

<sup>19</sup> Letter from Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform to Wilbur Ross, Secretary, U.S. Department of Commerce (Mar. 6, 2019) (on file with the Committee).

<sup>20</sup> *Commerce Secretary Wilbur L. Ross, Jr.: Hearing Before the H. Comm on Oversight and Reform*, 116th Congress, 29 (2019) (statement of Chairman Elijah E. Cummings).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

*But today when I heard your testimony, I felt like you were trying to pull a fast one on me. I've got to be honest with you, man. You went back to the old argument about ongoing litigation.* I was a little disappointed . . . . And let me make this clear so that there would be absolutely no doubt, Mr. Secretary. This committee does not accept the argument that you can withhold documents or testimony from us because you have other separate litigation. *(emphasis added).*<sup>27</sup>

Republican members of the Committee noted the Democrats' obvious motives to elicit testimony at the heart of the Supreme Court litigation. Rep. Greg Steube (R-FL) explained:

**Mr. Steube.** Procedurally, Mr. Secretary, isn't it true that this issue and related issues, as you have previously testified, are currently before the U.S. Supreme Court in the Department of Commerce v. State of New York?

**Secretary Ross.** Yes. Yes, sir. The issue is before the Supreme Court. It's also pending in a couple of lower courts at this time.

**Mr. Steube.** And isn't it also true that on October 22, 2018, the Supreme Court issued a stay granting the administration's request to halt your deposition as requested by the plaintiffs?

**Secretary Ross.** That is correct, sir.

**Mr. Steube.** So the U.S. Supreme Court has stayed your deposition, yet we are here today deposing you under oath where the rules of evidence and the civil procedure do not apply. Is that correct?

**Secretary Ross.** I am here voluntarily, and I am here under oath today, yes, sir.

**Mr. Steube.** The very issue before the court is to your intent on placing this question on the form, and all of Mr. Cummings' questions and the previous members' questions were directly trying to elicit answers to those very questions that are before the court. Is that correct?

**Secretary Ross.** Yes, sir.<sup>28</sup>

Similarly, Rep. Kelly Armstrong (R-ND) succinctly noted the inherent difficulties that are implicated when a high-ranking Executive Branch official is called by a congressional committee to provide sworn testimony on a matter currently pending in federal court:

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<sup>27</sup> *Id.* 204.

<sup>28</sup> *Id.*

[A]nything that is being done here today under oath is going to be more than free game in front of oral arguments . . . . ***Anything provided to a congressional inquiry at that point in time is going to end up into the federal case.*** That is just the way it is going to happen. So whenever lawsuits are filed, there is a competing interest between what is going to be discoverable in a federal courtroom and what is being requested in front of a congressional hearing (emphasis added).<sup>29</sup>

As the Republican Members pointed out, it is entirely foreseeable—and, in fact, likely—that Secretary Ross’s sworn testimony before the Committee could be used against the Commerce Department in the pending litigation. Although Congress is not prohibited from holding hearings on matters that are currently involved in litigation, the decision to do so does carry with it the potential to jeopardize the impartiality of the judicial proceedings and is a purely political decision on the part of the majority—in this case, a decision of the Democrats to influence the Supreme Court.<sup>30</sup>

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### **Democrats Should Not Interfere with Ongoing Litigation, Especially at the Supreme Court**

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Chairman Cummings and Democrats on the Committee are pursuing information from Secretary Ross because they believe that they can use it to influence the Supreme Court. The Chairman should know better than to interfere with pending litigation. After all, when Chairman Cummings was in the minority, he advised against it.

Outside experts agree that Chairman Cummings should not force Secretary Ross to disclose information at issue in the Supreme Court litigation.<sup>31</sup> As former Justice Department official Hans von Spakovsky wrote, “with civil litigation over [the citizenship issue] now before the Supreme Court, the House committee should cancel the hearing in recognition of the fact that having Ross testify is inappropriate and could, as the Justice Department has recognized in the past, jeopardize the government’s litigation.”<sup>32</sup> Mr. von Spakovsky cited long-standing Justice Department guidance warning that congressional interference would harm the government’s litigation position.<sup>33</sup>

Going back as far as the Clinton Administration, the Justice Department has maintained a practice of protecting federal government materials that are the subject of pending or ongoing litigation. In 2000, then-Assistant Attorney General Robert Raben highlighted the importance of protecting information that may be used in litigation against the federal government. Raben wrote:

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<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> Hans A. von Spakovsky, *Why the Commerce Secretary Shouldn’t Testify to Lawmakers About the Census* (Mar. 12, 2019), <https://www.heritage.org/political-process/commentary/why-the-commerce-secretary-shouldnt-testify-lawmakers-about-the-census>.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

The Department has similar interests in the confidentiality of internal documents relating to its representation of the United States in civil litigation. Our litigation files usually contain confidential correspondence with client agencies as well as the work product of our attorneys in suits that frequently seek millions of tax dollars. They also contain ‘road maps’ of our litigation plans and preparations, as well as confidential reports from experts and consultants. *Those plans could be seriously jeopardized and our positions in litigation compromised if we are obliged to disclose our internal deliberations including, but not limited to, our assessments of the strengths and weaknesses of evidence or the law, before they are presented in court.* That may result in an unfair advantage to those who seek public funds and deprive the taxpayers of confidential representation enjoyed by other litigants (emphasis added).<sup>34</sup>

While Assistant Attorney General Raben stressed the need for the Executive Branch to protect information that may be the subject of pending litigation, he did not suggest the Legislative and Executive Branches must consistently be at odds with one another. The federal courts and the Department of Justice have regularly indicated Congress and the Executive Branch must strive to accommodate the “legitimate needs of the other branch.”<sup>35</sup>

Ironically, Chairman Cummings previously chided Republicans for pursuing investigations while litigation was pending. But unlike Chairman Cummings, the issues involved at the time did not involve seeking information from a cabinet official to influence a Supreme Court case.

In 2011, the Committee, under former Chairman Darrell Issa, launched an investigation into the National Labor Relations Board’s (NLRB) treatment of Boeing and its corporate decision to move some production facilities to South Carolina. Committee Democrats sent no less than three letters to former Chairman Issa asking the investigation be suspended pending the conclusion of litigation.

On June 16, 2011, then-Ranking Member Elijah Cummings sent a letter condemning former Chairman Issa for inviting then NLRB Acting General Counsel, Lafe Solomon to testify. Ranking Member Cummings wrote:

But it is the Committee's concern, and it is the concern of all Members of Congress that we conduct ourselves in a manner that upholds the Constitution. Recognizing the risk of interference, as well as the risk of the appearance of interference, a responsible

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<sup>34</sup> Assistant Attorney General Robert Raben, U.S. Department of Justice, Office of Legislative Affairs, Memorandum to the Honorable John Linder, 4-5 (2000).

<sup>35</sup> Opinion of the Attorney General for the President, Assertion of Executive Privilege in Response to a Congressional Subpoena, 5 Op. O.L.C. 27, 31 (1981).

chairman would take care to minimize these risks. *Rather than creating a new basis for appealing any final agency decision, increasing uncertainty, and shifting the costs of your interference onto private parties, the Committee should wait until the case is no longer pending before calling the chief prosecutor to testify at a hearing about that case* (emphasis added).<sup>36</sup>

In a letter dated, November 9, 2011, then-Ranking Member Cummings wrote:

As I have said repeatedly, I believe it is an inappropriate use of Committee resources to interfere with this ongoing legal action in order to benefit the corporate interests of a single company. . . . *The ongoing legal proceeding should be allowed to take its full course without any further interference from Members of Congress* (emphasis added).<sup>37</sup>

Also in 2011, during the Committee's investigation of the botched Fast and Furious gun-walking operation, then-Ranking Member Cummings warned that the Committee should not interfere with ongoing legal processes. On June 13, 2011, Ranking Member Cummings wrote:

The challenge is that when congressional committees embark on investigations while ongoing prosecutions are pending, there is a dangerous potential to compromise criminal prosecutions, especially if a committee is reckless and does not consult with the Department. *For these reasons, many congressional committees defer investigations until after prosecutions are complete.* (emphasis added).<sup>38</sup>

Chairman Cummings ought to consider the advice he gave in 2011, as well as the Clinton Administration guidance, that cautions against congressional interference in ongoing litigation. Forcing Secretary Ross and Commerce Department to produce information and material at issue in the Supreme Court litigation seriously risks the integrity of the ongoing litigation and is an inappropriate use of Committee resources.

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<sup>36</sup> Letter from Elijah Cummings, Ranking Member, H. Comm. on Oversight and Gov't Reform and George Miller, Ranking Member, H. Comm. on Ed. and Workforce, to Darrell E. Issa, Chairman, H. Comm. on Oversight and Gov't Reform (June 16, 2011) available at [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2011-06-16.GM%20and%20EEC%20Letter%20to%20Issa.NLRB\\_\\_0.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2011-06-16.GM%20and%20EEC%20Letter%20to%20Issa.NLRB__0.pdf).

<sup>37</sup> Letter from Elijah E. Cummings, Ranking Member, H. Comm. on Oversight and Gov't Reform, to Darrell E. Issa, Chairman, H. Comm. on Oversight and Gov't Reform (November 9, 2011) available at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2011-11-09.EEC%20to%20Issa.Boeing-NLRB.pdf>.

<sup>38</sup> Letter from Elijah E. Cummings, Ranking Member, H. Comm on Oversight and Gov't Reform, to Darrell E Issa, Chairman, H. Comm on Oversight and Gov't Reform (June 13, 2011) available at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/EEC%20to%20Issa%2006-13-11.pdf>.



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## Conclusion

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The Oversight and Reform Committee should not use its limited resources to interfere directly in matter on appeal before the United States Supreme Court. The fact that Chairman Cummings is eager to do so—in the face of his prior statements counseling against such actions—shows just how desperate the Democrats are to prevent the Census Bureau from soliciting citizenship information.

The Democrats do not want anyone—the Census Bureau, Congress, or the American public—to know with accuracy the number of United States citizens in the country. A majority of Democrats in the House of Representatives support non-citizens voting in U.S. elections.<sup>39</sup> It seems rather apparent, therefore, that Democrats in the House hope to prevent the Census Bureau from asking about citizenship to increase the number of non-citizens voting in elections.

Chairman Cummings’s decision to use Committee resources to interfere so directly in the Supreme Court’s proceedings is another example of partisan, improper investigations into the Trump Administration.

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<sup>39</sup> H.R. 1, 116th Cong., Motion to Recommit offered by Rep. Dan Crenshaw, Cong. Record March 8, 2019 H2600-H2602.

# Appendices

**Congress of the United States**  
**Washington, DC 20515**

January 8, 2019

The Honorable Wilbur L. Ross, Jr.  
Secretary  
U.S. Department of Commerce  
1401 Constitution Avenue N.W.  
Washington, D.C. 20230

Dear Secretary Ross:

The Committee on Oversight and Reform is seeking your testimony regarding the ongoing preparations for the 2020 Census and your decision to add a citizenship question—despite warnings from the Census Bureau that it could seriously harm the accuracy of the count.

The Committee also has serious concerns about new evidence, including emails and a supplemental memorandum you submitted in ongoing litigation in this matter, indicating that you orchestrated the addition of the citizenship question before any request was made by the Department of Justice (DOJ). This evidence appears to contradict your previous testimony to Congress.

Over the past three weeks, my staff have repeatedly tried to communicate with your office about a date in January or February on which you would be available to testify. I asked my staff to work with your office to identify a date that would work with your schedule, but your staff declined to identify any day on which you would be willing to appear.

Recently, your staff indicated that you would not testify until the government shutdown ends. This response is problematic for two reasons. First, President Trump indicated last week that the shutdown could last for “years.” The Trump Administration may not use the President’s own actions in causing the shutdown—and extending it—to avoid oversight by Congress, which is one of our core responsibilities under the Constitution. Second, the current partial government shutdown does not apply to the Census Bureau, which is funded and operating.

Yesterday, you were asked during an interview whether you would agree to appear before the Committee at my request. You indicated that you would, stating: “We feel like we have nothing to hide, so we will deal with all of his questions.”<sup>1</sup>

For these reasons, I am writing to request that you testify before the Committee on February 12, 2019. If you have a conflict on that date that cannot be resolved, please contact my staff to arrange an alternate date for your testimony.

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<sup>1</sup> *Squawk Box*, CNBC (Jan. 7, 2019) (online at [www.cnbc.com/video/2019/01/07/secretary-ross-addresses-allegations-of-misleading-testimony.html](http://www.cnbc.com/video/2019/01/07/secretary-ross-addresses-allegations-of-misleading-testimony.html)).

### **Request for Documents**

In addition, I request that you finally comply with the previous request for documents that I made with Representative Carolyn Maloney and other Members of the Oversight Committee on April 4, 2018.<sup>2</sup> Specifically, please provide the following documents to the Committee:

1. All documents and communications relating to any concerns expressed by the Census Bureau regarding the addition of a citizenship question to the 2020 Census;
2. All analyses, including drafts, relating to the potential impact that adding a citizenship question would have on response rates;
3. All communications between or among officials from the Department of Commerce, the Census Bureau, and any other office or entity inside or outside of the government regarding the addition of a citizenship question; and
4. All documents, communications, and analyses relating to cost increases that could result from the addition of a citizenship question.

In addition to producing these previously-requested documents, I ask that you provide the following documents regarding the Census' budget and timing:

5. All documents and communications relating to any 2020 Census program or testing that has been cancelled, delayed, or modified due to budget constraints; and
6. All documents and communications relating to concerns raised by the Department or the Census Bureau regarding budget constraints for the 2020 Census.

### **Requests for Information**

Finally, I request that you provide answers to the questions that were sent to you by me, Representative Maloney, and more than 40 Members of Congress on June 28, 2018, and August 3, 2018.<sup>3</sup> Specifically, please provide answers to the following questions:

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<sup>2</sup> Letter from Ranking Member Elijah E. Cummings, Rep. Carolyn B. Maloney et al., House Committee on Oversight and Government Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce, and Acting Director Ron Jarmin, Ph.D., Census Bureau (Apr. 4, 2018) (online at [https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-04-04.%20EEC%20Maloney%20Norton%20Clay%20Connolly%20%26%20Gomez%20to%20Commerce%20re.Cens\\_....pdf](https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-04-04.%20EEC%20Maloney%20Norton%20Clay%20Connolly%20%26%20Gomez%20to%20Commerce%20re.Cens_....pdf)).

<sup>3</sup> Letter from Rep. Carolyn Maloney et al., to Secretary Wilbur L. Ross, Jr., Department of Commerce (June 28, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-06-28.EEC%20et%20al%20to%20Ross-DOC%20re%202020%20Census%20Citizenship%20Question.pdf>); Letter from Rep. Carolyn Maloney et al., to Secretary Wilbur L. Ross, Jr., Department of Commerce (Aug. 3, 2018)

1. Who were the other senior Administration officials who proposed adding a citizenship question?
2. Who did you consult with, both inside or outside the Administration, about the addition of a citizenship question and when did these discussions take place?
3. Why did you testify before the House Ways and Means Committee on March 22, 2018, that DOJ had “initiated the request” for a citizenship question when your supplemental memo clearly states that you initiated that discussion with DOJ?
4. Did the rationale for the citizenship question being necessary for enforcement of the Voting Rights Act originate with the Department of Commerce or the Department of Justice?
5. When did you first begin considering adding a citizenship question to the 2020 Census? Who or what prompted you to begin this consideration?
6. When did you decide that a citizenship question should be added to the 2020 Census? Why did you come to that decision?
7. When did you first request that the Census Bureau include a citizenship question and to whom did you request this?
8. Did you discuss adding a citizenship question to the 2020 Census with any Trump Administration, Trump transition, or Trump campaign officials before you were nominated to be Secretary? If so, who did you speak to and what was the nature of the conversation?
9. Did you discuss or seek advice from past Census Bureau Directors about the impact that a citizenship question could have on the accuracy of the Census? If so, who?
10. Why did you and your staff believe it was necessary to have the Department of Justice request that the Bureau add a citizenship question? Why did you contact the Department of Homeland Security about a potential request and why did they deem the Justice Department to be in a better position to assist with your request?
11. When did the Department of Commerce begin working with the Department of Justice to request that a citizenship question be added to the census? Who was involved in this process? Were officials from the White House a part of the process? If so, who?

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(online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018%200803%20Letter%20to%20Secretary%20Ross.pdf>).

The Honorable Wilbur L. Ross, Jr.

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12. Why did you repeatedly tell Congress, under oath, that the request for a citizenship question was initiated by the Department of Justice when your own emails show that you initiated the request?
13. Why did you provide a supplemental memo to the court on June 21, 2018, contradicting your testimony to Congress? Why did you not disclose these facts to Congress before the document was publicly released?
14. Please name all past and present senior administration officials with whom you discussed the idea of adding a citizenship question to the 2020 Census.

Please provide the documents requested above and the answers to the questions above by January 22, 2019.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X.

An attachment to this letter provides additional instructions for responding to this request. If you have any questions, please contact my staff at (202) 225-5051.

Sincerely,



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Elijah E. Cummings  
Chairman  
Committee on Oversight and Reform

Enclosure

cc: The Honorable Jim Jordan, Ranking Member





January 11, 2019

The Honorable Elijah E. Cummings  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Representative Cummings,

Thank you for your January 8, 2019 letter regarding Secretary Wilbur Ross's decision to reinstate a citizenship question on the 2020 Census, which was announced in his March 26, 2018 Decision Memorandum. As you know, the Secretary shares your goal of ensuring a complete and accurate 2020 Census, has worked tirelessly to that end, and appreciates the opportunity to address your concerns.

In your correspondence, you mentioned several letters from 2018 you believe the Department did not answer. I look forward to working with your staff on this issue, because it is my understanding that we fully responded to those letters.

I also look forward to providing responses to your requests for documents and information; however, the staff and resources necessary to respond to your requests are currently unavailable due to the ongoing partial lapse in appropriations. This includes Census Bureau staff and resources that will be reassigned to this task upon the partial shutdown's resolution. I will, however, work with excepted Department employees who can be approved to work on this project and will plan to provide you with a first installment of responsive documents by January 29, 2019.

Unfortunately, the Secretary is unable to appear before the Committee on February 12, 2019, or later in February due to preexisting international travel commitments for government business. As of this date, the Secretary can be available to appear before the Committee on March 14, 2019 or March 28, 2019, and my staff will work together with yours to confirm one of those dates as they draw nearer. However, I am confident that the documents and information you will receive will obviate any need for the Secretary to appear and testify on this topic.

We appreciate the opportunity to assist with your inquiry. If you have any additional questions, please contact me at 202-482-3663.

Sincerely,

Michael Platt Jr.  
Assistant Secretary for Legislative  
and Intergovernmental Affairs

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051

MINORITY (202) 225-5074

<http://oversight.house.gov>

February 12, 2019

Mr. Matthew G. Whitaker  
Acting Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20230

Dear Acting Attorney General Whitaker:

I am writing to request that the Department of Justice (DOJ) fully comply with a previous request for documents regarding DOJ's role in the Trump Administration's decision to add a citizenship question to the 2020 Decennial Census.

On May 1, 2018, I wrote to DOJ with Representative Carolyn Maloney and 17 other Members of the Committee requesting documents to "help understand the substance of DOJ's justification" for requesting the addition of a citizenship question to the 2020 Census and "the process by which its request was made."<sup>1</sup> DOJ has not produced any of the documents we requested more than nine months ago.

Our previous letter referred to a December 12, 2017, letter from DOJ that asked the Census Bureau to add a citizenship question to the 2020 Census and asserted that gathering citizenship data on the decennial census was "critical to the Department's enforcement of Section 2 of the Voting Rights Act."<sup>2</sup>

On March 20, 2018, Secretary of Commerce Wilber Ross testified before Congress about his decision to add the citizenship question to the 2020 Census, stating: "We are responding *solely* to the Department of Justice's request."<sup>3</sup>

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<sup>1</sup> Letter from Ranking Member Elijah E. Cummings, et al., Committee on Oversight and Government Reform, to John Gore, Acting Assistant Attorney General, Department of Justice (May 1, 2018) (online at <https://maloney.house.gov/sites/maloney.house.gov/files/2018-05-01.%20Dem.Members%20to%20DOJ-Gore%20re.Citizenship%20Question-2020%20Decennial%20Census.pdf>).

<sup>2</sup> Letter from Arthur E. Gary, General Counsel, Justice Management Division, Department of Justice, to Ron Jarmin, Acting Director, Census Bureau (Dec. 12, 2017) (online at [www.documentcloud.org/documents/4340651-Text-of-Dec-2017-DOJ-letter-to-Census.html](http://www.documentcloud.org/documents/4340651-Text-of-Dec-2017-DOJ-letter-to-Census.html)).

<sup>3</sup> House Committee on Appropriations, Subcommittee on Commerce, Justice, Science, and Related Agencies, *FY19 Budget Hearing: Department of Commerce* (Mar. 20, 2018) (emphasis added).



Since that time, new information has come to light that casts grave doubts on the veracity of Secretary Ross's testimony and assertions in the December 2017 letter from DOJ to the Census Bureau. Last month, a federal judge found that Secretary Ross violated the Administrative Procedures Act and other laws by adding the citizenship question to the Census, explaining:

He failed to consider several important aspects of the problem; alternately ignored, cherry-picked, or badly misconstrued the evidence in the record before him; acted irrationally both in light of that evidence and his own stated decisional criteria; and failed to justify significant departures from past policies and practices—a veritable smorgasbord of classic, clear-cut APA violations.<sup>4</sup>

The Court also found that aides to Secretary Ross “fed DOJ with the rationale for the request” in the December 2017 letter and that there is “reason to doubt that DOJ *itself* believed the VRA rationale” put forward in that letter.<sup>5</sup>

The Court noted that Acting Assistant Attorney General Jon Gore, who drafted the letter, later admitted that “none of the DOJ components with principal responsibility for enforcing the VRA requested the addition of a citizenship question; instead, he drafted the letter solely in response to the Secretary’s request.”<sup>6</sup>

Please produce the following documents by February 26, 2019. Unless otherwise stated, please produce documents for the period from January 20, 2017, through the present:

1. All documents and communications relating or referring to the addition of a citizenship question to the census;
2. Documents and communications sufficient to show who was involved in this request and the role of each individual who was involved;
3. All documents and communications within the Department of Justice and with outside entities regarding the request to add a citizenship question to the census, including but not limited to the White House, the Commerce Department, the Republican National Committee, the Trump Campaign, or Members of Congress;
4. All documents and communications relating or referring to the need to add a citizenship question to the Census in order to enforce the Voting Rights Act;
5. A list of all instances in which the lack of a citizenship question on the Decennial census negatively impacted DOJ’s Voting Rights Act enforcement efforts; and

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<sup>4</sup> *State of New York, et al., v. United States Department of Commerce, et al.* (Jan. 15, 2019) (online at [www.brennancenter.org/sites/default/files/legal-work/2019-01-15-574-Findings%20Of%20Fact.pdf](http://www.brennancenter.org/sites/default/files/legal-work/2019-01-15-574-Findings%20Of%20Fact.pdf)).

<sup>5</sup> *Id.* (emphasis in original).

<sup>6</sup> *Id.*

Mr. Matthew G. Whitaker

Page 3

6. A list of all voting rights enforcement actions taken by the Department of Justice since January 20, 2017.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X.

An attachment to this letter provides additional instructions for responding to this request. If you have any questions, please contact the Oversight Committee staff at (202) 225-5051.

Thank you for your attention to this matter.

Sincerely,



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Elijah E. Cummings  
Chairman

Enclosure

cc: The Honorable Jim Jordan, Ranking Member

### Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
  - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - b. Document numbers in the load file should match document Bates numbers and TIF file names.
  - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:  
  
BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,  
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic



message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051  
MINORITY (202) 225-5074

<http://oversight.house.gov>

February 14, 2019

Mr. John Gore  
Principal Deputy Assistant Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20230

Dear Principal Deputy Assistant Attorney General Gore:

The Committee on Oversight and Reform requests your appearance for a transcribed interview on Thursday, February 28, 2019, at 10:00 a.m., in room 6400 O'Neill House Office Building.

The transcribed interview will address the Department of Justice's request to the Census Bureau to add a citizenship question to the 2020 Decennial Census and other topics.

We ask that you contact the Committee by February 20, 2019, to confirm your attendance.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

If you have any questions, please contact Committee staff at (202) 225-5051.

Sincerely,



Elijah E. Cummings  
Chairman

cc: The Honorable Jim Jordan, Ranking Member



UNITED STATES DEPARTMENT OF COMMERCE  
Office of Legislative and  
Intergovernmental Affairs  
Washington, D.C. 20230

February 19, 2019

The Honorable Elijah E. Cummings  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Representative Cummings,

Pursuant to my January 11, 2019 and January 29, 2019 responses to your January 8, 2019 letter regarding Secretary Wilbur Ross's decision to reinstate a citizenship question on the 2020 Census, enclosed please find approximately 4,315 pages of documents responsive to Document Requests 1 through 4, along with a privilege log.

I look forward to producing a third installment of the documents you requested on March 6, 2019. The Department and its staff are devoting substantial time and resources to be as cooperative and responsive as possible.

In your January 8 letter, you requested that the Secretary provide answers to the questions asked in your June 28, 2018 and August 3, 2018 letters. The Secretary responded to those letters and answered those questions (which are reprinted nearly verbatim<sup>1</sup> in your January 8 letter) in two letters dated December 21, 2018. For your convenience and ease of reference, I have enclosed the December 21 letters here.

I remain confident that the documents and information you are receiving will obviate any need for the Secretary to appear and testify on this topic. We appreciate the opportunity to assist with your inquiry. If you have any additional questions, please contact me at (202)-482-3663.

Sincerely,

Michael Platt Jr.  
Assistant Secretary for Legislative  
and Intergovernmental Affairs

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<sup>1</sup> All the questions in your January 8, 2019 letter are verbatim restatements of the questions asked in your June 28, 2018 and August 3, 2018 letters, except for one. Question 11 in your January 8 letter corresponds to Question 7 in your August 3 letter. On August 3 you asked, "When did the Department of Commerce begin working with the Department of Justice to request that a citizenship question be added *back* to the Census?" (emphasis added). However, in your January 8 letter, you removed the word "back" from the otherwise identical question. Although the later form of your question less accurately describes the facts, the Secretary's December 21, 2018 letter is responsive to both versions of the question.



**Cc:**

The Honorable Jim Jordan  
Ranking Member, Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, D.C. 20515

**Enclosures:**

1. December 21, 2019 letter from Secretary Ross to Representative Elijah Cummings
2. December 21, 2019 letter from Secretary Ross to Representative Elijah Cummings
3. Installment Number 2 of documents responsive to January 8, 2019 Letter from Chairman Elijah Cummings to Secretary Ross and Privilege Log

February 19, 2019 Letter from Secretary Wilbur  
Ross to Hon. Elijah Cummings

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# Enclosure 1



December 21, 2018

The Honorable Elijah E. Cummings  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Cummings:

Thank you for your letter regarding my decision to reinstate a citizenship question on the 2020 Decennial Census questionnaire. I apologize for the delay in response. I appreciate your perspective on Census Bureau issues and the time you have taken to share your concerns. Ensuring a complete and accurate Decennial Census is one of my most important duties and remains one of my highest priorities.

As you know, the Department of Justice (DOJ) on December 12, 2017 formally requested that the Census Bureau reinstate the citizenship question on the Decennial Census. DOJ stated that reinstatement of the citizenship question on the Decennial Census questionnaire “would best enable the Department to protect all American citizens’ voting rights under Section 2.”<sup>1</sup> DOJ’s request initiated my decision-making process, which entailed a comprehensive program, policy, and legal review. During that process, I maintained an open mind and I consulted with my staff, the Census Bureau, and various stakeholders<sup>2</sup> to evaluate and respond to the request. No officials from the White House were a part of this process. After considering the information provided to me during this process, I made the conclusions described within my March 26, 2018 decision memorandum<sup>3</sup> to reinstate the citizenship question. I directed my decision memorandum to the Under Secretary of Economic Affairs with instructions that the Census Bureau reinstate the question.<sup>4</sup>

Before receiving DOJ’s formal request to reinstate the citizenship question, I and my staff discussed the concept with personnel at other federal departments.<sup>5</sup> As the Secretary of

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<sup>1</sup> Letter from Art Gary, Department of Justice, to Ron Jarmin, Census Bureau (Dec. 12, 2017) at Administrative Record (AR) 663, [http://osec.doc.gov/opog/FOIA/Documents/AR%20-%20FINAL%20FILED%20-%20ALL%20DOCS%20\[CERTIFICATION-INDEX-DOCUMENTS\]%206.8.18.pdf](http://osec.doc.gov/opog/FOIA/Documents/AR%20-%20FINAL%20FILED%20-%20ALL%20DOCS%20[CERTIFICATION-INDEX-DOCUMENTS]%206.8.18.pdf).

<sup>2</sup> See AR 763–1276.

<sup>3</sup> Decision Memorandum from Secretary Wilbur Ross on Reinstatement of a Citizenship Question on the 2020 Decennial Census Questionnaire (Mar. 26, 2018) at AR 1313–1320. Also available at [https://www.commerce.gov/sites/default/files/2018-03-26\\_2.pdf/](https://www.commerce.gov/sites/default/files/2018-03-26_2.pdf/).

<sup>4</sup> *Id.* at 1320.

<sup>5</sup> Before receipt of the DOJ request in December 2017, my staff or I had discussions with federal government officials including Mary Blanche Hankey, James McHenry, Gene Hamilton, Danielle Cutrona, John Gore, and Jefferson Sessions. Moreover, Steven Bannon called in the Spring of 2017 to request that I speak with Kris Kobach

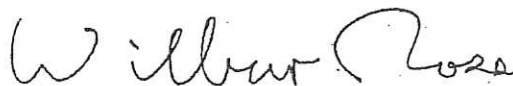
Commerce, I felt it important to explore such issues with my staff to ensure that the Department is fulfilling its mission to the American people. DOJ repeatedly requested inclusion of the citizenship question on the American Community Survey for Voting Rights Act purposes. Based on this experience, DOJ ultimately determined that it wanted more granular citizenship data.<sup>6</sup> Given that the Department of Commerce faced an April 1, 2018 statutory deadline to provide Congress with “a report containing the Secretary’s determination of the questions proposed to be included” on the census questionnaire, 13 U.S.C. § 141(f)(2), I hoped to receive a definitive determination of non-interest or interest from DOJ as early in 2017 as possible.<sup>7</sup> The decision-making process and my ultimate conclusion that the question should be reinstated occurred only after and in response to DOJ’s request.

My testimony to Congress has been truthful and candid. The questions to which I responded and the context of those conversations make clear that I was referring to my decision-making process and thorough review of DOJ’s request – not informal and hypothetical discussions predating that request.

Thank you for your inquiry and I look forward to continuing to work with the Census Bureau and the Members of Congress to ensure a complete and accurate 2020 Decennial Census.

If you have further concerns or questions, please have your staff contact Michael Platt, Jr., Assistant Secretary for Legislative and Intergovernmental Affairs, at (202) 482-3663.

Sincerely,



Wilbur Ross

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about the latter’s ideas about including a citizenship question on the 2020 Decennial Census. Notably, my only decision in response to Mr. Kobach’s ideas was my complete rejection of his proposed citizenship question configuration and the purposes motivating his preferred configuration. I have always been and will always be committed to counting everyone once, only once, and in the right place.

<sup>6</sup> Earl Comstock was referred to Gene Hamilton at the Department of Homeland Security (DHS) by Mr. McHenry at the Department of Justice (DOJ). However, Mr. Hamilton informed Mr. Comstock that DOJ – not DHS – was the federal agency that would most utilize the data obtained from asking a citizenship question on the Decennial Census.

<sup>7</sup> As stated in the document, itself, I issued my June 21, 2018 Supplemental Memorandum “to provide further background and context regarding my March 26, 2018, memorandum concerning the reinstatement of a citizenship question to the decennial census.”

February 19, 2019 Letter from Secretary Wilbur  
Ross to Hon. Elijah Cummings

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# Enclosure 2



December 21, 2018

The Honorable Elijah E. Cummings  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Cummings:

Thank you for your letter regarding my decision to reinstate a citizenship question on the 2020 Decennial Census questionnaire. I apologize for the delay in response. I appreciate your perspective on Census Bureau issues and the time you have taken to share your concerns. Ensuring a complete and accurate Decennial Census is one of my most important duties and remains one of my highest priorities.

As you know, the Department of Justice (DOJ) on December 12, 2017 formally requested that the Census Bureau reinstate the citizenship question on the Decennial Census. DOJ stated that reinstatement of the citizenship question on the Decennial Census questionnaire “would best enable the Department to protect all American citizens’ voting rights under Section 2.”<sup>1</sup> DOJ’s request initiated my decision-making process, which entailed a comprehensive program, policy, and legal review. During that process, I maintained an open mind and I consulted with my staff, the Census Bureau, and various stakeholders<sup>2</sup> to evaluate and respond to the request. After considering the information provided to me during this process, I made the conclusions described within my March 26, 2018 decision memorandum<sup>3</sup> to reinstate the citizenship question. I directed my decision memorandum to the Under Secretary of Economic Affairs with instructions that the Census Bureau reinstate the question.<sup>4</sup>

Before receiving DOJ’s formal request to reinstate the citizenship question, I and my staff discussed the concept with personnel at other federal departments.<sup>5</sup> As the Secretary of

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<sup>1</sup> Letter from Art Gary, Department of Justice, to Ron Jarmin, Census Bureau (Dec. 12, 2017) at Administrative Record (AR) 663, [http://osec.doc.gov/opog/FOIA/Documents/AR%20-%20FINAL%20FILED%20-%20ALL%20DOCS%20\[CERTIFICATION-INDEX-DOCUMENTS\]%206.8.18.pdf](http://osec.doc.gov/opog/FOIA/Documents/AR%20-%20FINAL%20FILED%20-%20ALL%20DOCS%20[CERTIFICATION-INDEX-DOCUMENTS]%206.8.18.pdf).

<sup>2</sup> See AR 763–1276.

<sup>3</sup> Decision Memorandum from Secretary Wilbur Ross on Reinstatement of a Citizenship Question on the 2020 Decennial Census Questionnaire (Mar. 26, 2018) at AR 1313–1320. Also available at [https://www.commerce.gov/sites/default/files/2018-03-26\\_2.pdf](https://www.commerce.gov/sites/default/files/2018-03-26_2.pdf).

<sup>4</sup> *Id.* at 1320.

<sup>5</sup> Before receipt of the DOJ request in December 2017, my staff or I had discussions with federal government officials including Mary Blanche Hankey, James McHenry, Gene Hamilton, Daniellè Cutrona, John Gore, and Jefferson Sessions. Moreover, Steven Bannon called in the Spring of 2017 to request that I speak with Kris Kobach about the latter’s ideas about including a citizenship question on the 2020 Decennial Census. Notably, my only decision in response to Mr. Kobach’s ideas was my complete rejection of his proposed citizenship question

Commerce, I felt it important to explore such issues with my staff to ensure that the Department is fulfilling its mission to the American people. DOJ repeatedly requested inclusion of the citizenship question on the American Community Survey for Voting Rights Act purposes. Based on this experience, DOJ ultimately determined that it wanted more granular citizenship data. Given that the Department of Commerce faced an April 1, 2018 statutory deadline to provide Congress with “a report containing the Secretary’s determination of the questions proposed to be included” on the census questionnaire, 13 U.S.C. § 141(f)(2), I hoped to receive a definitive determination of non-interest or interest from DOJ as early in 2017 as possible.<sup>6</sup> The decision-making process and my ultimate conclusion that the question should be reinstated occurred only after and in response to DOJ’s request.

My testimony to Congress has been truthful and candid. The questions to which I responded and the context of those conversations make clear that I was referring to my decision-making process and thorough review of DOJ’s request – not informal and hypothetical discussions predating that request.

Thank you for your inquiry and I look forward to continuing to work with the Census Bureau and the Members of Congress to ensure a complete and accurate 2020 Decennial Census.

If you have further concerns or questions, please have your staff contact Michael Platt, Jr., Assistant Secretary for Legislative and Intergovernmental Affairs, at (202) 482-3663.

Sincerely,

A handwritten signature in cursive script that reads "Wilbur Ross". The signature is written in dark ink and is positioned above the printed name.

Wilbur Ross

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configuration and the purposes motivating his preferred configuration. I have always been and will always be committed to counting everyone once, only once, and in the right place.

<sup>6</sup> As stated in the document, itself, I issued my June 21, 2018 Supplemental Memorandum “to provide further background and context regarding my March 26, 2018, memorandum concerning the reinstatement of a citizenship question to the decennial census.”

February 19, 2019 Letter from Secretary Wilbur  
Ross to Hon. Elijah Cummings

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# Enclosure 3





U.S. Department of Justice

Office of Legislative Affairs

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Office of the Assistant Attorney General

Washington, D.C. 20530

**FEB 25 2019**

The Honorable Elijah E. Cummings  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Cummings:

This responds to your letter to Acting Attorney General Whitaker, dated February 12, 2019, requesting certain documents related to the addition of a question on citizenship to the 2020 Census.

Enclosed with this letter is a CD-ROM containing 7 files, consisting of 190 pages, produced in response to your request, Bates numbered HOCR-Census-02122019 -000001- HOCR-Census-02122019-000190. This production contains emails from Department of Justice officials and correspondence, which have previously been made public.

We will supplement this response when additional materials become available. If you have questions regarding this production, please feel free to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Boyd", written over the word "Sincerely,".

Stephen E. Boyd  
Assistant Attorney General

Enclosure

cc: The Honorable Jim Jordan  
Ranking Member



March 5, 2019

The Honorable Elijah E. Cummings  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Cummings,

I am writing regarding the Committee's request for Secretary Ross to testify about the "ongoing preparations for the 2020 Census and [the] decision to add a citizenship question" made in your January 8, 2019 letter to the Department. The Secretary takes his commitment to Congress seriously as evidenced by his initial offer to appear early in the 116<sup>th</sup> Congress and remains committed to appearing voluntarily before the Committee. As you are aware, we responded to your January 8 letter three days later on January 11, expressing our intention to fully cooperate with the Committee, providing potential dates (March 14 and March 28) for the Secretary to appear and testify on those two important subjects. In the days following our written response, our staffs arrived at March 14 as the mutually preferable date and agreed to have the Secretary testify on those specific topics. Since that time, the Department of Commerce ("Department") has begun to plan and prepare for this March 14 testimony. Recognizing the significant oversight role of the Committee, the Department has prioritized its finite resources and personnel to identify and produce a large volume of documents to your staff in its best effort to be responsive.

The Department then received your February 8, 2019 letter. That letter requests another large-scale search and production of documents related to Secretary Ross's financial disclosures and ethics obligations. In the days following our receipt of that letter, it became clear that the Committee intended to expand the scope of the March 14 hearing to ask the Secretary questions about his personal finances and ethics obligations—topics that we did not anticipate nor expect to be covered in such detail and depth based on the frequent and cordial communications between our staffs. In continuing communications, your staff then expressed its desire to review as many documents as possible related to financial disclosures *prior* to the March 14 hearing. In addition, the Department also received your February 19, 2019 letter about reported technology transfer to Saudi Arabia, which requires a further comprehensive search for responsive documents. Based on our limited resources, constrained personnel, timing, and desire to be responsive to the Committee's initial request, my staff reiterated to yours that the agreed scope of the March 14 hearing was the two subjects you identified in your January 8 letter. In response, your staff clarified that the Committee reserves the right to question the Secretary about *any* topic on March 14, notwithstanding our earlier correspondence and understood scope of the hearing.

Under the Secretary's leadership, the Department has cooperated fully and in good faith with the Committee's requests. We have produced approximately 5,700 pages of documents responsive to your requests, and another installment of approximately 3,000 pages is scheduled to



be produced on March 6. My staff has stayed in virtually constant communication with yours. We have expended hundreds of hours of staff time to satisfy your requests (including time expended during the 35-day lapse in appropriations, to the extent consistent with the law). This should demonstrate that we take oversight responsibilities and obligations very seriously and accordingly are working as quickly as possible to produce on a rolling basis the significant volume of information you have requested in three separate letters concerning three separate topics.

In light of our good faith efforts and hard work of the Department's personnel, I was surprised to see that your chief oversight counsel sent an email to the Department's Chief of Staff on Friday, March 1, 2019, expressing unfounded "concern[] that the Department does not appear to be making a sufficient effort to produce documents responsive to the Committee's requests." Given the sincere efforts of the Department's staff to be maximally cooperative and responsive to your requests, I found this communication somewhat disappointing given the open and affable relations we have nurtured throughout this process.

On substance, your chief counsel's email appears to make claims about our staffs' working relationship that are at odds with the facts. As previously noted, my team has been in nearly constant communication with yours, has provided voluminous documents responsive to your requests, and is continuing to work as expeditiously as possible to produce the remainder. Moreover, we have now three times responded to the same fourteen questions posed in your January 8 letter. In addition, the Department's Director of Legislative Affairs provided a phone briefing to your staff to further detail those previous written responses to the Committee. You are likely aware that our current staffing levels and the sheer volume of the Committee's and other congressional requests compel us to prioritize those requests in the order in which they are received.

Furthermore, your chief counsel's email states that the Department failed to respond to a February 7, 2017, request from the Subcommittee on Government Operations regarding compliance with whistleblower protection laws. This is simply not true. The Department responded to the Subcommittee letter on March 10, 2017. I have enclosed another copy of that response with this letter.

Your chief counsel's email has raised one fair point, which we have also repeatedly been told by your staff: the Committee would like all of the documents you have requested before the Secretary testifies. Given that legitimate demand, our genuine desire to be responsive to the Committee's requests, and because we feel the Committee expanded the originally agreed upon scope of the hearing, we feel as though we have no choice but to temporarily postpone the Secretary's testimony until a date after March 14. To be clear, the Secretary has every intention to appear before the Committee and continue assisting in your oversight capacity—the Department simply needs more time to produce responsive documents and prepare to testify on the broad range of important topics raised in your letters.

To that end we commit to work with your staff on a more appropriate and reasonable time for the Secretary to testify. As soon as we receive, in writing, a complete list of the subject matter and scope about which the Committee intends to question the Secretary, my office will work with your staff to confirm a hearing date. Based on the extensive array of topics raised in your January

8, February 8, and February 19, 2019 letters, the Department will simply not be adequately prepared to provide responsive documents and testimony before April 29, 2019, upon your return from recess. However, we are open to working with your staff on earlier times if the scope could be limited to allow for proper review and preparation.

We appreciate the opportunity to assist with your inquiries and will continue to cooperate with the Committee fully and in good faith. If you have any additional questions, please contact me at (202) 482-3663.

Sincerely,



Michael Platt Jr.  
Assistant Secretary for Legislative  
and Intergovernmental Affairs

**Cc:**

The Honorable Jim Jordan  
Ranking Member, Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, D.C. 20515

**Enclosure**

1. March 10, 2017 Letter to Hon. Mark Meadows, Committee on Oversight and Government Reform, regarding WPEA compliance

March 4, 2019 Letter to Hon. Elijah Cummings

# Enclosure 1





The Honorable Mark Meadows  
Chairman, Committee on Oversight and Government Reform  
Subcommittee on Government Operations  
Washington, DC 20515

Dear Chairman Meadows:

This responds to your letter of February 7, 2017 requesting information about the Department of Commerce's (the Department) use of nondisclosure agreements and the implementation of its responsibilities under the Whistleblower Protection Act of 2012 (WPEA). The Department takes its obligations under the WPEA seriously and has undertaken a number of appropriate steps to ensure that employees are notified of their rights as they pertain to communications with Congress, the reporting of violations to an inspector general, or other whistleblower protections under the Act.

The Department's Office of Inspector General (OIG) oversees the Whistleblower Protection Program, and promotes awareness of, and compliance with, whistleblower protections. The Department's OIG has posted on its website a notice informing employees of the WPEA's requirement that every nondisclosure policy, form, or agreement (with current or former federal employees) contain the statutorily required language set forth in Section 115 of the Act, codified at 5 USC § 2302(b)(13). The OIG has also posted a list of relevant Executive Orders and statutory provisions. The language from the Department OIG's website is provided below and can also be found online at: <https://www.oig.doc.gov/Pages/Whistleblower-Protection-Program.aspx>

**Important Notice: Whistleblower Protection Enhancement Act of 2012 Required Statement — Nondisclosure Agreements**

Pursuant to the Whistleblower Protection Enhancement Act of 2012, the following statement applies to every nondisclosure policy, form, or agreement of the Government (with current or former federal employees), including those in effect before the Act's effective date of December 27, 2012:

"These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling."

The following Executive orders and statutory provisions are controlling in the case of any conflict with an agency non-disclosure policy, form, or agreement, as of March 14, 2013:

- Executive Order No. 13526;
- Section 7211 of Title 5, United States Code (governing disclosures to Congress);
- Section 1034 of Title 10, United States Code as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military);
- Section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act of 1989 (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats);
- Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents);
- The statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code; and
- Section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b)).

The Department has also posted on its Office of General Counsel website a model standard non-disclosure agreement (NDA), which contains the statutorily mandated provision as well as a separate provision that the agreement does not bar disclosures to Congress. The language from the Department's own model standard NDA is provided below and can also be found online at:

[https://ogc.commerce.gov/sites/ogc.commerce.gov/files/gld\\_standard\\_nondisclosure\\_agreement\\_new.pdf](https://ogc.commerce.gov/sites/ogc.commerce.gov/files/gld_standard_nondisclosure_agreement_new.pdf)

6. As required by 5 U.S.C. § 2302(b)(13), any restriction with respect to disclosure by a Government employee must be consistent with, not supersede, nor conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling. This paragraph shall not be construed to authorize the withholding of information from Congress or the taking of any personnel action against an employee who discloses information to Congress.
7. This agreement does not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.



In addition, several of the Department Bureaus have posted model standard NDAs online that include the required statutory language.<sup>1</sup> Moreover, the Department's No Fear Act training, which is mandatory for all employees, describes avenues for employees to report whistleblowing activities, and includes explicit reference to Congress (as well as to the OIG or the Office of Special Counsel) as an appropriate confidential channel for disclosures involving classified national security information.

Moreover, in the summer of 2014, the Department issued guidance by e-mail to all Department employees reminding them of the WPEA's protections for federal employees who disclose evidence of waste, fraud, or abuse, including that any NDAs signed in order to access classified or other sensitive information include, or if previously executed without the provision, should be read to incorporate, the required language set forth in Section 115 of the Act. In addition to the Department-wide notice, a separate notification was also sent to all Department Bureau and Office heads reminding them of the WPEA's requirement that any non-disclosure policy, form, or agreement include the Section 115 language.

Finally, we note that the Department's Administrative Order DAO 219-1 on Public Communication, which is posted on the Department's website, explicitly references the Lloyd-LaFollette Act (5 U.S.C. § 7211) and states: "The rights of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied."

See: [http://www.osec.doc.gov/opog/dmp/daos/dao219\\_1.html](http://www.osec.doc.gov/opog/dmp/daos/dao219_1.html)

We hope this information has been helpful. If you have any further questions, please contact me at 202-482-3663.

Sincerely,



James Schuffrieder  
Performing the non-exclusive duties of the  
Assistant Secretary of Commerce  
for Legislative and Intergovernmental Affairs

✓ cc: The Honorable Gerald E. Connolly, Ranking Member

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<sup>1</sup> See e.g. <https://www.uspto.gov/about-us/organizational-offices/office-general-counsel/whistleblower-protection-enhancement-act> and <http://www.wrc.noaa.gov/wrso/forms/sf312.pdf> and [https://www.nist.gov/sites/default/files/documents/2017/01/12/nist\\_model\\_nda\\_receipt\\_of\\_proprietary\\_information\\_v2016.2\\_fillable\\_for\\_website.doc\\_003.pdf](https://www.nist.gov/sites/default/files/documents/2017/01/12/nist_model_nda_receipt_of_proprietary_information_v2016.2_fillable_for_website.doc_003.pdf)



**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051

MINORITY (202) 225-5074

<http://oversight.house.gov>

March 6, 2019

The Honorable Wilbur L. Ross, Jr.  
Secretary  
U.S. Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230

Dear Mr. Secretary:

I have reviewed the letter that your Assistant Secretary for Legislative and Intergovernmental Affairs sent yesterday seeking to postpone your long-planned testimony before the Committee on March 14, 2019.<sup>1</sup> After carefully considering this request, I am writing to inform you that the Committee's hearing will remain on March 14, and the Committee expects you to testify as agreed. However, the Committee is willing to make several accommodations to address the concerns set forth in the letter yesterday, and they are detailed below.

The Committee invited you to testify on January 8, 2019—more than nine weeks ago—and you have had more than enough time to prepare.<sup>2</sup> In addition, your staff confirmed repeatedly over the past two months that you would appear voluntarily:

- On January 11, 2019, your Assistant Secretary for Legislative and Intergovernmental Affairs responded to the Committee's invitation by writing that, although you were unavailable for the entire month of February, you were "available to appear before the Committee on March 14, 2019 or March 28, 2019."<sup>3</sup>

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<sup>1</sup> Letter from Michael Platt Jr., Assistant Secretary for Legislative and Intergovernmental Affairs, Department of Commerce, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (Mar. 5, 2019) (online at [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019.03.05%20Letter%20to%20Chairman%20Cummings\\_0.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019.03.05%20Letter%20to%20Chairman%20Cummings_0.pdf)).

<sup>2</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Jan. 8, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-01-08.EEC%20to%20Ross-DOC%20re%20Citizenship%20Question.pdf>).

<sup>3</sup> Letter from Michael Platt Jr., Assistant Secretary for Legislative and Intergovernmental Affairs, Department of Commerce, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (Jan. 11, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019.01.11%20Response%20to%20Chairman>

- On January 18, 2019, Committee staff emailed your staff, writing: “We will proceed with the March 14th date for the hearing with Secretary Ross.” Your staff confirmed receipt.
- On January 23, 2019, your staff confirmed during a telephone call with Committee staff that you were comfortable with the March 14 hearing date and that no further discussion was necessary.
- On February 1, 2019, your staff confirmed again to Committee staff that you would appear at the March 14 hearing.
- On February 7, 2019, the Committee sent a letter thanking you for agreeing to testify at the hearing, which would “examine the ongoing preparations for the 2020 Decennial Census, the addition of a citizenship question, and other topics.”<sup>4</sup>
- On February 22, 2019, your staff confirmed yet again during a telephone call with Committee staff that you would appear before the Committee voluntarily on March 14.

In the letter yesterday, your Assistant Secretary stated that you would not be prepared to testify about topics unrelated to the Census. Specifically, he wrote that you would not be ready to answer questions relating to two letters the Committee sent to you last month: the first was sent on February 8, 2019, requesting information relating to your financial disclosure filings; and the second was sent on February 19, 2019, seeking information about efforts by the Trump Administration to transfer sensitive nuclear technology to Saudi Arabia.<sup>5</sup>

In order to accommodate these concerns, the scope of the Committee’s March 14 hearing will not include questions relating to the transfer of nuclear technology to Saudi Arabia. In addition, if you believe you are not prepared to answer questions relating to your own financial disclosures, the Committee will allow you to provide responsive information for the record, and I will make a statement to this effect at the hearing.

In his letter yesterday, your Assistant Secretary also expressed concern that the

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%20Cummings.pdf).

<sup>4</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Feb. 7, 2019) (emphasis added) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-02-07%20EEC%20to%20Ross%20re%20Thanking%20for%20Agreeing%20to%20Testify.pdf>).

<sup>5</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Feb. 8, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-02-08.EEC%20to%20Ross%20re%20Conflicts%20of%20Interest.pdf>); Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Feb. 19, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-02-19.EEC%20to%20Ross-DOC%20re%20IP3.pdf>).

Committee is insisting on full compliance with our document requests. This should not come as a surprise to anyone. However, as an additional accommodation, the Committee will agree to receive document productions relating to both your financial disclosures and the transfer of nuclear technology to Saudi Arabia after the March 14 hearing.

To further accommodate your concern, the Committee will narrow the documents that must be produced before the March 14 hearing to a specific set of priority documents that are key to our understanding of the communications around the addition of the citizenship question. These priority documents were sought in Request 3 of the Committee's January 8, 2019, letter. For your reference, that request asked you to produce the following documents, which the Committee must receive in unredacted form:

All communications between or among officials from the Department of Commerce, the Census Bureau, and any other office or entity inside or outside of the government regarding the addition of a citizenship question.<sup>6</sup>

Please note that the existence of separate civil litigation is not a valid basis to withhold these documents from the Committee. As the Supreme Court has stated:

But surely a congressional committee which is engaged in a legitimate legislative investigation need not grind to a halt whenever responses to its inquiries might potentially be harmful to a witness in some distinct proceeding, *Sinclair v. United States*, supra, at 295, or when crime or wrongdoing is disclosed, *McGrain v. Daugherty*, 273 U.S. 135, 179-180.<sup>7</sup>

I trust that these multiple accommodations and clarifications address the concerns set forth in the letter from your Assistant Secretary. Please confirm by 5 p.m. tomorrow, Thursday, March 7, 2019, whether you will appear voluntarily on March 14, as previously agreed, and whether you intend to produce the priority documents in unredacted form.

If you do not accept this offer, the Committee may need to consider alternative means to obtain your testimony.

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<sup>6</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Jan. 8, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-01-08.EEC%20to%20Ross-DOC%20re%20Citizenship%20Question.pdf>).

<sup>7</sup> *Hutcheson v. United States*, 369 U.S. 599, 618 (1962).

The Honorable Wilbur L. Ross, Jr.  
Page 4

If you have any questions, please contact Committee staff at (202) 225-5051.

Sincerely,

A handwritten signature in blue ink that reads "Elijah E. Cummings". The signature is stylized and cursive.

Elijah E. Cummings  
Chairman

cc: The Honorable Jim Jordan, Ranking Member



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

March 7, 2019

The Honorable Elijah E. Cummings  
Chairman  
Committee on Oversight and Reform  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your March 6, 2019, letter and for taking my phone call this afternoon. As we discussed, your letter added a new request for unredacted documents, and I proposed rescheduling the hearing to April 9 in order to permit the time needed to respond to this new request. I am disappointed that this reasonable request could not be accommodated.

As requested in your letter, I will appear at the hearing on March 14 at 10:00 am to answer the Committee on Oversight and Reform's (Committee) questions on the preparations for the 2020 Census and the addition of the citizenship question. I appreciate the commitment you made in the letter that the scope of the hearing will not include questions relating to the transfer of nuclear technology to Saudi Arabia and that additional documents requested in your letters of February 8 and February 19 will be provided after the hearing. I also appreciate your commitment to state at the hearing that the Committee will allow me to provide written responses for the record to questions related to my financial disclosures.

As part of our continuing cooperation, the Department of Commerce yesterday delivered another approximately 3,000 pages of responsive documents to the Committee. This was the third production of documents the Department has provided in response to the Committee's requests, which total nearly 9,000 pages so far. Furthermore, we have committed to making a fourth production to the Committee on March 28, 2019. The Department already has committed many hundreds of hours solely to the task of responding to the Committee's document requests.

I look forward to continuing to work together to serve the American public.

Sincerely,

A handwritten signature in black ink that reads "Wilbur Ross".

Wilbur Ross

cc: The Honorable Jim Jordan, Ranking Member



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

**MAR 25 2019**

The Honorable Elijah E. Cummings  
Chairman  
Committee on Oversight and Reform  
U. S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

The Department of Justice (Department) writes to correct the record regarding the transcribed interview of Department official John Gore and to provide context for the circumstances that gave rise to the interview. As set forth below, the March 14, 2019 Memorandum from the Committee's Majority Staff, entitled "Supplemental Memo on Transcribed Interview with John Gore Regarding Addition of Citizenship Question to Census" (Supplemental Memorandum), mischaracterizes Mr. Gore's testimony and the record in this matter.

The Constitution establishes the executive and legislative branches as co-equal. "The constitutional role of Congress is to adopt general legislation that will be implemented—'executed'—by the executive branch."<sup>1</sup> As part of its legislative function, Congress has "[b]road . . . power" to conduct oversight, but that power is not "without limitations" and does not extend to inquiring "into matters which are within the exclusive province of one of the other branches of Government."<sup>2</sup> Moreover, in the course of carrying out its duty to faithfully execute the law, including its duty to represent the United States in court, the executive branch may have "a legitimate, constitutionally recognized need to keep certain information confidential."<sup>3</sup>

As co-equal branches of government, Congress and the executive branch have "the obligation . . . to accommodate the legitimate needs of the other," where "Congress has a legitimate need for information that will help it legislate, and the executive branch has a legitimate, constitutionally recognized need to keep certain information confidential."<sup>4</sup> The executive branch

<sup>1</sup> Congressional Requests for Confidential Executive Branch Information, 13 Op. O.L.C. 153, 153 (1989) (Congressional Requests).

<sup>2</sup> *Barenblatt v. United States*, 360 U.S. 109, 111-12 (1959).

<sup>3</sup> Congressional Requests, 13 Op. O.L.C. at 157.

<sup>4</sup> *Id.* at 157-58.



and the Department have long maintained a “general practice [of] attempt[ing] to accommodate whatever legitimate interests Congress may have in obtaining information, while, at the same time, preserving executive branch interests in maintaining essential confidentiality.”<sup>5</sup> The executive branch and Congress have facilitated this interbranch cooperation through an “accommodation process” that calls upon each branch to “explain to the other why it believes its needs to be legitimate” and “to assess the needs of one branch and relate them to those of the other.”<sup>6</sup>

Consistent with this accommodation responsibility, the Department agreed to make Mr. Gore voluntarily available to the Committee for a transcribed interview. The Department conditioned this agreement on several mutual understandings. Chief among those was the Committee’s agreement that the Department would have a full and fair opportunity to review the transcript of Mr. Gore’s testimony before it was made part of the Committee record, and that the transcript would not be made public or become part of the record prior to that review. In addition, and importantly, the Department maintained throughout this phase of the accommodation process that Mr. Gore would not be able to answer questions bearing on the Department’s internal deliberations. The Committee was well aware of the Department’s position on the scope of the transcribed interview and elected to move forward with the interview under those limitations.

This mutual understanding was vital to the Department’s willingness to make Mr. Gore available for a voluntary interview. As the Department repeatedly explained to the Committee, the Department has an essential need to maintain the confidentiality of its internal deliberations. Maintaining confidentiality in executive branch deliberations facilitates robust and open discussion. Fully-informed decision-making would be chilled if executive branch officials and staff believed that those discussions could become public. Moreover, the Department continues to represent the United States in ongoing litigation, including in the United States Supreme Court, regarding the Commerce Department’s decision to reinstate the citizenship question on the 2020 Census. The United States’ litigation position regarding privileges, which was not challenged in litigation, could be compromised if those very same confidential deliberations were made public through a concurrent oversight process.

Premised upon our mutual understanding, Mr. Gore appeared voluntarily and was questioned by majority and minority Committee staff for several hours on March 7, 2019. Mr. Gore answered hundreds of questions from Committee staff. When Mr. Gore did not answer a question during the interview, he did so only on the instruction of the Department’s counsel and based on the Department’s legitimate confidentiality and litigation interests. Both majority and minority staff stated on the record that they had asked all of their questions of Mr. Gore and had no further questions at that time.<sup>7</sup> This process represents a good faith effort by the Department

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<sup>5</sup> *Id.* at 153.

<sup>6</sup> *Id.* at 159.

<sup>7</sup> Transcribed Interview of John Gore (March 7, 2019) at 99 (minority), 179 (majority) (Gore Transcript).

to accommodate the Committee and to establish a record of which questions implicate vital executive branch confidentiality interests and remain open for further discussion in the accommodation process.

The Committee also had access to a transcript of Mr. Gore's seven-hour deposition in the civil litigation before interviewing Mr. Gore. The Department offered that transcript to the Committee, and it is our understanding that the Committee obtained that transcript from another source.

In light of these good faith efforts by the Executive Branch, the Department is disappointed that the Committee has acted in a manner inconsistent with the spirit of mutual accommodation.

On March 14, just one week after Mr. Gore's interview, the Committee publicly released the Supplemental Memorandum, which includes and mischaracterizes Mr. Gore's testimony and provides selective, misleading excerpts from the transcript. On the same day, the Committee issued a press release that linked to the Supplemental Memorandum on both its website and its Twitter feed.<sup>8</sup> The Committee provided the Supplemental Memorandum to its members and referenced the Supplemental Memorandum repeatedly in its questioning of Secretary Ross at a public hearing that same day. The Department did not have a full and fair opportunity to review the transcript prior to the Committee's public disclosure of portions of it, nor did the Department receive an advance copy of the Supplemental Memorandum for review.<sup>9</sup> This has limited the Department's ability to timely respond to mischaracterizations in the record.

The Supplemental Memorandum mischaracterizes Mr. Gore's testimony to the Committee in at least four ways. First, the Supplemental Memorandum alleges that Mr. Gore exhibited a "refusal to answer" the Committee's requests.<sup>10</sup> This is an unfair characterization. Mr. Gore answered over five hundred questions posed by Committee staff, and when he did not answer, he did so only on the instruction of Department counsel. As the Committee knew, the Department's accommodation was to make Mr. Gore available for a voluntary interview to answer only those

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<sup>8</sup> Oversight Committee (OversightDems). "News Alert: Chairman @RepCummings releases memo on interview with #DOJ Official on citizenship question for #2020Census <https://oversight.house.gov/news/press-releases/cummings-releases-memo-on-interview-with-doj-official-on-citizenship-question-0>." Mar. 14, 2019, 10:30 a.m. Tweet. <https://twitter.com/OversightDems/status/1106216034812547073>.

<sup>9</sup> Majority staff emailed the Department after 6 p.m. on Tuesday, March 12, inviting the Department to review the transcript the next day in Committee offices. The Department was unable to review the transcript in Committee offices on Wednesday, March 13. The Department was offered a subsequent opportunity to review the transcript of Mr. Gore's interview in Committee offices on March 15, after issuance of the Supplemental Memorandum, and the appropriate attorneys did so on March 19.

<sup>10</sup> Supplemental Memorandum at 1.



questions that could be answered without compromising the ongoing litigation or other executive branch confidentiality interests. This was an appropriate effort to satisfy the Committee's request at this phase in the accommodation process.<sup>11</sup> The Supplemental Memorandum's suggestion that the Department's instructions were somehow improper or unexpected contravenes both our shared understanding that the Department would make those instructions and the Committee's fundamental accommodation obligation.<sup>12</sup>

Second, the Supplemental Memorandum misleadingly describes as "new information" received from Mr. Gore's interview the existence of a "secret" memorandum and note authored by a Department of Commerce official.<sup>13</sup> But Mr. Gore previously testified regarding the memorandum and the note during his deposition in the civil litigation and the Committee had access to a transcript of that deposition prior to interviewing Mr. Gore.<sup>14</sup> The Department also provided a description of the memorandum and note on a privilege log produced in the *New York v. Department of Commerce* litigation. The parties in that case extensively litigated the government's assertion of privilege over those documents. After an in camera review, the district court upheld the government's assertion of privilege and held that the government could not be compelled to produce those documents to the plaintiffs.<sup>15</sup> Producing those documents to the Committee could be viewed in these circumstances as a waiver of the privilege that the federal court already has upheld.

Third, the Supplemental Memorandum incorrectly implies that Mr. Gore identified Mark Neuman as "a former member of the Trump Transition Team."<sup>16</sup> Mr. Gore, however, offered no such testimony. The transcript excerpts in the Supplemental Memorandum omit the portion of Mr. Gore's testimony where he stated that he believes Mr. Neuman to be a former employee of the Department of Commerce or the Census Bureau who in the fall of 2017 was serving as an "advisor" to the Commerce Department on Census-related issues.<sup>17</sup> Mr. Gore had no knowledge of, and has never testified about, whether Mr. Neuman was affiliated with the Trump Transition Team.

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<sup>11</sup> See Congressional Requests, 13 Op. O.L.C. at 157-62.

<sup>12</sup> See *id.*

<sup>13</sup> Supplemental Memorandum at 1-2.

<sup>14</sup> Gore Deposition, 118:18-125:22 (Oct. 16, 2018) (discussing the note and the memorandum).

<sup>15</sup> See *New York v. Department of Commerce*, No. 18-CIV-2921, Minute Order, ECF No. 361 (S.D.N.Y. Sept. 30, 2018).

<sup>16</sup> Supplemental Memorandum at 2.

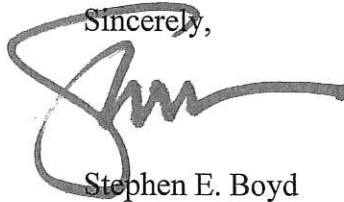
<sup>17</sup> See Gore Transcript at 22.

The Honorable Elijah E. Cummings  
Page Five

Finally, the Department is concerned with the Committee's mischaracterization of the draft letter that Mr. Neuman provided to Mr. Gore. The Department produced that draft letter in litigation and has since produced it to the Committee. The Chairman's opening statement described that draft as an "an initial draft of a letter from the Department of Justice asking for the citizenship question to be added."<sup>18</sup> To the extent that the Chairman suggested that the draft Mr. Neuman provided served as an "initial draft" of the Department's December 12, 2017 letter, that suggestion is incorrect. Any such suggestion also is unsupported by the draft itself and the transcript of Mr. Gore's testimony. The transcript confirms that at no time did Mr. Gore agree that the draft he received from Mr. Neuman served as a basis for, let alone "an initial draft of," the Department's December 12, 2017 letter. Unfortunately, this mischaracterization has implied, perhaps unintentionally, that Mr. Gore's statements during his deposition and his transcribed interview, in which he stated that he wrote the first draft of the December, 12, 2017 letter, were untrue. Mr. Gore's testimony in his deposition and his testimony to the Committee were truthful. The Department rejects any implication to the contrary as it is inconsistent with the evidence.

The Department respectfully requests that, in the interests of accuracy and transparency, the Committee make this letter part of the legislative record and disseminate it to all Committee members and staff. The Department also requests that the Committee withdraw or correct the Supplemental Memorandum based upon the information provided in this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Boyd", with a large, sweeping flourish extending to the right.

Stephen E. Boyd  
Assistant Attorney General

cc: The Honorable Jim Jordan  
Ranking Member

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<sup>18</sup> Opening Statement Chairman Elijah E. Cummings Hearing with Commerce Secretary Wilbur Ross March 14, 2019, at 2. <https://oversight.house.gov/legislation/hearings/commerce-secretary-wilbur-l-ross-jr>.



March 26, 2019

The Honorable Elijah E. Cummings  
Chairman  
Committee on Oversight and Reform  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Representative Cummings,

Thank you for the Wednesday, March 20, 2019 email of 7:25 p.m. from your chief counsel. In that email, the chief counsel requested that the Department respond to two inquiries no later than today, Friday, March 22. Although we would normally try to oblige such a request despite the short turnaround time, we have some clarifying questions that must be answered before we can respond. As we have consistently demonstrated, we will continue to work to accommodate the Committee's legitimate oversight interests. This mutual obligation to accommodate is consistent with long-standing judicial precedent, past practices of administrations of all political parties, and numerous opinions of the Department of Justice's Office of Legal Counsel.

Your chief counsel first asked whether the Department will commit to produce in unredacted form each of the eleven documents identified in his March 15 email. As I stated in my March 19 letter, the Department has produced in unredacted form several of the documents your chief counsel asked about: Documents 2, 3, and 5, and the email in Document 6. Moreover, as our privilege log demonstrates, the redactions in Documents 4, 7, and 8 protect the confidentiality of Departmental deliberations on non-Census policy issues, including those related to the National Oceanic and Atmospheric Administration, the International Trade Administration, and the Minority Business Development Administration. We trust that you are not asking us to remove redactions of material that is wholly unrelated and therefore irrelevant to any subject matter about which the Committee has inquired. With these facts in view, the Department has already offered substantial accommodations to the Committee, most notably in its unredacted production of most of the eleven documents your chief counsel identified. Accordingly, his statement "that the Department still has not produced any of the key documents requested by the Committee" is incorrect.

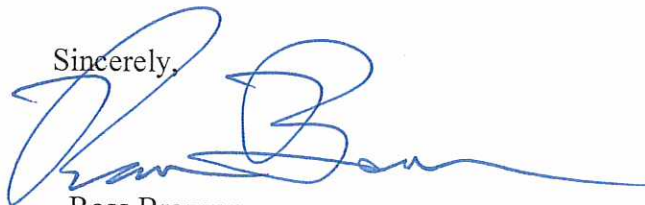
As previously explained, the Department has clearly asserted various bases for withholding some information in Documents 1, 9, 10, 11, and the attachment to Document 6. One such basis is the longstanding executive branch interest in the confidentiality of attorney-client communications. Before we can consider whether there is an accommodation we can provide with respect to such information, we request that you identify the Committee's specific, particularized information needs that you believe cannot be satisfied without access to confidential attorney-client communications.

We also request an identification of the Committee's particularized needs with respect to your chief counsel's request that the Department produce Peter Davidson and James Uthmeier for transcribed interviews. Mr. Davidson is the General Counsel of the Department, and Mr. Uthmeier was his Senior Counsel during the relevant time period. The work of Mr. Davidson and Mr. Uthmeier, of course, generally consists of providing confidential legal advice. All of their non-privileged communications are already contained in the substantial documentary record the Department has been producing to you.

We also request further justification regarding your request for a transcribed interview of Earl Comstock. Mr. Comstock's relevant unredacted communications are in the documentary record, and his seven-hour deposition transcript is publicly-available. Three full-length trials regarding Secretary Ross's decision to reinstate the citizenship question on the census have examined extensively Mr. Comstock's actions and communications. Accordingly, please identify what additional, specific, and particularized information the Committee hopes to obtain by interviewing Mr. Comstock that it believes it cannot access elsewhere in the public domain.

The Department has made substantial efforts to accommodate the Committee's interests. To allow the Department to continue to move forward in this accommodation process, we ask that the Committee provide the above-requested information. We appreciate the opportunity to assist with your inquiry. Please be assured we are working as expeditiously as possible on all of our outstanding Congressional requests. If you have any additional questions, please contact me at (202) 482-3663.

Sincerely,



Ross Branson  
Deputy Assistant Secretary for  
Legislative and Intergovernmental Affairs

Cc: The Honorable Jim Jordan, Ranking Member



# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051  
MINORITY (202) 225-5074

<http://oversight.house.gov>

March 29, 2019

The Honorable Wilbur L. Ross, Jr.  
Secretary  
U.S. Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230

Dear Secretary Ross:

This letter responds to the March 26, 2019, letter from Ross Branson at the Department of Commerce. Because no officials from the Department were able to attend a meeting we requested this week to discuss these issues, they are described in detail below.

For more than two months, the Department has withheld key documents requested by the Committee regarding your decision to add a citizenship question to the 2020 Census. The Department has continued to withhold these documents despite repeated follow-up requests from the Committee and despite accommodations we have made to extend deadlines and allow the Department to prioritize certain documents.

During your testimony before the Committee on March 14, you refused to commit to providing the documents requested by the Committee, and you also refused to answer critical questions from Committee Members regarding the addition of the citizenship question.

Just yesterday, we received another document production from the Department, but you again failed to produce unredacted copies of any of the key documents we have requested.

Mr. Branson's March 26 letter set forth "some clarifying questions that must be answered before we can respond."<sup>1</sup> This letter addresses those questions and several inaccuracies in Mr. Branson's letter.

First, Mr. Branson's letter asserts that four of the 11 documents that my staff identified as priorities (Priority Documents 2, 3, 5, and 6) have already been produced in unredacted form. This claim is inaccurate.

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<sup>1</sup> Letter from Ross Branson, Deputy Assistant Secretary, Legislative and Intergovernmental Affairs, Department of Commerce, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (Mar. 26, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/DOC.032619.%20Response%20to.pdf>).

My staff's request stated: "For all responsive emails, the entire unredacted email chain and all attachments should be produced." Although the top emails in Priority Documents 2, 3, and 5 have been produced without redactions, all three documents contain redactions of key emails lower in the email chain. For example:

- Priority Document 2 includes an email that was sent from you to Earl Comstock and Ellen Herbst at 10:04 a.m. on May 2, 2017, that is entirely redacted except for the following excerpt:

Worst of all they emphasize that they have settled with congress on the questions to be asked. I am mystified why nothing have been done in response to my months old request that we include the citizenship question. Why not?

- Priority Document 3 contains a redacted email sent from Wendy Teramoto to you at 7:17 a.m. on May 2, 2017. The unredacted portion describes Ms. Teramoto's interactions with former Trump transition official Mark Neuman and asks: "Do you want me to set up another meeting?" This document also contains the redacted email described above that was sent at 10:04 a.m. on May 2, 2017.
- Priority Document 5 contains a redacted email from you to Earl Comstock at 1:20 p.m. on August 8, 2017. In the unredacted portion of that email, you wrote:

Were you on the call this morning about Census? They seem dig in [*sic*] about not sling [*sic*] the citizenship question and that raises the question of where is the DoJ in their analysis? If they still have not come to a conclusion please let me know your contact person and I will call the AG.

The Department also withheld a critical attachment from Priority Document 6. The August 11, 2017, email sent from Earl Comstock to you describes the attachment, stating in part: "Per your request, here is a draft memo on the citizenship question that James Uthmeier in the Office of General Counsel prepared and I reviewed."

Second, Mr. Branson's letter asserts that certain priority documents have been redacted for reasons "wholly unrelated" to the Committee's investigation. However, because the Department failed to follow Committee guidelines for producing documents with Bates stamps and a clear privilege log, the bases for these redactions is unclear:

- Priority Document 4 includes the same redacted email from you to Mr. Comstock that is included in Priority Document 5, described above. In addition, Priority Document 4 includes a response from Mr. Comstock to you on August 8, 2017, at 7:44 p.m. with a large block of redacted text. This specific timestamp does not appear to match any entries on your privilege log.
- Priority Documents 7 and 8 contain heavily redacted email exchanges between you, Mr. Comstock, and Ms. Teramoto from August 30, 2017, through September

1, 2017. Again, the specific timestamps on these emails do not appear to match any entries in your privilege log.

In light of these discrepancies and the inaccuracies of other statements in the letter, the Committee cannot rely on your statement at this time to release our request for the production of these documents in unredacted form. As an accommodation to the Department, the Committee will agree to review these three documents in unredacted form *in camera* on Monday, April 1, and if we can confirm that the information in the emails is “wholly unrelated” to the Committee’s investigation, we will drop our request for you produce those documents to the Committee in unredacted form.

As for Priority Documents 1, 9, 10, and 11, and the attachment to Priority Document 6, Mr. Branson’s letter asserts “various bases” for redactions, including the “confidentiality of attorney-client communications.”<sup>2</sup> As you know, however, the attorney-client privilege is not a valid basis to withhold information from Congress. That is especially true here, where the withheld information is central to the Committee’s investigation.

Mr. Branson’s letter asks for the Committee to explain our “particularized information needs” to receive these documents. The letter also asks for the Committee to identify our “particularized needs” to conduct transcribed interviews with Peter Davidson and James Uthmeier and asks for “further justification” for our request to conduct a transcribed interview with Earl Comstock.<sup>3</sup>

Our need for these documents and interviews is clear. The Committee is seeking to understand the real reason that you added a citizenship question to the 2020 Census. You have testified that you added the question “solely” in response to a December 2017 request from the Department of Justice, but the record contradicts your claim, showing that you began orchestrating a campaign to add the citizenship question just days after taking office at the Department of Commerce and more than nine months before DOJ sent its request.

The requested documents and interviews may provide contemporaneous evidence of the real reason that you added the citizenship question and the process you followed. For example, they may provide insight into:

- Your apparent interest in adding a citizenship question beginning in early 2017 and your instructions to your staff on this issue;
- Your communications on the citizenship question with senior Trump Administration officials and others;
- Your efforts over the course of several months to find another agency to request the addition of the citizenship question to the Census;

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

- The Department of Commerce's communications with DOJ before and after DOJ's December 2017 request letter;
- The role of the White House in coordinating the addition of the citizenship question; and
- Your deliberations leading to the issuance of the pretextual decision memorandum in March 2018.

The Committee's need for these documents and interviews has been heightened by your refusal to answer key questions during the Committee's March 14 hearing based on vague and meritless claims of "confidentiality."

As a further accommodation, we will give the Department until Monday, April 1, 2019, to inform the Committee whether you will agree to produce all priority documents the Committee has previously identified without redactions and whether you will make Mr. Davidson, Mr. Uthmeier, and Mr. Comstock available for transcribed interviews. If you do not agree, the Committee will consider compulsory process to obtain the documents at our next business meeting on April 2, 2019.

Thank you for your attention to this matter.

Sincerely,



Elijah E. Cummings  
Chairman

cc: The Honorable Jim Jordan, Ranking Member



Opinion of GORSUCH, J.

**SUPREME COURT OF THE UNITED STATES**

IN RE DEPARTMENT OF COMMERCE, ET AL.

ON APPLICATION FOR STAY

No. 18A375. Decided October 22, 2018

The application for stay presented to JUSTICE GINSBURG and by her referred to the Court is granted in part and denied in part. The application is granted as to the order of the United States District Court for the Southern District of New York dated September 21, 2018, which is stayed through October 29, 2018 at 4 p.m. The application is denied as to the orders of the United States District Court for the Southern District of New York dated July 3, 2018 and August 17, 2018.

If the applicants file a petition for a writ of certiorari or a petition for a writ of mandamus with respect to the stayed order by or before October 29, 2018 at 4 p.m., the stay will remain in effect until disposition of such petition by this Court. Should the petition be denied, this stay shall terminate automatically. In the event the petition is granted, the stay shall terminate upon the sending down of the judgment of this Court. The denial of the stay with respect to the remaining orders does not preclude the applicants from making arguments with respect to those orders.

JUSTICE GORSUCH, with whom JUSTICE THOMAS joins, concurring in part and dissenting in part.

To implement the constitutional requirement for an “actual Enumeration” of the people every 10 years, Art. I, §2, cl. 3, Congress has instructed the Secretary of Commerce to “take a decennial census . . . in such form and content as he may determine.” 13 U. S. C. §141(a). Most censuses in our history have asked about citizenship, and Commerce Secretary Wilbur Ross recently decided to

Opinion of GORSUCH, J.

reinstate a citizenship question in the 2020 census, citing a statement from the Department of Justice indicating that citizenship data would help it enforce the Voting Rights Act of 1965. Normally, judicial review of an agency action like this is limited to the record the agency has compiled to support its decision. But in the case before us the district court held that the plaintiffs—assorted States and interest groups—had made a “strong showing” that Secretary Ross acted in “bad faith” and were thus entitled to explore his subjective motivations through “extra-record discovery,” including depositions of the Secretary, an Acting Assistant Attorney General, and other senior officials. In two weeks, the district court plans to hold a trial to probe the Secretary’s mental processes.

This is all highly unusual, to say the least. Leveling an extraordinary claim of bad faith against a coordinate branch of government requires an extraordinary justification. As evidence of bad faith here, the district court cited evidence that Secretary Ross was predisposed to reinstate the citizenship question when he took office; that the Justice Department hadn’t expressed a desire for more detailed citizenship data until the Secretary solicited its views; that he overruled the objections of his agency’s career staff; and that he declined to order more testing of the question given its long history. But there’s nothing unusual about a new cabinet secretary coming to office inclined to favor a different policy direction, soliciting support from other agencies to bolster his views, disagreeing with staff, or cutting through red tape. Of course, some people may disagree with the policy and process. But until now, at least, this much has never been thought enough to justify a claim of bad faith and launch an inquisition into a cabinet secretary’s motives.

Unsurprisingly, the government tells us that it intends to file a petition seeking review of the district court’s bad faith determination and its orders allowing extra-record

## Opinion of GORSUCH, J.

discovery. Toward that end, it has asked us to stay temporarily all extra-record discovery until we may consider its petition for review.

Today, the Court signals that it is likely to grant the government's petition. It stays Secretary Ross's deposition after weighing, among other things, the likelihood of review and the injury that could occur without a stay. And it expressly invites the government to seek review of all of the district court's orders allowing extra-record discovery, including those authorizing the depositions of other senior officials.

Respectfully, I would take the next logical step and simply stay all extra-record discovery pending our review. When it comes to the likelihood of success, there's no reason to distinguish between Secretary Ross's deposition and those of other senior executive officials: each stems from the same doubtful bad faith ruling, and each seeks to explore his motives. As to the hardships, the Court apparently thinks the deposition of a cabinet secretary especially burdensome. But the other extra-record discovery also burdens a coordinate branch in most unusual ways. Meanwhile and by comparison, the plaintiffs would suffer no hardship from being temporarily denied that which they very likely have no right to at all.

There is another factor here, too, weighing in favor of a more complete stay: the need to protect the very review we invite. One would expect that the Court's order today would prompt the district court to postpone the scheduled trial and await further guidance. After all, that is what normally happens when we grant certiorari or indicate that we are likely to do so in a case where trial is imminent. But because today's order technically leaves the plaintiffs able to pursue much of the extra-record discovery they seek, it's conceivable they might withdraw their request to depose Secretary Ross, try to persuade the trial court to proceed quickly to trial on the basis of the remain-

Opinion of GORSUCH, J.

ing extra-record evidence they can assemble, and then oppose certiorari on the ground that their discovery dispute has become “moot.” To ensure that the Court’s offer of prompt review is not made meaningless by such maneuvers, I would have thought it simplest to grant the requested extra-record discovery stay in full. Of course, other, if more involved, means exist to ensure that this Court’s review of the district court’s bad faith finding is not frustrated. I only hope they are not required.



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

January 27, 2000

The Honorable John Linder  
Chairman, Subcommittee on Rules and  
Organization of the House  
Committee on Rules  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

We have carefully reviewed the testimony presented to the Subcommittee on Rules and Organization of the House at its hearing on July 15, 1999, on "Cooperation, Comity, and Confrontation: Congressional Oversight of the Executive Branch." The Department of Justice appreciates the Subcommittee's interest in this area, and we would like to take this opportunity to present in this letter, for the benefit of both Members of Congress and the public at large, the approach we take to the issues raised at the hearing. As always, we are committed to cooperating with your Subcommittee, and all committees of Congress, with respect to the oversight process.

The testimony presented at the hearing suggests to us that there is a need for improved communication and sensitivity between the Executive and Legislative Branches regarding our respective institutional needs and interests. It also suggests that there is considerable misunderstanding about the principles that govern the Department's longstanding positions and practices on responding to congressional oversight requests. We hope that this discussion of those governing principles will be helpful to the Committee and foster an improved understanding of the Department's interests in responding to oversight requests.

### General Approach

The oversight process is, of course, an important underpinning of the legislative process. Congressional committees need to gather information about how statutes are applied and funds are spent so that they can assess whether additional legislation is necessary either to rectify practical problems in current law or to address problems not covered by current law. By helping Congress be better informed when it makes legislative decisions, oversight promotes the accountability of government. The information that committees gather in this oversight capacity is also important for the Executive Branch in the future implementation of the law and its participation in the legislative process. We have found that the oversight process can shed



valuable light on Department operations and assist our leadership in addressing problems that might not otherwise have been clear.

President Reagan's November 4, 1982 Memorandum for the Heads of Executive Departments and Agencies on "Procedures Governing Responses to Congressional Requests for Information" sets forth the longstanding Executive Branch policy on cooperating with Congressional oversight:

The policy of this Administration is to comply with Congressional requests for information to the fullest extent consistent with the constitutional and statutory obligations of the Executive Branch . . . [E]xecutive privilege will be asserted only in the most compelling circumstances, and only after careful review demonstrates that assertion of the privilege is necessary. Historically, good faith negotiations between Congress and the Executive Branch have minimized the need for invoking executive privilege, and this tradition of accommodation should continue as the primary means of resolving conflicts between the Branches.

The D.C. Circuit Court of Appeals has recognized the obligations of Congress and the Executive Branch to seek to accommodate the legitimate needs of the other:

The framers . . . expect[ed] that where conflicts in scope of authority arose between the coordinate branches, a spirit of dynamic compromise would promote resolution of the dispute in the manner most likely to result in efficient and effective functioning of our governmental system. Under this view, the coordinate branches do not exist in an exclusively adversary relationship to one another when a conflict in authority arises. Rather, each branch should take cognizance of an implicit constitutional mandate to seek optimal accommodation through a realistic evaluation of the needs of the conflicting branches in the particular fact situation.

United States v. American Tel. & Tel. Co., 567 F.2d 121, 127 (D.C. Cir. 1977). Attorney General William French Smith captured the essence of the accommodation process in a 1981 opinion: "The accommodation required is not simply an exchange of concessions or a test of political strength. It is an obligation of each branch to make a principled effort to acknowledge, and if possible to meet, the legitimate needs of the other branch." Opinion of the Attorney General for the President, Assertion of Executive Privilege in Response to a Congressional Subpoena, 5 Op. O.L.C. 27, 31 (1981).

In implementing the longstanding policy of the Executive Branch to comply with Congressional requests for information to the fullest extent consistent with the constitutional and statutory obligations of the Executive Branch, the Department's goal in all cases is to satisfy legitimate legislative interests while protecting Executive Branch confidentiality interests. Examples of confidential information include national security information, materials that are



protected by law (such as grand jury information pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure and taxpayer information pursuant to 26 U.S.C. § 6103); information the disclosure of which might compromise open criminal investigations or prosecutions or civil cases or constitute an unwarranted invasion of personal privacy; and predecisional deliberative communications (such as internal advice and preliminary positions and recommendations).

We believe that it must be the Department's efforts to safeguard these important Executive Branch institutional interests that have led to the frustrations expressed during the Subcommittee's hearing. We hope that we can reduce those frustrations in the future by setting forth here our perspective on some of the more important institutional interests that are implicated during the course of Congressional oversight.

### Open Matters

Much of the testimony at the hearing addressed oversight of ongoing Department investigations and litigation. Although Congress has a clearly legitimate interest in determining how the Department enforces statutes, Congressional inquiries during the pendency of a matter pose an inherent threat to the integrity of the Department's law enforcement and litigation functions. Such inquiries inescapably create the risk that the public and the courts will perceive undue political and Congressional influence over law enforcement and litigation decisions. Such inquiries also often seek records and other information that our responsibilities for these matters preclude us from disclosing. Consequently, we have sought whenever possible to provide information about closed, rather than open, matters. This enables Congress to analyze and evaluate how statutory programs are handled and the Department conducts its business, while avoiding the potential interference that inquiries into open matters entail.

The open matters concern is especially significant with respect to ongoing law enforcement investigations. The Department's longstanding policy is to decline to provide Congressional committees with access to open law enforcement files. Almost 60 years ago, Attorney General Robert H. Jackson informed Congress that:

It is the position of the Department, restated now with the approval of and at the direction of the President, that all investigative reports are confidential documents of the executive department of the Government, to aid in the duty laid upon the President by the Constitution to "take care that the Laws be faithfully executed," and that congressional or public access to them would not be in the public interest . . . .

40 Op. Att'y. Gen. 45, 46 (1941). Attorney General Jackson's position was not new. His letter cited prior Attorney General letters taking the same position dating back to the beginning of the 20th century (*id.* at 47-48).

The rationale for this policy is set forth in a published opinion of the Office of Legal Counsel issued by Charles J. Cooper, Assistant Attorney General for the Office of Legal Counsel



during part of the Reagan Administration. See Response to Congressional Requests for Information Regarding Decisions made Under the Independent Counsel Act, 10 Op. O.L.C. 68, 76-77 (1986). Mr. Cooper noted that providing a Congressional committee with confidential information about active criminal investigations would place the Congress in a position to exert pressure or attempt to influence the prosecution of criminal cases. Id. at 76. Congress would become, "in a sense, a partner in the investigation," id., and could thereby attempt to second-guess tactical and strategic decisions, question witness interview schedules, debate conflicting internal recommendations, and generally attempt to influence the outcome of the criminal investigation. Such a practice would significantly damage law enforcement efforts and shake public and judicial confidence in the criminal justice system. Id. at 76-77.

Decisions about the course of an investigation must be made without reference to political considerations. As one Justice Department official noted 30 years ago, "the Executive cannot effectively investigate if Congress is, in a sense, a partner in the investigation. If a congressional committee is fully apprised of all details of an investigation as the investigation proceeds, there is a substantial danger that congressional pressures will influence the course of the investigation." Memorandum for Edward L. Morgan, Deputy Counsel to the President, from Thomas E. Kauper, Deputy Assistant Attorney General, Office of Legal Counsel, Re: Submission of Open CID Investigation Files 2 (Dec. 19, 1969).

In addition to the problem of Congressional pressure and the appearance of such pressure, the disclosure of documents from our open files could also provide a "road map" of the Department's ongoing investigations. The documents, or information that they contain, could come into the possession of the targets of the investigation through inadvertence or a deliberate act on the part of someone having access to them. The investigation would be seriously prejudiced by the revelation of the direction of the investigation, information about the evidence that the prosecutors have obtained, and assessments of the strengths and weaknesses of various aspects of the investigation. As Attorney General Jackson observed:

Disclosure of the [law enforcement] reports could not do otherwise than seriously prejudice law enforcement. Counsel for a defendant or a prospective defendant, could have no greater help than to know how much or how little information the Government has, and what witnesses or sources of information it can rely upon. This is exactly what these reports are intended to contain.

40 Op. Atty. Gen. at 46. The Department has similar interests in the confidentiality of internal documents relating to its representation of the United States in civil litigation. Our litigation files usually contain confidential correspondence with client agencies as well as the work product of our attorneys in suits that frequently seek millions of tax dollars. They also contain "road maps" of our litigation plans and preparations, as well as confidential reports from experts and consultants. Those plans could be seriously jeopardized and our positions in litigation compromised if we are obliged to disclose our internal deliberations including, but not limited to,



our assessments of the strengths and weaknesses of evidence or the law, before they are presented in court. That may result in an unfair advantage to those who seek public funds and deprive the taxpayers of confidential representation enjoyed by other litigants.

In addition, the reputations of individuals mentioned in internal law enforcement and litigation documents could be severely damaged by the public release of information about them, even though the case might ultimately not warrant prosecution or other legal action. The Department takes very seriously its responsibility to respect the privacy interests of individuals about whom information is developed during the law enforcement process or litigation.

### **Internal Department Deliberations**

With respect to oversight on closed matters, the Department has a broad confidentiality interest in materials that reflect its internal deliberative process. In particular, we have sought to ensure that all law enforcement and litigation decisions are products of open, frank and independent assessments of the pertinent law and facts -- uninhibited by political and improper influences that may be present outside the Department. We have long been concerned about the chilling effect that would ripple throughout government if prosecutors, policy advisors at all levels and line attorneys believed that their honest opinion -- be it "good" or "bad"-- may be the topic of debate in Congressional hearings or floor debates. These include assessments of evidence and law, candid advice on strengths and weaknesses of legal arguments, and recommendations to take or not to take legal action against individuals and corporate entities.

The Department must seek to protect this give-and-take process so that the participants in the process can vigorously debate issues before them and remain able to provide decisionmakers with complete and honest counsel regarding the conduct of the Department's business. If each participant's contribution can be dissected by Congress in a public forum, then the free and candid flow of ideas and recommendations would certainly be jeopardized. The Supreme Court has recognized the legitimacy of this "chilling effect" concern: "Human experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the detriment of the decisionmaking process." United States v. Nixon, 418 U.S. 683, 705 (1974). Our experience indicates that the Department can develop accommodations with Congressional committees that satisfy their needs for information that may be contained in deliberative material while at the same time protecting the Department's interest in avoiding a chill on the candor of future deliberations.

The foregoing concerns apply with special force to Congressional requests for prosecution and declination memoranda and similar documents. These are extremely sensitive law enforcement materials. The Department's attorneys are asked to render unbiased, professional judgments about the merits of potential criminal and civil law enforcement cases. If their deliberative documents were made subject to Congressional challenge and scrutiny, we would face a grave danger that they would be chilled from providing the candid and independent analysis essential to just and effective law enforcement or, just as troubling, that



they might err on the side of prosecution simply to avoid public second-guessing. This in turn would undermine public and judicial confidence in our law enforcement processes, untoward consequences we are confident that Congress, like the Department, wishes to avoid.

### Privacy

In addition to these concerns, disclosure of declination memoranda would implicate significant individual privacy interests as well. Such documents discuss the possibility of bringing charges against individuals who are investigated but not prosecuted, and often contain unflattering personal information as well as assessments of witness credibility and legal positions. The disclosure of the contents of these documents could be devastating to the individuals they discuss. We try to accommodate Congressional needs for information about declinations whenever possible by making appropriate Department officials available to brief Committee Members and staff. This affords us an opportunity to answer their questions, which can be helpful because it can include the context and process that accompanied the decision. Hence, the discussion with staff may provide useful information and minimize the intrusion on individual privacy and the chill on our attorneys' preparation of future deliberative documents.

### Line Attorneys

The Department also has a strong institutional interest in ensuring that appropriate supervisory personnel, rather than line attorneys and agents, answer Congressional questions about Department actions. This is based in part upon our view that supervisory personnel, not line employees, make the decisions that are the subjects of congressional review, and therefore they should be the ones to explain the decisions. More fundamentally, however, we need to ensure that our attorneys and agents can exercise the independent judgment essential to the integrity of law enforcement and litigation functions and to public confidence in those decisions. Senator Orrin Hatch has recognized the legitimacy of the Department's practice in this area, observing that Congressional examination of line attorneys "could chill career Department of Justice lawyers in the exercise of their daily duties." See Letter to Attorney General Janet Reno from Senator Orrin Hatch, dated September 21, 1993. Representative Henry Hyde has likewise opposed Congressional interviews of line prosecutors. See Letter of Representative Hyde to Representative Carlos Moorhead, dated September 7, 1993. By questioning supervisors and ultimately the Department's Senate-confirmed leadership, Congress can fulfill its oversight responsibilities without undermining the independence of line attorneys and agents.

\* \* \*

In sum, the Department recognizes that the process of Congressional oversight is an important part of our system of government. We are committed to cooperating with oversight requests to the fullest extent consistent with our constitutional and statutory responsibilities.

We welcome your suggestions about how we should work together to accommodate the needs of our respective branches of government. Please do not hesitate to contact me if you would like to discuss these matters further. I intend at all times to work diligently with you toward satisfying the respective needs of our coordinate branches.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Raben". The signature is fluid and cursive, with the first name "Robert" and last name "Raben" clearly distinguishable.

Robert Raben  
Assistant Attorney General

cc: The Honorable Tony Hall  
Ranking Minority Member

# Reps. Jordan and Meadows: Democrats don't care about the integrity of the census

By Reps. Jim Jordan and Mark Meadows

Published March 13, 2019  
Fox News

Do you know how many people in the United States are American citizens? No one does. And the Democrats don't want you to find out.

For nearly 150 years, the United States asked people whether they were citizens when filling out various census forms. Thomas Jefferson first proposed the idea in 1800. A citizenship question was added to the official census in 1820. The question was consistently asked until 1960. In December of 2017, the Trump administration added the question back to the survey.

Democrats were furious when news broke that the citizenship question would be added to the 2020 census. They argued that "Adding [the] question to the 2020 census could scare away millions of immigrants from filling out their mandatory surveys."

Several liberal states immediately sued the Trump administration, mistakenly arguing that the administration had acted arbitrarily when it added the citizenship question back into the survey. The case now awaits its fate in the Supreme Court. But that isn't stopping the Democratic-led House Oversight Committee from calling Commerce Secretary Wilbur Ross to testify about the administration's decision on Thursday.

Such a hearing is designed to interfere with the ongoing Supreme Court case. The inappropriateness of this is not a partisan issue. Even President Bill Clinton's assistant attorney general, Robert Raben, warned that holding a Congressional hearing in the midst of litigation creates the risk that the court will be swayed by undue political and Congressional influence.

All of this begs the question: Why wouldn't we want to know how many American citizens live in America?

Asking a citizenship question is common when filling out government forms. For instance, states throughout the country ask people whether they are citizens when getting a driver's license, applying for college, and registering to vote.

The truth is, Democrats don't care about the integrity of the census. To them, political calculations are more important than the population count. Democrats believe that asking the citizenship question on the census will cause them to lose power in Washington. This is because the census is used to reapportion Congressional seats, and Democrats know that Congressional apportionment according to the population of citizens, rather than total population, will cause them to lose seats in Congress.

Democrats need the votes of non-citizens to survive as a party. That's why Democrats across the country are already campaigning for non-citizens to vote in U.S. elections.

Last October, liberals in San Francisco began allowing undocumented immigrants to register to vote in school board races. Last January, Democratic star Stacy Abrams said she "wouldn't oppose" non-citizens voting in local elections. Last week, 20 Democrats on the House Oversight Committee failed

to affirm the idea that allowing illegal immigrants the right to vote devalues the voting power of United States citizens.

The truth is, asking the citizenship question will help protect the sanctity of the Voting Rights Act, which was enacted to prevent the disenfranchisement of minority voters. The U.S. Department of Justice maintains that it needs accurate citizenship data in order to enforce voting protections, and that it cannot get accurate data without asking the citizenship question on the 2020 census. Protecting the Voting Rights Act is one of the principle campaign promises of the Democratic Party. Shouldn't that make this whole issue non-controversial? Sadly, that's not the case. As we've learned many times since 2016, the left is more focused on stopping the president than helping the country.

We should support the Trump administration's decision to add a citizenship question to the 2020 census. Lawsuits and Congressional hearings could do nothing but delay the non-partisan survey from taking place. This is disappointing because the Census Bureau has worked hard to make the 2020 census the easiest and most efficient census ever. In fact, for the first time in our history, people will be allowed to respond to the census online.

Let's be honest. Asking the citizenship question makes sense. Democrats on the House Oversight Committee should wake up and realize that this is a nonpartisan issue. If they don't, it will confirm that this week's hearing is nothing more than another attack on President Trump.

*Republican Mark Meadows represents North Carolina's 11th District in the U.S. House of Representatives. He serves as chairman of the House Freedom Caucus and on the House Oversight Committee, Foreign Affairs Committee, and Transportation and Infrastructure Committee. Republican Jim Jordan represents Ohio's Fourth District in the U.S. House of Representatives. He serves as the ranking member on the House Committee on Oversight and Reform, is a member of the House Judiciary Committee, and is a co-founder of the House Freedom Caucus.*

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# Why the Commerce Secretary Shouldn't Testify to Lawmakers About the Census

Hans von Spakovsky / March 12, 2019

Commerce Secretary Wilbur Ross is scheduled to testify Thursday before the House Oversight and Reform Committee in a hearing on the Trump administration's reinstating a standard citizenship question on the U.S. census.

But with civil litigation over that very issue now before the Supreme Court, the House committee should cancel the hearing in recognition of the fact that having Ross testify is inappropriate and could, as the Justice Department has recognized in the past, jeopardize the government's litigation.

The Supreme Court is scheduled to hear oral arguments April 23 in *Department of Commerce v. New York*, in which the state of New York challenged the addition of the citizenship question to the 2020 census form.

The case presents two issues. First, whether a lower district court erred when it enjoined Ross, as secretary of the Department of Commerce, from reinstating the citizenship question. Second, whether the district court could compel the testimony of Ross to, as the government's brief says, "probe the mental processes of the agency decision-maker" outside of the administrative record in the case.

Rep. Elijah Cummings, D-Md., chairman of the Oversight and Reform Committee, says in a press release that Ross will testify about the "ongoing preparations for the census" and "the addition of a citizenship question."

No one questions the fact that Congress has oversight authority over the executive branch. As the Justice Department said in a letter dated Jan. 27, 2000, oversight is "an important underpinning of the legislative process."

Oversight provides Congress with information necessary to "rectify practical problems in current law or to address problems not covered by current law," the agency wrote to then-Rep. John Linder, who was chairman of a House subcommittee on rules and organization.

However, as Justice said in the letter, while its goal is to "satisfy legitimate legislative interests," it also must protect the executive branch's "confidentiality interests." Examples of confidential information

include “information the disclosure of which might compromise open ... civil cases.”

Congressional inquiries “during the pendency of a matter,” Justice wrote, “pose an inherent threat to the integrity of the Department’s law enforcement and litigation functions.”

Although such confidentiality considerations are particularly important in criminal matters, the Justice Department (and thus the executive branch) have “similar interests in the confidentiality of internal documents relating to its representation of the United States in civil litigation.”

Such files, it said:

*[C]ontain confidential correspondence with client agencies as well as the work product of our attorneys in suits that frequently seek millions of tax dollars. They also contain ‘road maps’ of our litigation plans and preparations, as well as confidential reports from experts and consultants. Those plans could be seriously jeopardized and our positions in litigation compromised if we are obliged to disclose our internal deliberations including, but not limited to, our assessments of the strengths and weaknesses of evidence or the law, before they are presented in court. That may result in an unfair advantage to those who seek public funds and deprive the taxpayers of confidential representation enjoyed by other litigants.*

Moreover, according to Justice’s 2000 letter, such congressional inquiries about ongoing litigation matters—such as *Department of Commerce v. New York*—“inescapably create the risk that the public and the courts will perceive undue political and Congressional influence over law enforcement and litigation decisions.”

The Justice Department argues in its brief filed with the Supreme Court that Ross acted fully within his authority under federal law, 13 U.S.C. §141(a), to determine the “form and content” of the census and to “obtain such other census information as necessary.”

The department also points out that the high court previously stayed an order from the district court compelling Ross’ testimony.

Requiring Ross to answer questions from lawmakers about reinstating the citizenship question on the census potentially would reveal confidential information, as outlined in Justice’s 2000 letter to Linder in the midst of an open case. It also would be obtaining testimony from the commerce secretary when the legitimacy of a lower court order compelling his testimony is a subject of contentious debate before the Supreme Court.

While the Supreme Court hasn’t issued a final decision on the latter issue, it temporarily has stopped that lower court order from going into effect until it resolves the case. Forcing Ross to testify before the House committee would be an end run around the Supreme Court.

Under these circumstances, it is inappropriate for Ross to appear before the committee to answer questions. If the commerce secretary appears at all, no one should be surprised if the Justice Department advises him to refuse to answer any questions relevant to the issues being fought over in the courts.

As the Justice Department recognizes, “the process of Congressional oversight is an important part of our system of government.” Executive branch agencies such as the Justice and Commerce Departments should cooperate with Congress when it is properly engaged in oversight.

But there are exceptions to that, including when Congress potentially is interfering with the executive branch’s defense of its actions and policies in civil litigation. The Justice Department has an obligation to maintain the confidentiality of the internal deliberations, communications, and decisions of an agency that has been sued when Justice is defending that agency.

Once this case is over, and the Supreme Court has rendered a decision, congressional oversight may be appropriate to the extent it is needed for legislative purposes.

But now, with litigation in full swing and oral arguments only a month away, is not the time.





**Democrat Fear-Mongering on the Citizenship Question:  
Gathering Census Information about Citizenship is Not New  
and Should Not be Controversial**

**Minority Staff Report  
Committee on Oversight and Reform  
U.S. House of Representatives**



April 11, 2019

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## Executive Summary

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Democrats do not want to know how many citizens there are in the United States. Although the Census Bureau solicits citizenship information from a portion of the population every year, Democrats now fear that a full survey of U.S. citizens will hurt their political fortunes for years to come.

To prevent this outcome, Democrats in Congress—including Chairman Elijah E. Cummings—have initiated an aggressive investigation of the Commerce Department’s reinstatement of a citizenship question on the 2020 decennial census. As the Committee Republicans have documented, Chairman Cummings’s investigation is designed to influence pending Supreme Court litigation by seeking documents from the Commerce Department that go directly to heart of the issue before the Supreme Court.<sup>1</sup>

The Democrat fear-mongering about the citizenship question on the 2020 Census is disingenuous and wrong. Soliciting citizenship information from the people present in the United States is not new and should not be controversial.

Every decennial census from 1820 to 1950 inquired about citizenship. From 1970 to 2000, the long-form census—sent to a segment of the population—inquired about citizenship. Since 2005, the Census Bureau has asked 3.5 million Americans about their citizenship every year.

State and local governments regularly ask residents for their citizenship status—for a driver’s license or a firearm permit. The federal government asks every potential employee in the country whether they are a citizen. Other countries ask a citizenship question on their censuses, which the United Nations recommends as a best practice.

As Democrats stoke fear about the citizenship question, the facts say otherwise. The Census Bureau’s chief scientist says there is no evidence the question will depress response rates. Federal law protects all information submitted via the Census, making it illegal to misuse citizenship information for a law-enforcement purpose. Aggregated and anonymized citizenship data is useful to policymakers in a number of different areas, including housing, education, and public health.

Chairman Cummings’s partisan investigation of the Commerce Department’s reinstatement of the citizenship question ignores these key points. His investigation, sadly, wastes Committee resources that could be dedicated to bipartisan oversight of the real challenges facing the 2020 Census. The Oversight Committee should not be mired in this wasteful, partisan investigation.

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<sup>1</sup> STAFF OF H. COMM. ON OVERSIGHT & GOV’T REFORM, 116TH CONG., DEMOCRATS’ INVESTIGATION OF THE CITIZENSHIP QUESTION: A TRANSPARENT ATTEMPT TO IMPROPERLY INFLUENCE THE SUPREME COURT OF THE UNITED STATES (2019).

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## Collecting Citizenship Information Is Not a New Practice

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On March 26, 2018, Commerce Secretary Wilbur Ross announced his intention to reinstate a question regarding citizenship on the 2020 Census.<sup>2</sup> On March 29, 2018, the Census Bureau presented the 2020 Census questions to Congress, including the question regarding citizenship.<sup>3</sup> Democrats in Congress protested immediately, with then-Ranking Member Cummings calling it a “a new, untested question.”<sup>4</sup> In reality, however, the Census Bureau solicited citizenship information on the long-form decennial census questionnaire until 2000 and has done it annually since 2005 on the American Community Survey.

### *The Census Bureau Already Routinely Collects Citizenship Information*

A question about citizenship on the census is not new. Every decennial census from 1820 to 1950 asked about citizenship. From 1970 to 2000, the Census Bureau mailed a “long-form census” with the decennial census to five percent of American households.<sup>5</sup> In addition to asking the 10 basic census questions on the short form, the long-form census asked more expansive questions about a person’s dwelling and the composition of the household. From 1970 to 2000, each long-form census asked a citizenship question.

**Table 1: 1940 Census Citizenship Question<sup>6</sup>**

What is the person’s place of birth?
If foreign born, is the person a citizen?

**Table 2: 1950 Census Citizenship Question<sup>7</sup>**

1. What State or country was the person born in?
2. If foreign born, is the person naturalized?

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<sup>2</sup> Letter from Hon. Wilbur Ross, Sec’y, Dep’t of Commerce, to Karen Dunn Kelley, Undersecretary for Econ. Affairs, Dep’t of Commerce (Mar. 26, 2018).

<sup>3</sup> Questions Planned for the 2020 Census and American Community Survey: Federal Legislative Programs and Uses, U.S. Census Bureau (March 2018).

<sup>4</sup> Press Release, H. Comm. on Oversight & Reform, Cummings Issues Statement Calling for Hearings on Trump Administration Plan to Add Citizenship Question to Census (Mar. 27, 2018), <https://oversight.house.gov/news/press-releases/cummings-issues-statement-calling-for-hearings-on-trump-administration-plan-to>.

<sup>5</sup> U.S. Census Bureau, History of Questionnaires available at [https://www.census.gov/history/www/through\\_the\\_decades/questionnaires/](https://www.census.gov/history/www/through_the_decades/questionnaires/).

<sup>6</sup> 1940 Census questions available at [https://www.census.gov/history/www/through\\_the\\_decades/index\\_of\\_questions/1940\\_population.html](https://www.census.gov/history/www/through_the_decades/index_of_questions/1940_population.html).

<sup>7</sup> 1950 Census questions available at [https://www.census.gov/history/www/through\\_the\\_decades/index\\_of\\_questions/1950\\_population.html](https://www.census.gov/history/www/through_the_decades/index_of_questions/1950_population.html).

**Table 3: Citizenship Question – 1980 Long Form Population Survey<sup>8</sup>**

In what state or foreign country was the person born?
If this person was born in a foreign country...
<ul style="list-style-type: none"><li>• Is this person a naturalized citizen of the United States?</li></ul>
<ul style="list-style-type: none"><li>• When did this person come the United States to stay?</li></ul>

After the 2000 Census, the Census Bureau replaced the long-form census with the American Community Survey (ACS).<sup>9</sup> Unlike the long-form census, the Census Bureau conducts the ACS on a continuing, annual basis, sending the survey to about 3.5 million households each year.<sup>10</sup> The ACS includes expanded questions on demographics, dwelling unit, and household composition, as well as a series of detailed citizenship questions.<sup>11</sup> The proposed question about citizenship on the 2020 Census is similar to the question posed on the annual ACS survey.

**Table 4: 2019 ACS Questionnaire - Citizenship<sup>12</sup>**

Where was this person born?
<ul style="list-style-type: none"><li>• In the United States</li><li>• Outside the United States</li></ul>
Is this person a citizen of the United States?
<ul style="list-style-type: none"><li>• Yes, born in the United States</li><li>• Yes, born in Puerto Rico, Guam, the U.S. Virgin Islands, or Northern Marianas</li><li>• Yes, born abroad of U.S. citizen parent or parents</li><li>• Yes, U.S. citizen by naturalization</li><li>• No, not a U.S. citizen</li></ul>
When did this person come to live in the United States?

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<sup>8</sup> 1980 Census questions available at

[https://www.census.gov/history/www/through\\_the\\_decades/index\\_of\\_questions/1980\\_population.html](https://www.census.gov/history/www/through_the_decades/index_of_questions/1980_population.html).

<sup>9</sup> U.S. Census Bureau, History: American Community Survey, available at

[https://www.census.gov/history/www/programs/demographic/american\\_community\\_survey.html](https://www.census.gov/history/www/programs/demographic/american_community_survey.html).

<sup>10</sup> *Id.*

<sup>11</sup> U.S. Census Bureau, American Community Survey: Questions on the Form and Why We Ask, available at

<https://www.census.gov/acs/www/about/why-we-ask-each-question/>.

<sup>12</sup> Citizenship questions on the 2019 ACS questionnaire are found on page 8, questions 7-9 available at

<https://www2.census.gov/programs-surveys/acs/methodology/questionnaires/2019/quest19.pdf?#>.

Figure 1: 2020 Census Question on Citizenship

The image shows a screenshot of a digital form titled "Is this person a citizen of the United States?". It features five radio button options: "Yes, born in the United States", "Yes, born in Puerto Rico, Guam, the U.S. Virgin Islands, or Northern Marianas", "Yes, born abroad of U.S. citizen parent or parents", "Yes, U.S. citizen by naturalization – Print year of naturalization" (with a four-digit input field and a mouse cursor), and "No, not a U.S. citizen".

Until Secretary Ross’s decision to reinstate a citizenship question on the 2020 Census, there had been no constitutional challenge to the inclusion of a citizenship question on the census or the ACS. During the Committee’s March 14 hearing with Secretary Ross, Rep. Michael Cloud (R-TX) asked him about this issue. Secretary Ross testified:

**Mr. Cloud:** There’s been an argument that this question is unconstitutional, yet we’ve used it several times over the last 100 years and it’s not been brought into question before. Is that correct?

**Sec. Ross:** Oh, it’s been used multiple times over the last 120 years, and the exact wording of this is what’s been used each year on the ACS. That’s one of the many reasons why in my March 26, 2018, memo I cited the fact that the Census Bureau professionals regarded this question as adequately tested because it had already been exposed with exactly those same words to more than 30 million Americans over a long period of years.<sup>13</sup>

Ranking Member Jim Jordan (R-OH) made the same point during the Committee’s hearing with Secretary Ross, reminding the Committee that the citizenship question is not new and has been thoroughly tested. He explained:

I would like to remind my colleagues the citizenship question is not new. It has appeared on previous decennial census questionnaires and is asked on the American Community Survey every single year. The majority apparently does not object to the American Community Survey asking a citizenship question, so I don’t understand the majority’s objection to the question now. It is the exact same question on both forms.

<sup>13</sup> *Commerce Secretary Wilbur L. Ross, Jr.: Hearing Before the H. Comm on Oversight and Reform*, 116th Cong. (2019).

My colleagues complain the question hasn't been tested because it was added at the last minute. This argument is simply false. The question has already gone through rigorous testing, over more than a dozen years, as it has appeared on the American Community Survey. In fact, the American Community Survey required more rigorous testing for this question than the question would have received in 2018 Census test.<sup>14</sup>

### ***State and Federal Entities Regularly Solicit Citizenship Information for a Variety of Reasons***

In addition to the Census Bureau, other state and federal entities solicit and collect citizenship data for a variety of reasons, including employment and licensure. For example:

- The U.S. Citizenship and Immigration Services requires each prospective employee in the United States to submit an Employment Eligibility Verification Form (I-9 form), which asks about the employee's citizenship status;<sup>15</sup>
- The District of Columbia solicits citizenship status for individuals applying for a driver's license;<sup>16</sup>
- The state of Wisconsin similarly requests citizenship status for individuals applying for a driver's license;<sup>17</sup>
- The state of California asks about an individual's citizenship when applying to obtain a firearm;<sup>18</sup> and
- The state of Ohio requires an applicant for a concealed-carry license to state his or her citizenship.<sup>19</sup>

### ***Other Countries Solicit Citizenship Information as Part of Their Censuses***

The collection of citizenship information during a population census is actually a common practice among countries. In fact, as part of its principles and recommendations for

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<sup>14</sup> *Id.*

<sup>15</sup> Dep't of Homeland Security, U.S. Citizenship & Immigration Servs., Employment Eligibility Verification, [https://www.uscis.gov/system/files\\_force/files/form/i-9-paper-version.pdf](https://www.uscis.gov/system/files_force/files/form/i-9-paper-version.pdf).

<sup>16</sup> D.C. Dep't of Motor Vehicles, DC Driver License or Identification Card Application, [https://dmv.dc.gov/sites/default/files/dc/sites/dmv/publication/attachments/DMV%20BOE%20Application\\_2-25-19.pdf](https://dmv.dc.gov/sites/default/files/dc/sites/dmv/publication/attachments/DMV%20BOE%20Application_2-25-19.pdf).

<sup>17</sup> Wisc. Dep't of Transportation, Wisconsin Driver License (DL) Application, <https://wisconsindot.gov/Documents/formdocs/mv3001.pdf>.

<sup>18</sup> CA Dep't of Justice, Bureau of Firearms, Personal Firearms Eligibility Check Application, <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/pfecapp.pdf>.

<sup>19</sup> State of Ohio, Application for a License to Carry a Concealed Handgun, <https://www.ohioattorneygeneral.gov/Files/Forms/Forms-for-Law-Enforcement/Concealed-Carry-License-and-Renewal-Application.aspx>.

population censuses, the United Nations recommends that countries gather citizenship information about its population.<sup>20</sup> As Secretary Ross testified during the Committee’s hearing:

The United Nations has recommended that countries ask the citizenship question or some form of it, and many countries do. I believe I mentioned a few. Australia, Canada, France, Germany, Ireland, Mexico, and the United Kingdom are a few that occurred to me offhand.<sup>21</sup>

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### **Democrats Are Fear-Mongering about the Citizenship Question**

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Democrats are loudly protesting the reinstatement of the citizenship question on the 2020 Census, knowing that the question is not new, and that similar information is solicited regularly at all levels of government. Democrats are playing to fear, alleging that immigrant households will not respond to the census if it includes a question on their citizenship.<sup>22</sup> They make these arguments in spite of testimony from John Abowd, the Census Bureau’s chief scientist, that “there is no credible quantitative evidence that the addition of the citizenship question will affect the accuracy of the count.”<sup>23</sup> Stripping away this Democrat rhetoric, however, shows that citizenship information obtained through the Census is a proper use of the Commerce Secretary’s authority, protected by federal law, and beneficial to policymakers.

#### ***Commerce Secretary Ross Is Authorized to Add a Citizenship Question to the Census***

Federal law allows the Commerce Secretary to select the questions to be asked on the decennial census, so long as the Secretary meets certain statutory deadlines.<sup>24</sup> First, the Secretary must submit the proposed subjects for the decennial census to Congress three years before the appropriate census date.<sup>25</sup> Second, the Secretary must submit the final questions for a decennial census two years before the appropriate census date.<sup>26</sup> For the 2020 Census, the appropriate census date is April 1, 2020.

Secretary Ross adhered to this statutory timeline. On March 28, 2017—three years before the appropriate census date—Secretary Ross submitted the proposed subjects for the 2020 Census to Congress.<sup>27</sup> On March 29, 2018—two years before the appropriate census date—Secretary Ross submitted the final questions to Congress.<sup>28</sup>

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<sup>20</sup> United Nations, Principles and Recommendations for Population and Housing Censuses (2017), [https://unstats.un.org/unsd/demographic-social/Standards-and-Methods/files/Principles\\_and\\_Recommendations/Population-and-Housing-Censuses/Series\\_M67rev3-E.pdf](https://unstats.un.org/unsd/demographic-social/Standards-and-Methods/files/Principles_and_Recommendations/Population-and-Housing-Censuses/Series_M67rev3-E.pdf).

<sup>21</sup> *Supra* note 13.

<sup>22</sup> *Supra* note 13, at 103.

<sup>23</sup> *Supra* note 13.

<sup>24</sup> 13 U.S. Code § 141 (1976).

<sup>25</sup> 13 U.S. Code § 141(f)(1) (1976).

<sup>26</sup> *Id.* at § 141(f)(2).

<sup>27</sup> U.S. Dep’t of Commerce, Subjects Planned for the 2020 Census and American Community Survey (Issued March 2017), <https://www2.census.gov/library/publications/decennial/2020/operations/planned-subjects-2020-acr.pdf>.

<sup>28</sup> Questions Planned for the 2020 Census and American Community Survey: Federal Legislative Programs and Uses, U.S. Census Bureau (March 2018).



On December 12, 2017, the Department of Justice (DOJ) formally asked the Census Bureau to add a citizenship question to the 2020 Census.<sup>29</sup> DOJ explained that it needed more specific census-block data to enforce provision of the Voting Rights Act.<sup>30</sup> Following the DOJ letter, using his authority under federal law, Secretary Ross decided to add a citizenship question.

Secretary Ross explained his reasoning in a March 26, 2018 memorandum, writing:

To conclude, after a thorough review of the legal, program, and policy considerations, as well as numerous discussions with the Census Bureau leadership and interested stakeholders, I have determined that reinstatement of a citizenship question on the 2020 decennial census is necessary to provide complete and accurate data in response to the DOJ request. To minimize any impact on decennial census response rates, I am directing the Census Bureau to place the citizenship question last on the decennial census form.<sup>31</sup>

### ***Census-Solicited Citizenship Information Cannot Be Used for Immigration Enforcement***

Some have alleged that the responses to the citizenship question could be used for law enforcement or immigration proceedings.<sup>32</sup> However, federal law strictly protects all data provided to the Census Bureau. Disclosure of census data is punishable by five years in prison and a \$250,000 fine.<sup>33</sup> All officers, employees (permanent and temporary), contractors, volunteers, or anyone else handling census data must sign a lifetime oath to keep the data confidential.<sup>34</sup>

In addition, the Census Bureau goes to great lengths to ensure that any statistical data it obtains is anonymized and cannot be traced back to an individual person or household. The Census Bureau does not share individual responses with other agencies. Aggregated data sets generated from respondent information may be shared with other agencies, but only for statistical uses and only if the agency has requested the data from the Commerce Secretary.

Citizenship information obtained by the Census Bureau cannot be used for immigration enforcement or any other law enforcement purpose. Although census data was used to locate

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<sup>29</sup> Letter from Hon. Arthur E. Gary, General Counsel, Justice Management Division, U.S. Dep't of Justice to Hon. Ron Jarmin, Acting Dir., Census Bureau (Dec. 12, 2017) (on file with the Committee).

<sup>30</sup> *Id.* at 2.

<sup>31</sup> *Supra* note 2.

<sup>32</sup> Letter from the Leadership Conference on Civil and Human Rights, et. al., to Hon. Wilbur Ross, Sec'y, U.S. Dep't of Commerce (January 8, 2018) available at <https://censusproject.files.wordpress.com/2018/01/doj-citizenship-q-proposal-final.pdf>.

<sup>33</sup> Press Release, The U.S. Census Bureau's Commitment to Confidentiality (May 7, 2018), [https://www.census.gov/newsroom/blogs/director/2018/05/the\\_u\\_s\\_census\\_bure.html](https://www.census.gov/newsroom/blogs/director/2018/05/the_u_s_census_bure.html).

<sup>34</sup> In 2018, Committee staff traveled to Rhode Island to conduct oversight of the 2018 Census Test. Committee staff was required to sign documents swearing not to disclose any private information, in perpetuity, with which the staff may encounter over the course of the time conducting oversight.

Japanese-Americans for relocation to internment camps in the early 1940s,<sup>35</sup> such disclosures would be unlawful today. At a Committee hearing in 2018, the Justice Department and the Commerce Department confirmed that citizenship data would not be used for law enforcement purposes.<sup>36</sup>

In fact, citizenship information obtained by the Census Bureau would not be useful for immigration enforcement because the census question does not ask about legal status. As Secretary Ross explained in his testimony:

The census question will not ask about legal status of the respondent. It simply asks about the factual status, citizen or not, and some questions about where they came from. There is nothing in the census data that can be used by enforcement authorities for immigration or for any other purpose.

Under Title 13 [of the U.S. Code], everyone at the census who has access to the data has taken a lifetime oath not to reveal that information to anyone outside, the detailed private information. Consequently—and anyone who violates that is subject to years in prison and large fines.

So it is a very serious, very important factor of the census that no one's individual data will be used for any other purpose other than the aggregations that we provide externally.

So this is not a tool as such for immigration. Our job is simply to count the people, whether citizen or not. And it is not our job to become involved with any other function of government.<sup>37</sup>

### ***Citizenship Information Is Useful to Policymakers for a Variety of Reasons***

Despite Democrat hysteria about the citizenship question, policymakers at all levels of government use anonymized and aggregated citizenship data for legitimate reasons. In fact, one of the cornerstones of the Census Bureau is providing free, unencumbered, public access to statistical data. Currently, without a citizenship question on the decennial census, the Census Bureau relies on citizenship data collected through ACS sampling.

Citizenship information is a component of the Justice Department's enforcement of the Voting Rights Act (VRA). In its letter to the Census Bureau, the Justice Department noted, "[f]or years, the Department used the data collected in response to that [citizenship] question in

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<sup>35</sup> Lori Aratani, *Secret use of census info helped send Japanese Americans to internment camps in WWII*, WASH 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=.57bae905a26f](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=.57bae905a26f).

<sup>36</sup> *Progress Report on the 2020 Census: Hearing Before the H. Comm. on Oversight and Gov't Reform*, 115<sup>th</sup> Cong. 57-58 and 80-81 (May 8, 2018) (statement of Earl Comstock, Dept. of Commerce).

<sup>37</sup> *Supra* note 13.

assessing compliance with Section 2 [of the VRA] and in litigation to enforce Section 2’s protections against racial discrimination in voting.”<sup>38</sup> The letter further stated, “the ACS is currently the only survey that collects information regarding citizenship and estimates citizen voting-age population.”<sup>39</sup>

According to the Census Bureau, state and local governments currently use citizenship data obtained from the ACS for many purposes, including to:

- determine how many citizen and non-citizens are receiving public benefits, like Medicaid and Supplemental Nutrition Assistance Program;
- better target local resources to address local problems like drug use in immigrant communities;
- align educational resources in a community, like determining scholarship assistance;
- determine homeownership rates for citizens and non-citizens in their communities; and
- help local businesses understand the changing demographics of the community to better inform business decisions.<sup>40</sup>

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## Conclusion

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The Census Bureau has solicited citizenship information in a variety of formats almost continuously from 1850 to the present. It is only now, when the Trump Administration decides to reinstate the citizenship question on the decennial census, that Democrats and liberal special interests object to collecting citizenship data.

Chairman Cummings has initiated a partisan investigation designed to solicit the same information from the Commerce Department that is currently at issue before the Supreme Court. His investigation is a key part of the Democrat effort to sow apprehension and illegitimacy around the reinstatement of the citizenship question on the 2020 Census.

Chairman Cummings’s investigation is also, unfortunately, a missed opportunity. By dedicating the Committee’s limited resources toward a partisan investigation, the Chairman is sacrificing bipartisan oversight of the real challenges facing the census—such as information technology, hiring and recruiting, communications and partnership programs, opening area census offices, and the census print contract. If Chairman Cummings focused on these issues rather than pursuing a partisan investigation of the citizenship question, the Committee could have a real chance to help mitigate potential waste, fraud, and abuse in the 2020 Census.

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<sup>38</sup> *Supra* note 29 at 2.

<sup>39</sup> *Id.*

<sup>40</sup> U.S. Census Bureau, American Community Survey, “Why We Ask Questions About...Place of Birth, Citizenship, Year of Entry,” available at <https://www.census.gov/acs/www/about/why-we-ask-each-question/citizenship/>.



To: Karen Dunn Kelley, Under Secretary for Economic Affairs

From: Secretary Wilbur Ross *Wilbur Ross*

Date: March 26, 2018

Re: Reinstatement of a Citizenship Question on the 2020 Decennial Census Questionnaire

Dear Under Secretary Kelley:

As you know, on December 12, 2017, the Department of Justice (“DOJ”) requested that the Census Bureau reinstate a citizenship question on the decennial census to provide census block level citizenship voting age population (“CVAP”) data that are not currently available from government survey data (“DOJ request”). DOJ and the courts use CVAP data for determining violations of Section 2 of the Voting Rights Act (“VRA”), and having these data at the census block level will permit more effective enforcement of the Act. Section 2 protects minority population voting rights.

Following receipt of the DOJ request, I set out to take a hard look at the request and ensure that I considered all facts and data relevant to the question so that I could make an informed decision on how to respond. To that end, the Department of Commerce (“Department”) immediately initiated a comprehensive review process led by the Census Bureau.

The Department and Census Bureau’s review of the DOJ request – as with all significant Census assessments – prioritized the goal of obtaining *complete and accurate data*. The decennial census is mandated in the Constitution and its data are relied on for a myriad of important government decisions, including apportionment of Congressional seats among states, enforcement of voting rights laws, and allocation of federal funds. These are foundational elements of our democracy, and it is therefore incumbent upon the Department and the Census Bureau to make every effort to provide a complete and accurate decennial census.

At my direction, the Census Bureau and the Department’s Office of the Secretary began a thorough assessment that included legal, program, and policy considerations. As part of the process, I also met with Census Bureau leadership on multiple occasions to discuss their process for reviewing the DOJ request, their data analysis, my questions about accuracy and response rates, and their recommendations. At present, the Census Bureau leadership are all career civil servants. In addition, my staff and I reviewed over 50 incoming letters from stakeholders, interest groups, Members of Congress, and state and local officials regarding reinstatement of a citizenship question on the 2020 decennial census, and I personally had specific conversations on



the citizenship question with over 24 diverse, well informed and interested parties representing a broad range of views. My staff and I have also monitored press coverage of this issue.

Congress has delegated to me the authority to determine which questions should be asked on the decennial census, and I may exercise my discretion to reinstate the citizenship question on the 2020 decennial census, especially based on DOJ's request for improved CVAP data to enforce the VRA. By law, the list of decennial census questions is to be submitted two years prior to the decennial census – in this case, no later than March 31, 2018.

The Department's review demonstrated that collection of citizenship data by the Census has been a long-standing historical practice. Prior decennial census surveys of the entire United States population consistently asked citizenship questions up until 1950, and Census Bureau surveys of sample populations continue to ask citizenship questions to this day. In 2000, the decennial census "long form" survey, which was distributed to one in six people in the U.S., included a question on citizenship. Following the 2000 decennial census, the "long form" sample was replaced by the American Community Survey ("ACS"), which has included a citizenship question since 2005. Therefore, the citizenship question has been well tested.

DOJ seeks to obtain CVAP data for census blocks, block groups, counties, towns, and other locations where potential Section 2 violations are alleged or suspected, and DOJ states that the current data collected under the ACS are insufficient in scope, detail, and certainty to meet its purpose under the VRA. The Census Bureau has advised me that the census-block-level citizenship data requested by DOJ are not available using the annual ACS, which as noted earlier does ask a citizenship question and is the present method used to provide DOJ and the courts with data used to enforce Section 2 of the VRA. The ACS is sent on an annual basis to a sample of approximately 2.6 percent of the population.

To provide the data requested by DOJ, the Census Bureau initially analyzed three alternatives: Option A was to continue the status quo and use ACS responses; Option B was placing the ACS citizenship question on the decennial census, which goes to every American household; and Option C was not placing a question on the decennial census and instead providing DOJ with a citizenship analysis for the entire population using federal administrative record data that Census has agreements with other agencies to access for statistical purposes.

**Option A** contemplates rejection of the DOJ request and represents the status quo baseline. Under Option A, the 2020 decennial census would not include the question on citizenship that DOJ requested and therefore would not provide DOJ with improved CVAP data. Additionally, the block-group level CVAP data currently obtained through the ACS has associated margins of error because the ACS is extrapolated based on sample surveys of the population. Providing more precise block-level data would require sophisticated statistical modeling, and if Option A is selected, the Census Bureau advised that it would need to deploy a team of experts to develop model-based methods that attempt to better facilitate DOJ's request for more specific data. But the Census Bureau did not assert and could not confirm that such data modeling is possible for census-block-level data with a sufficient degree of accuracy. Regardless, DOJ's request is based at least in part on the fact that existing ACS citizenship data-sets lack specificity and

completeness. Any future modeling from these incomplete data would only compound that problem.

Option A would provide no improved citizenship count, as the existing ACS sampling would still fail to obtain *actual*, complete number counts, especially for certain lower population areas or voting districts, and there is no guarantee that data could be improved using small-area modeling methods. Therefore, I have concluded that Option A is not a suitable option.

The Census Bureau and many stakeholders expressed concern that **Option B**, which would add a citizenship question to the decennial census, would negatively impact the response rate for non-citizens. A significantly lower response rate by non-citizens could reduce the accuracy of the decennial census and increase costs for non-response follow up (“NRFU”) operations. However, neither the Census Bureau nor the concerned stakeholders could document that the response rate would in fact decline materially. In discussing the question with the national survey agency Nielsen, it stated that it had added questions from the ACS on sensitive topics such as place of birth and immigration status to certain short survey forms without any appreciable decrease in response rates. Further, the former director of the Census Bureau during the last decennial census told me that, while he wished there were data to answer the question, none existed to his knowledge. Nielsen’s Senior Vice President for Data Science and the former Deputy Director and Chief Operating Officer of the Census Bureau under President George W. Bush also confirmed that, to the best of their knowledge, no empirical data existed on the impact of a citizenship question on responses.

When analyzing Option B, the Census Bureau attempted to assess the impact that reinstatement of a citizenship question on the decennial census would have on response rates by drawing comparisons to ACS responses. However, such comparative analysis was challenging, as response rates generally vary between decennial censuses and other census sample surveys. For example, ACS self-response rates were 3.1 percentage points less than self-response rates for the 2010 decennial census. The Bureau attributed this difference to the greater outreach and follow-up associated with the Constitutionally-mandated decennial census. Further, the decennial census has differed significantly in nature from the sample surveys. For example, the 2000 decennial census survey contained only eight questions. Conversely, the 2000 “long form” sample survey contained over 50 questions, and the Census Bureau estimated it took an average of over 30 minutes to complete. ACS surveys include over 45 questions on numerous topics, including the number of hours worked, income information, and housing characteristics.

The Census Bureau determined that, for 2013-2016 ACS surveys, nonresponses to the citizenship question for non-Hispanic whites ranged from 6.0 to 6.3 percent, for non-Hispanic blacks ranged from 12.0 to 12.6 percent, and for Hispanics ranged from 11.6 to 12.3 percent. However, these rates were comparable to nonresponse rates for other questions on the 2013 and 2016 ACS. Census Bureau estimates showed similar nonresponse rate ranges occurred for questions on the ACS asking the number times the respondent was married, 4.7 to 6.9 percent; educational attainment, 5.6 to 8.5 percent; monthly gas costs, 9.6 to 9.9 percent; weeks worked in the past 12 months, 6.9 to 10.6 percent; wages/salary income, 8.1 to 13.4 percent; and yearly property insurance, 23.9 to 25.6 percent.



The Census Bureau also compared the self-response rate differences between citizen and non-citizen households' response rates for the 2000 decennial census short form (which did not include a citizenship question) and the 2000 decennial census long form survey (the long form survey, distributed to only one in six households, included a citizenship question in 2000). Census found the decline in self-response rates for non-citizens to be 3.3 percent greater than for citizen households. However, Census was not able to isolate what percentage of decline was caused by the inclusion of a citizenship question rather than some other aspect of the long form survey (it contained over six times as many questions covering a range of topics). Indeed, the Census Bureau analysis showed that for the 2000 decennial census there was a significant drop in self response rates overall between the short and long form; the mail response rate was 66.4 percent for the short form and only 53.9 percent for the long form survey. So while there is widespread belief among many parties that adding a citizenship question could reduce response rates, the Census Bureau's analysis did not provide definitive, empirical support for that belief.

**Option C**, the use of administrative records rather than placing a citizenship question on the decennial census, was a potentially appealing solution to the DOJ request. The use of administrative records is increasingly part of the fabric and design of modern censuses, and the Census Bureau has been using administrative record data to improve the accuracy and reduce the cost of censuses since the early 20th century. A Census Bureau analysis matching administrative records with the 2010 decennial census and ACS responses over several more recent years showed that using administrative records could be more accurate than self-responses in the case of non-citizens. That Census Bureau analysis showed that between 28 and 34 percent of the citizenship self-responses for persons that administrative records show are non-citizens were inaccurate. In other words, when non-citizens respond to long form or ACS questions on citizenship, they inaccurately mark "citizen" about 30 percent of the time. However, the Census Bureau is still evolving its use of administrative records, and the Bureau does not yet have a complete administrative records data set for the entire population. Thus, using administrative records alone to provide DOJ with CVAP data would provide an incomplete picture. In the 2010 decennial census, the Census Bureau was able to match 88.6 percent of the population with what the Bureau considers credible administrative record data. While impressive, this means that more than 10 percent of the American population – some 25 million voting age people – would need to have their citizenship imputed by the Census Bureau. Given the scale of this number, it was imperative that another option be developed to provide a greater level of accuracy than either self-response alone or use of administrative records alone would presently provide.

I therefore asked the Census Bureau to develop a fourth alternative, **Option D**, which would combine Options B and C. Under Option D, the ACS citizenship question would be asked on the decennial census, and the Census Bureau would use the two years remaining until the 2020 decennial census to further enhance its administrative record data sets, protocols, and statistical models to provide more complete and accurate data. This approach would maximize the Census Bureau's ability to match the decennial census responses with administrative records. Accordingly, at my direction the Census Bureau is working to obtain as many additional Federal and state administrative records as possible to provide more comprehensive information for the population.



It is my judgment that Option D will provide DOJ with the most complete and accurate CVAP data in response to its request. Asking the citizenship question of 100 percent of the population gives each respondent the opportunity to provide an answer. This may eliminate the need for the Census Bureau to have to impute an answer for millions of people. For the approximately 90 percent of the population who are citizens, this question is no additional imposition. And for the approximately 70 percent of non-citizens who already answer this question accurately on the ACS, the question is no additional imposition since census responses by law may only be used anonymously and for statistical purposes. Finally, placing the question on the decennial census and directing the Census Bureau to determine the best means to compare the decennial census responses with administrative records will permit the Census Bureau to determine the inaccurate response rate for citizens and non-citizens alike using the entire population. This will enable the Census Bureau to establish, to the best of its ability, the accurate ratio of citizen to non-citizen responses to impute for that small percentage of cases where it is necessary to do so.

**Consideration of Impacts** I have carefully considered the argument that the reinstatement of the citizenship question on the decennial census would depress response rate. Because a lower response rate would lead to increased non-response follow-up costs and less accurate responses, this factor was an important consideration in the decision-making process. I find that the need for accurate citizenship data and the limited burden that the reinstatement of the citizenship question would impose outweigh fears about a potentially lower response rate.

Importantly, the Department's review found that limited empirical evidence exists about whether adding a citizenship question would decrease response rates materially. Concerns about decreased response rates generally fell into the following two categories – distrust of government and increased burden. First, stakeholders, particularly those who represented immigrant constituencies, noted that members of their respective communities generally distrusted the government and especially distrusted efforts by government agencies to obtain information about them. Stakeholders from California referenced the difficulty that government agencies faced obtaining any information from immigrants as part of the relief efforts after the California wildfires. These government agencies were not seeking to ascertain the citizenship status of these wildfire victims. Other stakeholders referenced the political climate generally and fears that Census responses could be used for law enforcement purposes. But no one provided evidence that reinstating a citizenship question on the decennial census would materially decrease response rates among those who generally distrusted government and government information collection efforts, disliked the current administration, or feared law enforcement. Rather, stakeholders merely identified residents who made the decision not to participate regardless of whether the Census includes a citizenship question. The reinstatement of a citizenship question will not decrease the response rate of residents who already decided not to respond. And no one provided evidence that there are residents who would respond accurately to a decennial census that did not contain a citizenship question but would not respond if it did (although many believed that such residents had to exist). While it is possible this belief is true, there is no information available to determine the number of people who would in fact not respond due to a citizenship question being added, and no one has identified any mechanism for making such a determination.



A second concern that stakeholders advanced is that recipients are generally less likely to respond to a survey that contained more questions than one that contained fewer. The former Deputy Director and Chief Operating Officer of the Census Bureau during the George W. Bush administration described the decennial census as particularly fragile and stated that any effort to add questions risked lowering the response rate, especially a question about citizenship in the current political environment. However, there is limited empirical evidence to support this view. A former Census Bureau Director during the Obama Administration who oversaw the last decennial census noted as much. He stated that, even though he believed that the reinstatement of a citizenship question would decrease response rate, there is limited evidence to support this conclusion. This same former director noted that, in the years preceding the decennial census, certain interest groups consistently attack the census and discourage participation. While the reinstatement of a citizenship question may be a data point on which these interest groups seize in 2019, past experience demonstrates that it is likely efforts to undermine the decennial census will occur again regardless of whether the decennial census includes a citizenship question. There is no evidence that residents who are persuaded by these disruptive efforts are more or less likely to make their respective decisions about participation based specifically on the reinstatement of a citizenship question. And there are actions that the Census Bureau and stakeholder groups are taking to mitigate the impact of these attacks on the decennial census.

Additional empirical evidence about the impact of sensitive questions on survey response rates came from the SVP of Data Science at Nielsen. When Nielsen added questions on place of birth and time of arrival in the United States (both of which were taken from the ACS) to a short survey, the response rate was not materially different than it had been before these two questions were added. Similarly, the former Deputy Director and COO of the Census during the George W. Bush Administration shared an example of a citizenship-like question that he believed would negatively impact response rates but did not. He cited to the Department of Homeland Security's 2004 request to the Census Bureau to provide aggregate data on the number of Arab Americans by zip code in certain areas of the country. The Census Bureau complied, and Census employees, including the then-Deputy Director, believed that the resulting political firestorm would depress response rates for further Census Bureau surveys in the impacted communities. But the response rate did not change materially.

Two other themes emerged from stakeholder calls that merit discussion. First, several stakeholders who opposed reinstatement of the citizenship question did not appreciate that the question had been asked in some form or another for nearly 200 years. Second, other stakeholders who opposed reinstatement did so based on the assumption that the data on citizenship that the Census Bureau collects through the ACS are accurate, thereby obviating the need to ask the question on the decennial census. But as discussed above, the Census Bureau estimates that between 28 and 34 percent of citizenship self-responses on the ACS for persons that administrative records show are non-citizens were inaccurate. Because these stakeholder concerns were based on incorrect premises, they are not sufficient to change my decision.

Finally, I have considered whether reinstating the citizenship question on the 2020 Census will lead to any significant monetary costs, programmatic or otherwise. The Census Bureau staff have advised that the costs of preparing and adding the question would be minimal due in large part to the fact that the citizenship question is already included on the ACS, and thus the citizenship question has already undergone the cognitive research and questionnaire testing required for new questions. Additionally, changes to the Internet Self-Response instrument, revising the Census Questionnaire Assistance, and redesigning of the printed questionnaire can be easily implemented for questions that are finalized prior to the submission of the list of questions to Congress.

The Census Bureau also considered whether non-response follow-up increases resulting from inclusion of the citizenship question would lead to increased costs. As noted above, this estimate was difficult to assess given the Census Bureau and Department's inability to determine what impact there will be on decennial census survey responses. The Bureau provided a rough estimate that postulated that up to 630,000 additional households may require NRFU operations if a citizenship question is added to the 2020 decennial census. However, even assuming that estimate is correct, this additional ½ percent increase in NRFU operations falls well within the margin of error that the Department, with the support of the Census Bureau, provided to Congress in the revised Lifecycle Cost Estimate ("LCE") this past fall. That LCE assumed that NRFU operations might increase by 3 percent due to numerous factors, including a greater increase in citizen mistrust of government, difficulties in accessing the Internet to respond, and other factors.

Inclusion of a citizenship question on this country's decennial census is not new – the decision to collect citizenship information from Americans through the decennial census was first made centuries ago. The decision to include a citizenship question on a national census is also not uncommon. The United Nations recommends that its member countries ask census questions identifying both an individual's country of birth and the country of citizenship. *Principals and Recommendations for Population and Housing Censuses (Revision 3)*, UNITED NATIONS 121 (2017). Additionally, for countries in which the population may include a large portion of naturalized citizens, the United Nations notes that, "it may be important to collect information on the method of acquisition of citizenship." *Id.* at 123. And it is important to note that other major democracies inquire about citizenship on their census, including Australia, Canada, France, Germany, Indonesia, Ireland, Mexico, Spain, and the United Kingdom, to name a few.

The Department of Commerce is not able to determine definitively how inclusion of a citizenship question on the decennial census will impact responsiveness. However, even if there is some impact on responses, the value of more complete and accurate data derived from surveying the entire population outweighs such concerns. Completing and returning decennial census questionnaires is required by Federal law, those responses are protected by law, and inclusion of a citizenship question on the 2020 decennial census will provide more complete information for those who respond. The citizenship data provided to DOJ will be more accurate with the question than without it, which is of greater importance than any adverse effect that may result from people violating their legal duty to respond.



To conclude, after a thorough review of the legal, program, and policy considerations, as well as numerous discussions with the Census Bureau leadership and interested stakeholders, I have determined that reinstatement of a citizenship question on the 2020 decennial census is necessary to provide complete and accurate data in response to the DOJ request. To minimize any impact on decennial census response rates, I am directing the Census Bureau to place the citizenship question last on the decennial census form.

Please make my decision known to Census Bureau personnel and Members of Congress prior to March 31, 2018. I look forward to continuing to work with the Census Bureau as we strive for a complete and accurate 2020 decennial census.

CC: Ron Jarmin, performing the nonexclusive functions and duties of the Director of the Census Bureau

Enrique Lamas, performing the nonexclusive functions and duties of the Deputy Director of the Census Bureau



# THE American Community Survey

This booklet shows the content of the American Community Survey questionnaire.

People are our most important resource. This Census Bureau survey collects information about education, employment, income, and housing—information your community uses to plan and fund programs. Your response is important, and we keep your answers confidential.



If you need help or have questions about completing this form, please call **1-800-354-7271**. The telephone call is free.

**Telephone Device for the Deaf (TDD):**  
Call 1-800-582-8330. The telephone call is free.

**¿NECESITA AYUDA?** Si usted habla español y necesita ayuda para completar su cuestionario, llame sin cargo alguno al **1-877-833-5625**.

For more information about the American Community Survey, visit our web site at: <http://www.census.gov/acs/www/>

## Start Here

### This form asks for three types of information:

- basic information about the people who are living or staying at the address on the mailing label above
- specific information about this house, apartment, or mobile home
- more detailed information about each person living or staying here

➔ **What is your name?** Please PRINT the name of the person who is filling out this form. Include the telephone number so we can contact you if there is a question, and today's date.

Last Name

First Name

MI

Area Code + Number

Date (Month/Day/Year)

➔ **How many people are living or staying at this address?**

Number of people

➔ **Please turn to the next page to continue.**

# List of Residents

## READ THESE INSTRUCTIONS FIRST

Please fill out this form as soon as possible after receiving it in the mail.

- **LIST** everyone who is living or staying here for more than 2 months.
- **LIST** anyone else staying here who does not have another usual place to stay.
- **DO NOT LIST** anyone who is living somewhere else for more than 2 months, such as a college student living away.

If this place is a **vacation home** or a **temporary residence** where no one in this household stays for more than 2 months, do not list any names in the List of Residents. **Complete only pages 4, 5, and 6 and return the form.**

IF YOU ARE NOT SURE WHOM TO LIST, CALL 1-800-354-7271.

→ If there are more than five people, list them here. We may call you for more information about them.

→ After you've created the List of Residents, answer the questions across the top of the page for the first five people on the list.

### Person 1

Last Name (Please print)

First Name

MI

- Male  
 Female

Age (in years)

Month Day Year of birth

### 3 How is this person related to Person 1?

Person 1

(Person 1 is the person living or staying here in whose name this house or apartment is owned, being bought, or rented. If there is no such person, start with the name of any adult living or staying here.)

### Person 2

Last Name (Please print)

First Name

MI

- Male  
 Female

Age (in years)

Month Day Year of birth

Relationship of Person 2 to Person 1.

- Husband or wife  
 Son or daughter  
 Brother or sister  
 Father or mother  
 Grandchild  
 In-law  
 Other relative
- Roomer, boarder  
 Housemate, roommate  
 Unmarried partner  
 Foster child  
 Other nonrelative

### Person 3

Last Name (Please print)

First Name

MI

- Male  
 Female

Age (in years)

Month Day Year of birth

Relationship of Person 3 to Person 1.

- Husband or wife  
 Son or daughter  
 Brother or sister  
 Father or mother  
 Grandchild  
 In-law  
 Other relative
- Roomer, boarder  
 Housemate, roommate  
 Unmarried partner  
 Foster child  
 Other nonrelative

### Person 4

Last Name (Please print)

First Name

MI

- Male  
 Female

Age (in years)

Month Day Year of birth

Relationship of Person 4 to Person 1.

- Husband or wife  
 Son or daughter  
 Brother or sister  
 Father or mother  
 Grandchild  
 In-law  
 Other relative
- Roomer, boarder  
 Housemate, roommate  
 Unmarried partner  
 Foster child  
 Other nonrelative

### Person 5

Last Name (Please print)

First Name

MI

- Male  
 Female

Age (in years)

Month Day Year of birth

Relationship of Person 5 to Person 1.

- Husband or wife  
 Son or daughter  
 Brother or sister  
 Father or mother  
 Grandchild  
 In-law  
 Other relative
- Roomer, boarder  
 Housemate, roommate  
 Unmarried partner  
 Foster child  
 Other nonrelative

### Person 6

Last Name (Please print)

First Name

MI

### Person 7

Last Name (Please print)

First Name

MI

### Person 8

Last Name (Please print)

First Name

MI

**4** What is this person's marital status?

- Now married
- Widowed
- Divorced
- Separated
- Never married

**5** Is this person Spanish/Hispanic/Latino?

Mark (X) the "No" box if not Spanish/Hispanic/Latino.

- No**, not Spanish/Hispanic/Latino
- Yes, Mexican, Mexican Am., Chicano
- Yes, Puerto Rican
- Yes, Cuban
- Yes, other Spanish/Hispanic/Latino — *Print group.* ↘

**6** What is this person's race? Mark (X) one or more races to indicate what this person considers himself/herself to be.

- White
- Black or African American
- American Indian or Alaska Native — *Print name of enrolled or principal tribe.* ↘

- Asian Indian
- Chinese
- Filipino
- Japanese
- Korean
- Vietnamese
- Other Asian — *Print race.* →

- Native Hawaiian
- Guamanian or Chamorro
- Samoan
- Other Pacific Islander — *Print race below.* ↘
- Some other race — *Print race below.* ↘

- Now married
- Widowed
- Divorced
- Separated
- Never married

- No**, not Spanish/Hispanic/Latino
- Yes, Mexican, Mexican Am., Chicano
- Yes, Puerto Rican
- Yes, Cuban
- Yes, other Spanish/Hispanic/Latino — *Print group.* ↘

- White
- Black or African American
- American Indian or Alaska Native — *Print name of enrolled or principal tribe.* ↘

- Asian Indian
- Chinese
- Filipino
- Japanese
- Korean
- Vietnamese
- Other Asian — *Print race.* →

- Native Hawaiian
- Guamanian or Chamorro
- Samoan
- Other Pacific Islander — *Print race below.* ↘
- Some other race — *Print race below.* ↘

- Now married
- Widowed
- Divorced
- Separated
- Never married

- No**, not Spanish/Hispanic/Latino
- Yes, Mexican, Mexican Am., Chicano
- Yes, Puerto Rican
- Yes, Cuban
- Yes, other Spanish/Hispanic/Latino — *Print group.* ↘

- White
- Black or African American
- American Indian or Alaska Native — *Print name of enrolled or principal tribe.* ↘

- Asian Indian
- Chinese
- Filipino
- Japanese
- Korean
- Vietnamese
- Other Asian — *Print race.* →

- Native Hawaiian
- Guamanian or Chamorro
- Samoan
- Other Pacific Islander — *Print race below.* ↘
- Some other race — *Print race below.* ↘

- Now married
- Widowed
- Divorced
- Separated
- Never married

- No**, not Spanish/Hispanic/Latino
- Yes, Mexican, Mexican Am., Chicano
- Yes, Puerto Rican
- Yes, Cuban
- Yes, other Spanish/Hispanic/Latino — *Print group.* ↘

- White
- Black or African American
- American Indian or Alaska Native — *Print name of enrolled or principal tribe.* ↘

- Asian Indian
- Chinese
- Filipino
- Japanese
- Korean
- Vietnamese
- Other Asian — *Print race.* →

- Native Hawaiian
- Guamanian or Chamorro
- Samoan
- Other Pacific Islander — *Print race below.* ↘
- Some other race — *Print race below.* ↘

- Now married
- Widowed
- Divorced
- Separated
- Never married

- No**, not Spanish/Hispanic/Latino
- Yes, Mexican, Mexican Am., Chicano
- Yes, Puerto Rican
- Yes, Cuban
- Yes, other Spanish/Hispanic/Latino — *Print group.* ↘

- White
- Black or African American
- American Indian or Alaska Native — *Print name of enrolled or principal tribe.* ↘

- Asian Indian
- Chinese
- Filipino
- Japanese
- Korean
- Vietnamese
- Other Asian — *Print race.* →

- Native Hawaiian
- Guamanian or Chamorro
- Samoan
- Other Pacific Islander — *Print race below.* ↘
- Some other race — *Print race below.* ↘

**Person 9**

Last Name (Please print)

First Name

MI

**Person 10**

Last Name (Please print)

First Name

MI

**Person 11**

Last Name (Please print)

First Name

MI

**Person 12**

Last Name (Please print)

First Name

MI

➔ When you are finished, turn the page and continue with the Housing section. **3**



# Housing



Housing information helps your community plan for police and fire protection.

→ Please answer the following questions about the house, apartment, or mobile home at the address on the mailing label.

- 1 Which best describes this building?**  
Include all apartments, flats, etc., even if vacant.
- A mobile home
  - A one-family house detached from any other house
  - A one-family house attached to one or more houses
  - A building with 2 apartments
  - A building with 3 or 4 apartments
  - A building with 5 to 9 apartments
  - A building with 10 to 19 apartments
  - A building with 20 to 49 apartments
  - A building with 50 or more apartments
  - Boat, RV, van, etc.

- 2 About when was this building first built?**
- 2005 or later
  - 2000 to 2004
  - 1990 to 1999
  - 1980 to 1989
  - 1970 to 1979
  - 1960 to 1969
  - 1950 to 1959
  - 1940 to 1949
  - 1939 or earlier

- 3 When did PERSON 1 (listed in the List of Residents on page 2) move into this house, apartment, or mobile home?**

Month	Year
<input type="text"/>	<input type="text"/>

**A** Answer questions 4–6 ONLY if this is a one-family house or a mobile home; otherwise, SKIP to question 7.

- 4 How many acres is this house or mobile home on?**
- Less than 1 acre → SKIP to question 6
  - 1 to 9.9 acres
  - 10 or more acres

- 5 IN THE PAST 12 MONTHS, what were the actual sales of all agricultural products from this property?**
- None
  - \$1 to \$999
  - \$1,000 to \$2,499
  - \$2,500 to \$4,999
  - \$5,000 to \$9,999
  - \$10,000 or more

- 6 Is there a business (such as a store or barber shop) or a medical office on this property?**
- Yes
  - No

- 7 How many rooms are in this house, apartment, or mobile home? Do NOT count bathrooms, porches, balconies, foyers, halls, or half-rooms.**
- 1 room
  - 2 rooms
  - 3 rooms
  - 4 rooms
  - 5 rooms
  - 6 rooms
  - 7 rooms
  - 8 rooms
  - 9 or more rooms

- 8 How many bedrooms are in this house, apartment, or mobile home; that is, how many bedrooms would you list if this house, apartment, or mobile home were on the market for sale or rent?**

- No bedroom
- 1 bedroom
- 2 bedrooms
- 3 bedrooms
- 4 bedrooms
- 5 or more bedrooms

- 9 Does this house, apartment, or mobile home have COMPLETE plumbing facilities; that is, 1) hot and cold piped water, 2) a flush toilet, and 3) a bathtub or shower?**

- Yes, has all three facilities
- No

- 10 Does this house, apartment, or mobile home have COMPLETE kitchen facilities; that is, 1) a sink with piped water, 2) a stove or range, and 3) a refrigerator?**

- Yes, has all three facilities
- No

- 11 Is there telephone service available in this house, apartment, or mobile home from which you can both make and receive calls?**

- Yes
- No

- 12 How many automobiles, vans, and trucks of one-ton capacity or less are kept at home for use by members of this household?**

- None
- 1
- 2
- 3
- 4
- 5
- 6 or more

## Housing (continued)

**13** Which **FUEL** is used **MOST** for heating this house, apartment, or mobile home?

- Gas: from underground pipes serving the neighborhood
- Gas: bottled, tank, or LP
- Electricity
- Fuel oil, kerosene, etc.
- Coal or coke
- Wood
- Solar energy
- Other fuel
- No fuel used

**14** a. **LAST MONTH**, what was the cost of electricity for this house, apartment, or mobile home?

Last month's cost – Dollars

\$  .00

**OR**

- Included in rent or condominium fee
- No charge or electricity not used

b. **LAST MONTH**, what was the cost of gas for this house, apartment, or mobile home?

Last month's cost – Dollars

\$  .00

**OR**

- Included in rent or condominium fee
- Included in electricity payment entered above
- No charge or gas not used

c. **IN THE PAST 12 MONTHS**, what was the cost of water and sewer for this house, apartment, or mobile home? If you have lived here less than 12 months, estimate the cost.

Past 12 months' cost – Dollars

\$  .00

**OR**

- Included in rent or condominium fee
- No charge

d. **IN THE PAST 12 MONTHS**, what was the cost of oil, coal, kerosene, wood, etc., for this house, apartment, or mobile home? If you have lived here less than 12 months, estimate the cost.

Past 12 months' cost – Dollars

\$  .00

**OR**

- Included in rent or condominium fee
- No charge or these fuels not used

**15** At any time **DURING THE PAST 12 MONTHS**, did anyone in this household receive Food Stamps?

- Yes → What was the value of the Food Stamps received during the past 12 months?

Past 12 months' value – Dollars

\$  .00

- No

**16** Is this house, apartment, or mobile home part of a condominium?

- Yes → What is the monthly condominium fee? For renters, answer only if you pay the condominium fee in addition to your rent; otherwise, mark the "None" box.

Monthly amount – Dollars

\$  .00

**OR**

- None
- No

**17** Is this house, apartment, or mobile home –

- Owned by you or someone in this household with a mortgage or loan?
- Owned by you or someone in this household free and clear (without a mortgage or loan)?
- Rented for cash rent?
- Occupied without payment of cash rent? → **SKIP to C**

**B** Answer questions 18a and b **ONLY IF** you **PAY RENT** for this house, apartment, or mobile home. Otherwise, **SKIP** to question 19.

**18** a. What is the monthly rent for this house, apartment, or mobile home?

Monthly amount – Dollars

\$  .00

b. Does the monthly rent include any meals?

- Yes
- No

**C** Answer questions 19–23 **ONLY IF** you or someone else in this household **OWNS** or **IS BUYING** this house, apartment, or mobile home. Otherwise, **SKIP** to **E** on the next page.

**19** What is the value of this property; that is, how much do you think this house and lot, apartment, or mobile home and lot, would sell for if it were for sale?

- Less than \$10,000
- \$10,000 to \$14,999
- \$15,000 to \$19,999
- \$20,000 to \$24,999
- \$25,000 to \$29,999
- \$30,000 to \$34,999
- \$35,000 to \$39,999
- \$40,000 to \$49,999
- \$50,000 to \$59,999
- \$60,000 to \$69,999
- \$70,000 to \$79,999
- \$80,000 to \$89,999
- \$90,000 to \$99,999
- \$100,000 to \$124,999
- \$125,000 to \$149,999
- \$150,000 to \$174,999
- \$175,000 to \$199,999
- \$200,000 to \$249,999
- \$250,000 or more – Specify

\$  .00

## Housing (continued)

- 20** What are the annual real estate taxes on THIS property?

Annual amount – Dollars

\$  .00

OR

None

- 21** What is the annual payment for fire, hazard, and flood insurance on THIS property?

Annual amount – Dollars

\$  .00

OR

None

- 22** a. Do you or any member of this household have a mortgage, deed of trust, contract to purchase, or similar debt on THIS property?
- Yes, mortgage, deed of trust, or similar debt
- Yes, contract to purchase
- No → SKIP to question 23a

- b. How much is the regular monthly mortgage payment on THIS property? Include payment only on FIRST mortgage or contract to purchase.

Monthly amount – Dollars

\$  .00

OR

No regular payment required → SKIP to question 23a

- c. Does the regular monthly mortgage payment include payments for real estate taxes on THIS property?
- Yes, taxes included in mortgage payment
- No, taxes paid separately or taxes not required

- d. Does the regular monthly mortgage payment include payments for fire, hazard, or flood insurance on THIS property?

Yes, insurance included in mortgage payment

No, insurance paid separately or no insurance

- 23** a. Do you or any member of this household have a second mortgage or a home equity loan on THIS property?

Yes, home equity loan

Yes, second mortgage

Yes, second mortgage and home equity loan

No → SKIP to **D**

- b. How much is the regular monthly payment on all second or junior mortgages and all home equity loans on THIS property?

Monthly amount – Dollars

\$  .00

OR

No regular payment required

- D** Answer question 24 ONLY IF this is a MOBILE HOME. Otherwise, SKIP to **E**.

- 24** What are the total annual costs for personal property taxes, site rent, registration fees, and license fees on THIS mobile home and its site? Exclude real estate taxes.

Annual costs – Dollars

\$  .00

- E** Answer questions 25a–c ONLY IF you listed at least one person on page 2. Otherwise, SKIP to page 24 for the mailing instructions.

- 25** a. Do you or any member of this household live or stay at this address year round?

Yes → SKIP to the questions for Person 1 on the next page

No

- b. How many months a year do members of this household stay at this address?

Months

|

- c. What is the main reason members of this household are staying at this address?

This is their permanent address

This is their seasonal or vacation address

To be close to work

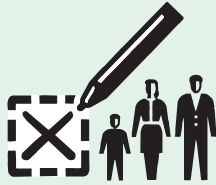
To attend school or college

Looking for permanent housing

Other reason(s)– Specify ↴

- Continue with the questions about PERSON 1 on the next page.

# Person 1



Your answers are important! Every person in the American Community Survey counts.

- ➔ Please copy the name of Person 1 from the List of Residents on page 2, then continue answering questions below.

Last Name

First Name

MI

- 7 Where was this person born?

In the United States – Print name of state.

Outside the United States – Print name of foreign country, or Puerto Rico, Guam, etc.

- 8 Is this person a CITIZEN of the United States?

Yes, born in the United States → Skip to 10a

Yes, born in Puerto Rico, Guam, the U.S. Virgin Islands, or Northern Marianas

Yes, born abroad of American parent or parents

Yes, U.S. citizen by naturalization

No, not a citizen of the United States

- 9 When did this person come to live in the United States? Print numbers in boxes.

Year

- 10 a. At any time IN THE LAST 3 MONTHS, has this person attended regular school or college?

Include only nursery or preschool, kindergarten, elementary school, and schooling which leads to a high school diploma or a college degree.

No, has not attended in the last 3 months → SKIP to question 11

Yes, public school, public college

Yes, private school, private college

- b. What grade or level was this person attending? Mark (X) ONE box.

Nursery school, preschool

Kindergarten

Grade 1 to grade 4

Grade 5 to grade 8

Grade 9 to grade 12

College undergraduate years (freshman to senior)

Graduate or professional school (for example: medical, dental, or law school)

- 11 What is the highest degree or level of school this person has COMPLETED? Mark (X) ONE box. If currently enrolled, mark the previous grade or highest degree received.

No schooling completed

Nursery school to 4th grade

5th grade or 6th grade

7th grade or 8th grade

9th grade

10th grade

11th grade

12th grade – NO DIPLOMA

HIGH SCHOOL GRADUATE – high school DIPLOMA or the equivalent (for example: GED)

Some college credit, but less than 1 year

1 or more years of college, no degree

Associate degree (for example: AA, AS)

Bachelor's degree (for example: BA, AB, BS)

Master's degree (for example: MA, MS, MEng, MEd, MSW, MBA)

Professional degree (for example: MD, DDS, DVM, LLB, JD)

Doctorate degree (for example: PhD, EdD)

- 12 What is this person's ancestry or ethnic origin?

(For example: Italian, Jamaican, African Am., Cambodian, Cape Verdean, Norwegian, Dominican, French Canadian, Haitian, Korean, Lebanese, Polish, Nigerian, Mexican, Taiwanese, Ukrainian, and so on.)

- 13 a. Does this person speak a language other than English at home?

Yes

No → SKIP to question 14

- b. What is this language?

For example: Korean, Italian, Spanish, Vietnamese

- c. How well does this person speak English?

Very well

Well

Not well

Not at all

- 14 a. Did this person live in this house or apartment 1 year ago?

Person is under 1 year old → SKIP to the questions for Person 2 on page 10.

Yes, this house → SKIP to **F**

No, outside the United States – Print name of foreign country, or Puerto Rico, Guam, etc., below; then SKIP to **F**

No, different house in the United States

- b. Where did this person live 1 year ago?

Name of city, town, or post office

- c. Did this person live inside the limits of the city or town?

Yes

No, outside the city/town limits

Name of county

Name of state

ZIP Code

**F** Answer questions 15 and 16 ONLY IF this person is 5 years old or over. Otherwise, SKIP to the questions for PERSON 2 on page 10.

- 15 Does this person have any of the following long-lasting conditions:

a. Blindness, deafness, or a severe vision or hearing impairment? Yes No

b. A condition that substantially limits one or more basic physical activities such as walking, climbing stairs, reaching, lifting, or carrying?

- 16 Because of a physical, mental, or emotional condition lasting 6 months or more, does this person have any difficulty in doing any of the following activities:

a. Learning, remembering, or concentrating? Yes No

b. Dressing, bathing, or getting around inside the home?



## Person 1 (continued)

**G** Answer question 17 ONLY IF this person is 15 years old or over. Otherwise, SKIP to the questions for PERSON 2 on page 10.

**17** Because of a physical, mental, or emotional condition lasting 6 months or more, does this person have any difficulty in doing any of the following activities:

- |   | Yes                      | No                       |
|---|--------------------------|--------------------------|
| a. Going outside the home alone to shop or visit a doctor's office? | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Working at a job or business?                                    | <input type="checkbox"/> | <input type="checkbox"/> |

**H** Answer question 18 ONLY IF this person is female and 15–50 years old. Otherwise, SKIP to question 19a.

**18** Has this person given birth to any children in the past 12 months?

- Yes  
 No

**19** a. Does this person have any of his/her own grandchildren under the age of 18 living in this house or apartment?

- Yes  
 No → SKIP to question 20

b. Is this grandparent currently responsible for most of the basic needs of any grandchild(ren) under the age of 18 who live(s) in this house or apartment?

- Yes  
 No → SKIP to question 20

c. How long has this grandparent been responsible for the(se) grandchild(ren)? If the grandparent is financially responsible for more than one grandchild, answer the question for the grandchild for whom the grandparent has been responsible for the longest period of time.

- Less than 6 months  
 6 to 11 months  
 1 or 2 years  
 3 or 4 years  
 5 or more years

**20** Has this person ever served on active duty in the U.S. Armed Forces, military Reserves, or National Guard? Active duty does not include training for the Reserves or National Guard, but DOES include activation, for example, for the Persian Gulf War.

- Yes, now on active duty  
 Yes, on active duty during the last 12 months, but not now  
 Yes, on active duty in the past, but not during the last 12 months  
 No, training for Reserves or National Guard only → SKIP to question 23  
 No, never served in the military → SKIP to question 23

**21** When did this person serve on active duty in the U.S. Armed Forces? Mark (X) a box for EACH period in which this person served, even if just for part of the period.

- September 2001 or later  
 August 1990 to August 2001 (including Persian Gulf War)  
 September 1980 to July 1990  
 May 1975 to August 1980  
 Vietnam era (August 1964 to April 1975)  
 March 1961 to July 1964  
 February 1955 to February 1961  
 Korean War (July 1950 to January 1955)  
 January 1947 to June 1950  
 World War II (December 1941 to December 1946)  
 November 1941 or earlier

**22** In total, how many years of active-duty military service has this person had?

- Less than 2 years  
 2 years or more

**23** LAST WEEK, did this person do ANY work for either pay or profit? Mark (X) the "Yes" box even if the person worked only 1 hour, or helped without pay in a family business or farm for 15 hours or more, or was on active duty in the Armed Forces.

- Yes  
 No → SKIP to question 29

**24** At what location did this person work LAST WEEK? If this person worked at more than one location, print where he or she worked most last week.

a. Address (Number and street name)

If the exact address is not known, give a description of the location such as the building name or the nearest street or intersection.

b. Name of city, town, or post office

c. Is the work location inside the limits of that city or town?

- Yes  
 No, outside the city/town limits

d. Name of county

e. Name of U.S. state or foreign country

f. ZIP Code

**25** How did this person usually get to work LAST WEEK? If this person usually used more than one method of transportation during the trip, mark (X) the box of the one used for most of the distance.

- |   |   |
|---|---|
| <input type="checkbox"/> Car, truck, or van       | <input type="checkbox"/> Motorcycle                           |
| <input type="checkbox"/> Bus or trolley bus       | <input type="checkbox"/> Bicycle                              |
| <input type="checkbox"/> Streetcar or trolley car | <input type="checkbox"/> Walked                               |
| <input type="checkbox"/> Subway or elevated       | <input type="checkbox"/> Worked at home → SKIP to question 33 |
| <input type="checkbox"/> Railroad                 | <input type="checkbox"/> Other method                         |
| <input type="checkbox"/> Ferryboat                |   |
| <input type="checkbox"/> Taxicab                  |   |

**I** Answer question 26 ONLY IF you marked "Car, truck, or van" in question 25. Otherwise, SKIP to question 27.

**26** How many people, including this person, usually rode to work in the car, truck, or van LAST WEEK?

Person(s)

**27** What time did this person usually leave home to go to work LAST WEEK?

Hour Minute  a.m.  
 p.m.

**28** How many minutes did it usually take this person to get from home to work LAST WEEK?

Minutes

**J** Answer questions 29–32 ONLY IF this person did NOT work last week. Otherwise, SKIP to question 33.

**29** a. LAST WEEK, was this person on layoff from a job?

- Yes → SKIP to question 29c  
 No

b. LAST WEEK, was this person TEMPORARILY absent from a job or business?

- Yes, on vacation, temporary illness, labor dispute, etc. → SKIP to question 32  
 No → SKIP to question 30

c. Has this person been informed that he or she will be recalled to work within the next 6 months OR been given a date to return to work?

- Yes → SKIP to question 31  
 No

**30 Has this person been looking for work during the last 4 weeks?**

- Yes  
 No → SKIP to question 22

**31 LAST WEEK, could this person have started a job if offered one, or returned to work if recalled?**

- Yes, could have gone to work  
 No, because of own temporary illness  
 No, because of all other reasons (in school, etc.)

**32 When did this person last work, even for a few days?**

- Within the past 12 months  
 1 to 5 years ago → SKIP to question 35  
 Over 5 years ago or never worked → SKIP to question 41

**33 During the PAST 12 MONTHS, how many WEEKS did this person work? Count paid vacation, paid sick leave, and military service.**

Weeks

**34 During the PAST 12 MONTHS, in the WEEKS WORKED, how many hours did this person usually work each WEEK?**

Usual hours worked each WEEK

**K** Answer questions 35–40 ONLY IF this person worked in the past 5 years. Otherwise, SKIP to question 41.

**35–40 CURRENT OR MOST RECENT JOB ACTIVITY.** Describe clearly this person's chief job activity or business last week. If this person had more than one job, describe the one at which this person worked the most hours. If this person had no job or business last week, give information for his/her last job or business.

**35 Was this person –**

Mark (X) ONE box.

- an employee of a PRIVATE FOR PROFIT company or business, or of an individual, for wages, salary, or commissions?  
 an employee of a PRIVATE NOT FOR PROFIT, tax-exempt, or charitable organization?  
 a local GOVERNMENT employee (city, county, etc.)?  
 a state GOVERNMENT employee?  
 a Federal GOVERNMENT employee?  
 SELF-EMPLOYED in own NOT INCORPORATED business, professional practice, or farm?  
 SELF-EMPLOYED in own INCORPORATED business, professional practice, or farm?  
 working WITHOUT PAY in family business or farm?

**36 For whom did this person work?**

If now on active duty in the Armed Forces, mark (X) this box →  and print the branch of the Armed Forces.

Name of company, business, or other employer

**37 What kind of business or industry was this?**

Describe the activity at the location where employed. (For example: hospital, newspaper publishing, mail order house, auto engine manufacturing, bank)

**38 Is this mainly – Mark (X) one box.**

- manufacturing?  
 wholesale trade?  
 retail trade?  
 other (agriculture, construction, service, government, etc.)?

**39 What kind of work was this person doing? (For example: registered nurse, personnel manager, supervisor of order department, secretary, accountant)**

**40 What were this person's most important activities or duties? (For example: patient care, directing hiring policies, supervising order clerks, typing and filing, reconciling financial records)**

**41 INCOME IN THE PAST 12 MONTHS.**

Mark (X) the "Yes" box for each type of income this person received, and give your best estimate of the TOTAL AMOUNT during the PAST 12 MONTHS. (NOTE: The "past 12 months" is the period from today's date one year ago up through today.)

Mark (X) the "No" box to show types of income NOT received.

If net income was a loss, mark the "Loss" box to the right of the dollar amount.

For income received jointly, report the appropriate share for each person – or, if that's not possible, report the whole amount for only one person and mark the "No" box for the other person.

**a. Wages, salary, commissions, bonuses, or tips from all jobs.** Report amount before deductions for taxes, bonds, dues, or other items.

- Yes → \$ .00  
 No TOTAL AMOUNT for past 12 MONTHS

**b. Self-employment income from own nonfarm businesses or farm businesses, including proprietorships and partnerships.** Report NET income after business expenses.

- Yes → \$ .00  
 No TOTAL AMOUNT for past 12 MONTHS  Loss

**c. Interest, dividends, net rental income, royalty income, or income from estates and trusts.** Report even small amounts credited to an account.

- Yes → \$ .00  
 No TOTAL AMOUNT for past 12 MONTHS  Loss

**d. Social Security or Railroad Retirement.**

- Yes → \$ .00  
 No TOTAL AMOUNT for past 12 MONTHS

**e. Supplemental Security Income (SSI).**

- Yes → \$ .00  
 No TOTAL AMOUNT for past 12 MONTHS

**f. Any public assistance or welfare payments from the state or local welfare office.**

- Yes → \$ .00  
 No TOTAL AMOUNT for past 12 MONTHS

**g. Retirement, survivor, or disability pensions.** Do NOT include Social Security.

- Yes → \$ .00  
 No TOTAL AMOUNT for past 12 MONTHS

**h. Any other sources of income received regularly such as Veterans' (VA) payments, unemployment compensation, child support or alimony.** Do NOT include lump sum payments such as money from an inheritance or the sale of a home.

- Yes → \$ .00  
 No TOTAL AMOUNT for past 12 MONTHS

**42 What was this person's total income during the PAST 12 MONTHS? Add entries in questions 41a to 41h; subtract any losses. If net income was a loss, enter the amount and mark (X) the "Loss" box next to the dollar amount.**

- None OR \$ .00  Loss  
TOTAL AMOUNT for past 12 MONTHS

➔ Continue with the questions for Person 2 on the next page. If only 1 person is listed in the List of Residents, SKIP to page 24 for mailing instructions.

## Person 2



Survey information helps your community get financial assistance for roads, hospitals, schools, and more.

The balance of the questionnaire has questions for Person 2, Person 3, Person 4, and Person 5. The questions are the same as the questions for Person 1.

INFORMATIONAL COPY





INFORMATIONAL COPY

# Mailing Instructions

## Please make sure you have..

- put all names on the List of Residents and answered the questions across the top of the page
- answered all Housing questions
- answered all Person questions for each person on the List of Residents.

## Then...

- put the completed questionnaire into the postage-paid return envelope. If the envelope has been misplaced, please mail the questionnaire to:

**U. S. Census Bureau  
P.O. Box 5240  
Jeffersonville, IN 47199-5240**

- make sure the barcode above your address shows in the window of the return envelope.

**Thank you for participating in  
the American Community Survey.**

INFORMATIONAL COPY

POP

EDIT

PHONE

EDIT CLERK

TELEPHONE CLERK

JIC1

JIC2

JIC3

JIC4

The Census Bureau estimates that, for the average household, this form will take 38 minutes to complete, including the time for reviewing the instructions and answers. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Paperwork Project 0607-0810, U.S. Census Bureau, 4700 Silver Hill Road, Stop 1500, Washington, D.C. 20233-1500. You may e-mail comments to [Paperwork@census.gov](mailto:Paperwork@census.gov); use "Paperwork Project 0607-0810" as the subject. Please DO NOT RETURN your questionnaire to this address. Use the enclosed preaddressed envelope to return your completed questionnaire.

Respondents are not required to respond to any information collection unless it displays a valid approval number from the Office of Management and Budget. This 8-digit number appears in the bottom right on the front cover of this form.

Form ACS-1(INFO)(2005) (5-20-2004)



# THE American Community Survey

This booklet shows the content of the American Community Survey questionnaire.

## Start Here

Respond online today at:  
<https://respond.census.gov/acs>

OR

Complete this form and mail it back as soon as possible.

This form asks for information about the people who are living or staying at the address on the mailing label and about the house, apartment, or mobile home located at the address on the mailing label.



**If you need help or have questions about completing this form**, please call **1-800-354-7271**. The telephone call is free.

### Telephone Device for the Deaf (TDD):

Call 1-800-582-8330. The telephone call is free.

**¿NECESITA AYUDA?** Si usted habla español y necesita ayuda para completar su cuestionario, llame sin cargo alguno al **1-877-833-5625**. Usted también puede completar su entrevista por teléfono con un entrevistador que habla español. O puede responder por Internet en: <https://respond.census.gov/acs>

For more information about the American Community Survey, visit our website at: <http://www.census.gov/acs>

### → Please print today's date.

Month Day Year

<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------

### → Please print the name and telephone number of the person who is filling out this form. We will only contact you if needed for official Census Bureau business.

Last Name

First Name MI

Area Code + Number  
 -

### → How many people are living or staying at this address?

- **INCLUDE** everyone who is living or staying here for more than 2 months.
- **INCLUDE** yourself if you are living here for more than 2 months.
- **INCLUDE** anyone else staying here who does not have another place to stay, even if they are here for 2 months or less.
- **DO NOT INCLUDE** anyone who is living somewhere else for more than 2 months, such as a college student living away or someone in the Armed Forces on deployment.

### Number of people

### → Fill out pages 2, 3, and 4 for everyone, including yourself, who is living or staying at this address for more than 2 months. Then complete the rest of the form.



## Person 1

(Person 1 is the person living or staying here in whose name this house or apartment is owned, being bought, or rented. If there is no such person, start with the name of any adult living or staying here.)

### 1 What is Person 1's name?

Last Name *(Please print)* First Name MI

### 2 How is this person related to Person 1? Mark (X) ONE box.

Person 1

### 3 What is Person 1's sex? Mark (X) ONE box.

Male  Female

### 4 What is Person 1's age and what is Person 1's date of birth? Please report babies as age 0 when the child is less than 1 year old.

Age (in years) *Print numbers in boxes.* Month Day Year of birth

→ **NOTE:** Please answer BOTH Question 5 about Hispanic origin and Question 6 about race. For this survey, Hispanic origins are not races.

### 5 Is Person 1 of Hispanic, Latino, or Spanish origin?

- No, not of Hispanic, Latino, or Spanish origin
- Yes, Mexican, Mexican Am., Chicano
- Yes, Puerto Rican
- Yes, Cuban
- Yes, another Hispanic, Latino, or Spanish origin – *Print origin, for example, Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on.* ↘

### 6 What is Person 1's race? Mark (X) one or more boxes.

- White
- Black or African Am.
- American Indian or Alaska Native – *Print name of enrolled or principal tribe.* ↘

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Asian Indian   | <input type="checkbox"/> Japanese  | <input type="checkbox"/> Native Hawaiian       |
| <input type="checkbox"/> Chinese  | <input type="checkbox"/> Korean  | <input type="checkbox"/> Guamanian or Chamorro |
| <input type="checkbox"/> Filipino   | <input type="checkbox"/> Vietnamese  | <input type="checkbox"/> Samoan                |
| <input type="checkbox"/> Other Asian – <i>Print race, for example, Hmong, Laotian, Thai, Pakistani, Cambodian, and so on.</i> ↘ | <input type="checkbox"/> Other Pacific Islander – <i>Print race, for example, Fijian, Tongan, and so on.</i> ↘ |  |

Some other race – *Print race.* ↘

## Person 2

### 1 What is Person 2's name?

Last Name *(Please print)* First Name MI

### 2 How is this person related to Person 1? Mark (X) ONE box.

- |   |  |
|---|--|
| <input type="checkbox"/> Opposite-sex husband/wife/spouse | <input type="checkbox"/> Father or mother              |
| <input type="checkbox"/> Opposite-sex unmarried partner   | <input type="checkbox"/> Grandchild                    |
| <input type="checkbox"/> Same-sex husband/wife/spouse     | <input type="checkbox"/> Parent-in-law                 |
| <input type="checkbox"/> Same-sex unmarried partner       | <input type="checkbox"/> Son-in-law or daughter-in-law |
| <input type="checkbox"/> Biological son or daughter       | <input type="checkbox"/> Other relative                |
| <input type="checkbox"/> Adopted son or daughter          | <input type="checkbox"/> Roommate or housemate         |
| <input type="checkbox"/> Stepson or stepdaughter          | <input type="checkbox"/> Foster child                  |
| <input type="checkbox"/> Brother or sister                | <input type="checkbox"/> Other nonrelative             |

### 3 What is Person 2's sex? Mark (X) ONE box.

Male  Female

### 4 What is Person 2's age and what is Person 2's date of birth? Please report babies as age 0 when the child is less than 1 year old.

Age (in years) *Print numbers in boxes.* Month Day Year of birth

→ **NOTE:** Please answer BOTH Question 5 about Hispanic origin and Question 6 about race. For this survey, Hispanic origins are not races.

### 5 Is Person 2 of Hispanic, Latino, or Spanish origin?

- No, not of Hispanic, Latino, or Spanish origin
- Yes, Mexican, Mexican Am., Chicano
- Yes, Puerto Rican
- Yes, Cuban
- Yes, another Hispanic, Latino, or Spanish origin – *Print origin, for example, Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on.* ↘

### 6 What is Person 2's race? Mark (X) one or more boxes.

- White
- Black or African Am.
- American Indian or Alaska Native – *Print name of enrolled or principal tribe.* ↘

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Asian Indian   | <input type="checkbox"/> Japanese  | <input type="checkbox"/> Native Hawaiian       |
| <input type="checkbox"/> Chinese  | <input type="checkbox"/> Korean  | <input type="checkbox"/> Guamanian or Chamorro |
| <input type="checkbox"/> Filipino   | <input type="checkbox"/> Vietnamese  | <input type="checkbox"/> Samoan                |
| <input type="checkbox"/> Other Asian – <i>Print race, for example, Hmong, Laotian, Thai, Pakistani, Cambodian, and so on.</i> ↘ | <input type="checkbox"/> Other Pacific Islander – <i>Print race, for example, Fijian, Tongan, and so on.</i> ↘ |  |

Some other race – *Print race.* ↘



## Person 3

### 1 What is Person 3's name?

Last Name (Please print) First Name MI

### 2 How is this person related to Person 1? Mark (X) ONE box.

- |   |  |
|---|--|
| <input type="checkbox"/> Opposite-sex husband/wife/spouse | <input type="checkbox"/> Father or mother              |
| <input type="checkbox"/> Opposite-sex unmarried partner   | <input type="checkbox"/> Grandchild                    |
| <input type="checkbox"/> Same-sex husband/wife/spouse     | <input type="checkbox"/> Parent-in-law                 |
| <input type="checkbox"/> Same-sex unmarried partner       | <input type="checkbox"/> Son-in-law or daughter-in-law |
| <input type="checkbox"/> Biological son or daughter       | <input type="checkbox"/> Other relative                |
| <input type="checkbox"/> Adopted son or daughter          | <input type="checkbox"/> Roommate or housemate         |
| <input type="checkbox"/> Stepson or stepdaughter          | <input type="checkbox"/> Foster child                  |
| <input type="checkbox"/> Brother or sister                | <input type="checkbox"/> Other nonrelative             |

### 3 What is Person 3's sex? Mark (X) ONE box.

- Male  Female

### 4 What is Person 3's age and what is Person 3's date of birth?

Please report babies as age 0 when the child is less than 1 year old.

Print numbers in boxes.

Age (in years) Month Day Year of birth

→ **NOTE:** Please answer BOTH Question 5 about Hispanic origin and Question 6 about race. For this survey, Hispanic origins are not races.

### 5 Is Person 3 of Hispanic, Latino, or Spanish origin?

- No, not of Hispanic, Latino, or Spanish origin
- Yes, Mexican, Mexican Am., Chicano
- Yes, Puerto Rican
- Yes, Cuban
- Yes, another Hispanic, Latino, or Spanish origin – *Print origin, for example, Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on.* ↘

### 6 What is Person 3's race? Mark (X) one or more boxes.

- White
- Black or African Am.
- American Indian or Alaska Native – *Print name of enrolled or principal tribe.* ↘

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Asian Indian   | <input type="checkbox"/> Japanese  | <input type="checkbox"/> Native Hawaiian       |
| <input type="checkbox"/> Chinese  | <input type="checkbox"/> Korean  | <input type="checkbox"/> Guamanian or Chamorro |
| <input type="checkbox"/> Filipino   | <input type="checkbox"/> Vietnamese  | <input type="checkbox"/> Samoan                |
| <input type="checkbox"/> Other Asian – <i>Print race, for example, Hmong, Laotian, Thai, Pakistani, Cambodian, and so on.</i> ↘ | <input type="checkbox"/> Other Pacific Islander – <i>Print race, for example, Fijian, Tongan, and so on.</i> ↘ |  |

- Some other race – *Print race.* ↘

## Person 4

### 1 What is Person 4's name?

Last Name (Please print) First Name MI

### 2 How is this person related to Person 1? Mark (X) ONE box.

- |   |  |
|---|--|
| <input type="checkbox"/> Opposite-sex husband/wife/spouse | <input type="checkbox"/> Father or mother              |
| <input type="checkbox"/> Opposite-sex unmarried partner   | <input type="checkbox"/> Grandchild                    |
| <input type="checkbox"/> Same-sex husband/wife/spouse     | <input type="checkbox"/> Parent-in-law                 |
| <input type="checkbox"/> Same-sex unmarried partner       | <input type="checkbox"/> Son-in-law or daughter-in-law |
| <input type="checkbox"/> Biological son or daughter       | <input type="checkbox"/> Other relative                |
| <input type="checkbox"/> Adopted son or daughter          | <input type="checkbox"/> Roommate or housemate         |
| <input type="checkbox"/> Stepson or stepdaughter          | <input type="checkbox"/> Foster child                  |
| <input type="checkbox"/> Brother or sister                | <input type="checkbox"/> Other nonrelative             |

### 3 What is Person 4's sex? Mark (X) ONE box.

- Male  Female

### 4 What is Person 4's age and what is Person 4's date of birth?

Please report babies as age 0 when the child is less than 1 year old.

Print numbers in boxes.

Age (in years) Month Day Year of birth

→ **NOTE:** Please answer BOTH Question 5 about Hispanic origin and Question 6 about race. For this survey, Hispanic origins are not races.

### 5 Is Person 4 of Hispanic, Latino, or Spanish origin?

- No, not of Hispanic, Latino, or Spanish origin
- Yes, Mexican, Mexican Am., Chicano
- Yes, Puerto Rican
- Yes, Cuban
- Yes, another Hispanic, Latino, or Spanish origin – *Print origin, for example, Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on.* ↘

### 6 What is Person 4's race? Mark (X) one or more boxes.

- White
- Black or African Am.
- American Indian or Alaska Native – *Print name of enrolled or principal tribe.* ↘

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Asian Indian   | <input type="checkbox"/> Japanese  | <input type="checkbox"/> Native Hawaiian       |
| <input type="checkbox"/> Chinese  | <input type="checkbox"/> Korean  | <input type="checkbox"/> Guamanian or Chamorro |
| <input type="checkbox"/> Filipino   | <input type="checkbox"/> Vietnamese  | <input type="checkbox"/> Samoan                |
| <input type="checkbox"/> Other Asian – <i>Print race, for example, Hmong, Laotian, Thai, Pakistani, Cambodian, and so on.</i> ↘ | <input type="checkbox"/> Other Pacific Islander – <i>Print race, for example, Fijian, Tongan, and so on.</i> ↘ |  |

- Some other race – *Print race.* ↘



## Person 5

### 1 What is Person 5's name?

Last Name (Please print) First Name MI

### 2 How is this person related to Person 1? Mark (X) ONE box.

- |   |  |
|---|--|
| <input type="checkbox"/> Opposite-sex husband/wife/spouse | <input type="checkbox"/> Father or mother              |
| <input type="checkbox"/> Opposite-sex unmarried partner   | <input type="checkbox"/> Grandchild                    |
| <input type="checkbox"/> Same-sex husband/wife/spouse     | <input type="checkbox"/> Parent-in-law                 |
| <input type="checkbox"/> Same-sex unmarried partner       | <input type="checkbox"/> Son-in-law or daughter-in-law |
| <input type="checkbox"/> Biological son or daughter       | <input type="checkbox"/> Other relative                |
| <input type="checkbox"/> Adopted son or daughter          | <input type="checkbox"/> Roommate or housemate         |
| <input type="checkbox"/> Stepson or stepdaughter          | <input type="checkbox"/> Foster child                  |
| <input type="checkbox"/> Brother or sister                | <input type="checkbox"/> Other nonrelative             |

### 3 What is Person 5's sex? Mark (X) ONE box.

- Male  Female

### 4 What is Person 5's age and what is Person 5's date of birth? Please report babies as age 0 when the child is less than 1 year old.

Print numbers in boxes.

Age (in years) Month Day Year of birth

→ **NOTE:** Please answer BOTH Question 5 about Hispanic origin and Question 6 about race. For this survey, Hispanic origins are not races.

### 5 Is Person 5 of Hispanic, Latino, or Spanish origin?

- No, not of Hispanic, Latino, or Spanish origin
- Yes, Mexican, Mexican Am., Chicano
- Yes, Puerto Rican
- Yes, Cuban
- Yes, another Hispanic, Latino, or Spanish origin – Print origin, for example, Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on. ↘

### 6 What is Person 5's race? Mark (X) one or more boxes.

- White
- Black or African Am.
- American Indian or Alaska Native – Print name of enrolled or principal tribe. ↘

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Asian Indian  | <input type="checkbox"/> Japanese   | <input type="checkbox"/> Native Hawaiian       |
| <input type="checkbox"/> Chinese   | <input type="checkbox"/> Korean   | <input type="checkbox"/> Guamanian or Chamorro |
| <input type="checkbox"/> Filipino  | <input type="checkbox"/> Vietnamese   | <input type="checkbox"/> Samoan                |
| <input type="checkbox"/> Other Asian – Print race, for example, Hmong, Laotian, Thai, Pakistani, Cambodian, and so on. ↘ | <input type="checkbox"/> Other Pacific Islander – Print race, for example, Fijian, Tongan, and so on. ↘ |  |

- Some other race – Print race. ↘

→ If there are more than five people living or staying here, print their names in the spaces for Person 6 through Person 12. We may call you for more information about them. ↘

### Person 6

Last Name (Please print) First Name MI

Sex  Male  Female

Age (in years)

### Person 7

Last Name (Please print) First Name MI

Sex  Male  Female

Age (in years)

### Person 8

Last Name (Please print) First Name MI

Sex  Male  Female

Age (in years)

### Person 9

Last Name (Please print) First Name MI

Sex  Male  Female

Age (in years)

### Person 10

Last Name (Please print) First Name MI

Sex  Male  Female

Age (in years)

### Person 11

Last Name (Please print) First Name MI

Sex  Male  Female

Age (in years)

### Person 12

Last Name (Please print) First Name MI

Sex  Male  Female

Age (in years)





# Housing

→ Please answer the following questions about the house, apartment, or mobile home at the address on the mailing label.

**1 Which best describes this building?**

Include all apartments, flats, etc., even if vacant.

- A mobile home
- A one-family house detached from any other house
- A one-family house attached to one or more houses
- A building with 2 apartments
- A building with 3 or 4 apartments
- A building with 5 to 9 apartments
- A building with 10 to 19 apartments
- A building with 20 to 49 apartments
- A building with 50 or more apartments
- Boat, RV, van, etc.

**2 About when was this building first built?**

2000 or later – Specify year →

- 1990 to 1999
- 1980 to 1989
- 1970 to 1979
- 1960 to 1969
- 1950 to 1959
- 1940 to 1949
- 1939 or earlier

**3 When did PERSON 1 (listed on page 2) move into this house, apartment, or mobile home?**

Month Year



**A** Answer questions 4 – 5 if this is a HOUSE OR A MOBILE HOME; otherwise, SKIP to question 6a.

**4 How many acres is this house or mobile home on?**

- Less than 1 acre → SKIP to question 6a
- 1 to 9.9 acres
- 10 or more acres

**5 IN THE PAST 12 MONTHS, what were the actual sales of all agricultural products from this property?**

- None
- \$1 to \$999
- \$1,000 to \$2,499
- \$2,500 to \$4,999
- \$5,000 to \$9,999
- \$10,000 or more

**6 a. How many separate rooms are in this house, apartment, or mobile home?**  
Rooms must be separated by built-in archways or walls that extend out at least 6 inches and go from floor to ceiling.

- INCLUDE bedrooms, kitchens, etc.
- EXCLUDE bathrooms, porches, balconies, foyers, halls, or unfinished basements.

Number of rooms

**b. How many of these rooms are bedrooms?**

Count as bedrooms those rooms you would list if this house, apartment, or mobile home were for sale or rent. If this is an efficiency/studio apartment, print "0".

Number of bedrooms

**7 Does this house, apartment, or mobile home have –**

- |                                | Yes                      | No                       |
|--------------------------------|--------------------------|--------------------------|
| a. hot and cold running water? | <input type="checkbox"/> | <input type="checkbox"/> |
| b. a bathtub or shower?        | <input type="checkbox"/> | <input type="checkbox"/> |
| c. a sink with a faucet?       | <input type="checkbox"/> | <input type="checkbox"/> |
| d. a stove or range?           | <input type="checkbox"/> | <input type="checkbox"/> |
| e. a refrigerator?             | <input type="checkbox"/> | <input type="checkbox"/> |

**8 Can you or any member of this household both make and receive phone calls when at this house, apartment, or mobile home?**

Include calls using cell phones, land lines, or other phone devices.

- Yes
- No

**9 At this house, apartment, or mobile home – do you or any member of this household own or use any of the following types of computers?**

- |   | Yes                      | No                       |
|---|--------------------------|--------------------------|
| a. Desktop or laptop                          | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Smartphone                                 | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Tablet or other portable wireless computer | <input type="checkbox"/> | <input type="checkbox"/> |
| d. Some other type of computer<br>Specify ↴   | <input type="checkbox"/> | <input type="checkbox"/> |

**10 At this house, apartment, or mobile home – do you or any member of this household have access to the Internet?**

- Yes, by paying a cell phone company or Internet service provider
- Yes, without paying a cell phone company or Internet service provider → SKIP to question 12
- No access to the Internet at this house, apartment, or mobile home → SKIP to question 12

**11 Do you or any member of this household have access to the Internet using a –**

- |  | Yes                      | No                       |
|--|--------------------------|--------------------------|
| a. cellular data plan for a smartphone or other mobile device?   | <input type="checkbox"/> | <input type="checkbox"/> |
| b. broadband (high speed) Internet service such as cable, fiber optic, or DSL service installed in this household? | <input type="checkbox"/> | <input type="checkbox"/> |
| c. satellite Internet service installed in this household?   | <input type="checkbox"/> | <input type="checkbox"/> |
| d. dial-up Internet service installed in this household?   | <input type="checkbox"/> | <input type="checkbox"/> |
| e. some other service?<br>Specify service ↴  | <input type="checkbox"/> | <input type="checkbox"/> |



## Housing (continued)

**12** How many automobiles, vans, and trucks of one-ton capacity or less are kept at home for use by members of this household?

- None
- 1
- 2
- 3
- 4
- 5
- 6 or more

**13** Which FUEL is used MOST for heating this house, apartment, or mobile home?

- Gas: from underground pipes serving the neighborhood
- Gas: bottled, tank, or LP
- Electricity
- Fuel oil, kerosene, etc.
- Coal or coke
- Wood
- Solar energy
- Other fuel
- No fuel used

**14** a. LAST MONTH, what was the cost of electricity for this house, apartment, or mobile home?

Last month's cost – Dollars

\$           .00

OR

- Included in rent or condominium fee
- No charge or electricity not used

b. LAST MONTH, what was the cost of gas for this house, apartment, or mobile home?

Last month's cost – Dollars

\$           .00

OR

- Included in rent or condominium fee
- Included in electricity payment entered above
- No charge or gas not used

c. IN THE PAST 12 MONTHS, what was the cost of water and sewer for this house, apartment, or mobile home? If you have lived here less than 12 months, estimate the cost.

Past 12 months' cost – Dollars

\$           .00

OR

- Included in rent or condominium fee
- No charge

d. IN THE PAST 12 MONTHS, what was the cost of oil, coal, kerosene, wood, etc., for this house, apartment, or mobile home? If you have lived here less than 12 months, estimate the cost.

Past 12 months' cost – Dollars

\$           .00

OR

- Included in rent or condominium fee
- No charge or these fuels not used

**15** IN THE PAST 12 MONTHS, did you or any member of this household receive benefits from the Food Stamp Program or SNAP (the Supplemental Nutrition Assistance Program)? Do NOT include WIC, the School Lunch Program, or assistance from food banks.

- Yes
- No

**16** Is this house, apartment, or mobile home part of a condominium?

- Yes → What is the monthly condominium fee? For renters, answer only if you pay the condominium fee in addition to your rent; otherwise, mark the "None" box.

Monthly amount – Dollars

\$           .00

OR

- None
- No

**17** Is this house, apartment, or mobile home – Mark (X) ONE box.

- Owned by you or someone in this household with a mortgage or loan? Include home equity loans.
- Owned by you or someone in this household free and clear (without a mortgage or loan)?
- Rented?
- Occupied without payment of rent? → SKIP to **C** on the next page





# Person 1

→ Please copy the name of Person 1 from page 2, then continue answering questions below.

Last Name

First Name

MI

7 Where was this person born?

In the United States – Print name of state.

Outside the United States – Print name of foreign country, or Puerto Rico, Guam, etc.

8 Is this person a citizen of the United States?

Yes, born in the United States → SKIP to question 10a

Yes, born in Puerto Rico, Guam, the U.S. Virgin Islands, or Northern Marianas

Yes, born abroad of U.S. citizen parent or parents

Yes, U.S. citizen by naturalization – Print year of naturalization

No, not a U.S. citizen

9 When did this person come to live in the United States? If this person came to live in the United States more than once, print latest year. Year

10 a. At any time IN THE LAST 3 MONTHS, has this person attended school or college? Include only nursery or preschool, kindergarten, elementary school, home school, and schooling which leads to a high school diploma or a college degree.

No, has not attended in the last 3 months → SKIP to question 11

Yes, public school, public college

Yes, private school, private college, home school

b. What grade or level was this person attending? Mark (X) ONE box.

Nursery school, preschool

Kindergarten

Grade 1 through 12 – Specify grade 1 – 12

College undergraduate years (freshman to senior)

Graduate or professional school beyond a bachelor's degree (for example: MA or PhD program, or medical or law school)

11 What is the highest degree or level of school this person has COMPLETED? Mark (X) ONE box. If currently enrolled, mark the previous grade or highest degree received.

### NO SCHOOLING COMPLETED

No schooling completed

### NURSERY OR PRESCHOOL THROUGH GRADE 12

Nursery school

Kindergarten

Grade 1 through 11 – Specify grade 1 – 11

12th grade – NO DIPLOMA

### HIGH SCHOOL GRADUATE

Regular high school diploma

GED or alternative credential

### COLLEGE OR SOME COLLEGE

Some college credit, but less than 1 year of college credit

1 or more years of college credit, no degree

Associate's degree (for example: AA, AS)

Bachelor's degree (for example: BA, BS)

### AFTER BACHELOR'S DEGREE

Master's degree (for example: MA, MS, MEng, MEd, MSW, MBA)

Professional degree beyond a bachelor's degree (for example: MD, DDS, DVM, LLB, JD)

Doctorate degree (for example: PhD, EdD)

F Answer question 12 if this person has a bachelor's degree or higher. Otherwise, SKIP to question 13.

12 This question focuses on this person's BACHELOR'S DEGREE. Please print below the specific major(s) of any BACHELOR'S DEGREES this person has received. (For example: chemical engineering, elementary teacher education, organizational psychology)


13 What is this person's ancestry or ethnic origin?


(For example: Italian, Jamaican, African Am., Cambodian, Cape Verdean, Norwegian, Dominican, French Canadian, Haitian, Korean, Lebanese, Polish, Nigerian, Mexican, Taiwanese, Ukrainian, and so on.)

14 a. Does this person speak a language other than English at home?

Yes

No → SKIP to question 15a

b. What is this language?

For example: Korean, Italian, Spanish, Vietnamese

c. How well does this person speak English?

Very well

Well

Not well

Not at all

15 a. Did this person live in this house or apartment 1 year ago?

Person is under 1 year old → SKIP to question 16

Yes, this house → SKIP to question 16

No, outside the United States and Puerto Rico – Print name of foreign country, or U.S. Virgin Islands, Guam, etc., below; then SKIP to question 16

No, different house in the United States or Puerto Rico

b. Where did this person live 1 year ago?

Address (Number and street name)


Name of city, town, or post office

Name of U.S. county or municipio in Puerto Rico

Name of U.S. state or Puerto Rico

ZIP Code



## Person 1 (continued)

- 16** Is this person **CURRENTLY** covered by any of the following types of health insurance or health coverage plans? Mark "Yes" or "No" for EACH type of coverage in items a – h.

- |   | Yes                      | No                       |
|---|--------------------------|--------------------------|
| a. Insurance through a current or former employer or union (of this person or another family member)                  | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Insurance purchased directly from an insurance company, (by this person or another family member)                  | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Medicare, for people 65 and older, or people with certain disabilities   | <input type="checkbox"/> | <input type="checkbox"/> |
| d. Medicaid, Medical Assistance, or any kind of government-assistance plan for those with low incomes or a disability | <input type="checkbox"/> | <input type="checkbox"/> |
| e. TRICARE or other military health care  | <input type="checkbox"/> | <input type="checkbox"/> |
| f. VA (enrolled for VA health care)   | <input type="checkbox"/> | <input type="checkbox"/> |
| g. Indian Health Service  | <input type="checkbox"/> | <input type="checkbox"/> |
| h. Any other type of health insurance or health coverage plan – Specify   | <input type="checkbox"/> | <input type="checkbox"/> |

- G** Answer question 17a if this person is covered by health insurance. Otherwise, SKIP to question 18a.

- 17** a. Is there a premium for this plan? A premium is a fixed amount of money paid on a regular basis for health coverage. It does not include copays, deductibles, or other expenses such as prescription costs.

- Yes  
 No → SKIP to question 18a

- b. Does this person or another family member receive a tax credit or subsidy based on family income to help pay the premium?

- Yes  
 No

- 18** a. Is this person deaf or does he/she have serious difficulty hearing?

- Yes  
 No

- b. Is this person blind or does he/she have serious difficulty seeing even when wearing glasses?

- Yes  
 No

- H** Answer questions 19a – c if this person is 5 years old or over. Otherwise, SKIP to the questions for Person 2 on page 12.

- 19** a. Because of a physical, mental, or emotional condition, does this person have serious difficulty concentrating, remembering, or making decisions?

- Yes  
 No

- b. Does this person have serious difficulty walking or climbing stairs?

- Yes  
 No

- c. Does this person have difficulty dressing or bathing?

- Yes  
 No

- I** Answer question 20 if this person is 15 years old or over. Otherwise, SKIP to the questions for Person 2 on page 12.

- 20** Because of a physical, mental, or emotional condition, does this person have difficulty doing errands alone such as visiting a doctor's office or shopping?

- Yes  
 No

- 21** What is this person's marital status?

- Now married  
 Widowed  
 Divorced  
 Separated  
 Never married → SKIP to **J**

- 22** In the PAST 12 MONTHS, did this person get –

- |              | Yes                      | No                       |
|--------------|--------------------------|--------------------------|
| a. Married?  | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Widowed?  | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Divorced? | <input type="checkbox"/> | <input type="checkbox"/> |

- 23** How many times has this person been married?

- Once  
 Two times  
 Three or more times

- 24** In what year did this person last get married?  
 Year

- J** Answer question 25 if this person is female and 15 – 50 years old. Otherwise, SKIP to question 26a.

- 25** In the PAST 12 MONTHS, has this person given birth to any children?

- Yes  
 No

- 26** a. Does this person have any of his/her own grandchildren under the age of 18 living in this house or apartment?

- Yes  
 No → SKIP to question 27

- b. Is this grandparent currently responsible for most of the basic needs of any grandchildren under the age of 18 who live in this house or apartment?

- Yes  
 No → SKIP to question 27

- c. How long has this grandparent been responsible for these grandchildren?

If the grandparent is financially responsible for more than one grandchild, answer the question for the grandchild for whom the grandparent has been responsible for the longest period of time.

- Less than 6 months  
 6 to 11 months  
 1 or 2 years  
 3 or 4 years  
 5 or more years

- 27** Has this person ever served on active duty in the U.S. Armed Forces, Reserves, or National Guard? Mark (X) ONE box.

- Never served in the military → SKIP to question 30a  
 Only on active duty for training in the Reserves or National Guard → SKIP to question 29a  
 Now on active duty  
 On active duty in the past, but not now

- 28** When did this person serve on active duty in the U.S. Armed Forces? Mark (X) a box for EACH period in which this person served, even if just for part of the period.

- September 2001 or later  
 August 1990 to August 2001 (including Persian Gulf War)  
 May 1975 to July 1990  
 Vietnam era (August 1964 to April 1975)  
 February 1955 to July 1964  
 Korean War (July 1950 to January 1955)  
 January 1947 to June 1950  
 World War II (December 1941 to December 1946)  
 November 1941 or earlier





# Person 1 (continued)

- 29 a. Does this person have a VA service-connected disability rating?**

Yes (such as 0%, 10%, 20%, ... , 100%)  
 No → SKIP to question 30a

- b. What is this person's service-connected disability rating?**

0 percent  
 10 or 20 percent  
 30 or 40 percent  
 50 or 60 percent  
 70 percent or higher

- 30 a. LAST WEEK, did this person work for pay at a job (or business)?**

Yes → SKIP to question 31  
 No – Did not work (or retired)

- b. LAST WEEK, did this person do ANY work for pay, even for as little as one hour?**

Yes  
 No → SKIP to question 36a

- 31 At what location did this person work LAST WEEK? If this person worked at more than one location, print where he or she worked most last week.**

- a. Address (Number and street name)**

If the exact address is not known, give a description of the location such as the building name or the nearest street or intersection.

- b. Name of city, town, or post office**

- c. Is the work location inside the limits of that city or town?**

Yes  
 No, outside the city/town limits

- d. Name of county**

- e. Name of U.S. state or foreign country**

- f. ZIP Code**

- 32 How did this person usually get to work LAST WEEK? Mark (X) ONE box for the method of transportation used for most of the distance.**

<input type="checkbox"/> Car, truck, or van	<input type="checkbox"/> Taxicab
<input type="checkbox"/> Bus	<input type="checkbox"/> Motorcycle
<input type="checkbox"/> Subway or elevated rail	<input type="checkbox"/> Bicycle
<input type="checkbox"/> Long-distance train or commuter rail	<input type="checkbox"/> Walked
<input type="checkbox"/> Light rail, streetcar, or trolley	<input type="checkbox"/> Worked from home → SKIP to question 40a
<input type="checkbox"/> Ferryboat	<input type="checkbox"/> Other method

**K** Answer question 33 if you marked "Car, truck, or van" in question 32. Otherwise, SKIP to question 34.

- 33 How many people, including this person, usually rode to work in the car, truck, or van LAST WEEK?**

Person(s)

- 34 LAST WEEK, what time did this person's trip to work usually begin?**

Hour Minute a.m. p.m.

- 35 How many minutes did it usually take this person to get from home to work LAST WEEK?**

Minutes

**L** Answer questions 36 – 39 if this person did NOT work last week. Otherwise, SKIP to question 40a.

- 36 a. LAST WEEK, was this person on layoff from a job?**

Yes → SKIP to question 36c  
 No

- b. LAST WEEK, was this person TEMPORARILY absent from a job or business?**

Yes, on vacation, temporary illness, maternity leave, other family/personal reasons, bad weather, etc. → SKIP to question 39  
 No → SKIP to question 37

- 36 c. Has this person been informed that he or she will be recalled to work within the next 6 months OR been given a date to return to work?**

Yes → SKIP to question 38  
 No

- 37 During the LAST 4 WEEKS, has this person been ACTIVELY looking for work?**

Yes  
 No → SKIP to question 39

- 38 LAST WEEK, could this person have started a job if offered one, or returned to work if recalled?**

Yes, could have gone to work  
 No, because of own temporary illness  
 No, because of all other reasons (in school, etc.)

- 39 When did this person last work, even for a few days?**

Within the past 12 months  
 1 to 5 years ago → SKIP to **M**  
 Over 5 years ago or never worked → SKIP to question 43

- 40 a. During the PAST 12 MONTHS (52 weeks), did this person work EVERY week? Count paid vacation, paid sick leave, and military service as work.**

Yes → SKIP to question 41  
 No

- b. During the PAST 12 MONTHS (52 weeks), how many WEEKS did this person work? Include paid time off and include weeks when the person only worked for a few hours.**

Weeks

- 41 During the PAST 12 MONTHS, in the WEEKS WORKED, how many hours did this person usually work each WEEK?**

Usual hours worked each WEEK





## Person 1 (continued)

**M** Answer questions 42a – f if this person worked in the past 5 years. Otherwise, SKIP to question 43.

### 42 DESCRIPTION OF EMPLOYMENT

The next series of questions is about the type of employment this person had last week.

If this person had more than one job, describe the one at which the most hours were worked. If this person did not work last week, describe the most recent employment in the past five years.

**a. Which one of the following best describes this person's employment last week or the most recent employment in the past 5 years?**

Mark (X) ONE box.

#### PRIVATE SECTOR EMPLOYEE

- For-profit** company or organization
- Non-profit** organization (including tax-exempt and charitable organizations)

#### GOVERNMENT EMPLOYEE

- Local government** (for example: city or county school district)
- State government** (including state colleges/universities)
- Active duty** U.S. Armed Forces or Commissioned Corps
- Federal government** civilian employee

#### SELF-EMPLOYED OR OTHER

- Owner of non-incorporated** business, professional practice, or farm
- Owner of incorporated** business, professional practice, or farm
- Worked **without pay** in a **for-profit** family business or farm for 15 hours or more per week

**b. What was the name of this person's employer, business, agency, or branch of the Armed Forces?**

**c. What kind of business or industry was this?**

Include the main activity, product, or service provided at the location where employed. (For example: elementary school, residential construction)

**d. Was this mainly – Mark (X) ONE box.**

- manufacturing?
- wholesale trade?
- retail trade?
- other (agriculture, construction, service, government, etc.)?

**e. What was this person's main occupation?**

(For example: 4th grade teacher, entry-level plumber)

**f. Describe this person's most important activities or duties.** (For example: instruct and evaluate students and create lesson plans, assemble and install pipe sections and review building plans for work details)


### 43 INCOME IN THE PAST 12 MONTHS

Mark (X) the "Yes" box for each type of income this person received, and give your best estimate of the TOTAL AMOUNT during the PAST 12 MONTHS. (NOTE: The "past 12 months" is the period from today's date one year ago up through today.)

Mark (X) the "No" box to show types of income NOT received.

If net income was a loss, mark the "Loss" box to the right of the dollar amount.

For income received jointly, report the appropriate share for each person – or, if that's not possible, report the whole amount for only one person and mark the "No" box for the other person.

**a. Wages, salary, commissions, bonuses, or tips from all jobs.** Report amount before deductions for taxes, bonds, dues, or other items.

- Yes → \$  ,  ,  ,  .00
- No
- TOTAL AMOUNT for past 12 months

**b. Self-employment income from own nonfarm businesses or farm businesses, including proprietorships and partnerships.** Report NET income after business expenses.

- Yes → \$  ,  ,  ,  .00  Loss
- No
- TOTAL AMOUNT for past 12 months

**c. Interest, dividends, net rental income, royalty income, or income from estates and trusts.** Report even small amounts credited to an account.

- Yes → \$  ,  ,  ,  .00  Loss
- No
- TOTAL AMOUNT for past 12 months

**d. Social Security or Railroad Retirement.**

- Yes → \$  ,  ,  .00
- No
- TOTAL AMOUNT for past 12 months

**e. Supplemental Security Income (SSI).**

- Yes → \$  ,  ,  .00
- No
- TOTAL AMOUNT for past 12 months

**f. Any public assistance or welfare payments from the state or local welfare office.**

- Yes → \$  ,  ,  .00
- No
- TOTAL AMOUNT for past 12 months

**g. Retirement income, pensions, survivor or disability income.** Include income from a previous employer or union, or any regular withdrawals or distributions from IRA, Roth IRA, 401(k), 403(b), or other accounts specifically designed for retirement. Do not include Social Security.

- Yes → \$  ,  ,  .00
- No
- TOTAL AMOUNT for past 12 months

**h. Any other sources of income received regularly such as Veterans' (VA) payments, unemployment compensation, child support or alimony.** Do NOT include lump sum payments such as money from an inheritance or the sale of a home.

- Yes → \$  ,  ,  .00
- No
- TOTAL AMOUNT for past 12 months

**44 What was this person's total income during the PAST 12 MONTHS?** Add entries in questions 43a to 43h; subtract any losses. If net income was a loss, enter the amount and mark (X) the "Loss" box next to the dollar amount.

- OR \$  ,  ,  .00  Loss
- None
- TOTAL AMOUNT for past 12 months

➔ Continue with the questions for Person 2 on the next page. If no one is listed as Person 2 on page 2, SKIP to page 28 for mailing instructions.

**Person 2**

The balance of the questionnaire has questions for Person 2, Person 3, Person 4, and Person 5. The questions are the same as the questions for Person 1.

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INFORMATIONAL COPY



# Mailing Instructions

## → Please make sure you have...

- listed all names and answered the questions on pages 2, 3, and 4
- answered all Housing questions
- answered all Person questions for each person.

## → Then...

- put the completed questionnaire into the postage-paid return envelope. If the envelope has been misplaced, please mail the questionnaire to:

**U.S. Census Bureau  
P.O. Box 5240  
Jeffersonville, IN 47199-5240**

- make sure the barcode above your address shows in the window of the return envelope.

**Thank you for participating in  
the American Community Survey.**

## For Census Bureau Use

POP

EDIT

PHONE

JIC1

JIC2

EDIT CLERK

TELEPHONE CLERK

JIC3

JIC4

The Census Bureau estimates that, for the average household, this form will take 40 minutes to complete, including the time for reviewing the instructions and answers. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Paperwork Project 0607-0810 and 0607-0936, U.S. Census Bureau, 4600 Silver Hill Road, AMSD – 3K138, Washington, D.C. 20233. You may e-mail comments to [AMSD.Paperwork@census.gov](mailto:AMSD.Paperwork@census.gov); use "Paperwork Project 0607-0810 and 0607-0936" as the subject. Please **DO NOT RETURN** your questionnaire to this address. Use the enclosed preaddressed envelope to return your completed questionnaire.

Respondents are not required to respond to any information collection unless it displays a valid approval number from the Office of Management and Budget. This 8-digit number appears in the bottom right on the front cover of this form.

Form ACS-1(INFO)(2019) (08-02-2018)





**Employment Eligibility Verification**  
**Department of Homeland Security**  
 U.S. Citizenship and Immigration Services

**USCIS**  
**Form I-9**  
 OMB No. 1615-0047  
 Expires 08/31/2019

▶ **START HERE:** Read instructions carefully before completing this form. The instructions must be available, either in paper or electronically, during completion of this form. Employers are liable for errors in the completion of this form.

**ANTI-DISCRIMINATION NOTICE:** It is illegal to discriminate against work-authorized individuals. Employers **CANNOT** specify which document(s) an employee may present to establish employment authorization and identity. The refusal to hire or continue to employ an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

**Section 1. Employee Information and Attestation** *(Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)*

Last Name (Family Name)		First Name (Given Name)		Middle Initial	Other Last Names Used (if any)	
Address (Street Number and Name)			Apt. Number	City or Town		State ZIP Code
Date of Birth (mm/dd/yyyy)	U.S. Social Security Number □□□□ - □□ - □□□□		Employee's E-mail Address		Employee's Telephone Number	

**I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.**

**I attest, under penalty of perjury, that I am (check one of the following boxes):**

<input type="checkbox"/> 1. A citizen of the United States	
<input type="checkbox"/> 2. A noncitizen national of the United States <i>(See instructions)</i>	
<input type="checkbox"/> 3. A lawful permanent resident (Alien Registration Number/USCIS Number): _____	
<input type="checkbox"/> 4. An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy): _____ Some aliens may write "N/A" in the expiration date field. <i>(See instructions)</i>	
<p><i>Aliens authorized to work must provide only one of the following document numbers to complete Form I-9:          An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number.</i></p> <p>1. Alien Registration Number/USCIS Number: _____  <b>OR</b>          2. Form I-94 Admission Number: _____  <b>OR</b>          3. Foreign Passport Number: _____          Country of Issuance: _____</p>	
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">           QR Code - Section 1            Do Not Write In This Space         </div>	

Signature of Employee	Today's Date (mm/dd/yyyy)
-----------------------	---------------------------

**Preparer and/or Translator Certification (check one):**  
 I did not use a preparer or translator.     A preparer(s) and/or translator(s) assisted the employee in completing Section 1.  
*(Fields below must be completed and signed when preparers and/or translators assist an employee in completing Section 1.)*

**I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.**

Signature of Preparer or Translator		Today's Date (mm/dd/yyyy)	
Last Name (Family Name)		First Name (Given Name)	
Address (Street Number and Name)		City or Town	State ZIP Code



*Employer Completes Next Page*





**Employment Eligibility Verification**  
**Department of Homeland Security**  
 U.S. Citizenship and Immigration Services

**USCIS**  
**Form I-9**  
 OMB No. 1615-0047  
 Expires 08/31/2019

**Section 2. Employer or Authorized Representative Review and Verification**

*(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents.")*

<b>Employee Info from Section 1</b>	Last Name (Family Name)	First Name (Given Name)	M.I.	Citizenship/Immigration Status
-------------------------------------	-------------------------	-------------------------	------	--------------------------------

List A Identity and Employment Authorization	OR	List B Identity	AND	List C Employment Authorization
Document Title		Document Title		Document Title
Issuing Authority		Issuing Authority		Issuing Authority
Document Number		Document Number		Document Number
Expiration Date (if any)(mm/dd/yyyy)		Expiration Date (if any)(mm/dd/yyyy)		Expiration Date (if any)(mm/dd/yyyy)
Document Title		Additional Information		QR Code - Sections 2 & 3 Do Not Write In This Space
Issuing Authority				
Document Number				
Expiration Date (if any)(mm/dd/yyyy)				
Document Title				
Issuing Authority				
Document Number				
Expiration Date (if any)(mm/dd/yyyy)				

**Certification: I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.**

**The employee's first day of employment (mm/dd/yyyy):** \_\_\_\_\_ **(See instructions for exemptions)**

Signature of Employer or Authorized Representative		Today's Date (mm/dd/yyyy)	Title of Employer or Authorized Representative	
Last Name of Employer or Authorized Representative	First Name of Employer or Authorized Representative		Employer's Business or Organization Name	
Employer's Business or Organization Address (Street Number and Name)			City or Town	State ZIP Code

**Section 3. Reverification and Rehires** *(To be completed and signed by employer or authorized representative.)*

<b>A. New Name (if applicable)</b>			<b>B. Date of Rehire (if applicable)</b>	
Last Name (Family Name)	First Name (Given Name)	Middle Initial	Date (mm/dd/yyyy)	

**C. If the employee's previous grant of employment authorization has expired, provide the information for the document or receipt that establishes continuing employment authorization in the space provided below.**

Document Title	Document Number	Expiration Date (if any) (mm/dd/yyyy)
----------------	-----------------	---------------------------------------

**I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.**

Signature of Employer or Authorized Representative	Today's Date (mm/dd/yyyy)	Name of Employer or Authorized Representative
--	---------------------------	---



## LISTS OF ACCEPTABLE DOCUMENTS

### All documents must be UNEXPIRED

Employees may present one selection from List A  
or a combination of one selection from List B and one selection from List C.

<b>LIST A</b> <b>Documents that Establish Both Identity and Employment Authorization</b>	OR	<b>LIST B</b> <b>Documents that Establish Identity</b>	AND	<b>LIST C</b> <b>Documents that Establish Employment Authorization</b>
<ol style="list-style-type: none"> <li>1. U.S. Passport or U.S. Passport Card</li> <li>2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)</li> <li>3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa</li> <li>4. Employment Authorization Document that contains a photograph (Form I-766)</li> <li>5. For a nonimmigrant alien authorized to work for a specific employer because of his or her status:               <ol style="list-style-type: none"> <li>a. Foreign passport; and</li> <li>b. Form I-94 or Form I-94A that has the following:                   <ol style="list-style-type: none"> <li>(1) The same name as the passport; and</li> <li>(2) An endorsement of the alien's nonimmigrant status as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.</li> </ol> </li> </ol> </li> <li>6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI</li> </ol>	OR	<ol style="list-style-type: none"> <li>1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address</li> <li>2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address</li> <li>3. School ID card with a photograph</li> <li>4. Voter's registration card</li> <li>5. U.S. Military card or draft record</li> <li>6. Military dependent's ID card</li> <li>7. U.S. Coast Guard Merchant Mariner Card</li> <li>8. Native American tribal document</li> <li>9. Driver's license issued by a Canadian government authority</li> <li style="text-align: center;"><b>For persons under age 18 who are unable to present a document listed above:</b></li> <li>10. School record or report card</li> <li>11. Clinic, doctor, or hospital record</li> <li>12. Day-care or nursery school record</li> </ol>	AND	<ol style="list-style-type: none"> <li>1. A Social Security Account Number card, unless the card includes one of the following restrictions:               <ol style="list-style-type: none"> <li>(1) NOT VALID FOR EMPLOYMENT</li> <li>(2) VALID FOR WORK ONLY WITH INS AUTHORIZATION</li> <li>(3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION</li> </ol> </li> <li>2. Certification of report of birth issued by the Department of State (Forms DS-1350, FS-545, FS-240)</li> <li>3. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal</li> <li>4. Native American tribal document</li> <li>5. U.S. Citizen ID Card (Form I-197)</li> <li>6. Identification Card for Use of Resident Citizen in the United States (Form I-179)</li> <li>7. Employment authorization document issued by the Department of Homeland Security</li> </ol>

**Examples of many of these documents appear in Part 13 of the Handbook for Employers (M-274).**

**Refer to the instructions for more information about acceptable receipts.**



# DC DRIVER LICENSE or IDENTIFICATION CARD APPLICATION

Unless you decline/opt out, information you provide on this form will be used to register you to vote or update your registration.

A. What do you need?		
<input type="checkbox"/> Driver License	<input type="checkbox"/> Identification Card	<input type="checkbox"/> Motorcycle Endorsement

B. Tell us about yourself			
Last Name		First Name	
		Middle Name	
		Jr./Sr./III, etc.	
Address where you live (a mailing only address cannot be used)		Apt/Unit #	
		City & State	
		Washington, DC	
Date of Birth		Social Security #	
/ /			
		U.S. Citizen	
		<input type="checkbox"/> Yes <input type="checkbox"/> No	
		Gender	
		<input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unspecified	
Weight		Height	
LBS		FT IN	
		Hair Color	
		Eye Color	
Other names you have used on a Driver License or ID Card.			
Cell Phone		Text Notification	
( )		<input type="checkbox"/> Yes Standard rates apply	
Alternate Phone		Email	
( )			

C. Tell us about your driving history		
1. Have you ever had a Driver License? <i>If yes, write from what country, state, or jurisdiction?</i>		<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Has your license ever been suspended or revoked?		<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Has your application for a Driver License been denied in another country or state?		<input type="checkbox"/> Yes <input type="checkbox"/> No

D. Tell us about your medical history <i>Skip this section if you are only here for an ID card.</i>		
1. Do you require corrective lenses or glasses for the vision screening test?		<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Are you required to wear a hearing device while driving?		<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>In the past 5 years, have you had or been treated for any of the following?</b> <i>If yes, to an item, please complete the Medical/Eye form.</i>		
1. Alzheimer's Disease		<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Insulin Dependent Diabetes		<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Glaucoma, Cataracts, or Eye Diseases		<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Seizure or Loss of Consciousness		<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Do you have other mental or physical conditions that would impair your ability to drive?		<input type="checkbox"/> Yes <input type="checkbox"/> No

E. Tell us about your preferences		
1. All males 18-26 years old will be registered with <b>Selective Service</b> . <i>To opt out, complete the opt-out form</i>		
2. I would like to add a <b>Veteran designation</b> to my license/ID card.	<input type="checkbox"/> Yes <input type="checkbox"/> No	<i>If yes, provide proof of your status</i>
3. I would like to be an <b>organ and tissue donor</b> .	<input type="checkbox"/> Yes	
4. What language should we use to communicate with you? _____		
<b>Special Designations (Optional):</b>		
<i>Add the following indicators to my license/ID Card</i>		
<input type="checkbox"/> Autism	<input type="checkbox"/> Intellectually Disabled	<input type="checkbox"/> Visually Impaired
		<input type="checkbox"/> Hearing Impaired
<i>Office Use:</i>		

F. If you are 70+ years of age, your licensed medical practitioner MUST complete this section		
Practitioner's Name ( <i>print</i> )	Practitioner's Identification Number	Phone Number
Does the applicant have the ability to safely drive a vehicle?		
<input type="checkbox"/> Yes, the applicant can safely drive a vehicle.		
<input type="checkbox"/> No, the applicant cannot safely drive a vehicle.		
Practitioner's Signature:		Date:

<b>To confidentially report waste, fraud or abuse by a DC Government Agency or official</b> , call the DC Inspector General at 1.800.521.1639	<i>Office Use:</i>
	<i>Form revised January 2019</i>
	Employee Signature: _____
	Date: _____

**Questions?** Please visit our website at [dmv.dc.gov](http://dmv.dc.gov) or call 311 in DC or 202.737.4404 outside the 202 area code.

Continued on Next Page →

## G. Voter Registration

**We will use your information to register you to vote or update your voter registration. To register to vote, you must:**

- Be a US Citizen
- Live in the District of Columbia (You may not vote in a District of Columbia election unless you have lived here for at least 30 days before the election)
- Not claim voting residence or the right to vote in another U.S. state or territory
- Be at least 17 years old and at least 18 years old by the next general election (You may vote in a **primary election** if you are at least 17 years old and you will be 18 years old by the next general election. You may vote in a **general or special election** if you are at least 18 years old. You may **pre-register** if you are at least 16 years old.)
- Not be in jail serving a sentence for conviction of a crime that is a felony in the District of Columbia; and
- Not have been found by a court of law to be legally incompetent to vote

**Check the box below to decline/opt out of registering to vote or updating your voter registration if:**

- You do not meet the requirements listed above
- You meet the requirements listed above but do not want to register to vote; or
- You are already registered in the District of Columbia and do not want to update your registration

**If you check the box below, any information you provide in this section (G. Voter Registration) will not be sent to the DC Board of Elections.**

**I decline/opt out. Do not register me to vote or update my voter registration.**

(If you check this box, skip to Section H. Applicant Certification)

**Party Registration.** To vote in all contests in District of Columbia primary elections, you must be registered to vote in one of the following four (4) parties (**Check ONE box below**):

Democratic Party     Republican Party     DC Statehood Green Party     Libertarian Party

You may register as "No Party (Independent)" or with a party that is not listed above by checking one of the boxes below. If you do so, you cannot vote for candidates in primary elections, but you can vote on any citywide ballot questions (for example, initiatives and referenda) that appear on primary election ballots.

If you do not choose any of the six options presented, you will be registered as "No Party (independent)" by default.

No Party (Independent)     Other (write party name here) \_\_\_\_\_

Address where you get your mail (if different from the address where you live provided in Section B.):

Name and address on your last voter registration (include city and state if outside of DC):

Would you like information on serving as a poll worker in the next election?  Yes  No

If you need help with voting, please tell us what type of help you need (optional):

**Important Notices.** Voter registration information is public, with the exception of social security numbers, dates of birth, email addresses, and phone numbers.

If you decline to register/opt out of registering to vote, your decision will remain confidential and will be used only for voter registration purposes. If you choose to register to vote, the identity of the agency where you registered will remain confidential and will be used only for voter registration purposes.

In order for your residence and/or mailing address to be kept confidential, you must submit a court order to the DC Board of Elections which directs that such information must be kept confidential.

If you believe that someone has interfered with your right: a) to register to vote; b) to decline to register to vote; c) to privacy in deciding whether to register or in applying to register to vote, or; d) to choose your own political party or other political preference, you may file a complaint with the DC Board of Elections, 1015 Half Street SE, Suite 750, Washington, DC 20003. You may check the status of your registration at <https://dcboe.org/VoterRegistrationStatus>.

**Questions?** Visit our website at [www.dcboe.org](http://www.dcboe.org), or call 202.727.2525 • 1.866.328.6837 (toll-free) • 711 (TDD)

## H. Applicant Certification

I hereby certify, under penalty of perjury, that the information contained on this application is true and correct. If I am applying to register to vote, I swear or affirm that I meet each requirement listed in Section G. I understand that: a) any person using a fictitious name or address and/or knowingly making any false statement on this application is in violation of DC Law and subject to a fine of up to \$1,000 and/or up to 180 days imprisonment (DC Official Code 22-2405), and; b) any person who registers to vote or attempts to register and makes any false representations as to their qualifications for registering is in violation of DC Law and subject to a fine of up to \$10,000 and/or up to 5 years imprisonment (DC Official Code 1-1001.14(a)).

Applicant Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Information about the Wisconsin Driver License (DL) Application (form MV3001)

You will need to visit a **DMV service center** and present an MV3001 application when you:

- apply for an original or duplicate\* driver license or instruction permit
- renew an existing driver license
- apply for an occupational license

An application may only be submitted through the mail if you are unable to renew or obtain a duplicate driver license because you are a Wisconsin resident who is temporarily out-of-state.

More information about:

- **renewing when out of state**
- **fees**
- **applying for a license**

\* **Note:** You may be eligible to order a duplicate driver license online rather than visit a DMV service center. See our online **duplicate driver license application** for further information.



# WISCONSIN DRIVER LICENSE (DL) APPLICATION

Wisconsin Department of Transportation  
MV3001 1/2019 Ch. 343 Wis. Stats.

An unexpired Wisconsin driver license is acceptable photo ID for voting. (s. 5.02(6m) Wis. Stats.)

**Acceptable proof of name and date of birth, legal presence, identity and Wisconsin residency are required. Please see DOT publication BDS316 or wisconsin.dmv.gov/dl-docs for a list of acceptable documents.**

- **ALL applicants**, complete the top section on back.  
If under age 18, also complete the 'UNDER AGE 18' section below.
- **CDL applicants**, complete the 'CDL APPLICANT ONLY' section below.  
Your Federal Medical Certificate is required unless you drive a school bus or drive for a political subdivision.

**DONOR** Check the box if you wish to help others by donating your organs, tissue and eyes upon your death. Your gift will be used to save and improve lives through transplantation, therapy, research or education. If you are at least 18, checking the box indicates your legal consent for donation. You do not have to answer this question to obtain a license.

**ADA** The Wisconsin Department of Transportation complies with the Americans with Disabilities Act (ADA).

**INVISIBLE DISABILITY** Notice to law enforcement form: [wisconsin.dmv.gov/inv-dis](http://wisconsin.dmv.gov/inv-dis) or at DMV Service Centers.

**SOCIAL SECURITY NUMBER (SSN)** If you have a SSN, you must provide it (s. 343.14(2)(bm) Wis. Stats.). Your SSN may be used for purposes authorized by law and to link your driver license and vehicle registration records. Your SSN must correspond with the number issued by the Social Security Administration. Federal regulation 49 CFR, Part 383.153 requires a SSN for commercial driver license privileges.

**NOTICE TO MALES AGE 18-25** By submitting this application, you consent to be registered with the Selective Service System, if required by Federal law. You also authorize the Department of Transportation to forward any information contained in this application that is requested by the Selective Service System for the purpose of registering you as provided in s. 343.14(2)(em) and s. 343.234 Wis. Stats.

**WARNING** Any applicant for a driver license who presents fraudulent or altered documents or makes a false statement to the issuing officer or agency, may be subject to a fine of not more than \$1,000, imprisonment for not more than six months or both. The driver license privilege may also be revoked for one year. (s. 343.14(5) Wis. Stats.)

**OPT OUT** Under Wisconsin open records laws, WisDOT must provide information from its records to requesters. If you do not want your name and address included in requests we receive for ten or more records, you may ask WisDOT to withhold your name and address from those lists by checking the box on the application.

**INSURANCE** No person may operate a motor vehicle in Wisconsin unless the owner or driver of the vehicle has liability insurance in effect for the vehicle being operated and carries proof of insurance whenever driving. Failure to have insurance could result in a fine up to \$500. Refer to s. 344.61-344.65 Wis. Stats. for full details.

## COMMERCIAL DRIVER LICENSE APPLICANT ONLY

If applying for a HAZMAT endorsement (HME), complete *Driver License Hazardous Materials Endorsement Application*, form MV3735.  
If applying for a school bus endorsement, complete *School Bus or Alternative Vehicle License Information Request*, form MV3740.

1. In the past 5 years, have you had a loss of consciousness or muscle control caused by a neurological condition, for example, seizure disorder?	YES	NO	6. Is the vehicle you will be operating equipped with air brakes?	YES	NO
<input type="checkbox"/> YES <input type="checkbox"/> NO			<input type="checkbox"/> YES <input type="checkbox"/> NO		
2. In the past 2 years, have you taken insulin to control a diabetic condition?	YES	NO	7. Do you meet all the driver qualifications as required by 49 CFR 391 to operate a commercial vehicle? If not, see <i>Motor Carrier Safety FAQs</i> in the Wisconsin Commercial Driver's Manual.	YES	NO
<input type="checkbox"/> YES <input type="checkbox"/> NO			<input type="checkbox"/> YES <input type="checkbox"/> NO		
3. In the past 2 years, have you taken oral medication to control a diabetic condition?	YES	NO	8. <b>School Bus, CDL Instructional Permit and New CDL Class/Endorsement Applicants Only.</b> Is the vehicle in which you will take the commercial driver license skills test representative of the type of vehicle you will operate or intend to operate?	YES	NO
<input type="checkbox"/> YES <input type="checkbox"/> NO			<input type="checkbox"/> YES <input type="checkbox"/> NO		
4. Is your hearing impaired? (hard of hearing)	YES	NO	9. <b>School Bus Applicants Only.</b> Have you been convicted of an offense identified on <i>School Bus or Alternative Vehicle License Information Request</i> , form MV3740 in Wisconsin or any other jurisdiction? If yes, list date and place:	YES	NO
<input type="checkbox"/> YES <input type="checkbox"/> NO			<input type="checkbox"/> YES <input type="checkbox"/> NO		
5. Have you held a valid operator's license in the last 10 years from any jurisdiction (state) other than Wisconsin? If yes, list all states: _____	YES	NO			
<input type="checkbox"/> YES <input type="checkbox"/> NO					

## DRIVER LICENSE APPLICANT UNDER AGE 18 ONLY

**Applicant Certification:** I certify that in the past six months I have not been ticketed for a moving violation that has or may result in a conviction. I understand that falsifying this statement will result in the cancellation of my probationary license. Applicant Signature – **REQUIRED**.

**X**

**School Certification:** I certify that this applicant is enrolled in approved behind-the-wheel training which begins no later than 60 days from date signed.

School ID Number \_\_\_\_\_ School Name \_\_\_\_\_

**Sponsor Certification:** As the adult sponsor under s. 343.15 Wis. Stats., I accept liability and verify that the minor is not a habitual truant and meets the educational requirements for licensure. If required for this application, I certify that the applicant has accumulated at least 30 hours of driving experience, 10 of which were at night.

Minor Name – Print \_\_\_\_\_

Sponsor Name – Print \_\_\_\_\_

Relationship to Applicant \_\_\_\_\_

Sponsor Wisconsin DL/ID Number \_\_\_\_\_

Sex \_\_\_\_\_

Birth Date (mm/dd/yyyy) \_\_\_\_\_

**X**

Official WisDOT Test Results (line out if not used)

(Sponsor Signature – Must be Witnessed by DMV Agent or Notarized)

Knowledge Test  
Pass  Fail

Highway Sign Test  
Pass  Fail

State of Wisconsin County of \_\_\_\_\_

Subscribed and sworn to before me on this date \_\_\_\_\_

**X**

(Authorized School Official/Instructor Signature)

(Date Signed)

**X**

50 (DMV Authorized Agent or Notary Signature)  
DO NOT Use Notary Seal

(My Commission Expires)

# WISCONSIN DRIVER LICENSE (DL) APPLICATION

Wisconsin Department of Transportation MV3001 1/2019 Ch. 343 Wis. Stats.



## ALL APPLICANTS – Please Print

Social Security Number		Applicant Name – First, Middle, Last				Birth Date (mm/dd/yyyy)	
Residence Address – Street		Apt #	City	State	ZIP Code	County of Residence	
Mailing Address – <u>ONLY IF DIFFERENT</u> from Residence		Apt #	City	State	ZIP Code		
Sex	Race	Eyes	Hair	Weight	Height		
Former Name (if changed since last license or ID card)			Reason for Name Change Marriage <input type="checkbox"/> Divorce <input type="checkbox"/> Other <input type="checkbox"/> List: _____				

<p>1. Do you wish to register to be an organ, tissue and eye donor? YES <input type="checkbox"/></p> <p>2. <b>OPT OUT</b> – Do you wish to have your name and address withheld from lists WisDOT sells? YES <input type="checkbox"/></p> <p>3. I am a veteran registered with WDVA and wish to have my veteran status indicated on my driver license. (DMV is required to verify your status with WDVA) YES <input type="checkbox"/></p> <p>4. Has your license, ID card or operating privilege ever been revoked, suspended, cancelled, disqualified or denied? YES NO <input type="checkbox"/> <input type="checkbox"/> If yes, list date and place: _____</p> <p>5. Have you been convicted of operating while intoxicated OUTSIDE of Wisconsin? YES NO <input type="checkbox"/> <input type="checkbox"/> If yes, give date and place: _____</p> <p>6. Do you hold a valid driver license/identification card from another state/country? YES NO <input type="checkbox"/> <input type="checkbox"/> If yes, list: _____  Years of licensed driving experience in the United States, its territories and Canada. List: _____</p>	<p>7. Do you need glasses or contact lenses for driving? YES NO <input type="checkbox"/> <input type="checkbox"/></p> <p>8. Are you missing a limb? YES NO <input type="checkbox"/> <input type="checkbox"/>  If yes, have you successfully passed a road test with this condition? YES NO <input type="checkbox"/> <input type="checkbox"/></p> <p>9. In the past year have you had a loss of consciousness or muscle control caused by any of the following conditions? YES NO <input type="checkbox"/> <input type="checkbox"/> If yes, check condition(s) and list date(s): _____ Traumatic Brain or Head Injury (2) <input type="checkbox"/> Muscle or Nerve (2) <input type="checkbox"/> Seizure Disorder (4) <input type="checkbox"/> Heart (6) <input type="checkbox"/> Stroke (2) <input type="checkbox"/> Mental (3) <input type="checkbox"/> Diabetes (5) <input type="checkbox"/> Lung (7) <input type="checkbox"/></p> <p>10. <b>Check ONLY ONE</b> of the following three boxes. I certify that I am a: <input type="checkbox"/> U.S. Citizen <input type="checkbox"/> Temporary Visitor <input type="checkbox"/> Permanent or Conditional Permanent Resident</p> <p>11. Will you donate \$2 to organ, tissue and eye donation efforts? YES <input type="checkbox"/></p>
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I understand that I must surrender for cancellation any driver license or identification card previously issued by another state before I may be issued a driver license or identification card in the State of Wisconsin. The State of Wisconsin will notify the other state that my driver license or identification card is surrendered and cancelled, and that I have been issued a Wisconsin license or identification card. (ss. 343.11(1) and (2), and 343.50(1)(b) Wis. Stats.) I certify that the information on this application is true under penalty of perjury and I am a resident of Wisconsin. (s. 343.14(5) Wis. Stats.)

**X** \_\_\_\_\_  
(Applicant Signature) (Date)

## OFFICE USE ONLY

Date		Processor ID		Reason for Reissue:		Product Type	
Wisconsin or Out-of-State License Number		State	Expiration Date	<input type="checkbox"/> REAL ID		<input type="checkbox"/> REGI <input type="checkbox"/> CLP <input type="checkbox"/> CYCI <input type="checkbox"/> SPRI <input type="checkbox"/> JUVI <input type="checkbox"/> MPDI <input type="checkbox"/> PROB <input type="checkbox"/> RGLR <input type="checkbox"/> OCCL <input type="checkbox"/> SPRR <input type="checkbox"/> JVP <input type="checkbox"/> NON	
Hearing (CDL Only)		Examiner ID		Application Type			
Skill Test Score		Highway Signs	Knowledge	<input type="checkbox"/> ORG <input type="checkbox"/> RNW <input type="checkbox"/> DUP <input type="checkbox"/> REI <input type="checkbox"/> RSM <input type="checkbox"/> AMD <input type="checkbox"/> COA			
Class(es) Issued		Endorsements					
<input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> M		<input type="checkbox"/> H <input type="checkbox"/> N <input type="checkbox"/> P <input type="checkbox"/> S <input type="checkbox"/> T <input type="checkbox"/> F					
Federal Medical Certificate Shown							
<input type="checkbox"/> NO <input type="checkbox"/> YES; Expires: _____							
Payment						Amount	
<input type="checkbox"/> Check <input type="checkbox"/> Cash <input type="checkbox"/> CC <input type="checkbox"/> Acct.						\$ _____	
<b>X</b> _____ (Processor Signature) (Processor ID)							

<b>VISION</b>				<input type="checkbox"/> Check if vision section completed by DMV Examiner			
Visual Acuity	Without RX	With RX	Temporal Field of Vision In Degrees	Being duly licensed to practice			
Right Eye	20/	20/		<input type="checkbox"/> Optometry <input type="checkbox"/> Medicine, in: <input type="checkbox"/> Wisconsin, or <input type="checkbox"/> Other			
Left Eye	20/	20/		Name of State or Country			
Corrective lenses required while driving				I certify that the findings are correct and I examined this applicant on: _____ (Exam Date)			
<input type="checkbox"/> YES <input type="checkbox"/> NO				Color Perception			
<input type="checkbox"/> YES <input type="checkbox"/> NO				<input type="checkbox"/> Normal <input type="checkbox"/> Deficient			
Progressive eye disease or cataracts		If Yes, to Progressive eye disease or cataracts		<b>X</b> _____ (Eye Examiner Signature) (License #)			
<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> One Eye <input type="checkbox"/> Both Eyes					





# State of Ohio Application for License to Carry a Concealed Handgun

Type or Print in Ink

Issuing Agency Use Only

License #: \_\_\_\_\_ Fee Collected: \_\_\_\_\_

Date Issued: \_\_\_\_\_ Receipt #: \_\_\_\_\_

Type: Original Renewal

## SECTION I

This application will not be processed unless all applicable questions have been answered and until all required supporting documents as described in Ohio Revised Code (ORC) Section 2923.125(B) or (F) and, unless waived, the applicable license fee or license renewal fee have been submitted. FEES ARE NONREFUNDABLE. Consult your sheriff for acceptable forms of payment.

## SECTION II

Name of Applicant: \_\_\_\_\_  
Last First Middle

County of Residence: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
MM/DD/YYYY

Current Residence: \_\_\_\_\_  
Street City State ZIP

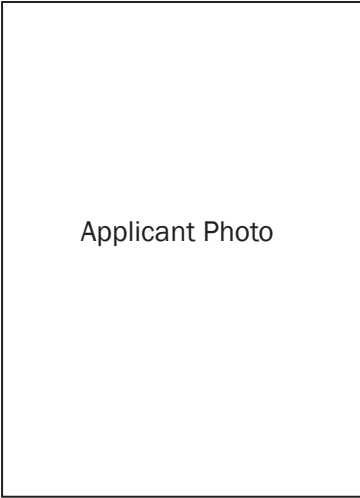
Mailing Address (if different from above):  
\_\_\_\_\_  
Street City State ZIP

Social Security Number (optional): \_\_\_\_\_ Place of Birth: \_\_\_\_\_

Residence Telephone Number: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Sex of Applicant:  Male  Female Race/National Origin of Applicant:  Indian/Alaskan  
 Asian/Pacific Islander  
 Black  
 Hispanic  
 White  
 Other

**I am applying for a:**  
 new license  
 renewed license  
 CLEO certification



## SECTION III

ANSWER THE FOLLOWING QUESTIONS.

- (1) Are you legally living in the United States?.....  YES  NO
- (2) Have you lived in Ohio for the past five years or more?.....  YES  NO
- (3) Are you at least 21 years of age?.....  YES  NO
- (4) Are you a fugitive from justice?.....  YES  NO
- (5) Are you prohibited by federal law from possessing a firearm?.....  YES  NO

FOR THE FOLLOWING QUESTIONS 6, 7A, 7B, DO NOT INCLUDE ANY CONVICTION FOR WHICH A COURT HAS ORDERED SEALED OR EXPUNGED OR RELATIVE TO WHICH A COURT HAS GRANTED RELIEF FROM DISABILITY PURSUANT TO ORC 2923.14, OR A CONVICTION FOR A MINOR MISDEMEANOR LEVEL OFFENSE.

- (6) Are you under indictment for or otherwise charged with a felony, or have you ever been convicted of or pleaded guilty to a felony, or have you ever been adjudicated as a delinquent child for committing an act that would be a felony if committed by an adult?.....  YES  NO
- (7A) Are you under indictment for, or otherwise charged with, or have you been convicted of, or pleaded guilty to an offense under ORC 2925, 3719, or 4729, that involves illegal possession, use, sale, administration, distribution of, or trafficking in a drug of abuse?.....  YES  NO
- (7B) Have you ever been adjudicated a delinquent child for committing an act that would, if committed by an adult, be an offense under ORC 2925, 3719, or 4729, that involves illegal possession, use, sale, administration, distribution of, or trafficking in a drug of abuse?.....  YES  NO

**SECTION III, continued**

- (8) Have you ever been convicted of, or pleaded guilty to, a misdemeanor offense of violence, charge of domestic violence, or a similar offense, in this or any other state?.....  YES  NO
  
- (9) Are you under indictment for, or otherwise charged with, or, except for a conviction or guilty plea the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to ORC 2923.14, have you been convicted of or pleaded guilty to, within three years of the date of this application, except for a conviction or guilty plea the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to ORC 2923.14, a misdemeanor that is an offense of violence or the offense of possessing a revoked or suspended concealed handgun license, or, except for a conviction or guilty plea the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to ORC 2923.14, have you been adjudicated as a delinquent child within three years of the date of this application for committing an act that would be a misdemeanor of that nature, if committed by an adult?.....  YES  NO
  
- (10) Are you under indictment for or otherwise charged with, or, except for a conviction or guilty plea the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to ORC 2923.14, or have you been convicted of or pleaded guilty to, within 10 years of the date of this application, resisting arrest, or, except for a conviction or guilty plea the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to ORC 2923.14, have you been adjudicated as a delinquent child for committing, within 10 years of the date of this application, an act that if committed by an adult would be the offense of resisting arrest?.....  YES  NO
  
- (11) (a) Are you under indictment for, or otherwise charged with, assault or negligent assault?  
(b) Have you been convicted of, pleaded guilty to, or adjudicated as a delinquent child two or more times for committing assault or negligent assault within five years of the date of this application?  
(c) Except for a conviction, guilty plea, or delinquent child adjudication the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to ORC 2923.14, have you ever been convicted of, pleaded guilty to, or adjudicated as a delinquent child for assaulting a peace officer?.....  YES  NO
  
- (12) (a) Have you ever been adjudicated as mentally incompetent or mentally defective?.....  YES  NO  
(b) Have you ever been committed to a mental institution?.....  YES  NO  
(c) Have you ever been involuntarily committed to a mental hospital or facility for purposes other than observation?.....  YES  NO  
(d) Have you ever been adjudicated as mentally defective (which includes having been adjudicated as incompetent to manage your own affairs, or ever been committed to a mental institution?.....  YES  NO
  
- (13) Are you currently the subject of a civil protection order, a temporary protection order, or a protection order issued by a court of this or any other state?.....  YES  NO
  
- (14) Are you currently subject to a suspension imposed under ORC 2923.128(A)(2) of a license to carry a concealed handgun or a temporary emergency license to carry a concealed handgun that previously was issued to you, or are you subject to a similar suspension by another state?.....  YES  NO
  
- (15) Are you a member of the United States Military on permanent change of station (PCS) orders to Ohio?.....  YES  NO
  
- (16) Are you a permanent resident of Ohio on permanent change of station (PCS) orders to a military assignment outside of Ohio?.....  YES  NO
  
- (17) Are you a resident of another state?.....  YES  NO  
State of residence \_\_\_\_\_ If a resident of another state, are you employed in Ohio?  YES  NO

## SECTION IV

THESE QUESTIONS ARE REQUIRED TO DETERMINE IF YOU CAN PASS THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM AND RECEIVE AN OHIO CONCEALED HANDGUN LICENSE:

- (1) Are you under indictment or information in any court for a felony, or any other crime, for which the judge could imprison you for more than one year?.....  YES  NO
- (2) Have you ever been convicted in any court of a felony, or any other crime, for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence, including probation?.....  YES  NO
- (3) Are you a fugitive from justice?.....  YES  NO
- (4) Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance as defined in 21 U.S.C. 802?.....  YES  NO
- (5) Have you ever been adjudicated mentally defective (which includes a determination by a court, board, commission, or other lawful authority that you are a danger to yourself or others or are incompetent to manage your own affairs) or have you ever been committed to a mental institution?.....  YES  NO
- (6) Have you ever been discharged from the Armed Forces under dishonorable conditions?.....  YES  NO
- (7) Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner of a child?.....  YES  NO
- (8) Have you ever been convicted of, pleaded guilty to, or adjudicated a delinquent child in any court of a misdemeanor crime of domestic violence?.....  YES  NO
- (9) Have you ever renounced your United States citizenship?.....  YES  NO
- (10) Are you an alien illegally in the United States?.....  YES  NO
- (11) Are you an alien admitted to the United States under a nonimmigrant visa?.....  YES  NO
- (12) If you are an alien admitted to the United States under a nonimmigrant visa, do you fall within any of the exceptions set forth in the instructions to question 12 on the ATF Form 4473? (If you meet any of these exceptions, you must provide supporting documentation)?.....  YES  NO
- (13) What is your state of residence (if any)?\_\_\_\_\_
- (14) What is your country of citizenship?\_\_\_\_\_
- (15) If you are not a citizen of the United States, what is your U.S.- issued alien number or admission number?\_\_\_\_\_

## SECTION V

YOU MUST COMPLETE THIS SECTION OF THE APPLICATION BY ANSWERING THE QUESTION POSED IN PART (1) BELOW AND, IF THE ANSWER TO THE QUESTION IS "YES," BY PROVIDING IN PART (2) THE INFORMATION SPECIFIED. IF YOU NEED MORE SPACE, COMPLETE AN ADDITIONAL SHEET WITH THE RELEVANT INFORMATION, ATTACH IT TO THE APPLICATION, AND NOTE THE ATTACHMENT AT THE END OF THIS SECTION.

- (1) Have you previously applied in Ohio or in any other state for a license to carry a concealed handgun or a temporary emergency license to carry a concealed handgun?.....  YES  NO
- (2) If your answer to the question in part (1) of this section of the application is "yes," you must complete this part by listing each county in Ohio, and each other state, in which you previously applied for either type of license and, to the best of your knowledge, the date on which you made the application.

Previous application made in \_\_\_\_\_ on \_\_\_\_\_.  
Ohio County or Other State Application Date

Previous application made in \_\_\_\_\_ on \_\_\_\_\_.  
Ohio County or Other State Application Date

Previous application made in \_\_\_\_\_ on \_\_\_\_\_.  
Ohio County or Other State Application Date

## SECTION VI

AN APPLICANT WHO KNOWINGLY GIVES A FALSE ANSWER TO ANY QUESTION OR SUBMITS FALSE INFORMATION ON, OR A FALSE DOCUMENT WITH, THE APPLICATION MAY BE PROSECUTED FOR FALSIFICATION TO OBTAIN A CONCEALED HANDGUN LICENSE, A FELONY OF THE FOURTH DEGREE, IN VIOLATION OF ORC 2921.13.

- (1) I have read the publication that explains Ohio firearms laws, provides instruction in dispute resolution and explains the Ohio laws related to that matter, and provides information regarding aspects of the use of deadly force with a firearm, and I am knowledgeable of the provisions of those laws and of the information on those matters.
- (2) I desire a legal means to carry a concealed handgun for defense of myself or a member of my family while engaged in lawful activity.
- (3) I have never been convicted of or pleaded guilty to a crime of violence in the state of Ohio or elsewhere (if you have been convicted of or pleaded guilty to such a crime, but the records of that conviction or guilty plea have been sealed or expunged by court order or a court has granted relief pursuant to ORC 2923.14 from the disability imposed pursuant to ORC 2923.13 relative to that conviction or guilty plea, you may treat the conviction or guilty plea for purposes of this paragraph as if it never had occurred). I am of sound mind. I hereby certify that the statements contained herein are true and correct to the best of my knowledge and belief. I understand that if I knowingly make any false statements herein I am subject to penalties prescribed by law. I authorize the sheriff or the sheriff's designee to inspect only those records or documents relevant to information required for this application.
- (4) The information contained in this application and all attached documents is true and correct to the best of my knowledge.

# TO BE COMPLETED BY THE ISSUING AUTHORITY ONLY

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Certificate of Competency:  Original  Renewal  Prior Equivalent

If Original or Renewal, Date Certificate Issued: \_\_\_\_\_ Entity Name: \_\_\_\_\_

Instructor Name: \_\_\_\_\_ ID #: \_\_\_\_\_ (OPOTC or NRA ID #)

If Prior Equivalent, what type:  Law Enforcement Retirement date: \_\_\_\_\_

What documents have been provided to evidence Prior Equivalent Training Experience: \_\_\_\_\_

Military • Active/Reserve, provide Active Duty credentials \_\_\_\_\_

• Retired/Honorable Discharge, date: \_\_\_\_\_

What documents have been provided to evidence Prior Equivalent Training Experience: \_\_\_\_\_

Does Competency Certification provided meet the requirements specified in ORC 2923.125(B)(3)(a)-(f)?  Yes  No

Application received: \_\_\_\_\_ Name of Intake Person: \_\_\_\_\_  
(MM/DD/YYYY)

Application review is to be completed by: \_\_\_\_\_ Application reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_  
(MM/DD/YYYY) (MM/DD/YYYY)

Foreign notification sent: \_\_\_\_\_ Foreign notification response received: \_\_\_\_\_  
(MM/DD/YYYY) (MM/DD/YYYY)

Background completed: \_\_\_\_\_ Background records destroyed: \_\_\_\_\_ Destroyed By: \_\_\_\_\_  
(MM/DD/YYYY) (MM/DD/YYYY)

Approved date: \_\_\_\_\_  
(MM/DD/YYYY)

Process suspended date: \_\_\_\_\_ Reason: \_\_\_\_\_  
(MM/DD/YYYY)

Denied date: \_\_\_\_\_ Reason: \_\_\_\_\_  
(MM/DD/YYYY)

LEADS entry date: \_\_\_\_\_ Entry #: \_\_\_\_\_ Entered By: \_\_\_\_\_

NICS Response: \_\_\_\_\_ Date: \_\_\_\_\_  
(MM/DD/YYYY)

## NOTES:

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# CALIFORNIA DEPARTMENT OF JUSTICE BUREAU OF FIREARMS Personal Firearms Eligibility Check Application

Penal Code Section 30105



**This application must be notarized by a licensed California Notary Public.**  
See reverse for instructions and fees.

Last Name \_\_\_\_\_ Suffix \_\_\_\_\_ First Name \_\_\_\_\_ Middle Name \_\_\_\_\_

Alias Last Name (if any) \_\_\_\_\_ Suffix \_\_\_\_\_ Alias First Name \_\_\_\_\_ Alias Middle Name \_\_\_\_\_

Date of Birth (mm/dd/yyyy) \_\_\_\_\_ Sex \_\_\_\_\_ California Driver License or ID No. \_\_\_\_\_ U.S. Citizen?  Yes  No If no, enter Alien Registration No. or I-94 No. \_\_\_\_\_  
(copy must accompany application)

Height \_\_\_\_\_ Weight \_\_\_\_\_ Eye Color \_\_\_\_\_ Hair Color \_\_\_\_\_ Race \_\_\_\_\_ Telephone Number \_\_\_\_\_

Residence Street Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Mailing Address (if different) \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

*No person or agency may require or request another person to obtain a firearms eligibility check or notification of firearms eligibility check pursuant to Penal Code section 30105, subdivision (h). A violation of this subdivision is a misdemeanor.*

*If the applicant for a firearms eligibility check purchases, transfers, or receives a firearm through a licensed dealer as required by law, a waiting period and background check are both required.*

### **CERTIFICATE OF ACKNOWLEDGEMENT**

*A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.*

State of California

County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_, personally appeared \_\_\_\_\_

*who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.*

*I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.*

*WITNESS my hand and official seal.*

Signature \_\_\_\_\_ (Seal)

**Applicant  
Right  
Thumbprint**

*I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. I expressly authorize the Department of Justice to perform firearms eligibility checks of all relevant state and federal databases as permitted under the law. I also understand that if I currently possess/own firearms and the results of this check reveal that I am ineligible to lawfully either possess or purchase firearms, I must relinquish any and all firearms in my possession.*

Signature (must be notarized above) \_\_\_\_\_

Date \_\_\_\_\_

### **FOR DOJ USE ONLY**

Date Received: \_\_\_\_\_ PFEC No.: \_\_\_\_\_ Eligible: \_\_\_\_\_

Date Paid: \_\_\_\_\_ Date Processed: \_\_\_\_\_ Ineligible: \_\_\_\_\_

Complete Submission: \_\_\_\_\_ Processed by: 57 \_\_\_\_\_ Determination could not be made: \_\_\_\_\_





# CALIFORNIA DEPARTMENT OF JUSTICE BUREAU OF FIREARMS Personal Firearms Eligibility Check Application

*Penal Code Section 30105*



## Application Instructions

### Personal Firearms Eligibility Check Application Submission Requirements:

- Please type or print clearly in blue or black ink. The application must be completed in full.
- The applicant's right thumbprint impression must be provided on the application and **must** be of fingerprint identification quality.
- You **must** include a photocopy of your California driver license or California identification card. If you are a non-U.S. citizen, you **must** also provide a copy of your Alien Registration or I-94 card.
- The Personal Firearms Eligibility Check (PFEC) fee is \$20. Please submit a check or money order payable to the Department of Justice. DO NOT SEND CASH.
- The application **must** be notarized by a licensed California Notary Public. To find a Notary Public in your area, please consult your telephone directory. Also, many website search engines provide area searches for notaries public.
- Please be advised that federal law does not authorize a check of the National Instant Criminal History Background Check System (NICS) as part of a Personal Firearms Eligibility Check (PFEC). Therefore, the results of a PFEC might indicate that you are eligible to possess and purchase firearms but you could still be prohibited based on information in a federal database that the California Department of Justice was not authorized to check.

The Department of Justice will make every effort to process PFECs within 30 days, however, please allow 90 to 120 days for the processing of your application. You will be notified by U.S. mail.

Mail completed application package and fee to the following address:

DEPARTMENT OF JUSTICE  
BUREAU OF FIREARMS - PFEC  
P.O. BOX 820200  
SACRAMENTO, CA 94203-0200



# CALIFORNIA DEPARTMENT OF JUSTICE BUREAU OF FIREARMS Personal Firearms Eligibility Check Application



## Privacy Notice

As Required by Civil Code § 1798.17

**Collection and Use of Personal Information:** The Division of Law Enforcement, Bureau of Firearms in the Department of Justice collects the information on this application pursuant to Penal Code section 30105, subdivision (c). The Bureau of Firearms uses this information to conduct a personal firearms eligibility check. In addition, any personal information collected by state agencies is subject to the limitations in the Information Practices Act and state policy. The Department of Justice's general privacy policy is available at <http://oag.ca.gov/privacy-policy>.

**Providing Personal Information:** All personal information on this application is mandatory. Failure to provide the mandatory personal information will result in your application not being processed.

**Access to Your Information:** You may review the records maintained by the Division of Law Enforcement, Bureau of Firearms in the Department of Justice that contain your personal information, as permitted by the Information Practices Act. See below for contact information.

**Possible Disclosure of Personal Information:** In order to conduct a personal firearms eligibility check, we may need to share the information you provide us with any Bureau of Firearms representative or any other person designated by the Attorney General upon request. The information you provide may also be disclosed in the following circumstances:

- With other persons or agencies when necessary to perform their legal duties, and their use of your information is compatible and complies with state law, such as for investigations, licensing, certification, or regulatory purposes;
- To another government agency as required by state or federal law.

**Contact Information:** For questions about this notice or access to your records, you may contact the Staff Services Analyst in the Customer Support Center at (916) 227-7527, via email at [firearms.bureau@doj.ca.gov](mailto:firearms.bureau@doj.ca.gov), or by mail at P.O. Box 820200, Sacramento, CA 94203-0200.

Department of Economic and Social Affairs  
Statistics Division

# Principles and Recommendations for Population and Housing Censuses

Revision 3



United Nations  
New York, 2017

## Department of Economic and Social Affairs

The Department of Economic and Social Affairs of the United Nations Secretariat is a vital interface between global policies in the economic, social and environmental spheres and national action. The Department works in three main interlinked areas: (a) it compiles, generates and analyses a wide range of economic, social and environmental data and information on which States Members of the United Nations draw to review common problems and to take stock of policy options; (b) it facilitates the negotiations of Member States in many intergovernmental bodies on joint courses of action to address continuing or emerging global challenges; and (c) it advises interested Governments on the ways and means of translating policy frameworks developed in United Nations conferences and summits into programmes at the country level and, through technical assistance, helps build national capacities.

### Notes

The designations used and the presentation of material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area, or of its authorities, or concerning the delimitation of its frontiers or boundaries.

The term “country” as used in this publication also refers, as appropriate, to territories or areas.

The designations “developed regions” and “developing regions” are intended for statistical convenience and do not necessarily express a judgement about the stage reached by a particular country or area in the development process.

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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# Preface

Since its earliest years, the United Nations has issued a series of international principles and recommendations on population and housing censuses to assist national statistical offices and census officials, throughout the world, in planning and carrying out improved and cost-effective censuses. The first set of principles and recommendations for population and housing censuses was issued in 1958 at the request of the Statistical Commission of the United Nations in response to a need for developing international standards and as a cornerstone of the first World Population and Housing Census Programme. Although the scope of these recommendations has evolved over time in response to current practices and national needs, they usually provide guidance on the main characteristics of population and housing censuses, general material on census operations and methods and more detailed guidance on the content of censuses.

Over the years, the United Nations Statistics Division has played a pivotal role in the coordination of the World Population and Housing Census Programme by issuing and revising international recommendations, providing technical assistance to countries in census operations, and compiling and disseminating census results from countries or areas. The last global census recommendations were published in 2008 under the title *Principles and Recommendations for Population and Housing Censuses, Revision 2*.<sup>1</sup>

Noting that this publication is a vital resource for countries in planning and conducting their population and housing censuses, the Statistical Commission, at its forty-third session,<sup>2</sup> welcomed the suggestion to initiate early enough a programme of work for the third revision of the *Principles and Recommendations for Population and Housing Censuses*, in preparation for the 2020 World Population and Housing Census Programme.

The current revision of the principles and recommendations was carried out by an expert group comprising census experts representing all regions of the world, whose contributions were organized around the following working groups and subgroups:

- 1) Working Group on Population and Housing Topics: (i) Subgroup on Population Topics, (ii) Subgroup on Housing Topics;
- 2) Working Group on Census Planning and Methodology: (i) Subgroup on Census Operations, (ii) Subgroup on Use of Technology in the Census, (iii) Subgroup on Alternative Censuses; and
- 3) Working Group on Census Products and Data Utilization.

As Secretariat of the World Population and Housing Census Programme, the United Nations Statistics Division coordinated the revision process for the current revision. This was done mainly through convening two meetings of the expert group<sup>3</sup> to review the text of the *Principles and Recommendations for Population and Housing Censuses, Revision 2* and prepare the third revision of the *Principles and Recommendations for Population and Housing Censuses* taking into account contemporary practices in census taking. At its forty-sixth session in 2015, the United Nations Statistical Commission adopted the draft *Principles and Recommendations for Population and Housing Censuses, Revision 3* and encouraged countries

<sup>1</sup> United Nations publication, Sales No. E.07.XVII.8.

<sup>2</sup> *Official Records of the Economic and Social Council, Supplement No. 4, E/2012/24-E/CN.3/2012/34 (2012), chapter I, paragraph 2.*

<sup>3</sup> Reports of expert group meetings, available from <http://unstats.un.org/unsd/demographic/meetings/egm/default.htm>.

<sup>4</sup> *Official Records of the Economic and Social Council, Supplement No. 4, E/2015/24-E/CN.3/2015/40* (2015), chapter I, section C, decision 46/102, available from <http://unstats.un.org/unsd/statcom/doc15/Report-E.pdf>.

<sup>5</sup> See [www1.unece.org/stat/platform/display/GSBPM/GSBPM+v5.0](http://www1.unece.org/stat/platform/display/GSBPM/GSBPM+v5.0).

<sup>6</sup> Nineteenth International Conference of Labour Statisticians, *Resolution Concerning Statistics of Work, Employment and Labour Underutilization* (Geneva, 2013).

<sup>7</sup> *The Road to Dignity by 2030: Ending Poverty, Transforming All Lives and Protecting the Planet*. Synthesis report of the Secretary-General on the post-2015 sustainable development agenda, paragraph 51 (A/69/700, presented at the General Assembly, Sixty-ninth Session).

<sup>8</sup> *United Nations Expert Group Meeting on Revising the Principles and Recommendations for Population and Housing Censuses Meeting Report*, New York, 29 April-2 May 2014, available from <http://unstats.un.org/unsd/demographic/meetings/egm/NewYork/2014/report.pdf>.

to begin its implementation keeping in mind the importance of setting quality standards for the conduct of the census.<sup>4</sup>

The salient features of the draft *Principles and Recommendations for Population and Housing Censuses*, Revision 3 compared to Revision 2 include a restructuring of the guidelines to make them more intuitive and user-friendly by following as closely as possible the Generic Statistical Business Process Model.<sup>5</sup> Consequently, the revised draft is divided into four parts: Part one: Essential features and census methodology; Part two: Planning, organization and management; Part three: Census operation activities; and Part four: Population and housing census topics.

The revised census recommendations also provide more elaboration on alternative methodologies to the traditional census for producing census statistics based on national experiences of the 2010 census round and also introduce major changes to concepts and terminology related to economic characteristics in accordance with the new International Labour Organization conceptual framework for work statistics.<sup>6</sup> In addition, the current revision includes an entirely new chapter on the use of technology in census operations, owing mainly to the increasing and significant use of advanced technologies, in all phases of the census, as countries aspire to increase overall response, quality and timeliness of census data. Other notable changes include sections on archiving of individual records, and on the overall evaluation of the census.

Unlike its predecessor, the *Principles and Recommendations for Population and Housing Censuses*, Revision 3 does not contain tabulation shells. Instead, the accompanying set of tabulations is posted on the United Nations website.

In the context of the importance of statistical information for development policy formulation and monitoring, the *Principles and Recommendations for Population and Housing Censuses*, Revision 2 contained a section on development indicators, which referred to the use of census data for monitoring of the Millennium Development Goal indicators. At the finalization of the *Principles and Recommendations for Population and Housing Censuses, Revision 3*, the international community was actively engaged in discussions on the post-2015 development agenda and a new set of global development goals that would succeed the Millennium Development Goals after 2015. While a set of proposed sustainable development goals and their targets was submitted to the General Assembly in September 2014,<sup>7</sup> the exact scope and content of the new development agenda is yet to be agreed upon among Member States, pending the United Nations Sustainable Development Summit, 25-27 September 2015, New York, United States of America. Consequently, the expert group recommended that the section on development indicators be appropriately modified once complete information on sustainable development goals, targets and indicators becomes available, to be issued as an addendum to the print publication.<sup>8</sup>



## Acknowledgements

The United Nations Statistics Division expresses its appreciation to the members of the expert group on the 2020 World Population and Housing Census Programme for their contribution to the revision of these recommendations. The expert group was chaired by Marc Hamel (Canada) and comprised of three working groups and five sub-groups with the following lead experts:

- Ian White (United Kingdom), Working Group on Population and Housing Topics
  - Andrew Mukulu (Uganda), Subgroup on Population Topics
  - Arona Pistiner (United States), Subgroup on Housing Topics
- C. Chandramouli (India), Working Group on Census Planning and Methodology
  - Feng Nailin (China), Subgroup on Census Operations
  - Andrea Diniz da Silva (Brazil), Subgroup on Use of Technology in the Census
  - Sven Ake Gunnar (Sweden), Subgroup on Alternative Censuses
- Pali Lehohla (South Africa), Working Group on Census Products and Data Utilization

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# Introduction

Human capital is the most critical capital for contemporary societies' well-being and progress. Providing an accurate and reliable assessment of this capital at small-area, regional and national levels is of paramount value for evidence-based action by governments, civil societies, academics, researchers and other stakeholders. The essential purpose of the population and housing census is to provide that assessment.

Aside from the answer to the question “How many are we?”, there is also a need to provide an answer to “Who are we?” in terms of age, sex, education, labour force status, occupation and other crucial characteristics, as well as to “Where do we live?” in terms of housing, access to water, availability of essential facilities and access to the Internet. The answers to these questions provide a numerical profile of a nation that is the sine qua non of evidence-based decision-making at all levels, and are indispensable for monitoring universally recognized and internationally adopted post-2015 development agenda goals.

A number of countries are capable of generating this numerical profile for small areas from administrative records or through a combination of data sources. The majority of countries, however, produce detailed statistics on population and housing by conducting a traditional census, which in principle entails canvassing the entire country, reaching every single household and collecting information on all individuals within a brief stipulated period of time.

The traditional census is among the most complex and massive exercises a nation undertakes. It requires mapping the entire country, mobilizing and training an army of enumerators, conducting a massive public campaign, canvassing all households, collecting individual information, compiling vast amounts of completed questionnaires and analysing and disseminating the data.

With the increasingly potent data-processing power available to users of statistics, it is becoming critical to ensure that census data are exploited as comprehensively as possible. Detailed small-area statistics are imposing themselves as irreplaceable in pointing to the segments of everyday life that need to be improved in terms of living conditions, access to services, adequate infrastructure and fulfilment of essential human rights, such as the right to be registered or the right to vote.

Equally important, a traditional population and housing census is a unique opportunity for making statistics visible, both in terms of operations and results. For many people the census may be the only time that the State reaches them and asks them a question. In addition, successfully conducting a census becomes a matter of national pride for many countries.

Ensuring confidentiality is crucial for the census to succeed. Thus, it has to be made clear that the only reason for collecting individual data is for the production of statistics, and that there will be no dissemination of individual information or any non-statistical linkage with existing records in other government databases and data collections. Indeed, principle 6 of the Fundamental Principles of Official Statistics states: “Individual data collected by statistical agencies for statistical compilation, whether they refer to natural or legal persons, are to be strictly confidential and used exclusively for statistical purposes.”

The United Nations recommends that all countries or areas of the world produce detailed population and housing statistics for small-area domains at least once in the period 2015-2024, around the year 2020. For most nations that means conducting a traditional census, and the present revision of the principles and recommendations for population and housing censuses thus focuses on the traditional census while also describing in some detail other approaches for generating reliable small-area statistics on population and housing.

The population and housing census is part of an integrated national statistical system, which may include other censuses (for example, of agriculture), surveys, registers and administrative files. It provides, at regular intervals, the benchmark for population count at national and local levels. For small geographic areas or subpopulations, it may represent the only source of information for certain social, demographic and economic characteristics. For many countries the census also provides a framework to develop sampling frames.

## Part one

# Essential features and census methodology

## I. Essential roles of the census

1.1. Evidence-based decision-making is a universally recognized paradigm of efficient management of economic and social affairs and of overall effective governing of societies today. Generating relevant, accurate and timely statistics is a sine qua non of this model; producing detailed statistics for small areas and small population groups is its foundation. The role of the population and housing census is to collect, process and disseminate such small-area detailed statistics on population, its composition, characteristics, spatial distribution and organization (families and households). Censuses are conducted periodically in the majority of the countries in the world; they have been promoted internationally since the end of the nineteenth century, when the International Statistical Congress recommended that all countries in the world conduct them.<sup>9</sup> Since 1958, the United Nations has also been actively promoting the population and housing census by compiling the principles and recommendations for population and housing censuses and launching regular decennial worldwide programmes on population and housing censuses.

1.2. While the roles of the population and housing census are many and will be elaborated in detail throughout the present revision of *Principles and Recommendations for Population and Housing Censuses*, several of the essential roles are listed below:

- (a) The population and housing census plays an essential role in public administration. The results of a census are used as a critical reference to ensure equity in distribution of wealth, government services and representation nationwide by informing the distribution and allocation of government funds among various regions and districts for education, health services, delineating electoral districts at the national and local levels and measuring the impact of industrial development, to name a few. Establishing a public consensus on priorities would be almost impossible to achieve if it were not built on census counts. A wide range of others, including the corporate sector, academia, civil society and individuals, make use of census outputs.
- (b) The census also plays an essential role in all elements of the national statistical system, including the economic and social components. Census statistics are used as benchmarks for statistical compilation or as a sampling frame for sample surveys. Today, the national statistical system of almost every country relies on sample surveys for efficient and reliable data collection, notwithstanding the emergence of contemporary sources of statistics such as “big data”. Without the sampling frame and population benchmarks derived from the population and

<sup>9</sup> *Report of the Proceedings of the Fourth Session of the International Statistics Congress, Held in London July 16th, 1860, and the Five Following Days* (London, George Edward Eyre and William Spottiswoode, 1861).



housing census, the national statistical system would face difficulties in providing reliable official statistics for use by the government and the general public.

- (c) The basic feature of the census is to generate statistics on small areas and small population groups with no or minimum sampling errors. While statistics on small areas are useful in their own right, they are important because they can be used to produce statistics on any geographic unit with arbitrary boundaries. For example, in planning the location of a school, it is necessary to have the data on the distribution of school-age children by school area, which may not necessarily correspond to the administrative area units. Similarly, small-area data from the census can be combined to approximate natural regions (for example, water catchments or vegetation zones) that do not follow administrative boundaries. Since census data can be tabulated for any geographic unit, it is possible to provide the required statistics in a remarkably flexible manner. This versatile feature of the census is also invaluable for use in the private sector for applications such as business planning and market analyses.
- (d) The census results are used as a benchmark for research and analysis. Population projections are one of the most important analytical outputs based on census data; future population projections are crucial for all segments of the public and private sectors.

1.3. In addition to the roles outlined above, it is critically important to produce detailed statistics for small areas and small population groups as a building block for efficient governance at all levels. For a vast majority of nations the method of choice for assembling this building block will be by conducting a population and housing census through universal and simultaneous individual enumeration of each individual within the nation's boundaries. Some nations will adopt alternative approaches; yet, all of these methods must result in identical outputs: detailed statistics for small areas and small population groups at the same moment in time.

## II. Definitions and essential features

### A. Definitions

#### 1. Population census

1.4. A population census is the total process of planning, collecting, compiling, evaluating, disseminating and analysing demographic, economic and social data at the smallest geographic level pertaining, at a specified time, to all persons in a country or in a well-delimited part of a country.

1.5. Population is basic to the production and distribution of material wealth. In order to plan for and implement economic and social development, administrative activity or scientific research, it is necessary to have reliable and detailed data on the size, distribution and composition of population. The population census is a primary source of these basic benchmark statistics, covering not only the settled population but also homeless persons and nomadic groups. Data from population censuses should allow presentation and analysis in terms of statistics on persons and households and for a wide variety of geographic units, ranging from the country as a whole to individual small localities or city blocks.

## 2. Housing census

1.6. A housing census is the total process of planning, collecting, compiling, evaluating, disseminating and analysing statistical data relating to the number and condition of housing units and facilities as available to the households pertaining, at a specified time, to all living quarters<sup>10</sup> and occupants thereof in a country or in a well-delimited part of a country.

<sup>10</sup> For the definition of *living quarters*, see paragraph 4.421.

1.7. The census must provide information on the supply of housing units together with information on the structural characteristics and facilities that have a bearing upon the maintenance of privacy and health and the development of normal family living conditions. Sufficient demographic, social and economic data concerning the occupants must be collected to furnish a description of housing conditions and also to provide basic data for analysing the causes of housing deficiencies and for studying possibilities for remedial action. In this connection, data obtained as part of the population census, including data on homeless persons,<sup>11</sup> are often used in the presentation and analysis of the results of the housing census, if both operations are conducted together or there is a link between them.

<sup>11</sup> For the definition of *homeless persons*, see paragraph 2.37.

## B. Essential features

1.8. The essential features of population and housing censuses are individual enumeration, universality within a defined territory, simultaneity, defined periodicity and small-area statistics.

### 1. Individual enumeration

1.9. The term “census” implies that each individual and each set of living quarters is enumerated separately and that the characteristics thereof are separately recorded. Only by this procedure can the data on the various characteristics be cross-classified. The requirement of individual enumeration can be met by the collection of information in the field, by the use of information contained in an appropriate administrative register or set of registers, or by a combination of these methods.

### 2. Universality within a defined territory

1.10. The census should cover a precisely defined territory (for example, the entire country or a well-delimited part of it). The population census should include every person present and/or residing within its scope, depending upon the type of population count required. The housing census should include every set of living quarters irrespective of type. This does not preclude the use of sampling techniques for obtaining data on specified characteristics, provided that the sample design is consistent with the size of the areas for which the data are to be tabulated and the degree of detail in the cross-tabulations to be made.

### 3. Simultaneity

1.11. Each person and each set of living quarters should be enumerated as of the same well-defined point in time and the data collected should refer to a well-defined reference period. The time reference period need not, however, be identical for all of the data collected. For most of the data, it will be the day of the census; in some instances, it may be a period prior to the census.<sup>12</sup>

<sup>12</sup> For example, collecting information on the core topic of household deaths in the past 12 months (see paragraph 4.250).

### 4. Defined periodicity

1.12. Censuses should be taken at regular intervals so that comparable information is made available in a fixed sequence. A series of censuses makes it possible to appraise the past, accu-

rately describe the present and estimate the future. It is recommended that a national census be taken at least every 10 years. Some countries may find it necessary to carry out censuses more frequently because of the rapidity of major changes in their population and/or its housing circumstances.

1.13. The census data of any country are of greater value nationally, regionally and internationally if they can be compared with the results of censuses of other countries that were taken at approximately the same time. Therefore, countries should make all efforts to undertake a census in years ending in “0” or at a time as near to those years as possible. It is obvious, however, that legal, administrative, financial and other considerations often make it inadvisable for a country to adhere to a standard international pattern in the timing of its censuses. In fixing a census date, therefore, such national factors should be given greater weight than the desirability of international simultaneity.

## 5. Capacity to produce small-area statistics

1.14. The census should produce data on the number and characteristics of the population and housing units down to the lowest appropriate geographic level, compatible with national circumstance, and for small population groups, all the while protecting confidentiality of personal information on each individual.

# III. Uses of population and housing censuses

1.15. Population and housing censuses are a principal means of collecting basic population and housing statistics as part of an integrated programme of data collection and compilation aimed at providing a comprehensive source of statistical information for economic and social development planning, administration, assessing conditions in human settlements, research and commercial and other uses.

1.16. The value of either a population or a housing census is increased if the results can be employed together with the results of other investigations, as in the use of the census data as a basis or benchmark for current statistics, and if it can furnish the information needed for conducting other statistical investigations. It can, for example, provide a statistical frame for other censuses or sample surveys. The population census is also important in developing the population estimates needed to calculate vital rates from civil registration data (see paragraphs 1.57-1.59). In addition, these censuses are a major source of data used in official compilations of social indicators, particularly on topics that usually change slowly over time. The purposes of a continuing coordinated programme of data collection and compilation can best be served, therefore, if the relationship among the population census, the housing census and other statistical investigations is considered when census planning is under way and if provision is made for facilitating the joint use of the census and its results in connection with such investigations. The use of consistent concepts and definitions throughout an integrated programme of data collection and compilation is essential if the advantages of these relationships are to be fully realized. Of course, census-type information can also be derived from population registers and also can be estimated from sample surveys without undertaking a complete enumeration. These alternative data sources are presented under “Census methodology” in paragraphs 1.63-1.119.

1.17. A population and housing census also serves as the logical starting point for work on the organization and construction of computerized statistical products to serve continuing national and local needs for data in the intercensal period.<sup>13</sup>

<sup>13</sup> See part three, chapter X, of this publication.

1.18. In addition to the statistical value directly obtained from the census results themselves, there are further indirect benefits from taking a census, particularly to the organization responsible for the census, or the national statistical office. These benefits include:

- (a) Improved skills and experience: varied sets of skills are often required for administering a census that are not necessarily prominent in other parts of the organization, such as project management, procurement, and commercial, communication, human resources and information technology (IT) skills.
- (b) Technological advancement: often a census requires new technology to support complex data collection and processing requirements. These developments may be reused for other exercises within the national statistical office or lead to new technological developments.
- (c) New methods: the development of methods for enumerating the whole population, or statistical methods (such as editing and imputation) developed for processing census results, can often be reused for other statistical exercises within the national statistical office.
- (d) Halo effect: the extensive promotion of the census may also have a positive effect, the “halo effect”, on other surveys, resulting in increases in response rates.<sup>14</sup>

<sup>14</sup> The halo effect is a cognitive bias in which an observer’s overall impression of a person, company, brand or product influences the observer’s feelings and thoughts about that entity’s character or properties. It was named by psychologist Edward Thorndike in reference to a person being perceived as having a halo or aureole. Subsequent researchers have studied it in relation to attractiveness and its bearing on the judicial and educational systems. The halo effect is a specific type of confirmation bias, wherein positive feelings in one area cause ambiguous or neutral traits to be viewed positively. Edward Thorndike originally coined the term referring only to people; however, its use has been greatly expanded, especially in the area of brand marketing.

## A. Uses of population censuses

### 1. Uses for policymaking, planning and administrative purposes

1.19. The fundamental purpose of the population census is to provide the facts essential to national policymaking, planning and administration. Information on the size, distribution and characteristics of a country’s population is essential for describing and assessing its economic, social and demographic circumstances and for developing sound policies and programmes aimed at fostering the welfare of a country and its population. The population census, by providing comparable basic statistics for a country as a whole and for each administrative unit, locality and small area therein, can make an important contribution to the overall planning process and the management of national affairs. Counts of the population overall, or of subgroups within the population, by geographic region are often used for the distribution of government funding and services. Population censuses in many countries represent the very foundation of their national statistical systems, with census data providing important baseline data for policy development and planning, for managing and evaluating programme activities across a broad range of sectoral applications, and for monitoring overall development progress. An emerging use for census data is the assessment of good governance by civil society groups. The performance of a democratically elected government in improving the welfare of its citizens can be monitored from one census to the other by ordinary citizens through the widespread and timely dissemination of census results.

1.20. Population censuses serve many programme needs by providing statistical information on demographic, human settlement, social and economic issues for local, national, regional and international purposes. For example, population censuses provide basic information for the preparation of population estimates or projections and detailed demographic and socioeconomic analysis of the population. The census also provides data for the calculation of social indicators, particularly those that may be observed infrequently because they measure phenomena that change slowly over time, and those that are needed for small areas or small population groups.

## 2. Uses for research purposes

1.21. In addition to serving specific governmental policy purposes, the population census provides indispensable data for the scientific analysis and appraisal of the composition, distribution and past and prospective growth of the population. The changing patterns of urban-rural concentration, the development of urbanized areas, the geographic distribution of the population according to such variables as occupation and education, the changes in the sex and age structure of the population, and the mortality and fertility differentials for various population groups, as well as the economic and social characteristics of the population and the labour force, are questions of scientific interest that are of importance both to research and for solving practical problems of industrial and commercial growth and management.

## 3. Uses for business, industry and labour

1.22. In addition to those uses given above, the census has many important uses for individuals and institutions in business, industry and labour. Reliable estimates of consumer demand for an ever-expanding variety of goods and services depend on accurate information on the size of the population in subnational areas and its distribution at least by sex and age, since these characteristics heavily influence the demand for housing, furnishings, food, clothing, recreational facilities, medical supplies and so forth. Furthermore, the census can be used to generate statistics on the size and characteristics of the supply of labour needed for the production and distribution of such commodities and services in conformity with International Labour Organization statistical standards.<sup>15</sup> Such statistics on the local availability of labour may be important in determining the location and organization of enterprises.

<sup>15</sup> Nineteenth International Conference of Labour Statisticians, *Resolution Concerning Statistics of Work, Employment and Labour underutilization* (Geneva, 2013).

## 4. Uses for boundary delimitation

1.23. One of the basic administrative uses of census data is to support political and administrative mapping. Detailed information on the geographic distribution of the population is indispensable for this purpose. Certain aspects of the legal or administrative status of territorial divisions may also depend on the size and characteristics of their populations, for example, whether a previously rural area is now to be declared as urban.

1.24. A compelling use of census data is in the redrawing of electoral constituency boundaries in most countries. This is often enshrined in the country's constitution and provides a legal basis for census-taking. The current distribution of a country's population is thereby used to assign the number of elected officials who will represent people in the country's legislature.

## 5. Use as a sampling frame for surveys

1.25. Population censuses constitute the principal source of records for construction of a sampling frame for surveys during the intercensal years on many topics, such as the labour force, fertility and migration histories.

1.26. An essential ingredient of probability sample design is the existence of a complete, accurate and up-to-date sampling frame. A sampling frame is a list of all (or most) of the N units in the universe. A sampling frame may be a list of small areas. It may also be a list of structures, households or persons. The census can be used to construct either type of frame, or both; indeed, most countries do use their census for such purposes. The census frame is often the departure point for the design of a household sample survey.

1.27. It is important to give careful consideration to the construction of a census for subsequent use as a survey sample frame when the census is in the planning stage. The above-mentioned requirements—accuracy, completeness and up-to-datedness—must be addressed. This means, for example, that care must be taken to ensure that the entire country is divided into enumeration areas without any omissions or overlaps, i.e., all land area belongs to one and only one enumeration area. In terms of their size, enumeration areas are important not only for the census itself but also for later uses as a potential stage of sampling for surveys; this feature should therefore also be given due consideration by census planners.

1.28. Maps and prior census information concerning small areas are very important for devising a good sample plan. The maps are particularly valuable if they unambiguously indicate boundaries of small areas that can be used as primary or secondary sampling units. Population and household counts for the enumeration areas, taken from the census, are also a highly useful ingredient for post-census sample survey design planning. This information is often used to establish measures of size for the selection of first- or second-stage sampling units, or to help in various stratification schemes. Early developments in sampling theory and methods concentrated on efficient designs and associated estimation techniques for population totals or means. In consequence, it is generally believed that while censuses covering total population and housing provide statistical information on a uniform basis for small areas and subgroups of the population, large sample sizes may have to be considered to produce similar results for the long-form topics (see paragraph 1.69).

1.29. More recently, however, the methods for analysis of survey data that take into account the complexity of the sampling design (both sampling and non-sampling errors) have developed rapidly. Therefore, even though sample surveys used alone cannot provide data for small areas or small population groups, they can be used in combination with a census on specific topics. For instance, aggregates of variables recorded on every individual in the population, which are often used for stratification of enumeration areas, may in turn be used as calibrator or independent variables when models are fitted and used in estimation of aggregates of variables recorded for samples only, and for small areas not in the sample. Information users, however, must be made aware whenever results obtained in this fashion are published. Related techniques have been used in some census operations when checking information for internal coherence and in some approaches for imputation of missing or incoherent information.

## **B. Uses of housing censuses**

### **1. Uses for development of benchmark housing statistics**

1.30. The housing census produces benchmark statistics on the current housing situation and is vital for developing national housing and human settlements programmes. The housing census is also valuable for providing the sampling frame for special housing and related surveys during the intercensal years.

1.31. Housing benchmark statistics are also critical for emergency planning for response to natural hazards (such as destructive storms, earthquakes, tsunami and fires), or post-conflict situations. Following such situations, these statistics can be used to estimate the numbers of people and structures affected, the need for emergency response and reconstruction requirements.

1.32. National statistical authorities would need to develop, from housing censuses, the sort of benchmark statistics in housing that could be supplemented by current building and construction statistics and would provide continuous up-to-date information of the hous-



ing position needed for the consideration of housing programmes. Since not all the basic information required to assess housing needs or to formulate housing programmes can be obtained through a housing census, additional data must be obtained through the population census, special housing surveys and environmental surveys, and from vital statistics, economic statistics and so forth; but data obtained from the housing census will constitute the basic framework within which the estimates are made, indices computed and further statistical enquiries planned.

1.33. When population and housing censuses are carried out as a single operation or independently but in a well-coordinated fashion, the combined information provided is of much higher value, since the essential features of both censuses are interrelated. The information on housing censuses may be analysed in association with the demographic and socioeconomic conditions of the occupants and, similarly, the demographic characteristics of the population may be analysed in association with the data on housing conditions.

## **2. Uses for the formulation of housing policy and programmes**

1.34. The formulation of housing policy and programmes represents one of the principal uses of housing census data. Housing policy is normally influenced by social and economic as well as political considerations, and available factual data concerning the housing situation provide objective criteria, which are important for policymakers to take into account.

1.35. In most countries, housing programmes encompass both governmental and private activity. The data derived from a housing census are used by governmental authorities for making an analysis or diagnosis of the housing situation. Housing conditions are analysed in quantitative and qualitative terms and data from previous censuses are used to indicate the changes in the housing situation that have occurred during the intercensal periods; the housing stock and future housing requirements are estimated and compared with the rates of dwelling production being attained; and the characteristics of the households in need of housing are considered in relation to the availability and cost of housing. As part of overall development plans, such an analysis is necessary for the formulation of national housing programmes and for their execution.

1.36. Commercial users also study housing census data. Those engaged by the construction industry, financing institutions, and manufacturers of housing fixtures and equipment and household appliances assess the possible demand for housing and perceive the scope of their activities within the overall programme.

## **3. Assessment of the quality of housing**

1.37. The materials used for the construction of housing units (roof, walls, floors) are a significant pointer to the quality of life in different parts of a country. Trends indicated by census data with regard to the type of housing materials can show improvements in the welfare of the citizenry as the percentage of poor-quality or slum-like housing facilities is decreased.

## **C. Relationship between the population census and the housing census**

1.38. An especially close association exists between population censuses and housing censuses. The two censuses may constitute one statistical operation or they may be two separate



but well-coordinated activities, but in either case they should never be considered completely independently of each other because essential elements of each census are common to both. For example, an essential feature of a population census is the identification of each occupied set of living quarters and of the persons living therein, and an essential feature of a housing census is the collection of information on the characteristics of each set of living quarters in association with the number and characteristics of its occupants.

1.39. In many countries, the population and housing censuses are taken concurrently, often with the use of a single schedule. In this way, the information on population and living quarters can be more readily matched, processing is facilitated and extensive analysis can be carried out. This also makes it possible to relate to the housing census data the information on demographic and economic characteristics of each household member that is routinely collected in the population census.

1.40. The advantages of simultaneous investigation may be offset to some extent by the additional burden on the respondent and the enumerator resulting from the increased amount of information that must be collected at one time. In countries where this is likely to be a serious problem, consideration might be given to collecting data for a limited number of topics on the basis of a complete enumeration in the population and housing census, with more complex data in both fields being collected on a sample basis only, either concurrently with or immediately following the full enumeration. Alternatively, consideration might be given to carrying out the housing census as part of the advance-listing operations of the population census.

1.41. The relationship between the population census and the housing census will affect the means by which data on homeless persons are obtained. In the case of simultaneous censuses of population and housing, data on homeless persons will be obtained as part of the population census. Where the housing census is carried out independently of the population census, it may be necessary to try to enumerate homeless persons in the housing census. Information collected from enumerating homeless persons may reflect, among other things, the magnitude of the housing problem in a given locality.

## D. Relationship of population and housing censuses to intercensal sample surveys

1.42. The rapidity of current changes in the size and other characteristics of populations, and the demand for additional detailed data on social and economic characteristics of population and housing characteristics that are not appropriate for collection in a full-scale census have brought about the need for continuing programmes of intercensal household sampling surveys to collect current and detailed information on many topics.<sup>16</sup>

1.43. The population and housing census can provide the frame for scientific sample design in connection with such surveys (see paragraphs 1.25-1.29); at the same time, it provides benchmark data for evaluating the reasonableness of the overall survey results as well as a base against which changes in the characteristics investigated in both enquiries can be measured. To allow for the comparison of census and survey results, the definitions and classifications employed should be either identical or harmonized, while remaining consistent with the aims of each investigation. Because of the relative permanence of living quarters, the lists available from the housing census (with suitable updating) may also provide a convenient frame for carrying out enquiries dealing with topics other than population and housing.

<sup>16</sup> *Designing Household Survey Samples: Practical Guidelines No. 98* (United Nations publication, Sales No. E.06.XVII.13).

## E. Relationship of population and/or housing censuses to other types of censuses and other statistical investigations

### 1. Census of agriculture

1.44. While the population and housing censuses have a close relationship, their relationship with the agricultural census is less well defined. However, as the result of increasing integration within programmes of data collection, the relationship between the population and housing census and the agricultural census is now far closer than in the past, and countries are increasingly looking at new ways to strengthen this relationship.

1.45. One conceptual issue in relating the two censuses is that they use different units of enumeration. The unit of enumeration in the agricultural census is the agricultural holding,<sup>17</sup> which is the economic unit of agricultural production, while the units of enumeration in the population census are the household and the individual within the household. In many developing countries, however, there is usually a one-to-one relationship between households with own-account agricultural production<sup>18</sup> and agricultural holdings. In these cases the same unit is enumerated in both types of censuses. For countries where most agricultural production activities are carried out by households (that is in the household sector), establishing links between the two censuses is particularly relevant.

1.46. The agricultural census collects various household or individual data for members of the agricultural holder's household. The World Programme for the Census of Agriculture 2010<sup>19</sup> recommends the collection of data on household size and limited data on demographic characteristics and economic activity of members of the agricultural holder's household, as well as some optional data on farm labour, such as persons working as employees on the holding. Users may find some agricultural activity data from the agricultural census more comprehensive than from the population census because the latter normally investigates the main work activity of each person during a short time reference period and this may not identify persons connected with agricultural activity on a seasonal basis or as a secondary activity. On the other hand, the population census provides data on all persons working in agriculture, including as paid employees. Such information is not available from the agricultural census, which only covers households with own-account agricultural production. To get a complete picture, agricultural data users will need both agricultural census data and population census data.

1.47. In planning the population and housing census, every opportunity for developing the relationship between this census and the agricultural census should be explored. This can take several forms. Definitions used in the population and housing censuses should be compatible with those used in the agricultural census so that meaningful comparisons can be made between the two data sets. The population and housing census can also be of use in the preparation of the agricultural census, such as in the demarcation of enumeration areas, the preparation of the frame for the agricultural census or, if applicable, the sample design.

1.48. In planning the national census programme, serious consideration should be given to the possibility of collecting key agricultural information as part of the population and housing census exercise that would facilitate the preparation of the frame of agricultural holdings in the household sector for a subsequent agricultural census. This could be done as part of the pre-census cartographic work and/or listing exercise or by adding a few questions to the census questionnaire (as elaborated in paragraphs 4.387-4.396). In the latter case, additional items at the household level could be included to identify whether any member of the household is engaged in own-account agricultural production activities. It may also be useful to collect additional data at the individual person level to identify persons involved in agricultural production activities during a longer period, such as a year. Information on

<sup>17</sup> An agricultural holding is an economic unit of agricultural production under single management comprising all livestock kept and all land used wholly or partly for agricultural production purposes, without regard to title, legal form or size.

<sup>18</sup> That is, households with members engaged in agricultural activities as self-employed workers or as own-use producers.

<sup>19</sup> Food and Agriculture Organization of the United Nations, *A System of Integrated Agricultural Censuses and Surveys, Volume 1: World Programme for the Census of Agriculture 2010*, Statistical Development Series No. 11 (Rome, 2005).

occupation or industry and status in employment, and participation in own-use production of agricultural goods where relevant, could together facilitate identification of households with own-account agricultural production. Where countries choose to adopt this approach of using the population and housing census to establish a frame for the agricultural census, the agricultural census should be synchronized with the population and housing census and conducted as soon as possible after the population and housing census, while the frame is still up to date. This approach is detailed in the *Guidelines for Linking Population and Housing Censuses with Agricultural Censuses with Selected Country Practices*.<sup>20</sup>

1.49. Linking population and agricultural census data can bring many benefits. This could add considerable analytical value to data sets from both censuses and save on data collection costs. Many of the demographic and activity status data collected in the population census are also collected in the agricultural census. If data from the two censuses could be linked, it would no longer be necessary to collect these data again in the agricultural census, while still allowing for comprehensive cross-tabulations.

1.50. A few countries conduct the data collection for the population and agricultural censuses as a joint field operation. Normally, each census retains its separate identity and uses its own questionnaire, but field operations are synchronized so that the two data collections can be done at the same time by the same enumerators. Occasionally, the two censuses are merged into one. This may have a number of advantages; however, as this is an increasingly complex operation, its impact on field operations and data quality needs to be carefully considered.

## 2. Census of establishments

1.51. Although the collection of information on industrial and commercial establishments does not constitute a part of the population census, the information that is collected from employers and own-account workers regarding the economic units they operate, such as the kind of economic activity and the size of the unit, can be used for preparing listings of the proprietors of such establishments. They can also be used to prepare listings of the establishments themselves, if information is requested on their location or when the establishments are located within the living quarters (or dwellings). Experience shows that these listings can be used in a subsequent census of establishments or for supplementing the registers of establishments maintained by most countries and utilized as a list-based or area-based sampling frame for their establishment surveys.

1.52. Many business registers cover only establishments with fixed visible premises in which more than some minimum of persons (usually 5 or 10) are employed. In these cases, the population census can be used to collect basic information (such as kind of activity and size) on those establishments with employment below the minimum number of persons by identifying the self-employed persons that operate them. However, special care should be taken in the choice of the unit of enumeration to ensure that there is no double counting of establishments.

1.53. When the information from the population census is to be used to construct a list-based sample frame, it is essential that the information from the population census be available and used shortly after the enumeration is carried out because this information can quickly become outdated. This requirement is less imperative when the information is to be used to construct an area-based sample frame.

1.54. The population census information needed for these purposes is the status in employment, in order to identify employers and own-account workers. For this subset of workers, information needs to be collected on the number of establishments operated, and for each of these, the kind of economic activity, the name and address of the establishment (if any), the number of workers engaged (including contributing family workers and employees) and

<sup>20</sup> Food and Agriculture Organization of the United Nations and the United Nations Population Fund, *Guidelines for Linking Population and Housing Censuses with Agricultural Censuses with Selected Country Practices* (Rome, 2012).

whether the establishment is operated in partnership with other persons. If all of this information appears in the census questionnaire, the number of small establishments can be extracted from the schedule or from the processing documents after the enumeration.

### 3. Census of buildings

1.55. In certain circumstances, it may be necessary, as part of the housing census operations, to enquire whether or not all buildings (both residential and non-residential) are occupied. Thus, it may be convenient to record basic information for all buildings at the time of the housing census, even though detailed data may be collected only for those in which housing units or other sets of living quarters are located. The comprehensive list thus obtained sometimes provides the basis for a census of buildings, carried out concurrently with, or subsequent to, the housing census, or it may provide for the identification of special types of buildings significant for other enquiries, such as the census of establishments or the census of schools. If a listing of households is to be carried out before the actual enumeration, this would be most ideal for carrying out such an exercise.

### 4. System of current housing statistics

1.56. Current housing statistics refer to housing activity. They reflect the number of dwellings constructed and certain related information such as value, number of rooms, floor space, and so forth, as well as number of dwellings destroyed or demolished. These data are usually obtained from a system of data collection based on the administrative procedures required in connection with the activity in question. For example, construction statistics may be derived from permits issued for the construction of dwellings, from records of dwelling starts or completions, or from certificates of occupancy. Statistics on dwellings destroyed may be obtained from the records maintained for the levying of rates and the collection of taxes. Compiled monthly or quarterly, current housing statistics reflect changes in the housing inventory and, although they may serve other purposes, they are also used to update the benchmark data obtained from housing censuses.

### 5. Civil registration and vital statistics

1.57. Population census data serve as denominators for the computation of vital rates, especially rates specific for characteristics normally investigated only at the time of the census. Conversely, census results, time adjusted by vital and migration statistics, can provide estimates of the future size, distribution and other characteristics of the population of the total country and subnational areas. Furthermore, census data on fertility can provide a benchmark check on the reliability of current birth statistics, and vice versa. It is consequently desirable that procedures for the collection of population census data, vital statistics and migration statistics be closely coordinated with regard to coverage, concepts, definitions, classifications and tabulations.

1.58. It may be noted that some countries have linked individual census returns for infants less than 1 year of age with birth registration reports for the year preceding the census date as a means of checking on the completeness of one or the other type of investigation. Linkage of death reports with census returns has been used to compare the information on characteristics of the deceased as reported in the two sources.<sup>21</sup> While the many problems posed in the past by the one-to-one matching of two types of records have not been entirely solved, their severity has been mitigated by developments in computer technology. Before undertaking either of the procedures, however, countries should consider carefully the possible advantages of using household sample survey returns rather than census returns in the operation. Moreover,

<sup>21</sup> An elaboration of comparison between census and vital statistics is provided in *Principles and Recommendations for a Vital Statistics System, Revision 3* (United Nations publication, Sales No. E.13.XVII.10), paras. 595-597).

such operations have to be carried out in complete accord with national laws and policies governing the confidentiality of information obtained in the census if public confidence in the census is to be maintained.

1.59. In the establishment of a vital registration system, census results on the geographic distribution of the population can be useful in the consideration of appropriate locations for registration offices.

## 6. Administrative data sets

1.60. There is an increasing availability of a range of government and private data sets containing information on the persons or the households within a country. The utility of these data sets for statistical analysis is usually limited by their lack of population coverage, data accuracy or range of characteristics. The linkage of these data sets with the census file, with its complete coverage of the persons and households, can provide the ability to create new insights and new statistical products to leverage more value from the census.

1.61. Administrative data can replace census data—for example, in some countries income data from the taxation or revenue department can replace the need to directly collect those data in the census. Administrative data can also extend census data—for example, census data can be linked with visa information or health information to extend the census data set into areas that may be too sensitive to collect on the census form, or with past education data to analyse longitudinally the impact of education on labour force outcomes. Administrative data can also replace missing data—for example, in one country health records have been used to impute the count and characteristics of usual residents that were non-responding during the census enumeration period.

1.62. As described above in paragraph 1.58, linkage operations should be undertaken with caution, ensuring not only that all national laws are met but also that the trust of the public in the census and the statistical systems is maintained.

## IV. Census methodology

1.63. Summarizing the experiences of the previous population and housing census round,<sup>22</sup> it became evident that a number of countries were exploring the use of alternative methodologies with respect to the traditional census for producing census statistics. The use of registers—primarily population registers—in combination with other sources is being considered in a number of countries for the purpose of producing detailed small-area statistics on population and housing, as well as the application of continuous survey methodology for the same purpose. Furthermore, these alternatives to the traditional method of conducting population and housing censuses are becoming more diverse in terms of developing combinations of various data collection methods (see paragraph 1.95), and it is thus a challenge to summarize and categorize them using generally accepted data source methodologies.

1.64. It should be noted that most countries are expected to continue using the traditional census approach—soliciting information from each household in a country—in the 2020 round of censuses,<sup>23</sup> while at the same time it is anticipated that increasing numbers of countries will intend to use alternative methodologies. There are quite a few reasons for exploring alternative approaches, and the following presents a sample: (a) the need to produce more frequent and timely statistics; (b) budgetary limitations for census taking; (c) reluctance of the population to participate in the census; and (d) increased technical capacities to manipulate data sources.

<sup>22</sup> The 2010 round of population and housing censuses was inaugurated by the Economic and Social Council of the United Nations and covered the period from 2005 until 2014.

<sup>23</sup> The 2020 round of censuses covers the decade 2015-2024.

1.65. This section aims to briefly elaborate on possible methodologies for conducting censuses based on the recent experiences of countries. The section also describes the necessary conditions for using a specific methodology, its advantages and disadvantages, and its implications for the content and administration of the census. It should be kept in mind that countries using a specific census methodology might have significant differences in implementation of the methodology, arising from differing country conditions and expectations. Regardless of the approach, the crucial principle of providing detailed statistics at the lowest geographic level remains of paramount importance.

1.66. The various census methodologies are represented in a matrix in table 1, where the rows describe data collection through field enumeration and the columns represent use of administrative or population registers as census data sources. The matrix presents only those options that either have been used or are likely to be used by countries and does not present all possible combinations, including theoretical ones that have yet to be tested by any country.

1.67. The different approaches are explained in table 2.<sup>24</sup> First, the full field enumeration and the register-based census are presented; then the combined methodologies are described. Alternative approaches have been adopted in different ways by different countries, depending on national preferences and practices and the availability of appropriate data sources.

1.68. The columns in the matrix present different types of registers: administrative registers, statistical registers and base registers. Administrative registers are registers that are created and used mainly for administrative purposes outside the national statistical authorities. An administrative register will be edited, corrected and perhaps imputed into a statistical register inside a statistical institute and can then be used for statistical purposes. A statistical register can also be established inside a statistical institute for statistical purposes; one example could be a register of occupations that in many cases does not have any administrative purposes. Base registers are registers, such as the population register, dwelling register or enterprise register, that create a population base for individuals, dwellings and enterprises. Other registers will then be matched with a base register. The household register will be created by combining the population and dwelling registers.

<sup>24</sup> For more details see United Nations Economic Commission for Europe, *Using Administrative and Secondary Sources for Official Statistics: A Handbook of Principles and Practices*, ECE/CES/13 (Geneva, 2011); and *Register-based Statistics in the Nordic Countries: Review of Best Practices with Focus on Population and Social Statistics* (United Nations publication, Sales No. E.07.II.E.11).

<sup>25</sup> In a fully field enumeration-based census, data from registers are not used as a census data source, even though registers may be used as a frame and to support field operations.

<sup>26</sup> Integrated administrative sources with information on business, tax, education, employment and other relevant registers.

Table 1.  
Overview of census-taking methodological approaches

Type of data collection	Use of registers as census data sources		
	No registers (fully field enumeration based or sample surveys) <sup>25</sup>	Base registers (individuals, households, dwellings)	Integrated administrative sources <sup>26</sup>
Full field enumeration	Full field enumeration only (traditional census)	Base registers and full field enumeration	Integrated administrative sources and full field enumeration
Rolling surveys (continuous surveys)	Full field enumeration and rolling surveys	n.a.	n.a.
	Rolling census		
Ad hoc sample surveys	n.a.	Base registers and ad hoc sample surveys	Integrated administrative sources and ad hoc sample surveys
Existing sample surveys	n.a.	Base registers and existing sample surveys	Integrated administrative sources and existing sample surveys
No field enumeration (fully register based)	n.a.	n.a.	Fully register based



Table 2.  
Descriptions of approaches

Approach	Description
Full field enumeration (traditional census) or full field enumeration and rolling surveys	Information on census topics concerning individuals and households is collected by census questionnaire directly from respondents using enumerators or other modes of data collection (e.g. telephone interview, mail out/mail back, Internet), or by applying a combination of different modes of data collection. In a traditional census, full field enumeration may include an in-built ad hoc survey by use of the long form or can be combined with a rolling survey. It is common that a short form is used together with a long form. Both forms are utilized during the same time frame of the census. While the long form estimates are not based on full coverage, they are regarded as census output. Through modelling, the full field enumeration with the continuous cumulative survey is used to generate yearly (or other interval) estimates of detailed characteristics for different geographic levels. With this approach, the sample can be cumulated over time to produce statistics at the lowest levels of geographic detail to provide more frequent and relevant data.
Rolling census	Information on individuals and households is collected through a continuous cumulative survey covering the whole country over a period of time (generally years), rather than a particular day or short period of enumeration. The two main parameters of a rolling census are the length of the period of enumeration (which is linked to the frequency of updates required) and the sampling rate (which depends on the geographic levels required for dissemination purposes).
Combined methodology	Information on individuals and households is collected by combining data collected from one or more surveys or full field enumeration with administrative or statistical registers. Data from registers are employed not only as a frame or to support field operations, but directly as a data source for some census information. In some cases, register data are used to prefill the questionnaires to be verified or corrected during data collection. Ad hoc sample surveys are used to provide information on census topics not available from administrative sources or to adjust data that are of poor quality in registers.
Base register and existing sample surveys or integrated administrative sources and existing samples survey	Information on individuals and households is collected from existing administrative sources, namely different kinds of registers, of which the following are of primary importance: individuals, households and dwellings. These are linked at the individual level with information from existing sample surveys. No field data collection will take place. Existing sample surveys include intercensal sample surveys on different topics, such as the labour force survey and the living standards survey.
Fully register based	Information on individuals and households is collected from existing administrative sources, namely different types of registers, of which the following are of primary importance: individuals, households and dwellings. These are linked at the individual level with information taken from other administrative or statistical sources, such as business, tax, education, employment and other relevant registers.

## A. Full field enumeration (traditional census)

1.69. The full field enumeration or traditional approach comprises a complex operation of actively collecting information from individuals and households on a range of topics at a specified time, accompanied by the compilation, evaluation, analysis and dissemination of demographic, economic and social data pertaining to a country or a well-delimited part of the country. Members of the public respond to a census questionnaire, or interviewers are deployed to collect information from respondents. For interviewer-based censuses, enumerators assigned to different enumeration areas cover all households and persons in the enumeration area during a specified and usually short period of time in order to meet the requirements of universality and simultaneity. Either a single long form is universally canvassed, or a combination of short and long forms used. In the latter case, the short form contains only questions intended for universal coverage, while the long form is used to collect information from only a sample of households and population. This form usually contains detailed questions on a particular topic in addition to covering complex topics such as fertility. Both forms are utilized during the same time frame of the census. While the long form estimates are not



based on full coverage, they are regarded as census output. Overburdening the census form is likely to adversely affect response rates and the quality of data.

1.70. A variant of this approach consists in modelling the full field enumeration with a continuous cumulative survey in order to generate yearly (or at other intervals) estimates of detailed characteristics of population and housing. The primary advantage of this approach is to provide more frequent and relevant data on population and housing than would be available when a census is conducted only once a decade. However, such a programme might be costly and technically difficult, as it requires a multi-year round of comprehensive planning, development and testing.

1.71. As various methods can be used for collecting the data, including a mailed or dropped-off questionnaire, the telephone, the Internet, personal visit follow-up, or a combination of such methods, countries employing the traditional design may utilize very different collection approaches in doing so.

1.72. The traditional census has merit in providing a snapshot of the entire population at a specified period and data for small geographic domains. In that sense, the traditional census is perhaps unique in nature. This approach is particularly suitable for countries requiring population numbers by various social and economic characteristics simultaneously for all geographic levels to meet the needs of planning and the allocation of funds. The delimitation of electoral boundaries requires simultaneity, and for that reason also the traditional approach may be more appropriate. But at the same time, traditional censuses have been singled out as the most elaborate, complex and costly data collection activity that national statistical authorities undertake. In addition to costs, this complex task requires full awareness and agreement of the public to participate in it.

#### *Necessary conditions*

1.73. It is essential to have national legislation for conducting the population and housing census to ensure confidentiality, transparency and the cooperation of the population. A permanent central census organization, which may or may not be part of the statistical office, needs to exist in the country, which can be expanded during the time of the census. Since a traditional census requires substantial resources, sufficient funding for a field operation covering the entire country and subsequent data processing needs to be ensured. Other conditions necessary for this approach are the support of and general acceptance by the public to participate in the enumeration, and trust towards the statistical office or census agency.

#### *Advantages and disadvantages*

1.74. The two biggest advantages of a traditional census are comprehensiveness of coverage and simultaneity. Another major advantage is the flexibility in deciding the topics to be covered and design of the questionnaire. There is lesser need for complex data adjustment since processing of raw data provides all inputs. The census frame becomes the base for all subsequent sampling frames. Finally, the focused and time-bound nature of the field operation implies that the data collection is finished in a short period and does not require long-term or constant monitoring.

1.75. One of the biggest disadvantages of a traditional census is its cost and administrative complexity. Another disadvantage is that it has a very long processing time. Also, since it can be conducted only after 5- or 10-year intervals, data tend to become outdated. The burden on respondents can be considered a disadvantage, especially in countries where participation in the enumeration is declining. Finally, many countries experience increasing difficulties in enumerating specific population groups, such as persons with high mobility or with multiple residences, or who are difficult to reach for other reasons.

*Some considerations for census taking and content*

1.76. Very precise planning is required for every stage of census taking in the traditional approach, due to the sheer volume of work and overlapping time frames. The recruitment and training of a large number of census takers adds to cost and complexity. Involvement of administrative machinery at the central, provincial and local levels is essential for successful field operations.

1.77. Since the data obtained in the traditional method are respondent- and enumerator-based, there is scope for error in canvassing the questions and in the quality of response. This, however, can be minimized through proper design of the questionnaire, effective training and wide publicity.

1.78. Data can be provided for every administrative level subject to privacy and confidentiality considerations, which may not always be possible with other methods if some parts of the data collection are based on sample surveys.

1.79. Essential features of a population and housing census are fully satisfied with the traditional census method.

## B. Register-based census

1.80. The concept of producing census-like results based on registers developed in the 2000 round of censuses, although it has been debated and tested to various degrees since the 1970s, and several countries succeeded in using this approach to generate census data in the 1990 round of censuses. The philosophy underlying this concept is to take advantage of existing administrative sources, namely different kinds of registers on individuals, households and dwellings. These registers are linked at the individual record level with information held on business, tax, education, employment and other relevant registers. While it is theoretically possible to link records on the basis of the name and other unique details of the individuals, the existence of a unique identification number for each individual, household and dwelling allows a much more effective and reliable linkage of records from different registers.

1.81. Administrative registers are produced on the basis of administrative processes to collect information on units (persons and housing units) and variables that are defined by administrative rules and demands in a country. Although the content and process of registers would differ from one country to another, the types of the registers are usually very similar. The following provides definitions of the main concepts used in the system of administrative registers.<sup>27</sup>

- (a) A *register* is defined as systematic collection of unit-level data organized in such a way that updating is possible. Updating is the processing of identifiable information with the purpose of establishing, updating, correcting or extending the register.
- (b) *Administrative registers* are registers primarily used in an administrative information system. This means that the registers are used in the production of goods and services in public or private institutions or companies, or that the information is a result of such production. Administrative registers used for statistical purposes are normally operated by the State or jointly by local authorities, but registers operated by private organizations are also used.
- (c) *Administrative base registers* are kept as a basic resource for public administration. The function is to keep stock of the population and to maintain identification information. Statistical base registers are based on the corresponding adminis-

<sup>27</sup> *Register-Based Statistics in the Nordic Countries: Review of Best Practices with Focus on Population and Social Statistics* (United Nations publication, Sales No. E.07.II.E.11).

trative registers. Their principal tasks are to define important populations and contain links to other base registers.

- (d) *Specialized registers* are registers that, unlike base registers, serve one specific purpose or a clearly defined group of purposes. Specialized registers often receive information on the population and some basic data from a base register, but supply other data themselves (such as the register of vehicles).
- (e) *Statistical registers* are created by processing data from administrative registers for statistical purposes. A statistical register could be based on one or several administrative registers. Statistical registers are also referred to as secondary registers.

1.82. The process involves collecting information on the characteristics of individuals, which has been provided to an administrative register for non-statistical purposes. To be effective, access to administrative data for statistical purposes must be given by law or by agreement, providing the capability to (a) transfer the data as individual records to the statistical database; or (b) temporarily link the registers to form a proxy register for statistical purposes.

1.83. Administrative registers are maintained primarily for administrative purposes. Units and variables of administrative data are described according to administrative rules and demands. Before a register is used for census purposes, the suitability of its data in terms of definitions, concepts, content, reference date, accuracy and other criteria should be statistically tested by comparing them with previous census and survey results, and conducting quality and compatibility surveys. A pilot census may be used for this purpose. Some backbone registers and administrative sources are:

- (a) Population register (base—usually covers births, deaths, marriage and migration);
- (b) Buildings and dwelling or address register (base);
- (c) Business register (base);
- (d) Taxation register;
- (e) Employment register;
- (f) Pension register;
- (g) Social welfare register;
- (h) Jobseeker register;
- (i) Student register.

1.84. All persons within the defined territory who meet the register's rules are enumerated. In concept, the enumeration is taken from a population register in which the fields for different census attributes are populated from subsidiary registers relating to specific topics. Information is extracted from the register as it reflects the situation of individuals at the predefined census reference date. The timing of the census extraction may require careful thought where register update cycles vary. Registration delays and administrative delays in updating between regional and national databases can otherwise have a serious impact on the quality of the output.

## 1. Register source with existing sample survey

1.85. A special case of register-based census is when population and/or integrated administrative registers are combined with existing sample survey(s). Different data sources are integrated as part of a “virtual census”<sup>28</sup> process. The data for the census exercise are derived from many types of registers and surveys, covering different population groups throughout the country and its subregions. Compared to conventional census methods, this process is

<sup>28</sup> The term *virtual census* originated in the Netherlands, where it was first developed, and here it refers to that specific methodology.

lower in cost and staff requirements, and uses more frequently updated data sources. More significantly, by combining data that are already available from other sources, the virtual census makes no additional respondent burden, increasing its public acceptability.

1.86. A weakness of the use of sample data within the census exercise is that for the variables derived from the sample surveys the sample size may not be sufficient to offer the geographically detailed outputs that are an essential feature of the census. Importantly though, the use of data from existing regular surveys will often mean that time series of data are available. By combining samples for several survey exercises, it may be possible to produce reliable estimates for small geographic areas.

1.87. However, the use of existing surveys does present a number of problems compared to the use of ad hoc surveys. The timing, content, statistical definitions and sampling approaches used in an existing survey may not be appropriate to allow the data to be readily combined with data from the administrative source(s). For example, many major household surveys are not designed to cover persons living in institutional households (such as student accommodation, hospitals, prisons and military establishments), meaning that an additional source of information is needed for these persons.

## 2. Necessary conditions

1.88. Among the essential preconditions to conduct a register-based census is that the country should have:

- (a) A national legislation providing for the creation of a population register and permission to use the data contained in it for statistical purposes;
- (b) An established central population register;
- (c) High-quality data in the population register;
- (d) Comprehensive geographic coverage in the register;
- (e) An effective system of continuous updating of the population register.

With regard to other administrative registers used, the following are essential:

- (a) Access to data in the various registers should be allowed through legislation;
- (b) The concepts and definitions used in the various registers should be harmonized;
- (c) A universal personal identification (unique identity) system should be in place to facilitate proper linking of data;
- (d) Quality and consistency checks should be conducted to verify the suitability of the data contained in various registers.

## 3. Advantages and disadvantages

1.89. The primary advantages of a register-based approach are reduced costs and greater frequency of data. However, establishing and maintaining administrative registers involve higher costs than the census alone may justify. The need for the register will largely be based on its contribution to more reliable and efficient administration. The use for statistics may be valuable but is likely to be a secondary consideration.

1.90. Certain potential drawbacks with the use of administrative data sources also need to be taken into account. One limitation is that the scope of statistical topics, key definitions and, indeed, the population base of the exercise depend on the information that can be compiled from the available registers. These, in turn, will be based on the underlying administrative purpose and procedures of the registers. In addition, it is common for national legislation

to restrict or prevent the use of administrative registers for other purposes, including the production of statistics. This may impose restrictions with respect to the characteristics that are available for description, and may also undermine international comparability. When a registered data item is changed, new or updated information is not always registered immediately. In certain cases, new or updated information may not be registered at all. Where this occurs, the register information does not accurately reflect real circumstances.

#### 4. Some considerations for census taking and content

1.91. Administrative registers can, depending on content and quality, be used in all phases of census-taking. In principle, where greater amounts of information can be obtained from administrative sources, the production of census-type statistics will be faster, cheaper and more complete. The most complete use of registers will be where all core, and in some countries non-core, census topics can be based on register information. It is possible to improve the quality of data collected through the administrative register by conducting a sample survey or surveys. The sample survey(s) may either use the register as a sampling frame, or else be completely independent of the register.

1.92. The use of register data may reduce the flexibility of the census exercise in terms of the variables that are available and their definitions. It may be difficult to change the variables as these are defined in line with administrative priorities. A significant potential risk for the success of the census exercise is that the administrative source will often be outside the control of the statistical authority. The influence of the statistical authority over the administrative source can be very limited. The content and availability of the administrative source may change at relatively short notice and without reference to statistical needs. For example, a change in taxation legislation may mean that a key administrative register may no longer collect information needed for the census. This risk can be minimized by establishing close and regular communication between the statistical authority and the owners of the administrative sources.

1.93. In practice, only persons legally present in the various registers would get covered through this approach. For example, unregistered births, deaths or marriages, illegal immigrants, homeless persons, nomadic or floating populations, persons involved in illegal activities, etc., are not likely to be recorded in any such administrative register. On the other hand, registers may include persons who are actually not living (any longer) in the country, for example persons who emigrated but were not cancelled from the registers.

1.94. Summing up, subject to the caveats mentioned in the paragraphs above, the feature of individual enumeration is satisfied in this approach as separate information is collected regarding the characteristics of each individual. As regards “universality within a defined territory”, this criterion is satisfied as the enumeration is taken from a population register in which the fields for attributes are populated from subsidiary registers relating to specific topics. With regard to “simultaneity”, the timing of the census extraction may require careful thought where register update cycles vary. With respect to “periodicity”, this approach allows extraction at desired frequencies, including “at least once in 10 years”, noting again the need to manage the updating cycles for the registers. Finally, in most cases, the requirement in terms of producing small-area statistics is largely met, as the information in the registers allows for such aggregates to be generated.

## C. Combined methodologies

1.95. In recent years, it has been observed in a number of countries that:

- (a) The quality of the administrative registers is relatively good (at least for certain key census variables);
- (b) Information for some census topics is not available in the administrative registers or the quality is not sufficiently high;
- (c) The population generally, and certain population groups (in particular people difficult to enumerate), are becoming more sensitive to the handling of personal information, and possibly more reluctant to cooperate with the statistical office or more difficult to enumerate due to their high mobility or other reasons.

1.96. In these cases, a combined census that uses register(s) and questionnaire(s) could be an option. Essentially, the combined methodology makes use of registers relevant to a census, complemented by surveys or complete enumeration. The use of survey and enumeration data is intended to:

- (a) Improve the accuracy of the population counts;
- (b) Provide information for census variables that cannot be reliably based on administrative data;
- (c) Check, update and improve the quality of census data derived from administrative sources;
- (d) Add additional variables to the census;
- (e) Be a linking frame in order to bring together different sources.

1.97. Information on individuals, households and dwellings is collected by combining data from registers with data collected from one or more surveys. Data collection may be based on full field enumeration, an ad hoc sample and rolling survey methods. Data from registers are employed not only as a sampling frame or to support field operations, but also directly as the data source for some census information. In a case where registers are used along with total enumeration, data from registers may be prefilled in questionnaires, and respondents may be asked to check, update and confirm their details. Other questions relating to fields not available in the registers may also be canvassed during this exercise. In the case of new individuals, households or dwellings that do not feature in the register, all fields of information that are required for the register and the census are to be canvassed afresh. When registers are used along with sample surveys (ad hoc sample or rolling surveys), some census tables may be produced entirely from the information available on the register(s), while for other census tables, information from the survey(s), duly weighted to the population totals, could be used. The surveys would also serve to evaluate the accuracy of the register counts.

### 1. Necessary conditions

1.98. The option of a register-based census with sample surveys can be adopted only if all necessary census information is available from the various administrative or survey sources, and it is possible to link the information from the different sources at the record level. During the process of integrating individual records, care should be taken to check the accuracy of the data and remove inconsistencies prior to the production of statistical outputs.

1.99. The data sources would include verified and accurate personal information (name, ID number, date of birth, sex, marital status, family structure, etc.) and a dwelling register. In an ideal situation, a “base” register can be envisaged, to include unified identity codes for both people and address components in order to link more efficiently the related register and survey data. The link between persons and their dwellings is equally important, giving the



household unit. Other administrative data sources include tax files, social security files, public records of unemployed and registers of educational qualifications. It is preferable to have a centralized base register. If this is not available, regional registers will need to be consolidated.

## 2. Advantages and disadvantages

1.100. The register-based census combined with full enumeration or surveys offers several advantages:

- (a) It can be much cheaper than a traditional census with a full enumeration collecting all census items from the whole population;
- (b) It will reduce the burden of enumerators and respondents;
- (c) It will reduce non-response in case information is obtained from registers;
- (d) It should be possible to correct the survey data for differing levels of non-response in different population groups.

1.101. Micro-integrated data might be expected to provide very reliable results, because they are based on a maximum amount of information. The coverage of subpopulations may be more reliable because when data are missing in one source, another source may be used. Another advantage of micro-integration is that there will be less reason for confusion among statistics users. For example, there will be one figure on each socioeconomic phenomenon, instead of several different figures depending on which sources have been used.

1.102. A disadvantage is that it involves more work to produce the tables from the sample survey microdata, as weighting problems may arise. As the combined census may lack the high public profile and publicity of a traditional census, there may be less interest in and use of the census results, as there is no longer a single census event to attract public attention. Other potential disadvantages may be a lack of transparency (no one external to the process may be able to reproduce the information) and data quality.

## 3. Some considerations for census taking and content

1.103. Data validation, processing and dissemination may be more complicated, as this approach involves both total counts based on the register and sample data from surveys. In addition, as some variables are based only on sample data, it may be impossible to meet the level of statistical and geographic detail required in some tables. On the other hand, the possibilities of reducing cost and response burden provide a very strong reason to adopt this approach.

1.104. Some of the required variables will need to be constructed from different sources. The census results obtained may differ to some extent from those that would be obtained from a full enumeration covering all census topics. This may have a negative impact on the comparability of results between countries and over time. An advantage of registers is that, in effect, they offer complete coverage subject to the quality of the data contained (see also paragraph 1.93). It is preferable that statistical authorities make full use of the register data that are available.

1.105. For the combined census method, a number of different methods can be used to collect information, including paper, Internet, handheld devices and telephone interviews. Electronic devices have important advantages that influence the quality of the information obtained: validation controls can be included in the different questions, time to answer the questions is reduced and the analysis and dissemination of information is faster. Where data are collected via different routes (such as Internet collection in parallel with face-to-face interviews), controls are needed to avoid duplication of information.



## 4. Examples of combined methodologies

1.106. There are many different approaches to the implementation of combined census methodologies. These differences can be categorized according to whether a non-continuous or continuous approach is adopted, and the ways and extent to which the different data sources are used. Methods used by countries using either a fully register-based census approach or one based partly on administrative sources are examined in detail in a research report.<sup>29</sup> This report presents information for six fully register-based and ten partly register-based countries, giving information on the methods used to combine register and survey data, and to compensate for missing information. The use of repeated weighting, register estimation methods, calibration of data, and microdata or macrodata integration are discussed.

### 4.1. Non-continuous approach

(a) Base register<sup>30</sup> and/or integrated administrative sources<sup>31</sup> with full field enumeration

1.107. One approach can be to combine the full enumeration with a base register or registers.<sup>32</sup> The questionnaire used in the total enumeration then contains fewer questions compared to a traditional census questionnaire, but still covers the whole population of individuals, households and dwellings. Over time, countries may decide to adopt this model, increasing in successive censuses the use of integrated administrative registers and reducing the number of questions in the questionnaire. The registers can be used to prefill such information as name, address, family composition, education, occupation and dwelling characteristics on the questionnaire. These prefills can then be used to ask the respondents if the information is still valid or needs to be changed. That can greatly reduce the work involved in coding of the census questionnaire.

#### *Advantages and disadvantages*

1.108. The main advantages with using this model is that it will reduce the response burden for respondents and reduce the cost of the census. The model also allows the preparation of small-area statistics as all variables are collected as total counts. However, this model will still involve a large data-collection exercise with the use of enumerators. Mail out/mail back data collection may sometimes be used, but a significant proportion of respondents may require enumerator follow-up and assistance in completing the questionnaire.

(b) Base register and/or integrated administrative sources with ad hoc sample survey(s)

1.109. Another model involves the use of an ad hoc sample survey instead of a full enumeration.<sup>33</sup> The backbone register could then be used as a sample frame and also to prefill some information such as name and address on the questionnaire. The ad hoc sample survey questionnaire can be specifically designed to complete and statistically correct the data coming from registers, covering those variables not available from the register. The sample can be sized and stratified in such a way that data are available for small groups and geographic areas.

#### *Advantages and disadvantages*

1.110. This model requires far fewer enumerators than a full enumeration, so a more specific training operation with skilled and prepared professional interviewers can be carried out. The follow-up of the operation is also simpler. There is no need to obtain information from each member of the population, giving a clear reduction in response burden. Non-response can be corrected in the sample by the use of statistical techniques to ensure information is still representative of the population.

<sup>29</sup> Eric Schulte Nordholt, *Efficiency in Population Censuses: The Situation of the European Register-Based 2011 Censuses*, available from [www.statistics.gov.hk/wsc/STS067-P3-S.pdf](http://www.statistics.gov.hk/wsc/STS067-P3-S.pdf).

<sup>30</sup> Examples of base registers could be population register and/or dwelling register; and address register and/or business register.

<sup>31</sup> Examples of integrated administrative sources could be administrative or statistical registers of education and/or occupation.

<sup>32</sup> In Europe in the 2010 round of censuses, four countries applied this approach: Estonia, Latvia, Liechtenstein and Lithuania. For more details, see United Nations Economic Commission for Europe, *Measuring Population and Housing: Practices of UNECE Countries in the 2010 Round of Censuses* (Geneva, 2014), p. 12, available from [www.unece.org/fileadmin/DAM/stats/publications/2013/Measuring\\_population\\_and\\_housing\\_2010.pdf](http://www.unece.org/fileadmin/DAM/stats/publications/2013/Measuring_population_and_housing_2010.pdf).

<sup>33</sup> In the 2010 round of censuses, countries that applied this approach included Germany, Israel, Poland, Spain, Switzerland and Turkey. For more details, see United Nations Economic Commission for Europe, *Measuring Population and Housing: Practices of UNECE Countries in the 2010 Round of Censuses* (Geneva, 2014), p. 12, available from [www.unece.org/fileadmin/DAM/stats/publications/2013/Measuring\\_population\\_and\\_housing\\_2010.pdf](http://www.unece.org/fileadmin/DAM/stats/publications/2013/Measuring_population_and_housing_2010.pdf).

1.111. By using a sample and a much smaller number of enumerators, a significant reduction in the cost of the census is possible, in particular when compared with the traditional approach.

1.112. The extent to which this model can produce detailed statistics (in particular for municipalities or smaller geographic areas) will depend on the size of the sample survey. A larger sample should allow more detailed statistics to be produced but this will correspondingly increase the financial cost of the exercise. Even with a large sample, the availability of detailed information is likely to be lower than if a comprehensive approach were taken—such as with a traditional census or fully register-based exercise.

#### 4.2. Continuous approach

##### (a) Rolling census

1.113. In a rolling census, information is collected on individuals, households and dwellings by a continuous cumulative survey covering the whole country over a period of time (generally years), rather than a particular day or short period of enumeration.<sup>34</sup> The two main parameters of a rolling census are the length of the period of enumeration and the sampling rate (which depends on the geographic levels required for dissemination purposes). For example, it is possible to build a sample framework in order to produce national results with one annual survey, regional results by cumulating three annual surveys, and small-area results by cumulating data over five years. Annual surveys may be conducted over the full course of the year or in a particular month or other shorter time frame.

1.114. Implementation of such an approach requires highly complex sampling and modelling techniques; a high-quality sampling frame in order to allow sampling at very low levels of geography; and successful consultation to gain acceptance of the approach with major stakeholders, including national and local governments and the user community.

##### *Necessary conditions*

1.115. The necessary conditions partly depend on the complexity of the sample framework. If the sampling units are addresses, a master address file is to be built first. But if the sampling units are larger, for example municipalities, it is only necessary to have enough information to spread the municipalities over the different years. It will be necessary to explain to statistics users the impact of the rolling sample on the use and interpretation of data, as many users are more used to snapshot data rather than period data.

##### *Advantages and disadvantages*

1.116. The main advantage of the rolling census approach is the higher frequency for updating data: a traditional census provides benchmarks every five or, more commonly, ten years. In contrast, the rolling census provides annual updates. Another advantage is the reduction in the burden on the public. The high peak costs and labour requirements of a traditional census are instead spread over a longer period. Furthermore, it is possible to improve the census process over time, and to test methodological refinements and new technologies as they emerge.

1.117. The disadvantage is that the rolling census approach no longer provides a snapshot of the whole population, complicating comparisons between areas due to different enumeration times. In addition, as the rolling census covers the whole country over a period of time, some respondents will move. Thus some people may be surveyed several times and others may not be surveyed at all. As a result, universality might not be ensured unless careful methodological adjustments are made.

<sup>34</sup> In the 2010 round of censuses France was the only country applying this concept.

## 5. Some considerations for census taking and content

1.118. It is better to begin a rolling census just after a full traditional census, in order to exploit the recent census information to build the sample framework. As the operation is annual, the process must be very carefully prepared, since any delay can be problematic for the following stages.

1.119. A rolling census is able to include all usual census topics. There is also the possibility of changing the questions more regularly than in a decennial cycle. This enables the census to be more reactive to changes in the needs of users, even if comparability over time should in principle be preserved. However, only if the questions are stable over a number of years can a rolling census produce statistics at the same level of detail. Depending on the census organization and procedures, it may be possible to add some thematic surveys if required.

# V. Operational aspects for register-based census or combined methodology

1.120. This section presents general operational aspects that apply to various census methodological approaches making use of data from registers, including register-only-based censuses, and censuses based on a combination of data from registers and other sources, such as ad hoc sample surveys or full field enumeration.

## A. General aspects and preconditions

1.121. Population and housing censuses are an integral part of the system of official statistics in each country. They are expected therefore to fully encompass the fundamental principles of official statistics.

### (a) Legal framework

1.122. If administrative data are used for census purposes, statistical authorities should have a clear legal mandate to collect administrative data for statistical purposes. Individual historical, cultural and political factors of each country lead to highly diverse legal frameworks.

- **Data access.** A legal basis should enable the statistical authority to collect administrative data. The required data sources should be described clearly. Data supply by governmental or private organizations should be specified as compulsory. Limitations to the data access (for example duration of access, confidentiality) should be described.
- **Privacy, integrity and security.** To secure the handling of data and strengthen the trust from the general public, some legal acts should be in place. Examples of these are a statistical act, a privacy act and a data act. These should regulate how data can be transferred, handled and delivered inside the statistical institute and between the institute and other departments, organizations and users.
- **Data use.** All variables of census relevance, with metadata, including identifiers of administrative data sources, should be listed completely and described clearly. Limitations to the data use (for example duration of use, deletion of microdata) should be described. Furthermore, it should be clearly defined that data compiled

for statistical purposes will not be retransmitted to the data-providing organization or other governmental authorities.

(b) Cooperation

1.123. A joint effort towards register-based statistics production requires firm and explicit commitment at the highest possible political level, as well as close collaboration among relevant authorities. Cooperation between statistical and administrative authorities generates a mutual and deeper understanding of the primary purpose of the registers and the needs of the statistical authority.

(c) Confidentiality and public approval

1.124. In the context of a census, the most important principle for the population is the confidential use of individual information, as stated in the sixth Fundamental Principle of Official Statistics, which requires that the use by statistical authorities of individual data, whether they refer to natural or legal persons, be strictly confidential and used exclusively for statistical purposes.

1.125. The political decision concerning the use of administrative data in a census can be highly influenced by public approval or refusal. In the run-up to implementing a new or modified census methodology it is helpful to inform the public about the project. It can be expected that people will become increasingly sensitive towards the collection and analysis of personal data by governmental authorities. In addition to outlining the general benefits and risks of the use of administrative data, information to the public should focus on the confidentiality of personal microdata. Clear limits and rules regarding the use of administrative data provide a common understanding that individual data collected for statistical purposes will not be passed on to other governmental authorities.

(d) Administrative routines

1.126. A decision about the use of register data for statistical purposes largely depends on the nature of the register itself, including qualities such as integrity, reliability and lifespan. For this reason, there should be confidence in the administrative authority's capacity to be a reliable partner and data supplier. This implies the presence of administrative routines and safeguards. Does the administrative authority have extensive experience with the collection of the data that may be used for statistical purposes? Is the administrative authority well organized and is it anticipated that the necessary data collection will continue into the future? Are there existing quality guidelines for the administrative authority that guarantee long-term data quality? These are some of the questions that need to be elaborated upon in terms of assessing the feasibility of exploiting administrative registers for statistical purposes in general, and for the purposes of generating census statistics in particular.

(e) Identifiers

1.127. Regardless of the census methodology adopted, it is extremely important that a unique primary key variable is used in all the data sources. The use of a unique identifier is essential in order to link information successfully. This primary key may already exist in the country—for example, a national personal identification number. Where it does not exist, or exists but with poor quality (for example, too many duplicates), it can be artificially created for statistical purposes. A statistical linkage key can be built from unchanging variables for persons, such as “family name at birth”, “first name”, “date of birth”, “sex” and “place of birth”. Care needs to be taken with alternative spellings, for example, incorrect or incomplete registry entries, transcription errors, and the varying transcription of foreign languages, names or place names.

1.128. Unique identifiers assist in the detection (and correction as necessary) of identical statistical units (duplicates). Duplicate records most often arise when collecting data from more than one decentralized register, but are also possible within one centralized register. The problem with duplicate data entries is the risk of multiple counting of identical statistical units.

1.129. In the case of fully register-based censuses, information from different registers should be matched using good-quality identifiers. It is important to define how often information from different sources is updated and the reference date of the information stored in the different registers. When two or more data deliveries with the same content from the same administrative authority are planned, a linkage key will enable validation of data quality with regard to the statistical reference period.

1.130. Successful data linkage may be compromised by poor quality of the source data. Information stored or provided by data owners may have errors resulting in non-linkage or multi-linkage of records. In these situations, probabilistic approaches that choose the closest candidate, or the use of geographic information (starting from the lowest detail level and gradually increasing), can help to improve the linkage process.

## B. Collection and processing

1.131. Partially (combined) or fully register-based censuses have several important advantages when compared with the traditional approach. For example, the response burden on the population can be reduced.<sup>35</sup> Methods may be adapted to the specific national circumstances. Non-response can be treated with methods that make use of the information that exists in other data sources.<sup>36</sup> Depending on the amount of information available from different data sources and its degree of integration, data processing can be more complex with these census methods than with a traditional census, although good-quality results can be obtained.

1.132. The decision to use administrative sources in the statistical production process requires close collaboration between the administrative authorities and the national statistical offices. During preparations for data delivery, all parties concerned must agree on date(s) of delivery and the content of the data. This implies a bilateral agreement at a high hierarchical level on a detailed data set description, scheduled delivery dates and the statistical reference period. Test data deliveries help to solve or minimize problems with the subsequent data processing by the national statistical authority. Validation techniques appropriate to administrative data should be applied, including checks on the plausibility, completeness and reference periods.

1.133. For combined census methodologies, it is important to store control information and indicators at the lowest geographic level available in the central database, covering issues related to the census operation, such as progress with the fieldwork, response rates and comparisons with information in registers. This control information—normally based on web reports and analysed daily by project managers or regional offices—can be used to detect problems that appear during the fieldwork and to plan necessary actions to overcome these problems. If data are analysed on a daily basis, close monitoring of the continuing field operation and data entry is possible.

1.134. Register information may contain errors (for example, records showing people as being implausibly old, invalid occupations, information about migration that is not consistent with other data). Edit rules may be defined to highlight inconsistent or implausible information. Correction or imputation of records with errors can be attempted in different ways: first, if possible, using another data source (register) that also has information about that specific record and topic; or second, carrying out probabilistic imputation based on available information that is thought to be reliable.

<sup>35</sup> Statistical variables can be derived using one or more administrative variables from different data sources.

<sup>36</sup> For example, information that exists in other registers or in different surveys.

1.135. Missing or implausible data can create serious problems for data analysis. Cases that have missing or implausible values may be deleted, but this can result in a loss of representativeness and completeness, and the introduction of bias. Various imputation methods can be considered, with a general distinction between single and multiple imputation techniques.

1.136. Sometimes information about topics can be obtained through different data sources (registers and survey). In this situation, it is very common that calibration techniques are used in order to reduce inconsistencies between data from different sources. However, calibration only guarantees coherence to a certain geographic level, generally modifying or adjusting the sampling factors. It may be necessary to explain to users the reasons for any remaining differences.

## VI. Use of sampling in population and housing censuses

1.137. The potential role of sampling in population and housing censuses is extensive. On the one hand, sampling can be an integral part of the planning, data collection and operations, analysis and evaluation of the census.<sup>37</sup> On the other hand, the census may serve as a sampling frame for subsequent sample surveys or survey programmes.

1.138. The elaboration of the features of acceptable sampling operations presented below refers primarily to the traditional census; however, it also applies to any of the combined methods wherein sample surveys represent a critical component of the method.

### A. Features of acceptable sampling operations

#### 1. Accuracy and precision

1.139. The use of sampling in a census entails an awareness of the precision desired in sample estimates. The higher the levels of precision or the smaller the domain of estimation, the larger and more complex, and hence the more expensive, the sample. A distinction is to be made between the precision of a sample estimate and its accuracy. Precision can be measured by the standard error (which gives a measure of the error due to sampling compared with a complete enumeration under the same general conditions of enquiry), while accuracy is measured by the difference between the true value (which is generally unknown) and that obtained from an enquiry, whether on a sample or complete enumeration basis.

1.140. Sampling methods employed in census-taking, with the exception of pilot tests, should make use of probability samples as opposed to judgemental, purposive or other non-scientific methods. For the successful execution of a probability-based sampling plan, it is essential that scientifically designed selection procedures be strictly followed. The sampling procedures must be such that a known positive probability of selection can be assigned to every unit in the population. The inverse of these probabilities must be calculable so that they can be used to estimate population values and to calculate the measure of precision of the estimates (in other words, their sampling error). Selection procedures must be faithful to the design so that deviations from prescribed standards or instructions are minimal.

1.141. Of course, estimated results based on samples are subject to sampling errors in addition to various types of non-sampling errors that are also present in a complete enumeration. The smaller scale of a sample operation may make it possible, nevertheless, to employ

<sup>37</sup> Reference is made to paragraphs 3.9-3.17 and 3.220-3.227 of this publication and to United Nations Statistics Division, *Post Enumeration Surveys: Operational Guidelines, Technical Report* (2010), available from [https://unstats.un.org/unsd/demographic/standmeth/handbooks/Manual\\_PESen.pdf](https://unstats.un.org/unsd/demographic/standmeth/handbooks/Manual_PESen.pdf).



interviewers with advanced training, to devise and pose questions of greater detail and to minimize response errors. As a result, non-sampling errors, which affect the accuracy of the estimates, are likely to be fewer in a well-executed sample than in a complete enumeration.

1.142. Whenever sampling is used in the census data collection, provision should be made for computing estimates of sampling error (variances), at least for the major items of interest. While a variety of techniques can be employed to estimate variances, the particular technique adopted should be one that reflects the actual sample design used.

## B. Census resources

1.143. Effective planning of sample operations consists to a large extent in making judicious use of whatever expert knowledge and equipment are available in a particular country. Specific sample plans aimed at the same objective may vary from country to country, depending on the quality and quantity of census resources. In planning a sample operation as part of the census effort, it is important to bear in mind considerations of cost and competent direction.

1.144. The question of cost in sampling is of crucial significance, and cost may be the reason why it was decided not to collect the same information through a complete enumeration in the first place. Numerous factors govern the cost of sampling, and it is essential that these be fully weighed before a decision is made to associate a sample plan with a complete count. One important factor, for instance, is the size and complexity of the sample, which in turn is governed by the objectives of the survey and the procedures that are regarded as most efficient.

1.145. Sample operations should be conducted under the direction of a competent statistician who is conversant with the theory of sampling and of statistical analysis from sample data, and the practical operations of carrying out sample surveys in the field. The advice of such a sampling statistician is indispensable at all stages of the sample operations, from planning and sample design to estimation and calculation of variance.

1.146. In order to ensure that the sample is selected strictly according to the design and to avoid any possibility of bias in sample selection, it is strongly recommended that the actual selection of the sample units should be carried out either in the central office or in regional offices under the direct supervision of a sampling statistician.





## Part two

# Planning, organizing and management

## I. Introduction

2.1. This and the subsequent part of the *Principles And Recommendations* focus on traditional population and housing censuses. Part two elaborates on planning, organization and management of the population and housing census, as this is a peculiar and most complex statistical exercise requiring a multidimensional and simultaneous approach to preparation and management, while part three follows the Generic Statistical Business Process Model<sup>38</sup> in presenting census operation activities.

<sup>38</sup> United Nations Commission for Europe, on behalf of the International Statistical Community, *Generic Statistical Business Process Model (GSBPM)*, Version 5 (2013).

## II. Overall census planning

2.2. A population and housing census (or a population census by itself) consists of a complex series of interrelated steps, and constitutes perhaps the single most extensive, complicated and expensive operation that a country undertakes. Some of these steps, for example the printing of the census questionnaires, may be massive in scale; other steps, for example the training of the supervisory staff, must be carried out in a uniform manner in all parts of the country; and still others, for example the actual enumeration, must incorporate both features. Also, since censuses take place after five to ten years, the planning and preparation for each new census round has to take into account changes in field conditions, census methodology, technological innovations, user requirements, census questions, personnel and societal conditions.

2.3. To ensure that the diverse operations occur in their proper sequence and in a timely manner, the entire census and its various component steps must be planned carefully in advance. An apparently minor oversight in planning may lead to serious defects in the census results and to costly inefficiencies in the census operations. Careful planning is therefore critically important to a successful census, not only in countries with comparatively little statistical experience but also in those with a well-developed system of statistics. Coupled with the need for careful planning is the need for appropriate organizational and administrative arrangements and procedures. Such arrangements and procedures are necessary to ensure both that the extensive human and material resources mobilized for the census are effectively and efficiently used, and that its very tight time schedules and massive logistic requirements are met.

2.4. It must be stressed, however, that at each stage of census planning and implementation, the various administrative arrangements developed will need to be guided by sound technical considerations. The quality and timeliness of the census data will almost certainly suffer unless sufficient and appropriate weight is given throughout the census to a wide range of subject matter and statistical requirements. This is especially valid in the case of cross-cutting issues, such as information technology, present throughout many essential phases of the census. It is

<sup>39</sup> For a discussion of statistical management generally, see *Handbook of Statistical Organization, Third Edition: The Operation and Organization of a Statistical Agency*, Studies in Methods, No. 88 (United Nations publication, Sales No. E.03.XVII. 7).

for this reason that the management of a large statistical operation, and especially a population and housing census, cannot be considered a routine administrative assignment.<sup>39</sup>

2.5. Not all censuses follow a uniform pattern but there are certain major elements that must be taken into account in every one of them. In general, census operations can be divided into seven phases: (a) preparatory work and testing, (b) enumeration, (c) data processing, (d) building of databases, (e) evaluation of the results, (f) dissemination of the results, and (g) analysis of the results. In addition, distinct sets of operations related to the systematic recording of census experience and the quality assurance and improvement programme must accompany and support the main census operations. It will be readily apparent that these phases are not entirely separate chronologically or mutually exclusive. For example, some census results are usually released before all data-processing activities are completed; the analysis and the dissemination of census results overlap quite extensively; and the systematic recording of census experience should start at the beginning of the preparatory work and continue through all subsequent phases. Furthermore, certain elements that are discussed below, such as the budget and staff, may have to be amended according to the circumstances arising at a later stage of operations. The elements of each of these phases are discussed below in terms of their implications for sound census management.

2.6. When the housing and population censuses are carried out together, the planning, organization and administration of the two censuses should be considered separate aspects of a single, integrated field and processing operation; that is, the separate technical requirements of each census have to be taken into account in planning and carrying out the combined operation. A combined population and housing census will be more costly and complex than each census considered by itself but less expensive than the total operation of carrying out both censuses independently. Moreover, the combined census will be capable of providing a greater wealth of cross-tabulations than both censuses carried out independently. Each country will have to decide on the trade-offs involved in light of its own needs and circumstances (see also paragraphs 1.38-1.41). However, from the perspective of overall census planning and management, the decision is not a critical one. Whether the census is a combined operation or a separate population or housing census, the basics of census planning, organization and administration as described below remain unchanged, except for the added cost and complexity of the combined operation.

### III. Strategic objectives and management

#### A. Strategic objectives

2.7. The development of plans for a census should include the early preparation of a set of strategic aims and objectives that may be used to guide the implementation of the plans, set standards and form a set of benchmarks against which outcomes can be assessed to help determine the success of the census. Ideally, the starting point for developing these objectives would lie in combining information derived from evaluating previous census experience, from understanding user requirements for information from the census and from assessing changes in both society and technology. In practice, some of this information is difficult to obtain and often provides conflicting guidance. Nevertheless, such objectives can be used to assist in planning major elements of the process. Although the strategic objectives of the census will be specific to individual countries and will differ according to local circumstances, they can be described under the following headings: census content, impact on the public and on census staff, production of census results, cost-effectiveness and cost-benefit.

2.8. **Census content.** The aim is to ensure that the topics are appropriate for meeting the demonstrated requirements of users, taking into account considerations of cost-effectiveness, human resources, time availability and respondent burden. Subsidiary objectives under this element relate to (a) suitable consultation with existing and potential users at all stages; (b) establishment of measurable standards of reliability incorporating user views on priorities; and (c) adequate testing of new topics to ensure successful collection and production of reliable results.

2.9. **Impact on the public and on census staff.** The aim is to ensure that all the aspects of collection operations and the dissemination of results are acceptable to the public and fully comply with legal and ethical standards for protecting the confidentiality of individual responses. The public should be fully informed about census objectives, content and methods, as well as about their rights and obligations with respect to the census. Similarly, all census staff must be fully aware of their responsibilities. Subsidiary objectives include such issues as (a) keeping completed forms and other records containing personal information secure and confidential; (b) ensuring that public support for all aspects of the census is as strong as possible; and (c) producing requested customized output in a manner consistent with preventing disclosure of personal information, adhering to established reliability standards for the release of data, and implementing policies designed to safeguard the access of all users to census results.

2.10. **Production of census results.** The aim is to deliver census products and services, and to meet legal obligations and user needs with stated quality standards and a predetermined timetable. Subsidiary objectives include (a) producing outputs with a minimum of error suitable for the purposes for which the data are to be used; (b) providing standard outputs for the main results and services for customized output; (c) providing access to output; (d) using geographic bases appropriate for collecting and referencing data for output; (e) improving methods of enumeration, particularly in difficult areas, so as to reduce levels of undercoverage and response error; (f) improving methods of evaluation and the means to convey findings to users; and (g) developing a measure of quality and targets.

2.11. **Cost-effectiveness.** The aim is to plan and carry out a census as inexpensively as possible without compromising other strategic objectives. Subsidiary objectives relate to minimizing costs by (a) adopting more efficient data collection, data capture and data-processing approaches and related technologies; (b) contracting out appropriate parts of the operation; (c) exploring possible sources of alternative funding and, if appropriate, developing proposals for cost recovery and income generation; (d) international collaboration and reuse of systems; (e) encouraging the public to self-complete forms online or on paper where possible; and (f) replacing direct collection of data with use of administrative data.

2.12. **Cost-benefit.** The aim is to increase the value or benefit generated from the census while also managing the overall cost. Increasingly, large programmes such as the census are expected to demonstrate and quantify the benefits that the census programme will deliver. In effect, the value of the census should be greater than, or at least equal to, the cost of conducting the census. No programme can be considered a success unless the benefits of that programme are realized. The benefits from census products and services are those that are realized through the uses of the census, some of which are outlined in paragraphs 1.19 to 1.37. Some of the benefits generated through the use of the data can be quantified, while other benefits of the data are more difficult to measure, but are nonetheless important and should be noted in any cost-benefit analysis for conducting a census. Some of these benefits depend on statistical agencies being open with information to encourage and inform debate about the effectiveness of government and government policies. Therefore, key to the planning of the census is to ensure that there is some identification of the benefits (whether estimated in financial terms or not) and that the plans focus on realizing these benefits.

2.13. In the context of costs, it is of paramount importance to aim at emphasizing the benefits of the population and housing census in terms of the information it generates. In essence, a cost-benefit analysis needs to be incorporated as one of the major components of the census so as to outline the costs of not having the necessary information and its consequences. While the benefits of the census and statistics it generates transcend local, regional and national needs and can and should be clearly quantified, there are also intangible benefits such as national pride in conducting such an exercise. Subsidiary objectives include illustrating the value of the census as an educational tool and framework, for comparative purposes at national and international level and as a cornerstone of the national statistical system.

2.14. These objectives can be used as benchmarks to assess user requirements and may also be built into appraisal systems that, with suitable weighting, can be used to compare and review options. In general, strategic objectives of the population and housing census need to be clearly emphasized throughout the process of preparing, conducting and exploiting census data.

## B. Strategic management

2.15. The primary value of strategic management is to assist census organizations to operate successfully in a dynamic, complex environment. The strategy drives key strategic decisions and choices over the term of the census undertaking in response to external and internal forces. The crafting of a strategy for a project or programme such as a census is critical for successful execution, and is dependent on a variety of knowledge and skills in different areas. While the crafting of the strategy is an art, it is important that it is governed by a systematic process to ensure careful examination and consideration of all issues that might have an influence on the future state of the programme. Census organizations may consider adopting the following strategic management process that will guide census operations in all its phases.

2.16. The strategic management process consists of four phases, namely:

- (a) Strategy analysis;
- (b) Strategy formulation;
- (c) Strategy implementation;
- (d) Strategy monitoring and review.

2.17. *Strategy analysis* is about ascertaining the issues that need to be addressed to take corrective action or to chart a new direction. It seeks to change the organizational set-up to one that is systemic, holistic, comprehensive and coordinated. Strategy analysis consists of:

- (a) Setting the direction for the census operation, with the objective of reaffirming its purpose and the way it should conduct its business;
- (b) Setting strategic goals for the census operation by way of defining what the system aims to achieve in terms of defining its highest goals and strategic outcomes. Strategic outcomes and goals must be aligned to what the user can expect and must therefore address user needs and requirements. A strategy driven by outcomes means “planning backwards” from the desired outcome through how best to achieve it;
- (c) Strategic analysis of the census operations by defining its current and previous status or situation and identifying the key issues that need to be addressed. Analysing the internal and external environment provides the evidence base to inform the development of the strategy. This analysis of the situation forms the basis of the strategy and its objectives to be defined. Census organizations may consider using a SWOT (strengths, weaknesses, opportunities, threats) analysis to do a strategic analysis of the internal and external environment.

2.18. *Strategy formulation* is about defining how and where the census organization must respond. The key steps involved in this phase include (a) develop and review the value chain; (b) develop strategic objectives and subobjectives; (c) compile a strategy map; (d) define the strategic intent; (e) identify critical success factors; (f) identify strategic risks; and (g) identify or develop strategic interventions.

2.19. Strategic objectives drive a strategy. They provide direction on what should be done to achieve the strategic goals and outcomes. All activities in the census should be linked to a strategic objective, whether it is a new activity, an improvement initiative or maintaining the current status. Strategic objectives provide specific direction to the activities of the census operation and form the foundation upon which decisions are made. They also provide the direction for everyone in the organization and motivate people to achieve them, especially if they are rewarded. Strategic objectives affect other aspects of management, such as planning, organizing and leading, and provide a benchmark for performance measurement as well as a mechanism of control through provision of corrective measures. Finally, strategic objectives form the basis for delegation of authority. Good objectives are helpful in effective delegation of authority.

2.20. The strategic objectives, as formulated, must be specific, measurable, achievable, relevant and time-bound (SMART).

2.21. *Strategy implementation* is the process that turns strategies and plans into actions in order to accomplish strategic goals, outcomes and objectives. Implementing the strategic plan is as important as, or even more important than, developing the strategy. The key steps involved in this phase include:

- (a) Compiling a census strategic plan, work programme and operational plan with the following elements:
  - i. *Work planning*: Compiling the operational plan by defining the inputs, processes and outputs;
  - ii. *Resource planning*: Identifying what human and other resources are required and how these resources should be deployed and developed to create the competences need to deliver the strategy;
  - iii. *Financial planning*: Compiling the budget outlining the funding required to implement the strategy;
  - iv. *Risk planning*: Identifying the operational risks and developing control and mitigating actions in response to those risks;
- (b) Translating the strategy into action through:
  - i. Defining the body of work (identifying key performance indicators, outputs to be delivered, targets and milestones that will deliver the strategy);
  - ii. Defining the method of work (developing a value chain at conceptual and operational levels, including the quality management process that defines how customer value will be delivered);
  - iii. Defining the organization of work (designing an organizational structure that implement the strategy),
- (c) Managing the implementation and strategic change.

2.22. *Strategy monitoring and review* is about monitoring and reporting on the progress, achievements and challenges in the programme; taking corrective action where required; and evaluating the impact of the changes and improvements. Implementation must be monitored to be successful. Due to constantly changing external and internal conditions, census managers must continuously review both environments as new strengths, weaknesses, opportunities

and threats may arise. The key element in strategy monitoring is to get the relevant and timely information to take corrective actions where required.

## C. Avoiding gender biases and biases affecting indigenous peoples and minorities

2.23. Gender-based stereotypes can introduce serious biases in census data and the conclusions drawn from these data. These biases are discussed in more detail in part four (see for example paragraphs 4.129-4.135 and 4.289-4.351 relating to household relationships and economic characteristics, respectively). There is much that can be done in the preparatory stages of the census to help minimize gender-based biases. These preparatory activities are of two broad types: those related to census content and those related to census operations.

2.24. Issues of census content, including what information is sought and how, the definitions and classifications used, and the manner in which databases and tabulations are specified, are important in generating data needed to examine questions of gender equity. In addressing these content issues, census planners and users will need to be alert to prevailing stereotypes so as to develop a census that both minimizes the influence of the stereotypes that respondents and enumerators may hold and avoids further perpetuation of these stereotypes.

2.25. With regard to census operations, particular attention will need to be given to the selection, training and supervision of the field staff. This involves ensuring that both men and women are recruited to the field staff (both as interviewers and supervisors) and that manuals and training materials cover gender bias issues just as they do other important sources of error. Consultations with women's groups and others concerned with gender equity can help in addressing both content and operational issues.

2.26. Gender-related stereotypes and biases are concerns that have relevance for all countries. Census authorities in a number of countries must also be alert to the possibility of stereotypes and biases affecting data on minority population groups. Such groups may include ethnic, linguistic, national, racial, religious, indigenous and nomadic populations. Persons with disabilities may often be subject to similar bias. As with gender issues, the problem will need to be addressed in terms of both census content and census operations. Representatives of these minority groups can often provide census planners with important information and insights relevant to both census content and operations (for detailed information about difficult-to-enumerate groups, see paragraphs 3.125-3.134 and 4.48). Thus, special efforts should be made to consult with them when planning the census. In the case of indigenous and minority populations living in isolated settlements or enclaves, such consultations are often critical for minimizing underenumeration among these populations.

## IV. Units, place and time of enumeration

### A. Units of enumeration

2.27. Since individual enumeration is an essential feature of a population and housing census, clarity about the unit of enumeration is an essential element of census planning. In the case of the population census, the primary unit of enumeration is the person. There are two general frameworks within which individuals are identified: (a) households, and (b) institutions, as a subset of collective living quarters. The household is a general framework within which most individuals are identified, since the majority of the population live in households,



and the household is also a unit of enumeration in its own right. Because the household is also a unit of enumeration for the housing census, careful identification as a preliminary step in the enumeration can facilitate the efficient collection of the data and the control of its completeness in both types of census.

2.28. As mentioned in the previous paragraph, the second framework within which individuals are identified comprises “institutions”, as a subset of collective living quarters. In addition to persons identified within households, there are persons living in institutions who are not members of a household. This group constitutes the “institutional population”, which is also investigated in population censuses.

2.29. For the housing census, the household is one of the three units of enumeration; the other two units are living quarters (in other words, housing units and collective living quarters) and buildings. It is important to bear in mind that, in conceptual terms, these three units are clearly distinguishable. There is not necessarily an identity or exact correspondence among these concepts nor are the terms themselves interchangeable. Several households may live together in one set of living quarters and one household may occupy more than one set of living quarters. Similarly, several sets of living quarters may together occupy one building and one set of living quarters may occupy more than one building.

2.30. It is recognized that there may be difficulty in some countries in maintaining independent concepts of “household” and of “housing unit”.<sup>40</sup> However, the advantages in terms of the usefulness of the data that result from preserving separate concepts usually outweigh the additional effort required in maintaining them.

2.31. In carrying out a census, it is essential that the units of enumeration be clearly defined and that the definitions be included in manuals of instruction for the enumeration and, to provide appropriate guidance for users of the resulting statistical information, in census reports. In order to reduce the possibility of difficulties in applying the definitions recommended below, countries may find it necessary to expand the definitions and to illustrate them in terms of national conditions and circumstances. Post-enumeration field checks can provide a useful means of determining to what extent the national definitions of the units of enumeration have been applied in the field and the consequent effects on census results.

<sup>40</sup> For further discussion on the concept of *households*, see paragraphs 2.33-2.37; also, for the definition of *housing unit*, see paragraph 4.427.

## 1. Person

2.32. For census purposes, the term “person” denotes each individual falling within the scope of the census. As emphasized above (paragraph 2.27), a person can be identified as belonging to the household population (that is to say, the population living in households) or to the institutional population (that is to say, the population living in institutions, as a subset of collective living quarters), as defined in paragraph 2.39 below. Although each person must be included in the count of the population, there will be some variation in regard to the persons for whom information is collected on different topics. The variations usually depend on the person’s age (for example, questions relating to economic activity, in which case the age boundary may be driven by national legislation), sex (for example, questions relating to children born), or relationship to the head or other reference member of the household. It may be recommended that information on a particular topic should be investigated for less than the total population, and the group of persons for which a given topic should be investigated is indicated below under the definitions and specifications of such topics presented in part four, chapter I, section IV. In addition, the recommended tabulations for population censuses on the website of the United Nations Statistics Division are accompanied by a description of the population to be included in each tabulation. Similarly, the scope of the census should clearly indicate the persons to be covered and those to be left out.

## 2. Household

2.33. The concept of *household* is based on the arrangements made by persons, individually or in groups, for providing themselves with food and other essentials for living. A household may be either (a) a one-person household, that is to say, a person who makes provision for his or her own food and other essentials for living without combining with any other person to form a multiperson household; or (b) a multiperson household, that is to say, a group of two or more persons living together who make common provision for food and other essentials for living. The persons in the group may pool their resources and may have a common budget; and they may be related or unrelated persons, or constitute a combination of persons both related and unrelated.

2.34. The concept of *household* provided in paragraph 2.33 is known as the “housekeeping concept”. It does not assume that the number of households and housing units are or should be equal. A housing unit, as defined in paragraph 4.427, is a separate and independent place of abode that is intended for habitation by one household, but that may be occupied by more than one household or by a part of a household (for example, two nuclear households that share one housing unit for economic reasons or one household in a polygamous society routinely occupying two or more housing units).

2.35. Some countries use a concept different from the housekeeping concept described in the previous paragraph, namely, the “household dwelling” concept, which regards all persons living in a housing unit as belonging to the same household. According to this concept, there is one household per occupied housing unit. Therefore, the number of occupied housing units and the number of households occupying them are equal and the locations of the housing units and households are identical. However, this concept can obscure information on living arrangements, such as doubling up, that is relevant for evaluating housing needs.

2.36. Households usually occupy the whole or a part of, or more than, one housing unit, but they may also be found in camps, boarding houses or hotels or as administrative personnel in institutions, or they may be homeless. Households consisting of extended families that make common provision for food, or of potentially separate households with a common head resulting from polygamous unions, or households with vacation or other second homes, may occupy more than one housing unit. For more discussion of household occupancy, see paragraphs 4.471-4.475.

2.37. A household may also consist of one or more homeless people. The definition of the homeless can vary from country to country because homelessness is essentially a cultural definition based on concepts such as “adequate housing”, “minimum community housing standard” or “security of tenure”,<sup>41</sup> which can be perceived in different ways by different communities. The following two categories or degrees of homelessness are recommended:

- (a) Primary homelessness (or rooflessness): This category includes persons living in streets or without a shelter that would fall within the scope of living quarters;
- (b) Secondary homelessness: This category may include the following groups:
  - i. Persons with no place of usual residence who move frequently between various types of accommodation (including dwellings, shelters or other living quarters);
  - ii. Persons usually resident in long-term (also called “transitional”) shelters or similar arrangements for the homeless.

These definitions should be supported by a data collection strategy that ensures, for example, that dwellings are properly identified as shelters and not households.

<sup>41</sup> For the definition of *tenure*, see paragraphs 4.556-4.559.

2.38. For some topics investigated in housing censuses, the household may serve more efficiently than living quarters as the unit of enumeration. For example, tenure, if investigated in the census, should be collected with reference to households rather than living quarters. Information about household possessions that are normally included as part of the equipment of living quarters (radio and television receivers, for example) should be collected with reference to households. Information on rent, an item of significance in relation to both living quarters and households, would of necessity be collected in relation to the household.

### 3. Population in collective living quarters

2.39. As emphasized in paragraph 2.27, institutions represent the second general framework within which persons, as major units of enumeration, are identified. The institutional population comprises persons who are not members of households. These include persons living in military installations, correctional and penal institutions, dormitories of schools and universities, religious institutions, hospitals and so forth.<sup>42</sup> Personnel responsible for the running of an institution and not living in dormitories or similar accommodations should be excluded from the institutional population.

2.40. Persons living in hotels or boarding houses are not part of the institutional population and should be distinguished as members of one-person or multiperson households, on the basis of the arrangements that they make for providing themselves with the essentials for living.

### 4. Building

2.41. The building is regarded as an indirect but important unit of enumeration for housing censuses since the information concerning the building (building type, material of construction and certain other characteristics) is required for proper description of the living quarters located within the building and for the formulation of housing programmes. In a housing census, the questions on building characteristics are normally framed in terms of the building in which the living quarters enumerated are located, and the information is recorded for each of the housing units or other living quarters located within it.

2.42. A *building* is any independent free-standing structure comprising one or more rooms<sup>43</sup> or other spaces, covered by a roof and usually enclosed within external walls or dividing walls<sup>44</sup> that extend from the foundations to the roof. However, in tropical areas, a building may consist of a roof with supports only, that is to say, one without constructed walls; in some cases, a roofless structure consisting of a space enclosed by walls may be considered a building.<sup>45</sup>

2.43. In some countries, it may be appropriate to use the *compound* as a unit of enumeration, either in addition to the building or as a substitute for it. In some areas of the world, living quarters are traditionally located within compounds and the grouping of living quarters in this way may have certain economic and social implications that it would be useful to study. In such cases it may be appropriate, during the census, to identify compounds and to record information suitable for linking them to the living quarters located within them.

### 5. Living quarters

2.44. The principal units of enumeration in a census of housing are living quarters. Only by precise recognition of these identities can data be obtained that will provide a meaningful description of the housing situation and a suitable basis for the formulation of housing programmes and policies.

<sup>42</sup> For more detailed definition and specifications of *institutions* as a subset of *collective living quarters*, see paragraphs 4.453-4.455.

<sup>43</sup> For the definition of *rooms*, see paragraph 4.482.

<sup>44</sup> The term *dividing walls* refers to the walls of adjoining buildings (for example, of row houses) that have been constructed so as to be contiguous.

<sup>45</sup> For a more detailed discussion of the definition of *building* and related concepts, see paragraphs 4.526-4.529.

2.45. *Living quarters* are structurally separate and independent places of abode. They may (a) have been constructed, built, converted or arranged for human habitation, provided that they are not at the time of the census used wholly for other purposes and that, in the case of improvised housing units and collective living quarters, they are occupied; or (b) although not intended for habitation, actually be in use for such a purpose at the time of the census.<sup>46</sup>

<sup>46</sup> For a more detailed discussion of the definition of *living quarters* and of the concepts of separateness and independence as used in the definition, see paragraphs 4.428-4.429.

## B. Place of enumeration

### 1. Concepts relating to the place of enumeration

2.46. In the context of the population census, a country may wish to enumerate all persons present in the territory and/or supposedly belonging to the population of interest. *Population to be enumerated* is the group of persons who the country decides should be covered by the census regardless of their later inclusion in a population count.

2.47. The place of enumeration would be either the place where the person is found or the place of usual residence of the person at the census reference moment. It should be ensured that each person should have only one place of enumeration. Countries should document the definition of place of enumeration that they have adopted for their census and also provide explicit instructions on how this definition should be applied at the time of enumeration to enumerators for use during an interview or to respondents when filling in self-administered questionnaires.

2.48. In general, *usual residence* is defined for census purposes as the place at which the person lives at the time of the census, and has been there for some time or intends to stay there for some time.

2.49. Most individuals enumerated have not moved for some time and thus defining their place of usual residence is unambiguous. For others, the application of the definition can lead to many interpretations, particularly if the person has moved often.

2.50. It is recommended that countries apply a threshold of 12 months when considering place of usual residence according to one of the following two criteria:

- (a) The place at which the person has lived continuously for most of the last 12 months (that is, for at least six months and one day), not including temporary absences for holidays or work assignments, or intends to live for at least six months;
- (b) The place at which the person has lived continuously for at least the last 12 months, not including temporary absences for holidays or work assignments, or intends to live for at least 12 months.<sup>47</sup>

<sup>47</sup> This approach is consistent with the Conference of European Statisticians Recommendations for the 2020 round of censuses. It is also consistent with what is recommended in the *Recommendations on Statistics of International Migration*, Revision 1, Statistical Papers No. 58, Rev. 1, (United Nations publication, Sales No. E.98.XVII.14).

2.51. Persons who move frequently and do not have a place of usual residence should be enumerated at the place where they are found at the time of the census.

2.52. Regardless of the criteria used to define the 12-month period, countries should ensure that each person should have one and only one place of usual residence.

2.53. There are various population groups for which some uncertainty may arise about their inclusion in the usual resident population. The following persons would generally be considered in the usually resident population:

- (a) Persons found at the moment of enumeration that cannot identify their place of usual residence, such as those who move often;
- (b) National military, naval and diplomatic personnel and their families, located outside the country;

- (c) Foreign persons working for international organizations (not including foreign diplomats or military forces), provided that they meet the criteria for usual residence in the country;
- (d) Merchant seafarers and fishers usually resident in the country but at sea at the time of the census (including those who have no place of residence other than their quarters aboard ship);
- (e) Persons who may be illegal, irregular or undocumented migrants, as well as asylum seekers and persons who have applied for or been granted refugee status or similar types of international protections, provided that they meet the criteria for usual residence in the country;
- (f) Persons who cross a frontier daily or weekly to work or study in another country, provided that they meet the criteria for usual residence in the country;
- (g) Children born in the 12 months before the census reference time and whose families are usually resident in the country at the census reference time;
- (h) Persons of minor age studying abroad for one year or more to attain the primary or secondary level of education, regardless of the frequency of return to the family home located within the country. If the person is also working abroad, the same rules for cross-border workers apply;
- (i) Persons who regularly live in more than one country during a year, if they are present in the country at the moment of the enumeration.

On the other hand, the following group of persons need to be considered for being excluded from the usual resident population:

- (a) Foreign military, naval and diplomatic personnel and their families, located in the country, regardless of their place of usual residence;
- (b) Persons of minor age attending the primary or secondary level of education whose family home is located abroad, regardless of the duration of their stay. However, if these persons are also working in the country, then the identification of the place of usual residence follows the same rules as for cross-border workers;
- (c) Third-level students who are absent from the country for one year or more;
- (d) Persons who regularly live in more than one country during a year, if they are not present in the country at the moment of the enumeration.

2.54. The concept of usual residence may be referred to as though it is synonymous with the concept of *de jure* residence. In certain circumstances, however, the term “*de jure*” may carry with it a requirement that the person’s residence at that place has a basis in the legal system applicable to that specific place. In turn this implies that people without such a legal basis should not be enumerated in that area. It is not recommended that censuses of population and housing enumerate only those people with a legal right to be in a place but rather, as described in section 2 below, should include either all those present at the place on census night or all those whose usual residence on census night was at the place of enumeration.

## 2. Operational issues relating to the place of residence and the place of enumeration

2.55. In a population census, information about each person can be collected and entered in the census questionnaire either where he or she is (or was) present on the day of the census or at his or her usual residence.

2.56. In compiling the census results by geographic areas, however, each person who is part of a household can be included in either (a) the household (and hence the geographic area) where the person was present on the day of the census; or (b) the household (and the geographic area) where he or she usually resides. The same should apply for the institutional population. This allocation is not necessarily dependent upon the place at which information was collected for the individual, but it can be simplified by the proper choice of a place of enumeration.

2.57. If a “present-in-area” population distribution is wanted, it is logical to enumerate each person at the place where he or she is (or was) present at the time of the census. If a distribution by usual residence only is required, it is more satisfactory to collect the information about each person at the person’s place of usual residence. It should be noted, however, that it is not always possible to collect information about each individual at his or her usual residence, as, for example, when an entire household is away from its usual residence at the time of the census. Some provision must therefore be made for collecting information about such persons at the place where they are found at the time of the census.

2.58. With the growing need for information on households and families and on internal migration, it is becoming increasingly desirable to prepare tabulations on the basis of usual residence rather than on place-where-present, since the latter is often temporary and so is not useful for the investigation of the above-mentioned topics. It is comparatively simple to enumerate each person where-present on the day of the census and thus to obtain a present-in-area population distribution of the population. However, a usual residence distribution of the population is likely to be more useful for presentation and analysis of the resulting information than that of the present-in-area population during the enumeration.

2.59. If the objective is to obtain information on both the usually resident population and the present-in-area population, then either each person present in each household or institution on the census day or each person present and each usual resident temporarily absent can be enumerated at the appropriate household or institution. A clear distinction must then be made in the questionnaire, as applicable, between (a) persons usually resident and present on the day of the census; (b) persons usually resident but temporarily absent on the day of the census; and (c) persons not usually resident but temporarily present on the day of the census.

2.60. Depending on the categories of persons enumerated at any given place, information may then be collected on the usual residence (address) of those only temporarily present and on the place (address) at which each temporarily absent person can be found. This information can be used for the purpose of allocating persons to the household (or institution) and geographic area within which they are to be counted and of checking to be certain that no person is counted twice (namely, at both the usual residence and the place where present). The procedures to be followed at the enumeration and through the subsequent allocation of persons must, however, be very carefully planned and strictly adhered to if the allocation is to be accurate.

2.61. With the exception of mobile housing units (see discussion in paragraph 2.63), living quarters and buildings have a fixed location and therefore the place where they are to be enumerated does not have, therefore, to be considered in taking a housing census. Information on households, however, and the persons in households can be collected and entered in the housing census questionnaire either where they are (or were) present on the day of the census or at the usual residence. The procedure followed in the housing census should be governed by that adopted in carrying out the population census if the two censuses are carried out simultaneously. If the housing census is an independent operation, however, the procedure to be followed should be carefully considered since it may have a significant effect on the validity of the results of the housing census.

2.62. Where persons and households are allocated to the place of usual residence, they should also be allocated to the living quarters that they usually occupy. The living quarters that they are actually occupying at the time of the census should be counted as vacant if they are conventional dwellings, or they should be excluded from the census if they are non-conventional dwellings.<sup>48</sup>

2.63. Mobile housing units represent a special case as far as the place of enumeration is concerned. They should be enumerated where they are found on the day of the census; however, in accordance with the procedure adopted for the allocation of the population, mobile housing units may also be allocated to the area where the occupants usually reside, provided that they are the usual living quarters of the occupants in the area of usual residence. Where they are not the usual living quarters of the occupants in the area of usual residence, the occupants will be allocated to their usual living quarters and the mobile housing unit will be excluded from the census.

<sup>48</sup> To be considered as living quarters, non-conventional housing units and collective living quarters are required to be occupied in order to be included in the census.

### C. Enumeration point of time

2.64. One of the essential features of population and housing censuses is that each person and each set of living quarters must be enumerated as nearly as possible with respect to the same well-defined point of time. This is usually accomplished by fixing a census “moment” at midnight at the beginning of the census day. This moment is the “census reference moment”.

2.65. For the population census, each person alive up to the census moment is included in a census schedule and counted in the total population, even though the process of completing the schedule does not take place until after the census moment or even after the census day, and the person may have died in the interim. Infants born after the census moment are not to be entered in a schedule or included in the total population, even though they may be living when the other persons in their household are enumerated.

2.66. For the housing census, each set of living quarters that has reached an established stage of completion and is not scheduled for, or in the process of, demolition should be included in a census schedule and counted as a part of the housing inventory even though the process of completing the schedule does not take place until after the census moment or even after the census day, and the living quarters may have been scheduled for demolition in the interim. Living quarters that have attained the prescribed state of completion after the census moment are not to be entered in a schedule (unless special instructions are issued for recording living quarters under construction), nor should they be included in the total number of sets of living quarters.

2.67. Where the amount of time allotted for enumeration in the census is considered to be so long that the population is not likely to be able to supply information as of a single moment in the past, it may be necessary to employ different points of time in the enumeration, even to the extent of using the night before the visit by the enumerator. If such a procedure is followed, it should be clearly explained in the census report and the total duration of the enumeration should be stated. For ease of reference and for the computation of intercensal indices, it is useful to designate a single date in the enumeration period as the official “census date”. This date could be, for example, the day by which half of the population was enumerated. This date is the “census reference (average) day” or, if reference is made to a period of time, the “census reference period”. Another method could be to canvas the entire population before the census moment, and revisit every household within a fixed number of days immediately after the census moment to collect data on any changes that have occurred with reference to the census moment.



## D. Time reference period for data on the characteristics of the population and of living quarters

2.68. The data collected about the characteristics of the population and of living quarters should be pertinent to a well-defined reference period. The time reference period need not, however, be the same for all of the data collected. For most of the data, it will be the census moment or the census day; in some instances (as is the case for current economic characteristics and rental arrangements), however, it may be a brief period just prior to the census or (as is the case for fertility questions, usual economic activity and information on the period of construction of the building in which living quarters are located) a longer period of time.

## V. Legal basis

2.69. Legal authority for the census is required for regulating primary administrative responsibility, for obtaining the necessary funds, for determining the general scope and timing of the census, and for placing a legal obligation upon the public to cooperate and provide truthful answers, a legal obligation upon the enumerator to record the responses faithfully, and specific responsibilities upon other census field personnel at various supervisory levels. In addition, the confidentiality of the individual information should be strongly and clearly established in the census legislation and guaranteed by adequate sanctions so as to provide a basis for the confident cooperation of the public. In countries that lack permanent legal authority for the taking of periodic censuses, it is important to act early to establish ad hoc legal authority or, preferably, legislation calling for a system of periodic censuses.

2.70. The principle of conceptual and organizational flexibility should be observed in drafting the census legislation. The legislative provisions should ensure data security and confidentiality. However, the inclusion of provisions that are too rigid regarding the type of data to be collected or the structure and relationships of the various parts of the census organization is undesirable. Rather, necessary details should be contained in the census regulations promulgated by the census authorities. Moreover, provision may have to be made, in either the legislation or the regulations, for sanctioning the use of simplified administrative procedures, including the appropriate delegations of authority for the procurement of equipment and supplies and the recruitment of personnel during the operational phase of the census.

2.71. While the content of the census legislation will inevitably depend on national legal practices and procedures, as well as on the organization of the national civil service, the following components are usually represented: the purpose of the law; the coverage of the census; assigning the mandate for conducting a census to a specific institution; the purpose of the census; the obligations and rights of the citizens; the modes of financing the census; the organization of the census; administering the census; the rights and obligations of enumerators and supervisors; census data dissemination and exploitation; treatment of individual data; confidentiality and privacy of respondents and their data; and archiving.

2.72. A comprehensive and well-timed legislative framework is of utmost importance for ensuring the legality and authority of conducting the census itself. In the case of an ad hoc approach to the census legislation, that is, in the case where it is done before each census, it often also contains the census topics clearly spelled out, thus providing additional legal weight to the composition of the questionnaire and the content of the census.

## VI. Financial management

### A. Financial basis for censuses

2.73. A census is the primary source of data about the size and characteristics of the population; it provides a demographic profile of a country and is the basis for developing area sampling frames for use in surveys. A census, however, is usually one of the largest and costliest statistical activities that governments and their national statistical offices undertake. As a result, countries have been forced to delay or even cancel a census owing to funding constraints. Countries that have been able to secure partial funds or secure funds but at a late stage of their census preparation have been forced to compromise their data collection, data processing and dissemination of census results. It is therefore recommended that all census operations, including planning, cartography, enumeration, processing, analysis and dissemination, be budgeted from the beginning, and efforts be made to mobilize the required funds. Inflation should be taken into account, keeping in mind that duration has an impact on cost.

2.74. Hence, there is growing pressure to look into the solutions to census funding, taking into account the role of key stakeholders, namely governments and their statistical agencies, and the greater involvement of international donors and the private sector. Concurrently, cost-effective strategies need to be put in place that would reduce census costs without compromising the quality of census data.

2.75. It should be emphasized, however, that censuses cannot be carried out merely by national statistical and census offices alone. Rather, conducting a census should be seen as a national task involving all stakeholders. Thus, government departments, non-governmental organizations and private sector end users should be consulted at all stages to ensure the legitimacy of and need for conducting the census and, at the same time, to improve advocacy for sufficient funding. Although conducting a census is principally financed by the government, the census must be designed in partnership with all political actors so as to obtain their involvement in the census process. A high-level committee consisting of the government, the private sector and civil society, including non-governmental organizations, communities and donors, could be formed to discuss issues related to the cost and funding of the census.

2.76. National statistical and census offices need to advocate the importance of investing in censuses within their own governments. It is also important for the national statistical and census authorities to ensure continuous feedback and promote the use of statistical data from previous censuses, in order for users to recognize the importance of the population census as a source of vital statistical data and give their support. The possibility of cost sharing with other government departments, such as education and health ministries, should be further explored. These institutions could be supportive in providing logistics arrangements for the census, such as the use of existing infrastructure, transportation and communications facilities, and sharing of employees of other government departments.

2.77. Good planning is essential not only for achieving a cost-effective census (see paragraph 2.11) but also for securing comprehensive financial support for its funding. Technologies and methods that will be used in mapping, data collection and processing, questionnaire design and other activities must be decided upon in advance, as these have an influence on costs. Census planning must bring out the links between the various components, which will include types of resources (such as personnel, cost of stationery or printing) and tasks (including data collection and capture, data processing, and data management and dissemination). Cost tags must be attached to each of these components together with a justification. Experience from past censuses or similar activities must be considered when estimating costs for the next census. Where multiple modes of data collection and new technologies are being used for the first time, these must be tested for data quality and cost implications.

2.78. For each stage of the census the costs must be optimized. A careful choice of the appropriate technology will greatly assist in this. Recent advances in technologies throughout the census process, such as digital mapping, computer-assisted or Internet data collection, scanning, data processing and data management and archiving, and census data analysis and dissemination, may be of assistance in achieving significant reductions in cost (or doing more within the same cost). In addition, the proper selection and use of such technologies will speed up the computation of results and enhance their preservation. However, the choice of technology should be made only after carefully evaluating the costs and benefits of possible options. Some potential risks to canvass include the following: some approaches only become cost-effective for large operations; some are dependent on expensive and scarce inputs (for example very high-quality satellite images or paper for scanning); some are dependent on services that may not be available throughout the country (for example Internet access); and others require significant investments in high-quality computers and upfront investment in human resources. The options examined in the cost-benefit analysis could incorporate consideration of leasing (rather than purchasing) equipment or sharing it between countries that are undertaking censuses at convenient times.

2.79. Outsourcing to the private sector could be considered as another cost-saving option, particularly in the context of publicity or for systems development for data collection, processing and dissemination. Outsourcing can contribute technical expertise or resources not readily available within the national statistical office.

2.80. It is anticipated that international donors will continue to play a pivotal role in helping to fund census costs in many countries. Technical cooperation and assistance from international agencies have also contributed greatly to the success of censuses in many countries. It is worth noting that a population and housing census has some intangible positive values. It is an opportunity for mobilizing the whole country and reaching even the most remote corners of it. In the life of many citizens, a regular census is often the only time that the State reaches out to them and asks them some questions. Successfully conducting a census is a matter of pride in many countries and a welcome opportunity to recruit a massive labour force and generate jobs and train people in valuable tasks (such as data entry) or in other ways to add to the national infrastructure.

2.81. In general, population and housing censuses are exclusively the responsibility of national governments and structures; this is particularly true for funding the census. Thus, all activities related to funding need to be elaborated, documented, justified and presented to all stakeholders in a transparent and comprehensive manner.

## **B. Budget and cost control**

2.82. While no universal system of census budgeting and cost control can be suggested since financial practices vary greatly among countries, a few generally accepted principles can be noted. First and foremost, effective planning and control of the various census operations are not possible without a very careful financial estimate of the cost of each census operation, including all of its components, no matter how small. It is recommended to draft a detailed list of activities related to censuses and, as much as possible, to draft the budget in such a way that it corresponds to this list of activities. Second, it is critical for this census plan and budget to be presented by national statistical and census agencies to their respective governments with adequate lead time, to facilitate the appropriation of sufficient resources from national budgets or, where required, from the international development community. Moreover, funding of the census must be accompanied and developed on a sound and adequate legal basis if effective national census operations are to be enabled.

2.83. Information on expenditures from the previous census, classified by census phases, starting with the expenditure for different elements of the preparatory work and ending with expenditure for the dissemination of the census results, provides an important basis for estimating the budget of the census. Figures from the previous census will of course have to be reviewed and modified in order to take into account quantitative and qualitative changes in hardware and software, changes in wage rates and the costs of equipment, supplies and so on, planned changes in census content, methods and procedures, and anticipated changes in the population itself (for example, total size, percentage urban, and average household size), all of which may affect the cost structure of the census. In most countries, several cost elements tend to increase (for example, wage rates and the size of population) so that there is considerable pressure to achieve economies in other items of the census budget.

2.84. The census offices need to implement transparent accounting procedures and financial management systems to ensure speedy disbursement of funds, proper receipting of expenditures and an efficient audit. This would enable prompt release of periodic allocations of census funds by national governments. A clean outcome from a financial audit adds credibility to the census process so that the government and civil society are more likely to accept the final results.

2.85. In the case of external or donor funds, the required conditions should be established well in advance by discussion between the donor and the national statistical or census office. This will avoid delay in the release of such funds for census operations.

2.86. Control measures and monitoring systems must be developed for cost-effectiveness. Activities to be outsourced must be clearly defined and contracts for outsourcing should be well prepared with clear deliverables and timelines.

2.87. For planning the costs of a census, detailed and precise data will be required on the following: (a) number and cost of census staff classified by function and manner of payment; (b) type of equipment and material used for the census, manner of acquisition (purchase or rental) and cost; (c) office space (surface measurement), classified by use and type of cost (that is, for construction or for rent); and (d) type of services used for census operations. The usefulness of the above information would be enhanced if the information could be recorded by source of funding, in other words, in terms of whether the expenditure has come from (a) the official census budget; (b) other funds of the census office (for example, a regular annual budget not specifically intended for census purposes, or general funds of the governmental agency or department of which the census office is a part); (c) other parts of the government; (d) non-governmental organizations; or (e) international donors. This information is needed not only for fiscal planning and control but also in order to examine the trade-offs in terms of costs and benefits among alternative ways of carrying out various census operations. Although cost experience from a previous census in a country may provide useful experience for planning the next census, much more caution should be exercised in using the cost parameters from other countries. Differences in census content, organization and operations, as well as in cost accounting, can introduce serious incompatibilities into such country-to-country cost comparisons.<sup>49</sup>

2.88. It is important that the persons at the administrative and supervisory levels who will be responsible for the execution of each operation participate in estimating the budget items. Such an organization of the work presupposes detailed advance planning and “cost consciousness” on the part of those responsible for a census.

2.89. The census plan as executed will certainly change in a number of respects after the making of the original calculations. Consequently, a perfect correspondence between the estimates and the final costs is not to be expected. Changes in the prices of major components of census costs should be monitored on a regular basis with either the census budget adjusted accordingly or the census plans modified. Indeed, the development of the census budget is

<sup>49</sup> See United Nations Economic Commission for Europe, *Measuring Population and Housing: Practices of UNECE Countries in the 2010 Round of Censuses* (New York and Geneva, 2014).

usually an incremental process in which rough initial estimates are replaced by more detailed and precise statements of resource requirements. Throughout the period of census taking and compilation of census results, the budget will have to be re-examined and performance compared with plans. With detailed information on expenditure, the governmental and census authorities will be better able to exercise control over keeping the development of census operations within the census budget and to assess and control the effectiveness and efficiency of these operations. This information is also very useful for studying possible improvements in census techniques and census methodology.

2.90. As with any project, particularly ones as large and complex as the census, it will not go according to plan and there will be difficulties. Accepting this at the outset and making sure there are arrangements in place to deal with delays, changes or other unforeseen issues is essential. In particular, there must be resources set aside to enable such issues to be dealt with quickly. Therefore some contingency funding should be included within the overall costs of the census, and some controls put in place to monitor and allocate the contingency pot. Different methods exist for estimating the cost of the contingency budget, such as risk modelling, but a good starting point might be to allocate a percentage of the annual budget (say 15 per cent) each year for such contingency.

## VII. Administrative organization

### A. Overall overview

2.91. In planning the organization and administration of a census, it is important to consider the role and relationship of the various executive and advisory organs. National, subnational and local commissions and committees are frequently useful in the planning and preparations of a census. Such bodies may be composed of representatives of governmental agencies, community leaders with due representation to all sections of society, and non-governmental users of the census data, particularly those involved in policy-oriented analysis of census results and analytical studies of the social, economic and demographic situation of the country. This ensures broad-based and complete participation of the people to enable proper canvassing of sensitive issues such as ethnicity, gender, disability, migration, and marginalized groups. It is important, however, that their advisory and promotional functions be clearly defined and that the final responsibility for planning and execution rest with the executive agency.

2.92. There are well-documented and proven advantages in having an office continuously responsible for census work established as an integral part of the statistical system of a country. Such an office assures continuity in census work and is the principal centre for the formulation of the programme and the initiation of preparatory work for the next census. Its permanence permits the development of specialized and experienced personnel and the maintenance of statistical and cartographic information, including cross-cutting issues such as information technology, essential for planning the next census.

2.93. At the pre-enumeration stage, the census office will need to be expanded to form the nucleus of the full census organization, which must be capable of directing the field organization during the preparatory work as well as during the enumeration and processing. In order to provide immediate supervision in each area, field offices at various levels are needed for the later part of the preparatory work, including staff recruitment and training, as well as for the enumeration period. Supervisory personnel in such offices should be persons who, being familiar with the particular area and the local language, are able to deal with local problems. This does not mean, however, that all supervisory positions need necessarily be filled by persons from the

area. Personnel may be transferred from the central office or from other areas as the need arises. Prior training of all such available personnel is necessary, so that they have a working knowledge of all aspects of the current census programme. An essential part of the preparatory work is local administrative planning, which would set out the likely problems and challenges specific to the local area and how they are to be dealt with. Adequate coordination with local public authorities is always important so that the enumeration work is not interrupted due to other activities.

2.94. Subsequent to the enumeration, the census organization is usually readjusted to meet the needs involved in compiling, evaluating, analysing and publishing the results and to provide the continuity desirable for promoting the continued use of census materials. Census organizations need to pay special attention to continuity of knowledge and skills from one census to the next, since the intervening gap, which is usually a whole decade, is likely to cause loss of institutional memory and attrition of qualified personnel. Comprehensive documentation of census activities while they are being carried out is essential, as is training of younger personnel to create a pool of knowledgeable and experienced persons by the time the next census comes.

## B. Statistical leadership

2.95. The period of preparation for the population and housing censuses represent a unique opportunity to exercise leadership in promoting the use of statistics in overall development of societies, with the focus on improving service delivery and policy development. Statistical leadership needs to be built and should rely on international standards and guidelines, such as the *Fundamental Principles of Official Statistics*,<sup>50</sup> on national statistical legislation and on the national statistical code of ethics.

2.96. An important role of the head of the national statistical office or statistical agency responsible for census undertaking is to ensure a successful census programme that delivers results for use in evidence-based policy development, evaluation and research, and decision-making. It is therefore recommended that heads of national statistical offices or statistical agencies responsible for census undertaking drive the following activities:

- (a) Establishing statistical legislation that mandates the undertaking of a census;
- (b) Setting policy and strategy by defining targeted outputs and outcomes for the programme;
- (c) Strategic engagement with stakeholders by mobilizing participation across government, business and the public at large;
- (d) Raising the profile of and commitment to use statistical information, providing an opportunity for engagement on key policy issues and strengthening relationships between information providers, policymakers and opinion leaders;
- (e) Adhering to the Fundamental Principles of Official Statistics and ensuring best practice is embedded in statistical procedures;
- (f) Aligning to international standards and frameworks;
- (g) Establishing statistical infrastructure and resources for undertaking the census;
- (h) Setting up the census management project structure.

2.97. Preparing and conducting a population and housing census offers the opportunity to exercise statistical leadership by promoting official statistics and their use for development at all levels of society. As the census usually takes place only once in a decade, there is a need to carefully take advantage of this event in terms of exercising statistical leadership to the fullest extent possible under the understanding that statistics are numerical facts for statecraft.

<sup>50</sup> Adopted by the Economic and Social Council of the United Nations, available from <http://unstats.un.org/unsd/dnss/gp/fundprinciples.aspx>.



## VIII. User consultation, communication and publicity

2.98. A comprehensive programme of communications for a population and housing census covers three distinct audiences: (a) major users of census data, (b) persons and institutions participating in the census operations and (c) the general public. Since the census is a national activity that is completely dependent for its success upon the wholehearted cooperation and assistance of the general public and many governmental and local organizations, the entire communications effort should be developed as a coordinated activity in close conjunction with the other substantive preparations for the census. These communications activities are valuable not only for informing others about the census but also for providing census authorities with early and continuing information about the reactions to census plans and activities of the general public in various parts of the country and of key persons, groups and institutions.

2.99. Consultation with users of census data on topics, on definitions and, particularly, on planned tabulations and other outputs and the development of the census database is an indispensable step in the preparations for the census that should be taken early. These consultations will assist the census authorities in planning for a census that, within the resources available, is as responsive as possible to user needs in terms of the collection, processing, tabulation, storage and availability of meaningful statistics. Such consultations can also serve to foster a wider and more informed understanding of and support for census plans and activities. The users to be consulted should be from governmental departments, ministries, universities and other research institutions, the private sector and other organizations (or individuals) representing the economic, social, educational and cultural life of a country. Many countries will want to include in the groups to be consulted organizations or bodies representing ethnic communities, religious and faith groups, persons with disabilities, housing associations and those agencies with particular interests in catering to the homeless. Other key stakeholders may include partners with whom the census office collaborates for the provision of specialist services, and donors who may help fund elements of the census operation.

2.100. Taking into account the importance of the census in providing data for local planning and administration, it is also often advisable to have consultations with users in provincial and local governments and institutions in various parts of the country. Particularly in large countries or countries where the provincial or local governments have a comparatively high degree of autonomy, consultation with users at the subnational level is essential if the full potential of the census is to be achieved. Strategies should be chosen according to the target group.

2.101. The consultation process can take many forms. If done in the form of meetings, it is often more useful to hold separate consultations with different types of users with common interests, such as administrators, policymakers, planners, demographers, researchers, users in the business community and so forth, rather than a simultaneous consultation with all data users. Consultations involving different types of stakeholders in the same setting frequently prove frustrating to participants because there are substantial differences among users in their technical background and in their concern with the details of census content and operations.

2.102. Meeting data users is very informative but imposes physical and budget limitations. Broad consultation can be implemented on the website of the census office or government. The strategy can be used both to collect suggestions from users and also to provide transparency in the census preparation activities. Other forms of technology can be considered to hold decentralized or remote consultations. Users may be sent an electronic questionnaire to collect their priority information requirements, or invited to complete the questions online.



Social media may need to be taken into consideration in this respect, as they reach a substantial number of users.

2.103. In order to complete the preparatory work for the census and to carry out the census enumeration itself, the census office will have to expand its staff substantially. In addition, numerous governmental and non-governmental organizations outside the census office may be called upon to provide personnel, equipment, supplies, space, transportation or communications facilities and so on to help in the census work. As a result, large numbers of temporary personnel will have to be trained (see paragraphs 2.119-2.124) and the contributions of a diverse group of national and local organizations will have to be effectively mobilized. A well-planned communications programme can contribute to both efforts.

2.104. An effective communications strategy, together with far-reaching publicity and information campaigns, play an essential role in ensuring the success of the census. This is especially so for those countries adopting a field enumeration methodology, either wholly or in part, where the general public is expected to actively participate in the census activities as respondents and, possibly, as temporary employees either as part of the field staff or in the data-processing operation. Particularly in the case of countries that undertake a significant field operation, public acceptance and cooperation is essential to ensure the success of the census. A large-scale publicity and information campaign is recommended to inform the population of the census and to explain its purpose. Implementation of the publicity programme is best undertaken by experts in the field of public relations, advertising and sociology. Such expertise is frequently not found within the national statistical office itself, and it may therefore be appropriate to outsource some or all of this work. The publicity programme may include:

- (a) A public relations campaign;
- (b) A community liaison (or outreach) programme;
- (c) An advertising campaign;
- (d) Monitoring of public opinion;
- (e) Media relations, including monitoring of the mass media.

2.105. There are several main messages that census agencies will need to communicate to the public in order to maximize outcomes for the census. Census publicity campaigns should encompass a wider set of messages, whose components might include (a) making the public aware of the census; (b) educating the public about the benefits (to them and to the country) of the census; (c) reminding people about their legal obligation and duty to take part in the census; (d) explaining to the public what to do and when; (e) informing the public that privacy and confidentiality will be protected; and (f) expressing thanks to the public for taking part in the census. Care is necessary in finding the correct balance between these different messages. For example, an overemphasis on the obligatory nature of the census may serve to reinforce negative perceptions that the census is an imposition by the State on the population, rather than an activity for the common good.

2.106. Publicity for a census operation entails an educational campaign, the purpose of which is to enlist the interest of the general public and its cooperation. The aims, as a general rule, are not only to dissipate any anxiety regarding the purposes of the census but also to explain the reasons for the various questions in the questionnaire and to offer some guidance as to the manner in which these questions should be answered. The publicity campaign may also be an important tool for increasing the completeness of census coverage, particularly among hard-to-enumerate groups. It is desirable that planning for the general publicity campaign should start as soon as the census is authorized. The campaign itself should be closely synchronized with other census activities and full-scale publicity should not begin too far in advance of the date on which enumeration is scheduled to start. Plans for the publicity programme should

be closely coordinated with those for the census tests (see paragraphs 3.110-3.114). The programme will have to provide the publicity needed to carry out the census tests. In addition, the programme can use these tests to study the impact of alternative publicity materials and methods. If either the cartographic or house-listing operations require extensive fieldwork and widespread contacts with the public, it should be recognized that personnel involved in these activities often provide the public with its first impression of the census. Training and publicity programmes should take this factor into account.

2.107. The general campaign should be directed to all sections of the country and all segments of the population through the use of all available publicity media, with special emphasis on the use of contemporary Internet-based social media. The general campaign may be supplemented by a number of specialized campaigns aimed at specific segments of the population to sensitize on specific subjects, such as gender, migration, ethnicity and disability, in which the quality of response may depend on the level of prior sensitization in the general public. In multilingual countries, creating campaigns in the local languages is crucial. Apart from national and local mass media, such as newspapers, television and radio, the use of interactive media, such as a toll-free helpline, social media such as Facebook and Twitter, short messaging service (SMS), multimedia messaging service (MMS) and local events where the public can participate, go a long way towards improving public awareness and building trust.

2.108. Disseminating information about the rationale of the census and its utility helps alleviate possible misconceptions among the general public, thus increasing participation and coverage. Media advisories issued by the statistical office will usually be widely covered by the media at no cost. Outreach campaigns involving different organizations and enlisting the support of local leaders and opinion makers to spread the word about the census in their area of influence is also a good strategy. In addition to recruiting such organizations and leaders as partners, the census organization may develop key messages, web buttons, posters and other material to support them in their activities. The use of publicity may also be considered to support the recruitment of field personnel.

2.109. Many countries successfully develop a census “brand”, including a logo and slogan. A simple but effective slogan and distinct logo can be used in all national and local advertising campaigns and in all types of media, booklets, posters, brochures and souvenirs. The slogan and logo should be memorable and positively perceived. A slogan and logo that are well recognized from the initial stages of the publicity campaign may serve to improve “brand recognition” for the census. The aim should be to encourage the respondent to feel more reassured that the census is an inclusive and beneficial activity.

2.110. Special attention is often given to identifying and targeting hard-to-reach population groups in order to ensure consistent levels of response across the country. In essence, the aim of these is to engage, educate, explain and encourage, and (if necessary) to enforce participation. Students (particularly older students living away from home), young men (particularly those in urban areas), older persons, the infirm or persons with disabilities, and recent immigrants are among population groups that are generally hard to enumerate. Other groups that may need to be specially targeted included the homeless, people with literacy and language difficulties, and inhabitants of inner cities and dense urban areas.

2.111. In rural areas, weekly markets, fairs and public festivals are a good opportunity to publicize the census message among people who may not have much exposure to mass media. An excellent opportunity exists to create widespread awareness of the census through a campaign targeted at schools. Other kinds of local-level publicity, such as wall writing and village announcements, can be planned according to local circumstances.

2.112. Census organizations should monitor public opinion and the mass media to assess the effectiveness of publicity campaigns. Public opinion could be monitored through surveys that can provide information on public attitudes to the census. Monitoring of mass media involves an analysis of mass media publications concerning the issues of the census, and particularly the extent to which different population groups have been targeted. It is an ongoing accumulation of information, detection and prevention of the development of negative published comments on the census, and preparation of adequate answers to negative reports and information. Increasingly the media has a significant influence on people's behaviour and even minor distractions and mistruths can have a detrimental effect on the outcome of the census. Therefore, in developing their publicity campaigns, national statistical offices should give particular attention to preparing for unexpected events (such as negative attitudes, malicious lobbying, technical difficulties, delays and misleading information). It is also recommended that all official participants involved in census operations know their roles in the communication process both with the media and with the public at large.

2.113. An integral part of census communication and publicity is informing key census data users and the general public about the availability of the census results and their utility (see paragraphs 1.19-1.37). Awareness about census data and utilization should be done during the intercensal period before the commencement of the next census. This is to make sure that the public recognizes the importance of the census and appreciate statistics that are generated from it. It is critical that such communication strategies be developed as an integral part of census planning and not left as an optional add-on. It has been the experience of quite a few countries that the engagement of professional media and communication personnel adds value to the campaign.

## IX. Census calendar

2.114. An indispensable element in the planning of a census is a calendar or timetable indicating the sequence and estimated duration of each of the component operations of the census. At the early stages of census planning, a provisional calendar of selected key dates should be prepared as an overall framework for the census. The calendar must be shared with stakeholders in advance for advice and support. The calendar should be revised and made more detailed as planning proceeds, with the aim of establishing final dates as soon as practicable.

2.115. Such calendars are essential, since they indicate the dates on which each of the numerous operations that make up a census are to be started and completed, and they serve as a guide for measuring the progress of each stage of the census operation. Serious delays in work, or errors in time estimates, can be detected by comparing the calendar target dates with the actual dates of each operation. A census calendar is a very efficient instrument not only in the timing control of each census operation but also in the control of the complex of all census operations that are interdependent. Therefore, when modifications in the census timetable are necessary, all related operations should be taken into consideration in order to avoid disruptions in the whole census programme. Obviously, the time schedule will differ for each national census depending upon the general census plan and the resources that are available.

2.116. The census calendar usually shows the various operations grouped into three broad sectors: (a) pre-enumeration, (b) enumeration and (c) post-enumeration. The last-named sector includes evaluation and analysis as well as processing and dissemination. The basic date on which the census calendar and the scheduling of all other operations hinge is the starting date for the general enumeration of the population. For purposes of control, many operations that in fact overlap are shown separately in the calendar. Census calendars sometimes take the

form of a chart or graph, in addition to a detailed checklist of operations. Project management software may help in the preparation of the census calendar.

2.117. In establishing the census calendar, it is necessary to consider the relationship of the population and housing censuses to one another as well as to other statistical projects or other large-scale national activities. Although a joint population and housing census operation is likely to constitute, for the period of its duration, the major statistical undertaking of the government, care should be taken that it does not interfere unduly with the other regular statistical activities that may be going on at the same time. A balanced statistical programme should avoid having too many simultaneous competing enquiries, which might place too heavy a burden on the statistical services and on the public, with a possible resultant loss of both administrative efficiency and public cooperation.

2.118. It is often useful to draw up a comprehensive diagram showing the sequence, inter-relationship and timing of all the various steps in the census programme—a Gantt chart would be a good example.<sup>51</sup> This type of analysis often reveals the consequences of a delay at one step in terms of delays at other steps in the programme. It can therefore be a useful instrument against which the actual progress of census preparations may be compared. Indeed, some countries have attempted to use such critical path analyses not only as an aid to census planning but also as a tool for the ongoing management of their census operations. In these instances, it is essential to establish procedures for revising the critical path analysis in response to actual progress. It should be stressed, moreover, that the usefulness of such devices depends on how soundly they are designed, applied and understood. Project management software can be useful in linking the diagrammatic structure of census operations with information about nodes or centres of responsibility for individual broad or detailed operations so as to control the chain of responsibility. Alternatively, event calendars can provide a broad view of the steps of the census programme and allow follow-up. Different tools can be found on the Internet for download or online use. Online versions allow immediate update and make it easier to work in a group, but are dependent on Internet access. Other tools, commonly referred to as groupware and collaboration software, as well as Internet and social media forums, can support census operations by providing an environment for exchange of information, files and data among dispersed teams.

<sup>51</sup> The Gantt chart was developed around 1910 by Henry Gantt of the United States, based on the work of Karol Adamiecki of Poland. It is a type of bar chart that illustrates a project schedule and is available in a number of office software packages.

## X. Human resources management

2.119. Early arrangements are necessary to secure the proper number and type of personnel required for each of the various census operations. For reasons of efficiency and economy, it is important that the staff be selected on the basis of competence. Consideration may also be given to the use of the same staff for successive operations, thus reducing the turnover of personnel. While the preparatory and processing work generally calls for office employees possessing or able to learn certain specialized skills (cartographers, coders, data entry operators, programmers and so on), the enumeration stage usually demands a large number of persons capable of going to their assigned urban or rural enumeration areas and collecting the information according to specific definitions and instructions. The number of enumerators required being quite high compared to normal staff strengths, and the period for which their services are needed being rather short, the method of recruiting them needs to be worked out carefully in advance to facilitate quick, simultaneous and transparent hiring, and subsequently compensating them and relieving them of their duties promptly and efficiently. Consideration should be given to computer skills if electronic means of enumeration are going to be used. It is essential that the enumerators and, to the extent possible, their immediate supervisors be conversant with the languages or dialects of the area in which they will be

working. In addition, attention should be paid to physical fitness, ability to read maps and communication skills in general. It is only prudent to recruit and train sufficient reserves to take care of any attrition that may occur in the process.

2.120. Once the cartographic preparations are substantially complete and the questionnaire has been sent for printing, perhaps the single most important means that the census authorities have for influencing the success of the census is the training programme. The contribution that a well-planned and executed training programme can make to the quality of the census results cannot be stressed too strongly. Such a training programme must of course focus on the widely dispersed and difficult-to-supervise field staff (namely, the enumerators and their immediate supervisors) but it must also cover others (for example, the higher-level supervisors, editors, coders and computer operators). Giving all office employees who are working with the census preparations a brief, uniform basic training on all aspects of the census has two prime advantages: first, all personnel understand the importance and the context of their part of the task; and second, since they are conversant with the basics, they can be swiftly deployed in the field for supervision or coordination during the actual census operations whenever and wherever needed.

2.121. The entire census training programme should be designed to cover each phase of the work and provide an efficient and consistent means of effectively equipping large numbers of fresh employees with the necessary skills. The programme will need to correspond closely to the needs of the various operations and, where appropriate, may include both theoretical and practical instruction, with emphasis on the latter. In the case of the enumerators and their immediate supervisors, the training is most effective if it includes several opportunities for the trainees to participate in practice interviews and role-playing exercises, including the use of adopted IT solutions, if any. In countries in which multiple languages are used, the method and content of the enumerator training programme will need to be suitably adjusted. For example, if the questionnaire is printed in another language, provision will have to be made for instructing enumerators on the correct formulation of the census questions in the vernacular. Enumerators and supervisors should be trained as close to the field operations as possible so as to avoid recall lapses. This leaves very limited time for conducting the training. Therefore, the logistics need to be worked out carefully in advance. The training programme for editors, coders, operators of data recording equipment and so forth should also provide opportunities for the trainees to practise under the supervision of the trainers. The intermediate- and higher-level technical staff, such as programmers and system analysts, should also be given special training with emphasis on recent technical developments of relevance to the forthcoming census and on the interrelationships among the various aspects of census plans and operations. Thorough training in census practices is an extremely important component of quality assurance. Detailed and clear documentation of instructions with appropriate illustrations is a basic requirement in this regard. A proper training methodology and a variety of training aids would go a long way in enhancing the training effort.

2.122. The organization and conduct of training courses should be entrusted to those having the necessary qualifications to carry out this task successfully, taking into account not only their professional abilities but also their ability in teaching. This means that staff in charge of training should have certain qualifications that will enable them to stimulate the interest of trainees and to transfer the required knowledge, since otherwise well-qualified technical personnel who are unable to transfer their knowledge to the trainees in a satisfactory manner will be unsuitable as instructors for group training activities. This must be taken into consideration when selecting instructors, and it is recommended that objective criteria should be used. In practice, however, it is difficult to find the necessary number of instructors who have both the professional and the teaching qualifications; for this reason, the instructors selected should themselves undergo training in how to organize and conduct training courses. The

use of professionally designed training guides can add immense value to the training effort. The involvement of experienced professional experts in the design and delivery of training programmes is also very useful. It should however be noted that the content should be the responsibility of the census authorities and not that of outside experts.

2.123. It is important that training manuals for each training programme are made available to the census organizers and training instructors. Such a manual would be a valuable guide and would help considerably in the efficient training of census staff. It would also contribute to the uniformity of training, which is an essential factor for a successful enumeration, taking into account the great number of census instructors who will be engaged in training. Simple audiovisual aids (for example film strips, posters, compact disk recordings) can also be used to help make the training more effective and uniform throughout the country. If available, new multimedia technologies can facilitate the provision of training at distant locations (distance learning) and be effective and efficient supplementary tools for training. Standardized training may also be provided in e-learning format on the Internet and on handheld devices.

2.124. It is very important to determine the time required to train staff for the various aspects of the census. This depends on several factors, such as the task for which they are being trained, the complexity of the content, the educational level of trainees, the number of instructors available and the funds available. Apart from fixing the number of days for training, it is also important to allocate appropriate time for each subject. Drawing up lesson plans for each session of training is an effective way of ensuring that all subjects are covered, with the right amount of time being devoted to each.

## XI. Logistics management

2.125. A population and housing census differs in many respects from other statistical operations. It requires efficient communication between many different components, including the procurement operation and storage of a large variety of items, most of which have to be distributed to all geographic areas of the country and then recollected.

2.126. Logistics management is a process of planning, implementing and controlling the flow of census materials and equipment needed for implementation of census operations. Logistics planning requires careful coordination between different phases of the census operation, such as mapping, training, field enumeration, data processing and dissemination. The scope of the logistics programme usually differs from one country to another, but mostly covers the following activities: (a) renting central and field offices; (b) installing furniture and equipment; (c) providing help desk support; and (d) delivering and collecting all census materials, including manuals, questionnaires and publicity materials.

2.127. National statistical offices may need to establish a special team for planning, implementation and controlling the logistics programme. The functions of this team should be clearly determined in order to avoid overlap or omission of any activity. During the planning phase of the logistics programme, outsourcing of some activities should be carefully examined as an option.<sup>52</sup> In the context of census logistics, procurement plays a particularly important role throughout the whole exercise.

<sup>52</sup> For a detailed discussion on outsourcing of census activities, see paragraphs 2.140-2.154.

### A. Procurement management

2.128. Developing a strategic approach to procurement is another particular element for successful implementation of a census operation. Taking into consideration the complexity

of the process, procurement planning requires logistical coordination with multiple census activities and counterparts. Proper planning contributes to efficient procurement processes and reduces the risk of confronting problems that may lead to additional costs and delays. Procurement planning is a complicated exercise and emergency work and last-minute operations are usually unavoidable. However, the benefits of procurement planning early in the census operation usually outweigh the disadvantages.

2.129. In the context of censuses, procurement planning entails the process of assessing and projecting the procurement needs of census operations. Needs assessment, cost estimation and requirement definition are the first steps in the procurement process, and are essential components in procurement planning. The purpose of requirement definition is to identify the precise needs of the census operation and to search for the best solution to meet those needs. The needs must be described in the requirement definition in a way that will facilitate the procurement process. The requirement definition is often done in parallel with supplier sourcing and market research in order to let information from the market research influence the requirement definition.

2.130. Procurement practices vary greatly among countries; therefore, no universal system of procurement management can be suggested. However, a few generally accepted procurement principles can be noted. First is the principle of *best value for money*. Best value for money represents an optimal combination of technical and financial attributes—that is, the balance between price and performance that provides greatest overall benefit under the specified selection criteria. This does not necessarily mean selecting the lowest initial price option, but rather represents the best return on the investment, following a proper evaluation of offers under appropriate criteria contained in the solicitation documents. It requires an integrated assessment of technical, commercial, organizational and pricing factors in light of their relative importance. Best value for money can include non-cost factors such as fitness for purpose, quality, service and support, as well as cost-related factors such as price, life cycle costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods or services. The principle of best value for money should be applied throughout the procurement process in order to attract the offer that most effectively meets the stated requirements of the census operation.

2.131. Second is the principle of *effective competition*. Effective competition is best explained as a situation in which at least three independent contractors acting on their own (that is, not in collusion with each other) effectively compete for the same business opportunity and each submit a responsive bid. The procurement processes should foster effective competition as a means of ensuring fairness, integrity, transparency and achieving best value for money. The competitive process should, as necessary, include (a) procurement planning for developing an overall procurement strategy; (b) market research for identifying potential suppliers; (c) consideration of prudent commercial practices and applicable national regulations, rules and procedures relating to procurement; and (d) formal methods of solicitation, utilizing invitations to bid or requests for proposals on the basis of advertisement or direct solicitation of invited suppliers; or informal methods of solicitation, such as requests for quotations.

2.132. Another important principle is *fairness*. The manner in which the procurement process is carried out must give all stakeholders the assurance that the process is fair. The concept of fairness includes that the procurement process should be free from favouritism, self-interest or preference in judgment. The assurance of a fair process promotes *transparency*, a principle that ensures that timely information about existing conditions, decisions and actions relating to procurement activities and about procurement policies, procedures, opportunities and processes are clearly defined and made known simultaneously to all interested parties. A transparent system has clear rules and mechanisms to ensure compliance with those rules.



A transparent system of procurement further ensures that procurement records are open, as appropriate, to inspection by auditors. In line with the procurement principles of transparency, every step in the procurement process should be documented and kept on file, preferably electronically as well as in hard copy.

## B. Forward and reverse logistics

2.133. The type of census materials would differ depending on census methodologies and technologies used for enumeration and data processing. However, any kind of materials related to fieldwork has to be supplied to the field staff and returned. Strategies for distribution and return of materials should be carefully planned according to the type of materials, volume and final destination of delivery.

2.134. As a first stage in this process, decisions must be made concerning the nature and responsibilities of the centrally controlled distribution and return operation. For example, a decision should be made about what geographic levels the materials will be distributed to—regional office, local census committee, supervisors or other. These decisions must be made by countries, keeping in mind the impact of the amounts of material to be transported, the transport available to field staff and the condition or existence of roads or other means of transport. Once these decisions have been made, the key inputs to the dispatch and return of materials are as follows:

- (a) Workload estimates from the mapping programme to establish packing volumes for transport requirements;
- (b) Name and address details for delivery and pickup points.

2.135. During the design of enumeration areas and mapping activities, an estimate will be made of the number of enumeration areas, and the amount of work in each. This information can be used to calculate how much material will be needed by each enumerator, supervisor, manager and so on. This method should provide a more accurate estimate of the total volume of all the materials.

2.136. The majority of these tasks are usually carried out under contract by a government transport service or commercial operator. The contractor will use specifications and consignment details provided by the national statistical offices. If the volume is small, the postal service may be a feasible method.

2.137. A significant task in planning field operations is establishing the specifications for the packing and transport of materials. These specifications need to be developed regardless of whether these activities are carried out by the census agency itself or contracted out to another government agency or private company.

2.138. The role of the national statistical authority with regard to dispatch and return tasks is primarily one of liaison and monitoring. For the most part, the contractor will contact regional managers and supervisors directly about the delivery or pickup of material. The national statistical authority can expect to be involved as a liaison between the contractor and field staff in the early stages of the operation or if there are any particular problems experienced by either field staff or the contractor. The national statistical authority management staff should meet frequently with the contractor to discuss the operation and liaison arrangements. Part of the planning of the operation will include arrangements to enable the national statistical authority's management staff to monitor the delivery and return of materials. In particular, when material is picked up from supervisors, the national statistical authority's management staff should maintain a close watch over what is taking place in the field as the transport of completed census forms is involved.

2.139. Distribution and collection of census materials can be monitored through use of a management information system (see paragraphs 3.145-3.146). Timely information can be produced about the progress in delivering census materials and questionnaires and collecting completed questionnaires and the other return materials. Depending on the logistics programme, the information needed for monitoring the logistics activities will differ. In general, the following information would be needed for both forward and reverse delivery: (a) type of materials, (b) timing of delivery, (c) number of delivered materials, and (d) name of the persons involved in the delivery. The periodic reports produced from the management information system will be crucial to ensure the timeliness of fieldwork across the country by giving an alert if there is any delay or any other problems regarding the delivery of census materials.

## XII. Contracting out

2.140. It is a contemporary practice in many countries to contract out tasks or activities of the population and housing census as a way of increasing efficiency by utilizing the advanced methods and technologies not necessarily available in the national statistical office or public sector responsible for conducting the census. At the same time, reduction can be achieved through a competitive selection process. However, not all census tasks are appropriate for outsourcing or contracting out, and doing so will not necessarily bring the desired benefit of strengthening national capacities. Census activities may be broadly classified as core and non-core activities. As a general rule of thumb, core activities should not be contracted out. If for some reason core activities need to be contracted out, then it is essential that the strategic control of such activities should firmly be with the census authorities at all times.

2.141. In the context of contracting out components of census operations, the national statistical authority would need to build the capacity to ensure proper outsourcing. This is of primary importance at the preparatory stages, as outsourcing requires a solid and comprehensive knowledge of contemporary technologies and their advantages and disadvantages, as well as past experiences at home or in other countries. Consequently, the national statistical authority would need to plan and develop a particular unit for the purpose of ensuring adequate and efficient outsourcing well in advance of the census itself, as there would need to be extensive testing of the products and services that were contracted out.

2.142. The terms of engagement (scope of work), the deliverables and the timelines should be clearly laid down with definite dispute redresser mechanisms. Illustrative examples of items of work that can be contracted out are as follows:

- (a) Layout and printing of census questionnaires;
- (b) Packaging of census questionnaires;
- (c) Dispatch and delivery of census material;
- (d) Census mapping;
- (e) Publicity and public relations;
- (f) Training;
- (g) Return collection of census questionnaires and other material;
- (h) Inventory and storage of filled-in questionnaires;
- (i) Scanning and data entry;
- (j) Data processing and tabulation;
- (k) Publication and dissemination.

2.143. Time is of the essence in all these activities, and it is vital that adequate time is allocated. At the same time, backup plans should be in place in order to deal with any failure on the part of the vendors. Fundamentally, census operations are time-critical and commercial compensation is secondary. Depending on whether an activity is on the critical path or not, adequate flags should be provided. Milestones and timelines are also essential. The moment there is a failure in achieving any milestone, alerts should automatically be raised. Risk assessment represents a critical component for outsourcing; the risk of failure, and the costs involved in developing contingencies in case of failure, require particular consideration.

2.144. The appropriateness of contracting out should be determined step by step and after subdividing the overall census tasks into stages. In the context of quality management, the outsourcing of components of census operations still requires the national statistical office to take full responsibility for, and manage the quality of, the census data. Throughout the overall process, activities should be conducted by a method (considering accuracy and timeliness of the results) that can best satisfy the general public. No part of the work should be done by a method that may result in loss of trust of the general public. When outsourcing, the statistical office needs to ensure that it continues to be in a position to understand and manage elements that contribute to final data quality. So, in judging the propriety of contracting out, it is recommended that national statistical offices should carefully consider the following criteria:

- (a) Strict protection of data confidentiality;
- (b) Method of confidentiality assurance that satisfies the general public;
- (c) Guaranteed measures of quality assurance;
- (d) Ability to manage and monitor the outsourced census tasks or activities;
- (e) Control over the core competence of the national statistical office, and appropriateness of judgement, considering the specific situation of each country.

2.145. Confidentiality assurance is the first and most important issue that should be considered by national statistical offices. National statistical offices are responsible for data confidentiality, in terms of both perception and reality. It is extremely problematic for national statistical offices to find leakage or misuse of confidential information by ex post facto monitoring and controls. Consequently, contracting out of tasks that have the risk of such an incidence should be avoided. For example, in the phase of data gathering, it is highly recommended that contracting out should be avoided because the task is closely related to the earning of trust from citizens and the strict protection of confidentiality. Where temporary enumeration staff are engaged under contract, this should be done in such a way that they are subject to strict measures of monitoring and control by the national statistical office. These enumeration staff should be engaged in such a way that their activities are governed by the relevant statistical legislation to preserve the confidentiality of the data they collect.

2.146. The second important and related issue that should be considered carefully is conveying confidentiality assurance to the general public. As described in the “Essential roles of the census” (see paragraphs 1.1-1.3), a census should be undertaken by the method that can produce the most reliable results and in a manner that ensures the trust of the general public in terms of both perception and reality. If either one of these attributes is not met, then the method used as well as the results obtained may not meet the approval of the general public and could result in the census itself being questioned. Thus, protecting data confidentiality refers not just to the actual protection of confidential data, but also to protecting the perception of confidentiality among the general public and providing a sense of inward security.

2.147. The third significant issue to be considered in outsourcing is the guarantee of quality assurance in the outsourcing environment. The key point is that the national statistical office is satisfied that the goods or services paid for are provided. Cost should not be the first priority in considering and judging the successful bidder in this respect unless prescribed by procure-

ment rules. Although it is desirable to engage in fair competition among several companies to reduce costs, it is worth mentioning that merely considering low-price bidding as a determinant factor may adversely affect the quality of the job to be done by the successful bidder. Low-quality work could cause a significant loss of trust among the general public. To assess the quality of work, as part of the contract allocation process, potential contractors should be required to provide samples of their work (for example, for printing, manufacturing satchels, and other work), or if this is not possible, to list referees who could be contacted to verify their claims, or sites at which previous work can be inspected. The contracting process should state all the key requirements for the services sought and bidders should be measured against these. Although not a guarantee of quality, it will minimize surprises. Once the contract has been awarded, continuous monitoring of the progress of work entrusted to the selected company is necessary and the national statistical office should ensure that a system for monitoring quality is built into the contract. Consequently, in considering the proper contracting-out procedures, national statistical offices should also take into account the costs for constructing a system of surveillance for monitoring progress of the work being contracted out.

2.148. In addition to monitoring the providers of goods and services, national statistical offices need to plan for continuous interface with the providers. This implies an additional step to monitoring and amounts to a necessity to work side by side on a regular basis in order to ensure the best quality of the products and services and to meet the standards and needs of the census operations. This coordinated work refers to providing technical and technological advice, as well as following the development of the services and applications from the substantive point of view. While the national statistical office may not have the full capability to develop certain products or applications, it certainly possesses considerable technical experience and understanding of producing statistics on a regular basis. Therefore, planning for and implementing a regular and continuous interface with providers when parts of the operations are outsourced needs to be incorporated in the overall planning from the beginning.

2.149. The fourth major issue in outsourcing census activities is the procedure of assessment and evaluation of the capabilities of the candidate providers. A quality assurance framework (for a detailed discussion on quality assurance, see paragraphs 2.169-2.228) and implementation should be established in a first phase of outsourcing. Through this procedure national statistical offices should fully assess both the capabilities and the disabilities of companies in order to select the winner to which the activities in question are to be outsourced. It is highly recommended that practical and financial peculiarities of providers should be considered after the assessment of their capabilities. Each private company has a potential risk of bankruptcy or of changing the field of its activity. It should be kept in mind that if a selected company is unable to fulfil the assigned tasks, the probable problems might not be resolved by applying penalties. However, a very significant problem that could occur is that users might not be able to make use of accurate and timely census results. In such a case, national statistical offices might lose the trust of the general public in the census and even in future censuses or other routine statistical projects conducted by the statistical office. It is, therefore, very important for national statistical offices to adopt a method in which risks are as low as possible.

2.150. Some approaches to outsourcing put an emphasis on a “turnkey” arrangement, by which contractors deliver the system according to a set of predetermined client specifications with the expectation that the client focuses solely on the outputs and not the internal working of the system. This assumes that the national statistical office completely understands and can fully anticipate all data quality issues that might arise during the census and has included these in the specifications. The client is not expected to have any understanding of how these systems work or how they might contribute to the final outputs. Any changes to the system typically require cumbersome processes to determine contractual responsibilities and heavy financial costs. This sort of approach effectively hands over the quality of the census data to

the contractor, while the risks associated with intervention remain with the census agency. It removes any flexibility and greatly restricts the ability of the census agency to react to quality problems that emerge during processing.

2.151. Suppliers should be made fully aware of the quality targets at the outset of the census programme, and the quality requirements of the outsourced components that enable the overall census quality target to be achieved. Operational quality control should apply to outsourced services in the same way as those that are not outsourced.

2.152. In addition to managing the outsourced activities or tasks, the ability or the flexibility to cope with sudden or unpredicted change in the situation is also very important. It should be mentioned that contracting out does not necessarily mean lower costs; sometimes the burden of monitoring cost, emergency costs and other matters may jeopardize the census. It is recommended that the national statistical offices themselves should do some tasks or activities that are hard to manage. National statistical offices should judge and determine whether to contract out census activities from this viewpoint.

2.153. It should also be recommended that for critical activities, such as the coding of education, occupation and industrial classification, special care should be taken to ensure adequate training of the personnel to undertake the task, particularly when it is contracted out. The same amount of care and training is required even when the task is performed by the national statistical office. This is due to the fact that the coding depends on the minor differentiation and level of coding (general and detailed classifications according to different coding standards), as well as the coding manual and the education of the coders. In the light of such subtle criteria for judgement, it is difficult to prepare a complete coding manual in advance before checking the filled questionnaire.

2.154. Censuses are large operations with massive quantities of data that require coding and editing. To reduce the staff resources required and to improve timeliness, uniformity and accuracy, automated coding procedures may be employed. Some countries have already implemented automated coding procedures for addresses, countries, education, occupation and industry. The development of the application software could be contracted out, although the rules to be followed must be carefully specified by the national statistical office, which should retain responsibility for implementing the system. The software application can often be used for other statistical collections undertaken by the national statistical office. When outsourcing, the staff of the national statistical office should be able to modify the parameters of such operations themselves at little cost and in a timely manner. By having this ability, the national statistical office can manage the appropriate balance between data quality, cost and timeliness.

### XIII. Use of technology

2.155. Technological developments and subsequent access to modern technology has largely eased the way in which the business of a population census is undertaken. Modern technology permits end-to-end embedding of processes in the census value chain. This possibility ranges from planning, monitoring and implementation to evaluating outcomes. Many facets of census activities can benefit from the use of technology. Remote sensing and imaging technology can now generate live maps with coordinates against which enumeration activities can be tracked. Fieldworkers can be paid their salaries and stipends using mobile device technology. Handheld devices with inbuilt edit functions and geopositioning capabilities can improve the consistency of responses while tracking geo-activities, including those that can report on spatial coverage. Given how pervasive technology can be, it would be imperative to

select carefully at the planning stage what technological innovation elements will be adopted in the census value chain.

2.156. Rapid innovation has led to both exponential growth and reduction in costs of technology. These changes have seen an increased adoption of technology across many aspects of the census in a variety of different ways. While on the one hand this is providing considerable benefit, on the other it is increasing dependence on technology providers and introducing new challenges and risks. The key to the successful use of technology in a census is to clearly understand the rationale or the objective of the technology introduction, and consider a range of key success factors for technology adoption, which may include suitability, security, scalability, stability, safety and skills.

2.157. The understanding of the value of technology is critical to forming a business case and assessing whether or not to proceed with the project, and if so what technology choices to make. As the introduction of technology can be an expensive and risky exercise, it is important to ensure that there is sufficient value in its introduction for each specific census.

2.158. The most common reasons for the introduction of technology in censuses operations are:

- **Efficiency and reduction of costs.** Technology provides an opportunity to reduce the number of personnel involved in different aspects of the census—for example, scanning and character recognition can reduce manual data entry and increase data accuracy, satellite imagery can reduce manual mapping and Internet self-response can reduce fieldwork. Technology can also reduce other non-labour expenses such as printing, freight and travel. In some cases, technology can simplify business processes and thus reduce cost or risk.
- **Data quality and consistency.** Technology, and in particular the automation of processes, can increase the consistency of census data and reduce data errors—for example, scanning and character recognition reduces data entry errors, and automated validation rules or edits ensure that data are checked and changed in consistent ways rather than relying on manual, dispersed field processes.
- **Timeliness.** Technology can reduce the time needed to conduct census enumeration, data processing, data analysis and preparation of results for publishing. The faster the census data are released, the more valuable the data are to census users, and thus the use of technology for data scanning, recognition, processing and publishing should be considered for its ability to advance publish dates.
- **Public and user expectations.** The census relies on the general public to provide data. The census needs data users to access and utilize census statistics in order for them to have value. Public and user expectations, and sometimes legal rights, may make it advisable or necessary to implement specific technologies to support these users. These interactions may be in the form of completing a census questionnaire, applying for census jobs online or receiving census results online. There is some evidence that the provision of online questionnaires has had a positive impact on census response rates.
- **Event management.** The coordination and monitoring of census enumeration across the complete nation or area has always been challenging and has relied on dispersed accountability and manual processes. Technology may be implemented to provide better visibility, oversight and capacity to monitor performance indicators and respond to enumeration events.
- **Data retention and utility.** The costs of conducting census enumeration are significant, and thus attempts should be made to optimize the value achieved from

the census results. The use of technology enables census data to be safely managed, secured and retained, as well as opening up opportunities for statistical data integration and data reuse, such as for time series analyses and other analytical needs.

- **Assurance and anticorruption.** The adoption of technology can reduce the risk of fraud or corruption through providing more standardized, controlled and auditable records of actions, for example for the records of financial expenditure.

2.159. When considering the reasons listed above in a business case for a technology project, it is likely to become clear that there is some tension between these reasons, and there will be some trade-offs that should be considered openly and transparently. For example, a solution that attempts to meet more user expectations may ultimately cost more and thus while being positive from this perspective would be negative in relation to programme efficiency.

2.160. While the conduct of significant technology projects is becoming increasingly commonplace across government, there is limited evidence to suggest that mere technology introduction would deliver the projects on time and within budget. Careful planning and management is critical to the success of these projects. The unique size, timing and nature of a census throw up unique challenges, which need careful consideration. The following factors should be taken into consideration in the context of optimizing the use of contemporary technology for census operations:

- **Suitability.** The functions and benefits of any new technology need to be assessed thoroughly and objectively against specific national needs, priorities, laws and capability to ensure that the potential of the technology can be translated into value for the census. Consideration of whether the technology has adequate user-friendliness for the intended user is another important point.
- **Scalability.** It is pertinent to consider at the outset whether, given the enormous scale of the census, it is even possible for the solution to handle the load, not just how to implement the solution. If the technology solution is not designed, implemented and tested to be able to handle the number of users, the number of data or the volume of paper that is required, then it is likely to slow down, stop or cause errors. This can have a disastrous and unrecoverable impact on the census overall, as well as on the reputation of the national statistics authority conducting the census. Hardware and software used in delivering technology must be scalable to the actual load of each business process during the census project.
- **Security.** The security of census data is critical for guaranteeing the confidentiality of respondents' personal information. The use of technology creates an environment that can facilitate the disclosure of individual information compared to the use of paper questionnaires if appropriate security measures are not put in place. The use of technology also creates opportunities for an increased number and location of potential attackers trying to access census data or disrupt the census programme. Census systems, especially an online census, must be secured to protect privacy of respondent data and to ensure respondent confidence in the system. Systems need to preserve confidentiality, integrity and availability of census information.
- **Stability.** A census relies on the successful conduct of enumeration in a tightly time-bound period. As the reliance on technology increases, it introduces the potential for one central failure having an impact across the whole enumeration process, with disastrous results. In contrast, in a more manual, traditional census, failures are more likely to have localized impacts. The failure of a key piece of technology—such as the census call centre, self-response portal or self-help



website—close to census day may have an unrecoverable impact on data response rates, particularly in countries using self-response.

- **Safety.** The introduction of technology, whether it be paper cutters (“guillotines”) to assist with the form preparation for scanning or handheld devices for field officers, introduces safety risks for employees that need to be assessed alongside the technology and during the technology’s implementation.
- **Skill.** The census organization, whether planning to outsource or deliver the solution internally, must ensure that it has the adequate skill, knowledge and capacity to lead and manage this project.

2.161. Census technology projects require strong project management expertise and thus adequately competent, experienced, motivated and knowledgeable staff need to be assigned to this role.

2.162. Detailed business requirements (what the technology needs to do and how it needs to do it) need to be developed by a suitably skilled business analyst in order to ensure that the technical specifications and implementation are aligned to the needs of the census.

2.163. Testing is essential for the statistical or census office to know the various stages that are affected by the new technology. Separate tests should be conducted to prove new technologies and identify potential problems linked to implementation. Depending on the extent and characteristics of information technology, these tests should include all information technology components related to fieldwork, data transfer or entry and processing well ahead of the census itself. Tests should include the application systems and the equipment, as well as the underlying circumstances necessary to avoid equipment malfunctioning.

2.164. A pilot census ensures that technology can be tested as part of a complete, end-to-end business process and highlights major implementation challenges with functionality or capability. However, the pilot census alone is insufficient to fully test technology due to its reduced size, reduced public profile and non-existence of some risks that are present in a fully fledged census operation. The pilot test should be accompanied by activities to test whether technology solutions are scalable, secure, accessible and robust enough for the real census. Stress tests should be conducted during the testing phase to ensure technology use can handle the maximum load of each module or business case and sustain data integrity.

2.165. There is an increasing adoption of technology in every national statistical office across the world. A number of nations have been developing their own technology solutions to support different aspects of the census, with some of these products being made available for statistical organizations in other countries. When making decisions around technology selection or development approaches, there should be strong, favourable consideration of existing products within the international census community, and where products do not already exist, the preference should be to undertake co-development with other members of the statistics community.

2.166. There are a number of risks or drawbacks associated with the introduction of technology that should be considered and managed, otherwise these could lead to increases in expenditure, delays to the census timetable or impacts on the quality of the census. These include:

- Incompatibility or other integration issues between different hardware and software applications;
- Solution outage or failure (which could be for many reasons—lack of connectivity, hardware failure, battery life, GPS black spots, software bugs, device theft);
- Lack of skills or knowledge by system users, particularly temporary census staff;

- Insufficient or inadequate communication between technology staff and business staff, particularly leading to misunderstanding of requirements;
- Hacking, online attack or other information technology security event;
- Maintaining, upgrading or decommissioning old or legacy systems;
- Lack of documentation or reliance on a small number of key people;
- Huge amount of digital data available, creating a potential distraction for staff.

2.167. A wide range of technologies, covering all stages of the census from planning to data dissemination, is presented throughout all the chapters of these principles and recommendations. However, the integration of technologies in census operation requires taking into account various specific national needs and the value each technology would bring to a specific aspect of the census.

2.168. The utilization of technology is expected to vary considerably in statistical offices across the world, considering the need and the resources that are available to the national statistical system. Ultimately, technology is an enabler that can enhance efficiency, accuracy, speed and transparency of census operations. It can also lead to optimization of costs, depending on the circumstances of each nation. It is to be reiterated, however, that the choice of technology and its level of deployment should be diligently assessed by each country before introduction.

## XIV. Quality assurance

### A. Plans for quality assurance

2.169. Most countries conduct population and housing censuses once in 10 years, so carrying over experience from one census to the next is fairly limited. But experience from previous population and housing censuses as well as other censuses, such as agricultural censuses, is very useful to plan for a quality assurance and improvement programme for the current census. Moreover, numerous activities that comprise the census operation have to be carried out in a limited time period. This means that countries must employ a large number of persons for census work for a few weeks or months. Usually a different set of persons are employed on a temporary basis for each of these operations. As a result, the quality of work is likely to vary from person to person, from one area to another and from one time to another. It would be very useful—indeed of critical importance—if errors detected from previous censuses or similar activities were documented and used as the basis for developing quality assurance measures for the next census. Each country must have a quality assurance and improvement programme in place to measure the quality of each stage of the census. It is therefore important to be able to measure how well each census operation is proceeding by building in quality assurance procedures throughout the census. It should be stressed that a major goal of any quality assurance programme is to detect errors so that remedial actions can be taken even as the census operations continue. Thus, a quality assurance programme should also be viewed as a quality improvement programme. Without such a programme, the census data when finally produced may contain many errors, which can severely diminish the usefulness of the results. If data are of poor quality, decisions based on these data can lead to costly mistakes. Eventually the credibility of the entire census may be called into question.

2.170. The quality assurance and improvement system should be developed as part of the overall census programme and integrated with other census plans, schedules and procedures. The system should be established at all phases of census operations, including planning, pre-enumeration, enumeration, document flow, coding, data capture, editing, tabulation and

data dissemination. Following a detailed schedule will ensure that sufficient time is allocated to testing and evaluation activities at each stage, reducing the risks of errors. Establishing a quality assurance and improvement system at the planning stage is crucial to the success of the overall census operation.

## B. Quality assurance components

2.171. Quality management should be comprehensive and should cover all activities including planning, development, data collection, processing, evaluation and dissemination of results. The consequences of census data being of poor quality may be detrimental to policy decisions; more importantly and ultimately, the credibility of the entire census, the competency of the national statistical system and the government itself will be put into question and the trust of society may never be fully recovered.

2.172. There is general agreement that, in the end, quality has to do with user needs and satisfaction. In statistics, quality used to be primarily associated with accuracy; in other words, taking mainly into account errors, both sampling and non-sampling, that influence the value of the estimates, and intervals based on such knowledge upon which precise confidence statements could be made. Such measures are still considered necessary, but it is recognized that there are other important dimensions to quality. Even if data are accurate, they do not have sufficient quality if they are produced too late to be useful, or cannot be easily accessed, or conflict with other credible data, or are too costly to produce. Therefore, quality is increasingly approached as a multidimensional concept.

2.173. Quality is the outcome of processes, and deficiencies in quality (for example, delays in processing or lack of accuracy in the results) are usually the result of deficiencies in process rather than the actions of individuals working in that process. Therefore, processes should at least show:

- (a) *Methodological soundness* and adherence to professional methods and (internationally) agreed standards;
- (b) *Efficiency*, the degree to which statistics are compiled in such a way that the cost and the respondent burden are minimized relative to output.

2.174. Quality will be better supported by sound institutional arrangements, such as:

- (a) *Legal environment*, the degree to which statistical legislation is enacted in conformity with the Fundamental Principles of Official Statistics;
- (b) *Planning mechanisms*, the degree to which countries have instituted procedures for systematic, long-term planning of statistical operations;
- (c) *Resources*, the degree to which statistical systems are properly funded and staffed, taken in relation to (different types of) cost and to each other;
- (c) *Administrative support* and coordination among census stakeholders and the administrative authority.

2.175. It is suggested that the output of any statistical exercise should possess some or all of the following attributes:

- (a) *Relevance*, understood as the degree to which statistics meet user needs, and suggesting the need to avoid production of irrelevant data, namely data for which no use will be found;
- (b) *Completeness*, the degree to which statistics fully cover the phenomenon they are supposed to describe;

- (c) *Accuracy*, the distance between the estimated value and the (unknown) true value;
- (d) *Comparability*, the degree to which statistics are comparable over space (between countries) and time (between different time periods);
- (e) *Coherence*, the degree to which data from a single statistical programme, and data brought together across statistical programmes, are logically connected;
- (f) *Timeliness*, the time elapsed between release of data and reference period;
- (g) *Punctuality*, the degree to which preannounced release dates are met;
- (h) *Clarity*, the degree to which statistics are understandable for non-expert users;
- (i) *Accessibility*, the ease with which statistical data can be obtained by users;
- (j) *Interpretability* of census data, including metadata, availability of information describing sources, definitions and methods;
- (k) *Trust*, in terms of the public's trust in the national statistical authority and its deliveries.

2.176. In the census context, some attributes of quality assurance may be emphasized over the rest. The census should produce statistics that are relevant to data users. A census is a particularly expensive exercise to undertake and creates a burden on respondents. Therefore, it is crucial to ensure that any demand for data is met to a minimum and that topics for which there is little demand are not included on the census form. Consulting with users of census data as one of the first steps in designing the census process is a positive public relations undertaking and an efficient, transparent means of determining the demand for potential census topics.

2.177. The *relevance* of data or of statistical information is a qualitative assessment of the value contributed by these data. Value is characterized by the degree to which the data or information serve to address the purposes for which they are produced and sought by users. Value is further characterized by the merit of those purposes, in terms of the mandate of the agency, legislated requirements and the opportunity cost to produce the data or information. In the context of a census the concept of fitness for purpose as a measure of relevance is important. If it is only necessary that data are available at the broad level (for example, national or major civil division level of geography; broad demographic level), user requirements could be met more cheaply and effectively through a sample survey.

2.178. *Completeness* is an extension of relevance, for completeness means not only that statistics should serve user needs, but also that they should serve them as completely as possible, taking restricted resources and respondent burden into account.

2.179. *Accuracy* of data or statistical information is the degree to which those data correctly estimate or describe the quantities or characteristics that the statistical activity was designed to measure. Accuracy has many attributes, and in practical terms there is no single aggregate or overall measure of it. Of necessity these attributes are typically measured or described in terms of the error, or the potential significance of error, introduced through individual major sources of error, for example coverage, sampling, non-response, response, processing and dissemination.

2.180. Data are most useful when they enable reliable *comparisons* across space, such as between countries or between regions within a country, and over time. More and more emphasis is also put on enabling comparison of geography over time, as well as maintaining consistency and comparison of census topics from one census to another.

2.181. *Timeliness* of information reflects the length of time between its availability and the event or phenomenon it describes, but considered in the context of the time period that per-

mits the information to be of value and still acted upon. It is typically involved in a trade-off with accuracy.

2.182. *Accessibility* reflects the availability of information from the holdings of the agency, also taking into account the suitability of the form in which the information is available, the media of dissemination, the availability of metadata, and whether the user has reasonable opportunity to know they are available and how to access that information. The affordability of that information to users in relation to its value to them is also an aspect of this characteristic.

2.183. *Data coherence* reflects the degree to which the census data can be combined with other statistical information within an integrated framework over time. The use of standard concepts, definitions and classifications promotes coherence. Equally important is internal coherence of data, referring to the consistency of information across different topics of the census and census outputs. This coherence is usually addressed through the meticulous development of data edits.

2.184. The cost of providing information, respondent burden and ability of the respondent to provide the requested information are also components of the trade-off with accuracy and timeliness. If this were not so, data could achieve (near) perfect accuracy with little or no time delay.

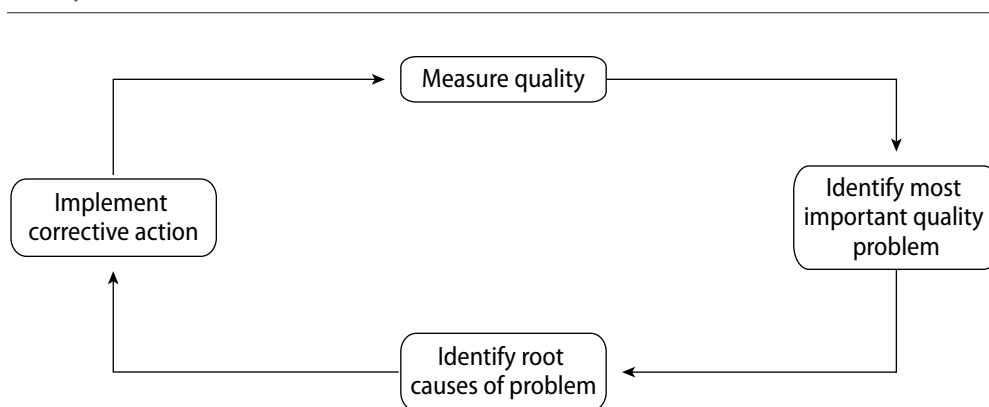
### C. Need for a quality management system for the census process<sup>53</sup>

2.185. The essential quality attribute of relevance of census output, and how to assure it, has been discussed above together with the need for consideration of accuracy, timeliness and cost. Quality is relative, and in the end is based on what is acceptable or fit for the purpose, rather than a concept of absolute perfection.

2.186. Deficiencies in quality (for example, delays in disseminating output) are usually the result of deficiencies in process rather than the actions of individuals working in that process. The key to quality assurance and improvement is to be able to regularly measure the cost, timeliness and accuracy of a given process so that the process can be improved when a decline in quality is indicated. The focus of quality assurance is to prevent errors from reoccurring, to detect errors easily and early, and to inform the workers so that they do not continue making them. This simple feedback loop is represented in figure 1.

<sup>53</sup> This section draws heavily upon material in *Handbook on Census Management for Population and Housing Censuses*, Studies in Methods No. 83 (United Nations publication, Sales No. 00.XVII/Rev.1), chapter 1C.

Figure 1.  
Quality assurance circle



2.187. Being iterative, the quality assurance circle is particularly applicable to tasks that are highly repetitive, such as the processing phase of the census. However, the general principle applies to all processes. For example, there is less opportunity to evaluate performance, identify problems and implement corrective actions in phases such as enumeration owing to time constraints, and the once-only nature of some of the processes and communication issues. However, it still can be established with careful planning and documentation in advance of the census.

2.188. It is important that a complete evaluation takes place and is documented at the end of each phase of the census. This should be done particularly for phases such as enumeration, so that the organizational learning inherent in the quality circle is carried forward to the next census.

2.189. Since people play a key role in most census processes, they are in a good position to identify problems with quality and provide solutions. Quality is therefore not just the outcome of mechanical application of predetermined measures but relies on a combination of:

- (a) Established, documented processes, including quality targets (for example response rates, level of error in processing);
- (b) Systems to monitor the outcomes of these processes;
- (c) Active encouragement by management to involve staff undertaking the processes in identifying and resolving deficiencies with quality.

2.190. While elements of the quality circle, such as mechanisms to monitor quality, may have some superficial resemblance to some of the elements of traditional quality control approaches, they are quite different.<sup>54</sup> Traditional quality control is based on correction of error after the event, whereas the emphasis of the quality circle is on improving the process that caused the “error”, which may be any of the cost, timeliness or accuracy attributes falling below specified levels. A simple error correction process may suffer from any of the following:

- (a) It adds significantly to the cost of the operation;
- (b) Errors in the inspection process can fail to detect true errors or falsely identify errors;
- (c) The correction process can introduce errors into the data;
- (d) Operators take less responsibility for the quality of their work, believing it to be the responsibility of the inspectors;
- (e) Where a sample of units is inspected, the quality of data is only ensured for those units that are inspected.

2.191. The emphasis should be on process improvement rather than correction. Therefore, an important aspect of quality management may be to not correct errors detected through the quality monitoring process unless they are of a severe nature or are generally applicable. For example, a generally applicable error could be a systems error that miscodes every occurrence of a common event. Resources are thus better focused on improving processes and thus overall quality.

## D. The role of managers

2.192. Managers have a vital role in establishing quality. The biggest challenge to managers is first to establish a culture within the census agency that has a focus on quality issues and to obtain the commitment of staff to strive to achieve high-quality goals. At the same time, managers need to be aware that to achieve high-quality outcomes they need to give their staff

<sup>54</sup> *Handbook on Census Management for Population and Housing Censuses*, contains in annex IV a case study of a system combining the quantitative components of the traditional system within a conceptual framework of a quality management approach. Annex IV also illustrates the important differences between the two approaches.

responsibility to achieve these outcomes. Managers who do not delegate responsibility will find it difficult, if not impossible, to establish teams that strive for high-quality outcomes.

2.193. The project manager is responsible for project work from the initial kick-off through to closure. Only the primary responsibilities are given in the list below, and so it can be expanded considerably. The responsibilities of the project manager include:

- (a) Using quality project management tools and techniques;
- (b) Identifying and managing the project stakeholders;
- (c) Creating the conditions for good teamwork:
  - i. Setting team norms and behaviours within the team;
  - ii. Deciding responsibilities and coaching team members in new skills;
  - iii. Leading, guiding and directing team members;
  - iv. Controlling the work of the team—input and output;
  - v. Building trust and respect in the team;
  - vi. Encouraging personal growth, development, empowerment and continuous learning of the team members;
- (d) Establishing a project support office:
  - i. Developing project plans and budgets aligned to established strategy;
  - ii. Prioritizing activities within the project;
  - iii. Allocating and securing resource (for example financial and technological) commitments;
  - iv. Working with established working practices and customs, and developing relevant policies, systems and processes to implement objectives and plans;
  - v. Developing a project communication plan;
  - vi. Developing a governance framework for the project;
  - vii. Monitoring and tracking project progress against set objectives and plans, and compiling relevant reports, for example progress, variance and status reports;
  - viii. Monitoring and controlling expenditure and compiling financial and variance reports;
  - ix. Solving problems that interfere with progress;
  - x. Informing stakeholders of progress and status;
- (e) Identifying and managing project risks;
- (f) Working with the unknown and unpredictable;
- (g) Implementing improvement and change initiatives;
- (h) Delivering project deliverables and benefits;
- (i) Leading the project team;
- (j) Evaluating and closing the project.

2.194. Managers must ensure that staff understand the philosophy behind the approach to quality. As mentioned above, staff involvement is a vital ingredient to quality improvement. Therefore, an environment needs to be established in which staff contributions are expected.

2.195. The second part of a manager's role is to ensure that clients' expectations are known, and that these expectations are built into planning objectives and into the systems that are to deliver them.



2.196. Third, processes need to be documented and understood by the staff implementing them. Systems and processes for implementing the quality circle also need to be documented and put in place. Questions such as how quality is going to be measured, who is involved in identifying root causes of problems with quality, and how the process improvements are going to be implemented need to be answered. These will vary greatly depending on the nature of the process. Appropriate quality assurance techniques for each phase of the census are summarized below.

2.197. The greatest test of management commitment to genuine quality improvement will occur in how management approaches problem solving. Staff will monitor management responses closely and adjust their own behaviour accordingly. Staff will act in accordance with how they see managers behave rather than what they hear managers say.

2.198. Managers who always react to problems by seeking people to blame, or who establish systems that focus disproportionately on the merits or demerits of individuals at the expense of the team, are sending messages that are contrary to the thrust of quality improvement. An environment where the emphasis is on fault finding, rather than on finding solutions to problems, or on excessive competition, will assure that staff cease to be part of the solution and become part of the problem. Managers need to take upon themselves the responsibility for problems, as they are ultimately responsible for the systems or processes that caused the problems. They should not seek to transfer the problems to lower-level staff.

2.199. However, even in the best-managed processes, there are circumstances where individuals can be justifiably responsible for negatively impacting quality. These may be individuals who do not possess adequate skills for performing their duties, and even deliberately flout procedures. These individuals need to be dealt with decisively, first and foremost, primarily by providing additional training and guidance all the way to administering disciplinary measures. Managers must deal promptly with these cases and act in a consistent manner. By doing so, managers will demonstrate to all other staff their commitment to quality.

2.200. To be successful, it is necessary to create a culture in which everyone has the opportunity to contribute to quality improvement. Most of the staff engaged in census operational work undertake routine tasks, and it is up to management to help them see the bigger picture, to motivate them and to encourage them to assume ownership of their work. This can be done by promoting a commitment to quality improvement and by adopting a consistent approach to management.

## **E. Quality improvement and the census**

2.201. The quality circle can be applied to the entire census cycle with:

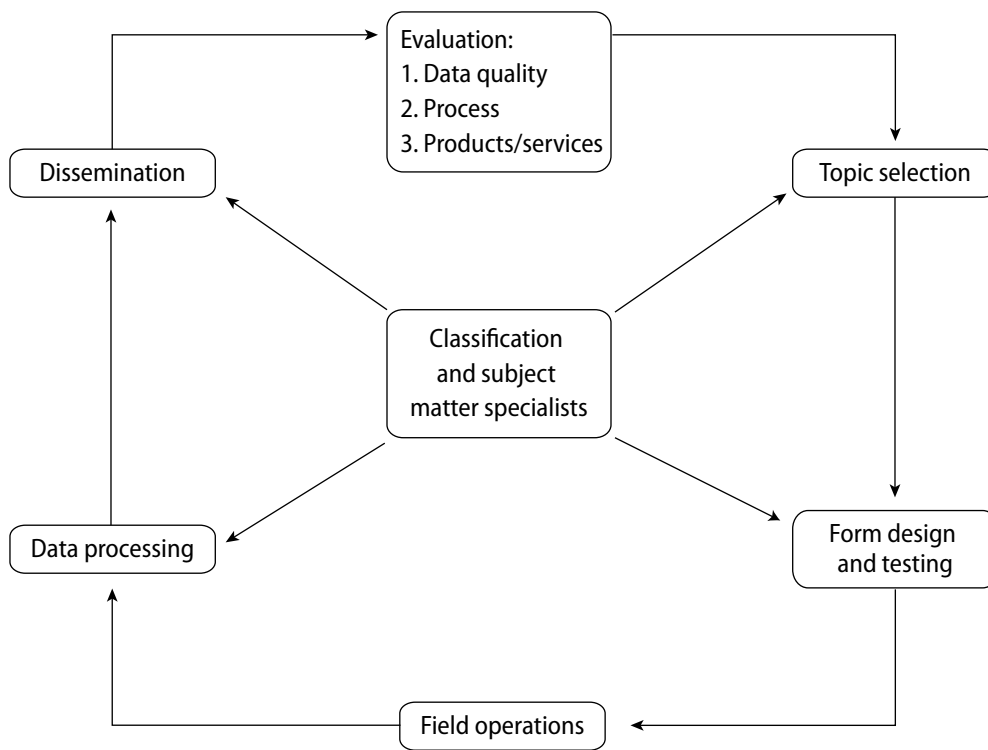
- (a) Performance in the previous phase being evaluated at any given level of detail;
- (b) Problems with quality ranked in order of importance;
- (c) Root causes identified and corrective action implemented.

2.202. The dependencies in the census cycle are represented in figure 2.

2.203. It is worth noting that it is possible to start at any point in the diagram and achieve the same result.

2.204. The following sections outline the way in which the concept of a quality circle is superimposed on the census cycle. Much of the discussion on form design, enumeration, processing and dissemination is in terms of relevance and accuracy. However, these are subject to constraints of time and cost that may be established prior to commencing the census cycle. These are discussed briefly below.

Figure 2.  
Quality circle dependency chart



## 1. Topic selection

2.205. The first step in managing the quality of the product (namely, census statistics to be produced) is to ensure that the product will be relevant. The key process is extensive consultation with actual and potential users of census information. The key success factor in this process is full, frank and open communication with users and representatives of all areas concerned with the census (in particular, subject matter and classification experts). As should be expected, users are reluctant to propose their needs for a future census until they have been able to assess the extent to which their current needs have been satisfied by the output from the previous census. This should be seen as an evaluation process feeding into the current cycle, the first step of quality management.

## 2. Form design and testing

2.206. The next quality management task concerns the testing of each census question and the testing of the design of the form (paper or electronic version according to instrument(s) used). Again, the quality circle approach is used, with the results of each test being analysed and evaluated before being fed into further design and testing. The following areas are the key internal stakeholders of the form design process and their requirements need to be taken into account:

- (a) The dissemination team (to ensure that the questions asked will deliver data that meets the needs of users);
- (b) The subject matter specialist team;
- (c) The team responsible for development of the processing system. For example, positioning of text and delineation of response areas may be dependent on data

capture and the processing methodology to be adopted. It is critical that there is ongoing coordination between the form design and processing areas;

- (d) The field operations team, which is responsible for training the enumeration workforce and printing the form.

### 3. Field operations

2.207. The quality management process continues throughout the design of the census field operations. These are tested as far as possible in conjunction with form designs testing. The key internal client of field operations is processing. However, field operations can also impinge on other areas, such as dissemination and classification and subject matter areas where certain concepts, such as what constitutes a dwelling, are implemented during the field operations phase. Several components of field operations can be subject to specific quality circle mechanisms as these are likely to take some time and involve iterative processes. These components include:

- (a) Demarcation of enumeration areas;
- (b) Map production;
- (c) Form printing, where a sample of forms is rigorously tested for adherence to standards.

2.208. All systems supporting data collection must be thoroughly tested before collection. This is especially critical if new collection technology is used, such as handheld or laptop computers. All data quality benefits of using such technology could be compromised if problems arise during enumeration.

2.209. Quality monitoring should be established for each of these components, and mechanisms put in place to ensure that the outcomes of the monitoring are used to improve processes. It is more difficult to implement the quality circle during actual enumeration owing to the very tight time constraints. However, this can be achieved by:

- (a) Clearly establishing the aims of the field operations phase;
- (b) Applying thoroughly documented procedures;
- (c) Ensuring that the enumerators understand their role through appropriate training and providing inspection of corrupted forms;
- (d) Providing opportunities for field staff to be observed operating on the job so that feedback can be given and retraining undertaken;
- (e) Establishing communication and feedback loops with the general public through helplines, online forums, social media, etc., so that problems in the field can be detected and corrected in real time.

2.210. However, it has to be acknowledged that during the actual carrying out of the enumeration, this approach tends to identify “problem enumerators” rather than systemic or process errors. This means that evaluation following collection is vital. The evaluation should attempt to capture the experiences and suggestions of a range of enumerators and other field staff so that improvements can be made to the subsequent census.

2.211. A general overview of the quality of enumeration can be obtained through:

- (a) Use of techniques such as post-enumeration surveys to gauge the level of under-enumeration or overenumeration of people and dwellings;
- (b) Overall response from the target population or level of non-response at the question level;
- (c) Feedback from field staff;
- (d) Measures of the quality of any coding undertaken by field staff;

- (e) Mechanisms that may be in place to handle queries from the public;
- (f) Analysis of administrative data.

2.212. The effectiveness of the public communication strategy may be assessed by the amount of press coverage (positive and negative) of the census and follow-up surveys to test the reaction to particular advertising.

#### 4. Processing

2.213. The key clients of processing are the areas of the statistical agency responsible for disseminating and maintaining standard classifications, and those with special subject-matter knowledge. The dissemination area depends on the processing team to obtain data in an agreed format and compiled to agreed quality standards. This is necessary so that the data can be used in dissemination systems.

2.214. Since the census is part of an overall national statistical system, data from the census are likely to be used in conjunction with data from other collections. Thus the classification and subject matter specialist areas, which are responsible for those other collections, need to be satisfied that the coding, editing and other data transformation processes are conceptually sound and deliver data of acceptable quality.

2.215. Extensive testing of processing systems must be undertaken in advance of the census. Coding processes and training packages need to be prepared and tested using the type of staff likely to be involved in the operations. The processing phase gives the fullest scope for the use of quality improvement techniques, as many of the processes in this phase are repetitive and take a significant amount of time. This enables the quality circle to go through much iteration. It is vital that structures are put in place not only to monitor quality but also to involve processing staff in the identification of problems with quality and in proposing solutions.

2.216. It is generally not possible for processing to improve the accuracy of census data. At best, processes such as editing may reduce some inconsistencies within the data. However, in the end, the data coming from the processing system will not be of any better quality than the information supplied on census forms. Much effort can be expended in correcting apparently inconsistent or inaccurate census data with no real improvement in the fitness for the purpose of the data. It may be a better strategy to educate users to accept slight inconsistencies in census data, rather than developing complex procedures that may introduce other errors and impose heavy costs in terms of delay in release of the data and cost to the community.

#### 5. Dissemination

2.217. Census dissemination can easily be overlooked in the chain of providing a quality outcome for the census as management attention is diverted to the costly and risky enumeration and processing operations. The dissemination area is responsible for the timely delivery of products and services to census data users. Therefore, insufficient planning and resources for this phase can have the effect of delaying the release of the data and thus compromising the overall achievement of census objectives. The dissemination phase should also be regarded as an ongoing process that will serve the needs of users over a long period of time.

2.218. Management of quality in census dissemination is driven by concerns to (a) deliver relevant products and services; (b) maintain accuracy of the data; and (c) ensure timeliness and predictability of data release within agreed cost constraints.

2.219. The first of these objectives is to provide relevant products and services. This can only be done by reviewing the experiences of the previous census products and services and by user consultation processes with both current and potential users of census data.

2.220. The second objective is to ensure that the data supplied from the processing system are accurately transformed into output products. A quality assurance strategy to ensure that data tabulations and transformations are carried out accurately needs to be documented and followed. The quality circle approach to these processes needs to be applied and any gaps identified and corrected through extensive testing prior to the census and ongoing process improvement during the dissemination phase.

2.221. The third objective is the timely and predictable release of data from the census. While this is the responsibility of all phases of the census programme, the role of dissemination is crucial. The dissemination area needs to be realistic about release dates and ensure that these are communicated to clients early so as to manage client expectations. The involvement of staff actually responsible for the dissemination phase in devising these dates is recommended where this is possible. Dissemination systems and processes need to be available, documented and tested prior to the release of data from the processing phase.

2.222. A release calendar needs to be prepared to keep the user community informed about the likely month of release so use of data can be planned in advance. A mechanism to provide metadata on census indicators and the geography level at which these are made available needs serious consideration. Every country should assess the requirements and put in place a dedicated team to assist data users. The services of call centres may be used if the number of data seekers cannot be handled in-house.

## 6. Evaluation

2.223. Evaluation of the overall census operation is vital for identifying strengths and weaknesses of census phases, including planning, enumeration, data processing and dissemination, and also for the purpose of analysing the quality of census statistics, which are the major output of these processes. With the quality assurance and improvement programme, the main objective is to ensure that quality assessment is consistently incorporated in all phases of the population and housing census, focusing on efforts in controlling the occurrence of errors and taking actions to ensure the highest quality of both the processes and their outcomes. Errors appear to be inevitable in such a complex undertaking—consequently, there needs to be a mechanism put in place to determine the deficiencies and their quantitative impact on census results.

2.224. Census evaluation with all dimensions of quality (see paragraph 2.175) requires a comprehensive evaluation programme for assessing and documenting the outcomes of each process using appropriate and customized methodologies. Methodologies for evaluation should be planned well in advance, in the planning phase of the census. It should be noted that this is a continuous process implemented from the planning to the end of census operations. It is also appropriate to consider it as being the first step in the subsequent census cycle. Similarly, evaluation of one process within a census cycle could be the first stage in the next process of the same census cycle.

2.225. Evaluation of the accuracy of the census data should also be undertaken, to the extent possible, by conducting a post-enumeration survey for measuring coverage and content errors, by comparing the census results with similar data from other sources and by applying demographic analysis. As for other sources, these include surveys and administrative records in a similar time frame, and previous census results. The purposes of evaluating the accuracy of the data are to inform users of the quality of the current census data and to assist in future improvements. Future improvement may be achieved by (a) improving processes and (b) establishing performance benchmarks against which the quality of the data from subsequent censuses can be measured.

2.226. Evaluation of data accuracy may have two parts. Preliminary evaluation will enable the identification of any problem areas that have not been previously detected through the quality management processes in earlier phases of the census. More extensive evaluation should be undertaken on data items where problems have been identified or where new questions or processes have been attempted.

2.227. The census evaluation programme would be undertaken by subject specialist staff according to the agreed goals and methodologies covering all possible dimensions of quality. The following are some examples:

- (a) Identification of the deficiencies and achievements in data capture, coding and editing (through mechanisms developed for checking the quality of process and the work of personnel);
- (b) Relevance of census data to user needs and satisfaction of users with dissemination tools and products (based on information collected through user consultation);
- (c) Achievements and difficulties in use of new technologies and methodologies, and identification of possible improvements for the next census;
- (d) Estimating coverage and content errors of census data (based on demographic techniques or a post-enumeration survey);
- (e) Realization of the census calendar, including the calendar of releasing census results, and, in the case of changes to the calendar, the reasons and consequences.

2.228. The results of evaluations of census operation for both operational aspects and the quality of data should be made available to the stakeholders.





## Part three

# Census operation activities

## I. Introduction

3.1. Part three of the Principles and Recommendations focuses on elaboration of census operations for a traditional census as it is described in part one. While the population and housing census is in essence a statistical data collection exercise, it still incorporates components that are not present in a routine statistical survey conducted within the frame of the national statistical system. In consequence, the layout of this part follows the frame and the logic of the Generic Statistical Business Process Model;<sup>55</sup> it also provides particular methodological and operational guidelines relevant to the population and housing census. This part of the *Principles and Recommendations*, therefore, starts with a discussion on developing the census questionnaire, building census infrastructure, mapping, testing, living quarters and household listings, field enumeration, data processing, evaluation of the results, dissemination, analysis, archiving, documentation and evaluation of overall census operations.

<sup>55</sup> United Nations Commission for Europe on behalf of the International Statistical Community, *Generic Statistical Business Process Model (GSBPM)*, Version 5 (2013).

## II. Census questionnaires: content and design

3.2. The preparation of the census questionnaire refers to a well-designed process that should start at a very early stage of the census. This process includes developing various methods and tools that understand user needs and national priorities. In addition to communicating with users, other factors that would have impacts on selection of census topics, such as quality of data collected through the previous census, timeliness, national sensitivity for specific topics and available resources, should be taken into account.

3.3. Taking into consideration that the basic principle is to meet user needs and to make census statistics as useful as possible, the content of the census questionnaire would be determined with the involvement of census data users from different sectors, such as governmental organizations, research institutions, the private sector, the public, civil society and non-governmental organizations. The consolidation of the results of the consultation with all stakeholders needs to be balanced by factors such as the response burden, respecting respondents' privacy and other critical considerations such as costs.

3.4. The final content and design of the questionnaire will also be the result of rigorous and meticulous testing. It is necessary that all aspects of the census questionnaire, such as wording, structure of the questions and design, be carefully tested<sup>56</sup> to ensure successful application of the questionnaire in the field.

<sup>56</sup> For more information about census tests, see chapter IV.

3.5. Given its multidimensional features, preparation of the census questionnaire requires most careful consideration, since the handicaps of a poorly designed questionnaire cannot be overcome during and after enumeration. Successful implementation of this process will have significant impacts on quality of data and census outputs.

<sup>57</sup> Part four of these *Principles and Recommendations* focuses exclusively on core and non-core topics for population and housing censuses.

(a) Selection of census topics

3.6. As a first step in determining the content of the census questionnaires, the topics that will be covered in the census should be selected, taking into consideration the priorities of national needs, international recommendations,<sup>57</sup> historical comparisons, international comparability, suitability of topics for collecting reliable information and resources available for the census. Census takers should evaluate national needs in the light of possible new topics and the needs for continued assessment of the topics covered in the past. The topics that are not needed in the census because of changing data needs and availability of alternative data sources should be carefully reviewed in this process.

3.7. During the process of selection of census topics, data users and interested parties should be consulted for their views on the type and extent of socioeconomic information they believe the census should provide. The results from consultations should be reviewed in conjunction with resources available for the census and the burden to respondents. The length and complexity of the questionnaires should be carefully examined while deciding what topics will be covered in the census. More information on the factors determining the selection of census topics is given in chapters I and II of part four.

3.8. Another factor that should be considered in the process of selection of census topics is related to the decision on whether to use a single census questionnaire for all respondents or adopt a two-questionnaire approach—short-form and long-form questionnaires. Using a single questionnaire consists of a standard set of questions for all individuals and housing units covered in the census. In the latter approach, countries use a short-form questionnaire with basic questions for enumerating all of the population, while a long-form questionnaire is applied to a sample of population for collecting more detailed information. Subsequent paragraphs provide a more in-depth elaboration of this approach.

(b) Use of short and long questionnaires

3.9. With each new census and the advancement in processing and exploiting census statistics, there is an increased interest in adding topics to those historically covered by the population and housing census. Because of additional costs and burden on the respondents, imposing a long questionnaire on the total population, in many cases, does not seem to be appropriate. Hence, countries often decide to broaden the scope of the census by covering additional topics through the use of sampling methodology. In this approach, two questionnaires are used: (a) a short questionnaire containing only those questions intended for universal coverage and (b) a long questionnaire containing detailed questions on the specific census topics.

3.10. Use of a sampling methodology in conjunction with full enumeration requires careful planning for determining the topics for the long questionnaire. This approach might be cost-effective, considering less duration of data collection for all topics; on the other hand, it may create some complications regarding field organization.

3.11. The following paragraphs explain how a sampling can be integrated with the full enumeration and its possible advantages and limitations.

3.12. The expanded needs in most countries for extensive and reliable data have made the use of sampling a cost-effective part of census taking. Sampling is increasingly being used to broaden the scope of the census through asking a number of questions of only a sample of the population and households. This use of sampling makes it feasible to obtain urgently needed data of acceptable precision when factors of timing and cost would make it impractical to obtain such data on a complete count basis.

3.13. The suitability of particular questions for a sample enumeration depends on the precision with which results are needed for small areas and small population groups, and on the enumeration costs involved.

3.14. It is important to bear in mind, however, that national legal requirements may make it mandatory to collect certain information on a complete count basis. Legislation in many countries prescribes complete population enumerations at particular times or makes certain political or administrative dispositions dependent on particular results from a complete enumeration. For example, the apportionment of seats in the legislature among the civil divisions of a country often depends on the number of persons actually enumerated in each division. The data needed for this and similar purposes may not be collected by sampling.

3.15. Census information that is collected for only a sample of the population or housing units is usually obtained by one of two different methods. The first predesignates a systematic subset of census households to receive a so-called “long” questionnaire, or the census form that contains the detailed questions on all topics. Depending on the sample requirements, which in turn take account of considerations of cost and precision, the systematic subset that is designated for the long questionnaire may represent, for example, 1 in 4, 1 in 5, or 1 in 10 of census households. Under such a sampling scheme, all other households in the census will receive a short questionnaire containing only those questions intended for universal coverage. If countries choose this option, it is recommended that the predesignation of the sample households that are to receive the long questionnaire be carried out at a central location by supervisory statistical staff, since it has been shown that when the enumerators themselves actually identify the sample households the results are often biased.

3.16. The second method of sampling often used involves designating a sample of enumeration areas to receive the long questionnaire. In this approach, all households in the designated enumeration areas receive the long questionnaire and all households in the remaining enumeration areas receive the short questionnaire. The advantage of the first method over the second is that the sampling precision of results is greater because clustering effects increase the sampling variance when whole enumeration areas are used as sampling units. On the other hand, the advantage of the second method is that different enumerator staff may be trained more easily, since one set of enumerators can be trained only for the long questionnaire and the other set only for the short questionnaire.

3.17. It is important to make certain that asking questions that are not asked of all persons does not give rise to legal, administrative or even political issues, since census information is required under statute and often with penalty for refusal.

(c) Sections of the questionnaire

3.18. The unit of enumeration<sup>58</sup> is an important element for preparation of designing the census questionnaire, as each question aims to collect data for a specific unit of enumeration. The census questionnaire can be successfully structured if it is done based on the units.

<sup>58</sup> For more information about the units of enumeration, see chapter IV.

3.19. There is broad consensus on the following separate sections in the census questionnaire:

- i. Persons living in housing units;
- ii. Persons living in collective living quarters;
- iii. Households;
- iv. Housing units;
- v. Dwellings;
- vi. Buildings;
- vii. Agriculture.

3.20. While designing the census questionnaire, the questions referring to a specific unit of enumeration should be given in distinguishable format. This structure has a positive impact in terms of better understanding of the meaning of the questions and carrying out the interview smoothly.

(d) Questionnaire design

3.21. Although a majority of countries are still using face-to-face interviews with paper questionnaires, many countries have started to explore multimodal enumeration methods. Some of these methods are: face-to-face interview with an electronic questionnaire, telephone interview, self-enumeration with a paper questionnaire collected by enumerators, self-enumeration with a paper questionnaire returned by mail, self-enumeration via the Internet, register-based enumeration and use of pre-existing administrative records. The methods of enumeration and technology used for data capture are among the main factors affecting the design of the questionnaires. For example, the design of the questionnaires that will be used for the face-to-face interview and self-enumeration will differ, as the former will be applied through enumerators while the latter will be directly used by the respondents. Whatever methods are chosen, these need to be tested and assessed in advance for data quality and feasibility. It is also important that data security and confidentiality is maintained whatever modes or approaches are used.

3.22. The design of the questionnaire must be based on the type of data collection mode and approach used. Questionnaire design should also be based on the approach for data processing, for example whether data processing will be done through scanning, manual entry or electronic transmission to the database.

3.23. The following paragraphs relate only to those approaches that involve direct enumeration of the individuals covered by the census. While many of the principles of designing a statistical questionnaire will also apply to the design of the administrative instruments underpinning a register-based approach, those instruments may also be based upon specific requirements of the administrative programmes they address.

3.24. Further, where countries utilize the Internet or handheld devices to collect their census information, or a portion of that, the layout and organization of the data collection instrument may differ from that of the paper questionnaire. It is important to note that most often, adopting an Internet approach also means moving from an enumerator-based approach to a self-completion approach. The questions must be designed to be completed by the respondent without outside assistance. Therefore census management should involve the information technology team right from the questionnaire preparation stage. While many of the same principles (for example clarity of wording, omission of unnecessary material) will apply also to an Internet-based or handheld device-based collection of information, specialized advice should be sought regarding such issues as (a) the technology employed to present the questions to the respondent; (b) the method of capturing the response; and (c) quality assurance checks employed during the capture process.

3.25. A crucial principle is that questionnaire design must be regarded as part of an integrated process of satisfying user demands by collecting, processing and disseminating information provided by respondents.

3.26. The type of questionnaire, its format and the exact wording and arrangement of the questions require most careful consideration, since the handicaps of a poorly designed questionnaire cannot be overcome during or after enumeration. Among the many factors that should be taken into account in designing the questionnaire are the method of enumeration, the type of questionnaire (see paragraphs 3.9-3.17), the data to be collected, the most suitable form and arrangement of the questions, technologies used and the processing techniques to be employed.

3.27. The method of enumeration—in particular, whether the form is to be canvassed and filled by the enumerator or by the respondent (see paragraphs 3.119-3.124)—governs to some extent the type of questionnaire that can be used (for example, single individual, single household or single set of living quarters, multiple household or multiple living quarters, combined population and housing). It may also impact where each type of questionnaire can be used, the framing of the questions and the amount of explanatory material that must accompany them.

3.28. It is important that questions and response options are free from ambiguity. Moreover, questions should not be offensive; in many cases this can be avoided by excluding extremely sensitive topics from the census questionnaire, but care must always be taken to consider the reaction of respondents when designing questions. In addition, it should be noted that the quality of information collected in a census will be reduced if the questionnaire is excessively long. These issues should be carefully assessed during the testing programme, including the cognitive test and the so-called “pilot” census (see paragraphs 3.113-3.114) since poorly worded questions not only will collect poor-quality data, but, by confusing respondents or enumerators, may also impact subsequent questions in the questionnaire.

3.29. Special provision will have to be made if two or more languages are used in the country. Several methods have been used to deal with this situation, such as (a) a single, multilingual questionnaire; or (b) one version of the questionnaire for each major language; or (c) translations of the questionnaire in the various languages available in the enumerators’ manual or on the Internet site for the census. Information on the distribution of languages in the country is important for sound census planning and, if not available, will have to be collected at some stage of the census preparations. Staff recruitment and training procedures (see paragraphs 2.119-2.124) will also have to take language issues into account.

3.30. If the housing census and the population census are to be carried out concurrently, it will be necessary to consider whether a single questionnaire should be utilized to collect information on both population and housing topics. If separate questionnaires are used, they should be uniquely identified in a way that links the component forms so as to permit subsequent matching, both physical and automated, of the data for each set of living quarters with the data that refer to the occupants thereof. This will be particularly important where a single housing form is used to cover separate personal forms for each individual.

3.31. When paper questionnaires are used for data collection, the use of processing techniques, such as optical mark reading and intelligent character recognition, will have a significant effect upon the questionnaire design (see paragraphs 3.175-3.177). In the case of optical mark reading, it is necessary both to allow for the spacing of response areas and to ensure printing is undertaken to precise tolerances so that the data capture software is able to capture all required data but not any of the material around the designated response areas. With regard to intelligent character recognition, it is crucial to allow sufficient room for response areas and to ensure that these are designed according to the requirements of the processing system so that each response box contains only one character, and that the character is correctly formed (usually in upper case). As noted in paragraph 3.30, where the scanning process requires that a booklet questionnaire is separated into component pages, it is important that some form of linking (for example by serial numbers or barcodes) is employed to ensure that the correct information is amalgamated in the computer records.

3.32. Questionnaire design must be driven by a planning process based upon dialogue between the statistical agency and those demanding information. Information to be collected should respond to user needs both at national and international levels and therefore user consultation is crucial in this regard. Previous census questions that are no longer relevant should be dropped, as these do not add any more value. This is essential if the questionnaire

is to be designed to provide the information needed by users. This will, in turn, determine the tabulation programme, as it is to some extent conditioned by the limitations imposed by the questionnaire.

3.33. The final questionnaire must be drafted in time to allow for printing and developing the data collection application, in the case of using electronic questionnaire (making allowance for the many contingencies, such as industrial action, breakdown of printing equipment or delay of programming activities, that can arise in these processes); undertaking quality assurance checks to ensure the printing is of sufficient quality to be used in the data capture regime and the data collection application is running correctly under the data entry rules; adequate training of census officials at all levels; and adequate publicity to be generated on the content.

3.34. As some countries are also utilizing Internet portals and handheld devices for conducting the census, sufficient time must be given to design, develop, test and implement bug-free e-questionnaires and related software systems. Last-minute inclusion or changes in the questionnaire may affect the overall quality of the programs, and in turn the census results.

3.35. In view of the many issues to be addressed in designing a census questionnaire, it is not feasible to suggest specific model questions for the census topics covered in part two. However, images of all census questionnaires that have been made available to the United Nations Statistics Division have been placed on the Division's website (see <http://unstats.un.org/unsd/demographic/sources/census/censusquest.htm>) together with research papers relating to questionnaires used to collect information on the various topics recommended for collection and also using the different technologies (Internet, handheld devices).

### III. Building census infrastructure

3.36. The traditional population and housing census requires a concentrated effort to build the intricate and complex infrastructure that is suitable for conducting massive activities simultaneously. This infrastructure refers to: the development of the census instrument questionnaire; logistic schemes for disseminating and collecting returns; processing, editing and validation; and dissemination of statistics. It also requires well-defined workflows, and testing of the production system as well as of the whole statistical business process.

3.37. Census infrastructure has to be put in place long before the data collection exercise itself, as all of the components need to be extensively tested in circumstances that are as real as possible. The importance of testing cannot be overestimated, especially in the context of the need to build process components for processing and analysing data.

3.38. Building census infrastructure should be based primarily on the experiences and lessons learned from the previous census. If the previous census took place a long time ago and the documentation and institutional memory are not sufficient, putting together census components should rely on statistical practice in conducting large surveys and on the schemes for developing and implementing a statistical business process.

3.39. Particular components of the census infrastructure may already be available within the national statistical office—for example, the statistical network of field offices covering the country's territory and staff experienced in collecting and producing statistics. Others will need to be built from the beginning, such as the training synopsis and schedules, recruitment procedures and logistical arrangements. Methodical planning is, needless to say, critical in

this process of building census infrastructure, and developing Gantt charts early on would significantly facilitate managing the process in a holistic manner.

3.40. In that context, clear and unambiguous delineation of responsibilities in terms of management is equally important with regard to the building process. Managers and supervisors need to have a comprehensive assignment from the very beginning and at all levels of managing. While improvising may be necessary in certain circumstances, all efforts should be put into anticipating risks and developing and testing strategies to allow managers to mitigate them and have alternatives at the ready.

3.41. In building new components of the census infrastructure—for example, outsourcing—it would be necessary to liaise with other parts of the government that may have more extensive experience in that respect. In most cases, government not only would have extensive experience—such as subcontracting for defence purposes—but also might have the capacity to provide goods and services that are needed. Therefore, the process of building needs to first screen carefully and methodically existing government capacities, and then extend beyond them.

3.42. The process of building has to be completely finished before the pilot census takes place. Certainly, parts or perhaps even whole components of the infrastructure might need to be adjusted and altered as a result of the pilot census; yet, that would represent a much easier task than facing the consequences of not having had the components in the first place.

3.43. Once the census takes place, all the steps in building the census infrastructure and its testing need to be meticulously documented and stored for future use. Certain components will certainly remain permanently as part of the broader national statistical infrastructure, such as computers and similar devices. However, documenting in a comprehensive manner is of paramount importance, not only for future censuses, but also for a better understanding of the one that has just taken place.

## IV. Mapping and geospatial data

### A. Strategic planning

3.44. Mapping has been an integral part of census taking for a long time. Over the years, census maps have played a critical role in all processes from preparation to dissemination of census results.

3.45. The census-mapping programme should be developed at a very early stage of census planning, considering the conditions and available resources of the country. Countries should evaluate available mapping options by considering the following factors: (a) available geographic resources; (b) requirements for new technologies and approaches; (c) available funds and the allocated time frame; (d) staff capacity needed for new approaches; and (e) requirements for developing an ongoing geographic system. Evaluation of these factors will determine the best mix of technology and other approaches for each individual case.

3.46. There are various options for mapping techniques. For example, traditional mapping techniques have been used successfully in many countries and are still relevant in some countries or at least some parts of many countries, particularly in remote areas. On the other hand, with the recent development in technology, countries are motivated to develop digital mapping techniques and improve the quality of census operation. Application of new technologies requires more careful and long-term operational and managerial plans based on a realistic assessment of costs and human resources required. In the case of not having internal



capacity, the activities that need to be outsourced should be examined carefully before deciding the possible options for census-mapping programmes.

3.47. Major technological advances include the widespread availability of personal computers, handheld devices, global positioning system (GPS) and geographic information system (GIS) software, and low-cost aerial and satellite imagery. These advances have put new tools in the hands of national statistical organizations to collect more accurate and timely information about their populations. At the same time, it is recognized that adopting such new methods would require long lead times for building capacity and organizational restructuring.

3.48. There is widespread recognition that it is important for national statistical agencies to develop a continuing mapping capability to serve their specialized mapping needs. Such a capability can make a major contribution to the population and housing census and other elements of the national statistical system. A continuing mapping capability within the statistical agency can also contribute to the analysis and presentation of census results.

3.49. In the process of creating or updating census maps, census organization should collaborate with other relevant agencies. Statistical agencies are usually not mapping agencies and should not, for the most part, try to duplicate the functions of one. Likewise, mapping agencies are not statistical agencies and often may not fully appreciate the statistical value of the information they hold or how best to present statistical information in map-based products. Despite this, undertaking a census can provide a catalyst for statistical and mapping agencies to work together to the benefit of both agencies and the community. Even more importantly and at both the global and regional levels there is a continuing initiative to ensure complete integration of statistical and geospatial information as a critical piece of national systems for providing a comprehensive overview of many social, economic and environmental phenomena. The ultimate goal is to develop a global statistical-geospatial framework that would make accurate, authoritative, reliable geospatial information readily available to support national, regional and global development.<sup>59</sup>

3.50. While there is a range of techniques and technologies available for use in a census-mapping exercise, the following sections do not make recommendation as to which system would be most appropriate for specific countries. These recommendations aim at presenting and elaborating on essential principles for developing and implementing an effective mapping component of the census infrastructure.

## B. The role of maps in the census

3.51. The role of maps in the census process is to support enumeration and to present aggregate census results in cartographic form. Very few enumerations during the last several census rounds were executed without the help of detailed maps.

3.52. In general terms, mapping serves several purposes in the census process, as follows:

- (a) Maps ensure coverage and facilitate census operations (pre-enumeration). The census office needs to ensure that every household and person in the country is counted and that no households or individuals are counted twice. For this purpose, census geographers partition the national territory into small data collection units. Maps showing enumeration areas thus provide an essential control device that guarantees coverage of the census.
- (b) Maps support data collection and can help supervise census activities (during enumeration). During the census, maps ensure that enumerators can easily identify their assigned geographic areas, in which they will enumerate households. Maps are also issued to the census supervisors assigned to enumerators to support

<sup>59</sup> The United Nations Global Geospatial Information Management (UN-GGIM) initiative was launched by the Statistical Commission of the United Nations to assist governments in improving policy, institutional and legal frameworks for developing effective strategies to build geospatial capacity in developing countries. For more details, see <http://ggim.un.org>.

planning and control tasks. Maps can thus also play a role in supervising the progress of census operations. This allows supervisors to strategically plan, make assignments, identify problem areas and implement remedial action quickly.

- (c) Maps make it easier to present, analyse and disseminate census results (post-enumeration). The cartographic presentation of census results provides a powerful means for visualizing the results of a census. This supports the identification of local patterns of important demographic and social indicators. Maps are thus an integral part of policy analysis in the public and private sectors.

3.53. The census enumeration team needs to have a set of unique maps covering the entire country that accurately defines the boundaries within which each enumerator has to work during the enumeration phase of the census. Therefore, the quality of maps used in the census has a major influence on the quality and reliability of census data.

3.54. The types of maps required for census management include the following: (a) small-scale reference maps for use in the census agency to manage the overall operation; (b) large-scale topographical maps for use by enumerators; and (c) maps of the subregions or administrative areas, for the use by managers, showing the location of small population settlements and dominant physical features, such as roads, rivers, bridges and the type of terrain. The use of satellite imagery to generate these maps is now increasingly common across countries.<sup>60</sup>

3.55. Careful consideration should be given to organization and management of mapping activities during the census planning and preparation phases. The lead time necessary for creating, printing and distribution of maps for a country will be determined by a wide range of factors, including the number of maps to be produced, the technology available to produce them, the availability of funds to acquire additional resources and the time required for distribution of the maps to field staff.

3.56. It is still the case that in many countries there are only a limited range of maps available, and these often do not show sufficient detail to enable the boundaries of small areas to be clearly defined. This is particularly likely to apply in areas of unplanned settlement. It is thus common to supplement the maps with other material, such as (a) lists of households, preferably compiled by statistical agency staff as part of the process of delineating enumeration areas, but on occasion provided by local leaders (see paragraphs 3.115-3.118); or (b) a textual description of the boundary, including roads, railway lines, power lines, rivers and other physical features. This description may also include obvious landmarks on the boundary (school buildings, water points and other reference features).

3.57. Previous experience has shown that relying entirely on a list of households, written or verbal descriptions and directions, or local knowledge of the area boundaries will often lead to confusion and error because people tend to have mental images of places that may not align with the area as it is really reflected in the design of the enumeration area. Similarly, the supervisor's mental map of an enumeration area may differ markedly from that of an enumerator. To overcome such problems, it is important that the best possible quality maps be the basis for census enumeration operations and that the collection staff receive comprehensive training in the correct use of the maps and associated textual material if that is provided.

<sup>60</sup> It may be noted, however, that hand-drawn maps by the enumerators demarcating the enumeration area with all the houses and other physical features such as roads and rivers continue to have their utility in countries where the enumeration area boundary is provided to enumerators by description rather than through pregenerated maps.

## C. Census geography

3.58. Prior to developing the mapping programme for the census, consideration needs to be given to the geographic classification to be used and the mapping infrastructure available to carry out the mapping tasks. As the geography on which the census is collected will determine the geography on which the census data can be disseminated, a geographic clas-

sification should be devised in conjunction with the development of census mapping. The publishing of this geographic classification by the national statistical office so that it can be reused throughout the statistical system and for administrative purposes will increase the value of census data as they will be more relatable to other information. The details of designing a general geographic classification, including the definition of the various areas of the geographic classification and their relationship to one another, are more complex than those involved in census mapping and will not be covered further in this chapter.<sup>61</sup> However, the design of enumeration areas and other census management areas is of crucial importance for the census and is outlined in the following paragraphs.

<sup>61</sup> For a full elaboration and details, please see *Handbook on Geospatial Infrastructure in Support of Census Activities* (United Nations publication, Sales No. E.09.XVIII.8).

3.59. It is of critical importance to ensure that the boundaries of various administrative units are frozen at least six months in advance of the census date so that no further jurisdictional changes are effected until the enumeration is over. This would be of considerable help in delimiting enumeration areas and minimizing chances of omission or duplication.

(a) Administrative hierarchy

3.60. One of the earliest decisions in census planning pertains to the administrative areas for which census data will be reported. Administrative areas can be any special geographic unit, but mainly they are units of administration, that is, some governmental authority has jurisdiction over the territory. Census preparation involves creating a list of all administrative and statistical reporting units in the country. The relationships among all types of administrative and reporting unit boundaries should be defined. Every country has its own specific administrative hierarchy, that is, a system by which the country and each lower-level set of administrative units (except the lowest) are subdivided to form the next lower level.

3.61. Only some of these hierarchical levels may have actual administrative roles; for example, the province, district and locality levels may have capitals with local government offices that are responsible for those regions. Other units may have statistical roles alone; that is, they are designed for the display of data and not for administering territory. In some instances, however, administrative units may not be completely nested. Especially when considering both administrative and other statistical reporting units, the census office may need to deal with a very complex system of geographic regions.

3.62. In some regions, the establishment of a definitive list of units is a major operation because of difficulties arising from the frequent fragmentation, disappearance or combination of small localities, and from changes in name, variations in spelling, the existence of more than one name for the same place or the use of identical names for different places. This listing should be held as a formal database or as an integral component of the databases forming part of a geographic information system.<sup>62</sup>

(b) Delineation of enumeration areas

3.63. Whether manual or digital cartographic techniques are used, the delineation of enumeration areas is similar. The design of enumeration areas should take various criteria into account. Correctly delineated, enumeration areas will:

- (a) Be mutually exclusive (non-overlapping) and exhaustive (cover the entire country);
- (b) Have boundaries that are easily identifiable on the ground;
- (c) Be consistent with the administrative hierarchy;
- (d) Be compact and have no pockets or disjointed sections;
- (e) Have populations of approximately equally size;
- (f) Be small and accessible enough to be covered by an enumerator within the census period;

<sup>62</sup> For further details on GIS mapping, see *Handbook on Geospatial Infrastructure in Support of Census Activities* (United Nations publication, Sales No. E.09.XVIII.8).

- (g) Be small and flexible enough to allow the widest range of tabulations for different statistical reporting units (if enumeration areas are being used as the basis of dissemination geography);
- (h) Be useful for other types of censuses and data collection activities as well.

3.64. The size of enumeration areas can be defined in two ways: by area or by population. For census mapping, population size is generally the more important criterion, but surface area and accessibility also have to be taken into account to ensure that an enumerator can service an enumeration area within the time allotted. The chosen population size varies from country to country and is generally determined on the basis of pretest results. Average population size may also vary between rural and urban areas since enumeration can proceed more quickly in towns and cities than in the countryside. Under special circumstances, enumeration areas that are larger or smaller than average may have to be defined.

3.65. Before delineation of enumeration area boundaries, the number of persons living in an area and their geographic distribution needs to be estimated. Unless there is information from a recent survey, registration system or some other information source, these numbers need to be determined by counting the housing units, determining the associated number of households and multiplying by an average household size. The number of housing units can be determined through cartographic fieldwork, cooperation with government officials, extrapolation from previous census results or by means of aerial photographs or satellite imagery.

3.66. Enumeration area boundaries need to be clearly observable on the ground. Even if they do not have considerable geographic training, all enumerators need to be able to find the boundaries of the area for which they are responsible. Thus, population sizes between enumeration areas may be varied in order to produce an easily identifiable delineation. Natural features that can be used for this purpose are roads, railroads, creeks and rivers, lakes, fences or any other feature that defines a sharp boundary.

3.67. Procedures for delineation of enumeration areas should be developed that will allow comparability of areas from one census to the next. Change analysis at the local level is greatly facilitated if the units of enumeration remain compatible between censuses. A unique code should be assigned to each enumeration area and the changes (for example in the case of splitting areas with a high level of growth) should be tracked. The statistical office is often the custodian of coding schemes in the country and should also be the focal point for the design of the census-mapping codes. In cases where this is not possible, the criteria can outline design principles that will allow users to easily compare enumeration-area-based data across censuses. When the population and housing census are conducted separately, effort should be made to use the same enumeration area frame for both censuses as far as possible.

(c) Delineation of supervision areas

3.68. Supervisory areas provide the means for a group of enumerators to be effectively managed. After delineation of enumeration areas, the design of supervisory maps is usually straightforward. Supervision areas consist of groups of contiguous enumeration areas that share some of the same characteristics as enumeration areas. The enumeration areas assigned to the same supervisor should be compact, in order to minimize travel times, and of approximately equal size. They should be included in the same field office area, which usually is defined according to administrative units.

## (d) Delineation of census management areas

3.69. Census management areas will consist of aggregations of supervisory areas brought together for ease of managing the enumeration staff. Where existing government staff and structure are used for enumeration purposes, the census management areas may be the same as the administrative regions. It should be noted that this may be a matter of administrative convenience and the particular hierarchy (or way of combining enumeration areas into larger areas) for this purpose need not necessarily be the same as that for the dissemination phase, which must be driven by the needs of users. However, the greater the congruence between enumeration areas and pre-existing administrative boundaries, the easier is the task of conducting the census.

(e) Geographic coding<sup>63</sup>

3.70. The coding of each housing or population unit to a small atomic area, often the enumeration area, or to a specific longitude and latitude, allows for flexible production of different geographic tabulations of outputs, and production of comparable area-based geography over time. Two somewhat different approaches are available for coding the location of housing or population units. The first approach is to code all units to the lowest-level enumeration area, sometimes referred to as the “enumeration district”. The second approach, which at greater cost permits finer geographic specificity, is usually based on some coordinate or grid system, such as that of latitude and longitude.

3.71. A digital geographic database in vector format consists of a structured set of points, lines and polygons. Each geographic feature—each point, line or area—has a unique identifier that is used by the system internally. This internal identifier is not usually accessible by the user and should not be modified externally. A more meaningful identifier is needed that can be used to link the geographic features to the attributes recorded for them. For the enumeration areas and administrative units, this link is the unique enumeration area or administrative identifier, which is listed in the master file of all geographic areas relevant in the census.

3.72. Indeed, a unique code needs to be assigned to each enumeration area. This code is used in data processing to compile enumerated information for households in each enumeration area and to aggregate this information for administrative or statistical zones for publication. This is the numerical code that provides the link between the aggregated census data and the digital enumeration area boundary database stored in the case of using GIS. The coding scheme needs to be determined on a country-by-country basis, ensuring codes are unambiguous, and should be designed in collaboration with the national statistical office. The most important principles in the design of a coding scheme are flexibility, expandability and compatibility with other coding schemes in use in the country. The statistical office is often the custodian of coding schemes in the country and should also be the focal point for the design of the census-mapping codes.

## D. Technology for census mapping

3.73. Before census mapping commences, the census agency needs to determine the appropriate technology for mapping. Countries need to choose technologies to improve efficiency of census operations, data quality and timeliness, balancing these with cost factors in view of their national needs and circumstances. The application of technology must also ensure that confidentiality of data is maintained.

3.74. In general, countries need to approach the use of technology for mapping as a continuous process rather than merely a sequence of mapping and dissemination operations. Use and application of geospatial technologies and geographic databases are very beneficial to improv-

<sup>63</sup> This section draws heavily upon material in *Handbook on Geospatial Infrastructure in Support of Census Activities* (United Nations publication, Sales No. E.09.XVIII.8).

ing the overall quality of census activities at all stages of the census. Major technological advances include the widespread availability of personal computers, handheld computers and personal digital assistants, GPS and GIS software, and low-cost aerial and satellite imagery. These advances would be of interest to national statistical organizations to collect more accurate data in a timely manner.

3.75. In circumstances where it has not been possible to acquire appropriate base maps for areas of geography, enumerators (or other enumeration staff) may produce hand-drawn maps, accompanied by a textual description of the boundary features, to enable a successful enumeration. Hand-drawn maps do not possess the level of accuracy offered by high-quality topographical maps, but are an option when maps for an area (a) do not exist; (b) are at too small a scale to provide sufficient detail for an enumeration area map; or (c) are seriously out of date and cannot be updated in the time available.

3.76. Where reasonable-quality topographical maps are available, they should be used as a base, and hand-drawn enumeration area boundaries can be added as an overlay on transparent film, and the combination photocopied for use by the enumerators. Alternatively, the enumeration area boundaries could be hand-drawn on the printed map, and the result can be used further. However, either of these kinds of combination maps need to be used with caution; field personnel need to be aware that the maps could possibly have errors or inconsistencies, which it is their responsibility to resolve and record when in the field. All base maps produced for the census should be referred to a unique, consistent, geodetic reference system all over the country.

3.77. Where accurate and current maps at relevant scales are not available for a country or part of a country, the technological alternatives described in the following paragraphs could be employed subject to consideration of the constraining factors described in paragraphs 3.79-3.82:

- (a) *Satellite images.* A satellite image typically covers a large area and can be cost-effective compared to other sources. Imagery should be preprocessed by the supplier so that it is rectified and georeferenced (a known scale and orientation, with some latitudes and longitudes, is printed on the face of the image). Satellite image data have gained in volume, popularity and ease of use. Satellite imagery, if used pragmatically, can save countless person-hours by focusing attention on critical areas. Remote sensing data can be used as an independent check on the field verification process.
- (b) *Aerial photography.* Acquisition of aerial photographs for large areas of a country may be expensive. However, existing archives of photographs can be an excellent resource for preliminary counts of dwellings and as a base for basic maps. In some cases digital aerial photographs can be a cost-effective way of initiating some components of a GIS.
- (c) *Global positioning systems.* Making hand-drawn maps or digital maps from a GIS for use by enumerators in the field can be greatly assisted by GPS. A simple, handheld GPS receiver will give latitude and longitude coordinates with reasonable accuracy of key points. Depending upon the system selected, a GPS may also track linear features and thus be useful for mapping boundaries. Maps printed from a GIS or hand-drawn map can be enhanced by the addition of latitudes and longitudes recorded at key points to provide orientation, scale and absolute position. Such information will be particularly valuable for dissemination purposes or if the work is a component of developing a GIS for later use. The ability to record information directly without transcription has the benefit of removing several intermediate steps. Coordinates are captured and immediately displayed on the

portable computer screen, and if a digital base map is available, the coordinates can be displayed on top. Field staff can add any required attribute information and store these data in a geographic database at the home office. Given that notebook computers and other portable computing devices are becoming less expensive, integrated field-mapping systems are becoming a viable option for field data collection for census purposes. Advances in technology, including GPS, wireless communication and computer miniaturization, have made possible numerous new applications for handheld GIS, particularly the development of specialized software for census fieldwork.

- (d) *Georeferenced address registry.* A high-quality, comprehensive, updated and georeferenced address registry of each building and dwelling can give great support in planning and organizing a census. A georeferenced list of addresses can play a central role in many fieldwork operations and will provide the key to accurate delivery, collection and follow-up of questionnaires. The best way to associate each address with a location in physical space of a map is to specify its coordinates in a proper geographic reference system. With geographic coordinates addresses can be entered in available maps or into the GIS. If it is not possible to get coordinates it is recommended at least to geocode addresses. Geocoding is the process of finding associated geographic coordinates from other geographic data. For example, as geographic coordinates of an address, the coordinates of the centre point (centroid) of the enumeration areas to which the address belongs could be taken.

3.78. Where a digital base map is prepared, this may be used in conjunction with a GIS technology as the basis for coding information supplied in the census. This could apply to address of usual residence now and/or in the past, place of work and similar topics.

3.79. The implementation of strategies using such technologies must be thoroughly planned with the guidance of qualified staff or external experts with formal qualifications in the use of advanced mapping technology. It is particularly important that the cost of acquiring and maintaining the hardware required to use this technology is factored into the budget (and a sound cost-benefit analysis undertaken to support such changes), and adequate plans are made to ensure the availability of sufficient quantities of hardware in time for the census.

3.80. It should be noted that there might be additional risks due to the need for equipment to be operated in suboptimal conditions, including poor weather, dusty conditions or poor lighting. Despite its versatility, GPS may not be able to differentiate the coordinates of overlapping or closely located dwellings in multistorey buildings and in this circumstance should only be regarded as providing coordinates for the building rather than the dwelling units within it.

3.81. It is important to ensure that where such systems are employed, they are clearly understood by enumeration staff. This should be achieved by ensuring that the staff, whether at the cartographic update (pre-enumeration) stage or enumeration stage, are given adequate training in the interpretation of the maps. Should the maps be incorporated in digital devices such as personal data assistants, the staff should be trained in the use of both the hardware and the software.

3.82. As with all other significant changes to census procedures, it is crucial that census geographic and mapping processes are successfully included in tests prior to being used in the main operation. This is particularly the case where a change in level of technology is being considered.



## E. Geographic information systems

3.83. A geographic information system can be seen as a system of hardware, software and procedures designed to support the capture, management, manipulation, analysis, modelling and display of spatially referenced data. In practical terms, such a system may range from a simple desktop mapping facility to a complete GIS system that is capable of solving complex planning and management problems or producing detailed georeferenced inventories. Its ability to use space to integrate and manipulate data sets from heterogeneous sources can make its application relevant to planning and managing the census process itself. For example, a GIS provides functions for the aerial interpolation of statistical data in cases where the boundaries of aerial units have changed between censuses. However, the development and implementation of such a repository of georeferenced data are not easy tasks to accomplish, and simple desktop mapping systems generating thematic maps from a database of base maps and indicators will satisfy the needs of most census organizations.

3.84. GIS technology should be considered only at a level appropriate to the skills and resources available, and should constitute an integral part of the overall work of the organization. Cooperative arrangements with other agencies should be pursued particularly with regard to the acquisition and maintenance of base map data, which should not be the responsibility of the statistical organization. Statistical organizations should proceed with GIS development or implementation only where it is feasible to maintain such a system during the intercensal years and where there is no dependence on external support.

3.85. Statistical offices may nevertheless develop GIS applications with population data and other georeferenced data from other sources for more advanced forms of spatial analysis. The task could be shared with other institutions, or be delegated completely to specialists elsewhere. The role of the census office would then consist in supplying census data at the right level and in the right format for such a system. Census offices provide vital information on current demographic conditions and future trends for policymakers in a range of sectors such as health care, education, infrastructure planning, agriculture and natural resources management; and the provision of spatially referenced census databases is a prerequisite for the use of demographic data in these fields.

3.86. In this regard, it should be noted that the GIS should be capable of generating additional geographic delimitations beyond those used in the census, such as school districts, water catchment areas or power service units. These entities will have to be constructed from the smallest geographically identified units available in the census (for example block faces, grid squares or enumeration areas). If (as is the case in most developing countries) enumeration areas are the smallest unit, this will have important implications for the establishment of enumeration area boundaries. Cooperation with the authorities responsible for these geographic entities before the boundaries of enumeration areas are drawn can reduce later problems.

3.87. Being a rather complex technology and a resource-consuming one, GIS needs to be introduced in developing countries carefully and gradually. As an alternative to immediately launching full-scale GIS applications, countries may start with a simple and robust design that is likely to be understood and maintained by a wide array of users, transferable to a wide range of software packages and independent of any hardware platform. GIS implementation in a developing country may follow a hierarchical strategy, with the national statistical office employing a high-end commercial GIS with extensive capabilities for handling and analysing large amounts of spatial data. Widespread dissemination of databases can then be achieved by creating a version of the finished databases using a low-end mapping software format for distribution at low cost and through web dissemination of macroinformation in an online GIS.

3.88. In recent years, many countries have adopted the use of GIS to facilitate census mapping in the production of both enumeration maps and dissemination products. As the cost is declining and the basic technology is now well established, it is expected that this will continue. It is likely that the census could be a useful catalyst for increasing capacity within the statistical office (or the country as a whole). Adoption of GIS should thus be seen as a major strategic decision with impacts beyond the census operation, and many issues need to be considered. A GIS database, a census geographic database built at the enumeration area level, is an important infrastructure for the national statistical office to manage, analyse and disseminate census data, and monitor the continual change in geography between successive censuses. It also constitutes a fundamental component of a national geographic information infrastructure that allows the national statistical office and other national organizations to integrate socioeconomic and environmental data for evidence-based decision-making.<sup>64</sup> A prerequisite to the building of a geographic database at the enumeration area level is the development of a geocoding scheme, whereby each enumeration has a unique code, an administrative identifier that can be used to link the geographic features to the attributes recorded for them.

<sup>64</sup> See elaboration on GGIM in paragraph 3.49 above.

<sup>65</sup> For more information, see the *Handbook on Geospatial Infrastructure in Support of Census Activities* (United Nations publication, Sales No. E.09.XVIII.8).

3.89. The (potential) benefits and costs of GIS are summarized as follows:<sup>65</sup>

(a) Benefits:

- i. Closer linkage between maps for enumerators and map-based products for users;
- ii. Enriched dissemination of census data as they can be visualized in geographic areas for easy understanding by users;
- iii. The cost of intercensal updating of the base map will be less with a digital base map, enabling among other things the construction and updating of sampling frames;
- iv. Producing duplicate maps may be less expensive with a GIS solution;
- v. GIS will have increased ability to undertake quality assurance of geographic boundaries;
- vi. The census agency will have a greater ability to perform spatial queries and advanced analysis under GIS;
- vii. Space needed to store input maps for digital purposes will be far less.

(b) Costs:

- i. GIS requires additional technical expertise;
- ii. GIS will require a higher level of computing infrastructure;
- iii. A clerical census system can proceed on the basis of basic maps. However, use of GIS in this task requires that a digital map base exists. If it is necessary to create the digital map base, significant lead times are required as well as significant funding. In both cases, more experienced technical staff are required;
- iv. In most cases, the preparation of maps or GIS will not be the core business of a statistical agency.

## F. Contracting out for census mapping

3.90. The development of a mapping project beyond rudimentary clerical systems requires considerable knowledge of mapping, cartography and geographic systems. In the event that a census agency cannot draw on such skills from within the agency, it may be required to contract out some or all of the elements of preparation of census maps.

3.91. Mapping for field purposes under a contract or agreement basis requires the statistical agency to specify its requirements and prepare clear terms of reference to the contractor. These may include the following: (a) acquiring the base map data; (b) creating (or obtaining) the statistical boundaries and aligning them to the base map; (c) providing a process for enumeration area designers to advise on changes to boundaries (and updates to associated spatial data); (d) producing hard copy maps as specified for fieldwork.

3.92. The statistical agency should undertake the enumeration area design work and validation of the associated spatial data, as well as take delivery of the hard copy maps for quality assurance checks and subsequent delivery into the field. The statistical agency must also accept full responsibility for the quality standards and delivery of the maps to field staff as required. After the census, any feedback received from enumerators about the base map should be communicated to the mapping agency.

3.93. Mapping for dissemination purposes may be more challenging because the outputs will involve representation of statistical information (with, or as part of, a map) and will often be accompanied by analysis or commentary about the information. Advances in mapping software have made it easier for census agencies to produce a wide variety of standard thematic maps. However, advanced mapping products may require the expertise of a contractor. In these cases, it may be better for the statistical agency to focus on the statistics and let the contractor provide the technical skills required to produce the actual products with tight quality assurance procedures in place to ensure that the output from the contractor satisfies the end user requirements described above.

## G. Implementation of census-mapping programme

3.94. The development of a mapping system within the census agency requires the coordination of a series of complex tasks with relatively long lead times. It is important that project plans are established to manage this process. The main activities to be reflected in such plans are discussed below:

- (a) **Establishing a mapping unit.** The census-mapping project requires a specialized project team. Where mapping activities are outsourced, the mapping project teams will be responsible for specifying the requirements of the census for mapping products and coordinating arrangements with the provider of mapping services.
- (b) **Developing a timetable.** The critical date is the date that maps must be delivered to the field. The mapping programme must commence early in the census cycle to allow sufficient time to produce national coverage of maps well before the census date and before training of field staff.
- (c) **Sourcing of basic mapping and digital geographic data.** A major step in the mapping project is establishing a base map of the country, including digital mapping data if required. If a census-mapping project already exists, the agency may still require updates to their existing map holdings.

### (a) Sources and types of hard copy maps

3.95. Where a hard copy base map is to be used, official published maps may be available from national or provincial government mapping agencies, the local government or municipal bodies. Other sources of maps may be other government agencies or private companies. Where the maps are obtained from sources outside the census agency, permission to use the maps collected must first be sought from the original source and any copyright issues addressed.

(b) Digital mapping data

3.96. When establishing a digital geographic database, a major consideration is the determination by the census agency of data requirements. With increasing amounts of digital spatial data becoming available, it is also important that standards and a common data specification be produced to ensure data validity and consistency.

3.97. The key rules to be followed in selecting data items for inclusion are to question whether (a) the data item will be useful to enumerators in navigating their way around their enumeration area; and (b) the data item is relevant to users. Assessing the utility of data items to users in a census-mapping context must place significant emphasis on the user needs for small or customized areas. Data items that meet neither of those criteria should not be included in the database.

(c) Updating maps or digital mapping data

3.98. Preparing or updating base maps, or the base map digital data, requires substantial resources. The final content of base maps will have a major bearing on the accuracy and completeness of enumeration area maps and, subsequently, the effectiveness of census enumeration. The updating of base maps should be scheduled according to priorities, based on areas in which changes to the number or characteristics of the people require the maps to be updated. Important features to be updated include (a) accurately named and presented roads and waterways; (b) administrative boundaries; and (c) landmark features, such as schools, place of worship, post offices, parks and large buildings.

(d) Operational design for enumeration and supervisory areas

3.99. Whether a hard copy or digital base is employed, an enumeration area design manual should be produced that contains the design criteria and the procedures to be followed when designing the enumeration area. The manual can be used as a basis of training for those involved in the design process.

3.100. If possible, enumeration area design should be conducted by regional statistical office staff who are primarily responsible for enumeration areas in their province or region. This ensures that local knowledge can be utilized in the design process. A considerable part of the process is the gathering of information on where population and boundary variations have occurred in order to determine the best way to design particular enumeration areas. As an output of enumeration area design, a list should be produced that provides the enumeration phase with all relevant field data for each enumeration area, and the dissemination phase with relevant geographic data.

3.101. The design of field supervisor and management area boundaries can be determined at the completion of the process through the aggregation of enumeration areas, and the allocation of geographic identification codes.

3.102. Quality assurance measures should be implemented to ensure that data are correct to a minimum standard, both for field navigation and for technical correctness in cases where a digital base is to be used as an output medium.

(e) Printing and content of field maps

3.103. Careful consideration should be given to the (considerable) time required for printing maps when establishing the project plan for census mapping.

3.104. Maps should be provided to every level of field staff. If paper maps are used, at least one map must be printed for every enumeration area in the country. It is recommended that two copies of the map be produced, one copy to be used by the enumerator and the other by the field supervisor for training and reference purposes (and subsequently retained by the

statistical office as input to the following census cycle). The use of computer technology for data collection, such as tablets, laptops and other handheld devices, may also be suitable for displaying maps available to field personnel.

3.105. Other considerations for the preparation of enumeration maps (whether based upon hard copy or digital data) include the following:

- (a) Enumerators may be required to navigate in poor lighting conditions and thus details should be easily read;
- (b) The maps must be easily interpreted with text and symbols readily identifiable and correctly placed, along with the information being presented in a standard format compared to other source maps;
- (c) Boundaries (such as enumeration area boundaries) overprinted on the maps must be clear and unambiguous;
- (d) Enumeration areas must be distinguishable when compared to the surrounding area;
- (e) Folding or refolding of large paper maps (larger than A2 in size) is inefficient for staff;
- (f) Paper and digital maps need to facilitate the addition of written enumerator comments;
- (g) Production of the maps should be cost-effective;
- (h) The maps should be suitable for reuse to meet dissemination purposes where this reflects user demands.

3.106. Maps for supervisors or regional managers should be of smaller scale, providing sufficient detail to identify major features. When using paper maps those should not be so large as to be difficult to handle easily in the field. In many cases, the use of inset or supplementary maps may be required if the map is to cover a relatively large area. For all levels of senior field staff, the maps should show the boundaries of all subsidiary units for which they are responsible.

## H. Maps for dissemination purposes

3.107. Maps, which are now commonly in the form of digital products, play an increasingly important role in the dissemination phase of the census. Statistics compiled from census data can be geographically referenced and provide for methods of analysing the geographic characteristics of those statistics. Maps may then be used effectively to relate statistical data to the geographic area to which the census results refer. This makes the statistics easier to understand and more readily usable by both expert users and the general public.

3.108. If a complete digital census geographic database has been created, then statistical databases for administrative or statistical units can be produced simply through aggregation. For the countries that do not use digital techniques for the production of enumeration area maps, options still exist to develop a digital georeferenced census database at this stage for producing publication-quality maps to accompany census reports, for distribution to outside users who want to analyse census data spatially or for internal applications. This database can be compiled for a suitable level of the administrative hierarchy or for other aggregated statistical regions. At that level of aggregation, the resources required for producing a digital database are much less than those necessary for a complete digital enumeration area map database.

3.109. A comprehensive elaboration of the use of maps for dissemination of census statistics is presented in “Geographic products” under “Census data dissemination: products and services” (see paragraphs 3.349-3.366).

## V. Census tests

3.110. The testing of various aspects of a census plan prior to the enumeration is of critical importance for all countries, and an essential one for countries without a long history of census-taking, especially for those in which fundamental changes in census methods or use of new technologies are being considered. Census tests can be designed for different purposes and in different ways. To yield full benefits, tests should be employed for all stages of the census, including enumeration, processing and evaluation of results. Separate tests should be conducted to test new technologies such as the Internet and handheld devices in order to allow identifying problems linked to the data collection application design and architecture, the data transfer system and the integrity and security of data transferred. Such tests can give important information on the adequacy of the field organization, training programme, extent of respondent burden, processing plan, budget and other important aspects of the census. They are particularly valuable in probing for weaknesses in the questionnaire, in the instructions or in enumeration procedures that might affect the quality of the data. They can be designed to provide information on the relative efficacy of alternative methods of enumeration and technology, and on the average time required for enumerating a single household or a single set of living quarters. Such information is useful in estimating staff and cost requirements. In addition, census tests serve as practical training for the nuclear staff of supervisors and other officials.

3.111. When carrying out census tests, probability samples of geographic areas or units are not usually necessary. Since the purpose of the pilot census and pretest is to judge the operational feasibility of a proposed course of action for the main census rather than make population estimates, purposive samples can usually be used for such tests. Purposive selection of one or a few geographic areas is generally preferable for such feasibility testing. Purposive samples are also particularly useful when it is necessary to test census questionnaires and methods in areas with particularly difficult conditions. On the other hand, when overall quantitative measures are needed for comparing efficiencies of different procedures (for instance, in examining the anticipated response errors arising from different systems of enumeration), random sampling procedures must be used.

3.112. The first kind of tests carried out during census preparations are questionnaire tests. Their purpose is to test the suitability of intended census questions, including their formulation and the instructions provided, as well as the suitability of the questionnaire design. Such tests can be particularly helpful in assessing the suitability of the proposed material for enumerating specific population groups, as well as the general public. These tests are also used for estimating the time requirements in enumeration. It is practical to carry out questionnaire tests on a small scale in several purposively selected places. Because they are relatively inexpensive, repeated rounds of questionnaire tests may be carried out until a satisfactory questionnaire has been evolved. In this regard, testing the questionnaire using eye-tracking technology is beneficial to design questionnaires more scientifically as reading patterns of respondents can be recognized technically through this test.

3.113. A comprehensive test of all census procedures is often called a “pilot census”. Such large-scale tests should be designed and managed to thoroughly test the entire census infrastructure. Essential features of a pilot census are coverage of one or more sizeable administrative divisions and encompassment of the preparatory, enumeration and processing stages of a census, by which it thus tests the adequacy of the entire census plan and of the census organization. In order to best serve this purpose, care should be taken to ensure that conditions in the pilot census are as close to the conditions that would be present during the actual enumeration as possible. For this reason, it is often taken exactly one year before the planned



census so as to conform to the expected seasonal patterns of climate and activity. It is generally unwise to consider the pilot census a source from which to derive usable substantive data. Apart from the sampling problems involved, such a use inevitably detracts from the central purpose of the pilot, which is to prepare for the main census.

3.114. It is critically important to undertake a set of tests of the information and communication technology (ICT) solutions and production systems that are planned to be applied in the census. Depending on the extent and characteristics of ICT, these tests should include all ICT components related to the fieldwork and to data transfer, entry and processing well ahead of the census itself. This is particularly important if a new technology is being introduced, such as the Internet, handheld devices or other electronic collection tools, and scanning the questionnaires as a means of capturing data. Tests should include the testing of applications, systems and the equipment itself, as well as the underlying circumstances necessary to avoid equipment malfunctioning, such as climate, or significant delays due to inadequate quality of paper causing paper jams or unexpected problems in programming activities. In the context of new approaches using electronic data collection, testing should include daily data transfers to the major depository of data. Testing the efficiency of data entry rules, coding, editing and tabulation applications should be done based on results collected by the pilot census.

## VI. Living quarters and household listing

3.115. A list of sets of living quarters, structures containing living quarters or households that are available at the start of the census is an instrument for the control of the enumeration, particularly in the absence of adequate and updated maps. Such a list is also useful for estimating the number of enumerators and the number of schedules and other census materials needed in an area, for estimating the time required for the enumeration and for compiling provisional results of the census. It is also very useful for determining the enumeration areas and for establishing necessary links between population and housing censuses when they are carried out separately. Finally, it can be used as guide to monitor the completeness and quality of the enumeration of the population in a given area.

3.116. Consideration should be given to providing permanent identification to streets and buildings, which can be used for successive censuses and for other purposes. A listing of sets of living quarters, particularly in densely settled places, cannot be made unless streets have names and buildings have unique numbers. Individual apartments in multi-dwelling buildings need to be numbered or otherwise unambiguously identified. Where these prerequisites do not exist, numbering immediately prior to the census would prove useful.

3.117. Where such information is available, it is useful to provide the enumerators with additional assistance in the form of lists of addresses to visit. Address lists will be essential if self-enumeration, whereby questionnaires are sent to the households by mail, is part of the plan. Some countries have population registers that allow more or less complete address lists to be generated relatively simply. The census can then not only use these lists, but also assist in further improving the population register by reporting any discrepancies found in the field. Where official population registers are not available, or insufficiently complete, it may be possible to obtain additional address lists from postal authorities, utility companies or the private sector (for example, mail order companies). A definitive list for the enumerators could then be prepared by merging the lists obtained from these various sources.

3.118. Where a functioning population register exists, it may be possible to prefill the household questionnaires with information such as the names of the persons expected to be mem-



bers of a household, already available from the register. This reduces the response burden, accelerates the information-gathering process, and helps to pinpoint deviations. On the other hand it might have a negative psychological effect if respondents believed that the authorities were monitoring them too closely. Using one or several registers as the point of departure for a census that still includes full coverage field enumeration is an approach applied in some countries; differences between the register(s) and the field situation will necessarily come to light, and rules will be required to deal with such differences.

## VII. Field enumeration

3.119. In recent years, the use of new technologies in conducting censuses has introduced substantial changes in field enumeration. The traditional method of enumerating the population with face-to-face interviews can be applied in different ways, using a paper questionnaire or handheld devices to automatically capture data during enumeration. On the other hand, self-enumeration methods can also be applied in different methods using the Internet. The use of technology during enumeration would be the main challenge for most countries. It should be noted that only countries that have high penetration rates of information technology (including the Internet) have implemented Internet data collection, and mainly in conjunction with more traditional methods. However, these options may never entirely replace face-to-face enumeration, as even where society enjoys a high degree of information technology use, the entire population cannot reasonably be expected to comply to a mode of self-enumeration.

### A. Method of enumeration

3.120. There are two major methods of enumeration. In the face-to-face (or enumerator) method, information for each individual (in a population census) and for each set of living quarters and the occupants thereof (in a housing census) is collected and entered in the questionnaire by a census official designated to perform this operation in a specified area. In the self-enumeration method, the major responsibility for entering the information is given to a person in the unit being enumerated (usually the reference person of the household), although the questionnaire may be distributed, collected and checked by a census official.

3.121. Traditionally, each household is contacted and enumerated on a face-to-face basis. This approach is still used in most developing countries and for at least part of the population in many developed countries. In those circumstances where up-to-date and comprehensive address or population registers exist or can be established and the level of literacy is high, the enumeration process often involves mailing out the census forms, or having the public mail back the completed forms. Where telephone and Internet services have broad coverage, telephone and Internet data collection can also be used. Approaches for self-enumeration using different modes of enumeration, such as mailing, telephone and Internet data collection, may also be used in combination with the face-to-face method. In some countries, Internet data collection and postal distribution of the questionnaire, with or without postal return, is used in conjunction with the self-enumeration method. Both procedures can be used exclusively or combined with checking by a census official. Whatever approach is to be used, the complete enumeration plan should be prepared well before enumeration begins. This involves (a) the determination of the enumeration method to be used and the basic procedures to be followed in the collection of the data and the control of the enumeration; (b) the procedures for the control of the quality of the data; and (c) an estimation of the number of sets of living quarters

and the probable size of the population to be enumerated so that the number of questionnaires and other materials required for the enumeration, and the number of enumerators and supervisors needed, can be properly ascertained.

3.122. Each method has its own advantages and limitations. The face-to-face method is the only method that can be used in largely illiterate populations or in other population groups that may be unwilling to complete the census forms themselves or find it difficult to do so. On the other hand, in countries where literacy is virtually universal and educational attainment relatively high, the self-enumeration method may often yield more reliable results at substantially lower costs, particularly if Internet data collection or a mail-out/mail-back procedure can be used. However, postal services may be used to distribute the census forms only when a comprehensive and up-to-date list of addresses is available or can be prepared. Another consideration is the emphasis to be placed in the census on obtaining responses, whenever possible, directly from the person concerned. The self-enumeration method allows for, and its instructions may encourage, at no extra cost to the census organization, consultations among family members when they complete the census form. In contrast, with the face-to-face method it may be prohibitively expensive to encourage enumerators to go beyond even the “first responsible adult” they encounter in each household. In the light of these considerations, it may sometimes be desirable to rely on one method for enumerating most of the population and to use another method in certain areas or for special groups of the population. With the advance of information technology, the penetration of the Internet has increased in recent decades. In these circumstances, it is recommended that Internet survey methodology should be explored depending on national circumstance. This method can be cost-effective, as the expense of printing questionnaires and wages of field staff can be cut down. Also, self-enumeration through the Internet can secure the privacy of respondents, so it would be welcomed as more and more people prefer to protect their privacy. However, a combination of a traditional method and Internet survey can result in duplication during enumeration. Therefore, careful consideration of the management of the dwelling/household list is essential. Overly complex designs should be avoided and adequate quality checks introduced to avoid duplications and frauds.

3.123. The decision regarding the method of enumeration to be employed should be taken at an early stage on the basis of thorough testing of the various alternatives in terms of their costs, the quality of the data produced and their operational feasibility. Even where a method has been followed traditionally, it is well to periodically reassess its relative advantages in light of current census needs and changing techniques. An early decision is required because the method of enumeration used affects the budget, the organizational structure, the publicity plan, the training programme, the design of the questionnaire and, to some extent, the kind of data that can be collected.

3.124. Challenges that affect or hinder the ability to achieve a response should be fully considered when developing the enumeration design and methods. The design should, as far as possible, reflect particular activities or actions that seek to increase the likelihood of receiving a response. Challenges can be grouped into two types: people and physical challenges. People challenges tend to focus on particular subgroups of the population that tend to be difficult to enumerate for a number of reasons. Physical challenges are ones that relate to the type of environment in which the people live. The two are not necessarily mutually exclusive.

3.125. The section on groups that are difficult to enumerate (paragraph 4.48) gives a thorough overview of the more common population groups that are difficult to enumerate and how these might be addressed through the enumeration. Other population groups that pose difficulty in enumerating include people with language difficulties, nomads, migrants, students and older persons.

3.126. **People with language difficulties.** Not all respondents will speak or understand the language(s) in which the census is being conducted. Therefore, consideration and thought need to be given to translation services and materials, with particular consideration given to understanding the types and concentrations of languages required.

3.127. **Nomads.** To successfully carry out the enumeration of nomads, it is particularly necessary to pay full attention to preparatory work in order to determine suitable enumeration techniques. It should be pointed out that there is no absolute methodology for the enumeration of nomads, and conditions vary from country to country. The particular method suitable for a country undertaking to enumerate nomads as part of the census should be determined only after a detailed preliminary study and after field testing. Some of the methods used to enumerate nomads and semi-nomads may be classified as follows: (a) group assembly approach, (b) tribal or hierarchical approach, (c) enumeration area approach, (d) water point approach and (e) camp approach. Sometimes a combination of two or more methods may be used.

3.128. In the group assembly approach, the nomads are asked to assemble at particular interview sites on certain fixed dates. This method can be adopted only through the administrative or tribal authorities. The tribal or hierarchical approach is a favourite method, since the nomads usually follow what is dictated by the tribal or hierarchical chief. The enumeration work can be carried out as a kind of administrative census by contacting the tribal chief and collecting, sometimes from memory and sometimes from a register, all the needed information on the chief's followers. The other approach is to contact those followers with the assistance of the chief or a representative and to collect the necessary data directly from the household. In this case, the unit of enumeration is not areal but tribal. The enumeration area approach presupposes creating conventional census enumeration areas and then contacting each nomadic household that happens to be staying in the enumeration area during the census. In the water point approach, a list of all water points available to the nomads during the period of enumeration is prepared. Since numerous temporary water points are created during the rainy season, a meaningful list of water points may be prepared with reference only to the dry season. The enumerator is given the task of locating and visiting every nomadic household that may be using a certain water point. In the camp approach to enumerating nomads, a list of camps is prepared together with the approximate location of each within the country, and enumerators are sent to visit all the households in each camp.

3.129. **Migrants.** Recent migrants to the country may be unfamiliar with the language or may be unfamiliar with the census and the reasons for collecting the information. Therefore, as part of developing the enumeration design consideration needs to be given to communicating with these groups, particularly about the benefits of the census, to ensure that they understand and are more likely to respond.

3.130. **Students.** Students can pose a risk to the quality of the enumeration as they tend to be large in numbers and highly concentrated around universities or other institutions for post-secondary education. Therefore some consideration should be given as to whether they require slightly different, more specific methods (particularly if they live in large living quarters) or tailored communication to ensure they understand the benefits of completing a census questionnaire.

3.131. **Older persons.** Particular assistance may be required for the population of older persons, where literacy rates may be lower, or some of the concepts (such as "age") are different to what they remember or relate to. For example, depending on the circumstances, additional materials may be required (such as a calendar of events to help remember or estimate their age) or specific activities to provide assistance in completing a questionnaire or interview from supporters (such as family members, village elders, residential home staff).

3.132. The more common physical challenges that need to be taken into consideration when developing methods for field enumeration include access-controlled properties and rurality.

3.133. **Access-controlled properties.** Some properties, establishments, communities or compounds have controlled access, presenting difficulties in gaining access to undertake an interview or to deliver or follow up on a questionnaire. Access control mechanisms may include locked gates with an intercom to each individual dwelling, or gates or doors managed by a concierge or security guards. When developing enumeration procedures, advice needs to be given as to how to gain access and actions to take if access proves difficult. Some of the activities may include building a relationship with the owner of the properties to approve access to engage with residents; using the postal service to deliver questionnaires to these properties; and additional communication methods (such as a letter informing residents about the census and how to complete their questionnaire or inviting them to arrange a particular time to complete their questionnaire via interview).

3.134. **Rurality.** Understanding the extent of rural populations and the associated logistical and management challenges with running a collection exercise in these areas needs careful consideration.

## B. Timing and length of the enumeration period

3.135. The choice of the time of year in which the census will be taken is of great importance. The main consideration should be to select a period in which the census is likely to be most successful and to yield the most useful data. This may depend on a number of factors. First, it is necessary to avoid those seasons in which it will be difficult to reach all inhabited areas because of rains, flooding, snow and so forth or in which the work will be particularly arduous, as is the case during extremely hot weather. Second, a time should be chosen when most people are staying at their place of usual residence; such a choice will simplify the census operations both in a de jure and in a de facto enumeration, and it can make the results of a de facto enumeration more meaningful. Seasons of peak agricultural activity should be avoided because it is difficult to interview persons who work late every day and who may even stay nights on their land if the land is far from home. Great traditional festivals, pilgrimages and fasting periods are also unsuitable times for census work. Since in many developing countries the bulk of the field staff is recruited among schoolteachers and older students, the conduct of the census may be feasible only during school holidays, though, as already indicated, the days of major festivals should be avoided.

3.136. In a country that includes areas of sharply contrasting seasonal patterns of weather or activity or in which potential census personnel are in very short supply, it may be necessary to enumerate different parts of the country at different times or to enumerate the nomads or other special population groups at a different time from that established for the settled population. This, however, is generally not a very desirable solution both because the nomads cannot always be clearly differentiated, and because there may be mobility among the settled inhabitants. Furthermore, such a solution creates complications in respect of the use of the census data.

3.137. When a census has been taken and the census date is found to have been on the whole satisfactory, the next census should be taken at the same time of the year, unless there are strong reasons for changing this date. A regular census date enhances the comparability of the data and facilitates analysis. The tradition of a fixed census date in a country also provides administrative discipline, motivating all those involved in the census to make necessary preparations in a timely manner.

3.138. It is desirable to keep the enumeration period short in order to avoid double counting and omissions, which can occur in spite of a single reference date. On the other hand, the shorter the enumeration period, the greater the number of field staff that have to be recruited, trained and supervised. This increases the cost and may lower the quality of the data. How these different considerations should be reconciled depends on the size and nature of the country and on the resources at its disposal. The length of school holidays is sometimes a restricting factor, although governments of several developing countries, recognizing the great national importance of a census, have prolonged the school holidays in the census year in order to allow teachers and students to work on the census as long as required.

3.139. In recent censuses, most developing countries have allowed about one week to ten days for the training of enumerators, while the enumeration period has generally varied from a few days to two weeks. In the case of using a self-response method through the Internet, the enumeration period can take longer and enumerators may require less training if they are simply going to follow up on non-respondents. Short periods are often feasible in small countries while longer periods may be necessary in large countries with poor communications.

3.140. One method sometimes used to allow sufficient time for enumeration and yet make the census simultaneous is first to enumerate the population over a longer period, say a week or more, and then, in one single day, to recanvass all households, deleting and adding persons as needed to update the files. This procedure is, however, not practicable in very sparsely settled areas.

### C. Management and supervision

3.141. A comprehensive and elaborate management system is necessary for resource management and providing timely managerial advice to the field staff. There is no unique approach for the management system; however, it is important to develop a hierarchical and geographically dispersed system for building a direct and effective communication mechanism between the managers and the field staff.

3.142. Adequate supervision of the enumeration is essential for ensuring the quality of the field enumeration. Many countries use a field supervisor/enumerator ratio ranging from 1:10 to 1:15. Periodic control of the quantity and quality of the work accomplished by enumerators and other field staff is recommended, in order to facilitate the correction of inefficiencies and to maintain satisfactory progress during the enumeration period. Periodic and systematic assessment should be carefully organized for ensuring the quality of the work and also for collecting appropriate information about the progress in enumeration for management and supervision of the fieldwork.

3.143. Each staff member involved in the management and supervision system should have a clear job description and should be fully trained for possible problems occurring during field enumeration and their solutions. For an efficient system, it is important to give clear instructions to the field staff for performing their own responsibilities. It is important to note that methods and technologies used during enumeration have a direct impact on the roles of managers and supervisors; consequently, a complete understanding of the characteristics and operational aspects of both the enumeration method and the enumeration technology is a prerequisite for efficient supervision of the enumeration component of the census.

3.144. Depending on the communication facilities and other infrastructure available in a country, different mechanisms for exchanging information among managers and field staff need to be developed. These mechanisms are important for ensuring consistent dispatch of field instructions and also sharing best practices, particularly for finding solutions to unexpected problems during the field operation. The use of portable phones and accompanying technologies, such as SMS, significantly increases communication capabilities.

## (a) Management information system

3.145. A management information system for the field operation should be established to collect information needed for timely management and supervision of field operations. To establish this system, the following steps can be considered:

- i. Determining information needed for supervising and managing fieldwork;
- ii. How and when each piece of information would be collected;
- iii. How and by whom each piece of information will be used.

It is important to collect the amount of information that can reasonably be collected with good quality and used effectively, otherwise every additional topic with low priority will affect the cost of collecting reliable information.

The following information can be collected through this system:

- i. Information about particular activities that are implemented before enumeration, such as establishment of local census commissions and training of census field staff;
- ii. Information about the field staff needed for administrative tasks, such as recruitment and hiring field staff, bank account information for payment, work accomplished;
- iii. Progress of enumeration of population and housing units to evaluate if the field operation proceeds according to schedule;
- iv. Information about logistics issues, such as shipment of census materials and questionnaires, timing of receiving and sending materials, and number and types of materials.

3.146. Census operations can be made more efficient through the availability of a management information system and use of this system by field staff for administrative tasks and supervision. It is possible to create a quick communication mechanism for key messages and work allocation. This system should be used for producing and submitting regular reports providing information about the progress of field activities and enumeration. There are several ways of collecting such information. Technology-based solutions include the use of SMS, websites and portals, and mobile or handheld applications.

## (b) Supervising the enumeration

3.147. A supervision system to monitor the progress of the operation is important to allow for correction of errors and to make necessary adjustments in the course of the fieldwork. In countries where the Internet or handheld devices are used in data collection, a computerized online system can be developed and some automated procedures introduced for the supervision.

3.148. The key to rapid quality control of enumeration is the fast flow of information from supervisors to the local statistical committees and to the central statistical committee. The most efficient way of exchanging this information is via the Internet. If local and regional supervisors have Internet access, information can even be submitted through a password-protected database interface (a web-based application).

3.149. Close monitoring during the enumeration phase is essential to ensure coverage, quality and compliance with deadlines. It must be ensured that all staff involved in the data collection have access to up-to-date reports with relevant information. These reports should be made available periodically in printed or digital form. Data from previous census or other sources can be utilized to improve monitoring and form a database for management indicators.

3.150. As the enumeration is one of the core census processes, each task performed during the enumeration stage must be carefully planned, executed and supervised to achieve the

qualitative and quantitative targets. For successful monitoring of field enumeration, actual performance should be evaluated against the set targets. The following are recommended to achieve the desired outcomes.

*i. Using historical data*

3.151. Data from previous censuses and other relevant data sources such as household surveys and administrative registers should be used as a benchmark to determine the data needed for monitoring the performance of enumerators. This information can be used for monitoring actual performance in the enumeration against set goals and targets. Examples of historical information include total population of previous censuses; population growth rate; sex ratio; urbanization rate; proportion of vacant dwellings; and occasional use dwellings in relation to those occupied.

*ii. Setting goals and targets*

3.152. As a population census is a time-bound project, extension can be considered as failure. Setting goals and targets will be very important to measure if the series of activities is under control or not. Goals and targets for measuring the quality of enumeration and for systematic monitoring of enumeration can be set based on experience of previous censuses and other relevant data sources. The following indicators can be used for monitoring enumeration: (a) proportion of occupied and vacant dwellings; (b) average number of residents per dwelling; (c) response rate and refusal; (d) population size; and (e) population growth rate. Significant deviation between the target values and enumerated values may indicate a problem in the collection process. Estimation of housing units and population—if available—based on census maps and the listing of living quarters and households can also be used as information for monitoring the enumeration.

*iii. Preparing policies and procedures*

3.153. Policies and procedures to be used as the baseline for monitoring during enumeration should be defined at an early stage of the census, with endorsement from the highest levels of decision-making, for proper management support. Therefore, it is important that there is a stage of evaluation of the previous operation in order to identify gaps and improve control procedures and execution of work.

## **D. Use of technology**

3.154. Technology is becoming increasingly important for conducting population and housing censuses. The technological tools and instruments described below are well documented in national practices in conducting the population and housing censuses in the 2010 round, covering the period 2005-2014, and as such can be considered in planning for the next round of censuses, taking into consideration particular conditions of each country.

(a) Electronic questionnaire

3.155. Combined with or completely replacing the paper questionnaire, an electronic questionnaire can be used in either the face-to-face or self-enumeration method. Electronic forms can provide improved data quality and operational efficiencies by implementing validation rules on individual questions, cross-validation between questions or with other records, automatic sequencing (leading the operator to the next appropriate question), more options in pull-down lists, capturing more detailed data, providing computer-assisted coding and the ability to ask tailored supplementary questions. Electronic questionnaires can give access to guidelines, explanatory material and even videos to provide instruction to the interviewer or household.



3.156. Electronic questionnaires can also provide census results more quickly by transferring data to a central database immediately or soon after the enumeration, either using real-time connectivity, or by transferring using physical media to a local centre. Online transmission should be encrypted and secured for confidentiality purposes. Electronic forms reduce the amount of material (such as questionnaires) to be printed, distributed and returned, and reduce data scanning and capture costs and errors. The electronic questionnaire can also capture a range of operational information that can be used to monitor operations and analyse responses, including the time taken to complete the form, the date and time the form was completed and the device used to complete the form.

*i. Electronic questionnaire: face-to-face method*

3.157. Census interviews can be undertaken using an electronic questionnaire on smart phones, tablets, laptops or other devices. Each device or enumerator can be linked with the enumeration area so that the records are tagged with the respective enumeration area to avoid duplication. The device may also be able to capture information on the location of the interview, time of day and other metrics that may be useful.

*ii. Electronic questionnaire: self-enumeration method*

3.158. Achieving a good percentage of enumeration using this method can reduce the operation costs substantially. Electronic questionnaires for households should be implemented in a secure Internet portal and also in secure documents that are distributed via email. Households are usually provided with a unique identifier that is used to initiate their questionnaire or resume a partially complete questionnaire via the Internet. Households may prefer to respond using an electronic rather than a paper questionnaire for its convenience. If the census is collected in a multimodal approach, for example offering both electronic and paper questionnaire options, a system will be required to track the status of each dwelling (questionnaire) throughout collection to ensure completeness of coverage and ensure non-response follow-up is not conducted with responding dwellings.

(b) Handheld or mobile devices

3.159. Whether using a mobile device for canvassing or, as is more often the case, for communication and supervision of fieldwork, it needs to be determined whether the census agency will purchase and provide the device, or whether the field officers will use their own devices. As the availability and proliferation of devices increases, there can be financial benefits, as well as reduced training needs, if field officers can utilize their current device rather than be provisioned with a new device. Although this does introduce a range of technical, security and legal considerations, this deployment option has been commonly used with mobile phones for the last ten years in a number of nations. Another significant consideration is the fact that mobile phones operate on different platforms; developing applications that would enhance communication and monitoring would necessitate developing for different platforms and that increases the costs and efforts.

(c) Geographic information system

3.160. Geographic information systems may be used to create digital maps on GPS-enabled handheld devices, as well as to produce paper maps. For each enumeration area, buildings can be identified within the application using GPS coordinates. As the households to be visited are known, GPS coordinates can be used by a navigation option built for the device to allow enumerators to reach the household easily. An extensive elaboration on the use of both GIS and GPS is presented in chapter IV above.

(d) Contact centre

3.161. The contact centre or call centre is an important element and can be used in each and every step of the census to support field operations. Interactive voice response technology can be used to address the call to a specific agent based on the options selected by the caller, or to resolve the call by providing a common answer. Website call-back and chat can be implemented to help respondents while filling the online e-questionnaire in the portal.

(e) Short messaging service (SMS)

3.162. SMS may be used in various stages of the census project to share information with field personnel and respondents. The service may be used to send passwords, guidelines, alerts, marketing messages, reminders, etc. If the SMS gateway is integrated to the central database of the census, alerts can be sent to the census management upon various critical business events and when violation occurs, for example when the monitoring system detects that “coverage is lower than expected”.

## VIII. Data processing

3.163. No matter how thorough and accurate the census enumeration is, the usefulness, quality and timeliness of the census tabulations will suffer unless the collected data are properly processed. An important element of a successful processing operation is the close and continuing collaboration, at all levels, between the data-processing staff, the subject matter staff and the general statistical staff. At a minimum, the subject matter and general statistical staff will need to become familiar with and take a continuing interest in the processing plans and operations, while the processing staff will need to become familiar with and take a continuing interest in the substantive aspects of the census.

3.164. Plans for data processing should be formulated as an integral part of the overall plan of the census, and those responsible for the processing of the census should be involved from the inception of the planning process. Data processing will be required in connection with the results of census tests, compilation of preliminary results, preparation of tabulations, evaluation of census results, analysis of census data, arrangements for storage in and retrieval from a database, identification and correction of errors, and so on. In addition, data-processing technologies are playing an increasing role in the planning and control of field operations and other aspects of census administration. Data processing has an impact on almost all aspects of the census operation ranging from the selection of topics and the design of the questionnaire to the analysis of the final results. Therefore, data-processing requirements in terms of personnel skills and knowledge, space, equipment and software (computer programs) need to be looked at from the point of view of the census as a whole and at an early stage in the planning.

3.165. The existing data-processing staff will certainly need to be expanded and will probably need some upgrading in terms of skills, particularly if new computer hardware or software is to be used in the census. Any training that is required should be completed early enough so that those benefiting from the training can play an active role in census planning and operations.

3.166. Decisions will need to be made concerning the location of the various data-processing activities within the country, including the extent to which the processing work is to be decentralized. This decision should be partly based on the ability to recruit the required personnel for the processing operations. Acquisition of both equipment and supplies can require long lead times; estimates of both data capture and computer processing workloads must be made

early to enable timely procurement. Closely related to the question of equipment is that of the provision of adequate space. Although the maintenance of most personal computer equipment no longer requires adherence to rigid standards in terms of temperature, humidity, dust and so on, attention to issues related to power supplies is still important. Inevitably, more important is the attention to be devoted to the maintenance of servers (especially heavy duty servers), where most of the information is likely to be processed and saved, as well as the data transmission infrastructure. The last issue is essential to ensure smooth and noiseless Internet and web communications between different units and centres engaged in census operations. Moreover, in the case of traditional archiving, a well-protected space for the storage of the completed census forms before, during and after processing will have to be secured.

3.167. In addition to considering the hardware, decisions will have to be made on the software to be used in editing and tabulating the census data. Several portable software packages are available for census editing or tabulation. Commercial personal computer spreadsheets, databases or tabulation packages are also available. Every country should assess its software requirements in the light of its own needs and resources. Regardless of the software used, sufficient time will have to be allowed for customization of the software and training staff in its use.

3.168. Outsourcing some of the predominantly IT-related operations may be considered. Outsourcing should be implemented in such a way as to bring immediate economic and quality advantages to census operations. Furthermore, national statistical offices should take adequate measures to ensure that outsourcing of census operations does not compromise data confidentiality and that necessary steps are taken so that the contractor does not have free access to the basic census databases. It is worth mentioning that responsibility for hosting of census databases rests with the national statistical offices and that outsourcing of these activities is not recommended. In short, outsourcing should be implemented so as to facilitate a transfer of knowledge into the census organization and always in such a way that essential features, such as the privacy of individual respondents and the confidentiality of the data, are fully protected.

## A. Method of processing

3.169. The appropriate method of processing is determined by the circumstances of each country. Rapid advances in data-processing technology have greatly increased the speed and reliability of producing detailed tabulation, thereby making computer processing the standard method of processing around the world. Furthermore, an alternative to mainframes, whose computational power was necessary before the advent of lighter and more scalable IT hardware solutions, is the use of a client-server environment. Several lighter tasks, including editing and tabulation of data files, can very well be done on small-sized desktop systems that can be placed in substantive departments and in field offices. On the server side, most of the heavier computing operations, such as scanning, aggregation and analysis of large sets of microdata, coordination of data transmission, Intranet web hosting and so forth, can be executed more reliably than on microcomputers. However, a client-server environment to handle census data must operate over a robust and secure local area network (LAN) or wide area network (WAN). Therefore, computer work is not necessarily dependent on a centralized data-processing facility, provided that a robust LAN or WAN interconnects workstations dispersed over various offices, buildings and different parts of the country.

3.170. In a census office that utilizes a networked computer environment, the central file or database servers allow both data and programme files to be stored in a central location. This system economizes specifications of client computers and removes the need for much

physical movement of programs and data on other computer media. Data storage requires frequent backups of system information to avoid major data loss due to hardware or software faults. Thus, servers have a strategic importance, and their location and administration must be well-defined and secure enough to ensure data protection. Also, it is recommended that proper business continuity and security policies duly certified by the competent authorities should be in place.

3.171. In determining the type of equipment to be employed and the advisability of a new machine installation (either complete or partial), or of additions or upgrades to existing equipment, consideration should be given to all the processing requirements of the data collection programme for which the population and housing census is but one part. Only on this basis can a reasonable decision be made. Decisions on the type of data-recording equipment and computer equipment should be made at least one year in advance of the scheduled date of enumeration in order to allow appropriate questionnaire design and proper preparation of instructions to enumerators, development of coding schemes, specification of data-handling controls and procedures, and recruitment and training of data processing personnel. Rapid processing of a pretest or pilot census that covers end-to-end census operation, including enumeration, initial census result, output dissemination, and handing over and closure procedures, is particularly important for identifying improvements needed in the census questionnaire, instructions to enumerators, computer systems or whatever other preparations may be needed. It is recommended, therefore, that arrangements for using appropriate equipment and software be made well in advance of such tests. It is also recommended that all systems used to support census operation be thoroughly tested in advance of operations to ensure that they function as intended and that they are secure (that is, they will not lead to loss of data).

## B. Preparation for data capture

3.172. In the case of paper questionnaires, the most common procedure is to have the census documents arrive in the processing centre in batches by enumeration area. Maintenance of these batches throughout the data processing is recommended, since documents for a given enumeration area reflect the work of one enumerator and may contain a series of errors typical of that person. To ensure the integrity of the batches, the census documents should be stored in a specially designed census document storage facility. The batch for each enumeration area should first be checked for completeness, geographic identification codes and other characteristics of acceptability before being sent to the next stage of data processing. Transcribing all coded data onto another sheet (for example, the coding form) should be avoided since it may add transcription errors. The same considerations apply to the case of electronic transmission of questionnaires or when the first phase of data processing consists of the scanning and text or image recognition of census questionnaires. In the case of questionnaires transmitted electronically (self-enumeration on the Internet or using e-forms), it is appropriate to set up a metadata model where the enumeration area can be recorded. As far as storage is concerned, if paper questionnaires are scanned, secure media for their backup, not only the originals in paper, should be planned for.

3.173. If the census is conducted in a multimodal approach, for example using self-response by Internet and field follow-up of non-respondents, it will not be possible to batch questionnaires by enumeration area for processing. A master control system will be required to track the status of each dwelling (questionnaire) throughout collection and processing operations and ensure completeness of coverage.

## C. Data capture

3.174. Converting the information obtained in the census using paper questionnaires to a format that can be interpreted by a computer is called *data capture*. It is possible that several simultaneous and different methods for data capture are being used in a census. They include keyboard data entry, (including collection by Internet or using handheld or laptop computers), optical mark reading, optical character reading and image-processing techniques, such as intelligent character recognition. Computer-assisted keyboard data entry is usually carried out using personal computer data entry programs with built-in logic controls. Some of the tasks accomplished by the programs are (a) verifying that enumeration area codes are valid, and copying them automatically from one record to the next; (b) assigning a number to each person in a household automatically (and perhaps to each household within an enumeration area); (c) switching record types automatically if the program's logic requires it; (d) checking that variable values are always within predetermined ranges; (e) skipping fields if the logic indicates doing so; (f) supporting keyboard verification of the information entered earlier; and (g) generating summary statistics for the operator and the batch. In order not to delay the data capture task, data entry applications should limit checking to problems that are either very serious (for example, wrong enumeration area code), or likely to be caused by a simple misread or key entry mistake. More sophisticated checking is deferred until the editing stage.

3.175. Optical mark reading (often called optical mark recognition) equipment has been available for many years and has nowadays reached good levels of reliability. Optical mark reading is the simplest of the commonly available form data capture technologies. Owing to relatively stringent requirements for the successful data capture of the paper, countries with very dusty or humid climates and poor transport infrastructures are discouraged from using optical mark reading. It is necessary to heed special questionnaire design restrictions and consider the quality of the paper, and adhere to precise specifications regarding the printing and cutting of the sheets. In some developing countries, this may mean that local production of the questionnaires will be problematic. The need to reserve a relatively large space for marking areas and to adhere to other limitations imposed by optical mark reading equipment sometimes make it difficult to design the best questionnaire from the point of view of the enumeration process.

3.176. Optical mark reading questionnaires can be marked by the respondent or by the enumerator. Marking by respondents is attractive from a cost perspective, but it depends on the presence of a cooperative spirit and relatively universal literacy. A practical problem is that most optical mark reading devices put restrictions on the writing instrument and the colours that can be used in the marking. Assuming the rules are followed, the rejection rate for marked forms is often low, especially if the forms have been inspected visually before being fed into the readers. Converting a manually completed census questionnaire to optical mark reading format after it has been received in the census office is inefficient and becomes a source of errors, and should therefore be avoided.

3.177. Optical character reading (also called optical character recognition) and intelligent character recognition consist of the use of special equipment to read characters at specific locations in the questionnaire. These two terms identify very similar technological approaches. Specialized sources tend to identify with optical character reading the capability of recognizing printed characters only, whereas intelligent character recognition would extend this capability to handwritten text. There is no agreed definition of intelligent character recognition. In the context of censuses, therefore, this would require that handwritten text in the filled-in questionnaire be as standard as possible so as to enable efficient recognition. In general, recognition of numerals is more efficient in an uncontrolled environment, that is to say, where the machine has not been adapted to the writing style of a particular person. Optical character reading and intelligent character recognition technology has matured considerable with sophisticated recognition algorithms and the use of neural networks for self-learning.

3.178. Imaging techniques and scanner devices, together with optical character reading and intelligent character recognition software, have been used by several countries for data capture. Experience shows that significantly low error rates are achieved at an optimum cost using these techniques. The efficiency is greater in the case of numerical and alphanumerical characters written by trained enumerators. However, alphanumerical characters are prone to higher error rates. Extensive testing must be conducted well in advance to determine the best type of equipment and paper. The use of imaging techniques is also dependent on the availability of local maintenance and support capabilities. Whatever methods of coding and data capture are chosen, it is essential that they be carefully tested before final adoption. Recognition engines can be customized to recognize various sets of characters and scripts, but unless good experience is available at the census office, careful planning and preliminary work are needed in conjunction with the optical character reading or intelligent character recognition system providers. A combination of intelligent character recognition (for numerical characters) with computer-assisted coding (for alpha characters) is also an effective method used by some countries.

3.179. In addition to the benefits of the scanning technology for capturing the information, an important by-product of scanning census questionnaires is that this allows for the possibility of digitally filing and naming the scanned questionnaires. This increases the efficiency of storage and retrieval of the questionnaires for future use, particularly during subsequent data-editing operations.

3.180. The quantity and type of data entry equipment required will depend on the method of data capture selected, the time available, the size of the country, the degree of decentralization of the data capture operations, and a number of other factors, such as the use of digital enumeration approaches. For keyboard data entry, the average input rates usually vary between 5,000 and 10,000 keystrokes per hour. Among the factors that affect operator speed are (a) the supporting software and program with easily navigable screens, spell checker on the description fields if any, keyboard shortcuts throughout the program, less utilization of the computer mouse, and so forth; (b) the complexity of the operators' tasks; (c) the ergonomic characteristics, reliability and speed of the equipment; (d) the question of whether work is always available; (e) the training and aptitude of the recruited staff; and (f) the motivation of the workers.

3.181. Several options are available to help ensure that data entry operations are completed in a timely manner. They include (a) procuring more equipment; (b) increasing the number of working hours by working double or even triple shifts and during weekends; and (c) applying independent verification to varying extents. In the case of keyboard data entry, with the increasing safeguard of data quality by data entry programs, complete verification has become less necessary. Full independent verification may be applied only in the initial stage of data entry and may be reduced when each worker has achieved an acceptable level of quality. After that, a sample verification plan can be applied. Operators may be assigned to sample verification depending on their observed error rate. The work of reliable operators may be verified only for a small sample of the enumeration areas, while more extensive verification is continued for the more error-prone operators.

## D. Coding

3.182. Whenever possible, precoded responses should be used in census questionnaires with numerical or alphanumerical codes. Since computer editing and tabulation of textual material are not practical, verbal responses will have to be replaced by a code. This can be done by a dedicated computer program for automatic coding or by a coder (possibly computer assisted) for situations where answers cannot be automatically coded. There are obvious advantages to directly coding the respondent's answer into the questionnaire during the interview, since the



respondent is still present to provide clarifications if necessary. Unfortunately, in most cases this is not practical because enumerators are normally insufficiently trained and they cannot be expected to carry the required codebooks and manuals during census enumeration. In any of the enumeration methods, the response can be collected as text, and later converted to proper code by coding experts. Given the size of the coding operations in a census, time should be spent optimizing the automatic coding operations to reduce human intervention (see paragraph 3.187).

3.183. Automatic or computer-assisted coding will efficiently support the coding activity, reducing coding errors and speeding up the coding process. When required, a coder normally works with one or several codebooks for various items in the questionnaires. Coders may specialize in certain variables, with one group of coders handling only geographic references, another responsible for detailed occupation and industry coding, and so forth. In any event, this is tedious work and can be a major source of errors. To avoid new sources of errors, coders should not rely only on their memory; they must base their function on the use of the codebooks.

3.184. Computer-assisted coding uses personal computers to assist the coders. The process requires that all the codes be stored in a database file and be accessed by coders during the coding operation. Computer-assisted coding is based on at least two general approaches. In the first one, coded answers are matched to a set of keywords. Textual information from the census questionnaire is parsed and compared to an indexed list of keywords, and then the likelihood of matching between found keywords and coded answers is measured and scored. If the score results are over a certain (high) threshold and there is no ambiguity, a sorted list of coded answers is presented to the coder, who retains the ultimate decision of accepting or refusing the system's proposed answers. In using this method, it may be advantageous to change the order of activities so that the capture of precoded information in the questionnaire occurs first, followed by the capture and computer-assisted coding of the remaining information.

3.185. In the second approach, which is mainly used in image processing of data (intelligent character recognition method) for non-Latin or multilingual countries, owing to the difficulty and existing problems in character (alphanumerical string) recognition, the procedure is as follows. After the scanning and during the coding operation phase, the image of the text will be shown on the monitor, and at the same time, a pull-down menu from a coding database will present the coder with the ability to enter as few key entries as possible to get to the full textual and coding content of a specific case. When the coder selects a code, it will be allocated and saved in the database for that specific case. Although this approach is more time consuming and costly in comparison to the first approach, the quality of coding is much higher than in the traditional way of coding.

3.186. On the other hand, both techniques have several similar advantages: (a) capturing the precoded information at an early stage leads to some data files becoming rapidly available, which opens up the possibility of generating and releasing preliminary census results; (b) the computer-assisted coding process provides an opportunity for a computer system to alert the operator to problems with data supposedly already captured, for example, missing information for a fully precoded variable; (c) the coder works directly on the computer screen; and (d) information from other variables may be helpful in determining applicable codes for write-ins.

3.187. Automatic coding is a process in which the decision about the code to be assigned is delegated to a computer program. The main difference from computer-assisted coding consists in the automatic acceptance of the answer if its score is over a predetermined threshold and relatively higher than possible identified alternatives. Both computer-assisted and automatic coding systems may exploit self-learning capabilities of neural networks to fine-tune their capacity of detection. A human operator becomes involved only in those cases where the software cannot resolve the issue. Computer coding may use, in addition to the written response



for the item in question, other relevant information available in the record or the questionnaire. Therefore automatic coding is more applicable in cases where the data-capturing process has already been completed, by Internet, handheld devices or other forms of electronic data collection, manually or by some form of automatic reading. Developing computer software for automatic coding is a complex task. Automatic coding methods need to be complemented by computer-assisted or conventional coding methods for unresolved responses.

<sup>66</sup> For further details on census data editing, see *Handbook on Population and Housing Census Editing*, Revision 1, (United Nations publication, Sales No. E.09.XVII.11).

## E. Data editing<sup>66</sup>

3.188. Raw data files contain errors of many kinds, some generated by respondents and others caused by enumerators who misunderstood the respondents' answers. Further mistakes are introduced in the data-processing operations and during coding and data entry, or in the course of the transcriptions that take place. From an operational point of view, such errors are of two types: (a) those that have the potential of blocking further processing (critical errors); and (b) those that introduce distortions into census results without interrupting the logical flow of subsequent processing operations (non-critical errors). All of the first type of errors and as many as possible of the second type must be corrected. Prior to error correction operations and in case there is a need to go back over work, precautionary action should always be taken by following proper management procedures and versioning the changes with a backup copy of the original data file at every stage.

3.189. Since for large censuses manual correction is rarely economically feasible, the conditions for such corrections are usually specified in specially designed computer programs for automatic error scrutiny and imputation based on other information for the person or household or for other persons or households. Whenever imputation is used, a flag should be set so that analysts are able to distinguish between reported information and that imputed by the editing system. For cases where sufficient information is unavailable for the specific persons or household to correct apparent errors, imputation methods can be used such as the hot deck approach. This technique uses information obtained from previously processed persons, families or households with similar characteristics as the "best suited" value in replacing missing values or values that have failed processing edits. However, this technique requires careful programming work, considering that the search for appropriate information in the census database would slow down computer program execution.

3.190. In some cases, the best solution will be to move out-of-range or clearly inconsistent values into a special category, prior to deciding how such cases should be edited and classified. In this way, the pitfalls of introducing statistical biases are considerably reduced. But precautionary measures should also be defined and set for the fact that overambitious automatic editing programs may cause the so-called "corrected" data to be significantly flawed. In this respect, it would make sense to have an acceptable cut-off value for error rates at the enumeration area level. If a data scrutiny program finds that more than a certain percentage of the records in a particular batch have one or more serious problems, the whole batch should be rejected and subjected to human or fieldwork verification.

3.191. Editing and imputation rules should be formulated by subject matter specialists, not by computer programmers; also, an error scrutiny and editing plan should be elaborated at an early stage of the census. A set of consistency rules and corrective measures should be put in writing and made available to the programming staff, leaving no room for confusion, misinterpretation or unwarranted independent initiative. The computer programmers should implement these editing rules by working as a part of a team with the subject matter specialists. The programs should be tested by subject matter experts and software testing experts for various scenarios before using them with the census data set.

## F. Validation

3.192. The outcome of editing is a set of records that are internally consistent and in which person records relate logically to other person records within the same household. This process does not, however, provide the full range of assurance necessary to accept the data set as the best possible. A range of conditions could cause errors that cause the data to be consistently wrong: for example, perhaps a condition in the editing suite itself is set incorrectly; proportions in an imputation program may be miscalibrated; or enumerators may complete a collection control panel incorrectly. To identify such consistent errors it is necessary to critically review some key aggregate tables to isolate outlier aggregates and identify the cause of the unusual values. These key tables may be a subset of those intended for output or may be tables specifically designed for this purpose.

3.193. It is recommended that a bottom-up approach be used in this process. That is, the tables should first be examined for a selection of enumeration areas, then the next level up and so on up to the first set of national tables. There are two reasons for this:

- (a) The first enumeration area will complete the processing cycle well before any other geographic level. Thus, commencing at this level gives the earliest possible warning of a problem, enabling corrections to be made before a large amount of reprocessing is required.
- (b) It is far simpler to examine a few hundred records within an enumeration area than to attempt to resolve the problem in the millions of records in a national file.

3.194. A crucial stage in the process is designing the analytical tables. One way of approaching this could be to identify a set of variables that are conceptually consistent with those in the previous census (or a major survey) or administrative records from various authorities in the country, such as expatriate visas issued, national ID programme or number of registered establishments. Thus a set of benchmark values could be constructed before the census operation commences and compared with those from the current enumeration. The content of the benchmark set will depend upon the content of the enumeration, and much of this must therefore be determined by each country. However, any census will include the variables age and sex, so a comparison of the age pyramid and sex ratio for each ten-year age cohort would be basic elements of such analysis.

3.195. A second component of the analysis is the compilation of a set of information regarding expected changes since the benchmark survey. For example:

- (a) It is possible that in the time since the previous collection improvements in maternal health care programmes have led to an increased survival rate for women. Thus intercensal cohort survival ratios for females should be higher for younger women than older ones.
- (b) If literacy is included in the analysis, and government policy has been to strongly support increased school attendance, an increase in the proportion of literate people could be expected.

3.196. There will be a need for careful judgement when the analytical tables show a significant and unexpected difference from the benchmarks. While it may be found that the difference is due to a problem with the current collection, it could also be due to:

- (a) A problem in the collection that has generated the benchmarks;
- (b) A genuine and previously undetected social change that is being correctly revealed by the current collection.

3.197. In the latter two cases it would be wrong to make any change to the current data set. However, it is crucial that details of the investigation are made known to users (by preparing suitable metadata) so that they would be able to treat and analyse the data correctly. If the

analysis indicates that there is a problem with the current collection, it will also be a matter for judgement on how to react to it. One proposition is to revise the input processing system in order to prevent the problem from being perpetuated. After applying such changes, and in order to avoid introducing further problems, it is essential that they be fully tested and accepted. The second proposition is to make a decision as to whether or not to reprocess the records that have already been processed. This decision should be guided by the following:

- (a) Significance of the error;
- (b) Number of questionnaires that have already been processed;
- (c) Time duration for the reprocessing;
- (d) Impact of such a decision on other consecutive phases of the census (such as tabulation and dissemination);
- (e) Cost and expenditure of that decision.

## G. Processing control

3.198. Careful planning and control are required to ensure an uninterrupted flow of work through the various stages from receipt of the census questionnaires through preparation of the database and final tabulations. The plan should provide for the computer edit to follow closely the coding, checking and recording of the data so that errors can be detected while knowledge related to them is fresh, and appropriate remedial actions may be taken.

3.199. Countries may wish to establish a computer-based processing management and control system to check individual forms or groups of forms for each enumeration area or for other processing units. Such a system should link the databases for enumeration areas and other geographic entities with the control information. The system would check and manage progress from process to process so as to ensure the completeness of records at each stage of the processing operations. As specified earlier, project management software may support the formal description of different processes and provide an environment to control the execution of all operations connected to an individual phase or status of the census. This system should be fed into the overall quality assurance and improvement system, the management of which is elaborated in paragraphs 2.192-2.200. If a computer-based processing system is established, a close and real-time communication between the headquarters, local offices and field enumerators should also be established. This is beneficial to the control of field staff and the management of logistics of enumeration materials. Also, as any problem occurs in the enumeration field, this solution can be shared through the bulletin board in the system, which can greatly reduce non-sampling error.

## H. Master file

3.200. When data editing is in progress, new files consisting of clean data records for each person are produced; these can be assembled so as to build a master file for later tabulations (often called the microdata file). This master file, like the raw data files, can have a simple rectangular sequential format. There is usually no need for having the master file organized with a database structure with index files (but neither should it be discouraged). However, the master file should usually be maintained in geographic order, starting with the lowest geographic entity, sorted by housing unit, household or family. Another method commonly used to generate tabulations involving both the individual and the family, household or housing unit is to include in the head of household's record selected characteristics of these latter units. Alternatively, a single hierarchical file can be created involving, for example, person,

family and housing unit records. Whatever the chosen structure, the master file must allow for easy checks, controls and computations to be performed.

3.201. One of the most common and problematic errors in census files is that different enumeration areas carry, for one reason or another, the same identification codes. Upon sorting the file, these enumeration areas may have been merged, generating households with abnormal characteristics such as two heads of household, twice the usual number of members, two housing records, and so on. To avoid this problem, the enumeration area geocodes should be checked carefully prior to the editing phase. This is best done by keeping a check file of all expected code combinations, and marking a code as “used” once an enumeration area using the code has been processed. A module of this functionality can be part of the editing programme. The check file will serve to flag impossible or double identification codes, and towards the end will show which enumeration areas were expected but have not been processed.

3.202. Census master data files are usually very large and require powerful servers to process. Well-equipped desktop systems have higher computational power and are equipped with much bigger and cheaper mass storage devices than in the past. Nonetheless, the hardware infrastructure available to several countries is older, thus two strategies are applied to reduce file size and to make data management simpler. The first involves working with the next lowest geographic entity as a basis, processing the data on this level and aggregating later to obtain national results. The second remedy is to apply on-the-fly compression and decompression to the storage medium. Census files can be compressed quite significantly to less than 20 per cent of their original size. Since tabulation programs access the data in sequential order, using the compressed data will result in a faster reading process.

## I. Methods of tabulation

3.203. Preparing the tabulation plan is the substantive responsibility of the demographers and other subject-matter specialists who have the necessary expertise in interpreting the census results. This will require consultation with principal users of the census information (see paragraphs 2.98-2.113). The duties of the data-processing department should be limited to checking the logic of the various accumulations, designing the required programs and producing correct results within the shortest possible time. It is possible that the need for initially unforeseen tables will become apparent, so the census organization should always be prepared to produce additional aggregations. This may involve newly defined classes for certain variables, new types of cross-classifications, differently defined geographic subdivisions, and so on. If the master file is organized according to the principles of relational databases in a relational database management system, original and additional aggregations can be designed according to relatively easy structured query language statements. In the case of a list of records with a rectangular structure, online analytical processing tools might be used to generate multidimensional tabulations. However, if the information needed to produce these aggregations is not available in the master file, it will usually be prohibitively expensive to attempt to add this information at a later date.

3.204. The use of software packages specifically designed to produce census tabulations is highly recommended. These packages will make the job of preparing a useful program much simpler (and thereby help prevent errors). Usually designed for maximum execution speed (given that large files are to be processed), these systems are often available free of cost, or for just a nominal fee.

3.205. Tabulation work can also be easily done by software belonging to either of two other classes: statistical analysis and database software. However, these packages have not been designed with large-scale sequential or geographic processing in mind. They may require

substantially more computer time than a specialized census tabulation system. In countries with a limited capacity of powerful computers, this can be an important consideration.

3.206. Other factors that should be taken into consideration when selecting software packages for tabulation work include:

- (a) The availability of expertise in the census office. It makes no sense to switch to a software system that is only marginally better when this would require a major retraining effort;
- (b) The need for customization of the software to perform advanced functions, such as random perturbation to preserve confidentiality.

Moving to a different software environment should be the result of a careful analysis of all the factors concerned.

## IX. Evaluation of the results

3.207. A census evaluation programme should be developed as part of the overall census programme and integrated with other census activities. The scope and objectives of the evaluation programme should be decided well in advance to determine early enough the adequate resources (both financial and human) needed for the evaluation programme. It is important to establish a team responsible for the planning, organization and implementation of the evaluation programme. The cost of evaluation should be covered in the census budget as a separate item.

### A. Purpose of census evaluation

3.208. The quality of population and housing census data is very important for many reasons, including building public trust in and understanding of the national statistical system. The purpose of census evaluation is to provide users with an acceptable level of accuracy and confidence when utilizing the data, and to explain errors in the census result. It is therefore important to choose an appropriate way of sending out these messages to the right group of stakeholders.

3.209. The evaluation methods discussed here are those that apply to traditional censuses. To some extent they also apply to register-based censuses and other census methodologies, but these also present their own particular challenges and solutions.<sup>67</sup>

3.210. It is universally accepted that a population census is not perfect, and that errors can and do occur at all stages of the census operation, but these errors should be measured. Errors in the census results are classified into two general categories—coverage errors and content errors. Coverage errors are the errors that arise due to omissions or duplications of any of the enumeration units—persons, households or housing units—in the census enumeration. The sources of coverage error include incomplete or inaccurate maps or lists of enumeration areas, failure on the part of enumerators to canvass all the units in their assignment areas, duplicate counting for persons who have two or more places of residence, persons who for one reason or another do not allow themselves to be enumerated, erroneous treatment of certain categories of persons such as visitors or non-resident aliens, and loss or destruction of census records after enumeration. Content errors are errors that arise from incorrect reporting or recording of the characteristics of persons, households and housing units enumerated in the census. Content errors may be caused by several factors, including poorly phrased questions or instructions,

<sup>67</sup> See, for example, UNECE Secretariat for the Eleventh Joint UNECE/Eurostat Meeting on Population and Housing Censuses, *Census Quality Evaluation: Considerations from an International Perspective*, Geneva, 13-15 May 2008, available from [www.unece.org/stats/documents/2008.05.census.html](http://www.unece.org/stats/documents/2008.05.census.html).

or enumerator errors in phrasing the census questions; inability or misunderstanding on the part of respondents in respect of answering specific items; deliberate misreporting; errors due to proxy response; and coding or data entry mistakes.

3.211. Many countries have recognized the need to evaluate the overall quality of their census results and have employed various methods for evaluating census coverage as well as certain types of content error. Comprehensive evaluation should also include assessment of the success of census operations, in each of its phases, including evaluation of activities such as the census publicity campaign, data collection, data processing, data dissemination and data utilization. Countries should ensure, therefore, that their overall census evaluation effort addresses the census process, as well as the results. The present section is devoted to evaluation of the results. However, the section on the quality assurance and improvement programme (paragraphs 2.171-2.228) provides further recommendations relating to controlling and assessing the quality of census operations.

3.212. Evaluation efforts focused on census results should generally be designed to serve the following objectives: first, to provide users with some measures of the quality of census data to help them interpret the results; second, to identify as far as is practicable the types and sources of error in order to assist the planning of future censuses; and third, to serve as a basis for constructing a best estimate of census aggregates, such as the total population, or to provide census results adjusted to take into account identified errors at national or subnational levels if some errors such as coverage error are substantial and the validity of census results is questionable.

3.213. As the decision to adjust census figures is sensitive, it is bound to be decided at the highest levels of the government bureaucracy. There is also some critical statistical consideration that should be very carefully weighed in. Consideration must be given to what geographic domains the adjustment would cover, knowing that such adjustments have an effect on demographic distributions.

3.214. The final publication of census results should include an estimate of coverage error, together with a full indication of the methods used for evaluating the completeness of the data. The publication should also provide users with some cautions or important notes about the results, in addition to some guidance on how they might use the evaluation results. It is also desirable to provide, as far as possible, an evaluation of the quality of the information on each topic and of the effects of the editing and imputation procedures used.

3.215. The range and quality of editing in regard to the correction of the inconsistent data and imputation possible in a population census are greatly enhanced by the use of computer editing programs that permit inter-record checks (for example, the replacement of missing values based on one or more items on the basis of reported information for other persons or items). If any imputation is made, the topics affected, the methods used and the number of cases affected should be documented and clearly described in the census evaluation report.

3.216. The results of the evaluation of census results should be made available to users with a measure of the quality to help them interpret the results.

3.217. As discussed in the following subsection, a number of methods exist for carrying out a census evaluation. In practice, many countries use a combination of such methods in order to fully serve these objectives.

## **B. Methods of census evaluation**

3.218. The choice of evaluation methods to be used depends upon the evaluation objectives. These, in turn, depend on national census experience in terms of past and anticipated errors, user and public concerns, and the financial and technical resources available for evalua-



tion. The decision needs to be made whether to measure coverage error, content error or a combination of the two. In addition, both gross and net error must be taken into account in developing the overall evaluation plan. Gross coverage error in a census is defined as the total of all persons omitted, duplicated or erroneously enumerated. Net coverage error takes into account the underestimates due to omissions and the overestimates due to duplications and erroneous inclusions. When omissions exceed the sum of duplications and erroneous inclusions, as is usually the case in most countries, a net undercount is said to exist; otherwise, a net overcount results. Similarly, both gross and net content errors have to be considered in the evaluation design.

3.219. Numerous methods are available to estimate the coverage and content error of censuses. These include simple techniques of quality assurance, such as internal consistency checks. Comparisons of results with other data sources, including previous censuses, current household surveys and administrative records, are also useful techniques. Such comparisons may be made in aggregate by comparing the overall estimates from two sources (net error only). Alternatively, record checking, whereby individual census records are matched against alternative sources and specific items of information are checked for accuracy, may be used. Both gross and net errors can be estimated in record checks, which may involve field reconciliation of differences, a costly exercise that cannot be overlooked. An important but complicating factor in the use of record checks is the requirement of accurate matching. It is essential to plan carefully for this aspect, since the operation can be tedious and costly. It should be noted that record checks are best employed to study the coverage of certain segments of a population, such as children whose birth records are complete, since these checks are, by definition, limited to subpopulations with complete, accurate records.

<sup>68</sup> Note that for the purposes of this publication, a post-enumeration survey is defined as being a post-census evaluation survey.

3.220. Demographic analysis and post-enumeration surveys<sup>68</sup> are two very important methods for evaluating census data, and these are discussed in further detail in the following two subsections.

## C. Post-enumeration survey

3.221. The post-enumeration survey can be defined as the complete re-enumeration of a representative sample of the census population and matching each individual who is enumerated in the post-enumeration survey with information from the main enumeration. The objectives of the post-enumeration survey can be summed up as follows:

- (a) To assess the degree of coverage during census enumeration;
- (b) To examine the impacts of coverage deficiencies, if any, on the usefulness of the census data;
- (c) To obtain information for the design of future censuses and surveys;
- (d) To examine the characteristics of persons who may have been missed during census enumeration.

3.222. While a post-enumeration survey can be designed to provide a comprehensive evaluation of coverage and content error, especially when supplemented by and integrated with detailed demographic analysis of census quality, the methodology of a sound post-enumeration survey is complex, so that countries must accordingly weigh with care the demanding technical requirements and the costs of conducting a successful post-enumeration survey, and elaborate a clear statement of its objectives, before deciding to undertake such a survey.<sup>69</sup> Careful advance planning is crucial. To be valid, a post-enumeration survey has to function within a number of operational and statistical constraints. These include the requirement that the survey be carried out within a few months of the end of the census to ensure that the

<sup>69</sup> An elaboration of technical issues is provided in United Nations Statistics Division *Post Enumeration Surveys: Operational Guidelines, Technical Report* (2010), available from [https://unstats.un.org/unsd/demographic/standmeth/handbooks/Manual\\_PESen.pdf](https://unstats.un.org/unsd/demographic/standmeth/handbooks/Manual_PESen.pdf).



impact of natural population changes (births, deaths and migration) and lapses in respondent recall do not hopelessly complicate the exercise.

3.223. Another basic property of post-enumeration survey design and execution involves matching and reconciliation. Matching the post-enumeration survey person record or household record against the corresponding census record is an operation whose performance must be of very high quality to ensure that inaccuracies in the post-enumeration survey itself do not effectively ruin the estimate of coverage error. Matching is especially difficult in countries where many surnames are identical or where individuals are known under more than one name, and well-defined street addresses do not exist. Part of the matching operation usually involves a field visit to reconcile differences between the census and the post-enumeration survey with regard to either coverage or content. Reconciliation of course adds another dimension of cost and complexity, since it entails a second visit to the field for purposes related to the post-enumeration survey.

3.224. Clearly defining the objectives of a post-enumeration survey is the first and most crucial step in planning the survey. The objectives might include estimation of coverage error at the national level; estimation of coverage error for major subnational domains or population subgroups, each with its own specified level of precision; and measurement of content error for specific census items.

3.225. As mentioned, the design of a post-enumeration survey is complex and there are various alternatives, primarily depending upon whether single or dual system estimation is to be utilized. A number of references are available that set out highly detailed procedures for designing a post-enumeration survey and the conditions under which they may or should be considered.<sup>70</sup> However, in general, when designing a post-enumeration survey, the following considerations should be taken into account:

- (a) The time between the census and the post-enumeration survey should be minimized to avoid as much recall error as possible and the impact of population changes (births, deaths and migration).
- (b) The post-enumeration survey must be independent of the census. Interviewers must not have census information about the areas where they are working. When interviewers have knowledge of census responses, they tend only to confirm what the census recorded.
- (c) To preserve the independence of the post-enumeration survey, its data collection and processing operations must be completely separate from the census data collection and processing.

3.226. The sample design for a post-enumeration survey must be based upon sound probability sampling methods taking account of the measurement objectives of the evaluation study. These usually include the need to estimate census coverage with a certain degree of reliability. In addition, estimates of coverage may be desired for geographic areas such as provinces or states and large cities, for urban-rural comparisons and so forth. Such requirements also greatly affect the sample design of a post-enumeration survey, as the necessary sample size is increased substantially when estimates of subnational coverage (or undercoverage) are required.

3.227. Sometimes a post-census survey is designed to measure content error only, in which case it is usually known as a reinterview survey. The advantage of a well-designed reinterview survey is that the results are more accurate than those of the census insofar as the operation is much smaller and can be more effectively controlled. Estimates of relative response bias can be obtained from a reinterview survey, which (rather than the census) is generally taken as the standard in this area on the grounds that the survey, with its better-trained interviewers and more intensive survey procedures, yields superior results.

<sup>70</sup> United Nations Statistics Division, *Post Enumeration Surveys: Operational Guidelines* (2010), available from [http://unstats.un.org/unsd/demographic/standmeth/handbooks/Manual\\_PESen.pdf](http://unstats.un.org/unsd/demographic/standmeth/handbooks/Manual_PESen.pdf).

3.228. As part of the design of some post-enumeration surveys, a sample of the original census enumeration districts, blocks or areas is chosen and recanvassed for the survey. As regards methodology, this constitutes a useful reinterview technique for measuring content error, and such an element in the design is often put into practice because the matching operation between survey and census records is then dramatically simplified.

## D. Demographic analysis for census evaluation

3.229. Demographic analysis offers a powerful methodology for evaluating the quality of a census, and countries are encouraged to use it as part of their overall census evaluation methodology. A wide variety of demographic techniques have been developed and used, ranging from visual inspection of census data to comparative analysis of two census age distributions. A basic procedure for assessing census quality on age-sex data is graphical analysis of the population pyramid. Age heaping, or the tendency of respondents to report a particular ending digit, is a useful check of the quality of age reporting, as are sex ratios by age and certain summary indices of age-sex data, including the United Nations age-sex accuracy index, which extends age-sex ratio analysis by observing deviations of the observed age-sex ratios from the ones expected for each five-year age group and combining the results into a single score.<sup>71</sup> Other summary indices are Whipple's index and Myer's blended index, used for judging age heaping.

3.230. Stable population theory has also been used in the past to assess the quality of census distributions by age and sex. It is based upon measuring the reported age-sex distribution against that of an appropriately chosen stable population, assuming that the population is not affected by significant international migration. However, nowadays there are few countries where the other two conditions assumed under the model, namely constant fertility and constant or recently declining mortality, are satisfied. Recent declines in fertility render the technique less useful as an evaluation tool, since the technique is sensitive to changes in fertility levels. Nevertheless, if the population is closed to migration, it can be assumed to have been stable in the not-too-distant past and if approximate estimates of recent fertility and mortality declines and recent growth rates are available, it may still be possible to assess the plausibility of the current age-sex structure in the light of these trends by iteratively fitting projected population structures to the observed numbers.

3.231. The methods mentioned above, while useful in providing an overall assessment of census quality, cannot differentiate the sources of census error in terms of the relative contributions from undercoverage (or overcoverage) or content error. Better information about coverage error, through demographic analysis, derives chiefly from comparative analysis of data from successive censuses, in which four methods are used.

3.232. The four methods are:

- (a) Derivation of an expected population estimate taking account of vital registers of births, deaths and net migrants between censuses, as compared with the latest census;
- (b) Population projections based on the results of the prior census plus data on fertility, mortality and migration from various sources and comparing the projected estimates with the new census results (cohort component method);
- (c) Comparison of two census age distributions based on intercensal cohort survival rates; and
- (d) Estimates of coverage correction factors using regression methods to make the age results from the two censuses mutually consistent (cohort survival regression method).<sup>72</sup>

<sup>71</sup> See *Methods of Appraisal of Quality of Basic Data for Population Estimates: Manual II* (United Nations publication, Sales No. E.56.XIII.2).

<sup>72</sup> Detailed methodologies including step-by-step procedures for applying all the demographic techniques mentioned above, plus others, are contained in United States Department of Commerce Bureau of the Census, *Evaluating Censuses of Population and Housing* (Washington, D.C., 1985).

It should be noted that the first two methods would probably have to be restricted to evaluation studies of coverage at the national level, especially in countries that do not have good subnational data on migration.

## E. Acceptance of results

3.233. In countries with limited prior census experience and without a well-functioning civil registration system, where population data are based largely on estimates, it is important to inform the users, particularly the governmental authorities, that the census results could differ from such estimates and to explain the reasons for these differences. In some cases, there may be doubts expressed about the census results; usually those doubts focus narrowly on the total population of the country, major subdivisions or population subgroups, rather than on the bulk of the census data relating to characteristics of the population or on the data for local areas. In this situation, it may be possible to take such doubts into account by modifying the census evaluation programme or by adding appropriate qualifications to the text of the census reports or in tabular footnotes. Nevertheless, the government may proceed with the processing and dissemination for official purposes. In any case, every effort should be made to process and evaluate the full census and to make appropriate use of as many of the census tabulations as possible.

# X. Census products, data dissemination and utilization

## A. Introduction

3.234. The population and housing census is a statistical operation of exceptional value to every country. It is the primary source of basic national population data for administration and for many aspects of economic and social planning. Consequently, data from national censuses represent a valuable public good that should be widely promoted by national statistical and census offices in order to enhance its utilization by the various users. Thus, the census should not be an end in itself but should be backed by the value of the results, in terms of utilization, and by the diverse categories of data users.

3.235. Timely and quality census data are indispensable for informed decision-making, development planning and better implementation outcomes. Specifically, census data are instrumental in understanding development challenges and the appropriate actions for influencing and informing change in relation to socioeconomic progress and environmental phenomena. Census data must therefore be transformed into usable formats to respond to the needs of stakeholders.

3.236. For some countries, the fundamental paradigm shift in the 2020 round of population and housing censuses is the utilization of statistics to increase public knowledge related to the progress of society and for transparency, mutual accountability and governance, results-based management and transformation. The role of statistical leadership is to anticipate and define measurement of policy questions. The increased use of statistics by government, business and citizens at large will drive different and better results and thereby succeed in mobilizing society for change.

3.237. The population and housing census represents one of the pillars for data collection on the number and characteristics of the population of a country and is part of an integrated

national statistical system, which may include other censuses (for example, agriculture), surveys, registers and administrative files. It provides at regular intervals the benchmark for population counting at national and local levels. For small geographic areas or subpopulations it may represent the only source of information for certain social, demographic and economic characteristics. For many countries the census also provides a unique source for a solid framework to develop sampling frames.

3.238. While the importance of disseminating census results to the fullest extent possible should be stressed, there are, nevertheless, some things that are essential for the national statistical or census office to keep in mind. Among these is the prerequisite for national statistical and census offices to ensure openness and transparency in the way the results are disseminated. It is equally important that national statistical and census offices maintain professionalism and demonstrate neutrality and objectivity in the presentation and interpretation of the results and are free from real or perceived political interference so that the objectivity and impartiality of the statistics is assured. This in turn will build trust in and acceptance of the results. Furthermore, the disseminated census results should be of sufficient quality to meet user needs, and safeguards should be in place to ensure individual information is kept confidential.

## **B. Plans for census products and data dissemination**

3.239. In order to maximize the utilization of results from their population and housing censuses, national statistical and census offices should have a sound dissemination programme whose objective is to promote the benefits and applications of census data. The statistical or census office should develop and implement an effective strategy for producing and disseminating output products and providing related services based on the demonstrated needs of the diverse users of census data. What follows are some salient issues for an effective dissemination programme.

### **1. Developing a dissemination strategy**

3.240. A census is not complete until the information collected is made available to users in a form suited to their needs. In order to fulfil this requirement, it is essential to develop a strategy for producing and disseminating outputs taking into account all potential users of the data. The objective of the dissemination process is to ensure that census products and services meet data user needs. This in turn requires identifying potential users of census data and their demonstrated needs so that appropriate products and related services can be developed.

3.241. A wide range of dissemination strategies must be developed for meeting the requirements of different users. Appropriate technologies and media need to be identified for effective and easy dissemination of census data and information. Use of GIS makes information more user friendly by including thematic maps. Census maps in printed or digital form should be included in the overall dissemination programme of a population and housing census. Budgetary provision should be made in the initial planning stage itself. In addition to preparing maps for the census reports, countries should also produce a population atlas and try to make most data available in a GIS on a CD-ROM, at different and nested levels of administrative geography, thus exponentially increasing the usefulness and utilization of census data. A number of census products have been developed that allow data users to visualize and customize data on maps. These are available as online and offline computer and mobile applications. Depending on the need and resources available, the development of such products should also be explored.

3.242. A number of key elements should be taken into account in the development of a strategy for census data dissemination, including identifying the diverse categories of users and their data needs and uses through (a) consultation, (b) products to be developed, (c) the media of dissemination, (d) metadata to aid in the interpretation of the results, (e) confidentiality and privacy measures, (f) assessing the required technologies to meet user needs, (g) dissemination policy, (h) quality assurance in terms of accuracy and timeliness, and (i) available financial and human resources. The first five elements are covered in subsequent sections of this chapter. The remaining are summarized below.

- **Technology.** Given the widespread availability and use of technology for easier production and access to census products, national statistical and census offices should evaluate which ones are suited to the needs of their data users, taking into account budgetary and human resource constraints. These technologies include use of GIS and thematic map generators, new sophisticated data base systems, and interactive web access, including client-customized table generators.
- **Dissemination policy.** When planning the dissemination programme, a dissemination policy should be established as well. This policy should cover issues such as ways of marketing the census products, which in most cases means mainly how to inform a wide range of potential users about the availability of the products. A clear pricing policy should also be determined, and a decision made as to the conditions under which external distributors are allowed to disseminate census data. The dissemination policy should also cover issues connected with the protection of the confidentiality and privacy of personal data, and the measures that will be used for each of the different products.
- **Quality assurance.** Quality refers primarily to user needs and satisfaction. Even if data are accurate, they do not have sufficient quality if they are produced too late to be useful, or cannot be easily accessed, or conflict with other credible data, or are too costly to produce. Therefore, quality is increasingly approached as a multidimensional concept. It has been suggested that the output of any statistical exercise should possess the following attributes: accuracy, relevance, reliability, timeliness, punctuality, accessibility, clarity, coherence, comparability and metadata.<sup>73</sup> Management of quality in census dissemination is driven by concerns to (a) deliver relevant products and services while (b) maintaining accuracy of the data, and (c) timeliness and predictability of data release within agreed cost constraints.
- **Budget and human resources.** Two obvious key elements (usually constraints) in the development of strategies for census data dissemination are the budget that can be allocated and the availability of human resources. With the high relevance of new technologies in all the census stages, and in particular for data dissemination, this is a factor that needs to be carefully analysed when deciding about the specific strategy of census data dissemination. The alternative to the recruitment of human resources may be contracting out some dissemination activities, in particular those connected with the development of more sophisticated systems. However, this solution needs to be carefully considered. It is extremely important to ensure that the contractor is committed to the census project until its very end and that at least some of the new abilities remain in the organization for further use.

<sup>73</sup> United Nations Statistics Division, *Guidelines for the Template for a Generic National Quality Assurance Framework (NQAF)* (2012), available from <http://unstats.un.org/unsd/dnss/docs-nqaf/GUIDELINES%208%20Feb%202012.pdf>.

(a) Consultation with data users

3.243. The demand for and use of statistical products and services must drive all census operations. National statistical and census offices should have a sound strategy for developing suitable products and services to respond to the diverse needs of data users so as to promote

the utilization of census results. Such strategies should be based on an active dialogue with the users regarding their needs in terms of products and the format of those products.

*Anticipate user needs and provide support*

3.244. The user consultation process in terms of census products is a major factor in the development of a dissemination programme. The type of consultation discussed in this section complements the consultation that is undertaken to determine census content (see paragraphs 2.98-2.102). The work done at this stage of the census is important in achieving the objective of ensuring that the census is relevant to users, which is a major indicator of the quality of the census. The selection of suitable census data products and related services should be guided by a detailed assessment of user requirements.

*Create systems and infrastructure for access to and use of census results*

3.245. Plans for what and how products will be disseminated should be made early in the planning process and shared with potential users in order to get their feedback. Based on this feedback, the national statistical or census office can tailor its data dissemination programme to suit the requirements of the users. Maintaining good communication and obtaining feedback from users is also important for making modifications to products and services, including being able to respond to user requests that become known later in the programme.

3.246. Based on the foregoing, it is important to note that the supply of census products and services goes far beyond the first couple of years after the census. It is important, therefore, that budget and human resources are available for many years after the end of census collection activities.

(b) Plans for outputs

3.247. It is important for census offices to consult stakeholders and identify their needs during the preparatory phase to proactively anticipate the type and format of census products to be produced. This is to ensure that census products are relevant, responsive and add value to the current policy questions and stakeholder needs. It is recommended that census offices include a census products plan and budget as part of the preparatory phase.

3.248. A wide range of statistical products can be made available to the public, the private sector, government agencies, local authorities and the academic and research communities. A detailed plan for producing different census outputs should be guided by early user consultations (see paragraphs 2.98-2.102) to ensure data and information requirements will be met in a format commensurate with user needs and demands; such a plan will also be a useful guide to prioritizing data processing and tabulations.

3.249. With the rapid development of technology, census data users have an increasing interest in a broad range of products and services from the census organization. The types of output that census offices may produce and disseminate must be current and may include printed products, static electronic products, interactive electronic products, customized products, user-interactive products and special audience products and services. Partnerships with key stakeholders are encouraged in the development of the various census products.

3.250. Some data users will need specialized products that the census organization is not planning to produce as part of the general census programme. It is recommended that the census organization establish a service to meet such specialized requests. Pricing of special products and services may be included in a pricing policy.

3.251. Printed publications, despite their production cost, remain in many countries the preferred vehicle for dissemination of the main results. Target dates for publication should



be determined well in advance and processing and printing programmes should be planned accordingly. In addition to traditional methods of printing, there are various methods of reproduction available that are fast, economical and of good quality, and these should be investigated. For an increasing number of users, computer-readable magnetic and optical media and online electronic data dissemination are a better means than printed paper, based on the factors of cost, storage capacity (and therefore weight of documents), ease of reproduction and direct availability of the data for further computer processing. In addition to the processed tabulations, sample data at the unit level are also provided by some countries for research purposes. In such cases, the sample should be carefully drawn to ensure an adequate level of representation while at the same time ensuring that anonymity is not compromised. Some countries have also adopted very creative techniques for data dissemination and visualization. The development of such data products should be part of the planning process of the census.

3.252. Not all of the processed materials need to be disseminated widely or in a single format. Tabulations required by only a few users can be supplied in unpublished form. Some data may not be tabulated until they are required at a later date. The information stored in the census database allows fast and relatively inexpensive production of additional tables. Countries may offer on-demand services to provide census information to users who require tables or other outputs not produced, or aggregates not available, through other means. If suitable electronic dissemination is available, customized tabulations and applications might also be designed and extracted directly by end users. In this case, the census organization should prepare in advance and then implement an authorization and security policy, so that the risk of breaching confidentiality in data provided to outside users is avoided.

## 2. Tabulation programme

3.253. In most countries, the tabulation programme represents a compromise between the full range of desired tabulations and the limits imposed by practical circumstances. To ensure that this compromise is made transparently and efficiently it is important that planning the census dissemination task is started at the earliest stage of the census development cycle by a round of user consultations. Once the census-testing programme has identified a practicable range of data items to be included in the questionnaire, data users should again be consulted on the specific cross-tabulations required and the relative priority for their production. It is essential that the programme be outlined sufficiently early so that the procedures and costs involved are investigated thoroughly before a final decision is reached. The type of questionnaire and the method of enumeration may limit the kinds and amounts of data that it is possible to collect. Publication time and costs, and the data-processing resources available, will determine the number and complexity of the tabulations that can be produced within a reasonable time. This will enable prospective census data users to make firm plans, and the census data processing staff to complete all systems analysis, programming and testing work in a timely manner.

3.254. The tabulations presented on the website of the United Nations Statistics Division are those fulfilling the most essential or generally required information. The databases of census information can be used throughout the intercensal period to address the needs of specialist users for whom these tabulations are not adequate.

3.255. It is important to plan the tabulation programme in such a way that final results can be issued within a reasonable period of time after the enumeration and before the information has become out of date for current needs. It is desirable that the details of the tables be prepared and the order of their preparation be decided early in the planning, so that the processing of the data is not be delayed.



3.256. Special tabulations may be requested at any time after the census enumeration. Once the census database has been produced by recording, editing and correcting the raw data, tabulation software packages can be introduced. These packages allow fast and relatively inexpensive production of tables for selected subsets of the total database or for alternative aggregates, assuming the information has been preserved in the database in terms of the needed detailed classifications.

### 3. Dissemination geography

#### (a) Linking collection to dissemination geography

3.257. An essential feature of the population and housing census is its diversity in terms of the geographic level at which data can be disseminated. This is due to the ability of the census to produce statistics that can be disseminated at the lowest geographic level (small area), through a geographic hierarchy up to the country level. Consequently, one of the earliest decisions in census planning relates to the administrative and geographic areas for which census data on diverse socioeconomic characteristics of the population will be reported and disseminated in order to satisfy the needs of the various data users.

3.258. In addition to administrative units, most countries will have a number of other sets of areas that are used for different purposes and for which census data will need to be compiled.<sup>74</sup> Such areas, which have special uses, include health regions, electoral districts, urban agglomeration or metropolitan areas, and utility zones (water or electricity supply districts). It should be noted that some of these areas may not fit perfectly into the administrative hierarchy of the country. It is important, therefore, that to the extent possible these reporting units are taken into account when designing enumeration areas in order to facilitate generation of census data for these regions. This draws attention to the fact that when delineating collection geography (enumeration areas), it is essential that dissemination geography is kept in sight.

3.259. Two somewhat different methods are available to provide the census with a flexible capability for generating tabulations in terms of a wide variety of geographic aggregations, including those needed for public and private sector data uses at the local level. The first method simply extends the traditional hierarchical system for coding all major and minor civil divisions so as to cover at the lowest level of the enumeration area, sometimes referred to as the “enumeration district”. The second method, which at greater cost permits finer geographic specificity, is usually based on some coordinate or grid system, such as latitude and longitude. This method is often referred to as a “geocoding system”. Particularly in the absence of a comprehensive system of street names, numbers or similar addresses, the first method, which uses the enumeration area as the key unit for the production of smallarea data, is to be preferred.

3.260. The fact that census data, whether published or unpublished, are available by enumeration area provides for considerable flexibility. Such flexibility can be of value given that the geographic divisions used by various branches of the administration or by other data users do not always coincide and may therefore require different regroupings. Moreover, when changes are planned in administrative boundaries, tabulation of census data by the planned new entities can also be facilitated through the enumeration area approach. However, if these changes cross enumeration area boundaries, and it is decided to try to retabulate the census according to the new boundaries, very complex recoding of individual records may be involved. As an alternative, statistical concordances, showing the quantitative relationship between the previous and current classifications, could be used. Further, where buildings or housing units have been geocoded, these geocodes can be used to directly allocate each household to the correct area under either classification.

<sup>74</sup> *Handbook on Geospatial Infrastructure in Support of Census Activities, Studies in Methods, No. 104* (United Nations publication, Sales No. E.09.XVII.8).

(b) Uses of small area geographic data

3.261. Censuses provide data from the highest to the lowest geographic levels of aggregation. Tabulations from census results yield relevant statistics for any reasonable combination of characteristics for the country as a whole, regions or provinces, down to small areas such as localities, and even enumeration areas and geographic grids. This important feature of the census makes the data amenable to the development of estimates of variables of interest for small and local areas in two major ways: directly from the production of tables from the microlevel data for the required characteristics, and indirectly from applying estimation techniques by combining other sources, such as sample surveys and administrative statistics to the population and housing census results.

3.262. Census data are typically aggregations of data for many individual small areas, and may commonly be used to study large regions or entire nations. Data for small areas enable the user to obtain statistical information about any number of local areas of interest, in addition to showing variations among small areas in individual parts of the country. Modern computer technology greatly facilitates the utilization of census results for analysing the information for small areas, limited only by issues of confidentiality and collection design and statistical disclosure when cell entries in cross-tabulations become very small. For example, the analysis of whether population programmes have affected the level of fertility at a regional level may be carried out by analysing data from the smallest administrative units so as to observe local variations and produce more accurate assessments of cause and effect.

3.263. Implementation of various national social and economic development programmes is a function of the state, province or lower levels of government in many countries. Results of population and housing censuses are useful for planning and monitoring development at the local area, small town level or small area. Small-area data are also important for private businesses in developing their distribution and marketing strategies. For example, information on housing demand from the population and housing census may be used by local authorities, local real estate companies, building and housing development contractors, and manufacturers of construction materials, among others.

3.264. Census data have been traditionally aggregated by various types of administrative units (for example, towns, villages, provinces and electoral units). In addition, other types of small areas are sometimes used in the census that are essentially statistical in nature (for example, census tracts and grid squares that do not change from census to census, and very small units such as city blocks or block faces). There have also been increasing demands for small-area data that cut across the local administrative boundaries. Population and housing censuses provide a powerful tool for assessing the impact of population on the environment, for example on drainage basins and on water resource management systems. The spatial units for such a study may combine a group of local administrative areas. In this situation the availability of census databases with mapping capability (see paragraphs 3.107-3.108) is of great importance.

3.265. Tabulations for small areas may be prepared on the basis of the resident population of each area or on the basis of the population present in each area at the time of the census. Tabulations relating to the resident population are produced for the apportionment of representation in legislative bodies, the measurement of internal migration, the computation of measures of fertility and mortality by place of residence, and the planning and administration of such services as schools and housing, which have relevance only to the resident population. Tabulations based on the population present in the area at the time of the census are useful where this population is considerably larger than the resident population and thus raises the demand for products and services above the level required by the resident population alone. The combined population and housing census may also be used to make comparisons of

resident and daytime populations in specific localities, if an item on place of work is included in the population census. It is therefore important that users express their needs for particular data disseminated in a given format, based on the usual residence or place of enumeration, at an early stage of census preparations.

3.266. It was elaborated in part one, chapter I, how the population and housing census plays an essential role in the economic and social components of the national statistical system and also serves as a sampling frame for sample surveys. Another significant way in which the census results complement survey statistics is in small-area estimation, whereby models constructed from survey data are applied to census results for any specified geographic area. This estimation approach may be used for generating such indicators as employment, poverty and other economic indicators, for which measurement is required at the local area level.<sup>75</sup> The application of small-area estimation techniques to poverty measurement and mapping is an important extension of the use of census results. Many countries perform midyear population estimates at the national level; however, the application of small-area estimation techniques can be used to compile midyear population estimates at subnational and local levels. If such use is contemplated, it would need to be taken into account during the planning stages of the census exercise, when decisions about topics to be included in the census are being made.

<sup>75</sup> *Measuring the Economically Active in Population Censuses: A Handbook* (United Nations publication, Sales No. E.09.XVII.7).

#### 4. Mode of dissemination of outputs

3.267. As has already been mentioned, a census is not complete until the information collected is made available to potential users in a format suited to their needs (paragraph 3.240). Consequently, meeting the needs of data users means that the data producer should not only provide data products to the users, but should also provide them in formats that are suitable to the needs of the users. The information in the products may be included in published tables and reports for general distribution, produced as tables in unpublished form for limited distribution or stored in a database and supplied upon request, or disseminated online either as static or interactive products.

3.268. It should be noted, however, that regardless of mode, all dissemination is subject to issues of (a) quality assurance; (b) possible disclosure of information about identifiable respondents; and (c) copyright and ownership. In addition, the issue of cost recovery has become important to many statistical organizations. Each medium of dissemination has its advantages and limitations, and the choice of one or more of them depends on the context, and on the intended categories of users. In most instances, these methods complement each other and can provide effective ways to reach out to the public and private sectors.

3.269. When data are provided in electronic form, special attention should be given to providing users with easy means of data retrieval. The options for obtaining the relevant meta-information and data should be accessible in standard and contemporary formats.

##### (a) Publication of printed tables and reports

3.270. Although more and more countries use software for online dissemination of their census results, printed publications remain an often-selected choice for the dissemination of the main census results. At least for the present, they reach out to the largest number of potential census data users. Paper media do not require that the user has any particular equipment, software or technical skills.

3.271. It is important that plans be made and sufficient funds be allocated to ensure publication of the tabulations of widespread interest. The final tabulations should be presented and explained in a way that will facilitate their extensive use. The data should be shown for appropriate geographic and administrative divisions and classified by important demographic

variables. The census publications should also contain information on how the data were collected and processed, results of available evaluation studies, and appraisals of the substantive significance of the results presented. In addition, a sufficient number of maps should be provided in the census publication to allow the identification of the geographic units for which the statistics are presented.

3.272. Using tabulation programs to produce output directly for publication allows the traditional method of dissemination of statistics through printed reports to be integrated more closely and more inexpensively with the statistical production process. If the software used for tabulation cannot produce camera-ready output, the files containing output tables can be moved into a document that could be assembled using desktop publishing or word-processing software. Manual retyping of tables once generated should be avoided as much as possible to prevent transcription errors and delays.

3.273. The choice of how the actual printing is to be done entails in fact a trade-off involving quality, cost and speed. The best results can usually be obtained by sending the documents in computer-readable format to a professional printing plant. This will allow high-quality typesetting and the use of supporting colours. Alternatively, master printouts can be made in the census office and sent to the printer for cheaper duplication or offset printing. There are also affordable high-speed printing systems that can be directly controlled by the computers in the census office.

3.274. Target dates for publication should be determined well in advance and processing, and reproduction programmes should be planned accordingly. In addition to traditional methods of printing, there are various methods of reproduction available that are rapid, economical and legible, and these should be investigated.

(b) Dissemination on computer media

3.275. For an increasing number of users, computer-readable magnetic and optical media are the preferred medium of dissemination. This is because data in this form are often less expensive to obtain, copy and store. In addition, they are directly available for further computer processing and analysis.

3.276. Technologies such as CD-ROM and DVD-ROM provide forms of distribution for large data sets that are not subject to frequent change or updating. Standard CD-ROMs and DVD-ROMs are read-only optical media. They have a very large storage capacity, they are durable, and they can be produced inexpensively. Because the results of a particular statistical enquiry such as a census are supposed to be final, dissemination on a read-only support should be satisfactory. Equally, widespread dissemination of census statistics uses flash drives or memory sticks, which are increasingly able to carry extremely large volumes of digital content.

3.277. Further development of media for storing digital content will inevitably have an impact on the dissemination of census results. It is thus necessary to keep abreast of developments in this field in order to meet the changing needs of users of census statistics.

(c) Online dissemination

3.278. Online dissemination of all kinds of information, including statistical information, has increased with new innovative formats for displaying census data. The advantages of online dissemination are found primarily in terms of speed, flexibility and cost, and making results accessible to a wide range of data users. The information is available to the user as soon as the provider has uploaded it to the server and cleared it for access by users. Information can be static or dynamic. The cost to the user is limited to the expenses of communication with the Internet service provider, plus whatever charge the information provider is placing

on top of these. There is no expense involved in the production and distribution of printed materials or other data supports. There are however financial resources needed for the implementation of the online data platform and potential training needed for staff to operate such technologies.

3.279. Online dissemination of data was common well before the Internet gained prominence. The simplest option open to statistical organizations was bulletin board systems, now largely replaced by Internet and intranet websites. The same website could be used for both internal and broad community communication, with the granting of access rights in certain areas to privileged users only. Security measures, including passwords and callback procedures, can be used to exclude unauthorized users from reaching these areas. This is however risky, since resourceful hackers may find their way around the barriers and gain entrance to confidential information. Firewalls are hardware or software security systems that limit the exposure of a computer or network to malicious infiltration from an external location. The census office website is probably the first dissemination medium where Internet-connected users would look for census information. It is recommended that microdata should not be stored on a website in direct contact with the public. It is also recommended that a powerful firewall constitute a security layer between the website that is visible to the public and the working network of the census office. Websites of public administrations are under constant attack from hackers and very sophisticated security measures must be adopted when “opening up” on the Internet. Internet security, despite being an issue of a technical nature, has to be mandated, demanded and resourced by the highest levels of management of the census office.

3.280. An Internet website can be used not only to make information available as soon as it has been cleared, but also for other forms of communication with users. Possibilities include online ordering of publications and one or more receiving areas for questions that would be answered later through the same medium by appropriate specialists. One such area could be the census forum or “chat room”.

3.281. Internet websites may support “door” or “gateway” applications that allow users to run outside programs on the computer on which the Internet web server operates. Interactive access to census outputs can be offered to most types of databases and census products, including reports, publications, tables, maps and graphs. For example, there may be a database of aggregated census data for small areas or a microdata database that users can access in this way. When the required data are not readily available, users could run an on-the-spot query to obtain and retrieve results that satisfy their needs. This can be done by offering to Internet users census microdata samples and an interactive tabulation system. Users can then select records from these data sets that satisfy certain parameters and compute statistical information, such as two-dimensional cross-tabulations of either original or recoded variables. Program execution by users on the outside, however, raises important questions of cost, efficiency and confidentiality, which have to be resolved. For reasons of efficiency, it is recommended that information that is provided or likely to be heavily requested by users accessing the census website be made available in a static format, which is faster to download. Letting the user run data extraction on online databases, which would be a dynamic way of accessing the census information, is more resource-consuming and should be the second choice for users needing more detailed data than those available through static pages.

3.282. Other media such as social media are useful in disseminating census information targeted at different sectors of the population. More generalized media, such as the radio, television programmes, newspapers and press conferences, offer the possibility of reaching out to sectors of the population not otherwise reachable.

3.283. A hybrid solution for data dissemination that appears to combine the advantages of several approaches is one whereby the statistical or census organization makes basic data avail-

able to users on a computer-readable medium, usually through a website or optical media, while additional information may be provided by telephone or some other online protocols, such as file transfer protocol sites. This will usually take the form of a package that contains basic data, metadata and data browser software. The basic data may contain existing time series, report files and the like, as well as country and region maps that can be used to generate thematic maps with various indicators. Maps made available to general users need not ensure the same geographic detail as maps used for enumeration areas. Lighter versions of maps at any subnational level may be provided to the general public, and more sophisticated and detailed ones to those fewer users who would actually need an increased level of detail. It is thus important that the website specify the instructions on how to contact officers responsible for special dissemination needs.

3.284. For some users, if the particular statistical information is not yet available on the physical distribution medium, special access may be granted, provided that adequate screening of their credentials and security checks are performed, to protected areas of the Internet site where up-to-date census information becomes available. Since opening up online resources to users has to be planned carefully and a clear policy established in advance (so that criteria for deciding whether or not to grant access are unambiguous), it is not recommended. Instead, provision of an online data tabulation system for expert end users is advised.

## 5. Confidentiality and privacy

3.285. According to principle 6 of the Fundamental Principles of Official Statistics, “Individual data collected by statistical agencies for statistical compilation, whether they refer to natural or legal persons, are to be strictly confidential and used exclusively for statistical purposes”.<sup>76</sup> Maintaining data confidentiality is an indispensable element of maintaining the trust of respondents. If respondents believe or perceive that a national statistical or census office will not protect the confidentiality of their data, they are less likely to cooperate or provide accurate data. This in turn affects the accuracy and relevance of the statistics.

<sup>76</sup> <http://unstats.un.org/unsd/dnss/gp/fundprinciples.aspx>.

3.286. All the information stored in the census database allows the production of tables both for very small areas (such as enumeration areas or villages) and for all individual units in these areas. Therefore, when a census database is constructed, not only technical considerations but also the maintenance of confidentiality and the protection of individual privacy—which must be a primary consideration in designing the data collection and data processing program—must be taken into account. Accordingly, microdata, such as name and local address, or the unique characteristics that permit the identification of individual respondents, must be removed from the database or otherwise altered.

3.287. The same care must be taken if a transcription of information from original questionnaires (that is to say, from a representative sample) is needed for use by qualified agencies and research institutes engaged in special studies beyond the purview of the regular census programme. Such needs have sharply decreased with the almost universal use of computer technology. However, when such a procedure is possible under the census law, individual privacy should be ensured and no exception should be authorized.

3.288. The ever-increasing demand from users for more data, especially microdata and at lower geographic levels, and also with more technological advancement for data linking, particularly over the Internet, has created more challenges for managing data confidentiality. As a result, national statistical and census offices should examine the data and make modifications, when necessary, prior to dissemination of the data. The objective of the modifications is to prevent identification of individual respondents, and also intentional or inadvertent disclosure



of their personal information. This is particularly the case when microdata are disseminated and when data are linked to location, such as with the use of GIS.

3.289. Data protection methods range from simple cell suppression to elaborate statistical applications for entire databases. The approaches used to limit disclosure are tailored according to the type of data and the product to be disseminated. The methods differ based on whether the underlying data are microdata (individual units) or aggregate estimates (formatted as frequency counts or aggregate magnitude data).<sup>77</sup> Different techniques are also employed depending upon the type of data product to be released (microdata files or tables).<sup>78</sup> The three most common practices that limit disclosure in microdata are (a) eliminating information that directly identifies individuals; (b) suppressing data that may indirectly identify individuals; and (c) introducing uncertainty into the reported data.

<sup>77</sup> P. Doyle, J.I. Lane, J.J.M. Theeuwes, and L.V. Zayatz, eds., *Confidentiality, Disclosure and Data Access: Theory and Practical Applications for Statistical Agencies* (Amsterdam, Elsevier, 2002).

<sup>78</sup> V.A. de Wolf, "Issues in accessing and sharing confidential survey and social science data", *Data Science Journal*, vol. 2, No. 17 (2003), pp. 66-74.

## 6. Metadata

3.290. In order to assist data users to better understand and interpret the data, it is important that there is adequate documentation providing a complete and clear description of the production process, including data sources, concepts, definitions and methods used. This information represents metadata that, it is recommended, should accompany all census products. Metadata will promote transparency and credibility of census results. Also, dissemination of census products with accompanying metadata ensures harmonization and comparability of census data with other data sets.

### (a) Definition and content

3.291. Metadata comprise descriptive and structured information or documentation about data that informs users about the content, quality and condition of data. In this context, metadata provide guidance on the proper usage or interpretation of data by providing information on the processes of production and describing the structure of data sets, thereby making it easier to retrieve, use or manage the data. Metadata constitute a standardized way of organizing data and can be categorized as follows: (a) reference metadata, which allow understanding and interpretation of the corresponding statistical data by describing the concepts, definitions, methodology and quality of data, production and dissemination processes, data access conditions, etc.; and (b) structural metadata, or "data about data", which provide information about the structure of the data set and act as identifiers and descriptors of the data, making it possible to properly identify, retrieve, browse and further process the data.

### (b) Uses of metadata

3.292. The need for comprehensive and easily accessible metadata to better understand the statistical data being presented cannot be emphasized enough. Metadata are a key element of census dissemination to ensure that the underlying concepts and definitions are well understood and that the results are well interpreted. Metadata are used by people or systems to make proper and correct use of statistical data in terms of capturing, reading, processing, interpreting, analysing and presenting the information.

3.293. All tabulations should include the following metadata or references to where this information can be obtained: census questions; reasons why they are asked; conceptual definitions (census dictionary); geographic hierarchies used; changes since the previous census with regard to content, operational methods or geographic boundaries; and quality indicators such as coverage rates and item non-response. Data files must also be accompanied with metadata, including names and codes for common variables, personal files and household files. If a long-form sample is used in the census, metadata should also provide information



on the sampling variability of the results. When the census tabulations include suppressed data cells due to small numbers, the metadata should also include a methodological note on the rules and methods of suppression. Metadata should be preserved for future reference. With the increased use of technology, properly designed metadata systems for web-based applications are recommended.

## 7. Promotion of, and training on, uses of census data

3.294. The main purpose of a census is to collect, process and disseminate information that will be used as the basis of informed, evidence-based decision-making. The benefits of this approach to decisions are not always apparent to users, especially in situations where other approaches may have been used in the past. It is therefore important to promote such uses of census results among users.

3.295. In other cases, users may be willing to use the information but require additional training to more fully understand the data. Such training may be usefully combined with training in statistical dissemination techniques or uses of more advanced data products. At a very basic level, some users may require training in such mundane issues as how to contact the national statistical office, or how to find the information they require within the systems of that office, or how to use the website and other electronic applications and tools.

3.296. Whichever approach is taken to enhancing promotion and training in the use of statistical data, a number of strategic issues need to be addressed. These include:

- (a) Ensuring that the needs for training are identified early in the census planning process and that required funds are included in the census budget. In many cases the courses requested by users will be specific to those users; in such cases it may be desirable to request the user to provide funds to cover the marginal (or full) costs of the course.
- (b) The proposed courses or materials should be fully integrated into the overall census advocacy or training programme. It is essential that messages about the use of data fully reflect the messages given when initially advocating conducting the census or seeking public cooperation with and participation in the collection phase.
- (c) If the training facility is itself promoted properly, it is highly likely that the demand for training will far outstrip the ability of the statistical office to deliver it. In this case it will be necessary for the statistical office to have prepared transparent strategies that (a) identify those areas in which the statistical office wishes to participate (for example, dealing with lifeline clients, and topics on which the statistical office has particular knowledge or expertise); (b) establish partnerships with other bodies to provide training; (c) use approaches other than classroom training to provide learning-at-a-distance opportunities (for example, e-learning); and (d) have a pricing regime to cover costs where this is seen as desirable.

3.297. The list of target audiences and topics for such training must be determined by countries. It should be noted, however, that basic training in the use and interpretation of the results of one census is a very strong method of advocating support for future censuses. It is thus recommended that countries consider development of a basic course in (a) potential uses of census data; (b) how to access census data; (c) interpretation of census data at the broadest level, including the interpretation of its completeness and level of accuracy; and (d) spatial analysis. The target audience for such training should be key decision makers in the political and administrative hierarchy of the country. It should be outlined that the uses of census data at the local level (small areas) offer substantial potential for constructive use of census data; spatial distribution of population by age and sex, for example, provides an ideal framework

for local officials to address the most pressing issues of their constituents, such as location of schools, utilities, service delivery and so forth.

3.298. A second group of key importance are members of the mass media, such as print, radio and television journalists. A focus on training such personalities is important because they can carry the message to many other people. This will assist in the general raising of awareness in the population at large, as well as in generating an awareness of the census among the governmental, academic and business users who may not have contact with the statistical office on a regular basis. Obviously such training should be completely integrated with the overall public relations and advocacy work.

3.299. A third group to be targeted are schools, both students and teachers. A focus on training of teachers to use census data in the mathematics and geography curricula creates awareness among children about using statistics in decision-making and allows them to develop numerical skills using real data.

3.300. A fourth group to be targeted are geographers, with the aim of integrating census and survey data with GIS shapefiles in order to perform spatial statistical analysis. This training will enable specialists to better present statistics in space.

3.301. A fifth group to be targeted are non-users of census data. A number of stakeholders are unaware of how census data can be used in their area of work to make evidence-based decisions. Countries need to aim to increase the usefulness of census data by identifying non-users. User segmentation will be a valuable source of information to identify possible non-users to be targeted.

3.302. A sixth group to be targeted is the research community. The focus of the training and demonstrations will be on the application of various statistical techniques to census data. This will improve utilization of census data.

## C. Census data dissemination: products and services

### 1. Provisional and final results

3.303. Some countries release provisional results very soon after enumeration is completed. Subject to change once the full data-processing and verification operations have been completed, they nevertheless provide a general picture of population trends. Provisional census results may be processed manually or by computer. For reasons of efficiency and quality, the use of computers is always preferable. The ability to verify data quality during the enumeration phase with the help of validation programs, quick indicator reports, data consistency reports, and tabulations greatly increases the confidence with which provisional results can be announced. Provisional results will normally cover information only on total population by sex and by major division. The number of households and housing units may also be derived easily from this exercise. The preliminary result of the census can be reported right after the end of the census by utilizing the summary of household lists without individual data processing. This can be possible as the summary usually includes the total population, households and housing unit in each major division.

3.304. The final census results will be the output of the main tabulation programme. Tabulations may be based on all of the returns or on a sample. If some of the topics are collected on a sample basis only, proper weights will have to be applied in the tabulation stage to produce valid national estimates. In addition, the census office should be prepared to facilitate the production of tables requested by researchers and users (see paragraphs 3.392-3.398).

3.305. Since provisional and final results may differ (for example, the summaries on which provisional results were based might contain errors), it is important that data users be made aware of and warned about the possibility of such differences. Implications of using provisional population counts must be outlined. It is recommended that quality assurance processes be put in place to minimize variances between the provisional and final results.

3.306. The final census results must be published as soon as possible. Countries may aim to publish the basic, essential results within one year of enumeration. The use of technology may reduce the time between the release of the provisional and final results, which may over time render provisional results obsolete. The dissemination of the final census results must be part of a comprehensive dissemination strategy and plan. The schedule and description of upcoming releases of final results and products should be made public early in the process to maintain interest by the public in the census (see also release calendar, paragraphs 2.114-2.118). The releases can be staggered, from simple, descriptive one-page summary fact sheets covering a country's major geographic divisions initially, to more comprehensive tabulations and descriptive reports later on.

## 2. Census reports

### (a) Basic reports

3.307. Every effort should be made to publish the principal results of a population census (such as those on age, sex and geographic distribution of the population) and of a housing census (such as a geographic distribution of sets of living quarters, households and population by type of living quarters) as soon as possible after the enumeration, otherwise their usefulness and the extent of their interest to the public will be diminished. With technological advancements, the time required for processing and tabulating results has been significantly reduced. As a result, collection restrictions, in terms of cost and accuracy of the data, have a greater relative weight in determining the number and complexity of the tabulations that can be produced and disseminated. The tabulation plan must respond to user needs.

3.308. The population and housing census tabulations presented and illustrated on the website of the United Nations 2020 World Population and Housing Census Programme are intended to provide, in tabular form, the most important census information needed as a basis for programmes of economic and social development and to be used for research purposes. They do not in any way represent all of the tabulations that a given country may publish and certainly not all of the tabulations that may eventually be prepared for special purposes. The tabulations do not take into account the form in which information may be entered into a database, which may be more detailed than that required for these illustrative census tabulations.

3.309. A major goal of these recommendations is to provide a set of tabulations that need to be produced at the lowest geographic level pertaining to the same point in time so that a country or area is able to meet its data needs for evidence-based socioeconomic development planning and monitoring. While the majority of national statistical authorities use a population and housing census as the single most comprehensive vehicle to collect these necessary statistics, others use sample surveys, registers of population and vital events, and other administrative sources or a combination of these methods to derive them.

3.310. Three categories of tabulations are described below: (a) basic or essential, (b) recommended, and (c) optimum tabulations.

*Basic or essential tabulations*

3.311. These are tabulations that are deemed of top priority for production by countries. They are also regarded as essential for countries in difficult circumstances, such as those that have emerged from a conflict or those that have not carried out a census in a long time, in terms of providing minimum statistics to meet their basic data needs.

3.312. The set of basic or essential tabulations on population and on housing characteristics are listed on the website of the United Nations 2020 World Population and Housing Census Programme. The tabulations include elaborate classifications as well as relevant metadata for each of the tabulations.

*Recommended tabulations*

3.313. Recommended tabulations are those that are considered adequate for meeting the essential data needs for evidence-based planning, monitoring and implementation of national policies because of their perceived relevance at both the national and the international levels. These tabulations are also designed with the potential for producing statistics at the lowest geographic level and are expected to be produced by each country at least once in the 2020 census decade.

3.314. The recommended set of tabulations also includes the basic or essential tabulations discussed above. Schematic presentations of all tabulations are presented online at the United Nations 2020 World Population and Housing Census Programme.

3.315. Associated with the recommended tabulations are the core topics that go into their production. Core topics are therefore the main variables for the recommended tabulations. There are 31 core topics on population with 25 of them direct topics and 6 indirect (for a more detailed discussion of direct and indirect topics, see paragraph 4.19).

3.316. As stated in paragraph 4.1, the aim of the recommended tabulations is to permit national and international comparability of data due to use of common concepts and definitions of the core topics. For each of the recommended tabulations, the core topics that it represents are listed as part of the metadata. Other metadata that are presented for each of the recommended tabulations include (a) the source of statistics, that is to say, whether from a traditional census, register-based census, survey or rolling survey; (b) the type of population count, that is to say, whether a de jure or de facto population or a combination of these; and (c) the definition of urban and rural areas used.

*Optimum tabulations*

3.317. The optimum set of tabulations includes the basic or essential and the recommended tabulations discussed above, as well as additional tabulations, and is designed to meet the needs of most of the users at the national and the international levels. This set can be viewed as being equivalent to the complete set of tabulations that could be generated from a population and housing census.

3.318. In order to avoid producing census tabulations that are overly voluminous or that contain a large number of empty cells, some countries may find it necessary to employ a more restricted geographic classification than what is suggested in the illustrations. For example, basic facilities such as piped water or electricity may be almost completely lacking for large areas of some countries. Under these circumstances, tabulation of the relevant data for small geographic areas would not be appropriate. The geographic classification to be utilized needs to be carefully considered, taking into account the type of information being tabulated, its probable frequency distribution and the uses to which the data are likely to be put. Privacy and confidentiality of individuals and households must at all times be protected (paragraphs 3.285-3.289, 3.262, 3.394).

3.319. Some countries may also collect data on additional topics in the census questionnaire to address specific concerns, for example, whether or not the birth of an individual is registered, the age a woman first marries, or vocational and technical skills. In other cases, detailed tabulations for special populations may be required for use in planning or evaluation of programmes. Tabulations for the non-core topics may be done after the basic tabulations are completed. This should be based on user needs. Consequently, consultations with user groups at both the national and local levels may be helpful in determining the most suitable tabulation plan and method of dissemination.

(b) Thematic statistical or analytical reports

3.320. Many countries prepare different types of thematic or analytical reports. These reports must be planned and scheduled during the preparatory phase and published according to the release calendar in order to avoid outdated reports. The reports may range from volumes presenting extensive and detailed statistical tabulations, particularly cross-tabulations, to more analytical reports that combine tabular materials with some interpretative or analytical text. This latter group of reports might include, for example, volumes of regional analysis on such subjects as population or housing conditions of urban areas, major metropolitan areas or big cities, and regional distributions; locality reports on infrastructure; and comparisons of key social indicators such as education, living arrangements, housing conditions, sanitation and economic activities. Other such reports might include community profile analysis of, for example, the indigenous population, and profiles of specific population groups, such as families, children, youths, persons with disabilities and older persons. Reports on population growth and distribution that examine changes in the demographic characteristics of the country's population with breakdowns by two or three levels of administrative areas would be very useful. Such reports might focus on the growth, location and mobility of the population at the national and regional levels, and administrative areas. It should be pointed out that it is important that appropriate language is used to correspond to the target audience for each thematic report. It is recommended that multidisciplinary task teams be established, including line ministries and agencies, for the preparation of thematic and analytical reports in line with agreed guidelines. Partnership and external cooperation with academic institutions and other specialists in subject matter, which can facilitate such work and strengthen collaborations, may be sought whenever possible.

3.321. Thematic and analytical reports must be based on user needs and respond to a country's specific development needs and emerging issues. These reports can also be used to show time series and trend analyses of socioeconomic and demographic indicators and may combine census data with other data sources to provide a more comprehensive and current outlook.

(c) Methodological reports

3.322. Other published reports may include the census methodology, encompassing, if applicable, sampling design and methodology and a census evaluation report, which may include estimates of census coverage and the methodology used for their preparation.

3.323. It is important that users of census products be provided on a timely basis with as much relevant information regarding the census as possible. A publication that contains information on all types of products that will be available following the census is very useful to users. A brief description of each product should be provided including the estimated timing of release, the level of geographic detail that each product carries and, for products released periodically, the frequency of release. In the case of large census operations, several such documents tailored to the needs of different sets of users (for example, users in education, health or local government) may be useful.

3.324. Many countries publish a census dictionary, which contains comprehensive definitions of terms and concepts and detailed classifications used to present census outputs. Some countries also publish geographic classifications and codes, and the definitions of areas used in the census and their relationships with the administrative areas. Explanations of user-defined areas for specific census tabulations and the type of format available (printed or electronic) may be provided.

(d) Administrative report

3.325. One of the most important reports in the publication programme is the administrative report, which is a record of the entire census undertaking, including problems encountered and their solutions (see also paragraphs 3.468-3.472 on systematic recording and documentation of the census experience). The report may include the following topics: a brief history of the census in the country and the legal basis for conducting the census; budget requirements, expenditure and control; source and allotment of funding; census committees and their activities; stakeholder management; census organization and personnel structure; staff management; quality control procedures; census calendar; census cartographic work; development and design of the questionnaires; enumeration methodology; census promotion, publicity and communication; field organization; manual editing and coding; data-processing development and organization; data capture; computer editing and imputation procedure; capital, equipment and infrastructure management; computer hardware and software used; census evaluation; publication and data dissemination programme; and archiving. The census administrative report is very useful both for the users and for the census organization itself. The administrative report is an essential product for the planning of future censuses (see also paragraphs 3.471-3.472).

3.326. With developments in information technology, the census data files and publications have become increasingly available in electronic formats. A description of the procedure in the development of these data files may also be included in the procedural report. Consideration of a separate volume of the procedural report for the processing and dissemination phases may be considered to ensure the completion of the planning and field operations phases immediately after the census enumeration.

### 3. Databases

3.327. In order to expand the life and usability of the data, and as a complement to the standard production of tables, national statistical offices are encouraged to store the census data in various computerized database forms so as to better satisfy the full range of needs of internal and external data users. Census databases assist data users by providing easy access to a wide range of census data.

3.328. The establishment of such databases can enhance the dissemination of the census results as well as increase their usefulness by combining census data together with related information from other demographic enquiries in a common format. (An important special case is bringing together the data from prior censuses into a single database.) In addition, such databases can improve the coherence of the input and output processing systems.

3.329. Needs vary widely from user to user according to specific interests and circumstances. There is therefore no preferred approach to setting up a census or population database. For example, a basic decision must be made whether to provide microdata, aggregated data or both. Other basic design issues to be considered include whether an effort is to be made to incorporate the new census results in an existing database structure or whether one or more new census databases are to be established, and if the latter is the case, whether the



new database(s) will be exclusively in the form of a census database or constitute instead the nucleus of one or more population databases incorporating data from other sources. Consideration will also have to be given to such issues as identification of the different types of users, their information requirements, types of information to be stored in the database, sources of information, maintenance and update of information, processing of user queries, identification of the appropriate commercial software or, alternatively, whether it is feasible to develop such software, and selection of the appropriate hardware capable of supporting the current database and its anticipated growth.

3.330. Since building a census or population database requires careful planning and can be time-consuming, such implementation should fit within the global statistical framework of the organization, and be seen as an ongoing process both complementing the data dissemination strategy and strengthening the statistical capacity of the organization.

(a) Microdatabase

3.331. Microdata (records of individual persons and households) collected in the census can be stored either in their raw form, or in their final edited form, or in a file that combines both raw and edited records. To limit problems of conservation, the data should be stored preferably on a medium of excellent reliability such as, currently, compact disk read-only memory (CD-ROM) or a digital versatile disk read-only memory (DVD-ROM), which has much more capacity than a CD-ROM, or a universal serial bus (USB) flash drive, which provides even more storage space. New technologies for mass storage are constantly evolving. Such new technologies present two issues for census managers and technicians: (a) the issue of when it will be appropriate to adopt a new technology as the standard; and (b) that of the need to convert materials stored in older media to the new standard or otherwise provide accessibility to the older materials.

3.332. With technological advances in mass storage devices and media, it is now feasible to store the full census data file (one character per byte) as a single large rectangular file. After adding a data dictionary that describes the data format and a tabulation module, one obtains a set that could be described as a census database. The microdatabase requires a cross-tabulation program, which can be either part of the package or external. The software normally used for census tabulation still requires some prior training and may be confusing to inexperienced users. More intuitive tabulation software is available, but may be either too slow in processing or too limited in its options to be fully satisfactory.

3.333. The organization of the microdatabase may take several formats, for example the software may allow for reorganizing the data in a transposed format (for example, one separate file per variable). This can substantially reduce the need for storage space and increase the speed of tabulations. However, establishing this kind of database is more complex, technically demanding and time-consuming. There would be advantages in storing census microdata with standard commercial databases. This approach has the advantage that many users are already familiar with such software, and so it is easier to find programmers and system analysts in the labour market. Even though the storage space required would be comparatively larger, today's market for mass storage has made available very large and fast hard disks at much cheaper prices, and the hardware market seems to continue to follow this trend.

3.334. One of the main advantages of a microdatabase is that it permits the retrieval of data, at least in principle, at any level of detail. Since microdata could be used to obtain information on individual persons, families, households or family enterprises, privacy concerns must always be taken into consideration. In most countries, the use of census data to identify individuals is prohibited by law. Moreover, the long-term reputation of the national statisti-



cal authority may well be jeopardized if such disclosures occur. Full elaboration of principles and protocols for disseminating microdata is elaborated below in paragraphs 3.376-3.391.

3.335. As presented in this subsection, there are methods (such as sampling, introduction of random disturbances, recoding and aggregation) that can be used to make such microdata available while still protecting individuals' rights to privacy. All have in common the fact that they sacrifice some information in order to eliminate or greatly reduce the risk of disclosure. However, it is important that census organizations interested in disseminating microdata to outside users should take the appropriate precautions to protect privacy and confidentiality.

(b) Macrodatabase

3.336. Aggregated census data can be stored in many formats, either as the results for one census, as a database covering more than one demographic enquiry, or in a broad database of statistical information. Whereas microdata are saved to allow aggregations to be made that were not programmed initially, macrodata are stored to preserve earlier aggregations, to provide the broad public with readily usable information, and to prevent double work by those who may find that the summary data they require have already been produced.

*Publication equivalents*

3.337. The simplest form of what could be called a database for macrodata is a straight copy of a publication on a computer medium, usually on an optical disk (CD-ROM or DVD-ROM) or a flash drive or on the website of the census office. A machine-readable publication-equivalent database may have the advantage of being less expensive to prepare than its hard copy counterpart. In addition, electronic or paper copies can be made quickly, with copying of only part of the publication if only part is required. A disadvantage is that a user needs a computer, and one possibly provided with compatible software, in order to have access to the census information.

3.338. The original printed publication can be captured on the computer medium by (a) exporting the camera-ready output to some portable file formats or scanning the printed pages, which generates raster-type images; or (b) copying the original computer files in American Standard Code for Information Interchange (ASCII) text form and worksheet or database formats. The former approach makes it extremely simple to retain all the formatting and to include graphs and other illustrations. The latter solution has the big advantage of allowing the user to process the information further by computer without having to re-enter the data. This, as noted before, economizes effort and prevents transcription errors. The information content in this case is usually limited to tables, perhaps with some explanatory texts. Because of the important advantages of each of these storage methods, census organizations can use both. The user receives a computer medium holding the camera-ready output file or the scanned images as well as ASCII files of the tables. If tabulated data are provided in readable format, they may also be organized with some kind of data-browsing software. In this case, the software should always allow for downloading in a variety of non-proprietary and popular spreadsheet formats. This is possible especially when the medium has a large capacity.

*Table-oriented databases*

3.339. More advanced users may prefer that a census database of macrodata offer more than an equivalent of the printed publication. They might like to be able to manipulate the tables in various ways in order to obtain views or results that represent their specific requirements more precisely. Associated graphing and thematic mapping capabilities may also be welcome. Several statistical offices have successfully filled this need. However, a major problem often encountered is that there is no generally accepted definition of what constitutes a statistical table and of the rules that should be followed when designing one.

3.340. In a controlled environment, such as that of a given census or national statistical organization, it is possible to standardize table definitions. The most common way is to design a basic layout having a number of attributes that together fully describe a table. Appropriate software will then give users access to a number of operations that process the table or several tables at the same time. Examples of such operations are reclassifying a variable (for example, from 1-year to 5-year age groups), eliminating a dimension from a multidimensional table or joining tables that have a dimension in common.

3.341. The availability of a standard table description language offers important advantages in exchanging tables as data-processing objects among national and international organizations. However, as mentioned before, some statistical tables are not easily pressed into the mould provided by formal descriptions. In this respect, it should be noted that statistical tables have little in common with the structures known as relational tables in popular database management systems.

3.342. Nevertheless, census offices should be aware of the potential offered by extensible markup language (XML). XML is not, as a matter of fact, a language itself, but rather a metalanguage system designed to be used on the Internet. With XML, users can define their own “tags” to structure the information within a document. XML thus offers the potential of precisely describing all elements composing a statistical table: title, subtitle, units of measure, indicators, values, the time dimension and footnotes, in short the metadata. Other solutions, such as EDI/EDIFACT (electronic data interchange for administration, commerce and transport), are a set of internationally agreed standards, directories and guidelines for the electronic interchange of structured data between independent, computerized information systems.

#### *Time series and indicator databases*

3.343. Databases can also cover more than one demographic enquiry, and census results can be integrated with various other data sets, including the results of earlier censuses. In developing databases that are aimed at serving a heterogeneous user community, the issue of a number of basic trade-offs will have to be addressed. For example, on the one hand, the number of variables should be kept as small as possible to make the database easy to use; on the other hand, it should be as comprehensive as possible to address the broadest possible requirements. A minimum data set of versatile indicators should consist of those variables that are useful for a wide range of applications and consistently available across space and time, and whose characteristics are clearly defined. In developing such a database, not only storage of the key indicators and variables themselves, but also the inclusion of some basic figures (absolute numbers or basic data) as a way of standardizing the basic statistical framework, is recommended.

3.344. It would be ideal to have a broadly accepted storage format that could improve interchangeability between producers and users. The principal problem is that series usually contain a number of descriptive attributes that have not been standardized. Metadata such as key code, definition of the variable, periodicity, unit of measure, universe covered, number of terms recorded, base year (for an index), adjustment applied, and so on, are required to interpret the series properly.

3.345. In addition, various processing modules (custom made or commercial) can be attached, allowing seasonal adjustment, interpolation and extrapolation, model building, and adding or subtracting of series if relevant, and so on. Spreadsheet manipulation, as well as graphing and mapping capabilities, can greatly enhance data presentation and analysis.

## (c) Graphing and mapping databases

3.346. By having associated graphing and mapping capabilities, databases will greatly increase their usefulness. Ideally users should be able to generate the graphs or maps required by themselves and then print or plot them, paste them into a report or make the images available for other uses.

3.347. Many users want data for relatively small areas concerning such matters as home ownership, educational profiles and the labour market. While the database may be for one census, some historical information can be included to allow users to observe prevailing trends over time.

3.348. Both microdata and macrodata can be at the basis of these dissemination products. However, owing to disclosure problems as well as in order to increase processing speed, some form of prior aggregation is usually applied, for example by using summary data. Such summary data could also be combined with the general purpose graphing and mapping software. However, this would result in a reduction of the user community to those able to handle rather more complicated processing jobs. Making available a census database with tightly integrated graphing and mapping capabilities (which usually implies a tabulation function) is an excellent way to improve the effectiveness of census information dissemination. If it is to be commercially successful, the product must be easy to use.

## 4. Geographic products

## (a) Basic maps

3.349. Census offices should take advantage of emerging GIS technologies to make the census results more understandable and easier to use. The purpose of statistical maps is to present the results in terms of their geographic distribution and also to make it easier for the general public to understand census results than when information is presented only in the form of statistical tables. There is special interest in the current pattern of geographic distribution and also in changes in patterns that have occurred over time, particularly since the last census. Harmonization of the boundaries between the censuses is essential for comparability of data.

3.350. The provision of maps serves two purposes: first, census area identification maps locate and show the boundaries of all administrative areas and units for which data are reported in census publications; and second, statistical or thematic maps and graphs present the significant results of the census, thus allowing the general user to visualize the geographic distributions and patterns inherent in the data. Well-designed and attractive maps will interest the users of census reports, and may raise questions that send them to the statistical tables for further details.

3.351. There are three major types of area identification maps that are commonly used in most census publications in printed or GIS shapefile formats: (a) national maps showing the boundaries of the first- and second-order geographic divisions and of the major cities or metropolitan areas; (b) maps of each first-order division showing the boundaries of the second- and third-order divisions for which statistical tables will be prepared; and (c) urban or metropolitan maps showing small sub-area boundaries as well as general streets, roads and rivers.

## (b) Thematic maps

3.352. A comprehensive map publication programme should be developed as part of the overall population and housing census publication programme so that the needed resources may be provided within the budget at the initial planning stages. In addition to preparing

maps for census tables and reports, many countries have also found it useful to produce a population atlas as a census output. Collaboration with other departments and interested agencies might be sought to facilitate the production of an atlas volume. The atlas would include maps depicting population and housing characteristics, as well as other data influencing the growth, composition and distribution pattern of population and housing (see paragraphs 3.83-3.93).

3.353. As regards thematic maps, priority indicators for a population and housing census are total population and its distribution by sub-area, population density, urban and rural population or metropolitan and non-metropolitan population, and changes in the population totals since the last census. Other important indicators include age, sex, fertility, mortality, migration, educational attainment, employment, household size, type of housing, ownership, number of rooms and sanitary facilities, with a growing demand also for data on communication (telephones, television, computers and Internet access), transport (vehicles), a broad range of household amenities, and recently also population-based development indicators such as household access to safe water, household waste management and multiple sources of household incomes, such as the incidence of remittances. This list of indicators is merely an illustration of the type of thematic maps individual countries might find useful to produce. Producing maps using the same set of indicators enables countries to meaningfully compare their results over time and with international or regional norms.

3.354. Maps are an invaluable aid in meaningfully comparing subnational results with national values or with other international and regional norms. Emerging technologies provide great flexibility in composing informative and visually appealing maps. Often several maps can be combined on a single page to show one indicator, for example, for urban and rural populations. Also, combining maps and statistical charts is an effective means of presenting census information.

3.355. By having associated graphing and mapping capabilities, databases will greatly increase their usefulness. Ideally users should be able to generate the graphs or maps for their own needs. Several census organizations have produced this kind of product, sometimes in cooperation with a commercial company. However, it is recommended that census offices develop mapping capabilities as a core competence for statistical production. Many users require small-area data concerning such matters as home ownership, educational profiles, the labour market, and so on. While the database may be for one census, some historical information can be included to allow users to observe prevailing trends over time. As with all time-series-type data, it is important to maintain consistency in both definition and spatial representations to ensure comparability.

3.356. Both microdata and macrodata can be at the basis of these dissemination products. However, owing to the need to maintain confidentiality, and in order to increase processing speed, some form of prior aggregation is usually applied, for example by using summary data. Such summary data could also be combined with the general purpose graphing and mapping software. Making available a census database with codes and names matching the GIS shapefiles with tightly integrated graphing and mapping capabilities (which usually implies a tabulation function) is an excellent way to improve the effectiveness of census information dissemination.

3.357. The following list presents some suggested topics for census maps. The list is not exhaustive: most topics that appear in the questionnaire as well as derived topics covered in part two can be presented in cartographic form. In some countries, special topics such as population distribution by ethnic or language group may be appropriate. Conversely, some of the listed maps present information on the same topic in somewhat different form, so that a statistical agency may wish to select the most suitable indicator for the needs of the country.

*Illustrative list of thematic census maps*

- *Population dynamics and distribution*
  - Percentage population change during intercensal period(s)
  - Average annual growth rate
  - Population density (persons per square kilometre)
  - Urban population as percentage of total population
  - Distribution and size of major cities and towns
  - In-migration, out-migration and net migration rates
  - Born in country and foreign born
  - Born in another division of the country
- *Demographic characteristics*
  - Sex ratio (males per 100 females), possibly by age groups
  - Percentage of population aged 0-14
  - Percentage of population aged 15-64
  - Percentage of population aged 65 and over
  - Percentage female population of childbearing ages 15-49
  - Total dependency ratio (population aged 0-14 and 65 and over, as percentage of population aged 15-64)
  - Marital status
  - Birth rate
  - Total fertility rate
  - Mean age at first marriage
  - Death rate
  - Infant mortality rate
  - Life expectancy at birth
  - Percentage of persons with disabilities
- *Socioeconomic characteristics*
  - Percentage of children not in primary school
  - Adult literacy rate (aged 15 and over)
  - Mean years of schooling (aged 25 and over)
  - Illiteracy rate of population aged 15 and over
  - Illiterate population aged 15 and over (total number)
  - Educational level of population aged 10 and over
  - Labour force as percentage of total population
  - Women's share of adult labour force
  - Percentage of labour force by economic sector, type of occupation and status in employment
  - Poverty mapping
- *Households and housing*
  - Average number of persons per household
  - Percentage of households headed by women
  - Average number of dwelling rooms per household

- Tenure status (owned, rented, and so forth)
- Type of construction material
- Percentage of population with access to adequate shelter
- Percentage of population with access to safe water
- Percentage of population with access to electricity
- Percentage of population with access to sanitation
- Percentage of population with access to health services

3.358. Where appropriate, the indicators can be presented disaggregated by gender as well as by urban or rural area (for example, where the rural population is greater than about 25 per cent of the total population). If information about an indicator is also available from a previous census, it is often very informative to produce change maps or to present maps for both time periods.

3.359. Also where appropriate, countries are encouraged to perform spatial statistical analysis by producing maps showing spatial clustering and outlier analysis of the variables of interest, such as electricity and water.

3.360. The development of locality (village, town, city, community, small area) population size maps by region is of particular value. These maps combine two types of information: locality population statistics and locality locations in each region or subnational area. More information can be presented on, for example, the locality location within the district and the region, habitable and non-habitable areas, densely populated localities, areas with no localities, and the proximity of localities. Locality population size maps can also be used as base maps for additional information on locality services and activities, and on location and distribution of localities without specific services, such as primary schools, dispensaries, piped water, and so forth.

(c) GIS for census data dissemination

3.361. Geographic information systems embody hardware and software configurations designed to support the capture, management, analysis and dissemination of spatially referenced data. Applied to census activities and outputs, such systems facilitate census cartography and data capture, and by linking population data (demographic, social and socio-economic) to geographic areas, GIS provides very powerful data management functionalities in allowing users to explore, analyse, describe and communicate population census information according to their own data and information demands.

3.362. In practical terms, such systems may range from simple desktop mapping facilities to complete GIS systems capable of solving complex planning and management problems, producing detailed georeferenced inventories and spatial statistical analysis. The ability to use space to integrate and manipulate data sets from heterogeneous sources can make its application relevant to planning and managing the census process itself. For example, GIS provides functions for the aerial interpolation of statistical data in cases where the boundaries of aerial units have changed between censuses.

3.363. Geospatial analysis must become a core competence in any census office.

3.364. Statistical offices should develop GIS applications with population data and other georeferenced data from other sources for more advanced forms of spatial analysis. The role of the census office should be to supply census data at the right level and in the right format to users. Census offices provide vital information on current demographic conditions and future trends for policymakers in a range of sectors, such as health care, education, infrastructure planning, agriculture and natural resources management; and the provision of spatially referenced census databases is a prerequisite of the facilitation of the use of demographic data in these fields.

3.365. To achieve maximum efficiency gains, GIS applications should also be capable of generating additional geographic information beyond those used in the census, such as school and health districts, water and other biophysical catchment areas, and power and utility service units. These entities will have to be constructed from the smallest geographically identified units available in the census, such as census blocks, grid squares or enumeration areas. If, as is the case in most developing countries, enumeration areas are the smallest units, this will have important implications for the establishment of enumeration area boundaries. This requires close collaboration between national statistical organizations and national mapping and survey agencies on the one side, and school, health, water and power authorities on the other, when enumeration area boundaries are drawn or modified, to avoid potential discrepancies later on.

3.366. Apart from providing national statistical organizations with a very effective means to disseminate and increase the utilization of census data, GIS, more than any other data management system, provide easy and user-friendly access to census data in user-relevant formats. This allows analysts and planners to undertake policy analysis, planning and research that can more readily identify thematic and geographic priority areas and thus contribute to evidence-based and better-informed policy and decision-making at different levels of geography. Some of the spatial statistical analysis includes clustering, Moran's spatial autocorrelation, Anselin outlier analysis, Getis-Ord hotspot analysis, ordinary least squares regression and geographically weighted regression. It allows governments to effectively monitor development progress across different sectors at village, municipality and subregional levels; it raises awareness about the importance of census and other socioeconomic data; and it increases the institutional capacity of national statistical offices and social and economic planning agencies to engage in more in-depth analyses of social and economic data and deliver information products in even more user-friendly formats.

## 5. Interactive electronic outputs

3.367. It is of paramount importance that census data and information produced are widely disseminated and communicated, and that national statistical and census offices involved in this process have a pronounced customer, client and stakeholder focus. That means that national statistical and census offices should place more emphasis on providing a service and creating partnerships than on merely providing products, and should be guided by user-relevance and user-friendliness in all their operations, rather than by tradition in producing the tables, graphs and reports that they have always produced.

3.368. Given its importance and widespread use, the web has emerged as the primary means of providing general access to census statistics. Many national statistical and census offices have utilized the Internet as the principal channel for data communication, positioning their websites into comprehensive census data repositories, enabling users to have access to all published data online. When developing new census products, and when reviewing existing products, national statistical and census offices should consider all ways and means of making census statistics accessible, giving high priority to dissemination on the web. The advantages of online dissemination are primarily in terms of speed, flexibility and cost, as well as in providing accessibility to census results to a wide range of data users and allowing the delivery of data to be tailored to the level of sophistication of the user.

3.369. Making a census database available online along with integrated searching, tabulating, graphing, mapping and analysis capabilities is an important way to improve the effectiveness of census data dissemination. Most national statistical and census offices provide user access to electronic databases and data files through their websites, satisfying the full range of needs of internal and external data users. This is a valuable service that allows users to



access and display census data instantaneously and interactively. The establishment of such databases can enhance the dissemination of census results as well as increase their usefulness by allowing user interaction with census data. User interaction is a key concept whereby users are enabled and empowered to access and explore census data themselves, and build their own customized tables or spatially configure data outputs according to their own requirements.

3.370. Interactive web-based data tools provide a user-friendly entry point to the entire range of census outputs disseminated by national statistical and census offices. Basic design considerations of web-based interactive tools should factor issues such as identification of the different types of users, their information requirements and the types of information to be stored in the database. Content should be organized so that it can be easily understood and found, with an overview given to provide orienting information to users about the data that can be accessed using the interface. Context should always be provided to all outputs through metadata, links to related information, and cross-referencing to glossaries, publications and other background material.

3.371. In practical terms, interactive web-based data tools should enable users to access census data themselves, and build their own customized tables or spatially configure data outputs according to varying requirements. The tools should allow users to visualize and explore the data in column charts, line graphs, maps and scatterplots. The table-building functionality should also have the ability to sort and order tabular results, and more easily select survey years and indicators. Tools should also be provided for downloading, conducting analysis or retrieval for use in other software. Design considerations to improve the interactivity of data interfaces should include the provision of user support. It is highly recommended to help users to anticipate, interpret and evaluate results. Support to users should include demonstrations and tutorials intended to describe how to perform the various functions related to the interactive web-based tools.

3.372. In addition to the Internet, interactive electronic products can also be accessed through other media, including CD-ROM, DVD and flash drive.

## 6. Microdata dissemination<sup>79</sup>

### (a) Definition of microdata

3.373. In general, when statistical agencies or other data producers conduct surveys or censuses or collect administrative data, they gather information from each unit of observation. Such a unit can be a household, a person, a firm or enterprise, an agricultural holding, a school, a health facility or other. In this context, microdata are the electronic data files containing information about each unit of observation. Microdata are thus opposed to macrodata or aggregated data, which provide a summarized version of this information in the form of means, ratios, frequencies or other summary statistics.

3.374. Typically, microdata are organized in data files in which each line (or record) contains information about one unit of observation. This information is stored in variables. Variables can be of different types (for example, numerical or alphanumerical, discrete or continuous). They can be obtained directly from the respondent via a questionnaire or by observation or measurement (for example, by GPS positioning), or imputed or calculated.

3.375. In the context of the population and housing census, microdata refer to electronic files consisting of individual records on persons, households and housing units. More specifically, microdata would typically be organized in multiple files: one with records on households, another with records on individuals, and yet another with records on housing units.

<sup>79</sup> The elaboration on the dissemination of microdata is largely based on Olivier Dupriez and Ernie Boyko, *Dissemination of Microdata Files: Principles, Procedures and Practices*, IHSN Working Paper No. 005 (2010).

<sup>80</sup> The elaboration of core principles for dissemination of microdata is quoted from *Managing Statistical Confidentiality and Microdata Access: Principles and Guidelines of Good Practice* (United Nations publication, Sales No. E.07.II.E.7).

<sup>81</sup> Presented at the United Nations Statistics Division website at: <http://unstats.un.org/unsd/dnss/gp/fundprinciples.aspx>.

<sup>82</sup> Ibid.

(b) Core principles for disseminating census microdata<sup>80</sup>

3.376. The United Nations Fundamental Principles of Official Statistics<sup>81</sup> provide unambiguous guidance in administering official statistics at national and international levels. A particular emphasis of these principles is on confidentiality of information collected for statistical purposes. The sixth principle, governing international statistical activities, states: “Individual data collected by statistical agencies for statistical compilation, whether or not they refer to natural or legal persons, are to be strictly confidential and used exclusively for statistical purposes.”<sup>82</sup>

3.377. Any principles for microdata access must be consistent with this recommended principle and the principles contained in the legislation pertaining to the national statistical authority. The following principles should be considered for managing the confidentiality of microdata:

*Principle 1: Appropriate use of microdata*

3.378. It is appropriate for microdata collected for official statistical purposes to be used for statistical analysis to support research as long as confidentiality is protected.

3.379. Making available microdata for research is not in contradiction with the sixth United Nations Fundamental Principle as long as it is not possible to identify data referring to an individual. Principle 1 does not constitute an obligation to provide microdata. The national statistical office should be the one to decide whether to provide microdata or not. There may be other concerns (for example, quality) that make it inappropriate to provide access to microdata. Or there may be specific persons or institutions to whom it would be inappropriate to provide microdata.

*Principle 2: Microdata should only be made available for statistical purposes*

3.380. For principle 2, a distinction has to be made between statistical or analytical uses and administrative uses. In the case of statistical or analytical use, the aim is to derive statistics that refer to a group (be it of persons or legal entities). In the case of administrative use, the aim is to derive information about a particular person or legal entity to make a decision that may bring benefit or harm to the individual. For example, some requests for data may be legal (a court order) but inconsistent with this principle. It is in the interest of public confidence in the official statistical system that these requests are refused. If the use of the microdata is incompatible with statistical or analytical purposes, then microdata access should not be provided. Ethics committees or a similar arrangement may assist in situations where there is uncertainty whether to provide access or not.

3.381. Researchers are accessing microdata for research purposes, but to support this research they may need to compile statistical aggregations of various forms, compile statistical distributions, fit statistical models or analyse statistical differences between subpopulations. These uses would be consistent with statistical purposes. To the extent that this is how the microdata are being used, it could also be said to support research purposes.

*Principle 3: Provision of microdata should be consistent with legal and other necessary arrangements that ensure that confidentiality of the released microdata is protected*

3.382. With respect to principle 3, legal arrangements to protect confidentiality should be in place before any microdata are released. However, the legal arrangements have to be complemented with administrative and technical measures to regulate the access to microdata and to ensure that individual data cannot be disclosed. The existence and visibility of such arrangements (whether in law or supplementary regulations, ordinances, and so forth) are necessary to increase public confidence that microdata will be used appropriately. Legal arrangements

are clearly preferable, but in some countries this may not be possible, and some other form of administrative arrangements should be put in place. The legal (or other arrangements) should also be cleared with the privacy authorities of countries where they exist before they are established by law. If such authorities do not exist, there may be non-governmental organizations that have a “watchdog” role on privacy matters. It would be sensible to get their support for any legal or other arrangements, or at least to address any serious concerns they might have. In some countries, authorizing legislation does not exist. At a minimum, release of microdata should be supported by some form of authority. However, an authorizing legislation is a preferable approach.

*Principle 4: The procedures for researcher access to microdata, as well as the uses and users of microdata, should be transparent and publicly available*

3.383. Principle 4 is important to increase public confidence that microdata are being used appropriately and to show that decisions about microdata release are taken on an objective basis. It is up to the national statistical authority to decide whether, how and to whom microdata can be released. But their decisions should be transparent. The website of the national statistical authority is an effective way of ensuring compliance and also for providing information on how to access research reports based on released microdata.

(c) Microdata anonymization<sup>83</sup>

3.384. When disseminating census microdata files to the public, researchers or other agencies, the national statistical authority faces a conflicting mission. On the one hand, it aims to release microdata files supporting a wide range of statistical analyses; on the other, it must safeguard the confidentiality of respondents’ identities. Processes aimed at the latter are referred to collectively as statistical disclosure control or anonymization.

3.385. A disclosure occurs when a person or organization recognizes or learns via released data something they did not know about another person. There are two types of disclosure risk: identity disclosure and attribute disclosure.<sup>84</sup> The former occurs when a respondent’s identity is directly associated with a disseminated data record. This can occur easily when the data record includes variables unambiguously identifying the respondent—for instance, the respondent’s name, address, passport or identification number, or telephone number. It is essential that such identifying variables be removed from any microdata files before dissemination. Attribute disclosure occurs when attribute values (or estimates thereof) in the disseminated data are associated with a particular respondent.

3.386. A combination of variables in a microdata record that can be applied to reidentify a respondent is referred to as a “key”. Reidentification can occur (a) when a respondent is rare in the population with respect to a certain key value; and (b) when this key can be used to match a microdata file to other data files that might contain direct or other identifiers such as voter lists, land registers or school records (or even publicly accessible Internet search engines).

3.387. The essential component of dissemination of census microdata files is avoiding both identity and attribute disclosures. In that respect, there is a need to strictly apply statistical disclosure control or anonymization techniques for census microdata files. The first key step in anonymizing a microdata file is to remove all direct identifiers—variables that unambiguously identify the respondent. Thereafter, a microdata file can be anonymized further by applying statistical disclosure control techniques.<sup>85</sup>

(d) Protocols for dissemination of census microdata

3.388. Disseminating census microdata may be an unprecedented activity for the national statistical authority. In that context, there is a need to develop particular protocols that

<sup>83</sup> The elaboration of procedures for anonymizing microdata draws extensively from Anco Hundepool, Josep Dominho-Ferrer, Luisa Franconi, Sarah Giessing, Rainer Lenz, Jane Longhurst, Eric Schulte Nordholt, Giovanni Seri, Peter-Paul de Wolf, *Handbook on Statistical Disclosure Control*, Version 1.0 (Centre of Excellence for Statistical Disclosure Control, 2006).

<sup>84</sup> Diane Lambert, “Measures of Disclosure Risk and Harm”, *Journal of Official Statistics* vol. 9, No. 2 (Statistics Sweden, 1993).

<sup>85</sup> For full elaboration of these techniques, refer to Olivier Dupriez and Ernie Boyko, *Dissemination of Microdata Files: Principles, Procedures and Practices*, IHSN Working Paper No. 005 (2010), chapter 7.

would comply with the essential principles for disseminating microdata, as described above, and would also spell out the necessary requirements and components of such dissemination. Hence, such a protocol would need to take into account the following components and requirements:<sup>86</sup>

<sup>86</sup> As presented in *OECD Principles and Guidelines for Access to Research Data from Public Funding, Organisation for Economic Co-operation and Development* (2007).

- **Openness.** Access on equal terms for the research community at the lowest possible cost, preferably at no more than the marginal cost of dissemination.
- **Flexibility.** Taking into account the rapid and often unpredictable changes in information technologies, the characteristics of each research field and the diversity of research systems, legal systems and cultures of each member country.
- **Transparency.** Information on research data and data-producing organizations, documentation on the data and specifications of conditions attached to the use of these data should be internationally available in a transparent way, ideally through the Internet.
- **Legal conformity.** Data access arrangements should respect the legal rights and legitimate interests of all stakeholders.
- **Protection of intellectual property.** Data access arrangements should consider the applicability of copyright or of other intellectual property laws that may be relevant to publicly funded research databases.
- **Formal responsibility.** Access arrangements should promote explicit, formal institutional practices, such as the development of rules and regulations, regarding the responsibilities of the various parties involved in data-related activities. These practices should pertain to authorship, producer credits, ownership, dissemination, usage restrictions, financial arrangements, ethical rules, licensing terms, liability and sustainable archiving.
- **Professionalism.** Institutional arrangements for the management of research data should be based on the relevant professional standards and values embodied in the codes of conduct of the scientific communities involved.
- **Interoperability.** Technological and semantic interoperability is a key consideration in enabling and promoting international and interdisciplinary access to and use of research data.
- **Quality.** The value and utility of research data depend, to a large extent, on the quality of the data. Data managers, and data collection organizations, should pay particular attention to ensuring compliance with explicit quality standards.
- **Security.** Specific attention should be devoted to supporting the use of techniques and instruments to guarantee the integrity and security of data.
- **Efficiency.** One of the central goals of promoting data access and sharing is to improve the overall efficiency of publicly funded data collection to avoid the expensive and unnecessary duplication of data collection efforts.
- **Accountability.** The performance of data access arrangements should be subject to periodic evaluation by user groups, responsible institutions and funding agencies.
- **Sustainability.** Due consideration should be given to the sustainability of access to publicly funded research data as a key element of the research infrastructure. This means taking administrative responsibility for the measures to guarantee permanent access to data that have been determined to require long-term retention.

(e) Dissemination of population and housing census microdata in practice

3.389. It can be expected that the 2020 round of population and housing censuses, taking into account the contemporary development of processing technology and power, brings considerable pressure on national statistical authorities in respect of dissemination of population and housing census microdata. In the context of implementing the principles and protocols described in the preceding paragraphs, national statistical authorities would need to ensure such dissemination in at least two different settings.

3.390. For the purpose of public dissemination, either online or on electronic media, only a representative sample of the individual records should be made available after ensuring the confidentiality or non-disclosure of individual information as elaborated above. The size of the sample would depend on the capacity and resources of the national statistical or census office.

3.391. The complete population and housing census master file should be made available to users using the model of the data enclave. This is a facility equipped with computers not linked to the Internet or an external network and from which no information can be downloaded via USB ports, CD, DVD or other drives. Users interested in accessing a data enclave will not necessarily have access to the full census data set—only to the particular data subset they require. They will be asked to complete an application form demonstrating a legitimate need to access these data to fulfil a stated statistical or research purpose and be briefed on the legal responsibility and repercussions related to maintaining the confidentiality of individual information. The outputs generated need to be scrutinized by way of a full disclosure review before release and they can contain only aggregates.

## 7. Customized products

3.392. The increasing activity in the field of economic and social planning and the attention of such planning to subnational areas are placing new demands on statistical information in general and on population and housing censuses in particular. There is an increasing need for tabulations and mapping not only by major and minor civil divisions and by other units of analysis such as metropolitan areas but even, beyond these, by small local areas.

3.393. Therefore, it is useful to establish an “on request” service for users who require aggregates not available through other means. This will be especially relevant in situations where outsiders cannot obtain census microdatabases. In essence, the service would require that users provide the census office with the details of the tables or other aggregates requested so that the census office could fulfil the request, normally against payment of a certain compensation fee. Offering and promoting this service, especially online, would place the statistical service in a more desirable proactive position, rather than a static one, and could be a strong catalyst for closer cooperation with census product users.

3.394. The cost of such special purpose tabulations, which require computer programming, could be high, especially for academic institutions and other users who do not have access to a large budget. Some statistical organizations allow users to do the necessary work using user-friendly software. A clearly written manual is required to guide users in using the software, including the contents of the census data dictionary and other relevant information. The resulting tables are checked for any possible breach of confidentiality, in particular table cells with very small values.

3.395. Many census organizations provide services for special requests for census products, such as thematic databases, tables, and graphic and mapping outputs that can be designed for small, medium and large businesses, communities or special interest groups. These services are normally provided to meet the increasing demand of data users for a wide range of

applications, such as monitoring trends, analysing unmet needs, identifying market potential, segmenting markets, identifying service areas and priority zones, determining optimum site locations, and designing and advertising new products and services. Each category of products should also be made available on various media (namely, paper, disk, online) for dissemination according to user requirements.

3.396. Once the databases are created and have served the policy needs, they can serve other data users if they have market value. Since the national statistical organization is normally the only source of many geographic databases related to census data applications, market demand for these products is increasing, particularly in the geographic and population-related areas. In such cases, census products could be governed by a licence. The licence permits the users to use the product without transferring ownership, since ownership remains with the government agency. Either of two different licensing arrangements may be applied. The first is offered to organizations that use the data for their own needs, and the other is offered to organizations that redistribute data or provide analytical services using census data to other persons or organizations for a fee.

3.397. Customized services of data on computer media are differentiated in terms of the forms of the data. Census products may be distributed in their original form, with or without other related information, or they can be distributed after making certain value-added modifications to meet the need of the users. Examples of such value-added activities include converting the data into another format (for use by other software packages), making the data more useful by creating subsets of the original data sets, merging the data from other sources and bundling with software. It is encouraged to disseminate census content in formats that comply with the requirements assessed by the Open Knowledge Foundation.<sup>87</sup> According to these requirements, the openness of the contents is assessed within the Open Knowledge conceptual framework and concerns the possibility to reuse, revise, remix and redistribute data. In cases where copyright laws protect census data ownership, some royalty fees and data usage fees may be charged to the distributors to ensure a minimum return. However, if prices are too high, such charges can also be a barrier to the use of the census data.

<sup>87</sup> See <https://okfn.org/opendata>.

3.398. Some countries may assist their users by merging selected variables with the GIS shapefiles as a customized product. This has proven to be beneficial for schoolchildren.

## 8. General interest and special audience products

3.399. Information generated by a census is by definition of use to a wide range of users with a variety of expertise. With the increase of demand for census products, efforts must be made by census offices to produce a variety of products for various stakeholder groups, including special interest groups. In order to address various stakeholder needs, census offices must segment stakeholders into groups to better know, understand and respond to their needs. This will form the basis of the various census products. In response to stakeholder needs, census offices may prepare special audience products for key variables such as policy summary reports; thematic and analytical reports; key findings reports; fact sheets; posters, brochures and flyers; basic reports; detailed tables and spreadsheets; articles; and video and social media products. Special audience analytical or thematic reports incorporate a high level of very sound analysis undertaken by staff who have a solid foundation in analytical techniques as well as the topic being analysed. In some cases, countries may undertake the analysis in collaboration with academic institutions or other specialists. Criteria used in establishing the topics chosen will have to be set by the country concerned, and may include particularly interesting facts shown by census data (perhaps confirming or rebutting conventional theories; confronting census data with material from other sources; or responding to issues raised by the public during user consultations of the collection).



3.400. It should be noted that the following products can only be effective in encouraging the use of census information if they are prepared in a timely and professional manner. This will require specialist skills from people familiar with communicating to the target audiences. These resources are expensive and countries are required to adequately plan and budget for these products and campaigns.

(a) Posters

3.401. One of the most common ways to disseminate census information consists of publishing posters highlighting key facts such as: How many are we? Where do we live? and summarizing a profile for the major civil divisions of a country. Posters might also be prepared addressing issues relevant to special population segments: teenagers, adults, indigenous populations, seniors and women's groups.

3.402. Since the objective of a poster is to catch the eye at a distance, relatively few facts should be presented so that the key message is immediately visible. Posters can be greatly enhanced by the addition of well-designed graphs, infographics and maps to increase the readability and comprehensibility of the key message. Posters and banners are short-term communication products and should be used to communicate key findings.

(b) Brochures and flyers

3.403. Professionally designed brochures and flyers are another way to disseminate basic census data. These brochures should be written in a very easy and comprehensible language indicating the demographic profile of the country illustrated with suitable graphics and explanatory material. In some countries these brochures might be addressed to specific issues on population. They are particularly suitable for preparation as promotional materials for people attending events and exhibitions, such as the launch of more traditional materials, or for inclusion on display racks in libraries of government offices.

(c) Videos, sketches, theatre and online videos

3.404. In order to create a better understanding among certain interest groups, the use of other communication media are recommended, including videos, sketches, theatre and online videos. In order to promote the story behind the numbers and increase the use of census data, graphics such as charts or maps could be included on videotape, CD or DVD, or memory sticks. These might indicate how census data can assist policymakers, planners and people in general with understanding their societies, and how census data can assist in identifying the main problems and assist with evaluation of solutions.

(d) Instructional materials

3.405. Instructional materials in an easy-to-understand form can be prepared for the general public, indicating the advantages and limitations of census data. Such material can often form the basis of information campaigns as part of the advocacy material for the next census.

3.406. A particular implementation of instructional materials can be the preparation of a kit for use in schools. Not only will this provide high-quality information for the students but, by including exposure to the use of statistical materials in the school process, it will encourage the use of evidence-based analysis throughout society. It should be noted that professional assistance should be sought in ensuring that these materials follow sound educational practices and can be accommodated within the appropriate curriculum.



## (e) Social media

3.407. Internet-based social media have become an indispensable tool in disseminating information and marketing statistical products. Various social media platforms have been successfully used by countries as part of the dissemination of their census results. Interacting with followers and users on these platforms provides the census organization with an opportunity to disseminate information, build relationships with established and new users, and engage the public on a regular basis.

3.408. Social media platforms such as Facebook, Twitter and online video sites can be used to post all census-related advertisements and other videos.

3.409. During the build-up to the census phase, information about the upcoming census, informing the public about what to expect when field workers visit their homes and also the importance of conducting a survey of this magnitude, can be disseminated using social media.

## D. Census data utilization

### 1. General uses of population and housing censuses

3.410. Population censuses are traditionally used for public and private sector policymaking, planning, administrative and research purposes at national and subnational level. One of the most basic of the administrative uses of census data is in the demarcation of constituencies and the allocation of representation on governing bodies. Certain aspects of the legal or administrative status of territorial divisions may also depend on the size of their populations. Housing censuses are used to develop benchmark housing statistics and to formulate housing policy and programmes, and in the private sector to assist in site selection for industrial, retail and service facilities, as well as for the commercial development of residential housing.

3.411. Information on the size, distribution and characteristics of a country's population is essential to describing and assessing its economic, social and demographic circumstances and to developing sound policies and programmes aimed at fostering the welfare of a country and its population. The population and housing census, by providing comparable basic statistics for a country as a whole and for each administrative unit and locality therein, can make an important contribution to the overall planning process and the management of national development. The availability of information at the lowest levels of administrative unit is valuable for the management and evaluation of such programmes as education and literacy, employment and human resources, reproductive health and family planning, housing and environment, maternal and child health, rural development, transportation and highway planning, urbanization and welfare. Population and housing censuses are also unique sources of data for producing relevant social indicators to monitor the impact of these government policies and programmes (see paragraphs 3.430-3.432).

## (a) Uses of population censuses

3.412. The uses of population census results and the associated tabulations described in this volume are listed according to the topics presented in paragraph 4.21.

3.413. The total population and its distribution among major and minor territorial divisions and localities are frequently a legal requirement of the census because these results are used for determining the apportionment of representation in legislative bodies, for administrative purposes and for planning the location of economic and social facilities. Internal migration, one of the major sources of population change, frequently affects the trends in population distribution. Data on internal and international migration, together with fertility and mortal-

ity, are needed to prepare population estimates for planning purposes and for determining policies on migration and assessing their effectiveness.

3.414. The household, a basic socioeconomic unit in all countries, is often central to the study of social and economic development. The number, size and structure of households and changes in the rate of household formation are useful for planning and for developing special policies formulated for selected groups of the population, such as children, older persons and persons with disabilities. Therefore, the distribution of individuals within households is used to determine the living arrangements of families, the patterns of family structure observed, the time when new families are formed and changes in family structure due to death, divorce, migration or the departure of children to form their own households. The relationship among household members can be used to determine family structure and the existence of households composed, partially or completely, of unrelated persons.

3.415. Traditionally defined demographic and social characteristics collected from the population census include sex, age, marital status, religion, language and national or ethnic group. Sex and age are fundamental to the majority of the characteristics collected in the census. Census data provide more data than any other single source on gender differences.

3.416. Depending on national circumstances, cultural diversity may be measured by language spoken in the home or community, religion and national or ethnic group. For countries that are not homogeneous in terms of one or more of these variables, linguistic, religious and national or ethnic groups provide the basic information for a quantitative assessment of the relative size and age-sex distribution of this diversity.

3.417. Although census data on fertility and mortality cannot serve as a substitute for reliable birth and death statistics from civil registrations, they are particularly valuable for countries where birth or death registration is lacking or incomplete and vital statistics are therefore unavailable. Even in countries with complete registration of these events, the population census is useful as a supplement to satisfactory registration data because the fertility questions provide data for calculating lifetime fertility of the female population or cohort fertility.

3.418. Education has historically been one of the key factors determining the quality of life, and interest in education continues today in most countries of the world, with emphasis on improving access to education and the quality of education, as well as broadening the scope of basic education.<sup>88</sup> Education is also considered a major tool in closing the gap between women and men in respect of socioeconomic opportunities. Benchmark data obtained from national population censuses will therefore be of considerable importance towards fulfilling this objective. Census data reveal the disparity in educational opportunities between the sexes, age cohorts or generations, urban-rural populations and so forth, and provide important indications of the capacity of the nation for economic and social development. They furnish material for the comparison of the present educational attainment of the adult population with the present and anticipated requirements of educated human resources for various types of economic activities. Such a comparison may serve as a guide both for national policy in terms of the development of the educational system, and for the planning of the economic development programmes that it will be feasible to undertake in view of human resource requirements.

3.419. Census information on the economic characteristics of the population focuses on enumerating the labour force so as to provide benchmark data for current studies of employment and labour underutilization, in particular unemployment and the potential labour force. It provides information on the growth, composition and distribution of the labour force for use in policy formulation and the appraisal of human resource utilization. Economic data from censuses can also provide some input into statistics on the distribution of income, consumption and accumulation of households, and participation in agriculture and non-agricultural

<sup>88</sup> *Final Report of the Education for All Summit of Nine High-Population Countries*, New Delhi, 12-16 December 1993 (Paris, UNESCO, 1994).

activities. Furthermore, the data on the labour force may give an approximate indication of the number of workers who are responsible for the support of dependants.

3.420. Statistics obtained from different sources (for example, labour force surveys, agriculture surveys, establishment surveys and administrative records) rely on the census for sampling frames, and the use of common concepts in the different sources helps in securing comparability when multiple sources for changing patterns of economic activity are being relied upon.

3.421. As interest in the movement of people across national boundaries—in other words, international migration—has grown steadily among countries, census items and tabulations relative to international migration have grown in importance. Such tabulations are designed to assess the impact of migration on receiving countries, to understand patterns of diversity and develop programmes for the adaptation of migrants to new countries, and to serve as a source of information on emigration from sending countries.

3.422. The census is also an important source of data on persons with disabilities. Census data help to monitor the social and living conditions of persons with disabilities in terms of school attendance, educational attainment, employment, marital status and living arrangements. The data also provide a basis for developing policies to meet the needs of persons with disabilities and for evaluating the effectiveness of these policies.

3.423. The census is also an important source of information on household poverty and living conditions.

#### (b) Uses of housing censuses

3.424. The primary uses of information from housing censuses include development of a basis for planning housing and human settlement programmes and policies, public and private sector studies of urban and other non-agricultural land use, evaluation of the adequacy of housing stock and assessment of the need and market for new housing, and studies of the living conditions of the homeless and those living in temporary or substandard housing. Information collected on the number of sets, type and characteristics of living quarters and their occupants is crucial from the point of view of monitoring housing conditions and needs of the population. Combined with the information collected by regular annual statistical programmes on housing construction, data from the housing census provide a basis for identifying national, regional and local housing patterns, which are needed for the development of a rational housing market aimed at stimulating various types of housing construction. The type and quality of shelter in which people are housed, that is to say, the space, degree of crowding, facilities, surroundings and available transport, affect their economic activity, health, social intercourse and general outlook. The supply, characteristics and costs of housing are therefore subjects for which the housing census is an important source of information.

## 2. Analysis of the results

3.425. In order to ensure the fullest possible utilization of census results by national and local governmental authorities, by academic researchers and by others, it is advisable to draw up a comprehensive and coordinated programme of analytical studies, phased over a period of several years. This will help allocate effort and resources in such a way as to ensure that important policy needs are adequately met, undue duplication of research effort is avoided and priorities are observed as far as possible. In these studies, the data of the current census should be examined not only by themselves but also as complemented by relevant data from other sources and from earlier censuses, in order to obtain a broader context, improve the estimates and establish trends.

3.426. The analytical studies to be included in such a programme will vary according to the needs and circumstances of the country. The programme may include descriptive summaries of results, policy-oriented analyses of census results and detailed analytical studies of one or more aspects of the demographic and social situation of the country. Some of these studies may be undertaken by the census organization itself, but others, particularly the more time-consuming studies, can most effectively be carried out in cooperation with specialists in different subjects having experience in in-depth analytical studies from universities or other research centres. In any case, it is desirable to invite specialists from other governmental offices and experts outside government to take part in drawing up this programme of studies, and it is natural that they would play an important part in the execution of various parts of the analytical programme.

3.427. One important aspect to be considered in establishing a programme of analysis is the possible use of census results in achieving the goals and objectives of population, human settlements or similar policies and strategies at the national and local level, and in applying available resources effectively towards the improvement of conditions in these fields. For this purpose, it will be necessary to analyse population and housing census results within the framework provided by other available information so as to achieve an integrated approach to the solutions of population, human settlements and similar problems.

3.428. A permanent census office should be the central repository of all census results; it would thus be equipped with the information needed for comparative studies, which will indicate long-term trends in the phenomena investigated. However, to facilitate the fullest possible use of census results by others, subsidiary depositories should be established that serve different substantive or geographic groups of users.

3.429. Aside from the studies that are part of the overall census programme, additional analyses carried out on their own initiative by research organizations, universities or other experts should be encouraged.

### 3. Cross-cutting and emerging social issues

3.430. Reflecting the concerns and priorities among countries around the world, the United Nations convened a series of global conferences: on children, education, environment and climate change, human rights, population, sustainable development, women and human settlements. Each of these conferences recognized the importance of adequate information for formulating policy and monitoring progress in the achievement of conference goals, and called on countries and international organizations to develop and improve the requisite statistics and indicators. These recommendations are reflected for example in the Vienna Declaration and Programme of Action of the World Conference on Human Rights;<sup>89</sup> the Programme of Action of the International Conference on Population and Development;<sup>90</sup> the Copenhagen Declaration on Social Development and the Programme of Action of the World Summit for Social Development;<sup>91</sup> the Platform for Action<sup>92</sup> adopted by the Fourth World Conference on Women; the Post-2015 Development Agenda Declaration adopted by the General Assembly; and the Climate Change Declaration. The programmes of action adopted by these international conferences targeted many interrelated areas of concern, and called for improved statistics to monitor progress. In deciding which social groups merit monitoring in regard to measuring the disadvantages suffered by particular groups of people, each country should determine which groups within it need special attention. Some of the common factors leading to social disadvantage are gender, age, physical or mental impairment, race and creed. The disadvantaged are not necessarily small in number; they may constitute the majority of the population.<sup>93</sup>

<sup>89</sup> A/CONF.157/24 (part I), chapter III.

<sup>90</sup> *Report of the International Conference on Population and Development*, Cairo, 5-13 September 1994 (United Nations publication, Sales No. E.95.XIII.18), chapter I, resolution 1, annex.

<sup>91</sup> *Report of the World Summit for Social Development*, Copenhagen, 6-12 March 1995 (United Nations publication, Sales No. E.96.IV.8), chapter I, resolution 1, annexes I and II.

<sup>92</sup> *Report of the Fourth World Conference on Women*, Beijing, 4-15 September 1995 (United Nations publication, Sales No. E.96.IV.13), chapter I, resolution I, annex II.

<sup>93</sup> *Note by the Secretary-General Transmitting the Report of the Expert Group on the Statistical Implications of Recent Major United Nations Conferences* presented to the Working Group on International Statistical Programmes and Coordination at its Eighteenth Session, New York, 16-19 April 1996 (E/CN.3/AC.1/1996/R.4), annex, paras. 68-69. .

3.431. To meet the need for statistics on gender, many activities have been undertaken during the last two decades at the national and international levels to improve concepts, definitions and classifications for collection of statistics related to women and men. In the present publication, the importance of the population and housing census as a data source has often been stressed. The population and housing census is also the principal or sometimes the only comprehensive national data source with respect to meeting the need for statistics on children, youths, older persons and persons with disabilities in the development of policies and programmes at the national and international levels. Therefore, it is important that countries identify data requirements concerning various population groups of particular interest when planning their censuses and ensure that the definitions and classification to be followed in censuses are appropriate and also consistent with those in use for the entire population.

*Use statistical products to measure outcomes and impact measures to spur change*

3.432. Furthermore, the census tabulation plan should ensure in advance the inclusion of all relevant details about special population groups and a range of crossclassifications for each group, with a view to analysing its social and economic conditions. Concepts and methods for the census and the tabulation plan should be reviewed with users concerned with statistics for each special population group. In the case of some groups, for example persons with disabilities, a special set of questions is required to identify members of the group. In the case of others, standard questions, for example on age, are sufficient to identify groups such as children, youths and older persons. In both cases, most variables needed for cross-tabulations are already provided for in the international recommendations and many national censuses. In the census operations, however, attention will often need to be given to improvement of coverage, quality-of-data issues and avoidance of stereotypic treatment. The present section deals with gender, a few special population categories such as children and youths, older persons, and persons with disabilities, so as to assist in the preparing of detailed tabulations and databases according to international standards.

(a) Statistics on gender

3.433. The global conferences on women have contributed to an increased awareness of the importance of statistics not only on women but, more broadly, on gender issues. For example, in developing census plans in a number of countries, efforts have been made to review and assess the adequacy of statistics for understanding the diversity of both women's and men's lives. It is now recognized that biases in statistics extend, in the case of women, to their economic roles, and in the case of men, to their roles in the family as husband and father and their roles in the household. Improvement of statistics and statistical methods related to gender should be an important priority in all stages of work on the census, in planning, data collection, analysis and dissemination, and in all other topics.

3.434. In addition to the more general problems of the quality of census data, two other types of problem that apply particularly to women and stem from gender-based stereotypes and biases have been noted. Similarly, the notion that only men can be heads of the household affects the way questions have been designed and asked in censuses. Such stereotypes also affect the way respondents reply to the questions. A common problem, for example, is classifying women automatically as homemakers without asking whether they perform any work for pay or profit, even as a part-time or secondary activity.

3.435. Another problem relates to biases in the collection, processing, compilation and presentation of data. For example, when census tabulations are prepared for the employed by occupation, they may be prepared either for males only or for both sexes, but only on the assumption that information on the occupational pattern of women is not of much use. Even when tabulations of the employed by occupation are disaggregated by sex, main gender

differences in occupations may be missed if the occupation data are presented only at the two-digit level of the classification. Rather, special tabulations showing, for example, the 10 or 20 detailed occupational groups with the highest concentrations of women or men would be needed to render visible gender-based occupational segregation.

3.436. During the past few decades, considerable effort has been devoted, on the one hand, to reviewing such bias and its impact on statistics concerning the situation of women and, on the other hand, to improving the concepts and methods involved in the collection of data in censuses and surveys. Related improvements in the revised *System of National Accounts* and latest recommendations concerning statistics of work, employment and labour underutilization adopted by the International Conference of Labour Statisticians are also of importance to the population census. They are intended to overcome the above-mentioned conceptual deficiencies and to identify and provide measures for all productive activities (that is, forms of work) performed by women and men, whether paid or unpaid. Similarly, efforts at the national level have been focused, for example, on eliminating biases in concepts, classifications and definitions of head of the household.

3.437. Important statistical series and measures on the status of women can be readily obtained based on the topics in paragraph 4.21 and recommended tabulations for preparation from censuses. Furthermore, in the case of most topics, the primary unit of classification is the individual, and therefore a vast array of indicators may be obtained by devising appropriate additional crossclassifications for the female and male populations separately. For an illustration of census topics and tabulations that are useful for developing comprehensive statistics on women, see “Statistics and indicators on women and men”,<sup>94</sup> *Handbook for the Development of National Statistical Data Bases on Women and Development*,<sup>95</sup> *Integrating a Gender Perspective into Statistics*<sup>96</sup>, *Methodological Guidelines for the Gender Analysis of National Population and Housing Census Data*.<sup>97</sup> The household and family status classifications presented in paragraph 4.148 are appropriate for analysing the living situation of women and men, with specific reference to single mothers and fathers and older women and men living alone.

3.438. It should be emphasized that while all data collected at the individual level can be presented by sex, this is not always done. Cross-classifications by sex tend to be suppressed when cross-tabulations become complex with multiple-variable tables. In order to satisfy one basic condition for gender statistics, which is that all statistics on individuals should be presented by sex, sex should be considered the overriding variable in all tables, irrespective of the medium of storage or dissemination. This disaggregation by gender should be provided in all publications, databases and computer printouts of census tables on individuals.

3.439. Another important consideration is to broaden the target of dissemination and use of census data by popularizing the statistics that are published. One approach to achieving this wide outreach is to present statistics in the form of charts and simplified tables, with a simple and clear interpretation of the data. Countries planning to issue an analytical report might wish to consider using such innovative techniques and formats. The analytical publication could cover the main census topics or alternatively a few areas that are especially important to understanding the relative position of women and men in the country.

#### (b) Statistics on children and youths

3.440. Extensive data on children and youths are available in censuses but may need improvements in terms of coverage and quality of information on specific characteristics, and on their presentation.

3.441. For statistical purposes, “children” are defined as persons under 15 years of age, and “youths” are defined as those aged 15-24. However, it is useful to further divide these special groups by 5-year age groups (or nationally, by groups of specific school ages) because of

<sup>94</sup> Available from <http://unstats.un.org/unsd/demographic/products/indwm/indwm2.htm>.

<sup>95</sup> United Nations publication, Sales No. E.89.XVII.9.

<sup>96</sup> United Nations publication, Sales No. E.13.XVII.9.

<sup>97</sup> UNFPA, 2014.



the rapid changes in characteristics in this age range, such as in school attendance, marital status and activity status. Also, because of differences by sex in the age at marriage, family or household status and entry into the labour market, data should be classified not only by age but also by sex. To this end, the distribution by single years of age and sex is useful. If single-year age distribution is not feasible for young children under age 5, it would be desirable to distinguish between those under 1 year of age (infants) and those aged 1-4. For youths aged 15-19, it would be desirable to distinguish between those 15-17 years of age and those 18-19 years of age, or to have a distinction corresponding to the age below which the country considers an individual to be a minor.

3.442. For the purpose of developing statistics on children, the principal topics in census recommendations include (a) sex, (b) age, (c) school attendance (for school-age children) and (d) relationship to head or other reference member of the household.

3.443. Given the priority on the girl child highlighted by the World Summit for Children (1990), the International Conference on Population and Development (1994) and the Fourth World Conference on Women (1995), special attention needs to be given to improving and disseminating statistics on children. Of particular concern is the situation of the girl child with respect to school attendance, mortality, early marriage and other issues of importance. A basic problem with statistics on the girl child is that data on children ever born and children surviving tend not to be disaggregated by sex at either the questionnaire design or the tabulation stage. These data are used for indirect estimates of child mortality.

3.444. The principal topics of investigation identified for children apply also to youths, with the following additions: (a) marital status, (b) literacy, (c) educational attainment, (d) economic activity status, (e) number of children born alive and (f) age at marriage.

3.445. Some of the useful statistics and measures can be readily compiled based on the above-mentioned topics, while any additional indicators can also be obtained based on more detailed cross-classifications using the existing recommended census topics or tabulations.

#### (c) Statistics on older persons

3.446. For older persons also, extensive data are available in population and housing censuses but may need detailed age-sex classification, as described below.

3.447. Older persons are defined by the United Nations as all persons aged 60 years and over. For purposes of classification, depending on the national situation, it is useful to tabulate data by five-year age groups up to age 100, instead of including them in the single broad age category 60 and over.

3.448. For the purpose of developing statistics and indicators on older persons, the principal topics in census recommendations include (a) sex, (b) age, (c) marital status, (d) economic activity status, (e) income, (f) household (or family) composition, (g) type of living quarters and (h) institutional population.

3.449. The statistics needed for studies of older persons are disparate, depending as they do on national policies and circumstances. Internationally, no illustrative list of indicators is available to ensure appropriate tabulations from the censuses.

#### (d) Statistics on persons with disabilities

3.450. The census can provide a valuable source of information on the frequency and distribution of disability in the population, at national, regional and local levels. Experience shows that although an increasing number of countries ask questions about disability in their censuses, the presentation of disability data has often been limited to tabulations showing



the number of specific severe disabilities present in the population. Unfortunately, cross-tabulations with other characteristics are not usually made.

3.451. A great deal of work on concepts, classifications and development of statistics on persons with disabilities has been undertaken in recent years, particularly through the work of the Washington Group on Disability Statistics,<sup>98</sup> and increasing numbers of countries are including disability as a topic in their censuses. For the second time, recommendations on including disability questions in a population census are included in these guidelines. A brief treatment of this topic is given below to highlight issues involved in preparing detailed census tabulations on persons with disabilities.

<sup>98</sup> For more information on the Washington Group on Disability Statistics, see [www.cdc.gov/nchs/washington\\_group/index.htm](http://www.cdc.gov/nchs/washington_group/index.htm).

3.452. For the purpose of developing statistics on the situation of persons with disabilities the principal topics in census recommendations that would be necessary for the assessment of equalization of opportunities include (a) sex, (b) age, (c) place of residence, (d) type of household, (e) marital status, (f) educational attainment and school attendance, (g) labour force status, (h) status of employment, (i) industry and (j) occupation.

3.453. Not only should the tabulation plan for disability data include prevalence rates by sex and age, but it is also very important that tabulations comparing persons with and without disabilities on key social and economic characteristics be presented. Tabulations based on the topics listed above provide information on prevalence of disability and on the situation of persons with disabilities. In addition, tabulations should be presented in a way that facilitates comparisons of persons with disabilities and those without.

(e) Ethnocultural characteristics

3.454. Receiving information about the ethnic composition of the population allows deeper study of the ethnic background of a country's population, especially with respect to indigenous population, international migrants and other specific groups of population (for example nomads).

3.455. There are some difficulties in collecting this information since some population groups may name their ethnic identification based on its local meaning, and in order to correctly allocate these persons to their particular ethnic group it is necessary to compile a list of ethnic groups, sub-ethnic groups and local definitions of small ethnic population groups. This will allow for obtaining accurate data about the ethnic composition of population. It would also be useful if scientists and specialists in the field of ethnography, as well as organizations dealing with indigenous people, would be involved in creating such a list.

3.456. In order to obtain comprehensive information characterizing ethnic composition of population, it would be useful to tabulate data by (a) sex, (b) age, (c) place of living, (d) marital status, (e) birth, (f) death, (g) education, (h) labour force status, (i) status in employment, (j) industry, (k) occupation, and (l) type and size of household.

3.457. It is important to obtain comprehensive information on indigenous populations in order to have statistics on the number as well as the demographic and socioeconomic structure of the given population group. These data would be valuable information to support the development of programmes for social support of indigenous peoples.

3.458. Statistics about the ethnic composition of international migrants together with information about country of birth and citizenship will help to more precisely determine the flows and volume of international migration.

3.459. Population censuses are also the sources of information about religious identification of the population. It would be useful to obtain this information by (a) sex, (b) age, (c) ethnic

group, (d) place of living, and (e) place of birth. This information would be useful to study distribution of religious affiliations.

3.460. Information about knowledge of languages is widely used. Countries find it useful to study the official language of the country as well as mother tongues or some other languages. In any case it would be useful to have this information by (a) sex, (b) age, (c) ethnic group, (d) place of living, and (e) place of birth.

3.461. Information about knowledge of the official language of the country would be very useful for studying the integration of international migrants and may be used, for example, for development of programmes to learn the language.

3.462. Information about knowledge of the mother tongue of indigenous populations is very important. This information could allow obtaining statistics of “indigenous” languages and would be very useful for development programmes to support the development of those languages.

(f) Statistics on poverty

3.463. The census data can provide a valuable source of information on conditions of life of households as a proxy measure of poverty to complement quantitative survey data. Census data provides a quantitative approach to measuring poverty.

3.464. In some cases, countries may compile multiple deprivation indices using census data.

#### 4. Development indicators

3.465. Indicators are required by countries to track the progress of various developmental goals, and as such efforts must be made by census offices to produce relevant indicators to meet this need. In the 2010 round of population and housing censuses, most countries produced indicators based on the Millennium Development Goals as was recommended. The type of indicators necessary to meet international and national reporting requirements need to be taken into account early in the planning phase of the census.

3.466. It should be emphasized that both global and national reporting and monitoring require reliable and comparable national data for the compilation of indicators. In this regard, it is of paramount importance that countries have the statistical capacity to produce, analyse and disseminate the requisite data for these indicators. The availability of reliable statistics and the capacity of governments to systematically measure and monitor indicators is a critical success factor for the achievement of development goals. The lack of statistical capabilities in some developing countries makes it difficult to obtain good and reliable data. Many countries do not have a sustainable, coherent programme of household surveys, or administrative data systems that can be used to produce basic statistics routinely. Where basic statistical systems are not available, global monitoring may have to rely on national and international estimates of widely varying quality and reliability. This may lead to misjudgments regarding progress and may undermine the effectiveness of policy interventions at national and subnational levels.

3.467. Following the adoption of the Millennium Declaration in 2000, the Millennium Development Goals were set as the world’s time-bound and quantified targets for addressing extreme poverty, with a 2015 deadline. It is acknowledged that while the Millennium Development Goals have made a huge impact in the lives of millions, much remains to be done. The international community is now engaged in consultative discussions on the post-2015 development agenda in order to address continuing inequalities as well as new challenges facing people and the planet. Once development goals for the 2015 development agenda have been adopted they will be incorporated into this section and be made available online.

## XI. Documentation of census experience

3.468. The cumulative experience of past censuses in a country is very useful in the preparation of a new census. Because of the lapse of time between censuses (generally 10 years) and the likelihood that experienced staff may leave the census office, it is essential that there is a comprehensive record of how the census was planned, organized and conducted.

3.469. The census office should, therefore, plan for and implement a knowledge management system to assemble complete records on plans, activities, and decisions taken during the entire census operation. This would entail documentation and archiving of information related to plans and their implementation, as well as problems encountered and how they were resolved at each stage of the census cycle. It is recommended that documentation of census experience be undertaken at each stage of the census operation and not be left until the end of the census process. This would include plans, decisions and activities related to preparatory activities, the methodology of the census, fieldwork or other data collection activity, data processing, cost and implementation of the census budget, and evaluation of performance of each of these activities. Examples of items to track or monitor include implementation of activities, time taken to complete an activity, resources used and cost. All these should be assessed against set goals so that changes to plans can be recorded, including information on what changed and why. Tracking and systematically recording the census experience should also take into account risks encountered and how these risks were managed. For more information see part two, chapter XIV on “Quality assurance”.

3.470. Use of knowledge management tools and techniques is thus beneficial for preserving institutional memory in a codified way so that lessons learned from the past may be used for better management of future census planning and execution. Records in the system should be arranged in such a way that information on each aspect of the census operation is found easily.

3.471. Systematic recording of census experience is not an end in itself. It is recommended that every country prepare and, if possible, publish an administrative and methodological report, as a census “historical memory”, based on information that has been recorded in the knowledge management system (see paragraphs 3.325-3.326, “Administrative report”). Depending on the methodology of the census, the administrative and methodological report should contain information on the manner in which the census was planned, organized and conducted, as well as important methodological and other problems encountered at various stages of the programme. As appropriate, the report should provide specimens of the census questionnaires and forms, instructions for enumeration, and detailed information on the cost of the census and on the implementation of the census budget, as well as points to be considered in future censuses.

3.472. The structure of the report could be similar to the structure of the project plan. It is important that the report be as comprehensive as possible, covering all stages and aspects of census planning and operations, including fieldwork, processing, analysis, dissemination and evaluation. It is important to note that while such a report would be based on items and information in the knowledge management system, it may not necessarily contain detailed descriptions of all the processes or information, as some may be for internal use only. This report would both assist the users of the census results in appraising and interpreting the data and facilitate the proper planning of future data collection programmes, including population and housing censuses.

## XII. Archiving individual records

### A. Purpose of archiving individuals records

3.473. The focus of the following elaboration of archiving is on census individual records irrespective of the format—paper questionnaires or electronic records. The discussion on the complete process and characteristics of archiving all census documents is presented in paragraphs 3.468-3.472 on systematic recording and documentation of census experiences.

3.474. Individual census records refer to either census paper questionnaires in the case these were used for collecting information from the population, or to the digital records on each enumerated person and household if the data collection did not involve paper questionnaires, including direct identifiers, such as name, address and so forth. In the case of bimodal or multimodal data collection, that is, a combination of paper and non-paper questionnaires as in the case of using Internet forms and mail out/mail back paper questionnaires, the resulting collection of individual records would also be a combination of paper and digital recordings.

3.475. In the case of digital records the accompanying documentation becomes an indispensable part of the archiving process. As a number of variables in the digital record are presented as codes, it is necessary to archive all the codebooks and all the other documentation, such as the data collection instrument, that are needed for fully unlocking the value of each of the variables in the record. While this accompanying documentation is also valuable in the case of archiving paper questionnaires, these are by nature visual, thus requiring only reading skills and the knowledge of the language initially used for filling them to grasp the content, as long as they are in good physical shape.

3.476. The essential purpose of archiving individual census records is to keep them safe for future use, primarily in the domain of genealogical research and longitudinal social and anthropological studies, as well as for use by historians and demographers. The release of archived individual census records is subject to the passage of time as per the census legislation and usually encompasses many decades, thus ensuring that the use of individual information would not endanger the confidentiality and the privacy of the respondents.

3.477. Consequently, the importance of providing detailed guidance on the process of archiving individual census records in the census legislation cannot be overstated. These provisions provide the legal basis for maintaining the archives and procedures related to the release of archived records. The time lag between the data collection and the release of the archived records needs to be clearly indicated—it varies from 72 years (United States of America) to 92 years (Canada). In some cases, the original questionnaires are only temporarily stored before being fully disposed of, as in India, one year before the next census takes place.

### B. Procedures for archiving

3.478. Archiving a vast amount of records represents a considerable challenge in all circumstances. In the case of individual census records it may be compounded by the sheer number and format. However, in all cases the national statistical authority needs to develop an institutional strategy for archiving based on three components: organizational infrastructure, technological infrastructure and resources.

3.479. *Organizational infrastructure* refers to the arrangements that need to be put in place within the national statistical office in such a manner as to ensure the efficiency of the archiving and eventual retrieval process. In most cases it is a centralized unit within the office that is put in charge of the archiving, maintenance, secure storage and eventual release of individual records. Once the time lapse mandated by the law for the release of records expires, the actual

release to the public is usually implemented by dispatching relevant batches to the libraries covering parts of the country to which the records refer and to a central national library.

3.480. *Technological infrastructure* refers to the actual technology used for archiving. In contemporary circumstances, storing huge numbers of paper questionnaires would prove not to be cost-effective, as it would require a significant physically secure structure, regulated temperature and humidity, and a host of other requirements, including protection from fire hazards, floods and extreme weather events. Consequently, in most cases the actual questionnaires are scanned and images of them stored in various electronic storage devices. As an example, the individual census schedules from the 1940 population and housing census of the United States are available from a website<sup>99</sup> in the form of scanned images.

<sup>99</sup> See <http://1940census.archives.gov/>.

3.481. The technological infrastructure does not refer only to the actual technology used in the archiving process—it also consists of a series of protocols for archiving and establishing cross-references that enable successful retrieval of records. In the example of the 1940 United States census, all the records were archived based on the enumeration district, as the first-level threshold, then county, then district and so forth. Therefore, the technology should be built around a well-developed archiving scheme that enables efficient identification and retrieval of the records.

3.482. In the case of archiving digital records, contemporary technology provides a vast array of possible solutions—however, it also requires a well thought-over archiving scheme that needs to ensure efficient storage and retrieval, as well as access to the accompanying metadata and documentation.

3.483. *Resources* for archiving need to be taken into account at the early stages of planning for the census, in the context of the technological and organizational infrastructure. In assessing the volume of the necessary funds it is necessary to adopt a strategic, long-term approach, as the archiving, maintaining and releasing would essentially constitute a perpetual activity as long as censuses are part of the national statistical systems: there would always be a need to prepare either for the next round of release of records or for archiving the newly acquired one.

## C. Archiving individual records and microdata

3.484. Individual census records for archiving purposes as described above differ from census microdata in a most significant manner: they retain the direct identifiers—name, address, enumeration area—as these very identifiers represent essential information for genealogical, anthropological, historical and longitudinal social studies. In the case of microdata, these identifiers would be removed, as well as any others that can directly or indirectly identify the respondent. Microdata are defined as electronic records pertaining to each unit of observation; in the case of the population and housing censuses, it would be individuals, housing units and households. This information is stored in variables. Variables can be of different types (for example, numerical or alphanumeric, discrete or continuous). They can be obtained directly from the respondent via a questionnaire or by observation or measurement (for example, by GPS positioning) or imputed or calculated.<sup>100</sup>

3.485. It is expected that the use of anonymized microdata becomes a standard feature of census data dissemination for the 2020 round of censuses. Consequently, paragraphs 3.376-3.388 of these *Principles and Recommendations* present a comprehensive elaboration of principles and protocols for dissemination of microdata files.

<sup>100</sup> Olivier Dupriez and Ernie Boyko, *Dissemination of Microdata Files: Principles, Procedures and Practices*, IHSN Working Paper No. 005 (2010).

## XIII. Overall evaluation of the census

### A. Importance of evaluations

3.486. A population and housing census consists of a complex series of interrelated steps, and constitutes perhaps the single most extensive, complicated and expensive statistical operation that a country undertakes. Like any other project, the census needs to be evaluated to ensure that the effort and investment of resources have been worthwhile.<sup>101</sup> Evaluation of the census for coverage and also to assess the quality of the data is covered in part three, chapter IX, and quality assurance for the census in part two, chapter XIV. This section is concerned with the evaluation processes and procedures of the census operation.

3.487. Evaluation of the census is important for a variety of reasons, among which is to provide lessons learned from one census to the other. For this reason, evaluation is generally regarded as the last stage of the census cycle or the first step in the next census cycle. Evaluation assesses the effectiveness of operations, systems and processes and their likely impact on data quality. In this connection, it is particularly important to assess various aspects of the census operation, especially when changes have been introduced compared to the previous census. Assessments provide valuable information on strengths and weaknesses of past operational procedures, which should be carefully reviewed prior to the development of the next census.

3.488. In addition to evaluation of the conduct and operational elements of the census, it is valuable to evaluate the use and value of census data and products. Evaluation of the outputs of the census can be conducted through the conduct of user surveys to gain subjective feedback or through looking at metrics around product use, for example number of visits to web products or the number of publications requested or purchased. Evaluation of census products can be used to measure whether the data and the selected topics are sufficiently accessible, timely, relevant, accurate, coherent, trusted and interpretable to meet user requirements. The outcomes of the evaluation might provide information that can be immediately acted upon and remedied in the intercensal period, and should certainly feed into the preparations for the subsequent census.

3.489. In recent years, countries have introduced new methodologies and technologies in conducting censuses in order to reduce census costs and also to improve the quality and timeliness of census data. There is use of new methodologies based on administrative registers and combinations of sources to produce census information and of new technologies in all phases of the census. Other changes relate to the use of multimodal enumeration methods as well as substantial outsourcing of some aspects of census operations.

3.490. Given the current state of affairs, evaluation of processes of census operations becomes even more warranted in order to assess how well the innovations have worked. Furthermore, evaluations are necessary so as to provide lessons learned not just for the countries concerned but also for those that want to adopt similar processes for their future censuses.

### B. Planning for the evaluation

3.491. Evaluation of census processes should not be undertaken on an ad hoc basis. The evaluation programme should be included in the overall census plan and be appropriately budgeted for. Lack of proper budgeting and planning for activities that come after enumeration, such as the post-enumeration survey, has in some cases led to financial shortages with negative consequences for the activities concerned. The success of the programme of evaluation depends to a large extent on setting, early enough, clear and unambiguous objectives

<sup>101</sup> *Handbook on Census Management for Population and Housing Censuses, Revision 1, Studies in Methods, No. 83/Rev.1* (United Nations publication, Sales No. E.00.XVII.15 Rev.1).

to be served by the evaluation. Having clear objectives would help to design the best way to undertake the evaluation.

3.492. Ascertaining the objectives of the evaluation encompasses other aspects as well. It is important to establish the scope of the evaluation in terms of intended objectives, keeping in mind that the wider the scope the more complex the evaluation is likely to be. It should be noted also that evaluation of census processes and procedures could last several years and may cover different aspects of the census operation, as necessary, thereby resulting in a series of reports. As for other census activities, there is a cost associated with the evaluation and the more complex the undertaking or the more processes get evaluated, the higher the cost is likely to be.

3.493. In addition to the financial cost, human resources and skilled staff to undertake the evaluation should also be planned for. Depending on what aspects of the census operation will be evaluated, the national statistical or census office should ensure that they have adequate personnel (in type and quantity) to perform the evaluation. A related issue that should be taken into account is the extent to which the staff is equipped to undertake the evaluation. Lack of requisite skilled staff may limit the ability of the country to undertake some or all of the planned components of the evaluation. An alternative is to hire temporary staff with the required technical skills to conduct the evaluation or to collaborate with other agencies such as research institutions.

3.494. As has already been stated, plans for the evaluation of census processes and procedures should be an integral part of the overall census plan and must be planned for from the start of census activities. In addition, documentation of the census experience should have the provision of information for evaluation as one of its objectives. As presented in paragraphs 3.468-3.472 on "Documentation of census experience", the census organization should have a knowledge management system to document and archive complete records on plans, activities, and decisions made during the entire census operation, including on problems faced and how they were resolved. Documented evidence on how the census was undertaken provides valuable input for the evaluation programme. It should be noted, however, that depending on what has to be evaluated, some of the information may not be available until the end of the census operation.





## Part four

# Population and housing census topics

## I. Population census topics

### A. Factors determining the selection of topics

4.1. In line with the overall approach to revision 3 of *Principles and Recommendations for Population and Housing Censuses*, the selection of census topics is based on the outputs expected to be produced by the census. Therefore, the first step involves clear identification of user requirements for data; the core and additional topics are then decided on that basis. For each of the core topics there is a recommended tabulation. It is recommended that countries collect data on the core topics and also produce the recommended tabulations, as this would improve the international harmonization and comparability of statistics through the use of common concepts, definitions and classifications. Use of an agreed international approach would also enhance the capacity of countries to generate statistics for monitoring the socioeconomic situation of their populations, including for the provision of data for the internationally agreed development goals.

4.2. The topics to be covered in the census (that is, the subjects regarding which information is to be sought for each individual or household) should, however, be determined upon a balanced consideration of:

- (a) The needs of the broad range of data users in the country at both the national and local area level (national priority);
- (b) Achievement of the maximum degree of international comparability, both within regions and on a worldwide basis (international comparability);
- (c) Sensitivity of the topics and respondent burden, that is, the willingness and ability of the public to give accurate information on the topics (suitability);
- (d) Technical competence of the enumerators in regard to obtaining information on the topics (suitability);
- (e) Total national resources available for conducting the census (resources);
- (f) Availability of relevant information held in alternative data sources (alternative sources).

4.3. Such a balanced consideration will need to take into account the advantages and limitations of alternative methods of obtaining data on a given topic within the context of an integrated national programme for gathering demographic and related socioeconomic statistics (see paragraphs 1.63-1.68).

4.4. In selecting the population topics, regard should also be given to the usefulness of historical continuity, which provides the opportunity for comparison of changes over a period of time. Census takers should avoid, however, collecting information that is no longer required by users. Information should not be collected simply because it was traditionally collected in the past, bearing in mind changes in the socioeconomic circumstances of the country. It

becomes necessary, therefore, in consultation with a broad range of users of census data, to review periodically the value of even long-standing topics and to re-evaluate the need for their continued collection, particularly in the light of new data needs and alternative data sources that may have become available for investigating topics hitherto covered in the population census. Each of five key factors that need to be taken into account in reaching a final decision on census content are briefly reviewed in the following paragraphs.

## 1. National priority

4.5. Prime importance should be given to the fact that population censuses should be designed to meet national needs. In defining national data needs for population census data, the full range of national uses (for example, policy, administration and research) and national users (for example, national and local government agencies, those in the private sector, and academic and other researchers) should be considered. The prime consideration is that the census should provide information on those topics that are of greatest value to the country, with questions framed so as to elicit data of maximum utility.

4.6. Each country's decision with regard to the topics to be covered should depend upon a balanced appraisal of how urgently the data are needed and whether the information could be equally well or better obtained from other sources. Experience has shown that national needs will best be served if the census includes topics generally recognized as being of basic value and defined in accordance with regional and global standards. Global and regional census recommendations can help in this appraisal by providing information about standard census topics and related definitions and concepts based on a wide range of national census experience. It is recognized however that countries that rely more on administrative records as their prime data source may be more limited in the precise detail of the information that can be collected on particular topics.

4.7. Many countries may find it necessary to include in the census topics of national or local interest in addition to the topics included in these recommendations. Labour force or household survey data may supplement census data to obtain information on topics that cannot be included in the census for whatever reason. It is possible that some countries may omit from the census certain recommended topics either because there is no need to collect the data or because there are legal barriers or particular sensitivities in doing so, as for example may be the case for topics such as fertility, ethnicity and religion.

## 2. International comparability

4.8. The desirability of achieving regional and worldwide comparability should be another major consideration in the selection and formulation of topics to be included in the census. National and international objectives are usually compatible, however, since international recommendations are based on a broad study of country experience and practice, and the definitions and methods contained in international recommendations have successfully met general national needs in a wide range of circumstances. Furthermore, the analysis of census data for national purposes will often be facilitated if, through the use of international recommendations, it is possible to compare the data with those of other countries on the basis of consistent concepts, definitions and classifications. The post-2015 international development agenda, which places increasing demand on expanded data collection, is also another determining factor that countries should take into consideration.

4.9. If the particular circumstances within a country require a departure from international standards, every effort should be made to explain these departures in the census publications and to indicate how the national presentation can be adapted to the international standards.

### 3. Suitability

4.10. A prerequisite for the inclusion of topics in the census should be the willingness and ability of respondents to provide accurate information on them. It is advisable to avoid topics that could increase the burden on respondents and those that are likely to arouse fear, local prejudice or superstition or that might be used to deliberately promote political or sectarian causes as these are likely to have a detrimental effect on response rates and support for the census. In an interview-based census or where the collector needs to obtain information through observation, consideration needs to also be given to the level of knowledge and skill of the interviewer or collector and whether they can be adequately trained to collect this information accurately. Topics that are too complicated or difficult for the average respondent or enumerator to answer quickly should also not be included. The exact phrasing of a question that will obtain the most reliable responses may depend on national circumstances and, as described in part three of these recommendations, should be well tested prior to the census (see paragraphs 3.110-3.114).

### 4. Resources

4.11. The selection of topics should be carefully considered in relation to the total resources available for the census. An efficient collection of accurate data for a limited number of topics, followed by prompt tabulation and publication, is more useful than the collection of data for an overambitious list of topics that cannot be properly processed and disseminated in a timely, reliable and cost-effective manner. In balancing the need for data against resources available, the extent to which questions can be precoded is yet another consideration. Information from studies on the capacity of users and on the measurement of data utilization may also be an important factor in determining whether or not it is economically feasible to include certain topics in the census.

### 5. Alternative sources

4.12. In the selection of topics to be investigated in a census, consideration should be given to whether data are available from other sources, taking into account the relative advantages and limitations of the alternative sources. For example, data may be available from administrative records, or similar data may be collected by household surveys. While household surveys may not be able to collect the detailed information that can be obtained from censuses for small areas or small population groups, there are other advantages associated with interviewers collecting the data rather than, for example, the information being collected on a self-enumeration basis or from administrative records—such as, for example, administering and navigating through probing questions. Those topics for which no alternative sources exist should be given higher priority while those for which alternative sources are readily available should be accorded lower priority.

## B. List of topics

4.13. The list of topics included in these recommendations for population censuses are based on the global and regional census experience of the last several decades. The topics included here are, with some minor revisions, generally the same as those included in the previous United Nations population census recommendations.<sup>102</sup> However, the concepts and definitions for some of the topics relating to economic characteristics have been substantially revised to reflect the more recent recommendations of the International Conference of Labour Statisticians.<sup>103</sup>

<sup>102</sup> *Principles and Recommendations for Population and Housing Censuses*, Revision 2, Statistical Papers No. 67/Rev.2 (United Nations publication, Sales No. E.07.XVII.8).

<sup>103</sup> For more detail see Nineteenth International Conference of Labour Statisticians, *Resolution Concerning Statistics Of Work, Employment And Labour Underutilization* (Geneva, 2013).

4.14. It should be stressed that no country should attempt to cover all the topics included in the list of population topics (see table 3). Rather, countries will need to make their selection of topics in light of the considerations discussed in paragraphs 4.1-4.12 above, bearing in mind any regional recommendations currently pertaining to census topics. In using the classifications of different topics presented in this part of the *Principles and Recommendations for Population and Housing Censuses*, it is necessary to outline that all the one- and two-digit classification levels are recommended, while those at the three-digit level are incorporated for illustrative and guidance purposes only.

4.15. Evolving census experience over the past several decades globally and in various regions has demonstrated that a set of topics exist on which there is considerable agreement in regard both to their importance and to the feasibility of collecting data on them in a census. Data on those within this set that are found to be excessively costly are probably best collected through separate surveys of a sample of the population. The exceptions to this consensus occur, at one extreme, among the countries with the most developed statistical systems, where adequate data on a number of the topics listed, including some of the core ones, are available from non-census sources; and, at the other, among the countries in which data collection opportunities are limited and it is felt that advantage must be taken of the possibilities offered by the census to investigate topics that, under more ideal circumstances, might be investigated more suitably by other means.

4.16. Although the set of topics covered in these recommendations is quite comprehensive in terms of those generally considered suitable for inclusion in a population census, it is also recognized that some countries may find it necessary to include one or more additional topics on which information is of particular national or local importance. However, before the final decision is made to include any such additional topics, their suitability should always be carefully tested.

4.17. To assist countries in using the present publication and in determining their own priorities, lists of recommended population topics are summarized in paragraph 4.21, with the core topics shown in boldface. These core topics correspond to those that were included as *priority topics* in the majority of the regional recommendations in previous census decades.

4.18. The topics listed in paragraph 4.21 are grouped into eight categories: geographic and internal migration characteristics, international migration characteristics, household and family characteristics, demographic and social characteristics, fertility and mortality, educational characteristics, economic characteristics, and agriculture.

4.19. Within each category, a distinction is made between topics collected directly (those that appear in the census schedule or questionnaire), and derived topics. Although data for the derived topics also come from information on the questionnaire, they do not necessarily come from replies to a specific question. *Total population*, for example, is derived from a count of the persons entered on the questionnaires as persons present or resident in each geographic unit. Such derived topics may perhaps be more correctly considered as tabulation components, but they are listed as topics in order to emphasize the fact that the questionnaire must in some way yield this information.

4.20. The paragraph numbers in parentheses after each entry in table 3 refer either to the paragraphs in which the group of topics as a whole is discussed in section IV below or to the paragraphs in which the definition and specifications of individual topics are discussed.

4.21. In the following list of population census topics, core topics are shown in bold and are represented by ♦ for topics that are collected directly, and by □ for those that are derived. Additional topics are represented by ○, and additional topics derived from a core topic are indicated with Δ.

Table 3.

## List of population census topics

<b>A. Geographic and internal migration characteristics (paras. 4.50-4.100)</b>	
(1) <b>Place of usual residence</b> (paras. 4.52-4.57)	◆
(2) <b>Place where present at time of census</b> (paras. 4.58-4.63)	◆
(3) <b>Place of birth</b> (paras. 4.64-4.71)	◆
(4) <b>Duration of residence</b> (paras. 4.72-4.74)	◆
(5) <b>Place of previous residence</b> (paras. 4.75-4.76)	◆
(6) <b>Place of residence at a specified date in the past</b> (paras. 4.77-4.81)	◆
(7) <b>Total population</b> (paras. 4.82-4.88)	□
(8) <b>Locality</b> (paras. 4.89-4.91)	□
(9) <b>Urban and rural</b> (paras. 4.92-4.100)	□
<b>B. International migration characteristics (paras. 4.101-4.120)</b>	
(1) <b>Country of birth</b> (paras. 4.105-4.109)	◆
(2) <b>Country of citizenship</b> (paras. 4.110-4.115)	◆
(3) Acquisition of citizenship (paras. 4.116)	○
(4) <b>Year or period of arrival</b> (paras. 4.117-4.120)	◆
<b>C. Household and family characteristics (paras. 4.121-4.148)</b>	
(1) <b>Relationship to the reference person of household</b> (paras. 4.129-4.139)	◆
(2) <b>Household and family composition</b> (paras. 4.140-4.147)	□
(3) Household and family status (para. 4.148)	○
<b>D. Demographic and social characteristics (paras. 4.149-4.213)</b>	
(1) <b>Sex</b> (para. 4.150)	◆
(2) <b>Age</b> (paras. 4.151-4.162)	◆
(3) <b>Marital status</b> (paras. 4.163-4.171)	◆
(4) Ethnocultural characteristics (paras. 4.172-4.173)	○
(5) Religion (paras. 4.174-4.178)	○
(6) Language (paras. 4.179-4.182)	○
(7) Ethnicity (paras. 4.183-4.187)	○
(8) Indigenous peoples (paras. 4.188-4.192)	○
(9) <b>Disability status</b> (paras. 4.193-4.213)	◆
<b>E. Fertility and mortality (paras. 4.214-4.257)</b>	
(1) <b>Children ever born alive</b> (paras. 4.228-4.233)	◆
(2) <b>Children living</b> (paras. 4.234-4.236)	◆
(3) <b>Date of birth of last child born alive</b> (paras. 4.237-4.240)	◆
(4) Births in the past 12 months (paras. 4.241-4.243)	Δ
(5) Deaths among children born in the past 12 months (paras. 4.244-4.246)	Δ
(6) Age, date or duration of first marriage (para. 4.247-4.248)	○
(7) Age of mother at birth of (date or time when) first child born alive (para. 4.249)	○
(8) <b>Household deaths in the past 12 months</b> (paras. 4.250-4.254)	◆
(9) Maternal or paternal orphanhood (paras. 4.255-4.257)	○
<b>F. Educational characteristics (paras. 4.258-4.288)</b>	
(1) <b>Literacy</b> (paras. 4.258-4.264)	◆
(2) <b>School attendance</b> (paras. 4.265-4.271)	◆
(3) <b>Educational attainment</b> (paras. 4.272-4.280)	◆
(4) Field of education and training, and educational qualifications (paras. 4.281-4.288)	○

Legend: ◆ Core topic, collected directly (displayed in **bold**); □ Core topic, derived; ○ Additional topic; and Δ Additional topic, derived from a core topic.

<b>G. Economic characteristics (paras. 4.289-4.386)</b>		
(3)	<b>Labour force status</b> (paras. 4.307-4.338)	◆
(5)	<b>Status in employment</b> (paras. 4.339-4.351)	◆
(6)	<b>Occupation</b> (paras. 4.352-4.355)	◆
(7)	<b>Industry</b> (paras. 4.356-4.359)	◆
(8)	Place of work (paras. 4.360-4.365)	○
(9)	Institutional sector of employment (paras. 4.366-4.368)	○
(10)	Working time (paras. 4.369-4.375)	○
(11)	<b>Participation in own-use production of goods</b> (paras. 4.376-4.381)	◆
(12)	Income (paras. 4.382-4.386)	○
<b>H. Agriculture (paras. 4.387-4.396)</b>		
(2)	Own-account agriculture production (paras. 4.389-4.392)	○
(3)	Characteristics of all agricultural jobs during the last year (paras. 4.393-4.396)	○

## C. Population count

4.22. The main objective of a population census is to provide a reliable basis for an accurate count of the population of a country at a point in time. An accurate population count is essential for the efficient planning and delivery of services, distribution of resources, defining of boundaries for electoral representation, policy development and a wide range of other administrative and statistical purposes.

4.23. A “population count” may be a subset of or the whole of the enumerated population. A country may have one or more population counts, all derived from the enumerated population.

4.24. Countries are most interested in the count and distribution of usual residents because usual residence is generally the best indication of where people will demand and consume services, and a count of usual residents is therefore most relevant for planning and policy purposes.

4.25. Some countries will supplement the population count from their census with information from other sources, for example on usual residents temporarily outside the country at the time of the census, to produce population estimates. Other countries will rely solely on the population count from the population census.

4.26. Information about each person can be collected and entered on the census questionnaire either where he or she is (or was) present on the day of the census or at his or her usual residence. Paragraphs 2.46-2.63 describe the place of enumeration basis for the census.

4.27. Population counts may be required on a population present basis, or for the usually resident population, or some other population base such as a service population. The choice of population count required will depend on national circumstances; some countries will require more than one. The information collected about each person by the census will need to enable the required population counts to be derived. In some cases, for regional comparison purposes, the population count based on the concept of usual residence might need to be produced.

4.28. The aim of the census is to achieve a full and unduplicated coverage of the population. In practice, countries face a range of challenges in enumerating the population at the place they decide (where present on census day or where usually resident), and in producing the population counts they require. Many of these challenges relate to the difficult-to-enumerate groups of the population and persons for whom the concept of *usual residence* is not easily



defined. The latter present an increasing problem as populations become more mobile (nationally and globally) and household and family structures less stable.

4.29. In developing strategies for enumerating the population and collecting information to support the required population counts, it is important to consider consistency with the standards for international migration statistics described in paragraphs 4.101-4.104.

## 1. Population present count

4.30. A population present count is the simplest form of population count from a population census. In a questionnaire-based census where no reference is made to usual residence, people are enumerated at the place where they are found, usually the dwelling where they spend census night. Foreign residents who are in the country at the time of the census will be included but usual residents of the country who are absent at that time will be excluded.

4.31. A population present count removes complications associated with the application of the concept of place of usual residence, and can reduce the incidence of double counting or missing people if the enumeration is carried out in a single day or reference can be made to the same census moment for the whole population. Apart from the benefit of simplicity, a population present count offers a cost advantage because the census does not need to collect additional information about usual residents not at their usual residence at the time of the census.

4.32. The major disadvantage of a population present count is that it does not enable a full count of usual residents to be derived, and may not provide a true geographic distribution of usual residents for effective planning and policy purposes.

4.33. A population present count may be a good proxy for a count and distribution of usual residents, particularly if nearly all the population will be at their usual residence at the time of the census, or if the characteristics of those persons present are very similar to the characteristics of usual residents. However, in many countries significant numbers of people will not be at their usual residence at the time of the census, and the characteristics of absent usual residents will be different from non-residents present, so that a population present count is not always a good proxy for a count of usual residents. Large seasonal movements of people due to weather changes, employment, holidays and other factors can add to this problem. The ability to produce accurate information on families and households is also reduced to the extent that persons are not enumerated with their families or households.

4.34. To produce a population present count, information is required on all persons present and the address where they are enumerated. It is also very useful to collect information to identify those persons present who are not at their usual residence and those persons who are not usual residents of the country.

4.35. Ideally a population present count should include all the persons present at the census reference moment, regardless of the difficulty of their enumeration. For some of these groups the concept of "at the time of the census" may need to be extended to allow the enumeration to take place. When, however, the enumeration is extended over a period of time, the risk of either overcount or undercount may increase. In fact, persons who are at multiple locations during this extended period may be counted at more than one location, or alternatively they may not be counted at any location. Those risks increase further when reference is made to a *census period* rather than to a *census moment*.

## 2. Usual resident population count

4.36. Countries increasingly prefer a usual resident population count because this count offers better information for planning and policy purposes on the demand for services, households, families and internal migration.

4.37. A *usual resident population count* is a count of all usual residents of a country at the time of the census. Although countries will determine the definition of a usual resident according to their own particular circumstances, it is recommended that in defining a usual resident and the place of usual residence, countries apply the definition contained in paragraph 2.50. Usual residents may or may not have citizenship of the country, and they may also include undocumented persons, applicants for asylum or refugees. Usual residents then may include foreigners who reside (legally or illegally), or intend to reside, in the country continuously for either most of the last 12 months or for 12 months or more, depending on the definition of place of usual residence that is adopted by the country. Persons who may consider themselves usual residents of a country because of citizenship or family ties, but were absent from the country for either most of the last 12 months, or for 12 months or more, depending on the definition adopted, should be excluded. Conversely, persons who are normally resident in the country but who are temporarily absent should be included in the usually resident population. Countries applying a different definition of a usual resident for national purposes should produce a usual resident population count using the recommended 12-month definition for the purposes of international comparability.

4.38. A usual resident count provides a comprehensive count of the population of a country for long-term planning and policy purposes, and a better distribution of the resident population within the country for planning and service delivery purposes at subnational geographic levels.

4.39. To achieve a usual resident count, the population can be enumerated either on a *place where present* basis or on a *where usually resident* basis, as described in paragraphs 2.55-2.63.

4.40. To produce a usual resident population count, information is required on all usual residents and the address of their usual residence, with sufficient detail to generate usual residence at the lowest geographic area level required for tabulation. If the census is taken on a population present basis, then the information collected needs to differentiate clearly between persons enumerated at their usual residence, persons usually resident who were elsewhere at the time of the census, and persons present who are usually resident elsewhere. Information should also be collected to identify those persons who are not usual residents of the country. If, however, the census is taken on a usual residence basis, then information about all usual residents needs to be collected with respect to their usual residence, regardless of whether they are present at the time of the census or not, to ensure full coverage.

4.41. There are difficulties in obtaining information from those usual residents who are absent from the country at the time of the census, particularly where no other person is present at the place of usual residence at the time of the census to provide information about those people. Estimates or imputations of the number and characteristics of these usual residents not enumerated by the census, and obtained from other sources, will be used by some countries to supplement the census population count.

4.42. There can be challenges in applying the concept of a “usual resident” if a person is considered to have more than one residence, sometimes in different countries. This is particularly so for people who may spend parts of the time in communal establishments or institutions, such as schools or military camps. There may also be those who do not consider themselves to have a usual residence at all, such as nomadic peoples or persons sleeping rough. In such cases place of usual resident can be considered to be the place where they are enumerated.

Countries will need to develop appropriate operational rules for resolving cases where it is not clear whether a person is a usual resident of the country, or where the usual residence of the person within the country is not clear.

4.43. There are population groups for which some uncertainty may arise in defining their place of usual residence within the country. The recommended conventional treatment of these cases is as follows:

- (a) Persons who work away from home during the week and who return to the family home at weekends should consider the family home as their place of usual residence.
- (b) Persons of minor age in primary and secondary education who are away from home during the school term should consider their family home as their place of usual residence.
- (c) Students in tertiary education who are away from home while at college or university should consider their term-time address as their place of usual residence regardless of whether this is an institution (such as a boarding school) or a private residence.
- (d) The institution should be taken as the place of usual residence of all inmates who at the time of the census have spent, or are likely to spend, six months or more in the relevant institution. Examples of inmates of institutions include patients in hospitals or hospices, old persons in nursing homes or convalescent homes, prisoners and those in juvenile detention centres.
- (e) Where a person regularly lives in more than one residence within the country during the year, the one where he or she spends the majority of the week or year before the census should be taken as his or her place of usual residence. These persons are not considered to be persons with no usual residence.
- (f) For the (national) military, naval and diplomatic personnel and their families located outside the country the following classification rules should be applied:
  - i. If they are residing abroad for less than 12 months and they are intending to return to the place of departure, they should be allocated within the country in accordance with the rules for usual residence. In particular, they could be allocated to (by decreasing order of priority):
    - The family home address within the country, if any;
    - The duty station within the country to which they were attached before leaving.
  - ii. If they are residing abroad for at least 12 months or if they are not intending to return to the place of departure (although returning to the country within a 12-month period), they should be attributed to a “virtual region” (extra-region) of the country of departure.
- (g) The place of enumeration should be taken as the place of usual residence of homeless or roofless persons, nomads, vagrants and persons with no concept of usual residence.
- (h) A child who alternates between two households within the country (for instance after his or her parents have divorced) should consider the household where he or she spends the majority of the year before the census as his or her place of usual residence. Where an equal amount of time is spent in both households, the place of usual residence should be as for the household where the child is staying at the census reference time.

### 3. Other population counts

#### 3.1. Service population count

4.44. A service population count may be required if a population present count or usual resident population count does not accurately represent the demand for, or provision of, services in a country or part of a country. Service populations are relevant where a significant proportion of the population providing or using services in an area are not usual residents of that area. Types of service population counts include daytime populations, workplace populations and visitor populations. In some countries there may also be an interest in foreign service populations, consisting of foreign residents who cross the border regularly to provide or consume services. This is particularly important in the planning and provision of transport services.

4.45. A service population count may include some or all of the difficult-to-enumerate groups, depending on the type of service population required.

4.46. To produce a service population count, in addition to an estimate of usual residents, information is required about where people provide or demand services. For seasonal populations (holiday, resort), information is needed on the destination and timing of seasonal trips. Some countries will produce service population counts by supplementing the population present count or usual resident population count with information from other sources, such as visitor information from hotels and resorts, to produce visitor populations. Alternatively, additional information may be collected by the census. It should be pointed out that producing a service population count poses difficulty due to national circumstances and different practices in the use of data source and method.

#### 3.2. Population subgroups for which counts are required

4.47. Accurate population counts, required for the efficient planning and delivery of services, distribution of resources, defining of boundaries for electoral representation, policy development and the design and analysis of household surveys, are required for various population subgroups within a country. These subgroups are typically based on geography, age and sex. There may also be a need to identify other populations such as the school population, working population, indigenous population or disadvantaged populations to enable more informed policy formation and better targeted service provision. A range of characteristics will be required to identify these populations and population subgroups, depending on the services being planned, the resources to be distributed and so on. The need for population counts for particular subgroups will determine the questions asked in the census.

### 4. Difficult-to-enumerate groups

4.48. The following difficult-to-enumerate groups are relevant to the production of any population count:

- (a) **Nomads and persons living in areas to which access is difficult.** Making contact with these groups to enumerate them can be difficult, particularly as part of a point-in-time count. Enumeration may need to be done at a different time, over an extended period, or by using alternative methods to enable contact with these groups. For example, countries might consider asking those who provide services to these groups to assist with their enumeration. Seasonal movements may be identified in advance and this information can be used by collectors to enable contact. There needs to be planning and consultation, particularly with influential members of these groups, prior to the census to organize for their enumeration. Communications that publicize the benefits of the census and engaging appropriate leaders in support of the census may assist coverage. Awareness of

cultural issues relevant to specific groups should also be considered in developing enumeration strategies.

- (b) **Civilian residents temporarily absent from the country.** As these persons will be absent from the country at the time of the census, they will be excluded from a usual resident population count. To produce a usual resident count countries may collect information on these people from another family or household member present at the time of the census, but where a complete family or household is outside the country at the time of the census, it may not be possible for the census to collect information about these people. Estimates for usual residents temporarily absent from the country based on other sources may be required to produce reliable estimates of usual residents for planning and policy purposes.
- (c) **Civilian foreigners who do not cross a border daily and are in the country temporarily.** These include undocumented persons, or transients on ships in harbour at the time of the census. These groups may be in the country at the time of the census and therefore form part of the population present count. It is important to include these groups in the population count if their demand for services is to be considered for planning and policy development purposes. However, these groups may prefer not be counted, either because they fear ramifications from being counted or because they do not identify themselves as part of the population of the country. Language and communication may present challenges. Countries need to develop strategies, appropriate for their context, to include these groups in their enumeration.
- (d) **Refugees, asylum seekers and internally displaced persons.** Refugee populations, asylum seekers and internally displaced persons (in and outside camps) should be enumerated and their numbers presented separately, allowing calculation of country population excluding such groups, when such a population count is required for non-demographic purposes.
- (e) **Military, naval and diplomatic personnel and their families located outside the country and foreign military, naval and diplomatic personnel and their families located in the country.** Apart from the difficulties mentioned in (b) and (c) that are common to groups who are absent from their own country, enumeration of these groups is subject to diplomatic protocols. Detailed counts and characteristics of these groups may be considered sensitive on security grounds in some countries. Counts of these groups may be available from administrative records.
- (f) **Civilian foreigners who cross a border daily to work in the country.** This group should be excluded from a usual resident population count. The practice of counting people where they spend census night removes much ambiguity and reduces possible duplication. The difficulty then is trying to include them in a service population if countries want to consider this group in policy development and in planning service delivery.
- (g) **Civilian residents who cross a border daily to work in another country.** These persons are usual residents of the country and should be included in the population count.
- (h) **Merchant seafarers and fishers resident in the country but at sea at the time of the census.** This group includes those who have no place of residence other than their quarters aboard ship. Identifying that the ship will be at sea at the time of the census may be problematic, so countries will need to develop strategies to ensure inclusion of this group in the population count. This may include providing this group with census forms before their ship goes to sea or enumerating the ship before the time of the census.

- (i) **Homeless or roofless persons, vagrants and persons with no concept of usual residence.** These should be included in the population count, and the census office should work with local government agencies, charities and other supporting bodies that provide support for this population group to identify the best method of collecting census information from these people.
- (j) **Persons living in buildings with restricted access.** Persons living in gated communities, condominiums and apartment buildings could be difficult to enumerate, particularly as part of a point-in-time count. Enumeration may need to be done at a different time, over an extended period, or by using alternative methods to enable contact with these groups.
- (k) **Stateless persons.** These are individuals who are not considered as nationals by any State under the operation of its laws. They are often undocumented and may not wish to be enumerated. However, every effort should be made to include such persons in the census. The census office should work with responsible government agencies, non-governmental organizations familiar with this population group and the United Nations High Commissioner for Refugees (UNHCR) to establish the best method for identifying stateless persons and collecting census information on them. Country of citizenship is generally essential for the identification of this group, though the census office should consult with relevant ministries and agencies, including the UNHCR, to determine whether additional information (such as residence history or identity documentation) may be required to establish the status of a stateless person.

## D. Definitions and specifications of topics

4.49. The present section contains the recommended definitions and specifications of all topics presented in the order in which they appear in table 3 above. It is important that census data be accompanied by the definitions used in carrying out the census. It is also important that any changes in definitions that have been made since the previous census are reported in the metadata and, if possible, accompanied by an assessment of the effect of such changes on the relevant data, in order to ensure that users will not confuse valid changes over a period of time with increases or decreases resulting from changed definitions.

### 1. Geographic and internal migration characteristics

4.50. It should be noted that “place of usual residence” and “place where present at time of census” may be considered alternative topics when countries do not have the resources to investigate both topics for general census purposes. Some countries, however, will want to investigate both topics for general purposes. The relationship between the two topics and their further relationship to the topic of “place of enumeration” are set out in part two, chapter IV (see paragraphs 2.55-2.63).

4.51. It is recommended that countries investigating only “place where present at time of census” for general purposes should also obtain information on “place of usual residence” for all persons who do not usually reside in the household where they were enumerated, to be used in connection with the information on “place of birth”, “duration of residence”, “place of previous residence” or “place of residence at a specified date in the past” for the purposes of determining internal migration status. If, in the compilation of the population of geographic units, persons are allocated to the place where they were present at the time of the census, information on the four above-mentioned migration characteristics will be irrelevant for persons who were only visiting, or transient in, the place at which they were present. Since

such persons must, in any case, be identified in the questionnaire as non-residents so that they will not be erroneously classified as recent in-migrants, information on place of usual residence should be collected, which will make it possible to include the entire population in the tabulation of internal migration characteristics.

### 1.1. Place of usual residence (core topic)

4.52. Information on the number of people usually residing in an area is basic to most informed decision-making about the area, whether it be a country, an urban agglomeration or a civil division. The number of residents determines the levels of most services required in an area.

4.53. The *place of usual residence* may be the same as, or different from, the place where the enumerated person was present at the time of the census or his or her legal residence. For a definition of place of usual residence, see paragraphs 2.48-2.50.

4.54. Although most persons will have no difficulty in stating their place of usual residence, some confusion is bound to arise in a number of situations where persons have more than one residential address. These cases might include persons who maintain two or more residences, students living at school, members of the armed forces living at a military installation but still maintaining private living quarters away from the installation, and persons who sleep away from their homes during the working week but return home for several days at the end of each week (see also paragraph 2.53). In some other circumstances, referring to the person's intentions for the future may assist the determination of the place of usual residence.

4.55. Problems may also arise with persons who have (a) been residing at the place where they are enumerated for some time, perhaps for more than half of the preceding 12 months, but do not consider themselves to be residents of that place because they intend to return to their previous residence at some future time; or (b) left the country temporarily but are expected to return after some time longer than 12 months from the departure. In such instances, clearly stated time limits of presence in or absence from a particular place must be based upon the 12-month limit and used to determine whether or not the person is usually resident there. The 12-month criterion is necessary for determining whether or not a person is usually resident in the country (so that there is international comparability for migration purposes), but less so for place of usual residence within the country for measuring internal migration, where a six-month rule might be more appropriate as it will refer more closely to the concept of "most of the time".

4.56. If each person is to be entered in the questionnaire only at his or her place of usual residence, the topic need not be investigated separately for each person, because the information will be available from the location information entered for the questionnaire as a whole.

4.57. Information on the place of usual residence should be collected in enough detail to enable tabulations to be made for the smallest geographic subdivisions required by the tabulation plan and to meet the requirements of the database within the cost limits and operational procedures required to code to a fine degree of detail.

### 1.2. Place where present at time of census (core topic)

4.58. In cases where the census is taken on the basis of "place where counted", this topic may fulfil some of the functions of place of usual residence.

4.59. The *place where present at time of census* is, in theory, the geographic place at which each person was present on the day of the census, whether or not this was his or her place of usual residence. In practice, the concept is generally applied to the place where the person was present at the moment of the census, because many persons may not be physically present at the place of enumeration during most of the day.



4.60. As mentioned in part two, chapter IV (see paragraphs 2.57-2.58), the concept is sometimes further extended to apply to the night preceding the day of actual enumeration in cases where the enumeration extends over a long period of time and persons are not likely to be able to supply information relating to a single moment in the past. Other departures from the definition may be necessary to deal with individual cases, such as persons travelling during the entire night or day of the census and persons who spent the night at work.

4.61. If each person is to be entered in the questionnaire only at the place where he or she was present at the time of the census, the topic need not be investigated separately for each person, because the information will be available from the location information recorded for the questionnaire as a whole.

4.62. Information on the place where each person was present should be collected in enough detail to enable tabulation to be made for the smallest geographic subdivisions required by the tabulation plan and to meet the requirements of the database within the cost limits and operational procedures required to code to a fine degree of detail.

4.63. For countries that collect information from administrative data sources, the concept of “present at the time of the census” may not be relevant.

### 1.3. Place of birth (core topic)

4.64. Information on the place of birth is a major input to development of policies relating to migration and the related issues of service delivery to migrants. For the purposes of measuring internal migration, migrants are defined as those persons who usually are residing in a civil division of the country at the time of the census, but were previously resident outside that division. That is, movements within the civil division should not be regarded as being migratory.

4.65. The *place of birth* for persons born within the country is the civil division in which the person was born; for those born in other countries, it is the country of birth. For persons born in the country (the native-born population), the concept of place of birth usually refers to the geographic unit where the mother of the individual resided at the time of the person’s birth. In some countries, however, the place of birth is defined as the geographic unit in which the birth actually occurred. Either concept can be used depending on the information needs of the country; but each country should explain the definitions it uses both in the census enumerator instructions and in the census reports to aid the interpretation of the data.

4.66. The collection of information distinguishing between the native-born population and those born elsewhere (foreign-born) is necessary where any enquiry on place of birth is made. Even countries where the proportion of foreign-born population is insignificant, and who may only be interested in information on the place of birth of the native-born population, must first separate the native-born from the foreign-born population. It is therefore recommended that place of birth be asked of all persons. In countries that combine the questions on place of birth and country of birth (where the latter is used to measure international migration), the guidance on the country of birth (see paragraphs 4.105-4.109) should apply.

4.67. Information on the place of birth of the native population is usually used primarily for the investigation of internal migration. For countries that have been recently formed from parts of previously separate entities, however, such information may be of use in assessing the relative size of the population segments from each of those entities and their distribution throughout the country.

4.68. Information on whether or not a person is “born in the country” captures the population according to the boundaries at the time of the census. Using the “born in the country”

concept would account for individuals who may have been affected by changes to a country's boundary.

4.69. For the purposes of measuring internal migration, it is usually sufficient to collect information only on the major civil division (state, province or department, for example) in which the place of birth is located. If desired, more detailed information on the subdivision of a specific locality can be collected and used for accurate coding of the major division or for presenting data for smaller areas.

4.70. However, for more detailed studies of internal migration, data on the place of birth of the native population even in terms of major civil divisions may not be adequate. For better understanding of the movements of people since birth it may be necessary to collect information at the smallest possible geographic level, bearing in mind that:

- (a) The boundaries of administrative units such as cities and other civil divisions will change over time, which may give rise to ambiguity in data reported;
- (b) The costs of coding the reported data to these smaller units may be prohibitive, especially where there are many units and the population is highly mobile.

To overcome the first problem, to the extent possible, both national and subnational boundaries should refer to the boundaries applying at the time of the census. Countries must address the second problem in light of their own circumstances, bearing in mind the reduced value of place of birth as a measurement of internal migration in a very mobile population.

4.71. It is recommended that, for the study of internal migration, the data on place of birth be supplemented by information collected on duration of residence (see paragraphs 4.72-4.74) and place of previous residence (see paragraphs 4.75-4.76) or on residence at a specified date in the past (see paragraphs 4.77 and 4.81).

#### 1.4. Duration of residence (core topic)

4.72. The *duration of residence* is the interval of time up to the date of the census, expressed in complete years, during which each person has lived in (a) the locality that is his or her usual residence at the time of the census; or (b) the major or smaller civil division in which that locality is situated.

4.73. In collecting information on duration of residence, it should be made clear that the interest is in length of residence in the major or smaller civil division, or the locality, but not in the particular housing unit. The concept of duration of residence also relates to the most recent move to the current place of usual residence.

4.74. Data on the duration of residence have only limited value in themselves because they do not provide information on the place of origin of in-migrants. Therefore, when the topic is investigated, the place of previous residence should also be investigated, if at all possible, so that the data can be cross-classified.

#### 1.5. Place of previous residence (core topic)

4.75. The *place of previous usual residence* is the major or smaller civil division, or the foreign country, in which the individual resided immediately prior to migrating into the civil division of present usual residence.

4.76. Data on the place of previous residence have only limited value in themselves because they do not provide information on the time of in-migration. Therefore, when the topic is investigated and included in the census, the duration of residence (see paragraphs 4.72-4.74) should also be included so that the data can be cross-classified. Alternatively, countries may

choose to include a question on place of residence as a specified date in the past (see paragraphs 4.77-4.81 below).

### 1.6. Place of residence at a specified date in the past (core topic)

4.77. The *place of usual residence* at a specified date in the past is the major or smaller division, or the foreign country, in which the individual resided at a specified date preceding the census. The reference date chosen should be that most useful for national purposes. In most cases, this has been deemed to be one year or five years preceding the census (or both of these time frames in cases where internal migration is of particular importance to users and resources are sufficient to code the data).

4.78. The former reference date provides information for statistics of both recent internal and international migration during a single year, while the latter may be more appropriate for collecting data for longer-term analysis of migration. When selecting the reference date the ability of individuals to recall with accuracy their usual residence one year or five years earlier than the census date should be considered. For countries conducting quinquennial censuses, the date of five years earlier can be readily tied in, for most persons, with the time of the previous census, but it should be noted that a one-year recall is likely to result in more accurate information than a five-year recall.

4.79. Some countries, however, may wish to use a different time reference than either one year or five years preceding the census because these intervals may present recall difficulties. In such circumstances the time reference should be one that can be associated with the occurrence of an important event that most people will remember.

4.80. For foreign-born persons, the collection of information on year of first or last arrival in the country is recommended (see “International migration characteristics”, paragraphs 4.101-4.120).

4.81. However, no matter what previous date is used, provision must be made for the treatment of infants and young children who are resident at the time of the census but were not yet born at the earlier date. Tabulations of the data should indicate the nature of the treatment of this group.

### 1.7. Total population (core topic)

4.82. For census purposes, the *total population* of the country consists of all the persons falling within the scope of the census. In the broadest sense, the total may comprise either all usual residents of the country or all persons present in the country at the time of the census. The total of all usual residents is generally referred to as the *de jure* population and the total of all persons present as the *de facto* population.

4.83. In practice, however, countries do not usually fully achieve either type of count, because one or more groups of the population are included or excluded, depending on national circumstances. The general term used to describe the total might imply a treatment opposite to the one given to any of these groups. It is recommended, therefore, that each country describe in detail the figure accepted officially as the total, rather than simply label it as “*de jure*” or “*de facto*”.

4.84. The description should show clearly whether each group listed below was or was not included in the total. If the group was enumerated and identified as a separate group, its magnitude should be given; if it was not enumerated, an estimate of its size and the method of estimation should be given, if possible. If any group is not represented at all in the population, this fact should be stated and the magnitude of the group should be shown as “zero”. This may occur particularly with groups (a), (b), (d) and (n) described below (see also paragraph 4.48).

4.85. The groups to be considered are:

- (a) Nomads;
- (b) Persons living in areas to which access is difficult;
- (c) Military, naval and diplomatic personnel and their families located outside the country;
- (d) Merchant seafarers and fishers resident in the country but at sea at the time of the census (including those who have no place of residence other than their quarters aboard ship);
- (e) Civilian residents temporarily in another country as seasonal workers;
- (f) Civilian residents who cross a border daily to work in another country;
- (g) Civilian residents other than those in groups (c), (e) or (f) who are working in another country;
- (h) Civilian residents other than those in groups (c), (d), (e), (f) or (g) who are temporarily absent from the country;
- (i) Foreign military, naval and diplomatic personnel and their families located in the country;
- (j) Civilian foreigners temporarily in the country as seasonal workers;
- (k) Civilian foreigners who cross a frontier daily to work in the country;
- (l) Civilian foreigners other than those in groups (i), (j) or (k) who are working in the country;
- (m) Civilian foreigners other than those in groups (i), (j), (k) or (l) who are in the country temporarily;
- (n) Refugees in camps;
- (o) Transients on ships in harbour at the time of the census.

4.86. In the case of groups (h) and (m), it is recommended that an indication be given of the criteria used in determining that presence in, or absence from, the country is temporary.

4.87. In those countries where the total population figure has been adjusted for undercoverage or overcoverage (or net undercoverage), both the enumerated figure and the estimated adjusted population figure should be shown and described. In such cases, documentation should be provided for users explaining how the total population figure from the census has been adjusted. Ideally, where possible, the detailed tabulations should be consistent with the adjusted population figures. However, where this is not possible, if, for example, the costs of the methodology for undertaking these adjustments are prohibitive, the detailed tabulations will, of necessity, be based only on the actual enumerated population.

4.88. The population of each geographic unit of the country, like the total population of the country (see paragraph 4.82), may comprise either all usual residents of the unit (see paragraph 4.53) or all persons present in the unit at the time of the census (see paragraphs 4.58-4.59).

## 1.8. Locality (core topic)

4.89. For census purposes, a *locality* should be defined as a distinct population cluster (also designated as inhabited place, populated centre, settlement and so forth) in which the inhabitants live in neighbouring or contiguous sets of living quarters, and that has a name or a locally recognized status. It thus includes fishing hamlets, mining camps, ranches, farms, market towns, villages, towns, cities and many other population clusters that meet these criteria. Any departure from this definition should be explained in the census report as an aid to the interpretation of the data.

4.90. Localities as defined above should not be confused with the smallest civil divisions of a country. In some cases, the two may coincide. In others, however, even the smallest civil division may contain two or more localities. On the other hand, some large cities or towns may contain two or more civil divisions, which should be considered as subdivisions of a single locality rather than separate localities.

4.91. A large locality (that is to say, a city or a town) is often part of an urban agglomeration, which may comprise the city or town proper together with a suburban fringe or heavily populated area lying outside, but adjacent to, its boundaries. The urban agglomeration is therefore not coterminous with the locality but is an additional geographic unit, which may include more than one locality. In some cases, a single large urban agglomeration may comprise several cities or towns and their suburban fringes. The components of such large agglomerations should be specified in the census results.

### 1.9. Urban and rural (core topic)

4.92. Because of national differences in the characteristics that distinguish urban from rural areas, the distinction between the urban and the rural population is not yet amenable to a single definition that would be applicable to all countries or even, for the most part, to the countries within a region. Where there are no regional recommendations on the matter, countries must establish their own definitions in accordance with their own needs.

4.93. The traditional distinction between urban and rural areas within a country has been based on the assumption that urban areas, no matter how they are defined, provide a different way of life and usually a higher standard of living than rural areas. In many developed countries this distinction has become blurred, and the principal difference between urban and rural areas in terms of living standards tends to be the degree of population concentration or density. On the other hand, the differences between urban and rural ways of life and standards of living remain significant in developing countries, but even here rapid urbanization in these countries has created a great need for information related to different sizes of urban areas.

4.94. Hence, although the traditional urban-rural dichotomy is still needed, classification by size of locality can usefully supplement the dichotomy, or even replace it where the major concern is with characteristics related only to density along the continuum from the most sparsely settled areas to the most densely built-up localities.

4.95. A classification of areas as urban or rural should be done at the smallest administrative unit of the country, or the smallest census collection unit. The classification should be made, first and foremost, on a measure of population density. The distinction between urban and rural population density depends on the average area of the spatial units being assessed. Smaller spatial units may need a higher population density threshold and larger spatial units a lower population density.

4.96. Population density may not, however, be a sufficient criterion in many countries, particularly where there are large localities that are still characterized by a truly rural way of life. Such countries will find it necessary to use additional criteria in developing classifications that are more distinctive than a simple urban-rural differentiation. Some of the additional criteria that may be useful are the percentage of the population engaged in agriculture, the general availability of electricity or piped water in living quarters and the ease of access to medical care, schools, recreation facilities and transportation. For certain countries where such facilities are available in some areas that are still rural (where agriculture is the predominant source of employment), it might be necessary to adopt different criteria in different parts of the country. Care should be taken, however, to ensure that the definition used does not become too complicated for application to the census and for understanding the census results.

4.97. Even in industrialized countries, it may be considered appropriate to distinguish between agricultural localities, market towns, industrial centres, service centres and so forth, within size categories of localities.

4.98. Even where size is not used as a criterion, the urban-rural classification should be applied to the locality for national purposes as well as for international comparability. If it is not possible to use the locality, the smallest administrative unit of the country should be used.

4.99. Some of the information required for classification may be provided by the census results themselves, while other information may be obtained from external sources. The use of information provided by the census (as, for example, the size class of the locality or the percentage of the population engaged in agriculture), whether alone or in conjunction with information from other sources, means that the classification will not be available until the relevant census results have been tabulated. If, however, the census plans call for the investigation of a smaller number of topics in rural areas than in urban areas or for a greater use of sampling in rural areas, the classification must be available before the enumeration takes place. In these cases, reliance must be placed on external sources of information, even if only to bring up to date any urban-rural classification that was prepared at an earlier date.

4.100. The usefulness of housing census data (for example, the availability of electricity or piped water) collected simultaneously with, or not too long before, the population census should be kept in mind. Images obtained by remote sensing may be of use in the demarcation or boundaries of urban areas when density of habitation is a criterion. For assembling information from more than one source, the importance of a well-developed system of geocoding should not be overlooked.

## 2. International migration characteristics

4.101. Interest in the movement of people across national boundaries, namely, international migration, has steadily grown among countries concomitant with the increase in international migration. The decision to collect and disseminate information on international migration in a census is dependent upon a number of considerations and national circumstances, including, for example, the national needs for such data. Data on international migrants could provide information on the diversity of a population and can serve to identify subgroups of a population. The present section on international migration supplements and expands the topic “geographic and internal migration characteristics”, which is covered above. Definitions of international migration and specific ways of applying them in population censuses, consistent with the United Nations *Recommendations on Statistics of International Migration*, Revision 1,<sup>104</sup> are presented in this section.

4.102. The revised United Nations *Recommendations on Statistics of International Migration* deals with both international migration flows and international migrant stock, and identifies population censuses as being the main source for collecting data on international migrants and their characteristics. This section is concerned chiefly with the topic of international migrant stock as derived from population censuses.

4.103. In the *Recommendations on Statistics of International Migration* (paragraph 185), the stock of international migrants present in a country is defined as “the set of persons who have ever changed their country of usual residence, that is to say, persons who have spent at least a year of their lives in a country other than the one in which they live at the time the data are gathered”. However, given that this information can be difficult to obtain, it is often approximated by other population groups such as persons born abroad or persons whose country of citizenship differs from the country they reside in.

<sup>104</sup> Statistical Papers, No. 58  
(United Nations publication,  
Sales No. E.98.XVII.14).



4.104. Consequently, for the study of international migration, census recommendations tend to focus on two subgroups of the population: the foreign-born population and the foreign citizens living in the country of enumeration. In order to identify members of those groups, two items must be recorded in the census: (a) the country of birth, and (b) the country of citizenship. In addition, it is important to record the year of arrival in the country of enumeration so as to establish the length of stay of international migrants residing in the country.

## 2.1. Country of birth (core topic)

4.105. *Country of birth* is the country in which the person was born. The concept of country of birth usually refers to the country where the mother of the individual resided at the time of the person's birth. In some countries, however, country of birth is defined as the country in which the birth actually took place. Either concept can be used depending on the information needs of the country; each country should explain which definition it used in the census. It should be noted that the country of birth of a person is not necessarily the same as his or her country of citizenship, which is a separate census topic dealt with below. It is recommended that country of birth be asked of all persons to distinguish the native-born from the foreign-born population. The collection of this information is necessary even in countries where the proportion of foreign-born population is small. For the foreign-born population, the collection of information on the specific country of birth is recommended so as to permit the classification of the foreign-born population by country of birth. For respondents who are born outside the country of enumeration and cannot identify their country of birth, at least the continent or region where that country is located should be ascertained.

4.106. For purposes of both internal consistency and international comparability, it is recommended that information on the country of birth be recorded according to national boundaries existing at the time of the census. Information on the year of arrival in the country (see paragraph 4.118 below) can be used to identify persons who owe their status of foreign-born to changes in national boundaries. It is essential that the coding of information on the country of birth be done in sufficient detail to allow for the identification of all relevant countries of birth.

4.107. For purposes of coding, it is recommended that countries use the numerical coding system presented in *Standard Country or Area Codes for Statistical Use*.<sup>105</sup> The use of standard codes for classification of the foreign-born population according to the country of birth will enhance the usefulness of such data, including an international exchange of foreign-born population statistics among countries. If countries decide to combine countries into broad groups, it is recommended that the standard regional and subregional classifications identified in the above-mentioned publication be adopted.

4.108. Countries with a significant number of international migrants may wish to collect information on the country of birth of parents (both father and mother), in which case the information should be asked of all respondents following the same guidelines given for country of birth. The decision to collect and disseminate information on country of birth of parents in a census is dependent upon a number of considerations and national circumstances, including for example the suitability and sensitivity of asking such a question that relates to persons who may not be in the country in which the census is taking place.

4.109. Information on the country of birth of parents can be used, in combination with information on the country of birth of the enumerated person, to identify native-born children of the foreign-born population (the so-called "second generation") and to study the integration processes and outcomes of migrants and their descendants. Moreover, in countries that have experienced return migration, information from this topic allows the identification of foreign-born children of native-born parents.

<sup>105</sup> United Nations, *Standard Country or Area Codes for Statistical Use*, available from <http://unstats.un.org/unsd/methods/m49/m49.htm>.



## 2.2. Country of citizenship (core topic)

4.110. *Country of citizenship* is defined as the country an individual is a citizen of and with which the individual enjoys a particular legal bond, acquired by birth, naturalization, marriage or some other mechanism. A citizen is a legal national of the country of enumeration; a foreign citizen is a non-national of the country (that is, a citizen of another country or a stateless person). Because the country of citizenship is not necessarily identical to the country of birth, both items should be collected in a census.

4.111. Information on the country of citizenship is particularly important for foreign citizens. It is important to record country of citizenship as such and not to use another concept to indicate citizenship, since some of those concepts may also be used to designate ethnic groups.

4.112. It is essential that the coding of information on country of citizenship be done in sufficient detail to allow for the individual identification of all countries of citizenship that are represented among the foreign population in the country. For purposes of coding, it is recommended that countries use the numerical coding system presented in *Standard Country or Area Codes for Statistical Use*. The use of standard codes for classification of the foreign population by country of citizenship will enhance the usefulness of such data and permit an international exchange of information among countries on their foreign populations. If countries decide to combine countries of citizenship into broad groups, it is recommended that the standard regional and subregional classifications identified in the above-mentioned publication be adopted. The category “stateless” should also be listed.

4.113. The reliability of reported citizenship may be doubtful in the case of persons whose citizenship has recently changed as a result of territorial changes, or among the population of some newly independent countries where the concept of citizenship may have only recently become important. Clear guidelines issued by the national statistical authority can help improve the quality of the data collected. As an aid to the analysis and interpretation of the results, notes on the likelihood of these and other possible causes of misstatement should accompany tabulations based on citizenship.

4.114. Enumeration and processing instructions should provide clear guidance on the treatment of stateless persons, persons with dual nationality, persons in the process of naturalization and any other groups with ambiguous citizenship. The treatment of these groups should be described in the census reports and be included in the metadata for accompanying tabulations.

4.115. In cases where people have more than one citizenship and where this information is useful for decision-making, details may be collected on whether the person holds one or multiple citizenship. If this information is to be published, care should be taken to explain how the possibility of people being included in the table more than once affects the marginal totals on the table. Usually, however, it may be more practicable for tabulations by citizenship to refer to one citizenship only. Thus, persons with multiple citizenships should be allocated to a single “primary” citizenship, for example by giving precedence to the citizenship of the “home” country.

## 2.3. Acquisition of citizenship

4.116. In addition to collecting information on citizenship, for countries where the population includes a significant proportion of naturalized citizens it may be important to collect information on the method of acquisition of citizenship so as to enable the classification of the population into (a) citizens by birth; (b) citizens by naturalization whether by declaration, option, marriage or other means; and (c) non-nationals. In such countries it may also be useful to ask questions on previous citizenship and year of naturalization.

## 2.4. Year or period of arrival in the country (core topic)

4.117. *Year or period of arrival in the country* refers to the calendar year and month of arrival of a foreign-born person to the country of enumeration. This information enables the calculation of the number of completed years between the time of arrival in the country and the time of enquiry, usually the census date. Information on the month and year of arrival also provides the flexibility of classifying foreign-born persons by period of arrival in terms of any prespecified period, such as 1975-1979, 1980-1984 and so forth. It is thus recommended that the period of arrival be shown, in any tabulation in which the variable appears, in terms of the actual year of arrival.

4.118. It is possible to collect information on either the date of first arrival in the country or the date of the most recent arrival in the country. Each has its own advantages and disadvantages. In making the choice of which information to collect, countries should be guided first and foremost by their policy and user needs.

4.119. Information on time since arrival can also be collected by asking how many years have elapsed since the time of arrival, instead of in what calendar year and month the person arrived. However, use of such a question is not recommended because it is likely to yield less accurate information.

4.120. Note that information on the year and month of arrival is focused mainly on persons born outside the country of enumeration, that is to say, persons who must have arrived in that country at some time after their birth. However, it should be noted that the phenomenon of “international return migration” is becoming increasingly common, and countries that have population groups that maintain links to other countries, migrating to or from another country at different life stages (for example, as students or pensioners), may have an interest in collecting information on returning migrants: in this case, the question on year and month of arrival could also be asked of native-born respondents who have ever lived in another country. In addition, it might also be important to collect information on previous country of residence for persons who have ever lived abroad.

## 3. Household and family characteristics

4.121. In considering the topics related to household characteristics, it is important to be aware of the differences between the concepts of household and family as used herein.

4.122. A *household* may be either:

- (a) A one-person household, that is to say, a person who makes provision for his or her own food or other essentials for living without combining with any other person to form part of a multiperson household; or
- (b) A multiperson household, that is to say, a group of two or more persons living together who make common provision for food or other essentials for living. The persons in the group may pool their resources and have a common budget; they may be related or unrelated persons or a combination of persons both related and unrelated. This arrangement exemplifies the “housekeeping” concept.

Some countries use a concept different from the housekeeping concept, namely, the “household dwelling” concept, which regards all persons living in a housing unit as belonging to the same household. According to this concept, there is one household per occupied housing unit. Therefore, the number of occupied housing units and the number of households occupying them are equal and the locations of the housing units and households are identical. Countries should specify in their census reports whether they used the “housekeeping” or the “household dwelling” concept of a private household.

4.123. A household may be located in a housing unit (see paragraph 4.427) or in a set of collective living quarters such as a boarding house, a hotel or a camp, or may comprise the administrative personnel in an institution.

4.124. The *family* within the household, a concept of particular interest, is defined as those members of the household who are related, to a specified degree, through blood, adoption or marriage. The degree of relationship used in determining the limits of the family in this sense is dependent upon the uses to which the data are to be put and so cannot be established for worldwide use. See paragraph 4.141 for a definition of the family nucleus.

4.125. Although in practice most households are composed of a single family consisting of a married couple without children or of one or both parents and their children, it should not be assumed that this identity always exists; census tabulations should therefore clearly indicate whether they relate to households or to families within households.

4.126. From the definitions of “household” and “family”, it is clear that these are different concepts that cannot be used interchangeably in the same census. The differences between the household and the family are that:

- (a) A household may consist of only one person but a family must contain at least two members;
- (b) The members of a multiperson household need not be related to each other, while the members of a family must always be related.

4.127. A household can contain more than one family, or one or more families together with one or more non-related persons, or it can consist entirely of non-related persons. A family typically will not comprise more than one household. However, the existence of polygamous families in some countries, as well as shared child custody and support arrangements in others, means that individual countries should decide how best to derive and report data on families.

4.128. It is recommended that the household be used as the unit of enumeration (as defined in paragraphs 2.33-2.38) and that the family be a derived topic only. The place of usual residence is recommended as the basis for assigning persons to households where they normally reside. Where the *de facto* approach is used as the method of enumeration (see paragraphs 2.55-2.63), household lists should, where feasible, also include usual residents temporarily absent. The place of usual residence is where a person usually resides and it may or may not be the person's current or legal residence. The latter terms are usually defined in the laws of most countries and need not correspond to the concept of place of usual residence, which, as employed in the census, is based on conventional usage. In published reports, countries should indicate whether or not household information refers to usual residents and also what the time limits are in respect of being included or excluded as a usual resident. For a more detailed discussion on the difficulty of collecting information on place of usual residence, see paragraphs 4.52-4.57.

### 3.1. Relationship to the reference person of household (core topic)

4.129. In identifying the members of a household (as defined in paragraphs 4.122-4.123), it is useful to identify first the household reference person and then the remaining members of the household according to their relationship to the reference person. Countries may use the term they deem most appropriate to identify this person (household reference person, head of household, householder, among others) as long as the person so identified is used solely to determine relationships between household members. It is recommended that each country present, in published reports, the concepts and definitions that are used.

4.130. With respect to selecting the household reference person, it is important to specify criteria for choosing that person in relation to whom household members would be best distinguished, especially in polygamous, multi-family and other households, such as those composed only of siblings without a parent and those composed entirely of unrelated persons. This information should be included in training materials and instructions to enumerators.

4.131. The traditional notion of head of household assumes that most households are family households (in other words, they consist entirely, except possibly for domestic servants, of persons related by blood, marriage or adoption) and that one person in such family households has primary authority and responsibility for household affairs and is, in the majority of cases, its chief economic support. This person is then designated as the head of household.

4.132. Where spouses consider themselves to be equal in household authority and responsibility and may share the economic support of the household, the concept of head of household is no longer considered valid even for family households. In order for the relationship among members of the household to be determined under these circumstances, it is essential that either:

- (a) The members of the household designate one among them as a reference member with no implication of headship; or
- (b) Provision be made for designation of joint headship where desired.

In any case, it is important that clear instructions be provided in the census as to how this situation is to be handled.

4.133. Even in the many countries where the traditional concept of head of household is still relevant, it is important to recognize that the procedures followed in applying the concept may distort the true picture, particularly with regard to female heads of households. The most common assumption that can distort the facts is that no woman can be the head of any household that also contains an adult male. Enumerators and even respondents may simply take such an assumption for granted.

4.134. This common sex-based stereotype often reflects circumstances that may have been true in the past but are true no longer, insofar as the household and economic roles of women continue to change. It is therefore important that clear instructions be provided as to who is to be treated as the reference person of the household so as to avoid the complications of enumerator or respondent preconceptions on the subject and the bias that such preconceptions may create. The procedure to follow in identifying a reference person when the members of the household are unable to do so should be clear and unambiguous and should avoid sex-based bias. Where alternative definitions are used, this should be made explicitly in the census questionnaire and in the tabulated census results.

4.135. The selection of the one reference person in a household to whom all other persons in the household report, or designate, their relationship requires careful consideration. In the past the person considered to be the "head of the household" was generally used as the reference person, but this concept is no longer considered appropriate in many countries. It has also sometimes been proposed that the person designated as the reference person should be the oldest person in the household or the one who contributes the most income. However, given that the primary purpose of the question is to assign family status and to assign individuals into families, both of these approaches have weaknesses. The automatic selection of the oldest person may be undesirable because in multigenerational households many explicit kin relationships can be reported where the reference person is selected from the middle generation. Similarly, the selection of the person with the highest income may be a person who will not solicit the broadest range of explicit kin relationships. Given below is some guidance on the selection of the reference person, which will yield some explicit kin relationships:

- (a) Either the husband or the wife of a married couple living in the household (preferably from the middle generation in a multigenerational household);
- (b) Either partner of a consensual union couple living in the household where there is no married couple present (where applicable);
- (c) The parent, where one parent lives with his or her sons or daughters of any age; or
- (d) Where none of the above conditions apply, any adult member of the household may be selected.

Note that these categories are neither comprehensive nor mutually exclusive.

4.136. After identification of the reference member of the household, each of the remaining members of the household should be distinguished in relation to that person, as appropriate, as one of the following:

- (a) Spouse;
- (b) Partner in consensual union (cohabiting partner), where applicable;
- (c) Child;
- (d) Spouse of child;
- (e) Grandchild or great-grandchild;
- (f) Parent (or parent of spouse);
- (g) Other relative;
- (h) Domestic employee; or
- (i) Other person not related to the head or other reference member.

Where this classification is considered too detailed for successful collection of the information, categories (f) and (g) may be consolidated as "Other relative" and (h) and (i) can be consolidated as "Other unrelated person".

4.137. As an aid to the identification of family nuclei (as defined in paragraphs 4.141-4.143) within the household, it might be helpful if persons were recorded on the census questionnaire to the extent possible in the order of nuclear relationship. Thus, the first person entered after the head or other reference person would be the spouse of that person, followed by unmarried children and then by married children, their spouses and children. For polygamous households, the order of entry could be such that each wife and her unmarried children appeared in succession.

4.138. For estimating fertility by the *own children* method (see paragraph 4.217), the natural mother of each child under 15 years of age should be identified if she appears in the same questionnaire as her child. One way of doing this is to provide the line number of the mother alongside that of the child, if both are living in the same household. The information is not relevant for stepchildren, adopted children or foster children under permanent or temporary care.

4.139. In order to meet increased data needs on households and families, countries may wish, while conducting their population censuses, to collect more detailed information on relationships. In households where the relationship structure is complex, including those with foster children, obtaining accurate information on the relationships between household members may be difficult. Some countries may supplement information on relationship to the reference person of the household with information on direct relationships between household members by, for instance, relating a child to its parents even when neither parent is the reference person of the household. Enumerators should be encouraged to probe for a clear relationship (such as child, niece or aunt). The recording of non-specific responses such as "relative" should be avoided. It is recommended that specific guidance be provided on acceptable responses,

that relationships be specified completely in the census questionnaire, and that any precoded categories used should be sufficiently detailed to produce desired outputs.

### 3.2. Household and family composition (core topic)

4.140. Household and family composition can be examined from different points of view, but for census purposes it is recommended that the primary aspect considered should be that of the family nucleus.

4.141. A *family nucleus* is of one of the following types (each of which must consist of persons living in the same household):

- (a) A married couple without children;
- (b) A married couple with one or more unmarried children;
- (c) A father with one or more unmarried children;
- (d) A mother with one or more unmarried children.<sup>106</sup>

Couples living in consensual unions may, where appropriate, be regarded as constituting a family nucleus.

4.142. The concept of family nucleus as defined above limits relationships between children and adults to direct (first-degree) relationships, that is to say, between parents and children. In some countries, numbers of skip-generation households, that is to say, households consisting of grandparent(s) and one or more grandchildren with no parent of those grandchildren present, are considerable. Therefore, countries may include such skip-generation households in their family nucleus definition, and the census report should clearly state whether or not skip-generation households are included in the family nucleus definition.

4.143. The family nucleus is identified from the answers to the question on relationship to the reference member of the household, supplemented where necessary by information on name and marital status. The identification of offspring and their mother and the order in which persons are entered in the questionnaire may be of additional assistance in this respect. The identification of family nuclei is likely to be more complete in de jure than in de facto enumerations, because the latter do not take account of temporarily absent household members who may constitute part of a nucleus.

4.144. For census purposes, a child is any unmarried individual, regardless of age, who lives with his or her parent(s) and has no children in the same household. Consequently, the definition of a child is primarily a function of an individual's relationship to other household members, regardless of age. In accordance with this definition, a household consisting of a married couple with two never-married children, divorced son, and a married daughter and her husband would be considered to be composed of two family nuclei, with the divorced child being regarded as a member of the parents' family and the married daughter and son-in-law as a second family. As used here, the term "child" does not imply dependency, but rather is used to capture household living arrangements of persons who are in a parent-child relationship. Countries need to be clear in their metadata how they treat foster and adopted children.

4.145. The family nucleus does not include all family types, such as brothers or sisters living together without their offspring or parents, or an aunt living with a niece who has no child. It also excludes the case of a related person living with a family nucleus as defined above, for example, a widowed parent living with her married son and his family. The family nucleus approach does not, therefore, provide information on all types of families. Countries may extend the investigation of families beyond that of the family nucleus, in accordance with their own interests.

<sup>106</sup>In countries where a different definition of family nucleus is used, it should be clearly stated in the census report.

4.146. Households should be classified by type according to the number of family nuclei they contain and the relationship, if any, between the family nuclei and the other members of the household. The relationship should be through blood, adoption or marriage, to whatever degree is considered pertinent by the country (see paragraph 4.139). Given the complexity of this item, it is important that information on relationship to the household reference person be properly processed. The types of household to be distinguished could be:

- (a) One-person household;
- (d) *Nuclear household*, defined as a household consisting entirely of a single family nucleus. It may be classified into:
  - i. Married couple family:
    - a. With child(ren);
    - b. Without child(ren);
  - ii. Partner in consensual union (cohabiting partner):
    - a. With child(ren);
    - b. Without child(ren);
  - iii. Father with child(ren);
  - iv. Mother with child(ren);
- (c) *Extended household*, defined as a household consisting of any one of the following:<sup>107</sup>
  - i. A single family nucleus and other persons related to the nucleus, for example, a father with child(ren) and other relative(s) or a married couple with other relative(s) only;
  - ii. Two or more family nuclei related to each other without any other persons, for example, two or more married couples with (or without) child(ren) only;
  - iii. Two or more family nuclei related to each other plus other persons related to at least one of the nuclei, for example, two or more married couples with other relative(s) only;
  - iv. Two or more persons related to each other, none of whom constitutes a family nucleus;
- (d) *Composite household*, defined as a household consisting of any of the following:<sup>108</sup>
  - i. A single family nucleus plus other persons, some of whom are related to the nucleus and some of whom are not, for example, mother with child(ren) and other relatives and non-relatives;
  - ii. A single family nucleus plus other persons, none of whom is related to the nucleus, for example, father with child(ren) and non-relatives;
  - iii. Two or more family nuclei related to each other plus other persons, some of whom are related to at least one of the nuclei and some of whom are not related to any of the nuclei, for example, two or more couples with other relatives and non-relatives only;
  - iv. Two or more family nuclei related to each other plus other persons, none of whom is related to any of the nuclei, for example, two or more married couples one or more of which has child(ren) and non-relatives;
  - v. Two or more family nuclei not related to each other, with or without any other persons;
  - vi. Two or more persons related to each other but none of whom constitute a family nucleus, plus other unrelated persons;
  - vii. Non-related persons only;
- (e) Other;
- (f) Unknown or not stated.

<sup>107</sup> The subdivisions in this category should be modified to suit national circumstances.

<sup>108</sup> The subdivisions in this category should be modified to suit national circumstances.



4.147. In the census tabulations, all countries should at least distinguish between one-person, nuclear, extended and composite households. Where feasible, some or all of the subcategories shown above should also be distinguished, although countries may find it appropriate to modify the classification according to national circumstances. For example, in countries where almost all households contain only one family nucleus at most, the distinction between nuclear, extended and composite households may be applied only to households containing one nucleus or no nucleus; multinuclear households may then be shown as an additional category without any further classification by type. In countries where multinuclear households are comparatively common, further breakdowns of extended and composite households, distinguishing between those with three, four or more family nuclei, may be helpful.

### 3.3. Household and family status

4.148. For purposes of determining household and family status and identifying how a person relates to other household or family members, persons may be classified according to their position in the household or family nucleus. Classifying persons according to household and family status has uses in social and demographic research and policy formulation. Census data could be presented according to both household and family status for a variety of purposes. Although status itself is based on information derived from responses to the item on relationship to the head or other reference member of the household and other items, the classification of persons by their household and family status is a different approach from the traditional one of classifying household members solely according to their relationship to the head or reference person. The following household and family status classifications illustrate how such an approach may be used.<sup>109</sup> Care should be taken at the planning stages to relate this item to the classification of households by type as recommended in paragraph 4.146.

Persons living in households are classified by household status as:

1. Person in a household with at least one family nucleus
  - 1.1. Married spouse
  - 1.2. Partner in consensual union (cohabiting partner)
  - 1.3. Lone mother<sup>110</sup>
  - 1.4. Lone father<sup>111</sup>
  - 1.5. Child living with both parents
  - 1.6. Child living with lone mother
  - 1.7. Child living with lone father
  - 1.8. Not a member of a family nucleus
    - 1.8.1. Living with relatives
    - 1.8.2. Living with non-relatives
2. Person in a household with no family nucleus
  - 2.1. Living alone
  - 2.2. Living with others<sup>112</sup>
    - 2.2.1. Living with sibling(s)
    - 2.2.2. Living with other relatives
    - 2.2.3. Living with non-relatives

Persons are classified by family status as:<sup>113</sup>

1. Spouse
  - 1.1. Husband
    - 1.1.1. With child(ren)
    - 1.1.2. Without child

<sup>109</sup> To date, only the population and housing census recommendations for the Economic Commission for Europe region contain household and family status classifications.

<sup>110</sup> Person living with children, without spouse.

<sup>111</sup> Person living with children, without spouse.

<sup>112</sup> The subdivisions in this category should be modified to suit national circumstances.

<sup>113</sup> The subdivisions in this category should be modified to suit national circumstances.

- 1.2. Wife
  - 1.2.1. With child(ren)
  - 1.2.2. Without child
2. Lone parent
  - 2.1. Male
  - 2.2. Female
3. Child
  - 3.1. With both parents
  - 3.2. With lone parent
    - 3.2.1. With lone father
    - 3.2.2. With lone mother
4. Not member of a family nucleus
  - 4.1. Relative of husband or wife
    - 4.1.1. Parent of husband or wife
    - 4.1.2. Sibling of husband or wife
    - 4.1.3. Other relative of husband or wife
  - 4.2. Non-relative

#### 4. Demographic and social characteristics

4.149. Sex and age are considered to be the most basic of all demographic variables. Of all the topics included in population censuses, sex and age are more frequently cross-classified with other characteristics of the population than are any other topics. Apart from the importance of the age-sex structure of the population in itself, accurate information on the two topics is fundamental to the great majority of the census tabulations. A very important use of census data on the sex and age composition of the population is the evaluation of the data, especially with respect to coverage. The variables are therefore very crucial, and it is important that this information be reported in respect of every person for whom census information has been collected. It is therefore recommended that where this information is incomplete it should be imputed for census purposes rather than being reported as “not stated”. Possible difficulties in securing accurate age data are often not recognized because the topic appears to be a simple one. The difficulties associated with this topic are therefore highlighted in paragraphs 4.151-4.162 below.

##### 4.1. Sex (core topic)

4.150. The sex of every individual should be recorded on the census questionnaire for those countries that collect their census information in this way. The disaggregation of data by sex is a fundamental requirement for gender statistics. For many socioeconomic and demographic characteristics that could be collected through a census, such as education, economic activity, marital status, migration, disability and living arrangements, there are generally variations by sex. The successful planning and implementation of gender-sensitive policies and programmes requires the disaggregation of data by sex to reflect problems, issues and questions related to both men and women in society. Sex, together with age, represents the most basic type of demographic information collected about individuals in censuses and surveys, as well as through administrative recording systems, and the cross-classification of these data with other characteristics forms the basis of most analyses of the social and demographic characteristics of the population, as it provides the context within which all other information is placed.

## 4.2. Age (core topic)

4.151. *Age* is the interval of time between the date of birth and the date of the census, expressed in completed solar years. Every effort should be made to ascertain the precise and accurate age of each person, particularly of children and older persons.

4.152. Information on age may be secured either by obtaining the date (year, month and day) of birth or by asking directly for age at the person's last birthday.

4.153. The first method yields more precise information and should be used whenever circumstances permit. It also allows for the calculation of age at reference dates other than census day for the purposes, for example, of deriving annual census-based mid- or end-year population estimates. If neither the exact day nor even the month of birth is known, an indication of the season of the year can be substituted if this information can be easily recorded. The question on date of birth is appropriate wherever people know their birth date, whether in accordance with the solar calendar or a lunar calendar, or whether years are numbered or identified in traditional folk culture by names within a regular cycle. It is extremely important, however, that there should be a clear understanding between the enumerator and the respondent about which calendar system the date of birth is based on. If there is a possibility that some respondents will reply with reference to a calendar system different than that of other respondents, provision must be made in the questionnaire for noting the calendar system that has been used. It is not advisable for the enumerator to attempt to convert the date from one system to another. The necessary conversion can be best carried out as part of the data-editing work.

4.154. Where the information is taken from administrative data sources, date of birth is usually more accurately recorded.

4.155. The direct question on age is likely to yield less accurate responses for a number of reasons. Even if all responses are based on the same method of reckoning age, there is the possibility of a misunderstanding on the part of the respondent as to whether the age wanted is that at the last birthday, the next birthday or the nearest birthday. In addition, asking a direct question on age can result in occurrences, with comparative ease, of rounding to the nearest age ending in zero or five, providing estimates not identified as such and deliberate misstatements. Difficulties may arise in the reporting or in the recording of the information for children under 1 year of age, which may be given erroneously as "1 year of age" rather than "zero years of age". These difficulties may be mitigated by collecting information on the date of birth of all children reported as "1 year of age", while using only the direct age question for the remainder of the population. Another possible approach is to obtain age in completed months for children under 1 year of age. This method, however, can give rise to another type of recording error, that is to say, the substitution of years for months, so that a 3-month-old child, for example, might be entered in the questionnaire as being 3 years of age.

4.156. Some countries have made improvements in the quality of age data by asking both questions on age and date of birth.

4.157. An additional complication may occur with the use of the direct question if more than one method of calculating age is in use in the country. In some countries, certain segments of the population may use an old traditional method whereby persons are considered to be 1 year of age at the time of birth and everyone advances 1 year in age at the same fixed date each year. Other segments of the population in the same countries may use the Western method, in which a person is not regarded as being 1 year of age until 12 months after the date of birth, and advances 1 year in age every succeeding 12 months. If there is a risk of different methods of age calculation being used by respondents, provision must be made to

ensure that the method used in each case is clearly indicated in the questionnaire and that the conversion is left to the data-editing stage.

4.158. In spite of its drawbacks, the direct question on age is the only one that should be used when people cannot provide even a birth year. As regards persons for whom information on age is unavailable or appears to be unreliable, an estimated age may have to be recorded. This may occur in isolated cases in societies where knowledge of age is widespread or in general in cultures where there is little awareness of individual age and no interest in it. In the latter circumstances, criteria for making estimates should be provided in the instructions for the enumerators.

4.159. One of the techniques that have been used to aid enumerators consists in providing them with calendars of historic events of national or local significance to be used either in probing questions or in identifying the earliest event the respondent recalls. Another technique consists in pre-identifying locally recognized age cohorts in the population and then asking about membership in the cohorts. Enumerators may also ask if the person in question was born before or after other persons whose ages have been roughly determined. Furthermore, use can be made of age norms for weaning, talking, marriage and so forth. Whatever techniques are used, enumerators should be impressed with the importance of securing age data that are as accurate as possible within the amount of time that they can devote to the topic.

4.160. In view of the possible difficulties in the collection of age data, census tests should be used, as appropriate, to determine the difference in results with the use of a question on age as compared with a question on date of birth, what calendar or method of age reckoning most people use, and in what parts of the country age will have to be estimated for the majority of the population and what techniques to use as an aid in estimation. Testing of the calendar or method of age reckoning that most people use is particularly important where an official change from one calendar or method of reckoning to another calendar or method has taken place recently enough so that the new calendar or method of reckoning may not yet be in popular use among some or all of the population.

4.161. Enumerators who are likely to be called upon to estimate age in a substantial number of cases should be given training in the applicable techniques as part of their general training.

4.162. As noted in paragraph 4.149 it is recommended that where this information is incomplete it should be derived or imputed for census purposes rather than being reported as "not stated".

### 4.3. Marital status (core topic)

4.163. Despite the changing nature of marriage, marital status remains a useful demographic variable. The direct relationship between marriage and fertility is still recognized, as is the indirect relationship with other demographic, social and economic characteristics. Numerous variations exist in many countries but it is important that marriage be defined in terms of the laws and customs of individual countries.

4.164. *Marital status* is the personal status of each individual in relation to the marriage laws or customs of the country. The categories of marital status to be identified should at least include the following:

- (a) Single (in other words, never married);
- (b) Married;
- (c) Married, but separated;
- (d) Widowed and not remarried;
- (e) Divorced and not remarried.

4.165. In some countries, category (*b*) may require a subcategory of persons who are contractually married but not yet living as man and wife. In all countries, category (*c*) should comprise both the legally and the de facto separated, who may be shown as separate subcategories if desired.

4.166. In some countries, it will be necessary to take into account customary unions, such as registered partnerships and consensual unions, which are legal and binding under law. In countries with legal provision for registered or legal partnership (for opposite-sex couples or same-sex couples), or where same-sex couples can legally marry, subcategories may either be included in the category (*b*) Married or in a legally registered partnership, namely (*b*)(i) "Opposite-sex marriage/partnership", (*b*)(ii) "Same-sex marriage/partnership".

4.167. The treatment of persons whose only or latest marriage has been annulled is dependent upon the relative size of this group in the country. Where its size is substantial, the group could constitute an additional category; if its size is insignificant, however, the individuals in the group should be classified according to their marital status before the (annulled) marriage took place.

4.168. At times countries have experienced difficulties in distinguishing between (*a*) formal marriages and de facto unions and (*b*) persons legally separated and those legally divorced. If either of these circumstances necessitates a departure from the recommended classification of marital status, the composition of each category shown in the tabulations should be clearly stated.

4.169. If complete information on marital status is needed, then this information should be collected and tabulated for persons of all ages, irrespective of the national minimum legal age, or the customary age for marriage, because the population may include persons who were married in another country with a different minimum marriage age. In most countries, there are also likely to be persons who were permitted to marry below the legal minimum age because of special circumstances. In order to permit international comparisons of data on marital status, however, any tabulations of marital status not cross-classified by detailed age should at least distinguish between persons under 15 years of age and those 15 years of age and over.

4.170. The collection of additional information related to customs in particular countries (such as concubinage, polygamous or polyandrous marital status, or inheritance of widows) may be useful in meeting national needs. For example, at times countries may wish to collect data on the number of spouses of each married person. Modifications of the tabulations to take account of such information should be made within the framework of the basic classification in order to maintain international comparability as far as possible.

4.171. The concept of marital status and the marital status categories described above should not be confused with the concept of de facto union status, which describes extralegal unions (including some consensual unions) of varying degrees of stability common in some countries. It should be recognized also that these marital status categories do not adequately describe the prevalence of formal legal marriage combined with the relatively stable de facto union that may exist outside the marriage. Information on these relationships is very useful in studies of fertility, but it is not possible to provide an international recommendation on this matter because of the different circumstances prevailing among countries. It is suggested, however, that countries wishing to investigate these relationships should consider the possibility of collecting separate data for each person on de facto unions and on the duration of each type of union (see paragraphs 4.247-4.248). Information on these relationships can also be derived from information collected on the relationship to head or reference person or other persons in the household, in order to distinguish between people who are living in either a consensual union or marriage, and those who are not.

#### 4.4. Ethnocultural characteristics

4.172. Countries with a culturally diverse population may wish to collect information on the ethnic identity (or composition) of the population, on mother tongue, on the knowledge and practice of languages and on religious communities and denominations. They are all characteristics that allow people the flexibility to express their ethnocultural identity in the way that they choose. Data on such ethnocultural characteristics of the population are of increasing relevance to countries in the context of migration, integration and minority policies.

4.173. Ethnocultural characteristics generally have a subjective dimension, as there is often no common understanding as to what characteristic or concept is really being measured in a particular census. Moreover, different countries will adopt different concepts. Ethnocultural characteristics can also be politically sensitive and may apply to very small, yet identifiable, population subgroups. The free and open declaration of the respondents is therefore of essential importance. Members of certain minority groups may be particularly vulnerable to discrimination on the grounds of ethnic group or religion. Special care, therefore, may be required in census procedures and outputs relating to ethnic group and religion in order to demonstrate to respondents that appropriate data protection and disclosure control measures are in place. In some cases, countries may even wish to collect such data on a voluntary basis if this is permitted by national legislation.

#### 4.5. Religion

4.174. Each country that investigates religion in its census should use the definition most appropriate to its needs and should display the definition that has been used as part of the metadata in the census publications and dissemination programme.

4.175. For census purposes, *religion* may be defined as either:

- (a) Religious or spiritual belief of preference, regardless of whether or not this belief is represented by an organized group; or
- (b) Affiliation with an organized group having specific religious or spiritual tenets.

4.176. The decision to collect and disseminate information on religion in a national census is dependent upon a number of considerations and national circumstances, including, for example, the national needs for such data, and the suitability and sensitivity of asking a religion question in a country's census. Owing to the sensitive nature of a question on religion, special care may be required to demonstrate to respondents that appropriate data protection and disclosure control measures are in place. It is important that the responding public be informed of the potential uses and needs for this information.

4.177. The amount of detail collected on this topic is dependent upon the requirements of the country. It may, for example, be sufficient to enquire only about the religion of each person; on the other hand, respondents may be asked to specify, if relevant, the particular sect to which they adhere within a religion. In countries where a large number of sects or denominations exist there will be implications for space on any census questionnaire and implications for data capture, especially in cases where "write-in" responses are required. In an effort to ensure international comparability as far as possible, it is recommended that religion or religious affiliation should be measured directly by a question that asks "What is your religion?" rather than use of a filter question that asks for example "Are you religious?" and if so "What is your religion?" Response categories should include "No religion/religious affiliation" together with a "Religious but prefer not to disclose" or "Not stated" category, in effect making responses to such a question voluntary.

4.178. For the benefit of users of the data who may not be familiar with all of the religions or sects within the country, as well as for purposes of international comparability, the clas-

sifications of the data should show each sect as a subcategory of the religion of which it forms a part. A brief statement of the tenets of religions or sects that are not likely to be known beyond the country or region would also be helpful.

#### 4.6. Language

4.179. There are four types of language data that can be collected in a census, namely:

- (a) *Mother tongue*, defined as the language usually spoken in the individual's home in his or her early childhood;
- (b) *Main language*, defined as the language that the person commands best;
- (c) *Usual language*, defined as the language currently spoken, or most often spoken, by the individual in his or her present home;
- (d) *Ability to speak* one or more designated languages, including the country's official language(s).

4.180. Each of these types of information serves a very different analytical purpose. Each country should decide which, if any, of these types of information is applicable to its own needs. International comparability of tabulations is not a major factor in determining the form of the data to be collected on this topic.

4.181. In compiling data on the usual language or on the mother tongue, it is desirable to show each language that is numerically important in the country and not merely the dominant language.

4.182. Information on language (including any sign language) should be collected for all persons. In the tabulated results, the criterion for determining language for children not yet able to speak should be clearly indicated.

#### 4.7. Ethnicity

4.183. The decision to collect and disseminate information on ethnic or national groups of a population in a census is dependent upon a number of considerations and national circumstances, including, for example, the national needs for such data, and the suitability and sensitivity of asking ethnicity questions in a country's census. Owing to the sensitive nature of questions on ethnicity, special care may be required to demonstrate to respondents that appropriate data protection and disclosure control measures are in place. It is important that the responding public be informed of the potential uses and need for data pertaining to ethnicity, as this improves public support for the census exercise. Data on ethnicity provide information on the diversity of a population and can serve to identify subgroups of a population. Some areas of study that rely on such data include demographic trends, employment practices and opportunities, income distributions, educational levels, migration patterns and trends, family composition and structure, social support networks, and health conditions of a population.

4.184. Broadly defined, *ethnicity* is based on a shared understanding of history and territorial origins (regional and national) of an ethnic group or community, as well as on particular cultural characteristics such as language or religion. Respondents' understanding or views about ethnicity, awareness of their family background, the number of generations they have spent in a country, and the length of time since immigration are all possible factors affecting the reporting of ethnicity in a census. Ethnicity is multidimensional and is more a process than a static concept, and so ethnic classification should be treated with movable boundaries.



4.185. Ethnicity can be measured using a variety of concepts, including ethnic ancestry or origin, ethnic identity, cultural origins, nationality, race, colour, minority status, tribe, language, religion or various combinations of these concepts. Because of the interpretative difficulties that may occur with measuring ethnicity in a census, it is important that, where such an investigation is undertaken, the basic criteria used to measure the concept are clearly explained to respondents and in the dissemination of the resulting data. The method and the format of the question used to measure ethnicity can influence the choices that respondents make regarding their ethnic backgrounds and current ethnic identification. The subjective nature of the term (not to mention increasing intermarriage among various groups in some countries, for example) requires that information on ethnicity be acquired through self-declaration of a respondent and also that respondents have the option of indicating multiple ethnic affiliations. Data on ethnicity should not be derived from information on country of citizenship or country of birth. The classification of ethnic groups also requires the inclusion of the finest levels of ethnic groups, self-perceived groups, regional and local groups, as well as groups that are not usually considered to be ethnic groups, such as religious groups and those based on nationality. Countries collecting data on ethnicity should note that the pre-coding or preclassification of ethnic groups at the time of data capture may have a tendency to lose detailed information on the diversity of a population unless space to record write-in, free-form responses is provided.

4.186. Respondents should be free to indicate more than one ethnic affiliation or a combination of ethnic affiliations if they wish so. Countries should explain in the census instructions and the census documentation how the ethnicity of children from mixed couples is to be reported (for example, explicit instructions to allow respondents to provide multiple responses or to allow for responses such as “Biracial”). Also, to guarantee the free self-declaration of ethnicity, respondents should be allowed to indicate “None” or “Not declared”.

4.187. Because the ethnocultural composition of a country can vary widely from country to country and due to the diversity in the approach and the various criteria for establishing ethnicity, it is recognized that there is no single definition or classification that could be recommended that would be applicable to all countries. However, countries should document the basic criteria and classification procedures for ethnicity and inform the data users about the concepts on which they are based.

#### **4.8. Indigenous peoples**

4.188. Facilitating the collection of data on indigenous peoples for national and international needs can serve to improve socioeconomic and active participation of indigenous peoples in the development process for many countries. The sensitive nature of questions pertaining to the indigenous population requires care in assuring the public that the appropriate disclosure and data protection methods are being enforced. The responding public should be informed on the potential uses and need for such data to improve public support for the census exercise.

4.189. Dissemination of census data pertaining to indigenous peoples contributes to research in areas such as the socioeconomic conditions of the indigenous population, trends, causes for inequities, and the effectiveness of existing policies and programmes. Availability of these data can also assist indigenous communities in assessing their conditions of living and give them the information they need to participate and advocate in the development of programmes and policies affecting their communities, such as those impacting health systems, models of economic production, environmental management and social organization. In addition, the development of indicators relevant to the indigenous population and the measurement of such indicators in the data collection process can be used to monitor the human development of indigenous populations.

4.190. Generally, *indigenous peoples* of a particular country are social groups with an identity that is distinct from the social and cultural identity of the dominant society in that country. Questions on indigenous identity should abide by the principle of self-identification. It is important that, where such an investigation is undertaken, multiple criteria are developed to accurately capture identity and socioeconomic conditions of indigenous peoples. Defining the indigenous population can be done in many ways, such as through a question on ethnic origin (that is to say, ancestry) or on indigenous identity. Identifying the indigenous community also requires recognition of the diversity in this subpopulation, including nomadic, semi-nomadic and migrating peoples, peoples in transition, displaced persons, indigenous peoples in urban areas, and particularly vulnerable sects. It is important to point out that there is no single term among countries to describe the indigenous population. Consequently, countries tend to use their own national concepts to identify the indigenous population. For example, in Australia the terms “aboriginal” or “Torres Strait Islander” are used, while in New Zealand the term “Maori” is used.

4.191. Differing national contexts also imply that enumerating the indigenous population can be done in multiple ways, for example, by way of specific questions on the census form, with specialized questionnaires for the indigenous population, or with follow-up or complementary surveys. In Canada, for example, identification of the indigenous population comes not only from its national census, but also from a post-censal survey. In Australia, in addition to the national census, there is the National Aboriginal and Torres Strait Islander survey, while in Argentina there is a complementary survey after the census targeting indigenous peoples. In addition to a general census, Paraguay also administers a specific census in the same year to identify the indigenous population.

4.192. Involvement of the indigenous community in the data development and data collection processes provides the arena for capacity-building and helps to ensure the relevance and accuracy of the data collection on indigenous peoples. Using local indigenous languages, employing local indigenous people (as interpreters, for example), and training and building the capacity of local indigenous people in data collection processes can facilitate the collection and dissemination of this information. Non-indigenous professionals and technicians should also be informed of the culture and practices of indigenous peoples.

#### 4.9. Disability characteristics

4.193. A census can provide valuable information on disability in a country. For countries that do not have regular special population-based disability surveys or disability modules in ongoing surveys, the census can be the only source of information on the frequency and distribution of disability and functioning in the population at national, regional and local levels. Countries that have a registration system providing regular data on persons with the most severe types of impairments may use the census to complement these data with information related to selected aspects of the broader concept of disability and functioning based on the International Classification of Functioning, Disability and Health (ICF).<sup>114</sup> Census data can be utilized for general planning programmes and services (prevention and rehabilitation), monitoring selected aspects of disability trends in the country, evaluation of national programmes and services concerning the equalization of opportunities, and international comparison of selected aspects of disability prevalence in countries.

##### (a) Disability status (core topic)

4.194. *Disability* status characterizes the population into those with and those without a disability. Persons with disabilities are defined as those persons who are at greater risk than the general population for experiencing restrictions in performing specific tasks or participating in role activities. This group would include persons who experience limitations in basic activity functioning, such as walking or hearing, even if such limitations were ameliorated

<sup>114</sup> Adopted in 2001, the ICF is the international standard for describing and measuring health and disability at both the individual and population levels. More information on the ICF framework is available from [www.who.int/classifications/icf/en/](http://www.who.int/classifications/icf/en/).

by the use of assistive devices, a supportive environment or plentiful resources. Such persons may not experience limitations in specifically measured tasks, such as bathing or dressing, or participation activities, such as working or going to church or shopping, because the necessary adaptations have been made at the personal or environmental levels. These persons would still, however, be considered to be at greater risk of restrictions in activities or participation than the general population because of the presence of limitations in basic activity functioning, and because the absence of necessary accommodations would jeopardize their current levels of participation.

4.195. A comprehensive measure to determine disability would include the following six domains of functioning in a way that can be reasonably measured using a census and that would be appropriate for international comparison:

- (a) Walking;
- (b) Seeing;
- (c) Hearing;
- (d) Cognition;
- (e) Self-care;
- (f) Communication.

4.196. The first four domains (a) to (d) are to be considered essential in determining disability status. The additional domains (e) and (f) comprise a more comprehensive measure for determining disability.

(b) Use of the census to measure disability at the aggregate level

4.197. A census format offers only limited space and time for questions on any one topic such as disability. Since ICF offers several dimensions for use to develop a census measure, it is best to focus on a few of those dimensions, leaving the remaining dimensions for use in more extensive household surveys. Short sets of disability questions, which can be included in censuses and extended sets to be recommended for inclusion in population-based surveys, have been developed and tested by the Washington Group on Disability Statistics.<sup>115</sup> The aim of the recommended sets is to improve comparability of disability and functioning data across countries.

4.198. The definition of disability status (see paragraph 4.194) requires that disability be defined in terms of limitations in basic activity functioning that would place a person at greater risk than the general public of restricted performance of or participation in organized activities (such as educational attendance or work participation). Given the complexity of disability definition and measurement and, in certain cultures, the sensitivity attached to people identifying as having a disability, it is recommended that several functional activity domains be defined whereby people can respond to questions about their difficulty in performing those activities rather than enquiring directly whether or not they have a particular disability.

*i. Essential domains*

4.199. It is suggested that only those domains that have satisfied a set of selection criteria be eligible for inclusion in a short set of questions recommended for use in censuses. Criteria for inclusion include cross-population or cross-cultural comparability, suitability for self-reporting and space on the census form. Other suggested criteria include the importance of the domain in terms of public health problems. Based on these criteria, the Washington Group on Disability Statistics has developed a Short Set on Functioning (WG SS-F) questions in the six domains for the purpose of measuring disability in a census format. The four basic domains are con-

<sup>115</sup> The Washington Group on Disability Statistics, a United Nations City Group that focuses on proposing international measures of disability, has developed these questions. See [www.cdc.gov/nchs/washington\\_group.htm](http://www.cdc.gov/nchs/washington_group.htm) for updates on the question wording and more information supporting the collection and use of data on disability.

sidered to be essential: walking, seeing, hearing and cognition. In addition, if space permits, two other domains have been identified for possible inclusion: self-care and communication.

4.200. *Walking* fulfils the criteria of cross-cultural applicability and space requirements for comparable data since walking is a good indicator of a central physical function and is a major cause of limitation in participation.

4.201. While *seeing* also represents a public health problem, self-reporting of seeing limitation is more problematic, particularly when individuals use glasses to correct visual impairments. Similar difficulties are associated with asking about hearing activity.

4.202. Assistive devices, such as glasses and hearing aids, provide almost complete accommodation for a large proportion of those with impaired functioning. It is often argued that asking about seeing without the use of glasses greatly increases the number of persons with disabilities and makes the group too heterogeneous, that is, the group would include persons at very little risk of participation problems along with those at greater risk. As a result, questions on difficulty seeing or hearing should be asked with the use of glasses or hearing aids if they are usually worn.

4.203. Of the four essential domains, *cognition* is the most difficult to operationalize. Cognition includes many functions such as remembering, concentrating, decision-making, understanding spoken and written language, finding one's way or following a map, doing mathematical calculations, reading and thinking. Deciding on a cross-culturally similar function that would represent even one aspect of cognition is difficult. However, remembering and concentrating or making decisions would probably serve the cultural compatibility aspects the best.

#### ii. Additional domains

4.204. In addition to the four essential domains, two other have been identified for possible inclusion: self-care and communication. The self-care domain is intended to identify persons who have some problems with taking care of themselves independently. Washing and dressing represent self-care tasks that occur on a daily basis and are considered to be basic activities.

4.205. The purpose of the communication domain is to identify persons who have some problems with talking, listening or understanding speech such that it contributes to difficulty in doing their daily activities. Two aspects of communication are considered: understanding others (receptive communication) and being understood by others (expressive communication). Communicating (understanding and being understood) refers to the exchange of information or ideas between two people through the use of language.

4.206. Beyond the six domains identified above, there are further physical functioning domains that could be included in a set of census questions depending on the space available. The Washington Group Extended Set on Functioning (WG ES-F) includes questions that address functioning in domains such as upper body (functioning of the arms, hands and fingers), affect (anxiety and depression), pain and fatigue.

#### (c) Census question wording

4.207. It is recommended that special attention be paid in designing census questions to measure disability. The wording and the construct of questions greatly affect the precision in identifying persons with disabilities. Each domain should be asked through a separate question.<sup>116</sup> The language used should be clear, unambiguous and simple. Negative terms should always be avoided. The disability questions should be addressed to each single household member and general questions on the presence of persons with disabilities in the household should be avoided. If necessary, a proxy respondent can be used to report for the family

<sup>116</sup> When domains are combined, such as asking a question about seeing or hearing, respondents frequently are confused and think they need to have difficulty in both domains in order to answer yes. In addition, having the numbers with specific limitations is useful for both internal planning and for cross-national comparisons.

member who is incapacitated. The important thing is to account for each family member individually rather than ask a blanket question. Scaled response categories can also improve the reporting of disability. The census questions on disability endorsed by the Washington Group include four response categories:

- (a) No (meaning no difficulty at all);
- (b) Yes—some difficulty;
- (c) Yes—a lot of difficulty;
- (d) Cannot do [the activity] at all.

Disability prevalence is determined based on any response that is “a lot of difficulty” or “cannot do at all” for any of the questions.

4.208. The information that results from measuring disability status (see paragraph 4.194) is expected to:

- (a) Represent a large proportion of, but not all, persons with limitation in basic activity functioning in any one country (only the use of a wider set of domains would potentially cover close to all such persons, but as stated this would not be possible in a census context);
- (b) Represent the most commonly occurring basic activity limitations within any country;
- (c) Capture persons with similar problems across countries.

4.209. The questions identify the population with limitations in basic activities that have the potential to limit independent participation in society. The intended use of these data would be to compare levels of participation in employment, education, or family life for those with disability as measured by the question set versus those without disability to see if persons with disabilities have achieved social inclusion. In addition, the data could be used to monitor prevalence trends for persons with limitations in the particular basic activity domains selected.

4.210. Because disability is a complex concept, it is necessary to adopt an explicit definition based on the ICF domains used when developing census or survey questions that will be used to identify disability status. The recommended set of questions for censuses is based on such an explicit definition (as described above). It is essential that estimates or tabulations based on the recommended set be accompanied by information on how disability is defined and how the questions are asked. This information should be included as part of the metadata associated with the questions and data set, and it should be included as a footnote to tables that include these estimates.

(d) Use of census to screen for disability and follow-up with other surveys

4.211. Countries that are planning specialized surveys on disability may want to use the census to develop a sampling frame for these surveys and include a screening instrument to identify persons who will be interviewed subsequently. The main purpose of a screening instrument is to be as inclusive as possible in order to identify the largest group of people who could be further studied. The screening question should be designed so that false negatives<sup>117</sup> are minimized, while false positives<sup>118</sup> should be less of a concern.

4.212. The same recommendations highlighted in paragraphs 4.207-4.210 should also be considered when a screening module is designed.

4.213. Before embarking on using the census to develop a frame for a follow-up survey, it is important that the legal implications of using the census data for this purpose are fully considered. Respondents should be informed that the data may be used for follow-up studies

<sup>117</sup> Persons who have disabilities but are not identified in the census as having disabilities.

<sup>118</sup> Persons who are identified with disabilities in the census but in reality do not have disabilities (as assessed in the largest instrument used in the follow-up survey).



and national authorities responsible for ensuring the privacy rights of the population may need to be consulted in order to obtain their approval.

## 5. Fertility and mortality

4.214. The investigation of fertility and mortality in population censuses is particularly important in countries lacking a timely and reliable system of vital statistics because of the opportunity the data provide for estimating vital rates that would not otherwise be available. Even in countries with complete birth and death registration, some of the topics (such as “children born alive”, “children living”, “age at marriage or union” and “age at first birth”) are equally appropriate because they provide data that are not easily available from registration data but are necessary for the computation of cohort and period fertility tables. The census provides an opportunity to collect data for estimating fertility and mortality at national and subnational levels in a cost-effective manner. The inclusion of these topics in population censuses for the purpose of estimating fertility and mortality rates and other related indicators is both prudent and cost-effective, particularly in countries where civil registration and vital statistics systems are weak, and costs of conducting large periodic demographic surveys are high. Nevertheless, it is important to note that census information is a poor substitute for complete and reliable vital registration data. If countries desire accurate and detailed estimates of fertility and mortality, they must establish, and need to maintain, civil registration systems and ensure their universal coverage.

4.215. To obtain information on fertility, information may be collected on “children ever born”, “date of last child born alive” and “age of mother at birth of first child born alive”. In addition, questions on age, date or duration of marriage or union may improve fertility estimates based on children ever born (see paragraph 4.247). For the collection of reliable data, some of the topics may require a series of probing questions that, because they are time-consuming, are more suitable for use in sample surveys than in censuses.

4.216. The universe for which data should be collected for each of the topics included in this section consists of women 15 years of age<sup>119</sup> and over regardless of marital status. It is acknowledged that in some countries certain cultural sensitivities (for example, regarding the collection of information on childbearing from never-married women) exist towards collecting information from all women aged 15 years of age and over without regard to marital status. In such cases, every effort should be made to collect the information. In countries that do not use the data for women 50 years of age and over, it may be appropriate to limit data collection to women under the age of 50, allowing more concentrated effort on data collection for such women.

4.217. In addition to the topics indicated above that are used to estimate fertility, another useful topic that allows the estimation of fertility is the “own children” method<sup>120</sup> and birth history reconstruction.<sup>121</sup> The application of these methods requires the identification of the “natural mother” of each child in the household when the natural mother appears in the same questionnaire as the child. In cases where it is difficult to ascertain the identity of the natural mother, one may use as a proxy the relationship to the reference person of the household (see paragraphs 4.129–4.139) or children living (see paragraphs 4.234–4.236) to establish the identity of the natural mother. In essence, information on the child’s age and the mother’s age are used to estimate a series of annual fertility rates for years prior to the census. The reliability of the estimates produced depends, among other things, on the proportion of mothers enumerated in the same questionnaire as their own children, the accuracy of age reporting for both mothers and their children and the accuracy of available estimates of mortality for women and children. In the case of subnational estimates, the fertility rates may be affected

<sup>119</sup> It may be appropriate in some countries to reduce the lower age limit by several years.

<sup>120</sup> For methodological details, see *Handbook on the Collection of Fertility and Mortality Data*, Studies in Methods, Series F, No.92 (United Nations publication, Sales No. E.03.XVII.11), chapter V, section B, available from [http://unstats.un.org/unsd/publication/SeriesF/SeriesF\\_92E.pdf](http://unstats.un.org/unsd/publication/SeriesF/SeriesF_92E.pdf); United Nations (1983). *Manual X: Indirect Techniques for Demographic Estimation*, Population Studies, No. 81 (United Nations Publication, Sales No. E.83.XIII.2), chapter VIII, section C, available from [www.un.org/esa/population/publications/Manual\\_X/Manual\\_X.htm](http://www.un.org/esa/population/publications/Manual_X/Manual_X.htm); and L-J. Cho, R. D. Retherford and M.K. Choe, *The Own-Children Method of Fertility Estimation* (Honolulu, Population Institute, 1987).

<sup>121</sup> For methodological details, see *Handbook on the Collection of Fertility and Mortality Data*, Studies in Methods, Series F, No. 92 (United Nations publication, Sales No. E.03.XVII.11), chapter V, section C, available from [http://unstats.un.org/unsd/publication/SeriesF/SeriesF\\_92E.pdf](http://unstats.un.org/unsd/publication/SeriesF/SeriesF_92E.pdf); and N.Y. Luther and L-J. Cho, “Reconstruction of Birth Histories from Census and Household Survey Data”, *Population Studies* 42 (3) (1988), pp. 451–472.

by migration patterns of mothers who leave their children with other family members while they pursue work elsewhere.

4.218. Mortality topics include infant and child mortality, obtained from data on children ever born and children living, and adult mortality, obtained from household deaths in the past 12 months and maternal or paternal orphanhood. The extent to which mortality (particularly infant and child) can be adequately measured from population census data is largely dependent on the quality of the training of field staff to minimize non-response to questions on maternal and adult mortality and the reporting of erroneous information. Enumerator manuals should include the measures that are needed to minimize such errors. Accurate responses to the questions described here are often difficult to obtain, thus resulting in faulty data. Nevertheless, it is often possible to derive usable adjusted estimates from this information.

4.219. As far as possible, efforts should be made to obtain information on fertility, child mortality (or survival) and marriage directly from the woman or mother involved, because she is more likely to recall correctly the details of her fertility, the mortality of her offspring and her marital experiences than any other member of the household. Information on household deaths, by date, sex and age, in the 12-month period prior to the census should be collected from the head of the household (or household reference person). Information on maternal orphanhood and paternal orphanhood should be collected for each person in the household regardless of age. As with fertility, mortality questions may be limited to a survey sample.

4.220. A number of countries have restricted the collection of data from fertility and mortality questions in the census to a sample of enumeration areas,<sup>122</sup> entailing the introduction of more vigorous training and permitting the selection of more suitable field staff. When those items are included in the census, certain precautions to ensure accuracy and completeness should be observed. As mentioned above, every effort should be made to collect all relevant information directly from the woman concerned. To reduce underreporting of events and to improve the accuracy of responses to questions on fertility and mortality, enumerators need to receive specific training on probing questions that highlight common errors and omissions.

4.221. The limitations of the data collected and of the estimates based on them should be made clear in the census reports. Furthermore, since some of the estimation procedures are only suitable for use in certain circumstances, it is important that census data producers consult specialists or carefully evaluate the methodologies for estimating the indicators for their appropriateness in a given situation. In general, the data in the basic tabulations resulting from these questions should not be used for the direct calculation of fertility and mortality rates. Reliable estimation of fertility and mortality levels using census data requires adjustment based on methods of demographic analysis.<sup>123</sup>

4.222. As a general guide, only one of the items related to fertility discussed below (“children ever born”) is recommended for inclusion in all situations. Even in countries with reliable vital registration of births, census information on this topic can be useful for assessing the completeness of the registration system and for estimating levels of lifetime fertility for older cohorts.

4.223. In countries where vital registration of births and deaths is incomplete or unreliable, it is recommended that a subset of the remaining items should be included as well. Among these, one item (“date of birth of last child born alive”) is useful for the indirect estimation of current fertility levels. Two additional items (“children living” and “household deaths in the past 12 months”) are especially important, as they allow for the indirect estimation of mortality levels.

4.224. The three remaining items have lower priority: “age, date or duration of first marriage/union”; “age of mother at birth of first child born alive”; and “maternal or paternal orphan-

<sup>122</sup> For the use of sampling in the enumeration, see part one, chapter VI.

<sup>123</sup> *Manual X: Indirect Techniques for Demographic Estimation*, Population Studies, No. 81 (United Nations publication, Sales No. E.83.XIII.2); National Academy of Sciences Committee on Population and Demography, *Collecting Data for the Estimation of Fertility and Mortality*, Report No.6 (Washington, D.C., National Academy Press, 1981), p. 220; *Handbook of Population and Housing Censuses*, Part II, Studies in Methods, No. 54 (United Nations publication, Sales No. E.91.XVII.9), chapters III and IV; *Step-by-Step Guide to the Estimation of Child Mortality*, Population Studies, No. 107 (United Nations publication, Sales No. E.89.XIII.9); T.A. Moultrie, R.E. Dorrington, A.G. Hill, K. Hill, I.M. Timæus and B. Zaba, eds., *Tools for Demographic Estimation* (Paris: International Union for the Scientific Study of Population, 2013), available from <http://demographicestimation.iussp.org>.



hood”. However, in situations where a country has included one of these items in consecutive previous censuses, it may be useful to collect comparable information to measure changes over time and because cohort analysis, particularly of the prevalence of orphanhood, can be useful in assessing levels of mortality.

4.225. For countries with low fertility and mortality settings, and where the vital registration is not reliable, further consideration should be given to the item “age of mother at birth of first child born alive”, since it improves the timeliness of estimates of child mortality based upon children ever born and children surviving.

4.226. In countries with high adolescent birth rates and common child marriages (with large proportion of women married before age 18), it is recommended that the questions on “age or date of first marriage/union” and “age of mother at birth of first child born alive” are included, since it improves understanding of the spatial distribution of extent of early childbearing and marriage that surveys cannot provide.

4.227. It is worth emphasizing that all estimates of fertility and mortality derived from census data are approximate and subject to various sorts of error. Therefore, in the absence of complete and reliable civil registration data, it may be desirable to have more than one type of census information on each topic (for example, both household deaths in the past 12 months and maternal or paternal orphanhood for the purpose of estimating adult mortality). Lastly, it should also be born in mind that while fertility surveys can provide data on current fertility, they cannot provide the small-area data that the census can. Therefore, a fertility question in the census can still be a priority for many countries.

### 5.1. Children ever born alive (core topic)

4.228. Information on number of *children born alive* (lifetime fertility) should include all children born alive (that is to say, excluding foetal deaths) during the lifetime of the woman concerned up to the census date. The number recorded should include all live-born children, whether born in or out of marriage, whether born in the present or a prior marriage, or in a de facto union, or whether living or dead at the time of the census. In the event of multiple births (for example twins), each child should be counted as individual birth.

4.229. Data on the total number of live-born children should preferably be collected for all women 15 years of age<sup>124</sup> and over, regardless of marital status. If, from a cultural standpoint, it is not acceptable in some countries to attempt to obtain the information for single women, it should be collected at least for all women 15 years of age and over who are or have been married or in a union (in other words, all ever-married or ever cohabiting women), a group that also includes all widowed, divorced and separated women. In either case, the group of women for whom the data have been collected should be clearly described in the census report so as to avoid ambiguity in the analysis of the results. In some countries, there can be substantial misreporting of ages or dates in the census, which distorts fertility and mortality estimation based on children ever born and children living cross-tabulated by age or years since first birth of the woman.<sup>125</sup>

4.230. In order to improve the completeness of coverage and to assist the respondent in recalling her children ever born alive, it is recommended that a sequence of questions be included in the following order:

- (a) “total number of sons ever born alive during the lifetime of the woman”;
- (b) “total number of sons living (surviving) at the time of the census”; and
- (c) “total number of sons born alive who have died before the census date”;

and then:

<sup>124</sup> It may be appropriate in some countries to reduce the lower age limit by several years.

<sup>125</sup> The data on children ever born and children surviving at the time of the census become distorted by errors either in the reported number of children ever born and surviving or in the classification of women, in particular age/duration-of-marriage groups. Such distributions (biases) result in gross underestimation of fertility and mortality levels, particularly when data are disaggregated for small geographic areas. See *Handbook on the Collection of Fertility and Mortality Data*, Studies in Methods. Series F, No.92 (United Nations publication, Sales No. E.03.XVII.11), available from [http://unstats.un.org/unsd/publication/SeriesF/SeriesF\\_92E.pdf](http://unstats.un.org/unsd/publication/SeriesF/SeriesF_92E.pdf). For additional methodological details on the uses of the data, see T.A. Moultrie, R.E. Dorrington, A.G. Hill, K. Hill, I.M. Timæus and B. Zaba, eds., *Tools for Demographic Estimation* (Paris: International Union for the Scientific Study of Population, 2013), available from <http://demographicestimation.iussp.org>.

<sup>126</sup> As indicated in paragraph 2.146, couples living in consensual unions may, where appropriate, be regarded as married.

- (d) “total number of daughters ever born alive during the lifetime of the woman”;
- (e) “total number of daughters living (surviving) at the time of the census”; and
- (f) “total number of daughters born alive who have died before the census date”.

The responses to topics (b), (c), (e) and (f) allow for a checking of the responses to (a) and (d). Inconsistencies in the figures, if any, can sometimes be resolved during the interview.

4.231. The number of sons and daughters should comprise all children ever born alive whether born of the present or a prior marriage or union<sup>126</sup> and should exclude foetal deaths and adopted children. Also, the number of children, male and female, who are alive at the time of the census should include those living with the mother in the household and those living elsewhere, no matter where the latter may reside and regardless of their age and marital status.

4.232. The collection of data on children ever born specified by sex not only improves accuracy of information but also provides data for indirect estimation of sex differentials in infant and child mortality, in combination with data on children living (surviving) by sex (see paragraph 4.234). If the information on “children ever born alive by sex” is collected for only a sample of women, the data on “children living by sex” should also be obtained for the same sample.

4.233. Collecting data on the “total number of children ever born alive by sex” is desirable as it may improve the value of the information by providing a check on their quality, such as in ascertaining that sex ratios of births follow an expected pattern and do not behave oddly.

## 5.2. Children living<sup>127</sup> (core topic)

4.234. Data on *children living*, in conjunction with those on children ever born, are used in indirect estimation of infant and child mortality in situations where there are no reliable data from a civil registration.

4.235. It is expected that improved coverage and quality of data on the total number of children ever born will be achieved if more detailed questions about the current residence of children ever born are asked, in terms of the following:

- (a) “Total number of sons living in the household”;
- (b) “Total number of sons living elsewhere”;
- (c) “Total number of sons born alive who have died before the census date”;
- (d) “Total number of daughters living in the household”;
- (e) “Total number of daughters living elsewhere”;
- (f) “Total number of daughters born alive who have died before the census date”.

These questions not only give a more complete and accurate reporting of children ever born alive specified by sex but also increase the questions’ suitability for subsequent analysis.

4.236. The identification of the natural mother of each child under 15 years of age in the same household, to be used in the “own children” method of estimating fertility (see paragraph 4.217), should be made by asking each woman who reports one or more of her children as being born alive and living in the household to identify these children in the census questionnaire. The section of the questionnaire on “relationship to the head of the household or to the reference person in the household” may be used for identifying the natural mother of each child living in the household.

<sup>127</sup> For methodological details on the uses of the data, together with data on live-born children, see the publications mentioned in footnote 120.

### 5.3. Date of birth of last child born alive (core topic)

4.237. Information on date of birth (day, month and year) and sex of the last child born alive is used for estimating current fertility, and data on the sex of the child can also be used to evaluate the sex ratio at birth and to detect potential sex-selective birth omissions, misreporting or coding errors. This information can be useful as a means of deriving both national and subnational fertility estimates. In countries lacking adequate data from civil registration, sample surveys have become a major source of information for estimating national fertility levels, but surveys usually do not permit the derivation of reliable estimates at subnational levels.

4.238. At the data-processing stage, an estimate of the number of live births during the 12 months immediately preceding the census date can be derived from information on “date of birth of last child born alive”. For estimating current age-specific fertility rates and other fertility measures, the data provided by this approach are more accurate than information that may have been collected in earlier censuses from a question on the number of births to a woman during the 12 months immediately preceding the census.<sup>128</sup> Information on the date of birth of the last child born alive provides the number of women who had at least one live-born child during the 12-month period, not the number of births during the 12-month period. However, generally only a very small proportion of women will have had more than one child in a year and hence that omission will not significantly affect the fertility estimate derived from it.

4.239. The information needs to be collected only for women between 15 and 50 years of age who have reported having at least one live birth during their lifetime. Also, the information should be collected for all the marital or union status categories of women for whom data on children ever born by sex (see paragraph 4.228) are collected. If the data on children ever born are collected for a sample of women, information on date of birth for the last child born alive should be collected for the same sample.

4.240. A census question on “date of birth of last child born alive” should always be paired with a simple follow-up question about whether the child is still alive, from which information on deaths of children born in the last 12 months can be rederived (see paragraph 4.244 below), and which yields data that can be used for studying child mortality (see paragraph 4.250).

### 5.4. Births in the past 12 months

4.241. Births in the past 12 months refers to the total number of children born alive to the woman concerned during the 12 months immediately preceding the census. The topic is more suitable for investigation in a sample survey than in a census.

4.242. Because of errors and omissions commonly encountered in the reporting of live births within a 12-month retrospective period, this topic by itself cannot generally be relied on to generate accurate estimates of current fertility. It is recommended that an estimate of the number of live births during the 12 months immediately preceding the census date be derived from information on “date of birth of last child born alive” (see paragraph 4.238). For estimating current age-specific fertility rates and other fertility measures, the data provided by this approach are more accurate than information that may have been collected in earlier censuses from a question on the number of births to a woman during the 12 months immediately preceding the census.<sup>129</sup> Only if a country’s population is characterized by low levels of date numeracy—that is, there is a strong indication of deficient accuracy of the replies—should a direct question on number of births in the last 12 months be asked. In all other cases, the core question on date of last child born alive should be sufficient.

<sup>128</sup> The approach to calculating fertility rates from these data is described in T.A. Moultrie, “Evaluation of data on recent fertility from censuses”, in *Tools for Demographic Estimation*, T.A. Moultrie, R.E. Dorrington, A.G. Hill, K. Hill, I.M. Timæus and B. Zaba, eds. (Paris, International Union for the Scientific Study of Population, 2013), available from <http://demographicestimation.iussp.org/content/evaluation-data-recent-fertility-censuses>.

<sup>129</sup> Ibid.

4.243. If the topic needs to be introduced into the census, information should be collected for all the marital status categories of women for whom data on children born alive are collected. In countries in which current births to mothers at ages below 15 years are statistically significant, the age limit for the investigation of current fertility may be lowered to include mothers at appropriate younger ages.

### 5.5. Deaths among children born in the past 12 months

4.244. Deaths among children born in the past 12 months refers to the number of deaths that occurred among the live births within the 12 months preceding the census reported for the woman concerned. Hence, the topic should be investigated only if live births within this period are also investigated.

4.245. It is recommended that information on the topic be derived from a pair of census questions on “date of birth of last child born alive” and the follow-up question about “whether the child is still alive” (see paragraph 4.240). Although this pair of questions does not produce a valid estimate of the infant mortality rate (since the numerator excludes infant deaths occurring below age 1 in the past 12 months among children born 1-2 years before the census date), it can provide useful information on differences in child survival by age of mother or other socioeconomic characteristics.

4.246. The information needs to be collected only for women for whom at least one live birth during the reference period was reported.

### 5.6. Age, date or duration of first marriage

4.247. *Date of first marriage* comprises the day, month and year when the first marriage took place. In countries where date of first marriage is difficult to obtain, it is advisable to collect information on age at marriage or on how many years ago the marriage took place (duration of marriage). The information should relate to all types of marriages such as contractual first marriages and de facto unions, customary marriages and religious marriages.

4.248. For women who are widowed, separated or divorced at the time of the census, information on the “date of/age at/number of years since dissolution of first marriage” should be collected. Information on dissolution of first marriage (if pertinent) provides data necessary to calculate “duration of first marriage” as a derived topic at the data-processing stage. In countries in which duration of marriage is reported more reliably than age, tabulations of children ever born by duration of marriage yield better fertility estimates than those based on data on children born alive classified by age of the woman.<sup>130</sup> Data on duration of marriage can be obtained by subtracting the age at marriage from the current age, or directly from the number of years elapsed since the marriage took place.

### 5.7. Age of mother at birth of (date or time since) first child born alive<sup>131</sup>

4.249. Date of first birth comprises the day, month and year when the woman’s first live birth took place. In countries where date of first birth is difficult to obtain, it is advisable to collect information on age of mother at first birth or on how many years ago the first birth took place (time since first birth). In countries in which time since first birth is reported more reliably than age, tabulations of children ever born and children surviving by time since first birth yield more timely child mortality estimates than those based on data on children born alive classified by age of the woman.<sup>132</sup> If the topic is included in the census, information should be obtained for each woman who has had at least one child born alive.

<sup>130</sup> *Manual X: Indirect Techniques for Demographic Estimation*, Population Studies, No. 81 (United Nations Publication, Sales No. E.83.XIII.2), chapter II, section D, available from [www.un.org/esa/population/publications/Manual\\_X/Manual\\_X.htm](http://www.un.org/esa/population/publications/Manual_X/Manual_X.htm); and *Handbook on the Collection of Fertility and Mortality Data*, Studies in Methods Series F, No. 92 (United Nations publication, Sales No. E.03.XVII.11), chapter V, section D, available from [http://unstats.un.org/unsd/publication/SeriesF/SeriesF\\_92E.pdf](http://unstats.un.org/unsd/publication/SeriesF/SeriesF_92E.pdf).

<sup>131</sup> *Ibid.*, chapter II, section B.3.

<sup>132</sup> See K. Hill, “Indirect Estimation of Child Mortality” in *Tools for Demographic Estimation*, T.A. Moultrie, R.E. Dorrington, A.G. Hill, K. Hill, I.M. Timæus and B. Zaba, eds. (Paris: International Union for the Scientific Study of Population, 2013), available from <http://demographicestimation.iussp.org/content/indirect-estimation-child-mortality>; and J.K. Rajaratnam, L.N. Tran, A.D. Lopez, and C.J.L. Murray, “Measuring under-Five Mortality: Validation of New Low-Cost Methods,” *PLoS Med* 7(4) (2013), available from <http://demographicestimation.iussp.org/content/indirect-estimation-child-mortality>.

<sup>133</sup> See *Handbook on the Collection of Fertility and Mortality Data*, Studies in Methods, Series F, No. 92 (United Nations publication, Sales No. E.03.XVII.11), available from [http://unstats.un.org/unsd/publication/SeriesF/SeriesF\\_92E.pdf](http://unstats.un.org/unsd/publication/SeriesF/SeriesF_92E.pdf); *Methods for Estimating Adult Mortality* (United Nations publication ESA/P/WP.175), available from [www.un.org/esa/population/techcoop/DemEst/methods\\_adultmort/methods\\_adultmort.html](http://www.un.org/esa/population/techcoop/DemEst/methods_adultmort/methods_adultmort.html); and Rob E. Dorrington, "The Brass Growth Balance Method and the Preston-Coale Method for One Census, and the Generalized Growth Balance Method and Synthetic Extinct Generations Methods Upon the Availability of Deaths from Two Censuses", in *Tools for Demographic Estimation*, T.A. Moultrie, R.E. Dorrington, A.G. Hill, K. Hill, I.M. Timæus and B. Zaba, eds. (International Union for the Scientific Study of Population, 2013), available from <http://demographicestimation.iussp.org>.

<sup>134</sup> See chapter 4 on methods for data evaluation and adjustment in WHO, *WHO Guidance for Measuring Maternal Mortality from a Census* (Geneva, World Health Organization, 2013), available from [http://apps.who.int/iris/bitstream/10665/87982/1/9789241506113\\_eng.pdf](http://apps.who.int/iris/bitstream/10665/87982/1/9789241506113_eng.pdf); and T.A. Moultrie, R.E. Dorrington, A.G. Hill, K. Hill, I.M. Timæus and B. Zaba, eds., *Tools for Demographic Estimation* (International Union for the Scientific Study of Population, 2013), available from <http://demographicestimation.iussp.org>.

<sup>135</sup> It may be appropriate in some countries to reduce the lower age limit by several years.

<sup>136</sup> For methodological details on the uses of the data, see I.M. Timæus, "Indirect estimation of adult mortality from orphanhood" in *Tools for Demographic Estimation*, T.A. Moultrie, R.E. Dorrington, A.G. Hill, K. Hill, I.M. Timæus and B. Zaba, eds. (International Union for the Scientific Study of Population, 2013), available from <http://demographicestimation.iussp.org/content/indirect-adult-mortality-orphanhood>);

## 5.8. Household deaths in the past 12 months<sup>133</sup> (core topic)

4.250. Information on household deaths in the past 12 months classified by sex of deceased and age at death is used to estimate the level and pattern of mortality in countries that lack satisfactory continuous death statistics from civil registration. In order for estimation derived from this item to be reliable, it is important that all deaths to household members occurring during the 12 months preceding enumeration be reported as completely and as accurately as possible. Typically, reports of deaths in censuses underestimate the overall number of deaths if only because some deaths result in the disintegration of households so that household survivors, if any, may not report their occurrence (in particular, deaths of persons living alone at the time of death are unlikely to be reported). Nevertheless, provided that there are no serious errors in the reporting of age at death, estimates of completeness of death reporting can be derived via indirect estimation and adequate mortality estimates obtained.<sup>134</sup>

4.251. Ideally, information on mortality should be collected for each household in terms of the *total number of deaths in the 12-month period* prior to the census date. For each deceased person reported, name, age, sex and date (day, month and year) of death should also be collected. Care should be taken to clearly specify the reference period to the respondent so as to avoid errors due to its misinterpretation. For example, a precise reference period could be defined in terms of a festive or historic date for each country.

4.252. When information is collected on household deaths in the previous 12 months (or some other reference period), countries may wish to ask a pair of follow-up questions concerning cause of death. After ascertaining the name, age and sex of the deceased person and date of death, two additional questions could be asked:

- (a) Was the death due to an accident, violence, homicide or suicide?
- (b) If the deceased was a woman aged 15<sup>135</sup> to 49, did the death occur while she was pregnant or during childbirth or during the six weeks after the end of pregnancy?

4.253. Data derived from such questions can help to assess trends in levels, and some causes, of adult mortality. At the data-processing stage, reported deaths can be tabulated according to broad categories of cause of death: external, pregnancy-related, other and unknown. Ignoring the "unknown" responses, both external and pregnancy-related deaths can provide valuable information in countries where no other sources of information to systematically obtain causes of death are available. Of course, such information is approximate and must be interpreted with caution after careful evaluation and often adjustment. Nevertheless, using these simple questions should make it possible to derive some useful information about major trends in mortality that are otherwise difficult to obtain.

4.254. There is no universal agreement about the feasibility of collecting reliable cause of death information as part of a population and housing census. More research is needed on both the feasibility and methods of collecting cause of death information as part of a national census.

## 5.9. Maternal or paternal orphanhood<sup>136</sup>

4.255. Some countries may also wish to collect information on maternal or paternal orphanhood in another attempt to ascertain the level and patterns of mortality in the population. Census data from these two topics are intended for indirect estimation of mortality by sex. Estimates are based on the proportion of persons classified by age whose natural mothers or fathers are still alive at the time of the census.

4.256. For the collection of information on orphanhood, two direct questions should be asked, regardless of whether or not the mother and father are enumerated in the same household, namely:



- (a) Whether or not the natural mother of the person enumerated in the household is still alive at the time of the census;
- (b) Whether or not the natural father of the person enumerated in the household is still alive at the time of the census.

The investigation should secure information on biological parents. Thus, care should be taken to exclude adopting and fostering parents. It should be kept in mind, however, that overcounting may occur in the case of parents with more than one surviving child among the respondents, particularly in high fertility societies.

4.257. It is preferable for these questions to be collected from every person in the household regardless of age (not just children under 18, which would otherwise make the information useless for estimating adult mortality). Not only is this important for estimating mortality at older ages, but also for estimating the extent of age exaggeration at the older ages. Whenever the context allows, the date of death should be collected to help to improve knowledge of the timing of death, and in other contexts a simple follow-up question about whether the parent was still alive five years ago can help to narrow down the timing of death and to improve adult mortality measurement for recent years by analysing these data as successive cross-sectional enquiries.<sup>137</sup>

## 6. Educational characteristics

### 6.1. Literacy (core topic)

4.258. *Literacy* has historically been defined as the ability both to read and to write, distinguishing between “literate” and “illiterate” people. A literate person is one who can both read and write, with understanding, a short, simple statement on his or her everyday life. An illiterate person is one who cannot, with understanding, both read and write such a statement. Hence, a person capable of reading and writing only figures and his or her own name should be considered illiterate, as should a person who can read but not write as well as one who can read and write only a ritual phrase that has been memorized. However, a more modern understanding referring to literacy as a continuum of skills, levels, domains of application and functionality is now widely accepted.

4.259. The notion of literacy applies to any language insofar as it exists in written form. In multilingual countries, the census questionnaire may also enquire into the languages in which a person can read and write. Such information can be essential for the determination of educational policy. This item would, therefore, be a useful additional subject of enquiry.

4.260. It is preferable that data on literacy be collected for all persons 10 years of age and over. In a number of countries, however, some children may only become literate through school between the ages of 10 and 14 years. The literacy rate for this age group may be misleading. Therefore, in an international comparison of literacy, data on literacy should be tabulated for all persons 15 years of age and over. Where countries collect the data for younger persons, the tabulations on literacy should at least distinguish between persons under 15 years of age and those 15 years of age and over.

4.261. Straightforward operational criteria and instructions for collecting literacy statistics should be clearly established on the basis of the concept given in paragraph 4.258, and applied during census taking.<sup>138</sup> Accordingly, although data on literacy should be collected so as to distinguish between persons who are literate and those who are illiterate, consideration should be given to distinguishing broad levels of literacy skills. Simple questions with response categories that reflect different levels of literacy skills should be used. In addition, since literacy is an applied skill, it needs to be measured in relation to a particular task, such as reading, with understanding, personal letters and newspapers or magazines, or writing a

and *Methods for Estimating Adult Mortality* (United Nations publication ESA/P/WP.175), available from [www.un.org/esa/population/techcoop/DemEst/methods\\_adultmort/methods\\_adultmort.html](http://www.un.org/esa/population/techcoop/DemEst/methods_adultmort/methods_adultmort.html).

<sup>137</sup> See I.M. Timæus, “Indirect estimation from orphanhood in multiple inquiries”, in *Tools for Demographic Estimation*, T.A. Moultrie, R.E. Dorrington, A.G. Hill, K. Hill, I.M. Timæus and B. Zaba, eds. (International Union for the Scientific Study of Population, 2013), available from <http://demographicestimation.iussp.org/content/indirect-adult-mortality-orphanhood>.

<sup>138</sup> Depending on the need for small-area data and the circumstances in a country, literacy may best be measured through surveys.

personal letter or message. Respondents may be able to do so easily, with difficulty or not at all, reflecting the different levels of literacy skills. Reading and writing may be measured separately to simplify the questions.

4.262. It would be preferable to use standardized questions, harmonized across countries to ensure comparability. The United Nations Educational, Scientific and Cultural Organization (UNESCO) has developed a reference database of model questions. In addition, UNESCO recommends that literacy tests should be administered in order to verify as well as improve the quality of literacy data. Nevertheless, administering a literacy test to all household members in the course of enumeration may prove impractical and affect participation, therefore limiting the utility of the results. Instead, administering such a test to a sample of respondents may be considered either in the census itself or in a targeted post-enumeration follow-up survey. Some countries have regularly used simple self-assessment questions within a census to provide an indication of literacy rates at the small-area level. An evaluation of the quality of statistics should be provided with census statistics on literacy.

4.263. The collection and tabulation of statistics on literacy during the population census should not be based on any assumed linkages between literacy, school attendance and educational attainment. In operational terms, this means systematically enquiring about the literacy status of each household member irrespective of school attendance or highest grade or level completed.

4.264. The literacy question currently varies across countries and, as a result, the data based on it are not always internationally comparable. Literacy should not be derived as an educational attainment proxy because although the two are related, there are substantial differences. For example, there are numerous cases where people leave school with only partial literacy skills, or lose them because of a lack of practice. Therefore educational attainment is not a good proxy measure of literacy skills.

## 6.2. School attendance (core topic)

4.265. *School attendance* is defined as regular attendance at any regular accredited educational institution or programme, public or private, for organized learning at any level of education at the time of the census or, if the census is taken during the vacation period, at the end of the school year or during the previous school year. According to the International Standard Classification of Education (ISCED), education is taken to comprise all institutionalized, intentional and planned activities designed to meet learning needs. Instruction in particular skills that is not part of the recognized educational structure of the country (for example, in-service training courses in factories) is not normally considered “school attendance” for census purposes.

4.266. Information on school attendance should, in principle, be collected for persons of all ages. It relates in particular to the population of official school age, which ranges in general from 5 to 29 years of age but can vary from country to country depending on the national education structure. In the case where data collection is extended to cover attendance in pre-primary education or other systematic educational and training programmes organized for adults in productive and service enterprises (such as the in-service training courses mentioned in paragraph 4.265), community-based organizations and other non-educational institutions, the age range may be adjusted as appropriate.

4.267. Data on school attendance should be cross-classified with data on educational attainment, according to the person’s current level and grade (see paragraph 4.272). This cross-classification can provide useful information on the correspondence between age and level or grade of educational attainment for persons attending school.



4.268. The issue surrounding the number of out-of-school children has grown in importance within recent decades, particularly within the context of the UNESCO Education for All goal with regard to achieving universal primary education. The target year for Education for All was 2015, and new goals for the post-2015 period were not yet defined at the time this document was prepared. The census offers an opportunity to measure the number of “out-of-school” (reciprocal of attendance) or “ever-in-school” children.

4.269. There is a difference between “attending school” and “enrolled in school”, thus results from censuses and administrative data may differ. A child can be enrolled in school but not necessarily be attending. It is recommended that these concepts be clearly defined so that countries can determine which variable they wish to collect via the census.

4.270. It is also recommended that Member States consider the need for internationally harmonized questions in order to measure school attendance and school enrolment.

4.271. For purposes of international comparison, data on school attendance should be presented by the ISCED-P (or ISCED-Programmes) levels listed below, which are used for the classification of education programmes in ISCED 2011. Correspondence between a national education system and ISCED can be established through mapping of national education programmes to the ISCED classification.<sup>139</sup>

- ISCED level 0: Early childhood education
- ISCED level 1: Primary education
- ISCED level 2: Lower secondary education
- ISCED level 3: Upper secondary education
- ISCED level 4: Post-secondary non-tertiary education
- ISCED level 5: Short-cycle tertiary education
- ISCED level 6: Bachelor’s or equivalent level
- ISCED level 7: Master’s or equivalent level
- ISCED level 8: Doctoral or equivalent level

### 6.3. Educational attainment (core topic)

4.272. The recommendations on “educational attainment” (see paragraph 4.273) and “educational qualifications” (see paragraph 4.287) make use of categories of the 2011 revision of ISCED, issued by UNESCO.<sup>140</sup> In accordance with national conditions and requirements, many countries can continue to apply national classifications of levels and grades of education and of fields of education in collecting and tabulating statistics from population censuses. Special attention needs to be paid to establishing appropriate level or grade equivalence for persons who have received education under a different or foreign educational system. These national classifications, however, should be able to be converted or mapped to the ISCED 2011 classification system, this typically being achieved during post-census processing.

4.273. *Educational attainment* is defined as the highest ISCED level successfully completed by an individual. Educational attainment is usually measured with respect to the highest education programme successfully completed, which is typically certified by a recognized qualification. Some countries may also find it useful to present data on educational attainment in terms of the highest grade completed. For international purposes a “grade” is a specific stage of instruction usually covered in the course of an academic year. Information on educational attainment should preferably be collected for all persons 5 years of age and over.

4.274. To produce statistics on educational attainment, a classification is needed that indicates the qualifications certifying the successful completion of primary, secondary and post-secondary education. Since the educational structure may have changed over time, it is necessary to make provisions for persons educated at a time when the national educational system

<sup>139</sup> The UNESCO Institute for Statistics maintains a database with ISCED mappings at [www.uis.unesco.org/ISCED](http://www.uis.unesco.org/ISCED).

<sup>140</sup> UNESCO Institute for Statistics, *International Standard Classification of Education: ISCED 2011*, (Montreal, UIS, 2012), available from [www.uis.unesco.org/Education/Documents/isced-2011-en.pdf](http://www.uis.unesco.org/Education/Documents/isced-2011-en.pdf).

differed from that in place at the time of the census. In addition to focusing attention on the collection of educational attainment data, enumerator instructions, coding and data processing need to be designed in a way that will take account of any changes in the educational system of a country over the years and of those educated in another country, as well as those educated in the current system.

4.275. Information collected on the highest level of education successfully completed by each individual, typically certified by a recognized qualification, facilitates flexible regrouping of the data according to various kinds of aggregation. Recognized intermediate qualifications are classified at a lower level than the programme itself. Information on intermediate qualifications or on the highest grade completed can be used to distinguish between persons who did and persons who did not complete each level of education.

4.276. For international comparison, data from the population census are needed for all levels of education defined in ISCED. To the extent possible, countries should classify statistics on educational attainment by the individual ISCED-A (or ISCED-Attainment) levels listed below, which are used for the classification of educational attainment in ISCED 2011 (or by their equivalent as set forth according to the national classification of levels of education):

- ISCED level 0: Less than primary education
- ISCED level 1: Primary education
- ISCED level 2: Lower secondary education
- ISCED level 3: Upper secondary education
- ISCED level 4: Post-secondary non-tertiary education
- ISCED level 5: Short-cycle tertiary education
- ISCED level 6: Bachelor's or equivalent level
- ISCED level 7: Master's or equivalent level
- ISCED level 8: Doctoral or equivalent level

4.277. For the classification of educational attainment, ISCED level 0 has a different meaning in ISCED 2011 than for the classification of education programmes (see paragraph 4.271): it means not having successfully completed ISCED level 1. This includes individuals who have never attended an education programme, who have attended some early childhood education (defined as ISCED level 0 in the classification of education programmes), or who have attended some primary education but have not successfully completed ISCED level 1. Any differences between national and international definitions and classifications of education should be explained in the census publications in order to facilitate comparison and analysis.

4.278. Countries could consider asking a question that captures levels of education not successfully completed, should this be of interest to policymakers or other users. This could be in the form of a direct question asking if a person has some education at the relevant level or via a question asking the last grade or year completed from any given level of education.

4.279. Data on school attendance, educational attainment and literacy status should be collected and tabulated separately and independently of each other, without (as elaborated in paragraph 4.263) any assumption of linkages between them.

4.280. In order to ensure continued and improved international comparability of census data by level of education, it is recommended that countries continue to ensure that the educational attainment variable can be mapped into the ISCED 2011 classification. This is typically achieved in post-census processing.

## 6.4. Field of education and educational qualifications

### (a) Field of education and training

4.281. Information on persons by level of education and field of education and training is important for examining the match between the supply and demand for qualified workers with specific specializations within the labour market. It is equally important for planning and regulating the production capacities of different levels, types and branches of educational institutions and training programmes.

4.282. A question on field of education and training needs to be addressed to persons 15 years of age and over who attended at least one grade in secondary education, or who attended other organized educational and training programmes at equivalent levels.

4.283. The ISCED Fields of Education and Training 2013 (ISCED-F 2013) distinguishes between broad fields (two-digit codes), narrow fields (three-digit codes) and detailed fields (four-digit codes) of education and training.<sup>141</sup> The broad fields are listed here:

- 00 Generic programmes and qualifications
- 01 Education
- 02 Arts and humanities
- 03 Social sciences, journalism and information
- 04 Business, administration and law
- 05 Natural sciences, mathematics and statistics
- 06 Information and communication technologies (ICTs)
- 07 Engineering, manufacturing and construction
- 08 Agriculture, forestry, fisheries and veterinary
- 09 Health and welfare
- 10 Services
- 99 Unknown

4.284. Countries may wish to consider collecting data on narrow and detailed fields of education and training, not only on the broad fields. For this, countries should make use of the classification and coding of fields of education and training of ISCED.

4.285. Countries coding field of education and training according to a national classification should establish correspondence with ISCED, either through double coding or through conversion from the detailed national classification to ISCED. A problem may arise in identifying the exact fields of education and training of persons with interdisciplinary or multidisciplinary fields of specialization. In these cases it is recommended that countries follow the procedure of identifying the major or principal field of education and training of those with multidisciplinary specialization.

4.286. In order to ensure continued and improved international comparability of census data by field of education and training, it is recommended that the classification structure for the fields of education and training continue to be based on the most recent version of ISCED.

### (b) Educational qualifications

4.287. *Educational qualification* is the official confirmation, usually in the form of a document, certifying the successful completion of an education programme or a stage of a programme. Qualifications can be obtained through (a) successful completion of a full education programme; (b) successful completion of a stage of an education programme (intermediate qualifications); or (c) validation of acquired knowledge, skills and competencies, independent of participation in an education programme.

<sup>141</sup> UNESCO Institute for Statistics, *ISCED Fields of Education and Training 2013 (ISCED-F 2013)* (Montreal, UIS, 2014), available from [www.uis.unesco.org/Education/Documents/isced-fields-of-education-training-2013.pdf](http://www.uis.unesco.org/Education/Documents/isced-fields-of-education-training-2013.pdf).

4.288. According to national needs, information on qualifications may be collected from persons who have reached a certain minimum age or level of educational attainment. Such information should refer to the title of the highest certificate, diploma or degree received.

## 7. Economic characteristics

### 7.1. Introduction

4.289. Statistics on the economic characteristics of persons are needed from population censuses for many reasons. Information on the productive activities of persons is vital to establish a comprehensive picture of the economic structure of a country, and the work patterns, labour market participation and extent of labour underutilization of its population. This information, when combined with other personal, household and dwelling characteristics collected in the census, enables assessments of the socioeconomic situation of persons and households, which are essential to inform the planning of a wide range of economic and social policies and programmes related to such areas as employment creation, poverty reduction, work-life balance, vocational education and training, provision of social security and other social benefits, gender justice and social inclusion.

4.290. Such statistics can be obtained from other sources, such as household-based surveys or administrative records, but these other sources have certain limitations. Household surveys, especially labour force surveys, are particularly well suited for generating a broad range of statistics on the economic characteristics of the population at aggregate levels, such as national and broad regional groupings. Data obtained from labour force surveys, however, are subject to sampling error and, therefore, rarely provide reliable estimates for small areas, small population groups, or detailed groups of industries and occupations. In contrast, population censuses can provide certain core statistics at the lowest levels of aggregation for such small population groups and for detailed occupation and industry groups. Administrative records may not have the same quality of occupational and industry coding, nor have the same comprehensiveness in population or activity coverage, generally excluding productive activities that are informal or unpaid.

4.291. The population census also provides benchmark information to which statistics from other sources can be related. Population censuses likewise provide the sample frames for most household-based surveys, including labour force surveys. In countries with a limited or infrequent household survey programme, the population census may represent the main or only source of information on the economic characteristics of the population.

4.292. In deciding which topics relating to the economic characteristics of the population to include in the population census, countries will need to assess the existence of other sources of statistics and their complementary uses. The aim should be to cover the core topics needed as benchmark information for the preparation of sample frames, and to provide essential statistics for small areas and small population groups, and for detailed occupation and industry groups, as relevant in the national context.

4.293. International resolutions and guidelines to produce statistics relating to the economic characteristics of the population are adopted by the International Conference of Labour Statisticians and endorsed by the Governing Body of the International Labour Organization.<sup>142</sup> Recommendations on topics amenable for inclusion in population censuses are discussed in general in Box 1. The complete labour statistics standards are available from [www.ilo.org/global/statistics-and-databases/standards-and-guidelines/lang--en/index.htm](http://www.ilo.org/global/statistics-and-databases/standards-and-guidelines/lang--en/index.htm).<sup>143</sup>

<sup>142</sup> See [www.ilo.org/stat](http://www.ilo.org/stat).

<sup>143</sup> Nineteenth International Conference of Labour Statisticians, *Resolution Concerning Statistics of Work, Employment and Labour Underutilization* (Geneva, 2013), available from [www.ilo.org/global/statistics-and-databases/meetings-and-events/international-conference-of-labour-statisticians/19/WCMS\\_230304/lang--en/index.htm](http://www.ilo.org/global/statistics-and-databases/meetings-and-events/international-conference-of-labour-statisticians/19/WCMS_230304/lang--en/index.htm).

## Box 1.

**New international recommendations concerning statistics of work, employment and labour underutilization**

In October 2013, the Nineteenth International Conference of Labour Statisticians adopted the *Resolution concerning statistics of work, employment and labour underutilization*.<sup>143</sup> This resolution replaced the previous international recommendations relating to the measurement of the economically active population, employment, unemployment and underemployment dating from 1982 (Thirteenth International Conference of Labour Statisticians) and related guidelines.

These new standards introduced a number of important revisions, among which are a conceptual framework for work statistics consistent with the System of National Accounts; guidelines for separately measuring different forms of work, including a more targeted definition of employment as *work for pay or profit*, and for expanding the range of measures of labour underutilization beyond the traditional unemployment. New terminology was also introduced, as relevant, and terms considered to be out of date, particularly “economically active/inactive”, were replaced with “labour force/outside the labour force.”

Important elements from the previous standards essential to the internal consistency of the statistics remain unchanged. The refinements to the definition of employment and new measures of labour underutilization may result, however, in breaks in the historical series of statistics of the economically active population, employment, unemployment and underemployment. In particular, productive activities carried out without pay, such as those listed below, are no longer included within the scope of employment:

- Production of goods intended for own final use by the household;
- Unpaid work by apprentices, interns and trainees;
- Organization-based volunteer work;
- Direct volunteering to produce goods for other households.

Participation in these activities is now to be measured separately through the newly defined forms of work: own-use production work, unpaid trainee work and volunteer work, respectively.

Countries are encouraged to develop their statistical system so as to cover work statistics, including statistics on the labour force, based on their specific national needs and resources. In the case of the measures affected by the Nineteenth International Conference of Labour Statisticians *Resolution*, the updated international standards would ideally be implemented over time, in a way that is feasible for national statistical systems. During the transition period it is of utmost importance that the institutions and persons responsible for planning and managing the production of statistics on the economic characteristics of the population develop a strategic and coordinated approach that takes into account all official sources of statistics, including the population census, labour force survey and other household-based surveys and administrative records. Data users will need to be kept well informed of the process, including by widely disseminating the relevant metadata and by maintaining parallel series for a specified period following their implementation.

## 7.2. Conceptual framework for work statistics

### (a) Work

4.294. Measurement of the economic characteristics of the population is based on the conceptual framework for work statistics (see Box 1). In this framework, work is defined for reference purposes as “any activity performed by persons of any sex and age to produce goods or to provide services for use by others or for own use”.

4.295. The concept of work is aligned with the general production boundary as defined in the *System of National Accounts 2008* (2008 SNA), enabling full integration between work statis-

tics and production statistics. All work or productive activities are thus included, irrespective of their formal or informal character or the legality of the activity. Excluded are activities that do not involve producing goods or services (for example begging and stealing), self-care (for example personal grooming and hygiene), and activities that cannot be performed by another person on one's own behalf (for example sleeping, learning and activities for own recreation).

4.296. Work can be performed in any kind of economic unit, including market units (for example corporations, quasi-corporations and household unincorporated market enterprises); non-market units (for example government and non-profit institutions serving households); and households that produce goods or services for own final use by the producers.<sup>144</sup>

4.297. The conceptual framework for work statistics identifies five mutually exclusive forms of work for separate measurement (see figure 3):

- (a) *Own-use production work*, comprising production of goods and services for own final use;
- (b) *Employment work*, comprising work performed in exchange for pay or profit;
- (c) *Unpaid trainee work*, comprising work performed for others without pay to acquire workplace experience or skills;
- (d) *Volunteer work*, comprising non-compulsory work performed for others without pay;
- (e) *Other work activities*, including unpaid compulsory work performed for others, such as community service and work by prisoners, when ordered by a court or similar authority, and unpaid military or alternative civilian service.

4.298. During a given reference period, persons may engage in one or more forms of work in parallel or consecutively, that is, persons may be employed, volunteering, doing unpaid trainee work or producing for own final use, in any combination.

4.299. To meet different objectives, countries may measure the economic characteristics of the population with respect to their participation in one or in several forms of work. In particular, in the population census, this may include measurement of the following:

- (a) *Persons in employment* is essential as part of the preparation of labour force statistics that include unemployment and other measures of labour underutilization. It is needed to assess the labour market participation of the population and to classify the population according to their labour force status in a short reference period (see paragraphs 4.307-4.333).
- (b) *Persons in own-use production of goods* is especially important in countries where particular groups of the population engage in agriculture, fishing or hunting and gathering for own final consumption, including for subsistence (see paragraphs 4.376-4.381), and to enable integration of the population census with the agricultural census (see paragraphs 1.44-1.50).
- (c) *Persons in unpaid trainee work* may be advisable where unpaid apprenticeships, internships and traineeships may be a main mechanism of labour market entry for particular groups such as youths or for specific occupations such as mechanics or tailors, given their likely overall small size in the country and limited availability of alternative statistical sources.

4.300. Given the need for detailed probing, measurement of participation in own-use provision of services, *unpaid trainee work* and *volunteer work* is more appropriate through household surveys or, if desired, through the population census by means of a long form applied to a subset of the population.<sup>145</sup>

4.301. Additional information may also be collected in the population census in order to classify the population according to their main form of work based on self-declaration, in a short or long reference period.<sup>146</sup>

<sup>144</sup> *System of National Accounts 2008* (United Nations publication, Sales No. E.08.XVII.29).

<sup>145</sup> Nineteenth International Conference of Labour Statisticians, *Resolution Concerning Statistics of Work, Employment and Labour Underutilization* (Geneva, 2013), paras. 22(c) and 37-39.

<sup>146</sup> *Ibid*, paragraph 17.



Figure 3.  
Forms of work and the System of National Accounts 2008

Intended destination of production	for own final use		for use by others			
	Own-use production work		Employment (work for pay or profit)	Unpaid trainee work	Other work activities	Volunteer work
Forms of work	of services	of goods				in market and non-market units
	Relation to 2008 SNA	Activities within the SNA production boundary				
	Activities inside the SNA general production boundary					

(b) Working time

4.302. The concept of *working time* comprises the time associated with productive or work activities and the arrangement of this time during a specified reference period.<sup>147</sup> Working time relates to each form of work.

4.303. The number of persons engaged in a given form of work provides only a very rough estimate of the volume of work performed, particularly when the work is performed on a part-time, casual or occasional basis. Information on working time is necessary to prepare estimates of the volume of work or labour input for complete national production accounts. It is also essential to support the design, monitoring and evaluation of economic, social and labour market policies and programmes targeting labour market flexibility, work-life balance and conditions of work, including situations of underemployment due to insufficient working time (that is, time-related underemployment) and of excessive working time.

4.304. The population census can serve to provide information on two measures of working time in particular: hours usually worked and hours actually worked. Where the census is the only available data source it may as a minimum incorporate a single question on hours usually worked for persons in employment (see paragraphs 4.369-4.375) and for persons in own-use production of goods, as relevant (see paragraph 4.381).

(c) Population coverage and age limits

4.305. Information on the economic characteristics of the population should in principle cover the entire population, regardless of country of origin, citizenship or geographic location of their place of work. In practice, a lower age limit is usually set in accordance with the conditions in the country. Where national programmes of statistics on the working-age population or on child labour exist, the statistics derived from the population census will serve to complement those bodies of statistics. For purposes of compiling statistics on the working-age population, international standards recommend that countries set the lower age limit taking into consideration the minimum age for employment and exceptions specified in national laws or regulations, or the age of completion of compulsory schooling.<sup>148</sup> For compiling child labour statistics, the relevant international standards identify the target population as all persons in the 5 to 17 years age group.<sup>149</sup> Countries in which many children participate in employment or in other forms of work, including in agriculture, will need to select a lower minimum age than countries where work of children is uncommon. Census tabulations of economic characteristics should at least distinguish between persons under 15 years of age and those 15 years of age and over.

4.306. In general, an upper age limit is not recommended, so as to permit comprehensive coverage of work activities of the adult population and to examine transitions between

<sup>147</sup> Eighteenth International Conference of Labour Statisticians, *Resolution Concerning the Measurement of Working Time*, (Geneva, 2008).

<sup>148</sup> Nineteenth International Conference of Labour Statisticians, *Resolution Concerning Statistics Of Work, Employment and Labour Underutilization* (Geneva, 2013), para. 65.

<sup>149</sup> Eighteenth International Conference of Labour Statisticians, *Resolution Concerning Statistics of Child Labour* (Geneva, 2008).



employment and retirement. Many people continue to be engaged in employment and in other forms of work beyond retirement age, and the numbers involved are likely to increase as a result of factors associated with the “ageing” of the population. Countries may, however, wish to balance the cost of collecting and processing information relating to the productive activities of older persons (those aged 75 years or more) and the additional response burden imposed on them against the significance and reliability of the information provided.

### 7.3. Labour force status (core topic)

4.307. A classification of persons by their *labour force* status provides important information about their relation to the labour market, in particular to *work for pay or profit*, in a short reference period.

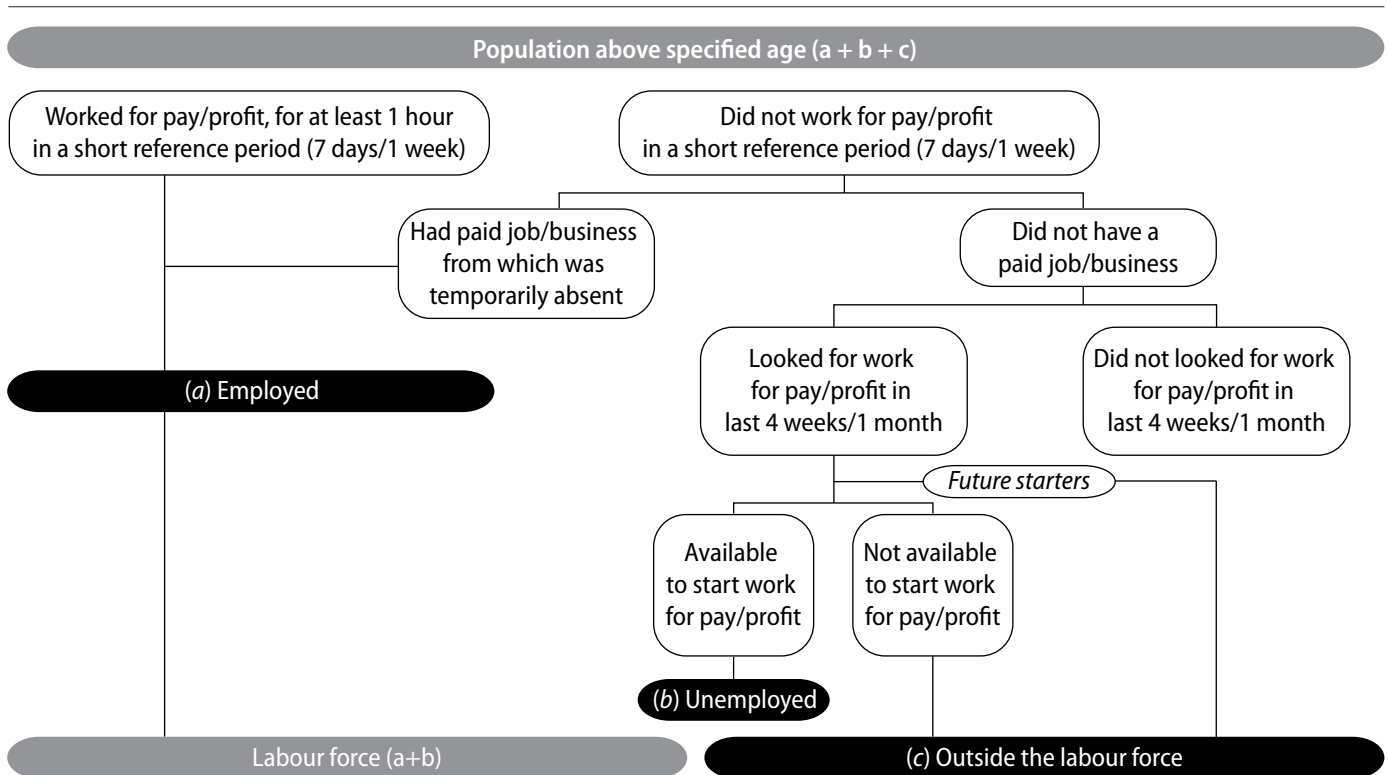
4.308. Persons may be classified in a short reference period according to their *labour force* status as being employed, unemployed, or outside the labour force as defined below in paragraphs 4.312-4.333. The three categories of *labour force status* are mutually exclusive and exhaustive. While even during a short period persons may be engaged in multiple activities, to establish their *labour force status*, priority is given to employment over other forms of work, and over unemployment; and to unemployment over outside the labour force (see figure 4). Thus, a volunteer worker who also has a part-time employee job should be classified as *employed*, a student who is also seeking and available for employment should be classified as *unemployed*, and a person who has a part-time job working only a few hours for pay and who is also seeking another job should be classified as *employed*. The sum of persons in employment plus persons in unemployment comprises the *labour force*.

4.309. The *labour force status* of persons is established with regard to a short reference period of seven days or one week, which may be the last seven days prior to the specified census day, the last completed calendar week or a specified recent fixed week. For comparability purposes, it is particularly useful to apply the same short reference period for the census as for the national labour force survey, if any. This short reference period serves to provide a snapshot picture of labour market participation in the country around the time of the census. As such, the *labour force* (that is, persons in employment plus persons in unemployment) reflects the supply of labour for the production of goods and services in exchange for pay or profit at a specified point in time. Seasonal variations in employment and unemployment levels, which may be significant both in industrialized and in developing economies, will not be captured. Assessments of such temporal variations in work patterns are more adequately captured through sub-annual household surveys (for example monthly, quarterly).

4.310. Depending on the way the relevant parts of the census questionnaire have been constructed, the determination of the labour force status of a person may be influenced by respondents’ or enumerators’ subjective understanding of the concepts of employment and unemployment. In this regard, particular attention should be given to special groups for which the determination of labour force status may be difficult. These groups include youths, women and older persons after the normal age of retirement, in particular those working as contributing family members. Their participation in employment and job search activities is frequently overlooked and needs close attention. In particular, the common notion that women are generally engaged in homemaking duties, or cultural perceptions relating to gender roles, can result in serious omissions with respect to measuring women’s participation in employment and job search activities. To reduce underreporting, enumerators need to be explicitly instructed, or the questionnaires specifically designed, to ask about the possible jobs, including part-time, casual, temporary and informal jobs, or job search activities of every woman and man above the specified age in the household.

4.311. The addition of probing questions in an interview, or more detailed questions in a self-administered questionnaire, may lengthen the time required to complete the questionnaire and increase the cost of the census. Accordingly, it will be necessary to balance the gains in terms of minimizing response errors when such questions are used against the added costs associated with their inclusion. Given the importance of reliable data on labour force status, however, serious consideration should be given to minimizing classification errors. To this end, the training of enumerators should highlight likely sources of omission or gender bias leading to underestimation of participation in employment.

Figure 4.  
Classification of working age population by labour force status



(a) Employed persons

4.312. *Employed persons* are all those above the specified age who during a short reference period of seven days or one week were engaged in any activity to produce goods or provide services for pay or profit. The notion “for pay or profit” refers to work done as part of a transaction in exchange for remuneration payable in the form of wages or salaries for time worked or work done or in the form of profits derived through market transactions from the goods and services produced. It includes remuneration in cash or in kind, whether actually received or not, payable directly to the person performing the work or indirectly to a household or family member.

4.313. Two categories of persons in employment are (a) employed persons “at work”, that is, who worked for pay or profit for at *least* one hour; and (b) employed persons “not at work” due to working-time arrangements (such as shift work, flexitime and compensatory leave for overtime) or to “temporary absence” from a job for pay or profit.

4.314. Use of the one-hour criterion serves to ensure coverage of all types of jobs engaged in, including part-time, temporary or casual jobs, thereby supporting identification of all persons

in employment and analysis of their working conditions. This criterion is also essential in order to ensure that unemployed persons refer to those without *any* employment, who are seeking and available for work for pay or profit. Moreover, this criterion is a prerequisite for the consistency of employment statistics with national accounts data on production. When information on working time is also collected (see paragraphs 4.369-4.375), it is recommended that employed persons be classified by specified bands of working time so as to enable identification of persons with both short and excessive working time.

4.315. Persons on “temporary absence” from a job, including as employees or self-employed, should be considered as in employment, provided that they were “not at work” for a short duration and maintained a job attachment during the absence. The existence of a job attachment should be established on the basis of the reason for the absence and, in the case of certain reasons, the continued receipt of remuneration or the total duration of the absence (in general not greater than three months).

- (a) Reasons for absence where job attachment is generally maintained and thus do not require further probing include sick leave due to own illness or injury (including occupational); public holidays, vacation or annual leave; and periods of maternity or paternity leave as specified by legislation.
- (b) Reasons for absence requiring further assessment of continued receipt of remuneration or total duration include parental leave, educational leave, care for others, other personal absences, strikes or lockouts, reduction in economic activity (for example temporary lay-off, slack work), disorganization or suspension of work (for example due to bad weather, mechanical, electrical or communication breakdown, problems with ICT, and shortage of raw materials or fuels).

#### *Treatment of specific groups*

4.316. According to international standards, the following groups of persons should be classified as in employment:

- (a) Persons with a job for pay or profit who, during the reference period, were on training or skills enhancement activities required by their job or for another job in the same economic unit;
- (b) Apprentices, interns or trainees who work for pay in cash or in kind;
- (c) Persons who work for pay or profit through employment promotion programmes;
- (d) Persons who work in their own economic units to produce goods intended *mainly* for sale or barter, even if part of the output is consumed by the household or family;
- (e) Persons with seasonal jobs during the off season, if they continue to perform some tasks and duties of the job, excluding, however, fulfilment of legal or administrative obligations (for example pay taxes);
- (f) Regular members of the armed forces and persons on military or alternative civilian service who perform this work for pay in cash or in kind.

4.317. Persons who either work in a market unit operated by a family member living in the same or in another household (that is, contributing family workers) or perform tasks or duties of an employee job held by a family member living in the same or in another household should also be classified as in employment. These groups of workers are included in employment, regardless of the number of hours actually worked, as they contribute their labour to produce goods and services for pay or profit, payable to the household or family.

4.318. In accordance with the priority rule to establish their labour force status (see paragraph 4.308), persons who during the reference period were primarily students, homemakers,

pensioners, registered unemployed, or engaged in other forms of work, and at the same time were engaged in employment, as defined above, should be classified as in employment.

4.319. Excluded from employment are:

- (a) Apprentices, interns and trainees who work *without* pay in cash or in kind (that is, unpaid trainee work);
- (b) Participants in skills training or retraining schemes within employment promotion programmes, when *not* engaged in the production process of an economic unit;
- (c) Persons who are required to perform work as a condition of continued receipt of a government social benefit such as unemployment insurance;
- (d) Persons with seasonal jobs during the off season, if they *cease* to perform the tasks and duties of the job;
- (e) Persons who retain a right to return to the same economic unit but who were absent for reasons specified in paragraph 4.315(b), when the total duration of the absence exceeds the specified threshold or if the test of receipt of remuneration is not fulfilled;
- (f) Persons on indefinite lay-off who do not have an assurance of return to employment with the same economic unit;
- (g) Persons who work to produce goods intended *mainly* or *exclusively* for consumption or use by the household or family, even if a surplus or part of the output is sold or bartered (that is, own-use production of goods, see paragraphs 4.376);
- (h) Household members who provide *unpaid* services for consumption or use by their household (that is, own-use provision of services);
- (i) Persons who work voluntarily and *without* pay to produce goods or services through or for other economic units, including market, non-market units and households (that is, volunteer work).

4.320. Information should be given in the census reports describing how the above-mentioned groups and other relevant groups were treated. Consideration should also be given to the desirability of identifying some of the groups (for example paid apprentices, interns and trainees) separately in tabulations.

(b) Unemployed persons

4.321. *Unemployed persons* are all those above the specified age who (a) were not in employment, (b) carried out activities to seek employment during a specified recent period and (c) were currently available to take up employment given a job opportunity.

4.322. To be classified as unemployed, a person must satisfy all of the three criteria, where:

- (a) “Not in employment” (that is, not engaged in work for pay or profit) is assessed with respect to the short reference period for the measurement of employment as defined in paragraph 4.312.
- (b) To “seek employment” refers to any activity when carried out, during a specified recent period comprising the last four weeks prior to enumeration or calendar month, for the purpose of finding a job or setting up a business or agricultural undertaking. This includes also part-time, informal, temporary, seasonal or casual employment, paid apprenticeships, internships or traineeships, within the national territory or abroad. Examples of such activities are arranging for financial resources; applying for permits or licences; looking for land, premises, machinery, supplies or farming inputs; seeking the assistance of friends, relatives or other types of intermediaries; registering with or contacting public or private

employment services; applying to employers directly, or checking at worksites, farms, factory gates, markets or other assembly places; placing or answering newspaper or online job advertisements; and placing or updating résumés on professional or social networking sites online.

- (c) “Currently available” serves as a test of readiness to start a job in the present, assessed with respect to the same short reference period that is used to measure employment. Depending on national circumstances, the reference period may be extended to include a short subsequent period not exceeding two weeks in total, so as to ensure adequate coverage of unemployment situations among different population groups.

4.323. Unemployment has been one of the most widely used measures of labour underutilization. However, it only captures persons in situations of complete lack of work for pay or profit, and where opportunities for job search exist. In circumstances where there are few channels for seeking employment or where labour markets are limited in scope, or when labour absorption is inadequate, unemployment will not capture fully all persons with an unmet need for employment, as persons will take any available jobs, create their own jobs, often as own-account workers, become discouraged, or engage in production of goods for own final use (for example, subsistence agriculture or fishing). Additional measures of underutilized labour include the *potential labour force*,<sup>150</sup> defined in paragraph 4.330, and persons in *time-related underemployment*.<sup>151</sup> Separate identification of these groups of persons supports better assessment of the different types of underutilization affecting labour markets across settings, and for more targeted policymaking.

4.324. It may be useful to distinguish first-time jobseekers, who have never worked before, from other jobseekers in the classification of the unemployed. Such a separation would be useful for policy purposes as well as in improving the international comparability of employment statistics. To do so, however, may require an additional question regarding previous work experience, which may impose too much of a burden for a population census.

#### *Treatment of specific groups*

4.325. Also classified as unemployed according to international standards are:

- (a) *Future starters*, defined as persons “not in employment” and “currently available” who did not “seek employment” because they had already made arrangements to start a job within a short subsequent period, set according to the general length of waiting time for starting a new job in the national context but generally not greater than three months;
- (b) Participants in skills training or retraining schemes within employment promotion programmes, who, on that basis, were “not in employment”, not “currently available” and did not “seek employment” because they had a job offer to start within a short subsequent period, generally not greater than three months;
- (c) Persons “not in employment” who carried out activities to migrate abroad in order to work for pay or profit but who were still waiting for the opportunity to leave.

4.326. In accordance with the priority rule to establish their labour force status (see paragraph 4.308), persons who during the reference period were mainly students, homemakers, pensioners, registered unemployed or engaged in forms of work other than employment (for example, own-use production work, volunteer work), and who at the same time were “not in employment”, carried out activities to “seek employment” and were “currently available”, as defined above, should be classified as in unemployment. Information should be given in the census reports on how persons in these and any other specific groups were treated.

<sup>150</sup> Replaces the optional relaxation of the “seeking work” criterion in the previous International Conference of Labour Statisticians standards.

<sup>151</sup> See Nineteenth International Conference of Labour Statisticians, *Resolution Concerning Statistics of Work, Employment and Labour Underutilization* (Geneva, 2013).

## (c) Persons outside the labour force

4.327. *Persons outside the labour force* comprise all those who in the short reference period were neither employed nor unemployed as defined above, including persons below the minimum age specified for the collection of economic characteristics.

4.328. Different classifications of persons outside the labour force may be used for analytical purposes. Particularly useful for informing labour market and social policies and programmes are classifications by degree of labour market attachment and by main reason for not entering the labour force. These alternative classifications can be derived from the same questions used to identify the unemployed and may be used separately or in combination to enable further analysis.

4.329. *Persons outside the labour force* may be classified by the degree of labour market attachment into the following groups:

- (a) *Unavailable jobseekers*, that is, those “seeking employment” but not “currently available”;
- (b) *Available potential jobseekers*, that is, those not “seeking employment” but “currently available”;
- (c) Willing non-jobseekers, that is, those neither “seeking employment” nor “currently available” but who want employment;
- (d) *Others*, that is, persons neither “seeking employment” nor “currently available” who do not want employment.

4.330. The classification of persons outside the labour force by degree of labour market attachment allows identification of the *potential labour force*, computed as the sum of (a) *unavailable jobseekers* plus (b) *available potential jobseekers*. Together with unemployment, the potential labour force is a key measure of labour underutilization, relevant both in more and less developed settings, especially where the conventional means of seeking employment are of limited relevance, where the labour market is largely unorganized or of limited scope, when labour absorption is, at the time, inadequate, or where persons are largely self-employed.

4.331. Although not a part of the potential labour force, the group (c) willing non-jobseekers represents another group of persons outside the labour force with an expressed interest in employment and is particularly relevant for social and gender analysis in specific contexts.

4.332. Persons outside the labour force may also be classified by their main activity or reason for not entering the labour market into the following groups. Some persons may be classifiable in more than one category. In such situations, priority should be given to the possible categories in the following order:

- (a) *Attending an educational institution* refers to persons outside the labour force, who attended any regular educational institution, public or private, for systematic instruction at any level of education, or were on temporary absence from the institution for relevant reasons corresponding to those specified for employed persons “not at work”.
- (b) *Performing unpaid household services* refers to persons outside the labour force engaged in the unpaid provision of services for their own household, such as spouses and other relatives responsible for the care and management of the home, children and older persons. (Domestic and personal services provided by domestic employees working *for pay* in somebody else’s home are considered as employed in line with paragraph 4.312 above).



- (c) *Retiring on pension or capital income* refers to persons outside the labour force who receive income from property or investments, interests, rents, royalties or pensions from former employment.
- (d) *Other reasons* refers to all persons outside the labour force who do not fall into any of the above categories (for example, children not attending school, those receiving public aid or private support and persons with disabilities).

4.333. Additional reasons for not entering the labour force that are considered particularly important at national or regional level, such as “engaged in own-use production of goods” (for example, foodstuffs from agriculture, fishing, hunting or gathering) should also be taken into account in the classification of population outside the labour force.

#### 7.4. Characteristics of jobs and establishments

4.334. Once the labour force status of persons has been established, additional important topics regarding the labour market participation of the population relate to the characteristics of their jobs and of the establishments in which they work. These include in particular status in employment, occupation, place of work, industry, institutional sector, working time and income.

4.335. A *job* is defined as the set of tasks and duties performed or meant to be performed by one person for a single economic unit. Persons in employment can and do sometimes have more than one job in the reference period. In such cases the main job is defined in the international standards as that with the longest hours usually worked even if the employed person was not at work in the reference period.<sup>152</sup>

4.336. Job-related characteristics are generally collected in reference to the main job for persons in employment, and may also be collected in reference to the *last main job* (if any) for persons not in employment (that is, unemployed or outside the labour force). This allows for classification of the labour force (that is, employed persons and unemployed persons) and of persons outside the labour force by characteristics of their (last) main job. Once the (last) main job is identified, it is essential that all subsequent questions refer to that same job, even if the respondent was not at work in the reference period. The census questionnaire or the census information taken from registers should be designed in a way that will ensure that the variables “status in employment”, “occupation”, “industry”, and “institutional sector” are measured for the same job. This should be a central concern also for countries that rely on the use of administrative registrations for the capturing of the correct values of these variables.

4.337. The collection of data on characteristics of the *last main job* of unemployed persons, especially occupation, industry and status in employment, may be useful in order to inform policies aimed at promoting employability and job creation. To serve this purpose, it is generally recommended to set a time limit for past employment experience (for example, during the last five or ten years) and only collect information on the characteristics of the last main job if it was held within the time limit.

4.338. When secondary jobs held in the reference period are also identified, the questionnaire should be designed so as to enable clear and separate identification of characteristics relating to main and secondary jobs. Identification of secondary jobs is particularly important in countries where multiple job holding is commonplace, particularly in agriculture, and when collecting information on income from employment and working time, in order to support analysis of the relationship between employment, income and poverty.

<sup>152</sup> Nineteenth International Conference of Labour Statisticians, *Resolution Concerning Statistics of Work, Employment and Labour Underutilization* (Geneva, 2013), para. 12(b).



## 7.5. Status in employment (core topic)

4.339. *Status in employment* refers to the type of explicit or implicit contract of employment with other persons or organizations that the employed person has in his or her job. The basic criteria used to define the groups of the classification are the type of economic risk, an element of which is the strength of the attachment between the person and the job, and the type of authority over establishments and other workers that the person has or will have in the job. Care should be taken to ensure that an employed person is classified by status in employment on the basis of the same job used for classifying the person by “occupation”, “industry” and “sector”.

4.340. For purposes of international comparison, it is recommended that the main job of employed persons be classified by status in employment in accordance with the latest standards for statistics on this topic. At the time the present set of census recommendations was approved, a revision of these standards was under way and expected to be completed by 2018.<sup>153</sup> The latest standard was the International Classification of Status in Employment (ICSE-93) adopted by the Fifteenth International Conference of Labour Statisticians in 1993.<sup>154</sup> Based on ICSE-93, jobs may be classified by status in employment as follows:

- (a) Employees;
- (b) Self-employed:
  - i. Employers;
  - ii. Own-account workers;
  - iii. Members of producers’ cooperatives;
  - iv. Contributing family workers;
- (c) Persons not classifiable by status.

4.341. An *employee* is a person who works in a job where the explicit or implicit contract of employment gives the incumbent a basic remuneration that is independent of the revenue of the unit for which he or she works (this unit can be a corporation, a non-profit institution, a government unit or a household). *Employees* are typically remunerated by wages and salaries, but may be paid by commission from sales, or through piece rates, bonuses or in-kind payment such as food, housing or training. Some or all of the tools, capital equipment, information systems and premises used by the incumbent may be owned by others, and the incumbent may work under the direct supervision of or according to strict guidelines set by the owner or persons in the owner’s employment.

4.342. A *self-employed person* is one who works in a job where the remuneration is directly dependent upon the profits (or the potential for profits) derived through market transactions from the goods and services produced. The term “self-employed” refers to all the subcategories under (b) in paragraph 4.340: employers; own-account workers; members of producers’ cooperatives; and contributing family workers.

4.343. An *employer* is a person who, working on his or her own account or with one or a few partners, holds a self-employment job and, in this capacity, has engaged on a continuous basis (including the reference period) one or more persons to work for him or her as employees. The incumbent makes the operational decisions affecting the enterprise, or delegates such decisions while retaining responsibility for the welfare of the enterprise. Some countries may wish to distinguish among employers according to the number of persons they employ.

4.344. An *own-account worker* is a person who, working on his or her own account or with one or a few partners, holds a self-employment job, and has not engaged any employees on a continuous basis. (Note, however, that during the reference period an own-account worker may have engaged one or more employees on a short-term and non-continuous basis without being thereby classifiable as an employer.) Persons engaged in agriculture (including

<sup>153</sup> Information about the issues that may be addressed in the revision of these standards may be found in Nineteenth International Conference of Labour Statisticians, “Room Document 8”, *Revision of the International Classification of Status in Employment (ICSE-93)* (Geneva, 2013).

<sup>154</sup> For more details see Fifteenth International Conference of Labour Statisticians, *Resolution Concerning the International Classification of Status in Employment* (Geneva, 1993).

livestock care), fishing, hunting and gathering, intended mainly for own consumption by their households, are no longer included in employment on the sole basis of that activity and should therefore not be considered as “own-account workers”. Instead, participation in these productive activities is to be measured through the separate concept of “own-use production of goods” (see paragraphs 4.376-4.381).

4.345. A *member of a producers’ cooperative* is a person who holds a self-employment job in an establishment organized as a cooperative, in which each member takes part on an equal footing with other members in determining the organization of production, sales or other work, investments and the distribution of proceeds among the members. Note that employees of producers’ cooperatives are not to be classified as in this group but should be classified as “employees”.

4.346. A *contributing family worker* is a person who holds a self-employment job in a market-oriented establishment operated by a related person living in the same or in another household, and who cannot be regarded as a partner (that is to say, an employer or own-account worker) because the degree of his or her commitment to the operation of the establishment, in terms of working time or other factors to be determined by national circumstances, is not at a level comparable with that of the head of the establishment. Where it is customary for young persons, in particular, to work without pay in a market-oriented enterprise operated by a related person who does not live in the same household, the requirement that the person lives in the same household may be relaxed.

4.347. *Persons not classifiable by status* include those persons with jobs about which insufficient information is available, or who cannot be included in any of the preceding categories (for example, persons assisting with the tasks or duties of an employee job held by a family member living in the same or in another household).

4.348. When members of the armed forces paid in cash or in kind are counted among the employed, they should be included in the category of employees. However, because of the wide range of national practices in the treatment of the armed forces, it is recommended that census tabulations and related notes provide an explicit indication of the status in employment category in which they are included.

4.349. There are several groups of workers that are on the margin between employee and self-employed, such as owner-managers of incorporated enterprises (see following paragraph), outworkers, contract workers and commission workers.<sup>155</sup> Consultations between national accountants and labour market analysts will be necessary to make decisions about the treatment of these groups in a consistent manner, and depending on the descriptive and analytical purposes of the statistics.

4.350. *Owner-managers of incorporated enterprises* are workers who hold a job in an incorporated enterprise in which they (a) alone, or together with other members of their families or one or a few partners, hold controlling ownership of the enterprise; and (b) have the authority to act on its behalf as regards contracts with other organizations and the hiring and dismissal of employees, subject only to national legislation regulating such matters and the rules established by the board of the enterprise.

4.351. In most census questionnaires, the information concerning status in employment will be captured through precoded alternatives where only a few words can be used to convey the intended meaning of each category. This may mean that classification of some of the situations on the borderline between two or more categories will be carried out according to the subjective understanding of the respondent rather than according to the intended distinctions. This should be kept in mind in designing the questionnaire and also when presenting the resulting statistics. Countries that rely on the direct use of administrative records for the classification of persons according to status in employment may find that the group “contributing family workers” cannot be separately identified. Those who would have been classified

<sup>155</sup> For a discussion of the treatment of these groups, see Fifteenth International Conference of Labour Statisticians, *Resolution Concerning the International Classification of Status in Employment* (Geneva, 1993); and Nineteenth International Conference of Labour Statisticians, “Room Document 8”, *Revision of the International Classification of Status in Employment (ICSE-93)* (Geneva, 2013).

as being in this group when using a questionnaire may either be classified as part of one of the other groups or excluded from persons in employment.

## 7.6. Occupation (core topic)

4.352. *Occupation* refers to the type of work done in a job by the person employed (or the type of work done in the last job held, if the person is unemployed), irrespective of the industry or the status in employment in which the person's job should be classified. Type of work is considered in terms of the main tasks and duties performed in the job.

4.353. For purposes of international comparison, it is recommended that countries make it possible to prepare tabulations involving occupations in accordance with the latest revision available of the International Standard Classification of Occupations (ISCO). At the time the present set of census recommendations was approved, the latest revision was the one adopted by a Tripartite Meeting of Experts in Labour Statistics in 2007 and endorsed by the Governing Body of the International Labour Organization in 2008<sup>156</sup> and generally known as ISCO-08. Countries coding occupation according to a national standard classification should establish a correspondence with ISCO either through double coding or through mapping from the detailed groups of the national classification to ISCO.

4.354. Countries should code the collected occupational responses at the lowest possible level of ISCO or a related national classification supported by the information given in each response. In order to facilitate detailed and accurate coding, it would be useful for the census questionnaire to ask each employed person for both the occupational title and a brief description of the main tasks and duties performed on the job. Information provided in response to the industry questions (see following section) may also be used to assist in the coding of occupation data, where the occupation response on its own is insufficient to assign a detailed occupation classification code.

4.355. In preparation for the coding of the occupation responses, the organization responsible for the census should prepare a coding index reflecting the type of responses that will be given by the respondents. The coding index should be constructed by occupational classification experts on the basis of responses to similar questions in other data collections, such as previous censuses, census tests and labour force surveys, as well as input from job placement officers of the employment service and the content of newspaper advertisements of vacant jobs. The coding index should clearly distinguish between responses belonging to "not elsewhere classified" categories and responses that do not provide enough information to determine an occupational group.

## 7.7. Industry (core topic)

4.356. *Industry* (branch of economic activity) refers to the kind of production or activity of the establishment or similar unit in which the job(s) of the employed or unemployed person was located during the time reference period established for data collection on economic characteristics.<sup>157</sup>

4.357. For purposes of international comparison, it is recommended that countries compile information on industry according to the most recent revision of the International Standard Industrial Classification of All Economic Activities (ISIC) available at the time of the census. At the time this present set of census recommendations was approved, the fourth edition of ISIC, adopted by the United Nations Statistical Commission at its thirty-seventh session in 2006, was the latest revision available. Countries coding industry according to a national standard classification should establish correspondence with ISIC either through double coding or through mapping from the detailed groups of the national classification to ISIC.

<sup>156</sup> "Structure", "Group Definitions" and "Correspondence Tables", *International Standard Classification of Occupations (ISCO-08)*, vol. 1 (Geneva, International Labour Office, 2012).

<sup>157</sup> For those persons who are recruited and employed by one enterprise but who actually work at the place of another enterprise (called *agency workers* or *seconded workers* in some countries), there would be user interest in gathering information about the industry of the employer as well as the industry of the place of work. However, the collection of both would be more appropriate in a labour force survey rather than in a population census. The industry of the actual place of work may provide more reliable reporting of the "industry" variable in a population census. Any such choice should, however, be consistent with the treatment of this group in the *System of National Accounts*.

4.358. Countries should code the collected industry responses at the lowest possible level of ISIC or a related national classification supported by the information given in each response. In order to facilitate detailed and accurate coding, for each job to be coded, the census questionnaire should ask for the main products and services produced or the main functions carried out at the establishment or enterprise in which the person was employed. It is recommended that the name and address of the establishment should also be collected (see also paragraph 4.363). Countries with business registers that are complete and up to date can then use this response as a link to the register in order to obtain the industry code given to the establishment.

4.359. In preparation for the coding of the industry responses that cannot be matched to a precoded register, the organization responsible for the census should create a coding index that reflects the type of responses that will be given on the census questionnaire. This coding index should be constructed by industry classification experts on the basis of available lists of enterprises, establishments, businesses and so forth, as well as from responses to similar questions in other data collections, including previous censuses, census tests and labour force surveys. The coding index should clearly distinguish between responses belonging to “not elsewhere classified” categories and responses that do not provide enough information to allow for the coding of a detailed industry group.

## 7.8. Place of work

4.360. Two main topics related to the place of work of persons in employment are the *type of workplace* and its *geographic location*. The type of workplace refers to the nature of the place where the person performed his or her *main job* and distinguishes between the home and other workplaces, whether fixed or otherwise.

4.361. Three main categories, or a variation thereof necessitated by national circumstances, are recommended for classifying the *type of workplace*:

- (a) *Work at home*. This category includes those who perform the tasks and duties of their main job from within the home, such as farmers who work and live on their farms, homeworkers, self-employed persons operating (work)shops or offices inside their own homes, and persons working and living at work camps.
- (b) *No fixed place of work*. This category should be restricted to persons who, in performing the tasks and duties of their main job, travel in different areas and who do not report daily in person to a fixed address as a work base, for example, travelling salespersons, long-distance commercial vehicle drivers, seafarers, fishers and own-account taxi drivers. It also includes ambulant vendors, operators of street or market stalls that are removed at the end of the workday, construction workers working at different sites during the reference period and push-cart operators.
- (c) *With a fixed place of work outside the home*. All other persons in employment should be included in this category, including persons who move around in their job but have a fixed-base location to which they report daily, such as bus and taxi drivers (with a base), train and airline staff, and operators of street and market stalls that are not removed at the end of each workday. This group may also include individuals who travel to work, on a regular basis, across the national border to a neighbouring country.

4.362. It is likely that for some jobs, performance is at more than one location (for example, at home some of the time or season and in a fixed location outside the home at other times) or the category cannot be clearly distinguished. One approach, in the case of the former, would be to select the place where the individual spends or spent a major part of his or her working time. Where the distinction between categories is blurred, as is the case for work done, for example, on a rented plot of land adjacent to one's home, it would be useful to identify borderline cases,

according to national circumstances. Specific instructions should be given to the enumerators on how to select between two or three possible responses to classify borderline cases.

4.363. The *geographic location* of the place of work can provide useful information for planning when used together with information on place of residence. To this end, countries may collect, for employed persons with a fixed place of work outside the home, information on the location of the place of work (or the reporting place) during the reference period. The information collected should relate to the smallest civil division in which the job is performed, for example, in order to establish commuter flows from the place of residence to the place of work. Some countries investigating this topic in the population census have recorded the actual address of the place of work, allowing detailed tabulations and mapping of place of residence by geographic location of place of work. Information on actual address of the place of work can also be useful for industry coding (see paragraph 4.358) in countries where a business register has been developed that shows the industry code of each recorded establishment.

4.364. In some countries there may be concerns about the sensitivity of questions on the address of place of work owing to fears that there may be follow-up to a respondent's employer. In many developing countries, it may not be possible to gather information on actual address of place of work because street addresses do not exist, and for proxy responses, the address may not be known. In those situations, it would be useful to consider collecting information on the village, suburb, or similar low level of geography.

4.365. Additional questions may also be asked on the method of travel to work in order to produce statistics on travel-to-work patterns, valuable as basis for transportation planning.

## 7.9. Institutional sector of employment

4.366. The *institutional sector of employment* relates to the legal organization and principal functions, behaviour and objectives of the enterprise with which a job is associated.

4.367. Following the definitions provided in the *System of National Accounts*, distinction should be made between the following institutional sectors:

- (a) *Corporation*, comprising non-financial and financial corporations (in other words incorporated enterprises, private and public companies, joint stock companies, limited liability companies, registered cooperatives, limited liability partnerships, and so forth) and quasi-corporations (that is to say, an unincorporated enterprise that is managed as if it were a corporation, in that a complete set of accounts is kept), as well as non-profit institutions, such as hospitals, schools and colleges that charge fees to cover their current production costs;
- (b) *General government*, comprising central, state and local government units together with social security funds imposed or controlled by those units, and non-profit institutions engaged in non-market production controlled and financed by government, or by social security funds;
- (c) *Non-profit institutions serving households* (for example, churches, professional societies, sports and cultural clubs, charitable institutions and aid agencies) that provide non-market goods and services for households (that is to say, free or at prices that are not economically significant) and whose main resources are from voluntary contributions;
- (d) *Households* (including unincorporated enterprises owned by households) comprising unincorporated enterprises directly owned and controlled by members of private and institutional households (made up of persons staying in hospitals, retirement homes, convents, prisons and so forth, for long periods of time), either individually or in partnership with others. Partners may be members of the same household or from different households.



4.368. In most census questionnaires, the information concerning institutional sector of employment will be captured through precoded alternatives where only a few words can be used to convey the intended meaning of each category. This may mean that classification of some units on the borderline between two or more categories will be carried out according to the subjective understanding of the respondent rather than according to the intended distinctions. This should be kept in mind when presenting the resulting statistics.

### 7.10. Working time

4.369. The number of employed persons provides only a very rough estimate of the volume of work performed, especially when such persons have non-standard working hours. Inclusion in the census of an item on time worked helps to ensure a more accurate measurement of the concept by capturing the full contribution of persons who were in and out of the workforce or who worked only for a brief time during the year.

4.370. To provide a comprehensive measure of working time in employment that will best inform policy and analytical needs, it may be preferable to collect information about the total hours worked in all jobs rather than to limit the information to hours worked in the main job.

4.371. Information on two distinct concepts of working time can be collected in a population census: *hours actually worked* and *hours usually worked*.

4.372. *Hours actually worked* is defined as the time spent in a job for the performance of activities that contribute to the production of goods and/or services during a specified reference period. It covers the time spent in “direct hours”, in “related hours”, “down time” and short “resting time”. “Direct hours” is the time spent carrying out the tasks and duties of the job—and may be performed in any location. “Related hours”, while not leading directly to goods produced or services provided, is the time spent maintaining, facilitating or enhancing productive activities, including upkeep of the workplace, changing time or decontamination of work clothes, purchasing or transporting materials, waiting for business, customers or patients, on-call duties, travelling between work locations, and work training or skills enhancement required by the economic unit. In practice, “down time” includes unavoidable, temporary interruptions to work (for example machinery or Internet breakdown, lack of supplies). “Resting time” is inactive time for short rest or refreshment in the course of performing job-related activities, (for example coffee breaks). Longer breaks for meals, time spent not working because of vacation, holidays, sickness, industrial disputes, etc., commuting to work (if not also performing job tasks or duties) and educational leave even if paid, are excluded from hours actually worked.

4.373. Measurement of hours actually worked in employment, in the context of the population census, is usually collected using one direct question; it is optimally measured using a set of questions, requesting hours separately for each day of the week. For employed persons not at work in the short reference period, it is possible to have a value for hours actually worked of zero (for persons away on leave) or reduced (if a part of the reference period was taken off for sickness, holiday, or other purpose).

4.374. *Hours usually worked* is defined as the typical value of the hours actually worked in a job per short reference period (for example one week) over a long observation period (month, quarter, season, year) that comprises the short reference period itself. This “typical value” of time worked during a normal or typical week may be the modal number of the hours actually worked in the short period as distributed over the long period. This would include overtime hours regularly worked whether paid or unpaid. Days and hours not usually worked and unusual periods of overtime are not included.

4.375. Measurement of hours usually worked in employment relating to the short reference period of one week can be done with one direct question: how many hours do you usually

work per week (in your main job or in all jobs)? For persons with more than one job during the reference week, to record both working time in the main job (for which the other descriptive variables are collected) and total working time (sum of working time in all jobs) the questionnaire would require at minimum two questions.

### 7.11. Participation in own use production of goods (core topic)

4.376. Countries where production of goods for own final use (such as foodstuffs from agriculture, fishing, hunting and gathering, water, firewood and other household goods) represents an important component of the livelihood of a part of the population, whether as a main or secondary activity, will need to consider collecting information in the population census on the number of persons engaged in this form of work (previously included within the concept of employment). Such information is essential for benchmarking purposes, especially where household surveys are not frequent, for comprehensive sectoral analysis, particularly of work in agriculture, forestry and fishing, and to enable integration of the population census with the agricultural census (see also paragraphs 4.387-4.396).

4.377. *Persons in own-use production of goods* are all those above the specified age who, during a specified reference period, performed “any activity” to produce goods for own final use. The notion “for own final use” is interpreted as production where the intended destination of the output is *mainly* for final use by the producer in the form of capital formation, or final consumption by household members, or by family members living in other households.

4.378. According to international standards, “any activity” to produce goods (within the 2008 System of National Accounts production boundary) covers work performed for at least one hour in the following activities, when the intended destination of the output is mainly for own final use, as specified above:

- (a) Producing and/or processing for storage agricultural, fishing, hunting and gathering products;
- (b) Collecting and/or processing for storage mining and forestry products, including firewood and other fuels;
- (c) Fetching water from natural and other sources;
- (d) Manufacturing household goods (such as furniture, textiles, clothing, footwear, pottery or other durables, including boats and canoes);
- (e) Building, or effecting major repairs to, one’s own dwelling, farm buildings, etc.

4.379. For measurement purposes, the intended destination of the output is established in reference to the specific goods produced, based on self-declaration (that is, mainly for own final use). In the case of goods from agriculture, fishing, hunting or gathering intended mainly for own consumption, a part or surplus may nevertheless be sold or bartered.

4.380. Persons may engage in own-use production of goods as a main or secondary activity, throughout the year or on a seasonal basis. To ensure complete coverage, the census questions on participation in own-use production of goods should be applied to all persons above the specified age for collecting information on the economic characteristics of the population, irrespective of their labour force status. The reference period may refer to the last 12 months, calendar year, agricultural year or season, as relevant to national circumstances. Where pertinent, the choice of reference period should promote coherence with the agricultural census (see also paragraphs 1.44-1.50).

4.381. For assessments of the volume of work performed by persons in own-use production of goods, particularly when using a long reference period, it may be useful to include a question on working time, in particular hours usually worked (see paragraph 4.374), or based on broad categories such as part time or full time, part year or full year, number of months, as feasible and relevant to the main uses of the statistics.



## 7.12. Income

4.382. Countries may wish to collect information on the amounts of income received by individual persons or households during a specified reference period, from any source. If this topic is included in the census, it is recommended that data be obtained for all persons above a specified age, whether they are employed or not. Income may be measured at the household level, or for each individual in the household.

4.383. *Income* may be defined as all receipts whether monetary or in kind (goods and services) that are received by the household or by individual members of the household at annual or more frequent intervals, but excluding windfall gains and other such irregular and typically one-time receipts. Household income covers (a) income from employment (both paid and self-employment); (b) income from the production of goods for own final use; (c) income from the provision of household services for own final use; (d) property income; and (e) current transfers received.<sup>158</sup>

<sup>158</sup> Seventeenth International Conference of Labour Statisticians, *Resolution Concerning Household Income and Expenditure Statistics* (Geneva, 2003), paras. 4-5, available from [www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/normativeinstrument/wcms\\_087503.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/normativeinstrument/wcms_087503.pdf).

4.384. The collection of reliable data on income, especially income from self-employment and property income, is extremely difficult in general field enquiries, particularly population censuses. The inclusion of non-cash income further compounds the difficulties. Collection of household income data in a census, even when confined to cash income, presents special problems in terms of burden of work, response errors, and so forth. Therefore, this topic is generally considered more suitable in a sample survey of households or from administrative data sources such as tax or social security records. Depending on the national requirements, countries may nonetheless wish to obtain limited information on personal or household income, by covering only some of the income components (such as income from employment), for shorter reference period (such as one month), and cover only cash income. As thus defined, the information collected can provide some input into statistics that have many important uses.

4.385. According to international standards on the subject, the income from employment of employed persons should include wages and salaries of employees, income of members from producers' cooperatives and the mixed income of employers and own-account workers operating business and unincorporated enterprises. In addition to the income from employment of employed household members, the total income of the household should include, for example, the interest, dividends, rent, social security benefits, pensions and life insurance annuity benefits of all its members. The Handbook on household income statistics<sup>159</sup> provides further guidance on concepts and methods related to this topic.

<sup>159</sup> *Canberra Group Handbook on Household Income Statistics*, 2nd ed. (2011), available from [www.unece.org/fileadmin/DAM/stats/groups/cgh/Canberra\\_Handbook\\_2011\\_WEB.pdf](http://www.unece.org/fileadmin/DAM/stats/groups/cgh/Canberra_Handbook_2011_WEB.pdf).

4.386. The concepts involved in determining income are not simple to grasp and respondents may be unable or unwilling to provide exact information. For example, income should include social security benefits, pension fund contributions and direct taxes withheld from employees' salaries, but some persons will undoubtedly not include these amounts in reporting their salaries. Significant items of total household income may also be excluded or misstated. Despite instructions given to enumerators, the data collected can therefore only be expected to be approximate. Accordingly, in the presentation of results it is usually appropriate to use broad income or earnings size classes. As an aid to the interpretation of the results, tabulations of the data should be accompanied by a description of the items of income assumed to be included and, if possible, an estimate of the accuracy of the figures.

## 8. Agriculture

### 8.1. Introduction

4.387. In this section two non-core topics on agriculture are presented. These two alternative topics could be considered by countries that would like to collect information in their

population census that would facilitate the preparation of the frame of agricultural holdings in the household sector, for a subsequent agricultural census (see also paragraph 1.44-1.50).

4.388. With the first topic, at the household level, information is collected on whether any member of the household is engaged in own-account agricultural production activities at their place of usual residence or elsewhere. This information can be restricted to limited key items or may include a more comprehensive agricultural module. With the second topic, at the individual person level, information is collected to identify persons involved in agricultural activities during a long reference period such as a year before the census, in contrast to most of the topics included in a population census for which the information generally relates to the shorter reference period of a week before the census.

## 8.2. Own-account agriculture production

4.389. Some countries may want to use the population census to identify households engaged in own-account agricultural production. This information is useful for agriculture-related analysis of the population census and for use as a frame for a subsequent agricultural census or other surveys. In this case, information should be collected for all households on whether any member of the household is engaged in any form of own-account agricultural production activities.

4.390. Where possible, information should be collected to identify whether the household is engaged in any form of own-account agricultural production, covering the main agricultural activities important to the country (which can include crops, livestock and related activities). Information may also be collected on forestry, fishery and aquaculture activities in case they are important for a country. Additional information should also be collected giving a measure of farm size—such as the area or number of plots used for agricultural purposes. Countries wishing to collect more comprehensive agricultural data may wish to include an agriculture module with the core data items recommended by the *FAO World Programme for the Census of Agriculture 2020 (WCA 2020)* and the *FAO/UNFPA Guidelines for Linking Population and Housing Censuses with Agricultural Censuses* (FAO and UNFPA, 2012).

4.391. Where aquacultural production is important at the household level, information can also be collected on whether or not any member of the household is engaged in any form of own-account aquacultural production activities.

4.392. Agricultural production activities refer to groups 011, 012, 013, 014 and 015 of ISIC (Rev. 4.0), namely:

- Group 011: Growing of non-perennial crops
- Group 012: Growing of perennial crops
- Group 013: Plant propagation
- Group 014: Animal production
- Group 015: Mixed farming.

Aquacultural production activities refer to group 032 of ISIC (Rev. 4.0), namely:

- Group 032: Aquaculture

## 8.3. Characteristics of all agricultural activities during the last year

4.393. The population census normally collects information about a person's main job or work activity during a short reference period, which may not cover all persons working in agriculture because of the seasonality of many agricultural activities and because agriculture may not be the main activity of the person. To overcome this problem, information should be collected on all persons that carried out agricultural activities during the year preceding the population census day. The information to be collected should include the occupation and status of employment of all agricultural jobs, and could be expanded to cover working

time and whether the job was performed as a main or secondary activity. Given the newly adopted conceptual framework for work statistics, information should also be collected on participation in own-use production of agricultural goods, particularly in countries where subsistence agriculture is practised by part of the population (see paragraphs 4.376–4.381).

4.394. Information on occupation and status in employment of all agricultural jobs (main and secondary), and on participation in own-use production of agricultural goods, can be used as an alternative way to facilitate identification of households engaged in own-account agricultural production activities (see paragraphs 4.389–4.392). Status in employment and participation in own-use production of agricultural goods could be used to distinguish between households that are engaged in own-account agricultural production activities and households with members engaged in agricultural activities only as paid employees, which would not qualify them as households with own-account agricultural production.

4.395. Where aquacultural production is important in a country, similar information on occupation and status in employment of all aquacultural jobs, and on participation in own-use production of aquacultural goods, during the year preceding the population census day can also be included. The information to be collected could be expanded, as required, to include working time and whether the job was performed as a main or secondary activity.

4.396. An agricultural job or work activity is defined as a job or work activity in the agricultural industry as defined by groups 011, 012, 013, 014 and 015 of ISIC (Rev. 4.0); namely:

Group 011: Growing of non-perennial crops

Group 012: Growing of perennial crops

Group 013: Plant propagation

Group 014: Animal production

Group 015: Mixed farming.

An aquacultural job or work activity is defined as a job or work activity in the aquacultural industry as defined by group 032: Aquaculture of ISIC (Rev. 4.0).

## II. Housing census topics

### A. Factors determining the selection of topics

4.397. In line with the overall approach to revision 3 of *Principles and Recommendations for Population and Housing Censuses*, the selection of housing census topics, as with the population topics described in chapter I, is based on the outputs expected to be produced. Therefore, the first step involves the clear identification of expected outputs; the core and additional topics are then decided on that basis. It is recommended that countries collect data on the core topics and also produce the recommended tabulations, as this would improve the international harmonization and comparability of statistics through the use of common concepts, definitions and classifications. Use of an agreed-upon international approach would also enhance the capacity of countries to generate statistics for monitoring the socioeconomic situation of their populations, including for the provision of data for the internationally agreed-upon development goals.

4.398. Also with reference to the selection of topics to be included in a housing census, limiting statistical enquiries to the collection of data that can be processed and published within a reasonable period of time was deemed important. Such cautions are especially applicable to a housing census, since it is customary to conduct housing and population censuses as simultaneous or consecutive operations. There is a high probability that the number of data required

from a census may be beyond the capacity of enumerators to collect or census agencies to process. It may be sufficient in some developing countries, for example, to ascertain only the number of housing units and other sets of living quarters of various types, the number and characteristics of the occupants thereof and the availability of a water supply system.

4.399. In this context, countries should not attempt to collect housing data that are so incomplete that they fail to serve the principal purposes for which they are required. It is important, therefore, for census takers to consult closely with the principal users at an early planning stage in order to identify the data that are of highest priority and the means of supplying them in the most useful formats.

4.400. The topics, therefore, to be covered in a housing census (that is to say, the subjects regarding which information is to be collected for living quarters, households and buildings) should be based on a balanced consideration of:

- (a) The needs of the broad range of data users in the country at both the national and local area level (national priority);
- (b) The achievement of the maximum degree of international comparability, both within regions and on a worldwide basis (international comparability);
- (c) The sensitivity of the topics and respondent burden, that is, the willingness and ability of the public to give accurate information on the topics (suitability);
- (d) The technical competence of the enumerators in regard to obtaining information on the topics (suitability);
- (e) The total national resources available for conducting the census (resources);
- (f) The availability of relevant information held in alternative data sources (alternative sources).

4.401. Such a balanced consideration will need to take into account the advantages and limitations of alternative methods of obtaining data on a given topic within the context of an integrated national programme for gathering housing statistics.

4.402. In selecting housing topics, regard should be given to the usefulness of historical continuity, which provides the opportunity for measuring changes over time. Census takers should avoid, however, collecting information that is no longer required. Information should not be collected simply because it was collected in the past. It becomes necessary, therefore, to review periodically the value of even long-standing topics and to re-evaluate the need for their continued collection.

4.403. In selecting the housing topics, regard should also be given to the usefulness of historical continuity, which provides the opportunity for comparison of changes over a period of time. Census takers should avoid, however, collecting information that is no longer required by users. Information should not be collected simply because it was traditionally collected in the past, bearing in mind changes in the socioeconomic and housing circumstances of the country. It becomes necessary, therefore, in consultation with a broad range of users of census data, to review periodically the value of even long-standing topics and to re-evaluate the need for their continued collection, particularly in the light of new data needs and alternative data sources that may have become available for investigating topics hitherto covered in the population and housing census. Each of five key factors that need to be taken into account in reaching a final decision on census content are briefly reviewed in the following paragraphs.

## 1. National priority

4.404. The priority of designing a housing census should be to meet national needs. Should there be any conflict between such national needs and regional or global recommendations, national needs should take precedence, followed by regional recommendations and finally by global recommendations. The prime consideration is that the census should provide information on those topics that are of greatest value to the country, with questions framed so as to elicit data of maximum utility.

4.405. Each country's decision with regard to the topics to be covered should depend upon a balanced appraisal of how urgently the data are needed and whether the information could be equally well or better obtained from other sources. Experience has shown that national needs will best be served if the census includes topics generally recognized as being of basic value and defined in accordance with regional and global standards. Global and regional census recommendations can help in this appraisal by providing information about standard census topics and related definitions and concepts based on a wide range of national census experience. It is recognized however that countries that rely more on administrative records as their prime data source may be more limited in the precise detail of the information that can be collected on particular topics.

4.406. Many countries may find it necessary to include in the census topics of national or local interest in addition to the topics included in these recommendations. Housing survey data may supplement census data so as to obtain information on topics that cannot be included in the census for whatever reason. It is possible that some countries may omit from the census certain recommended topics because there is not a need to collect the data. For example, a particular amenity, such as electricity or toilet facilities, might be available virtually everywhere in a country, and, consequently, there may be no need to collect such information in a census at all. Conversely, some topics may not be included in a census because of the almost total absence of certain amenities, particularly in the rural areas of some developing countries.

4.407. In all cases, the importance of involving stakeholders in the process of identifying priorities and policy needs has to be taken into consideration early in the process of designing the housing census. The topics that are of particular interest to policymakers need to be carefully assessed in terms of applicability, reliability of data and census limitations (number of questions, and so forth). More detailed information on involvement of stakeholders is presented in part two in chapter VIII, on "User consultation, communication and publicity" (paragraphs 2.98-2.113), and also in the *Handbook on Census Management for Population and Housing Censuses*.<sup>160</sup>

<sup>160</sup> United Nations publication, Sales No. E.00XVII.15 Rev.1.

## 2. International comparability

4.408. The desirability of achieving regional and worldwide comparability should be another major consideration in the selection and formulation of topics to be included in the census. National and international objectives are usually compatible, since broad studies of countries' experiences and practices are the basis of international recommendations.

4.409. If particular circumstances within a country necessitate a departure from international standards, every effort should be made to explain these departures in the census publications and to indicate how the national presentation can be adapted to the international standards.

## 3. Suitability

4.410. A prerequisite for the inclusion of housing topics in the census should be the willingness and ability of respondents to provide accurate information on them. It is advisable to

avoid topics that could increase the burden on respondents and those that are likely to arouse fear, local prejudice or superstition or which might be used to deliberately promote political or sectarian causes, as these are likely to have a detrimental effect on response rates and support of the census. In an interview-based census or where the collector needs to obtain information through observation, consideration needs also to be given to the level of knowledge and skill of the interviewer or collector and whether they can be adequately trained to collect this information accurately. Topics that are too complicated or difficult for the average respondent or enumerator to answer quickly should also not be included. The exact phrasing of a question that will obtain the most reliable responses may depend on national circumstances and, as described in part three, should be well tested prior to the census (see paragraph 3.28).

#### **4. Resources**

4.411. The selection of topics should be carefully considered in relation to the total resources available for the census. An efficient collection of accurate data for a limited number of topics, followed by prompt tabulation and publication, is more useful than the collection of data for an overambitious list of topics that cannot be properly processed and disseminated. In balancing the need for data against resources available, the extent to which questions can be precoded is yet another consideration. This may be an important factor in determining whether or not it is economically feasible to include certain topics in the census.

#### **5. Alternative sources**

4.412. In the selection of topics to be investigated in a housing census, consideration should be given to whether data are available from other sources, taking into account the relative advantages and limitations of the alternative sources. Those topics for which no alternative sources exist should be given higher priority while those for which alternative sources are readily available should be accorded lower priority.

### **B. List of topics**

4.413. The units of enumeration for housing censuses are buildings, living quarters, households and occupants. The building is often an indirect but important unit of enumeration for housing censuses since the information concerning the building (building type, material of construction of external walls and certain other characteristics) is required to describe properly the living quarters located within the building and for the formulation of housing programmes. In a housing census, the questions on building characteristics are normally framed in terms of the building in which sets of living quarters being enumerated are located, and the information is recorded for each of the housing units or other sets of living quarters located within it.

4.414. The principal direct enumeration unit in a housing census is the living quarters. Only by recognizing this as such can data be obtained that will provide a meaningful description of the housing situation and a suitable basis for the formulation of housing programmes.

4.415. The second direct unit of enumeration is the households occupying the living quarters. For each household, it is often useful to collect information on the characteristics of the head or reference person, tenure in the housing unit, and other relevant characteristics.

4.416. The final units of enumeration are the occupants within households. However, the detailed characteristics of each individual household member are collected in a population census and are covered in chapter I.

4.417. The list presented below is based on the global and regional census experience of the last several decades. The topics included are those on which there is considerable agreement on their importance and feasibility for inclusion in a census for the purpose of measuring and evaluating housing conditions and formulating housing programmes. Those that are likely to present difficulties and require time-consuming questioning can probably best be investigated in a separate housing survey of a sample of living quarters.

4.418. Core topics are those of common interest and value to countries and also of importance in enabling comprehensive comparison of statistics at the international level. Other topics refer to data that need to be collected in order to meet the additional requirements of national users.

4.419. It should be emphasized that the topics or variables on housing contained herein are for tabulation and production of outputs as this is the overall orientation of these guidelines. Issues that pertain to data collection are addressed in other parts of the *Principles and Recommendations for Population and Housing Censuses* and other relevant United Nations handbooks.

Table 4.  
Housing census topics by unit of enumeration

Legend: ◆ Core topic, collected directly (displayed in bold); □ Core topic, derived; ○ Additional topic

No.	Topic	Living quarters			
		Housing unit	Collective living quarters	Building	Household
1	<b>Living quarters—type of</b> (paras. 4.421- 4.462)	□	◆		
2	<b>Location of living quarters</b> (paras. 4.463- 4.470)	□	◆	□	□
3	<b>Occupancy status</b> (paras. 4.471- 4.475)	◆			
4	<b>Ownership—type of</b> (paras. 4.476- 4.481)	◆			
5	<b>Rooms—number of</b> (paras. 4.482- 4.484)	◆			□
6	Bedrooms—number of (paras. 4.485- 4.486)	○			○
7	Useful floor space—(paras. 4.487- 4.489)	○	○		○
8	<b>Water supply system</b> (paras. 4.490- 4.493)	◆	○		□
9	<b>Drinking water—main source of</b> (paras. 4.494- 4.495)	◆	○		□
10	<b>Toilet—type of</b> (paras. 4.496- 4.499)	◆	○		□
11	<b>Sewage disposal</b> (para. 4.500)	◆			□
12	<b>Solid waste disposal—main type of</b> (paras. 4.501- 4.502)	◆			□
13	<b>Bathing facilities</b> (paras. 4.503- 4.505)	◆	○		□
14	<b>Kitchen—availability of</b> (paras. 4.506- 4.509)	◆	○		□
15	<b>Fuel used for cooking</b> (para. 4.510)	◆			□
16	<b>Lighting and/or electricity—type of</b> (paras. 4.511- 4.512)	◆	○		□
17	Heating—type and energy used (paras. 4.513- 4.514)	○			○
18	Hot water—availability of (para. 4.515)	○			○
19	Piped gas—availability of (para. 4.516)	○			○
20	Use of housing unit (paras. 4.517- 4.518)	○			○
21	<b>Occupancy by one or more households</b> (paras. 4.519- 4.523)	□			◆
22	<b>Occupants—number of</b> (paras. 4.524- 4.525)	◆	◆		□
23	<b>Building—type of</b> (paras. 4.526-4.534)			◆	
24	Year or period of construction (paras. 4.535- 4.539)	○		○	
25	Dwellings in the building—number of (para. 4.540)	○		○	
26	Position of dwelling in the building (paras. 4.541- 4.543)			○	



No.	Topic	Living quarters			
		Housing unit	Collective living quarters	Building	Household
27	Accessibility to dwelling (para. 4.544)	○			
28	<b>Construction material of outer walls</b> (paras. 4.545- 4.547)	◆		◆	
29	Construction material of floor and roof (para. 4.548)	○		○	
30	Elevator—availability of (paras. 4.549- 4.550)	○		○	
31	Farm building (para. 4.551)	○		○	
32	State of repair (paras. 4.552- 4.553)	○		○	
33	<b>Age and sex of the reference person of the household</b> (paras. 4.554- 4.555)				
34	<b>Tenure</b> (paras. 4.556- 4.559)				
35	Rental and housing costs (paras. 4.560- 4.562)				
36	Furnished/unfurnished (para. 4.563)	○			○
37	<b>ICT devices—availability of</b> (paras. 4.564- 4.571)				○
38	Cars—number of available (para. 4.572)				○
39	Durable household appliances—availability of (para. 4.573)				○
40	Outdoor space—access to (para. 4.574)				○

## C. Definitions and specifications of topics

4.420. Paragraphs 4.421-4.574 below contain the recommended definitions. It is important that census data be accompanied by the definitions used in carrying out the census. It is also important that any changes in definitions that might have been made since the previous census be indicated and, if possible, accompanied by estimates of the effect of such changes on the relevant data. In this way, users will not confuse valid changes over time with increases or decreases that have occurred as the result of changed definitions.

### 1. Living quarters—type of (core topic)

#### 1.1. Definition of living quarters

4.421. *Living quarters* are structurally separate and independent places of abode. They (a) may have been constructed, built, converted or arranged for human habitation, provided that they are not at the time of the census used wholly for other purposes and that, in the case of non-conventional housing units and collective living quarters, they are occupied at the time of the census; or (b) though not intended for habitation, were in use for such a purpose at the time of the census.

4.422. In any census with a field enumeration, instructions should be issued to field staff so that it is clearly understood at what stage of completion living quarters should be in order to be included. Living quarters being demolished or awaiting demolition should normally be excluded. The system used should be consistent with that employed for the system of current housing statistics and should avoid double counting where construction statistics are used to bring the census data up to date. Special instructions will need to be issued concerning “core dwellings” in countries where these are provided within a preliminary phase of dwelling construction (see paragraphs 4.438-4.441).

#### 1.2. Classification of living quarters

4.423. Living quarters are either housing units or collective living quarters. Normally, the collection of information concerning buildings and housing units located within buildings

is of prime importance in a housing census, since it is in buildings and housing units that the majority of the population permanently lives. Furthermore, housing units are intended for occupancy, or are occupied, by households, and it is with the provision of accommodation for households that housing programmes and policies are mainly concerned. However, certain types of “collective living quarters” are also of significance with respect to the housing conditions of households; these include hotels, rooming houses and other lodging houses and camps occupied by households. Housing units should be classified so as to distinguish conventional dwellings from other types of housing units. It should be emphasized that without an adequate classification of living quarters, no meaningful analysis of housing conditions based on housing census data is possible.

4.424. The classification outlined below (see also figure 5) and a system of three-digit codes have been designed to group in broad classes housing units and collective living quarters with similar structural characteristics. The distribution of occupants (population) among the various groups provides valuable information about the housing accommodation available at the time of the census. The classification also affords a useful basis of stratification for sample surveys. Living quarters may be classified into the following categories:

1. Housing units
  - 1.1. Conventional dwellings
    - 1.1.1. Has all basic facilities
    - 1.1.2. Does not have all basic facilities
  - 1.2. Other housing units
    - 1.2.1. Semi-permanent housing units
    - 1.2.2. Mobile housing units
    - 1.2.3. Informal housing units
    - 1.2.4. Housing units in permanent buildings not intended for human habitation
    - 1.2.5. Other premises not intended for human habitation
2. Collective living quarters
  - 2.1. Hotels, rooming houses and other lodging houses
  - 2.2. Institutions
    - 2.2.1. Hospitals
    - 2.2.2. Correctional institutions (prisons, penitentiaries)
    - 2.2.3. Military institutions
    - 2.2.4. Religious institutions (monasteries, convents, and so forth)
    - 2.2.5. Retirement homes, homes for older persons
    - 2.2.6. Student dormitories and similar
    - 2.2.7. Staff quarters (for example, hostels and nurses' homes)
    - 2.2.8. Orphanages
    - 2.2.9. Other
  - 2.3. Camps and workers' quarters
    - 2.3.1. Military camps
    - 2.3.2. Worker camps
    - 2.3.3. Refugee camps
    - 2.3.4. Camps for internally displaced people
    - 2.3.5. Other
  - 2.4. Other

4.425. Not all the categories in the above classification are of importance under all circumstances. For example, in some countries certain categories may not need to be considered separately, while in others it may be convenient to subdivide them. However, some of the

categories are of special significance for assessing the housing situation and should be distinguished even where a simplified classification is employed. The distinction between conventional and informal housing units is referred to particularly.

### 1.3. Definitions of each type of living quarters

4.426. A description of the categories listed in paragraph 4.424 is given below.

### 1.4. Housing units

4.427. A *housing unit* is a separate and independent place of abode intended for habitation by a single household, or one not intended for habitation but occupied as living quarters by a household at the time of the census. Thus it may be an occupied or vacant dwelling, an occupied non-conventional housing unit or any other place occupied as living quarters by a household at the time of the census. This category includes housing of various levels of permanency and acceptability and therefore requires further classification in order to provide for a meaningful assessment of housing conditions.

4.428. The essential features of housing units are separateness and independence. An enclosure may be considered separate if surrounded by walls, fences, and so forth, whether or not covered by a roof, so that a person or group of persons can isolate themselves from other persons in the community for the purposes of sleeping, preparing and taking their meals, and protecting themselves from the hazards of climate and environment. Such an enclosure may be considered independent when it has direct access from the street or from a public or communal staircase, passage, gallery or grounds, in other words, when the occupants can come in and go out of their living quarters without passing through anybody else's premises.

4.429. Attached rooms having an independent entrance, or detached rooms for habitation that clearly have been built or rebuilt or converted for use as part of living quarters, should be counted as part of the living quarters. Thus, living quarters may comprise rooms or groups of rooms with independent entrances, or separate buildings.

4.430. It should be noted that housing units on the grounds or within the buildings housing an institution, camp, and so forth should be separately identified and counted as housing units. For example, if, on the grounds of a hospital, there is a separate and independent house intended for the habitation of the director and his or her family, the house should be counted as a housing unit. In the same way, self-contained apartments located in hotel buildings should be counted as housing units if they have direct access to the street or to a common space within the building. Similar cases will need to be identified and described in the instructions for the enumeration.

#### (a) Conventional dwellings

4.431. A "conventional dwelling" is a room or suite of rooms and its accessories in a permanent building or structurally separated part thereof, which, by the way it has been built, rebuilt or converted, is intended for habitation by one household and is not, at the time of the census, used wholly for other purposes. It should have a separate access to a street (direct or via a garden or grounds) or to a common space within the building (staircase, passage, gallery and so on). Therefore, there are four essential features of a conventional dwelling:

- (a) It is a room or suite of rooms;
- (b) It is located in a permanent building;
- (c) It has separate access to a street or to a common space;
- (d) It was intended to be occupied by one household.

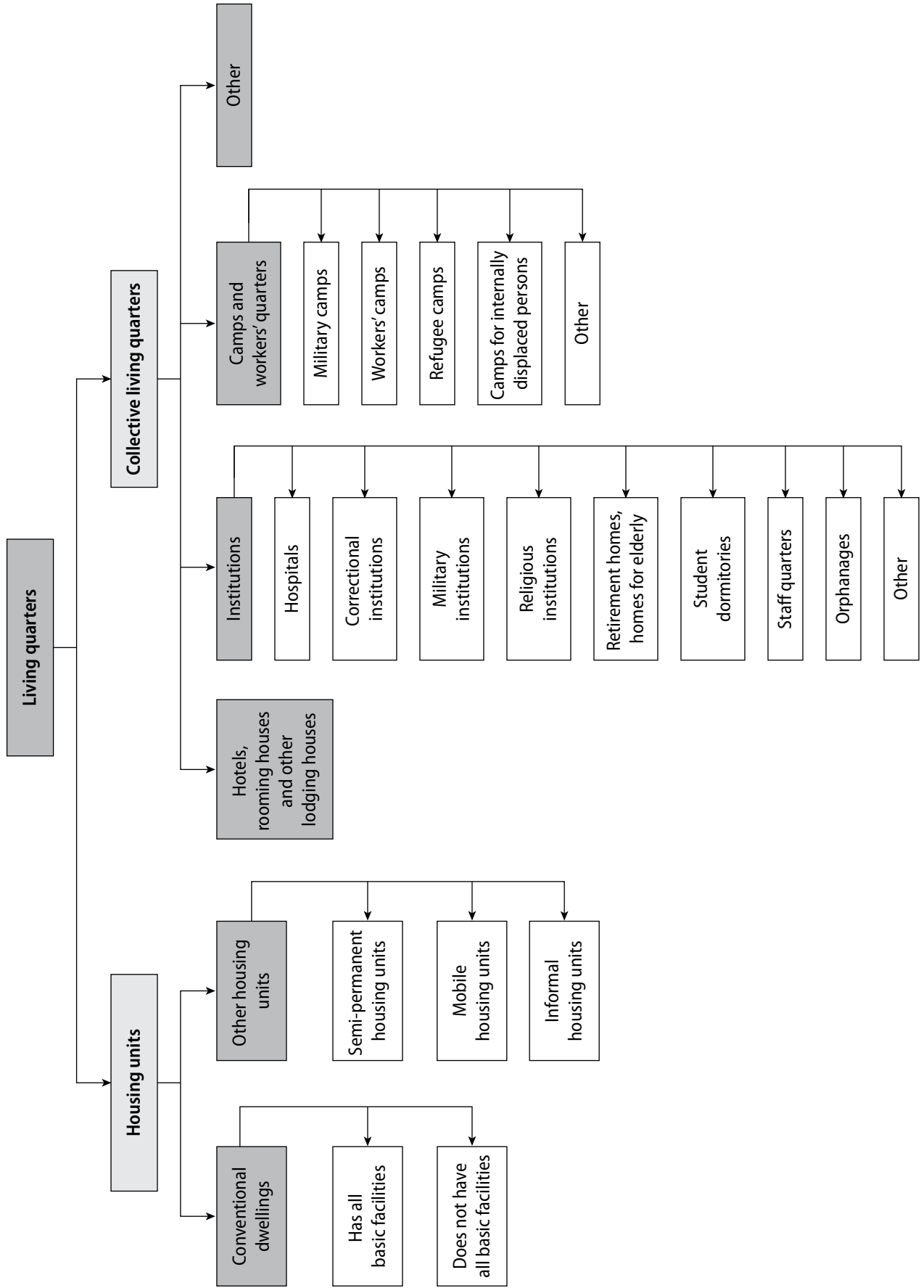


Figure 5. Classification of living quarters

4.432. Examples of conventional dwellings are houses, flats, suites of rooms and apartments. Although a conventional dwelling is a housing unit intended, that is to say, constructed or converted, for habitation by one household, it may, at the time of the census, be vacant or occupied by one or more households. It may be noted that the terms dwelling, dwelling unit, dwelling house, residential dwelling unit, family dwelling, house, *logement*, *vivienda*, *unidad de vivienda* and so forth have been used indiscriminately to refer to housing units of any type. The referent of the term “dwelling” is here limited to a housing unit located in a permanent building and designed for occupancy by one household.

4.433. A “permanent building” is understood to be a structure that is not intended to be moved and that may be expected to maintain its stability for 15 years or more, depending on the way countries define durability. It is recognized that the criterion of permanency or durability (particularly with respect to the significance of materials and methods of construction) may be difficult to apply either in the field or from information held in administrative records and that its adaptation to local conditions would require considerable study and experimentation by the national offices. In some cases, it may be of greater significance nationally to apply the criteria of construction materials and methods of construction directly in order to establish whether or not the building containing the housing unit is of permanent construction, rather than to translate these criteria into a time period.

*i. Conventional dwelling—has all basic facilities*

4.434. A conventional dwelling that has all basic facilities refers to a unit that meets all the needs of the household within its confines, such as protection from elements, cooking and maintaining hygiene. Thus, in addition to the four essential features of a conventional dwelling described in paragraph 2.431, all of the following facilities must be available for a dwelling to fall in this category:

- (a) Piped water within dwelling;
- (b) Toilet within dwelling;
- (c) Fixed bath or shower within dwelling;
- (d) Kitchen or other space for cooking within dwelling.

*ii. Conventional dwelling—does not have all basic facilities*

4.435. The conventional dwellings that fall in this category are dwellings that have the essential features of a conventional dwelling (see paragraph 4.431) and some, but not all, of the basic facilities described in paragraph 4.434.

4.436. With increased urbanization, the need for building low-cost housing units within the city limit has been increasing in many countries. This housing most frequently consists of buildings containing a number of separate rooms whose occupants share some or all facilities (bathing, toilet or cooking facilities). Those units do not meet all the criteria of a conventional dwelling with all basic facilities available within the dwelling, especially from the point of view of maintaining health standards and privacy. For example, these units are known as *casa de palomar* in Latin America.

(b) Other housing units

*i. Semi-permanent housing unit*

4.437. The term “semi-permanent housing unit” refers to a structure that, by the way it has been built, is not expected to maintain its durability for as long a period of time as a conventional dwelling, but has some of the main features and facilities of a conventional dwelling. As discussed earlier, durability needs to be specifically defined on the basis of national standards

and practices. The number of these units in some countries and areas may be substantial. Semi-permanent housing is not to be confused with informal housing units.

4.438. For example, in some countries “core” or “nuclear” dwellings around which a dwelling will eventually be constructed are provided as part of the housing programmes. In others, a significant proportion of the housing inventory is composed of dwellings that are constructed of locally available raw materials and may be less durable than conventional dwellings.

4.439. Many countries with insufficient resources to meet their housing needs have attempted to alleviate the housing conditions of the population living in squatter areas by providing core or nuclear dwellings. Under these programmes, the households move their improvised shacks from the squatter area to a new location, the idea being that gradually, and generally with government assistance, the households with core or nuclear dwellings will keep adding to the nucleus until they can abandon their shacks entirely.

4.440. A core dwelling is sometimes only a sanitary unit containing bathing and toilet facilities, to which may be added, in subsequent phases, the other elements that will finally make up the completed dwelling. Such units do not fall within the definition of a conventional dwelling. However, although the household obviously continues to occupy its original shelter (which would probably be classified as an “improvised housing unit”), its housing situation is a vast improvement over that of households remaining in the squatter areas, and the provision of the cores is a significant step towards the alleviation of housing shortages.

4.441. The problem is thus one of reflecting in the statistics the improvements brought about by programmes such as those described above without distorting the data that refer to fully constructed conventional dwellings. It is recommended, therefore, that core dwellings should be counted as dwellings in the census if at least one room<sup>161</sup> in addition to the sanitary facilities, is completed, and also that those dwellings that have not reached this stage of completion should be recorded as cores. Arrangements should be made so that the facilities available in the core can be related during data processing to the households for whose use they have been provided.

4.442. In other countries and areas, the population has developed, over time, a traditional and typical type of housing unit that does not have all the characteristics of conventional dwellings but is considered somewhat suitable from the point of view of climate and tradition. This is especially the case in many tropical and subtropical rural areas where housing units have been constructed or built with locally available raw materials such as bamboo, palm, straw or any similar materials. Such units often have mud walls, thatched roofs and so forth, and may be expected to last only for a limited time (from a few months to several years), although occasionally they may last for longer periods. This category is intended to cover housing units that are typical and traditional in many tropical rural areas. Such units may be known, for example, as *cabins*, *ranchos* or *bohíos* (Latin America), *barastis* (Bahrain), or *bahay kubo* (the Philippines).

#### ii. Mobile housing units

4.443. A “mobile housing unit” is any type of living accommodation that has been produced to be transported (such as a tent) or is a moving unit (such as a ship, boat, barge, vessel, railroad car, caravan, trailer or yacht) occupied as living quarters at the time of the census. Trailers and tents used as permanent living quarters may be of special interest in some countries.

4.444. Although mobile housing units are significantly different from other housing units in that they can be readily moved or transported, mobility in itself is not necessarily an indicator of low quality. For the assessment of housing conditions in countries with a substantial number of mobile units, it may be useful to classify them further as tents, wagons, boats, trailers or other unit types.

<sup>161</sup> For the definition of *room*, see paragraph 2.482.

### *iii. Informal housing units*

4.445. The term “informal housing unit” refers to a unit that does not have many of the features of a conventional dwelling and is generally characterized as unfit for human habitation, but that is used for that purpose at the time of the census. Therefore, it is neither a permanent structure nor one equipped with any of the essential facilities. Depending on national circumstances, countries should develop detailed instructions to distinguish between informal and semi-temporary housing units.

4.446. Informal housing units comprise three subgroups: “improvised housing units”, “housing units in permanent buildings not intended for human habitation” and “other informal housing units”. These units are characterized by the fact that they are either makeshift shelters constructed of waste materials and generally considered unfit for habitation (squatters’ huts, for example) or places that are not intended for human habitation although in use for that purpose at the time of the census (barns, warehouses, natural shelters and so on). Under almost all circumstances, such places of abode represent unacceptable housing and they may be usefully grouped together in order to analyse the housing conditions of the population and to estimate housing needs. Each subgroup is defined below.

#### *Improvised housing units*

4.447. An improvised housing unit is an independent, makeshift shelter or structure, built of waste materials and without a predetermined plan for the purpose of habitation by one household, which is being used as living quarters at the time of the census. Included in this category are squatters’ huts, *poblaciones callampas* (Chile), *hongos* (Peru), *favelas* (Brazil), *sarifas* (Iraq), *barong barong* (the Philippines) and any similar premises arranged and used as living quarters, though they may not comply with generally accepted standards for habitation, and may not have many of the characteristics of conventional dwellings. This type of housing unit is usually found in urban and suburban areas, particularly at the peripheries of the principal cities.

4.448. There is a wide variation in the procedures and criteria used in classifying these units. There are many borderline cases, and countries will need to make decisions and issue detailed instruction on how to enumerate and classify such housing units.

#### *Housing units in permanent buildings not intended for human habitation*

4.449. Included in this category are housing units (in permanent buildings) that have not been built, constructed, converted or arranged for human habitation but that are actually in use as living quarters at the time of the census. These include housing units in stables, barns, mills, garages, warehouses, offices, booths and so forth.

4.450. This category may also cover units and their occupants in buildings initially built for human habitation but later abandoned with all services cut because of deterioration. These dilapidated buildings can be found, especially in large cities, still standing, although marked for demolition. They should be included in this category if inhabited.

4.451. Premises that have been converted for human habitation, although not initially designed or constructed for this purpose, should not be included in this category, but classified as “other informal housing units”.

#### *Other informal housing units*

4.452. This category refers to living quarters that are not intended for human habitation or located in permanent buildings but that are nevertheless being used as living quarters at the time of the census. Caves and other natural shelters fall within this category.



### 1.5. Collective living quarters

4.453. *Collective living quarters* include structurally separate and independent places of abode intended for habitation by large groups of individuals or several households and occupied at the time of the census. Such quarters usually have certain common facilities, such as cooking and toilet installations, baths, lounge rooms or dormitories, which are shared by the occupants. They may be further classified into hotels, rooming houses and other lodging houses, institutions and camps.

4.454. Housing units on the grounds or within the building housing an institution, camp, hotel and so forth should be separately identified and counted as housing units.

4.455. The criteria established for the identification of collective living quarters are not always easy to apply, and it is sometimes difficult for an enumerator to decide whether living quarters should be classified as a housing unit or not. This is particularly true in the case of a building occupied by a number of households. Enumerators should be given clear instructions as to when the premises occupied by a group of people living together are to be considered a housing unit and when collective living quarters. This may be less of a problem where census information is collected from administrative data sources and where such buildings are registered as being for communal living.

#### (a) Hotels, rooming houses and other lodging houses

4.456. This group comprises permanent structures that provide lodging on a fee basis and in which the number of borders or lodgers exceeds five.<sup>162</sup> Where there are less than five, the living quarters should be classified as a housing unit. Hotels, motels, inns, boarding houses, pensions, lodging houses and similar structures fall within this category. If there is any accommodation within a hotel or similar establishment that is occupied by a household and which fulfils the requirement of a conventional dwelling it should be classified as such.

#### (b) Institutions

4.457. This group covers any set of premises in a permanent structure or structures designed to house (usually large) groups of persons who are bound by either a common public objective or a common personal interest. Such sets of living quarters usually have certain common facilities shared by the occupants (for example baths, lounges and dormitories). Hospitals, military barracks, boarding schools, convents, prisons and so forth fall within this category (see the categories in paragraph 4.424).

4.458. It may be useful, depending on national needs, to require that an institution be used as the principle usual residence of at least one person at the time of the census.

#### (c) Camps

4.459. Camps are sets of premises originally intended for the temporary accommodation of persons with common activities or interests. Included in this category are military camps, refugee camps and camps established for the housing of workers in mining, agriculture, public works or other types of enterprises.

#### (d) Other

4.460. This is a residual category for collective living quarters that may not conform to the definitions of those included in groups 2.1 through 2.3. It should be used only when the number of units in question is small. Where the number is substantial, additional groups of living quarters that have common characteristics and that are of significance for an improved appraisal of housing conditions should be established.

<sup>162</sup> The threshold of five lodgers is the one most used. However, depending on national circumstances, this number might be adjusted accordingly.

4.461. In some countries, it seems that certain types of multi-household living quarters have emerged in response to the particular needs of the population, and that the characteristics of these quarters enable them to be readily identified by an enumerator. It may be useful in these countries to provide a separate subgroup for any such special types.

4.462. It should be stressed that the types of living quarters to be included in this category are those intended for communal habitation by several households, that is to say, constructed or converted for this purpose. Housing units intended for occupancy by one household, but at the time of the census are occupied by several households, are not to be included as collective living quarters because this obscures the identification of households doubling up in dwellings (an important element in estimating housing needs). It is suggested that, in carrying out the census, a strict distinction be maintained between a housing unit occupied by more than one household and living quarters constructed or converted for communal habitation by several households.

## 2. Location of living quarters (core topic)

4.463. A great deal of information relevant to the location of living quarters is contained under the definition of “locality” and “urban and rural” (see paragraphs 4.89-4.100). It is important for those concerned with carrying out housing censuses to study this information, because the geographic concepts used in carrying out a housing census to describe the location of living quarters are extremely important both for the execution of the census and for the subsequent tabulation of the census results. When the housing census is combined with, or closely related to, a population census, these concepts need to be carefully coordinated so that the geographic areas recognized in carrying out the two censuses are of optimum value for both operations.

4.464. Information on location should be collected in sufficient detail to enable tabulations to be made for the smallest geographic subdivisions required by the tabulation plan. To satisfy the requirements of the geographic classifications recommended in the tabulations as a virtual part of this publication, information is needed on whether the living quarters are located in an urban or rural area, the major civil division, the minor civil division and, for living quarters located in principal localities, the name of the locality.

4.465. Where a permanent system of house or building numbers does not already exist, it is essential for the census to establish a numbering system so that the location of each set of living quarters can be adequately described. Similarly, in cases where streets do not have names or numbers properly displayed, such identification should be provided as one of the pre-census operations. Adequate identification provides the basis for the preparation of census control lists (see also “living quarters and household listing” in paragraphs 3.115-3.118); it is required in order to monitor and control the enumeration, and to identify living quarters for possible callbacks and post-enumeration evaluation surveys as well as for other post-censal enquiries that use the census as a sampling frame or other point of departure. Ideally, each building or other inhabited structure should be provided with a number, as should each set of living quarters within buildings or structures. In preparing a census control listing, it is the practice to identify further each household within the living quarters.

4.466. Living quarters that are not located in areas with a conventional pattern of streets, such as those in squatter areas or in some places not intended for habitation, may require special identification. Since it may not be possible to describe the location of these units in terms of a formal address, it may be necessary to describe them in terms of their proximity to natural or created landmarks of various kinds or in relation to buildings that are located in areas where a formal address is possible.

4.467. The various geographic designations that together define the location of living quarters are discussed below.

### 2.1. Address

4.468. Information that describes the place where the living quarters are to be found and distinguishes them from other living quarters in the same locality falls within this category. As a rule, the information includes the name or number of the street and the number of the living quarters; in the case of apartments, the building number and the apartment number are required.

### 2.2. Locality

4.469. For the definition of “locality”, see paragraphs 4.89-4.91.

### 2.3. Urban and rural

4.470. For the definition of “urban and rural”, see paragraphs 4.92-4.100.

## 3. Occupancy status (core topic)

4.471. *Occupancy status* refers to whether or not a conventional dwelling is occupied at the time of the census. For those dwellings not occupied (because they are vacant or in secondary use), the reason for not being occupied should be classified.

4.472. Information should be obtained for each conventional dwelling to show whether the dwelling is occupied or vacant at the time of the census. For vacant units intended for year-round occupancy, the type of vacancy (for rent or for sale, for example) should be reported. Occupancy status applies only to conventional dwellings, since all other types of living quarters are required by definition to be occupied in order to fall within the scope of the census.

4.473. The enumeration of vacant conventional dwellings is likely to pose difficult problems, but at least a total count should be made for purposes of controlling the enumeration. The type of vacancy is frequently indicated by “for sale” or “for rent” signs posted on the dwelling. Although it may not be feasible to investigate all of the topics included in the census for vacant units, as much information as possible should be collected, including information on whether the living quarters are vacant seasonally or non-seasonally.

4.474. Vacant units intended for seasonal or secondary occupancy may represent a substantial proportion of the housing stock in resort areas and in areas where large numbers of seasonal workers are employed. The separate identification of such categories may be necessary for the correct interpretation of the overall vacancy rate, as well as for an evaluation of the housing situation in the area concerned.

4.475. Whether or not living quarters whose occupants are temporarily absent or temporarily present should be recorded as occupied or vacant will need to be considered in relation to whether a de jure or de facto population census is being carried out. In either case, it would seem useful to distinguish as far as possible conventional dwellings that are used as a second residence. This is particularly important if the second residence has markedly different characteristics from the primary residence, as is the case, for example, when agricultural households move during certain seasons of the year from their permanent living quarters in a village to rudimentary structures located on agricultural holdings. The recommended classification of occupancy status for conventional dwellings is as follows:

1. Occupied
2. Vacant / not occupied

- 2.1. Seasonally vacant
  - 2.1.1. Holiday homes
  - 2.1.2. Seasonal workers' quarters
  - 2.1.3. Other
- 2.2. Secondary residences
- 2.3. For rent/sale
- 2.4. For demolition
- 2.5. Other

#### 4. Ownership—type of (core topic)

4.476. This topic refers to the type of ownership of the housing unit itself and not of that of the land on which it stands. Type of ownership should not be confused with tenure, which is a characteristic of the household and is covered in paragraphs 4.556-4.559.

4.477. Information should be obtained to show:

- (a) Whether the housing unit is owned by the public sector (central government, local government, public corporations);
- (b) Whether the housing unit is privately owned (by households, private corporations, cooperatives, housing associations and so on). The question is sometimes expanded to show whether the housing units are fully paid for, being purchased in instalments or mortgaged. The classification of housing units by type of ownership is as follows:
  - 1. Owner-occupied
  - 2. Non-owner-occupied
    - 2.1. Publicly owned
    - 2.2. Privately owned
    - 2.3. Communally owned
    - 2.4. Cooperatively owned
    - 2.5. Other

4.478. Housing units are defined as owner-occupied if used wholly or partly for own occupation by the owner. In principle, if a housing unit is being purchased in instalments or mortgaged according to national legal systems and practices, it should be enumerated as being owned. Instructions should also cover other arrangements, such as housing units in cooperatives or housing associations.

4.479. The information on ownership may be classified, as a minimum, into two main groups, namely "private ownership" and "other ownership". Depending upon the prevalence of various types of ownership and their significance with respect to housing conditions and the formulation of housing programmes, it may be useful to dissect the category "other ownership" into the relevant examples of the subgroups shown. The categories used should be consistent with those employed in the system of national accounts of the country concerned and in accordance with the recommendations contained in the *System of National Accounts 2008*.<sup>163</sup>

4.480. It has been observed that the collection of information on type of ownership in a general census may be hampered by the fact that the occupants might not know who the owner of the property is and that the owners or their representatives may be situated outside the enumeration zone. Furthermore, there are numerous cases of borderline and mixed owner-

<sup>163</sup> United Nations publication, Sales No. E.08.XVII.29.

ship, which make the topic difficult for nationwide enumeration. This is one of the topics for which more accurate information might be obtained through a housing survey.

4.481. In countries where there is a substantial amount of employer-issued housing, it would be useful to include the subcategories “issued by the employer” and “not issued by the employer” under the category “privately owned” (or publicly owned where the employer is a public sector entity). It is important that such information be known from the point of view of assessing the impact of job loss, in order to gauge the magnitude of the population whose loss of a job would include loss of housing as well.

## 5. Rooms—number of (core topic)

4.482. A *room* is defined as a space in a housing unit enclosed by walls reaching from the floor to the ceiling or roof covering, or to a height of at least 2 metres, of an area large enough to hold a bed for an adult, that is, at least 4 square metres. Usually only information on rooms in housing units is collected in a census. The total number of types of rooms therefore includes bedrooms, dining rooms, living rooms, studies, habitable attics, servants’ rooms, kitchens, rooms used for professional or business purposes, and other separate spaces used or intended for dwelling purposes, so long as they meet the criteria concerning walls and floor space. Passageways, verandas, lobbies, bathrooms and toilet rooms should not be counted as rooms, even if they meet the criteria. Separate information may be collected for national purposes on spaces of less than 4 square metres that conform in other respects to the definition of “room” if it is considered that their number warrants such a procedure.

4.483. Rooms used exclusively for business or professional purposes should be counted separately, as it is desirable to include them when calculating the number of rooms in a dwelling but to exclude them when calculating the number of persons per room. This procedure allows density levels to be studied according to the number of rooms available for living purposes in relation to the number of occupants. In any event, each country should indicate the procedure that has been followed.

4.484. It is recommended that kitchens be included in the count of rooms provided they meet the criteria concerning walls and floor space. Kitchens or kitchenettes that have an area smaller than 4 square metres or that have other characteristics that disqualify them should be excluded. For national purposes, countries may wish to identify and count kitchens within a separate group that may be analysed with respect to size and utilization, and to consider separately those used exclusively for cooking.

## 6. Bedrooms—number of

4.485. A *bedroom* is defined as a room equipped with a bed and used for night rest.

4.486. In addition to enumerating the number of rooms, some countries may wish to collect information on the number of bedrooms in a housing unit in order to provide a measure of overcrowding.

## 7. Useful floor space

4.487. This topic refers to the useful and liveable floor space in housing units, that is to say, the floor space measured inside the outer walls of housing units, excluding non-habitable cellars and attics. Information on this topic is often collected to supplement that on the number of rooms. In some countries, however, such information is collected in preference. In multiple-dwelling buildings, all common spaces should be excluded.

4.488. For collective living quarters, it would be more useful to collect information on the useful floor space per occupant of the set of collective living quarters. Data should be derived by dividing the total useful floor space by the number of occupants who are living in the space.

4.489. Collecting information on the floor space available to occupants of housing units may prove to be difficult; occupants often may not know the exact or even the approximate area of the housing unit they occupy, and training enumerators to calculate the floor space would be complicated and costly, and would result in inaccuracies. In this context, and taking into account the importance of the information concerned, countries should take into consideration developing detailed instructions on proper procedures for assessing these data (for example, a request for information on floor space from the official documents available to the occupants, such as the rental agreement and the title, which are supposed to include such information).

## 8. Water supply system (core topic)

4.490. Basic information to be obtained in the census is whether housing units have or do not have a piped water installation, in other words, whether or not water is provided to the housing unit by pipes from a community-wide system or a private installation, such as a pressure tank or pump. The unit of enumeration for this topic is a housing unit. It is also recommended that countries should indicate whether the unit has tap water inside or, if not, whether it is within a certain distance from the door. The recommended distance is 200 metres, assuming that access to piped water within that distance allows occupants of the housing unit to obtain water for household needs without being subjected to extreme efforts. Besides the location of the tap water relative to the housing unit, the source of water available to households is also of interest. Therefore, the recommended classification of housing unit by water supply system is as follows:

1. Piped water inside the unit
  - 1.1. From the community scheme
  - 1.2. From an individual source
2. Piped water outside the unit but within 200 metres
  - 2.1. From the community scheme
    - 2.1.1. For exclusive use
    - 2.1.2. Shared
  - 2.2. From an individual source
    - 2.2.1. For exclusive use
    - 2.2.2. Shared
3. Other (see category 3 of the classification in paragraph 4.495 for more details)

4.491. A community scheme is one that is subject to inspection and control by public authorities. Such schemes are generally operated by a public body but, in some cases, they are operated by a cooperative or private enterprise. An individual source of water refers to a source of water that is not part of a community scheme, such as an individual or shared water reservoir.

4.492. As noted above the unit of enumeration for this topic is the housing unit. However, some countries may find it useful to collect information on the availability of piped water for the use of occupants in collective living quarters. Such living quarters are usually equipped with multi-facilities for the use of large groups, and information on the water supply system in relation to the number of occupants would be significant in respect to analysing housing conditions. The water supply system in collective living quarters constitutes an additional topic.

4.493. The most significant information from a health point of view is whether the living quarters have piped water within the premises. However, a category may be added to distinguish cases where the piped water supply is not within the living quarters but rather within

the building in which the living quarters are situated. It may also be useful to collect information that would show whether the water supply is for the sole use of the occupants of the living quarters being enumerated or whether it is for the use of the occupants of several sets of living quarters, as indicated in the above classification at the three-digit level. Where there is a large proportion of housing units with no piped water, this category may be expanded to specify sources commonly used in a country. Additional information may be sought on the availability of hot as well as cold water and on the kind of equipment used for heating water.

## 9. Drinking water—main source of (core topic)

4.494. Having enough water for drinking and personal hygiene is essential, but quantity by itself is not sufficient. The quality of the water is also a crucial health issue. Consequently, one of the targets of the “water supply, sanitation and hygiene” (WASH) post-2015 recommendations<sup>164</sup> proposed by the WHO/UNICEF Joint Monitoring Programme on Water Supply and Sanitation (JMP) is “universal access to basic drinking water, sanitation and hygiene”, assessed in part by having access at home to safely managed drinking water. A safely managed drinking water service is defined as one that reliably delivers water that is sufficient to meet domestic needs and does not represent a significant risk to health. This implies a system that delivers water to the household and includes measures to prevent risks and to verify water quality through compliance monitoring. An improved water source (piped water, public tap or standpost, tubewell or borehole, protected dug well, protected spring, rainwater) can be safely managed. Unimproved sources, which by definition are not safely managed, include unprotected dug well, unprotected spring and surface water from a river, stream, dam, lake, pond, canal or irrigation channel. Delivered water (for example, through trucks, carts, sachets or bottles) can potentially be safely managed, but if these are the primary drinking water sources, other improved sources of water must be accessible at the household for other domestic uses (for example, washing, bathing).

4.495. Countries are encouraged to collect the information on the main source of drinking water for the household, particularly where there is considerable difference between sources of water for general household use and for drinking. For those countries wishing to collect this information, the following categories of main source of drinking water are recommended:

1. Piped water inside the unit
  - 1.1. From the community scheme
  - 1.2. From an individual source
2. Piped water outside the unit but within 200 metres
  - 2.1. From the community scheme
    - 2.1.1. For exclusive use
    - 2.1.2. Shared
  - 2.2. From an individual source
    - 2.2.1. For exclusive use
    - 2.2.2. Shared
3. Other
  - 3.1. Borehole/tubewell
  - 3.2. Protected dug well
  - 3.3. Protected spring
  - 3.4. Rainwater collection tank
  - 3.5. Delivered water—bottled, sachet
  - 3.6. Delivered water—tanker trucks, carts
  - 3.7. Unprotected dug well/spring/river/stream/lake/pond/dam/canal/irrigation channel

<sup>164</sup> See WHO/UNICEF Joint Monitoring Programme on Water Supply and Sanitation, *WASH Post-2015: Proposed Targets and Indicators for Drinking-Water, Sanitation and Hygiene* (2014), available from [www.wssinfo.org/](http://www.wssinfo.org/).



## 10. Toilet—type of (core topic)<sup>165</sup>

4.496. A *toilet* may be defined as an installation for the disposal of human excreta. A flush toilet is an installation provided with piped water that permits humans to discharge their wastes and from which the wastes are flushed by water. The unit of enumeration for this topic is a housing unit.

4.497. For housing units reported as having a toilet, additional information may be sought to determine whether the toilet is used exclusively by the occupants of the living quarters being enumerated or is shared with the occupants of other living quarters. For living quarters reported as having no toilet, it would be useful to know if the occupants have the use of a communal facility and the type of facility, or if they have the use of the toilet of other living quarters and the type, or if there is no toilet of any kind available for the use of the occupants.

4.498. Some countries have found it useful to expand the classification for non-flush toilets so as to distinguish certain types that are widely used and indicate a certain level of sanitation. The recommended classification of housing unit by toilet facilities is as follows:

1. With toilet within housing unit
  - 1.1. Flush/pour flush<sup>166</sup> toilet
  - 1.2. Other
2. With toilet outside housing unit
  - 2.1. For exclusive use
    - 2.1.1. Flush/pour flush toilet
    - 2.1.2. Ventilated improved pit latrine<sup>167</sup>
    - 2.1.3. Pit latrine without ventilation with covering
    - 2.1.4. Holes or dug pits with temporary coverings or without shelter
    - 2.1.5. Other
  - 2.2. Shared
    - 2.2.1. Flush/pour flush toilet
    - 2.2.2. Ventilated improved pit latrine
    - 2.2.3. Pit latrine without ventilation with covering
    - 2.2.4. Holes or dug pits with temporary coverings or without shelter
    - 2.2.5. Other
3. No toilet available
  - 3.1. Service or bucket facility (excreta manually removed)
  - 3.2. Use of natural environment, for example, bush, river, stream.

4.499. As noted above the unit of enumeration for this topic is the housing unit. However, some countries may find it useful to collect information on the availability of toilet facilities for the use of occupants in collective living quarters. Living quarters of this type are usually equipped with multi-facilities for the use of large groups, and information on the number and type of toilets in relation to the number of occupants would be significant in terms of analysing housing conditions. The availability of toilets for collective living quarters represents an additional topic.

## 11. Sewage disposal (core topic)

4.500. Information on toilets should be combined with the sewage disposal system to which they are connected in order to determine the adequacy of sanitation facilities of the housing unit. To be considered adequate sanitation, toilets or latrines have to be connected to non-clogged sewage disposal systems. The information on housing units by type of sewage disposal system may be classified as follows:

<sup>165</sup> It is also necessary to distinguish between conventional dwellings with all main facilities and other conventional dwellings.

<sup>166</sup> A *pour flush toilet* uses a water seal, but unlike a flush toilet, a pour flush toilet uses water poured by hand for flushing (no cistern is used).

<sup>167</sup> A *ventilated improved pit latrine (VIP)* is a dry pit latrine that uses a hole in the ground to collect the excreta and a squatting slab or platform that is firmly supported on all sides, easy to clean and raised above the surrounding ground level to prevent surface water from entering the pit. The platform has a squatting hole, or is fitted with a seat.

1. Empties into a piped system connected to a public sewage disposal plant
2. Empties into a piped system connected to an individual sewage disposal system (septic tank, cesspool)
3. Other—toilet empties into an open ditch, a pit, a river, the sea, and so forth
4. No disposal system

## 12. Solid waste disposal—main type of (core topic)

4.501. Securing sustainable development and, in this context, the usual manner of treatment of solid waste (garbage) generated by the household, has prompted the incorporation of this topic in a number of national housing censuses.

4.502. This topic refers to the usual manner of collection and disposal of solid waste or garbage generated by occupants of the housing unit. The unit of enumeration is a housing unit. The classification of housing units by type of solid waste disposal is according to the following guidelines:

1. Solid waste collected on a regular basis by authorized collectors
2. Solid waste collected on an irregular basis by authorized collectors
3. Solid waste collected by self-appointed collectors
4. Occupants dispose of solid waste in a local dump supervised by authorities
5. Occupants dispose of solid waste in a local dump not supervised by authorities
6. Occupants burn solid waste
7. Occupants bury solid waste
8. Occupants dispose solid waste into river, sea, creek, pond
9. Occupants compost solid waste
10. Other arrangement

## 13. Bathing facilities (core topic)

4.503. Information should be obtained on whether or not there is a fixed bath or shower installation within the premises of each set of housing units. The unit of enumeration for this topic is a housing unit. Additional information may be collected to show whether or not the facilities are for the exclusive use of the occupants of the living quarters and where there is a supply of hot water for bathing purposes or cold water only. In some areas of the world the distinction proposed above may not be the most appropriate for national needs. It may be important, for example, to distinguish in terms of availability among a separate room for bathing in the living quarters, a separate room for bathing in the building, an open cubicle for bathing in the building and a public bathhouse. The recommended classification of housing units by availability and type of bathing facilities is as follows:

1. With fixed bath or shower within housing unit
2. Without fixed bath or shower within housing unit
  - 2.1. Fixed bath or shower available outside housing unit
    - 2.1.1. For exclusive use
    - 2.1.2. Shared
  - 2.2. No fixed bath or shower available

4.504. Alternatively, and in line with the elaboration in the preceding paragraph, the following classification may be more appropriate in certain circumstances:

1. Separate room for bath or shower within the housing unit
2. No separate room for bath or shower but bathing space available within the housing unit (for example, in an open area around the well within the housing unit, in the courtyard)

3. Bathing room available but outside the housing unit for exclusive use
4. Shared bathing room outside the housing unit
5. No specific bathing room available

4.505. As noted above the unit of enumeration for this topic is the housing unit. However, some countries may find it useful to collect information on the availability of a bath or shower for the use of occupants in collective living quarters as well. Living quarters of this type are usually equipped with multi-facilities for the use of large groups, and information on the number of fixed baths or showers in relation to the number of occupants would be significant in terms of analysing housing conditions. The number of fixed baths or showers in collective living quarters would represent an additional topic.

#### 14. Kitchen—availability of (core topic)

4.506. Information should be obtained on whether the housing unit has a kitchen, whether some other space is set aside for cooking, such as a kitchenette, or whether there is no special place set aside for cooking. The unit of enumeration for this topic is a housing unit.

4.507. A *kitchen* is defined as a space that conforms in all respects to the criteria for a room, and is equipped for the preparation of the principal meals of the day and intended primarily for that purpose.

4.508. Any other space reserved for cooking, such as a kitchenette, will fall short in respect of possessing the attributes of a room, although it may be equipped for the preparation of the principal meals of the day and is intended primarily for that purpose. The collection of data on the availability of a kitchen may provide a convenient opportunity to collect information on the kind of equipment that is used for cooking, for example, a stove, hotplate or open fire, and on the availability of a kitchen sink and a space for food storage so as to prevent spoilage. The recommended classification of housing units by availability of a kitchen or other space reserved for cooking within the housing unit is as follows:

1. With kitchen within housing unit
  - 1.1. For exclusive use
  - 1.2. Shared
2. With other space for cooking within housing unit, such as kitchenette
  - 2.1. For exclusive use
  - 2.2. Shared
3. Without kitchen or other space for cooking within housing unit
  - 3.1. Kitchen or other space for cooking available outside housing unit
    - 3.1.1. For exclusive use
    - 3.1.2. Shared
  - 3.2. No kitchen or other space for cooking available

4.509. As noted above the unit of enumeration for this topic is the housing unit. However, some countries may find it useful to collect information on the availability of kitchen facilities for the use of occupants in collective living quarters. Living quarters of this type are usually equipped with multi-facilities for the use of large groups, and information on the number of kitchens or kitchenettes in relation to the number of occupants would be significant in terms of analysing housing conditions. The number of kitchens or kitchenettes in collective living quarters would represent an additional topic.

## 15. Fuel used for cooking (core topic)

4.510. The proportion of households using solid fuels is one of the indicators used in monitoring internationally agreed-upon development goals. There are important linkages between household solid fuel use, indoor air pollution, deforestation and soil erosion, and greenhouse gas emissions. The type of fuel and participation in cooking tasks are important predictors of exposure to indoor air pollution. It is thus recommended to collect information on the fuel used for cooking by each housing unit. Fuel used for cooking refers to the fuel used predominantly for preparation of principal meals. If two fuels (for example, electricity and gas) are used, the one used most often should be enumerated. The classification of fuels used for cooking depends on national circumstances and may include electricity, gas, oil, coal, firewood and animal dung. It would also be useful to collect this information for collective living quarters, especially if the number of sets of collective living quarters in the country is significant. The classification of fuel used for cooking is as follows:

1. Gas
2. Electricity
3. Liquefied petroleum gas (LPG)
4. Kerosene/paraffin (petroleum-based)
5. Oil (including vegetable oils used as fuel)
6. Coal
7. Firewood
8. Charcoal
9. Animal dung
10. Crop residues (for example, cereal straw from maize, wheat, paddy rice, rice hulls, coconut husks, groundnut shells)
11. Other

## 16. Lighting and/or electricity—type of (core topic)

4.511. Information should be collected on the type of lighting in the housing unit, such as electricity, gas or oil lamps. If the source of energy for lighting is electricity, some countries may wish to collect information showing whether the electricity mainly comes from a community supply, private generating plant or some other source (industrial plant, mine and so on). In addition to the type of lighting, countries may assess the information on the availability of electricity for purposes other than lighting (such as cooking, heating water and heating the premises). If housing conditions in the country allow this information to be derived from the type of lighting, there would be no need for additional enquiry.

4.512. As noted above the unit of enumeration for this topic is the housing unit. However, some countries may find it useful to collect information on the availability of electricity for the use of occupants in collective living quarters. Such living quarters are usually equipped with multi-facilities for the use of large groups, and information on electricity would be significant in terms of analysing housing conditions. The availability of electricity in collective living quarters would represent an additional topic. No classification is specifically recommended.

## 17. Heating—type and energy used

4.513. This topic refers to the type of heating of housing units and the energy used for that purpose. The units of enumeration are all housing units. This topic may be less relevant for a number of countries where, owing to their geographic position and climate, there is no need to provide energy for heating.

4.514. *Type of heating* refers to the kind of system used to provide heating for most of the space: it may be central heating serving all the sets of living quarters or serving a single set of living quarters, or it may not be central, in which case the heating will be provided separately within the living quarters by a stove, fireplace or some other heating body. As for the energy used for heating, it is closely related to the type of heating and refers to the predominant source of energy, such as solid fuels (coal, lignite and products of coal and lignite, wood), oils, gaseous fuels (natural or liquefied gas), or electricity. No classification is specifically recommended.

## 18. Hot water—availability of

4.515. This topic refers to the availability of hot water in housing units. Hot water denotes water heated to a certain temperature and conducted through pipes and tap to occupants. The information collected may indicate whether there is hot water available within the housing units, or outside the living quarters for exclusive or shared use, or not at all. No classification is specifically recommended.

## 19. Piped gas—availability of

4.516. This topic refers to whether piped gas is available in the housing unit or not. Piped gas is usually defined as natural or manufactured gas that is distributed by pipeline and whose consumption is recorded. This topic may be irrelevant for a number of countries where there is either a lack of sources of natural gas or no developed pipeline system. No classification is specifically recommended.

## 20. Use of housing unit

4.517. *Use of housing unit* refers to whether the housing unit is being used wholly for habitation (residential) purposes or not. The housing unit can be used for habitation and for commercial, manufacturing or some other purposes. In a number of countries, houses are used simultaneously for more than one purpose. For example, the lower floor is used as a store or workshop, and the upper floors for habitation.

4.518. The recommended classification of the use of the housing unit is as follows:

1. Used solely for habitation
2. Used for habitation and economic activity

## 21. Occupancy by one or more households (core topic)

4.519. For the purpose of a housing census, each household must be identified separately. With respect to housing programmes, the use of the separate concepts of “household” and “living quarters” in carrying out housing censuses permits the identification of the persons or groups of persons in need of their own dwellings. If the household is defined as a group of persons occupying a set of living quarters, the number of households in the living quarters and the number of sets of occupied living quarters will always be equal, and there will be no apparent housing need as reflected by the number of “sharing” households that require their own living quarters. If living quarters are defined as the space occupied by a household, the number of households in living quarters will again be equal to the number of sets of living quarters, with the added disadvantage that there will be no record of the number of structurally separate living quarters.

4.520. Occupancy by more than one household is a useful topic for assessing the current housing situation and measuring the need for additional housing. For countries relying on the house-

keeping concept (see paragraph 2.34), the number of households occupying a housing unit is needed to understand the extent of shared housing. For countries relying on the dwelling unit concept of households (see paragraph 2.35), the household is equivalent to the dwelling unit.

4.521. In countries where it is traditional to count families, the family in the broad sense of the term may be adopted as an additional unit of enumeration; in the great majority of cases the composition of this unit will coincide with that of the household.

4.522. A household and family should be defined in the same way for housing census purposes as for population censuses (see paragraphs 4.121-4.127 and 4.140-4.145).

4.523. For the definitions of “household”, “reference person of household” and “persons living in institutions”, see paragraphs 4.121-4.148 and 2.39-2.40 in the current revision of the *Principles and Recommendations for Population and Housing Censuses*.

## 22. Occupants—number of (core topic)

4.524. Each person usually resident in a housing unit or in collective living quarters should be counted as an occupant. Therefore, the units of enumeration for this topic are living quarters. However, since housing censuses are usually carried out simultaneously with population censuses, the applicability of this definition depends upon whether the information collected and recorded for each person in the population census indicates where he or she was on the day of the census or whether it refers to the usual residence (see paragraphs 4.52-4.63). Care should be exercised in distinguishing persons occupying mobile units, such as boats, caravans and trailers, as living quarters from persons using these units as a means of transportation.

4.525. Depending on their national requirements for information, some countries may wish to distinguish between those occupants that are usually resident and those that are not usually resident in the living quarters for the purposes of better understanding the housing conditions and living arrangements of non-residents.

## 23. Building—type of (core topic)

### 23.1. Definition of building

4.526. A *building* is any independent free-standing structure comprising one or more rooms<sup>168</sup> or other spaces, covered by a roof and usually enclosed within external walls or dividing walls<sup>169</sup> that extend from the foundations to the roof. However, in tropical areas, a building may consist of a roof with supports only, that is to say, without constructed walls; in some cases, a roofless structure consisting of a space enclosed by walls may be considered a *building* (see also *compound* in paragraph 4.534).

4.527. In defining a *building*, particular care should be given to differentiating this from “type of living quarters” (see paragraph 4.421). Type of living quarters refers to structures that are designed for residential habitation or are being used for residential habitation. A building could be a number of living quarters, a commercial premises not meant, or being used, for habitation, or a mix of the two.

4.528. A building may be used or intended for residential, commercial or industrial purposes or for the provision of services. It may therefore be a factory, shop, detached dwelling, apartment building, warehouse, garage, barn and so forth. In some exceptional cases, facilities usually provided by a set of living quarters are located in two or more separate detached structures, as when a kitchen is in a separate structure. In the case of living quarters with detached rooms, these rooms should be considered separate buildings. A building may therefore contain several sets of living quarters, as is the case for an apartment building or duplex;

<sup>168</sup> For the definition of *room*, see paragraph 4.482.

<sup>169</sup> The term *dividing walls* refers to the walls of adjoining buildings that have been so constructed as to be contiguous, for example, the dividing walls of “row” houses.

it may be coextensive with single detached living quarters; or it may be only part of the living quarters, as is the case, for example, for living quarters with detached rooms, which are clearly intended to be used as part of the living quarters.

4.529. The concept of a building should be clearly defined and, in a census with a field enumeration, the instructions should indicate whether all buildings are to be listed and enumerated or only those used in whole or in part for residential purposes. Instructions should also indicate whether buildings under construction are to be recorded and, if so, at what stage of completion they are to be considered eligible for inclusion. Buildings being demolished or awaiting demolition should normally be excluded.

### 23.2. Classification of buildings by type

4.530. The following classification of buildings (or of living quarters) by type of building is recommended:

1. Residential buildings
  - 1.1. Buildings containing a single housing unit
    - 1.1.1. Detached
    - 1.1.2. Attached
  - 1.2. Buildings containing more than one housing unit
    - 1.2.1. Up to 2 floors
    - 1.2.2. From 3 to 4 floors
    - 1.2.3. From 5 to 10 floors
    - 1.2.4. 11 floors or more
  - 1.3. Buildings for persons living in institutions
  - 1.4. Other residential buildings
2. Non-residential buildings

4.531. It should be noted that, for the purpose of the housing census, the above classification refers to the building in which the sets of enumerated living quarters are located and that usually it will be the living quarters, not buildings, that will be tabulated according to the classification.

4.532. Category 1.1 provides separate subgroupings for “detached” and “attached” buildings because, although most single-unit buildings (suburban homes, villas, and so forth) are detached, in some countries a substantial number may be attached (row or terraced houses, for example) and in such cases it may be useful to identify these separately. According to the definition of “building” in paragraph 4.526 above, a group of, for example, three row or terraced houses that are attached is considered to be three separate buildings if their “external walls or dividing walls” extend from “the foundations to the roof”. Buildings containing more than one housing unit (category 1.2) will usually be apartment buildings, but they may also be other types of buildings, for example, buildings that are structurally subdivided so as to contain more than one housing unit. Buildings under the latter category should be subdivided into the following: up to 2 floors, from 3 to 10 floors and 11 floors or more. Category 1.3, “buildings for persons living in institutions”, includes hospital buildings, prisons, military establishments, and so on. On the other hand, a structurally separate housing unit (a house or apartment intended for the occupancy of staff of the institution) or one that is either within a building of the institution or detached but within the grounds, belongs in category 1.0; if the housing unit is coextensive with a building, it belongs in category 1.2.

4.533. In addition to the above, and for subsequent analysis of housing conditions, each country will find it useful to provide for separate identification of the special types of buildings that are characteristic of the country concerned. These can be classified as category 4.



### 23.3. Compound

4.534. In some countries, it may be appropriate to use the “compound” as a unit of enumeration. In some areas of the world, housing units are traditionally located within compounds, and the grouping of sets of housing units in this way has economic and social implications that need to be studied. A compound, in these circumstances, becomes a distinct unit of enumeration, on a par with a housing unit. For purposes of international comparability, a compound should be classified according to the main features and facilities it displays and classified with housing units.

## 24. Year or period of construction

4.535. This topic refers to the age of the building in which the living quarters are located. It is recommended that the exact year of construction be sought for buildings constructed during the decennial period immediately preceding the census. For buildings constructed before that time, the information should be collected in terms of periods that will provide a useful means of assessing the age of the housing stock. Difficulty may be experienced in collecting data on this topic in a field enumeration because in some cases the occupants may not know the date of construction. However, more accurate information is more likely to be available where countries use housing registers or other administrative data sources for the census.

4.536. The collection of data for single years during the most recent intercensal period is seen as a method of checking construction statistics for deficient coverage and of more closely integrating the housing census with current housing statistics.

4.537. Instead of collecting single years of construction, if this is seen to be too burdensome on the respondent, periods of construction should be collected. The periods could be defined in terms of events that have some special significance in the country concerned, particularly with regard to the effect on the condition of the housing stock; examples would be the period since the Second World War; the period between the First World War and the Second World War; and the period before a major earthquake, flood or fire. Alternatively, the response ranges could be equal to intervals from one census to the next, such as ten- or five-year age groupings depending on the frequency of census collection. This allows for comparisons across the same periods and across censuses. Narrow periods of construction are most important in the first few decades of a dwelling when the dwelling is undergoing changes, such as foundation setting, or when defects in dwelling systems, such as electrical or plumbing faults, reveal themselves. Afterwards the ranges could widen, but should be as homogeneous as possible to allow for cohort analysis. The total period covered by the age groups and the number of groups distinguished will depend upon the materials and methods of construction used in the country concerned and the number of years that buildings normally last.

4.538. Where parts of buildings have been constructed at different times, the year or period of construction should refer to the major part. Where living quarters comprise more than one building (living quarters with detached rooms, for example), the age of the building that contains the major part of the living quarters should be recorded.

4.539. In countries where a significant number of households construct their own living quarters (countries with large non-monetary sectors, for example), it may be useful to collect additional information that will distinguish the living quarters according to whether or not they were constructed by the households occupying them. The information should refer only to living quarters constructed during the preceding intercensal or 10-year period, and it should be made clear in formulating the question that it refers to living quarters constructed mainly by households (with or without the help of other households in the community) and not to construction executed by enterprises on behalf of households.

## 25. Dwellings in the building—number of

4.540. This topic refers to the number of conventional dwellings in the building. This topic is applicable in cases where there is a possibility to have unique identifier for the building itself. If a census established such an identifier (building number, for example, linked to the address) then it would be possible to introduce this topic.

## 26. Position of dwelling in the building

4.541. Some countries may want to collect information on the position of the dwelling or housing unit in the building. This information can be used as an indicator of accessibility to dwellings, possibly in conjunction with information on the accessibility to the dwellings.

4.542. The following classification of dwellings by position in the building is recommended:

1. Dwelling on one floor only
  - 1.1. Dwelling below the ground floor
  - 1.2. Dwelling on the ground floor of the building
  - 1.3. Dwelling on the 1st or 2nd floor of the building
  - 1.4. Dwelling on the 3rd or 4th floor of the building
  - 1.5. Dwelling on the 5th floor of the building or higher
2. Dwellings on two or more floors
  - 2.1. Dwelling on the ground floor of the building or below ground level
  - 2.2. Dwelling on the 1st or 2nd floor of the building
  - 2.3. Dwelling on the 3rd or 4th floor of the building
  - 2.4. Dwelling on the 5th floor of the building or higher

4.543. For dwellings on two or more floors, information should be provided with reference to the lowest floor level of the dwelling.

## 27. Accessibility to dwelling

4.544. The following classification of accessibility to the front door of the dwelling or housing unit is recommended, based on the presence of ramps, steps and lifts:

1. Access with no steps or ramp
2. Access by ramp
3. Access by stair lift for persons with disabilities
4. Access using lift only (though the building may have staircases as well)
5. Access by using only steps
6. Access only by using both lift and steps

Note that these categories are not necessarily mutually exclusive.

## 28. Construction material of outer walls (core topic)

4.545. This topic refers to the construction material of external (outer) walls of the building in which the living quarters are located. If the walls are constructed of more than one type of material, the predominant type of material should be reported. The types of materials distinguished will depend upon the materials most frequently used in the country concerned and on their significance from the point of view of permanency of construction or assessment of durability. The following classification of construction materials is recommended:

- 2.2.4. Burnt clay (bricks, blocks, panels), stone, concrete
- 2.2.5. Unburnt clay, mud, earth

- 2.2.6. Wood
- 2.2.7. Bamboo
- 2.2.8. Corrugated sheets
- 2.2.9. Prefabricated units
- 2.2.10. Other materials

4.546. In some countries, the material used for the construction of roofs or of floors may be of special significance for the assessment of durability and, in such cases, it may be necessary to collect information on this as well as on the material of the walls. Durability refers to the period of time for which the structure remains habitable, subject to regular maintenance. A durable structure is one expected to remain sound for a considerable period of time. Countries may wish to define the length of the period, for example, 15 or 20 years. Durability does not depend solely on the materials used in construction, since it is also affected by the way the building was erected, that is to say, whether it was built according to construction standards and regulations. Technological developments in treating traditional building materials, such as bamboo, have extended the durability of those materials for several decades. Construction material of outer walls may be considered an indicator of the building's durability. Therefore, in order to assess quality of the national housing stock, durability may be measured in terms of material used together with adherence to construction standards. Specific instructions for enumerators at the national level should be developed on the basis of national building construction practice.

4.547. While the material of construction is a useful addition to data collected on the type of living quarters, it should not be considered a substitute for the latter topic. Wood, for example, may be the material of both a poorly constructed squatter's hut and a durable and well-constructed dwelling. In these cases, information on the type of living quarters adds significantly to the value of the census in assessing the quality of a country's housing stock.

## 29. Construction material of floor and roof

4.548. In some cases the material used for the construction of roofs and floors may be of special interest and can be used to further assess the quality of dwellings. This topic refers to the material used for roof and floor (although, depending on the specific needs of a country, it may also refer to other parts of the building in which the housing unit is located, such as the frame or the foundation). Information on the predominant material only should be collected. The following classification of construction materials is recommended:

1. Tile
2. Concrete
3. Metal sheeting
4. Wood
5. Bamboo
6. Palm, straw
7. Mud
8. Plastic sheeting
9. Other materials

## 30. Elevator—availability of

4.549. This topic refers to the availability of an elevator (or lift) in a multi-storey building (categories 2.2.3-2.2.4 of the classification of type of buildings). It is recommended that the information should be collected on the availability of an elevator that is operational for most of the time, subject to regular maintenance.

4.550. This topic can be useful for providing further information for indicating the accessibility to the building or the housing unit. This is of particular relevance for older persons and persons with disabilities. In this context it could also be useful to collect information on the size of the lift (for the handicapped persons and ambulance transport), if the lift goes to the ground floor, and whether or not the lift stops on the same floor as the dwelling.

### 31. Farm building

4.551. Some national censuses may collect information to identify if a buildings or dwelling is located on a farm. A farm building may be considered as being one that is part of an agricultural holding whether it is residential or not, that is, whether it is used for agricultural or housing purposes. All the information that is relevant to other buildings and dwellings should also be collected.

### 32. State of repair

4.552. This topic refers to whether the housing unit or the building in which the housing unit is located is in need of repair and to the kind of repair needed. The following classification is recommended:

1. Repair not needed
2. In need of repair
3. Minor repair
4. Moderate repair
5. Serious repair
6. Irreparable

4.553. Minor repairs refer mostly to the regular maintenance of the building and its component housing units, such as repair of a cracked window. Moderate repairs refer to the correcting of moderate defects such as missing gutters on the roof, large areas of broken plaster or stairways with no secure handrails. Serious repairs are needed in the case of serious structural defects of the building, such as missing shingles or tiles on the roof, cracks and holes in the exterior walls, and missing stairways. The term “irreparable” refers to buildings that are beyond repair, that is to say, with so many serious structural defects that it is deemed more appropriate to demolish the building than to undertake repairs; most usually this term is used for buildings with only the frame left standing or without complete external walls or roof.

### 33. Age and sex of the reference person of household (core topic)

4.554. From among the topics recommended for inclusion in the population census, age has been selected as being of most significance in relation to housing conditions. For the housing census, the data usually relate only to the housing units or building in which the housing units are located, but some characteristics of households that are related the housing condition can usefully be presented by the age and sex of household head or other reference person in the household.

4.555. While this information will usually be collected in a country’s population censuses and, if the population and housing censuses are conducted simultaneously, as is the practice in the majority of countries, then information on age of the head or other reference member of the household will be collected together with other relevant demographic characteristics in the population part of the census. If, however, the housing census is collected independently of the population census, then there should be a separate provision for collecting this information.

### 34. Tenure (core topic)

4.556. Tenure refers to the arrangements under which the household occupies all or part of a housing unit. The unit of enumeration is a household occupying a housing unit. The classification of households by tenure is as follows:

1. Household owns housing unit
2. Household rents all or a part of housing unit
  - 2.1. As a main tenant
  - 2.2. As a subtenant
3. Household occupies housing unit partly free of rent
4. Household occupies housing unit wholly free of rent
5. Household occupies housing unit under some other arrangement

4.557. National circumstances can dictate the need to assess the number of households occupying the housing unit free of rent to further distinguish whether such arrangement is with or without the consent of the owner. However, this information regarding the consent of the owner is subject to special scrutiny in terms of reliability. Furthermore, in countries where communal ownership is significantly represented, this topic on tenure might be further expanded in order to capture tenure arrangements of communally owned housing. Likewise, the category “other arrangements” can be extended to capture forms of tenure specific to some countries.

4.558. The information on tenure collected in the census needs to be clearly distinguished from the information on ownership (see paragraphs 4.476-4.481) and is one that should be asked of all households, otherwise there is a danger that it may be omitted in cases where more than one household occupies a single housing unit. Under some circumstances, it may be useful to indicate separately households that, although not subtenants in the sense that they rent from another occupant who is a main tenant or owner-occupant, rent part of a housing unit from a landlord who lives elsewhere. These households and subtenant households may be of special significance in formulating housing programmes. On the contrary, in countries where subtenancy is not usual, information on subtenants may not be collected in the census or, if collected, may be tabulated only for selected areas.

4.559. In countries where the land and the living quarters are frequently occupied under separate tenure, the topic may be expanded to show separate information for the tenure under which the household or households occupy the living quarters and for the tenure of the land upon which those living quarters are located.

### 35. Rental and housing costs

4.560. Rent is the amount paid periodically (weekly, monthly, and so forth) for the space occupied by a household. Information may be obtained on the basis of a scale of rents rather than on that of the exact amount paid. The data may be considered in relation either to household characteristics or to the characteristics of the living quarters. In the latter case, where more than one household occupies a single set of living quarters, the rents paid by all the households will need to be summed in order to obtain the total rent for the living quarters. In the case of living quarters that are partly rented and partly owner-occupied, it may be necessary to impute the rent for the owner-occupied portion.

4.561. In countries where rent for the housing unit is paid separately from rent for the land upon which the housing unit stands, separate information may need to be collected reflecting the amount of ground rent paid.

4.562. In addition to the amount of rent paid by renting households, it may be useful to collect information on the housing costs, which could include information on monthly mortgage payments (for owner-occupiers), taxes and cost of utilities.

### 36. Furnished/unfurnished

4.563. Countries may wish to make some provision for indicating whether the housing units covered by the rent are furnished or unfurnished and whether utilities such as gas, electricity, heat and water are included.

### 37. Information and communication technology devices—availability of (core topic)

4.564. The importance of the availability of information and communication technology (ICT) devices is increasing significantly in contemporary society. Modern technology offers a range of devices that is ever changing the structure and pattern of major social media and communications. The census provides an opportunity to assess the availability of these devices to the household. The choice of devices should be sufficient for understanding the place of ICT in the household, as well as for use for planning purposes by government and the private sector to enable wider and improved delivery of services, and to assess their impact on the society. The recommended classification is:

1. Household having a radio
2. Household having a television set
3. Household having a fixed-line telephone
4. Household having one or more mobile cellular telephones
5. Household having a personal computer
6. Household accessing the Internet from home
  - 6.1. Landline connection
  - 6.2. Mobile connection
7. Household accessing the Internet from elsewhere other than home
8. Household without any access to the Internet

4.565. Availability of ICT devices in the household is a very relevant topic for inclusion in a modern census. For instance, a category on the “Internet and personal computers (PCs)” would be concerned with determining the status of access to the Internet and PCs by households for a country, in relation to other socioeconomic or geographic classificatory variables, while a category on “access path and devices” would be concerned with determining the households with the means for electronic communication (fixed-line and mobile cellular telephones) and the equipment that provides the interface between the user and the network (PCs), in relation to other socioeconomic or geographic classificatory variables.

4.566. In designing the questions, census planners should differentiate between two distinct viewpoints, namely (a) the availability of ICT devices to the households; and (b) access to, and use of, ICT devices by the household members. The distinction is important, since households need not own, but may still have access to, personal computers and the Internet through school or university, public access centres or other households. It also means that countries interested in collecting information on ICT use, particularly of the Internet, would need to include a relevant question topic in their census individual form. The rationale for adopting either viewpoint, or even a combination of both, is not necessarily only technical, but rests more on the prevailing conditions in the society, and on how the information will be used to characterize the socioeconomic profile of households of a country. Usage statistics, including

the intensity (frequency) of use and the range of activities performed, are preferably obtained using household surveys.

4.567. Radio and television are the most widespread ICT devices in the world. They are also the most reliable and useful devices for many parts of the world where modern, Internet-based devices are not affordable, or not yet available. In hindsight, radio and television are the narrowband and broadband ICT devices of old. Few countries collect the number of radio and television sets, and thus most data are estimates. A radio set is a device capable of receiving broadcast radio signals, using popular frequencies in the FM, AM, LW and SW ranges. A radio set may be a stand-alone device, or it may be integrated into other electronic units, including portable devices. A television set is a device capable of receiving broadcast television signals, using popular access means such as over the air, cable and satellite. A television set is also typically a stand-alone device, but it may also be integrated into some other device, such as a computer or a mobile device.

4.568. Fixed-line telephones refer to telephone lines, typically using copper wires but more recently fibre optics, which connect a customer's terminal equipment, for example, a telephone set or facsimile machine, to a public switched telephone network (PSTN), and have a dedicated port on a telephone exchange. Although fixed telephone lines have now been surpassed by mobile telephony globally, they are still an important affordable communication medium. Furthermore, they provide a basis for Internet access in most economies, whether through dial-up, integrated services digital networks (ISDNs), or digital subscriber line (DSL) services.

4.569. Mobile cellular telephones have become the predominant method of communication in many countries. Indicators related to mobile telephony are therefore fundamental indicators of the information society. Mobile cellular telephones refer to portable telephones using cellular technology that provides access to PSTN. Mobile cellular subscribers refer to users of such telephones with either post-paid subscriptions or pre-paid accounts.

4.570. The personal computer (PC) is a generic term that refers to any computer designed primarily for use by one person at a time at home, office or school. PCs, whether desktops, laptops or notebooks, comprise any combination of processors, input/output devices, storage drives and network interface cards; are run by a variety of operating systems; and may be connected to other PCs or to the Internet. They exclude terminals connected to mainframe computers for data processing, and midrange multi-user systems that are primarily intended for shared use. Devices such as handheld personal digital assistants and smart telephones are usually not considered PCs, as they have only some, but not all, of the components of the PC, such as, for instance, a standard keyboard and large screen. Internet-enabled telephones, which essentially perform a similar service to the PC but for mobile networks, are also not considered PCs.

4.571. Internet access from home refers to the ability of the household to connect to the public Internet using TCP/IP protocols. Internet connections may be classified according to the technology employed, devices used, communication medium, or connection bandwidth (speed). Internet access at home is meant to include both narrowband and broadband connections. Broadband may be defined loosely as transmission capacity with sufficient bandwidth to permit combined provision of voice, data and video. The International Telecommunication Union has set a lower limit of broadband access at 256 Kbit/sec, as the sum of the connection uploading and downloading capacities. Broadband is implemented mainly through xDSL, cable, (wireless) local area network ([W]LAN), satellite broadband Internet, or fibre-to-the-home Internet access. Narrowband access is typically carried out through dial-up modems, ISDNs, and most second-generation (2G) mobile cellular telephones. Access to the Internet is measured irrespective of the type of access, device used to access the Internet, or the method of payment.



### **38. Cars—number of available**

4.572. This topic refers to the number of cars or vans normally available for use by members of the household. The term “normally available” refers to cars and vans that are either owned by occupants or are under some other more or less permanent agreement, such as a lease, and includes those provided by an employer if available for use by the household, but excludes vans used solely for carrying goods or other commercial purposes.

### **39. Durable household appliances—availability of**

4.573. The unit of enumeration is a household occupying a housing unit and information may be collected on the availability, within the housing unit, of durable appliances such as washing machines, dishwashing machines, refrigerators, deep freezers and microwave cookers, depending on national circumstances.

### **40. Outdoor space—access to**

4.574. This topic refers to the reasonable access to an outdoor space intended for the recreational activities of the members of a household occupying a housing unit. The classification can refer to any outdoor space that is available:

1. As part of a housing unit (for example, a garden or backyard)
2. Adjacent to the building (for example, playgrounds placed next to the apartment building)
3. As part of common recreational areas within a walkable distance from the housing unit (for example, parks, lakes, sports centres and similar sites)
4. Beyond a 10-minute walk.



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# The U.S. Census Bureau's Commitment to Confidentiality

*Mon May 07 2018*

WRITTEN BY: DR. RON JARMIN, PERFORMING THE NONEXCLUSIVE FUNCTIONS AND DUTIES OF THE DIRECTOR OF THE U.S. CENSUS BUREAU

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The decision by U.S. Commerce Secretary Wilbur Ross to add a question on citizenship status to the 2020 Census has generated a lot of discussion in the media and on Capitol Hill. Some of this discussion expresses concerns about how the Census Bureau would use this information and with whom it would be shared. I welcome this opportunity to highlight the Census Bureau's absolute commitment to confidentiality.

This commitment begins in law. The Census Law, Title 13 of the U.S. Code, is straightforward and has strong protection. Title 13 requires that responses to Census Bureau surveys and censuses be kept confidential and used for statistical purposes only. The Census Bureau publishes only aggregated statistics that do not reveal information about particular individuals, households or businesses. All staff working with confidential information at the Census Bureau take a [lifetime oath](#) to protect the privacy and confidentiality of respondent information. Unlawful disclosure is a federal crime punishable by a \$250,000 fine or five years in prison, or both.

At the Census Bureau, we know that our commitment must go beyond the law. We understand that our success depends on the willing participation of households and business who respond to our many censuses and surveys, and on the many federal, state and local government agencies and private sector organizations that provide administrative data. Their willing participation is founded on trust. When we ask a person or a business to respond, we make a commitment to do everything we can to protect their information. Likewise, when we ask another government agency to share their data with

us, we protect their information just as we protect the information we collect in our censuses and surveys.

We use these critical data sources to produce a variety of data products like state population estimates, monthly retail sales, income and poverty statistics, and the merchandise trade balance. Our staff receives annual training to keep them abreast of current data and IT security procedures — a measure consistent with the strong culture of confidentiality stressed at all levels of the Census Bureau. We strive to use technology and statistical methodologies to ensure that we can protect data at all stages — from collection, through processing, and to dissemination.

I know that one important concern is how the census data will be used and there is often a question of whether the Census Bureau shares information with law enforcement agencies like the FBI, ICE or even the local police. I assure you that this does not happen and it is prohibited by Title 13. Title 13 makes it very clear that the data we collect can only be used for statistical purposes and cannot be shared for nonstatistical purposes — including law enforcement. The Census Bureau is proud of this law and we are committed to ensuring that the data we collect are always protected. We do not share confidential micro data (i.e., data at the individual, household or business level) with any party for nonstatistical purposes.

We are committed to working with our stakeholders and partners to produce useful statistics that can inform both public and private decision-making. Part of this commitment means working to ensure that the statistical products we release do not identify individuals and businesses. The Census Bureau is at the forefront of researching and developing best practices for the protection of our data — including how to best apply disclosure avoidance procedures to data products.

Furthermore, our collaboration with leading experts in industry and academia helps to ensure we uphold our pledge to American households and businesses to safeguard the information they've entrusted to us. We continually strive to produce the most useful data possible while keeping our commitment to confidentiality. This commitment has served both the U.S. Census Bureau and the American people well, and we will continue to protect the information we collect so our communities and businesses can plan and make decisions effectively and confidently.



This entry was posted on Mon May 07 2018 and filed under [Census Operations](#) and [Miscellaneous](#).

[https://www.census.gov/newsroom/blogs/director/2018/05/the\\_u\\_s\\_census\\_bure.html](https://www.census.gov/newsroom/blogs/director/2018/05/the_u_s_census_bure.html)



## Commerce Secretary To Face Lawmakers In Hearing On Census Citizenship Question

Commerce Secretary Wilbur Ross, who oversees the Census Bureau, is set to testify before the House Oversight and Reform Committee.

March 14, 2019 5:00 AM ET  
HANSI LO WANG - NPR

Commerce Secretary Wilbur Ross is set to face tough questioning from lawmakers Thursday about why he approved including a citizenship question on the upcoming 2020 census.

Ross, who oversees the Census Bureau, has agreed to appear voluntarily before the House Oversight and Reform Committee on Capitol Hill to testify about preparations for national head count.

"We have had many very serious questions for Secretary Ross since we invited him to testify several months ago, and we will finally have a chance to ask him these questions — under oath — at our hearing," said the committee's chair, Rep. Elijah Cummings (D-Md.), in a written statement before Thursday's hearing.

We have had many very serious questions for Secretary Ross since we invited him to testify several months ago, and we will finally have a chance to ask him these questions — under oath — at our hearing.

Ross' testimony comes as the 2020 census is entangled in an almost year-long legal battle over the controversial question about U.S. citizenship status. That question asks, "Is this person a citizen of the United States?"

Two federal judges have ruled that Ross' decision to add it to census forms was unlawful and blocked the administration's plans for the question from moving forward.

The Supreme Court is set to hold a hearing on the question on April 23, and the justices' decision on the question's fate is likely to be announced by June.

The oversight committee's top Republican, Rep. Jim Jordan of Ohio, has raised concerns about the timing of Ross' hearing.

"Such a hearing is designed to interfere with the ongoing Supreme Court case," wrote Jordan in an op-ed with Rep. Mark Meadows (R-N.C.) that was published Wednesday on Fox News' website.

Cummings, however, has emphasized that the committee is carrying out its authority to investigate in order to find out why Ross pushed to get a citizenship question on the census.

The Commerce Department's public affairs office has not responded to NPR's multiple requests for comment about the hearing.

Ross testified last year to lawmakers that the Justice Department "initiated" the request for the question because the agency wants the responses to help it enforce Voting Rights Act provisions against discrimination of racial and language minorities.

In his opinion on the citizenship question lawsuits based in New York, however, U.S. District Judge Jesse Furman concluded that reasoning was a "sham justification." The judge cited internal documents showing that Ross pressured Commerce Department staff to ask the Justice Department to submit a formal request for the question.

In September, Furman ordered Ross to be deposed for the lawsuits, noting that "his intent and credibility are directly at issue in these cases."

But the Trump administration's attorneys at the Justice Department fought vigorously to keep Ross from having to sit for questioning under oath. The DOJ appealed Furman's order for Ross' deposition to the Supreme Court, which temporarily shielded Ross from questioning.

The administration has also tried to delay Ross' testimony before the oversight committee after Ross agreed in January to appear, according to a recent letter sent to Ross by Cummings. Committee member Rep. Jimmy Gomez (D-Calif.) says he hopes Ross' testimony "reveals something that the courts can use" in the citizenship question lawsuits. But he is keeping his expectations low.

"I wouldn't be surprised if he tries to figure out a way with his attorneys not to answer those questions," Gomez says.



January 10, 2018

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## Protect the Census: Oppose DOJ Request to Add a Citizenship Question to the 2020 Census

Dear Secretary Ross:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States, and the undersigned 167 organizations, we urge you to reject the Department of Justice's untimely and unnecessary request for a new citizenship question on the 2020 Census, which would threaten a fair and accurate decennial census. Adding a new citizenship question to the 2020 Census would destroy any chance for an accurate count, discard years of careful research, and increase costs significantly.

You and your staff have made clear that you share our goal of a full, fair, and accurate census. A fair and accurate census, and the collection of useful, objective data about our nation's people, housing, economy, and communities generally, are among the most significant civil rights issues facing the country today. Every census since the first enumeration in 1790 has included citizens and non-citizens alike. Adding a new question on citizenship to the 2020 Census undoubtedly would affect response rates, outreach, and advertising strategies, and other important elements of the nation's largest, most complex peacetime activity, calling into question the results of many years of costly, painstaking research and testing.

Adding a citizenship question to the 2020 Census would disrupt preparations at a pivotal point in the decade, undermining years of research and testing and increasing census costs significantly at a time when Congress has directed a less expensive enumeration. The Justice Department's request would literally would add billions of dollars to the life-cycle cost of this census, without improving accuracy.

Questionnaire design and testing began nearly eight years ago during the 2010 Census. Requiring this new topic this late in the decade would threaten the success of the 2020 Census because robust testing in a census-like environment is essential, given the probable chilling effect of adding these questions to the form. There simply is no time to redesign the census form, craft scientifically sound questions to collect the information the Justice Department requests, and evaluate the impact of this new question on census participation and operations before the census starts, in any responsible way. Given the constitutional requirement to conduct the census in 2020, final planning and preparations for the census would be haphazard, at best, leaving the nation with a deeply flawed foundation for our

democratic ideals, informed decision-making, and prudent allocation of precious taxpayer dollars.

In addition, adding this question would jeopardize the accuracy of the 2020 Census *in every state and every community* by deterring many people from responding. The question is unnecessarily intrusive and will raise concerns in all households – native- and foreign-born, citizens and non-citizens – about the confidentiality of information provided to the government and how that information might be used. Moreover, there are many mixed status households in the United States, which include members who are both citizens and non-citizens with various legal statuses. Mixed-status and immigrant households will be especially fearful of providing information to the federal government in 2020, given the heightened climate of fear that anti-immigrant rhetoric and policies have created. In short, any effort to determine citizenship through the constitutionally required census would jeopardize the accuracy of the entire count, leaving public, private, and nonprofit decision-makers with bad information for all purposes, for the next 10 years. Further, such an effort is likely to shake public confidence in the narrow (though vital) statistical objectives of the Census Bureau’s work, damaging ongoing data collection efforts well into the future.

Finally, in addition to being untimely, the request is unnecessary. The Justice Department has never needed to add this new question to the decennial census to enforce the Voting Rights Act before, so there is no reason it would need to do so now. Contrary to the Justice Department’s letter, the Census Bureau has not included a citizenship question on the modern census “short form,” sent to every household. In fact, no such question has appeared on the census “short form” since enactment of the Voting Rights Act in 1965. Estimates of the citizen voting-age population derived from the ongoing American Community Survey, and the so-called census “long” or sample form before that, have been and continue to be suitable for purposes of civil rights and Voting Rights Act enforcement. Whether utilizing such data for Section 2 enforcement actions, Section 203 determinations, or other voting rights enforcement efforts, courts and the Justice Department have accepted census data as currently collected since enactment of the Voting Rights Act. Given these plain facts, the entire justification for the request should be viewed skeptically as an attempt to throw a wrench into final planning and preparations for an enumeration that already faces enormous challenges, including inadequate and delayed funding, cyber-security risks, and a climate of fear fanned by anti-immigrant rhetoric.

For these reasons, we urge you to reject the Justice Department’s request to add a citizenship question to the 2020 Census. If you have any questions about these comments, please contact Leadership Conference Census Task Force Co-chairs Terry Ao Minnis, Asian Americans Advancing Justice|AAJC, at 202-296-2300 x0127, or Arturo Vargas, NALEO Educational Fund, at 213-747-7606, or Chris Harley, Census Campaign Director at 202-466-3311.

Sincerely,

The Leadership Conference on Civil and Human Rights  
18MillionRising.org  
ACCESS  
ACLU

Advancement Project California  
Alliance for Strong Families and Communities  
American Association of University Women (AAUW)  
American Educational Research Association  
American Federation of State, County and Municipal Employees (AFSCME)  
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American Library Association  
American Sociological Association  
American Statistical Association  
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Asian American Legal Defense and Education Fund (AALDEF)  
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Asian and Pacific Islander American Vote  
Asian Counseling and Referral Service  
Asian Pacific Islander Americans for Civic Empowerment (APACE)  
Association of Population Centers  
Association of Public Data Users  
Autistic Self Advocacy Network  
Black Women's Roundtable  
Black Youth Vote!  
Bread for the World  
Brennan Center for Justice  
California Calls  
Campaign Legal Center  
Casa de Esperanza: National Latin@ Network for Healthy Families and Communities  
Casa Latina  
Center for American Progress  
Center for Law and Social Policy (CLASP)  
CenterLink: The Community of LGBT Centers  
Children Now  
Children's Advocacy Alliance  
Church World Service  
Claritas  
Coalition for Disability Health Equity  
Coalition on Human Needs  
Common Cause  
Congregation Beth Shalom

Congregation of Our Lady of Charity of the Good Shepherd, US Provinces  
Consortium of Social Science Associations  
Council for Community and Economic Research  
Council of Professional Associations on Federal Statistics  
Council on American-Islamic Relations (CAIR)  
Council on American-Islamic Relations, California  
Defending Rights & Dissent  
Detention Watch Network  
Education Law Center-PA  
Emgage Foundation  
Empowering Pacific Islander Communities  
Equal Justice Society  
Equality California  
Faith in Public Life  
Family Equality Council  
Farmworker Justice  
FORGE, Inc.  
Franciscan Action Network  
Friends Committee on National Legislation  
Friends of the Earth US  
Government Accountability Project  
Government Information Watch  
Hispanic Federation  
Human Rights Campaign  
Human Rights Watch  
In the Public Interest  
Indivisible  
Insights Association  
Interfaith Worker Justice  
Irish Immigration Center of Philadelphia  
Irish International Immigrant Center  
Islamic Society of North America, Office for Interfaith and Community Alliances  
Jacobs Institute of Women's Health  
Japanese American Citizens League  
KIDS COUNT in Delaware  
Lambda Legal  
LatinoJustice PRLDEF  
League of United Latin American Citizens  
League of Women Voters of the United States  
Legal Aid at Work  
Los Angeles LGBT Center  
Maine Children's Alliance  
MALDEF



Massachusetts Voter Table  
Mi Familia Vota  
Muslim Justice League  
NAACP  
NAACP Legal Defense & Educational Fund, Inc.  
NALEO Educational Fund  
National Advocacy Center of the Sisters of the Good Shepherd  
National Alliance for Partnerships in Equity (NAPE)  
National Association of Social Workers  
National CAPACD  
National Center for Lesbian Rights  
National Center for Transgender Equality  
National Coalition on Black Civic Participation  
National Council of Asian Pacific Americans (NCAPA)  
National Council of Jewish Women  
National Council on Independent Living  
National Disability Rights Network  
National Education Association  
National Employment Law Project  
National Health Law Program  
National Immigrant Justice Center  
National Immigration Law Center  
National Institute for Latino Policy (NiLP)  
National Justice for Our Neighbors  
National Korean American Service & Education Consortium (NAKASEC)  
National Latina Institute for Reproductive Health  
National Latina/o Psychological Association  
National LGBTQ Task Force Action Fund  
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Service Employees International Union (SEIU)  
Sikh Coalition  
SiX Action  
Society of American Archivists  
Southeast Michigan Census Council  
Southern California Grantmakers  
Southern Coalition for Social Justice  
Southern Echo Inc.  
State Voices  
Sunlight Foundation  
The Children's Partnership  
The United Methodist Church - General Board of Church and Society  
The Voter Participation Center  
UnidosUS (formerly NCLR)  
Union for Reform Judaism  
Union of Concerned Scientists  
Voces Verdes  
Voices for Progress  
Voices for Vermont's Children  
Voto Latino  
Wallingford Indivisible  
Washington Immigrant Solidarity Network  
Win/Win Network  
Women's Voices Women Vote Action Fund

## SUPPLEMENTAL VIEWS

### Memorandum for Business Meeting Was Properly Issued

On June 11, 2019, Ranking Member Jordan sent Chairman Cummings a letter contending that the Committee's memorandum for the business meeting on June 12, 2019, was not sent to Committee Members in compliance with Committee rules.<sup>215</sup>

The following day, prior to the Committee's business meeting, Chairman Cummings sent a letter responding to Ranking Member Jordan's concerns and explaining his interpretation of the Committee's rules.<sup>216</sup>

During the business meeting, Rep. Mark Meadows raised a point of order regarding this issue, and Chairman Cummings ruled that the Committee had complied with its rules. Rep. Meadows appealed the ruling of the Chairman, and his appeal failed by a vote of 15 to 20.<sup>217</sup>

As Chairman Cummings explained in his letter and at the Committee's business meeting, in the previous Congress, Committee Rules provided that the Chairman of the Committee circulate a memorandum to Committee Members at least 72 hours before a Committee meeting. In the 115th Congress, Committee Rule 2(f) stated:

Every member of the Committee, unless prevented by unusual circumstances, shall be provided with a memorandum at least 72 hours before each meeting or hearing explaining: (1) the purpose of the meeting or hearing; and (2) the names, titles, background and reasons for appearance of any witnesses.

Earlier this year, the Committee voted unanimously to adopt rules for the 116th Congress. Those rules included a change to Rule 2(f). Instead of requiring 72 hours' notice, the rules required three days' notice:

Every member of the Committee, unless prevented by unusual circumstances, shall be provided with a memorandum at least three calendar days (excluding Saturdays, Sundays, and legal holidays, unless the House is in session on such days) before each meeting or hearing explaining: (1) the purpose of the meeting or hearing; and (2) the names, titles, background and reasons for appearance of any witnesses.

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<sup>215</sup> Letter from Ranking Member Jim Jordan, Committee on Oversight and Reform, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (June 11, 2019) (online at <https://republicans-oversight.house.gov/wp-content/uploads/2019/06/2019-06-11-JDJ-to-EEC-re-Business-Meeting-Agenda.pdf>).

<sup>216</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Ranking Member Jim Jordan, Committee on Oversight and Reform (June 12, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-06-12.EEC%20to%20JJ%20re%20Business%20Meeting.pdf>).

<sup>217</sup> Committee on Oversight and Reform, *Business Meeting* (June 12, 2019) (online at <https://oversight.house.gov/legislation/markups/a-resolution-recommending-that-the-house-of-representatives-find-the-attorney>).

The purpose of this change was to conform the Committee's rules to the rules of the House of Representatives. The timing set forth in the Committee's rules is drawn from House rule XI, clause 2(g)(3)(A), which states:

The chair of a committee shall announce the date, place, and subject matter of ... a committee meeting, which may not commence earlier than the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) on which members have notice thereof.

House rule XI, clause 2(g)(3)(A) has been interpreted by the House Parliamentarian as including the day on which the notice is sent and the day on which the business meeting is scheduled to occur. Committee staff confirmed this interpretation on June 11, 2019.

Chairman Cummings interpreted Committee Rule 2(f) in the same manner as House Rule XI, clause 2(g)(3)(A) to include the day on which the memorandum is sent and the day on which the business meeting is scheduled to occur. In his letter to Ranking Member Jordan, he explained that it would "be illogical to interpret our rules as allowing the notice of a business meeting to be sent after the memorandum." He also explained that this interpretation is further supported by Committee Rule 2(e), which provides: "The Chair of the Committee or a subcommittee shall announce the date, place, and subject matter of a meeting or hearing pursuant to House Rule XI, clause 2(g)(3)(A)." Finally, Chairman Cummings offered that if the Ranking Member believed any uncertainty remained, he "would entertain a request to amend our Committee rules to resolve this confusion."<sup>218</sup> The Ranking Member did not request an amendment to the Committee rules.

During the business meeting, Chairman Cummings also identified a second, independent reason that the Committee did not contravene Committee Rules. Committee Rule 2(f) provides that the requirement to provide a memorandum ahead of a Committee meeting does not apply in "unusual circumstances." As the Chairman explained, the fact that the Ranking Member first raised a "novel technical issue" with Committee rules "that has never been raised over the past six months certainly would qualify under that provision."<sup>219</sup> As the Chairman also noted, this provision has been exercised by Chairmen in previous Congresses, and Committee Republicans did not object to its use while they were in power. For example, in 2016, Chairman Jason Chaffetz gave less than 48 hours' notice for the testimony of then-Federal Bureau of Investigation Director James Comey regarding his decision to recommend against the prosecution of Hillary Clinton. Finally, the Chairman reiterated the offer in his letter to entertain

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<sup>218</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Ranking Member Jim Jordan, Committee on Oversight and Reform (June 12, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-06-12.EEC%20to%20JJ%20re%20Business%20Meeting.pdf>).

<sup>219</sup> Committee on Oversight and Reform, Business Meeting (June 12, 2019) (online at <https://oversight.house.gov/legislation/markups/a-resolution-recommending-that-the-house-of-representatives-find-the-attorney>).

any requests from Ranking Member Jordan to amend the Committee rules to resolve any lingering confusion.<sup>220</sup> The Ranking Member declined to offer any clarifying amendment.

In this case, there is no question that Members of the Committee had ample notice that the Committee planned to hold a meeting to vote on contempt resolutions for Attorney General Barr and Secretary Ross.<sup>221</sup> No Committee Members took issue with the adequacy of the notice they received for the business meeting, and no Committee Members claimed that they were unaware of the business meeting.

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<sup>220</sup> Committee on Oversight and Government Reform Democrats, *Chaffetz Demands Emergency Hearing with FBI Director Less Than 48 Hours After Recommendation in Clinton Case* (July 6, 2016) (online at <https://oversight.house.gov/news/press-releases/chaffetz-demands-emergency-hearing-with-fbi-director-less-than-48-hours-after>).

<sup>221</sup> See, e.g., Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Attorney General William P. Barr, Department of Justice (June 3, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-06-03.EEC%20to%20Barr-DOJ%20re%20Census.pdf>); Committee on Oversight and Reform, *Barr and Ross Must Produce Census Documents by Tomorrow to Avoid Contempt* (June 5, 2019) (online at <https://oversight.house.gov/news/press-releases/barr-and-ross-must-produce-census-documents-by-tomorrow-to-avoid-contempt>); Committee on Oversight and Reform, *Statement on Refusal of Barr and Ross to Produce Subpoenaed Census Documents to Avoid Contempt Vote* (June 7, 2019) (online at <https://oversight.house.gov/news/press-releases/cummings-issues-statement-on-refusal-of-barr-and-ross-to-produce-subpoenaed>); Committee on Oversight and Reform, Notice of Business Meeting (June 10, 2019).

1 [REDACTED]

2 [REDACTED]

3 HGO066101

4 INTERVIEW OF JOHN M. GORE, ESQUIRE

5 Thursday, March 7, 2019

6 House of Representatives

7 Committee on Oversight and Government Reform

8 Washington, D.C.

9 The Interview in the above matter was held in Room 6400,  
10 O'Neill House Office Building, commencing at 9:29 a.m.

11 Staff Present: S. Tori Anderson, Oversight Counsel;  
12 Russell M. Anello, Chief Oversight Counsel; Susanne Sachsman  
13 Grooms, Majority Staff; [REDACTED] [REDACTED] [REDACTED] [REDACTED] Stephen  
14 Castor, Republican Staff; Caroline Nability, Republican Staff;  
15 Ellen Johnson, Republican Staff.

16 On Behalf of the Witness: Josh Gardner, Special Counsel,  
17 Department of Justice; Kira Antell, Acting Deputy Assistant  
18 Attorney General, Department of Justice, Legislative Affairs;  
19 Brett Shumate, Deputy Assistant Attorney General, Department of  
20 Justice.

EXHIBIT INDEX

21

22

E X H I B I T S

23

(Attached to the transcript)

24

GOVERNMENT

PAGE

25

Exhibit 1 Email chain; top email dated 48

26

9-18-17 from Wendy Teramoto to John

27

Gore; 0002636 - 2639

28

Exhibit 2 Letter dated December 12, 2017, 65

29

from Arthur E. Gary to Dr. Ron

30

Jarmin; four pages

31

Exhibit 3 Email dated 12-22-17 from 146

32

Ron S. Jarmin to Karen Kelley



33                   Ms. Anderson. This is a transcribed interview  
34 of John Gore, conducted by the House Committee on Oversight  
35 and Reform. This interview was requested by Chairman  
36 Elijah Cummings as part of the Committee's oversight of the  
37 2020 census, including the decision to add a citizenship  
38 question.

39                   Can you please state your full name and spell  
40 your last name for the record, Mr. Gore.

41                   Mr. Gore. John Matthew Gore, G-O-R-E.

42                   Ms. Anderson. My name is Tori Anderson. I  
43 work as a majority counsel for the Committee on Oversight  
44 and Reform. I first want to thank you for coming in today  
45 for this interview. We appreciate you being willing to  
46 speak with us voluntarily.

47                   At this time I'll ask the additional staff in  
48 the room to introduce themselves for the record before I  
49 begin, and then we can go through the rules.

50                   Mr. Anello. Russell Anello, majority staff.

51                   Ms. Sachsman Grooms. I'm Susanne Sachsman  
52 Grooms from the majority.

53

54                   Mr. Castor. Steve Castor with the Republican  
55 staff.

56                   Ms. Nabity. Caroline Nabity with the  
57 Republican staff.

58                   Ms. Johnson. Ellen Johnson, Republican staff.

59                   Mr. Shumate. Brett Shumate, DOJ.

60                   Ms. Antell. Kira Antell, DOJ.

61                   Mr. Gardner. Josh Gardner, DOJ.

62                   Ms. Anderson. So, before we begin, I would

63 like to go over some ground rules for this interview.

64 First we can go over the structure of the transcribed

65 interview.

66                   The witness interview will proceed as follows:

67 The majority and minority staffs will alternate asking you

68 questions, one hour per side per round.

69                   The majority staff will begin and proceed for

70 an hour, and the minority staff will then have an hour to

71 ask questions. And, also, just let me know if I'm going

72 too fast.

73                   Thereafter the majority staff may ask

74 additional questions and so on.

75                   We will alternate back and forth in this manner

76 until there are more no questions from either side and the

77 interview will be over.

78                   During the interview, we will do our best to

79 limit the number of people who are directing questions at

80 you during that given hour. That said, from time to time,

81 following-up or clarifying questions may be useful. If

82 that's the case, we will hear from additional people around

83 the table.

84 Presence of counsel. Do you have personal  
85 counsel with you today?

86 Mr. Gore. No. I -- department counsel is here  
87 today.

88 Ms. Anderson. I understand that you do not  
89 have a personal attorney with you today but, instead, have  
90 agency counsel with you. Would agency counsel please  
91 identify himself.

92 Mr. Gardner. Josh Gardner.

93 Ms. Anderson. Do you understand that agency  
94 counsel represents agency and not you personally?

95 Mr. Gore. Yes, I do.

96 Ms. Anderson. And are you choosing to have  
97 agency counsel with you in the room today?

98 Mr. Gore. Yes, I am.

99 Ms. Anderson. We'll now discuss court reporter  
100 transcription. This is a -- there is a court reporter  
101 taking down everything I say and everything you say to make  
102 a written record of the interview. For the record to be  
103 clear, please wait until I finish each question before you  
104 begin to answer, and I will wait until you finish each  
105 response before asking you the next question.

106 The court reporter cannot record nonverbal  
107 answers such as shaking of your head so it's important that

108 you answer each question with audible, verbal answers.

109 Do you understand?

110 Mr. Gore. Yes.

111 Ms. Anderson. Clarifying questions. We want  
112 to answer a question -- we want you to answer our questions  
113 in the most complete and truthful manner possible so we are  
114 going to take our time.

115 If you have any questions or do not understand  
116 any of the questions, please let us know. We'll be happy  
117 to clarify or repeat the question for you.

118 Do you understand?

119 Mr. Gore. Yes.

120 Ms. Anderson. If you -- if I ask you about  
121 conversations or events in the past and you are unable to  
122 recall the exact words or details, you should testify to  
123 the substance of those conversations or events to the best  
124 of your recollection. If you recall only a part of the  
125 conversation or event, you should give us your best  
126 recollection of those events or parts of the conversations  
127 that you recall.

128 Do you understand?

129 Mr. Gore. Yes.

130 Ms. Anderson. If you need to take a break,  
131 please let us know. We are happy to accommodate you.  
132 Ordinarily we take a five-minute break at the end of each

133 hour of questioning, but if you need a break before that,  
134 just let us know.

135                   However, to the extent there is a pending  
136 question, I would just ask that you finish answering the  
137 question before we take a break.

138                   Do you understand?

139                   Mr. Gore. Yes.

140                   Ms. Anderson. Although you are here  
141 voluntarily and we will not swear you in, you are required  
142 by law to answer questions from Congress truthfully. This  
143 also applies to questions posed by congressional staff in  
144 the interview.

145                   Do you understand?

146                   Mr. Gore. Yes.

147                   Ms. Anderson. If at any time you knowingly  
148 make false statements, you could be subject to criminal  
149 prosecution.

150                   Do you understand?

151                   Mr. Gore. Yes.

152                   Ms. Anderson. Is there any reason that you are  
153 unable today to provide truthful answers in this interview?

154                   Mr. Gore. No.

155                   Ms. Anderson. Please note if you wish to  
156 assert a privilege over any statement today, that assertion  
157 must comply with committee rules. Committee Rule 16(c)(1)

158 states that "For the chair to consider assertions of  
159 privilege over testimony or statements, witnesses or  
160 entities must clearly state the specific privilege being  
161 asserted and the reason for that assertion on or before the  
162 scheduled date of testimony or appearance."

163           In addition, Committee Rule 16(c)(3) states,  
164 "The only assertions of executive privilege that the chair  
165 of the Committee will consider are those made in writing by  
166 an executive branch official authorized to assert that  
167 privilege."

168           Do you understand?

169           Mr. Gore. Yes.

170           Ms. Antell. I want to mention at this point, I  
171 understand what you've requested. And at this point, at  
172 this point in the accommodation process, Mr. Gore is going  
173 to be able to answer questions that are related to the  
174 Department's request to the Census Bureau to add a  
175 citizenship question to the census that can be answered  
176 without compromising the ongoing litigation or other  
177 executive branch confidentiality interests.

178           Ms. Sachsman Grooms. Is that some kind of a  
179 privilege?

180           Ms. Antell. We are not asserting privilege.  
181 We feel that this is an accommodation process, and we're  
182 happy to answer those questions, as I said several times in

183 email. So I think we'll go through, we'll see the  
184 questions that you might have that remain, and we're happy  
185 to take that back.

186 Ms. Sachsman Grooms. So he'll come back in?

187 Ms. Antell. If that's necessary, or we can do  
188 this by writing. We'll sort of see where the process takes  
189 us. At this point at this interview, that's what he'll be  
190 prepared to answer.

191 Ms. Sachsman Grooms. Mr. Gore, are you  
192 committed to come back to answer those questions?

193 Ms. Antell. He's not committing to anything.  
194 We're committing to fully engage in the accommodation  
195 process as we always have.

196 Ms. Sachsman Grooms. Sure. My question is to  
197 Mr. Gore, though.

198 Mr. Gore, are you committed to come in -- back  
199 in to answer those questions for us?

200 Mr. Gore. I'm not making any commitment today.  
201 This is an accommodation process between the Committee and  
202 the Department of Justice, and I anticipate that that  
203 process will play out in the ordinary course, and whether  
204 further information is sought from me or from the  
205 Department will be handled through the Office of  
206 Legislative Affairs.

207 Ms. Anderson. Do you have any questions before



208 we begin?

209 Mr. Gore. I do not.

210

211 Ms. Anderson. I want to note that we're

212 beginning our hour at 9:36.

213

EXAMINATION

214 BY MS. ANDERSON.

215 Q So, Mr. Gore, when did you first have a  
216 discussion about the addition of a citizenship question to  
217 the 2020 census?

218 A It was in late August or early September of  
219 2017.

220 Q When did you first become aware that anyone at  
221 the Department of Commerce was interested in a citizenship  
222 question?

223 A Through that discussion late August, early  
224 September 2017.

225 Q Who was that discussion with?

226 A I received a phone call from two individuals at  
227 the Department of Justice, so Attorney General Sessions and  
228 Mary Blanche Hankey.

229 Q They were both on the same phone call?

230 A Yes.

231 Q Were you aware of the contents of that  
232 conversation prior to their phone call?

233 A I'm a little confused. Which conversation?

234 Q Did they just call you, or were you aware that  
235 they were calling about a specific purpose when you got  
236 that phone call in late August 2017?

237 A Oh, I see. I had no advance knowledge of what  
238 that conversation was about.

239 Q Okay. At any point did you become aware of the  
240 reason why Secretary Ross was interested in adding a  
241 citizenship question to the 2020 census?

242 A Yes.

243 Q When did you become aware of that?

244 A Around that same time frame.

245 Q So around August 2017?

246 A Late August 2017 or early September.

247 Q And, so, in that late August, early September  
248 2017 period, that's when you first became aware that the  
249 Department of Justice was interested in helping the  
250 Department of Commerce with the citizenship question issue?

251 Mr. Gardner. I instruct the witness not to  
252 answer to the extent that it implicates the confidentiality  
253 and litigation interests reflected in the Department's  
254 letter to the Committee. To the extent you can answer that  
255 question without divulging those confidential and  
256 litigation interests, you can do so.

257 Q I'll rephrase. When did you become aware of the

258 Department of Justice's interest in the Department of  
259 Commerce's efforts to add a citizenship question to the  
260 2020 census? Simply when.

261 Mr. Gardner. Same objection and the same  
262 instruction. If you can answer that without divulging  
263 anything.

264 A Consistent with that instruction, I can't answer  
265 it.

266 Ms. Sachsman Grooms. He can't tell us when he  
267 became aware?

268 Mr. Gardner. I think the problem is the  
269 predicate.

270 Ms. Sachsman Grooms. I don't understand.

271 Mr. Gardner. The predicate of your question  
272 assumes something that may or may not be the case. If you  
273 want to try to rephrase it, you can do it that way. I am  
274 trying to accommodate and I do want to have Mr. Gore  
275 testify, so maybe if you can rephrase the question again.

276 Mr. Anello. If I might, I believe you just  
277 stated that you did become aware that Secretary Ross wanted  
278 to add a citizenship question, correct?

279 Mr. Gore. Yes.

280 Mr. Anello. When did you become aware?

281 Mr. Gore. I believe I already testified that  
282 that was in late August or early September of 2017.

283                   Mr. Anello. How did you become aware?

284                   Mr. Gore. Through the conversation that I had  
285 with the Attorney General and Mary Blanche Hankey.

286           Q       Had you had any other conversations prior to  
287 that conversation in late August, early September 2017  
288 about an addition of a citizenship question?

289           A       No.

290           Q       At any point did you become aware of why the  
291 Department of Justice wanted to support the Department of  
292 Commerce in an addition of a citizenship question?

293           A       Yes.

294           Q       When did you become aware of that?

295           A       I think that is maybe not as simple of a  
296 question as you're making it sound.

297           Q       Sure.

298           A       I became aware there was -- I became aware of  
299 the Department of Commerce's interest in the question in  
300 August -- late August, early September 2017, and that there  
301 was interest in the Department of Justice in potentially  
302 supporting that effort.

303           Q       Okay. And so you became involved in this  
304 process at that same time; is that correct?

305           A       That is correct.

306           Q       And so you would put that in that late August,  
307 early September time frame still, correct?

308 A Correct.

309 Q You said you received a phone call from Attorney  
310 General Jeff Sessions and Mary Blanche Hankey, and they  
311 were both on that phone call; is that correct?

312 A That's correct.

313 Q Was there anyone else present during that phone  
314 call besides those two people?

315 A No, at least not to my knowledge.

316 Q Sure.

317 Did you take any contemporaneous notes during  
318 that phone call?

319 A No, I did not.

320 Q Did anyone at that point tell you not to create  
321 documentation about your involvement in that conversation?

322 Mr. Gardner. I instruct the witness not to  
323 answer for the same grounds previously stated.

324 Ms. Anderson. So, to be clear, the witness is  
325 instructed not to answer the question of whether someone  
326 told him not to create documentation based on their  
327 conversation?

328 Mr. Gardner. If you're asking about the  
329 internal conversations within the Department of Justice,  
330 yes. If you want to rephrase the question, we can try it  
331 that way.

332 Q Did Attorney General Jeff Sessions tell you not

333 to take notes about your conversation in late August and/or  
334 early September 2017?

335 Mr. Gardner. You can answer that question.

336 A No.

337 Q Did Mary Blanche Hankey tell you not to take  
338 notes during that conversation?

339 A No.

340 Q Did anyone else tell you not to create notes  
341 about that -- about that conversation?

342 A No.

343 Q So you said they initiated that phone call. Did  
344 they tell you why they wanted to talk to you at that point?

345 A I believe that they told me why they wanted to  
346 talk to me while we were on the phone call. There was no  
347 -- no one told me in advance what to expect from the phone  
348 call.

349 Q Sure.

350 What did you discuss?

351 Mr. Gardner. Objection. I instruct the  
352 witness not to answer.

353 Ms. Anderson. What is the basis for that  
354 objection?

355 Mr. Gardner. The same basis I previously  
356 stated.

357 Ms. Anderson. Would you state it again for the

358 record, please.

359 Mr. Gardner. Sure. As reflected in our  
360 correspondence to the Committee, the Department's  
361 confidentiality and litigation interests.

362 Q Did you do anything in response to that  
363 particular conversation that you had with Attorney General  
364 Jeff Sessions and Mary Blanche Hankey?

365 A I don't recall doing anything specifically in  
366 response to that conversation.

367 Q Did you take any action based on that  
368 conversation?

369 A I don't know that it was based on that  
370 conversation, but I did take action after that  
371 conversation.

372 Q Did you have any other conversations with  
373 Attorney General Jeff Sessions about the citizenship  
374 question?

375 A Yes.

376 Q How many?

377 A I believe it arose maybe three or four times.

378 Q Do you remember when those conversations  
379 occurred?

380 A Generally they occurred between September and  
381 December of 2017.

382 Q You said September and December?



383 A And December.

384 Q Do you have any -- do you have any recollection  
385 on your next conversation after that initial conversation  
386 in August -- late August, early September?

387 A With Attorney General Sessions --

388 Q Correct.

389 A -- or with somebody else?

390 I'm trying to remember exactly. It probably  
391 would have been late September of 2017.

392 Q Did that conversation occur in person or over  
393 the phone?

394 A In person.

395 Q Who initiated that conversation?

396 A That conversation took place as part of a  
397 monthly briefing I had with the Attorney General. So every  
398 month I had a standing meeting with him to discuss matters  
399 related to the Civil Rights Division and its work, and as  
400 part of that monthly conversation or briefing, which was a  
401 standing meeting, we discussed this issue.

402 Q Was there anyone else present during this  
403 monthly meeting?

404 A Yes.

405 Q Who else?

406 A Rachael Tucker and Ben Aguinaga.

407 Q If you could spell the last names for the

408 record, that would be great.

409 A Sure. Let me also spell Rachael's first name.

410 It's R-A-C-H-A-E-L. Tucker is T-U-C-K-E-R.

411 Ben is B-E-N. I'm going to do my best with

412 Aguinaga. I think, if I recall, it's A-G-U-I-N-A-G-A.

413 Q Thank you.

414 What did you discuss at that meeting?

415 Mr. Gardner. I instruct the witness not to

416 answer.

417 Ms. Anderson. On that basis?

418 Mr. Gardner. Same basis I previously stated.

419 Q Did you do anything in response to that

420 discussion you had with Attorney General Jeff Sessions?

421 A I don't recall doing anything specifically in

422 response to that conversation.

423 Q Did you take any actions as a result of that

424 conversation?

425 A I don't recall taking any actions as a result of

426 that conversation.

427 Q Did you conduct any other conversations as a

428 result of that conversation?

429 A I do not recall doing that.

430 Q Did you have any other conversations with Mary

431 Blanche Hankey about the addition of a citizenship

432 question?

433 A I don't recall.

434 Q Did you have any conversations around that time  
435 with anyone else about an addition of a citizenship  
436 question?

437 A Yes.

438 Q With who?

439 A Within the Department of Justice I discussed the  
440 issue, as I mentioned, with Attorney General Sessions, Mary  
441 Blanche Hankey, Rachael Tucker, Ben Aguinaga, Danielle  
442 Cutrona, C-U-T-R-O-N-A, Gene Hamilton, all of who -- they  
443 were employed by the Office of Attorney General. I  
444 eventually spoke with Bob Troester, T-R-O-E-S-T-E-R, who at  
445 the time -- is a career lawyer at the Department of Justice  
446 but at the time was serving in the Office of the Deputy  
447 Attorney General.

448 I spoke with Rachel Brand, who was then the  
449 Associate Attorney General. I spoke with Jesse Panuccio,  
450 J-E-S-S-E, P-A-N-U-C-C-I-O, who was Rachel's principal  
451 deputy. I spoke with Patrick Hovakimian,  
452 H-O-V-A-K-I-M-I-A-N, who at the time was also in the Office  
453 of Associate Attorney General.

454 I eventually spoke later, not in the September  
455 time frame, but later, with Bethany Pickett, P-I-C-K-E-T-T,  
456 who was in the Civil Rights Division; Chris Herren,  
457 H-E-R-R-E-N, in the Civil Rights Division; Arthur Gary,

458 G-A-R-Y, of the Justice Management Division.

459 I can recall speaking to three individuals at  
460 the Department of Commerce, Peter Davidson, who I  
461 understood to be the general counsel with the Department of  
462 Commerce; James Uthmeier, U-T-H-M-E-I-E-R; Wendy Teramoto,  
463 T-E-R-A-M-O-T-O. And around October of 2017, I had a  
464 conversation with a man named Mark Neuman. I believe he  
465 spells his last name N-E-U-M-A-N.

466 I think that's everybody, but if you read back  
467 the list, I can tell you if I inadvertently left anybody  
468 off.

469 Q I have Mary Blanche Hankey, Rachael Tucker, Ben  
470 Aguinaga -- my apologies if I butchered that -- Danielle  
471 Cutrona, Gene Hamilton, Bob Troester, Rachel Brand, Jesse  
472 Panuccio, Patrick --

473 A Hovakimian.

474 Q Hovakimian. Bethany Pickett, Chris Herren,  
475 Arthur Gary, Peter Davidson, James Uthmeier, Wendy  
476 Teramoto, and Mark Neuman.

477 A Right. Is Arthur Gary on the list?

478 Q Yes.

479 A Attorney General Sessions, obviously, and then  
480 John Zadrozny, J-O-H-N, Z-A-D-R-O-Z-N-Y, who at the time  
481 worked for the Domestic Policy Council at the White House.  
482 I think that's everybody.

483 Q So outside of the people you mentioned inside of  
484 the Justice Department at the time, how many conversations  
485 did you have with third parties about the addition of a  
486 citizenship question?

487 A Can you clarify what you mean by "third  
488 parties"?

489 Q People outside of the Department.

490 A Anybody outside of the Department.

491 Q Correct.

492 A Sure. I had, with Peter Davidson, probably  
493 about a dozen phone calls. And with James Uthmeier -- I  
494 had one phone call with James Uthmeier where it was just  
495 the two of us, and I think James participated in one or two  
496 phone calls that involved Peter Davidson and me as well.  
497 And I spoke one time with Wendy Teramoto, and I spoke one  
498 time with Mark Neuman, and one time with John Zadrozny.

499 Q Do you recall when your conversation was with  
500 Mark Neuman?

501 A I think it was in early October of 2017. Late  
502 September, early October. I'm pretty sure it was early  
503 October.

504 Q Were these conversations that occurred with  
505 people who were not in the Justice Department initiated by  
506 you or initiated by those parties? And we can -- we can  
507 return to some -- to the Department of Commerce later, but

508 specifically with regard to Mark Neuman, was that  
509 conversation initiated by you or by Mark Neuman?

510 A Not by me.

511 Q Was it by Mark Neuman or by somebody else?

512 A So Mark Neuman did call me, but I -- it was  
513 Peter Davidson who mentioned Mark Neuman to me, and then  
514 Mr. Neuman called me.

515 Q And you discussed the citizenship question with  
516 Mark Neuman?

517 A Yes, I did.

518 Q What was the nature of those discussions?

519 Mr. Gardner. I instruct the witness not to  
520 answer.

521 Ms. Anderson. On what basis?

522 Mr. Gardner. Same grounds.

523 Q Did you do anything -- is Mark Neuman employed  
524 -- a government employee?

525 A I don't know whether he's a government employee.  
526 I understood Mr. Neuman to have been at least formerly an  
527 employee at the Department of Commerce or the Census  
528 Bureau, I'm not sure which. And I understood he was an  
529 advisor to the Department of Commerce on issues related to  
530 the 2020 census or at least the issue of whether to  
531 reinstate a citizenship question on the 2020 census  
532 questionnaire.

533                   Mr. Anello. Can I just clarify a question for  
534 counsel. Are you instructing the witness not to answer  
535 about a conversation with somebody who is not a federal  
536 employee?

537                   Mr. Gardner. He was an advisor to the Commerce  
538 Department.

539                   Mr. Anello. But he was not employed by the  
540 Commerce Department, correct?

541                   Mr. Gardner. What do you mean, was he being  
542 paid by the Commerce Department? Mr. Gore can answer that  
543 question. I will represent to you that Mr. Neuman was an  
544 advisor to the Commerce Department. And on that basis I  
545 instruct him not to answer about the substance of his  
546 conversations.

547                   Ms. Sachsman Grooms. Do you know more  
548 information about Mr. Neuman's employment or advising to  
549 the Commerce Department?

550                   Mr. Gardner. I'm not here to testify.

551                   Ms. Sachsman Grooms. You have just testified  
552 to us so you have represented to us --

553                   Mr. Gardner. No, I just repeated back what Mr.  
554 Gore just said.

555                   Ms. Sachsman Grooms. -- that he was an advisor  
556 in some capacity that you think makes him somehow protected  
557 by this ongoing litigation aspect, which is not a



558 privilege.

559 Mr. Gardner. Is there a question? I'm sorry.

560 Ms. Sachsman Grooms. Yes. My question is,  
561 what on earth would be the basis for not answering a  
562 question about a conversation with somebody who is not  
563 employed, even by the federal government?

564 Mr. Gardner. The confidentiality and  
565 litigation interests I previously stated.

566 Ms. Sachsman Grooms. Is there something about  
567 the conversation with Mr. Neuman that would impact the  
568 ongoing litigation?

569 Ms. Antell. At this point I understand that  
570 you have an interest in this. I'm happy for Mr. Gore to  
571 continue answering questions. I don't know that it's  
572 helpful for this back-and-forth to continue regarding what  
573 Mr. Gardner knows about this.

574 Ms. Sachsman Grooms. He did decide to make a  
575 representation on the record.

576 Mr. Gardner. I just repeated what Mr. Gore  
577 said.

578 Mr. Gore. I believe I'm the one who testified  
579 that I understood that Mr. Neuman was advising the  
580 Department of Commerce on this issue.

581 Q Did you do anything in response to your  
582 conversation with Mark Neuman?

583 A I reviewed -- yes, I did.

584 Q What did you do?

585 Mr. Gardner. You can answer that question to  
586 the extent you can do so without divulging confidential or  
587 litigation-based interests the Department has.

588 A I reviewed some documents and information  
589 regarding the census.

590 Q I'm sorry, I just missed the first part.

591 A I reviewed some documents and information  
592 regarding the census.

593 Q Were those documents and information provided to  
594 you or pointed you to?

595 A Yes.

596 Q Which one? Sorry.

597 Mr. Gardner. I instruct the witness not to  
598 answer. I'm sorry, I misunderstood your question. Can you  
599 rephrase your question. I apologize.

600 Ms. Anderson. Sure.

601 Q Did he provide the documentation to you or did  
602 he point you to the documentation?

603 A He provided it.

604 Q Was that information public information or  
605 internal private information?

606 A Public information.

607 Q What was it?

608           A     He provided some information regarding the  
609 census, historical documents about the census. He handed  
610 me a pamphlet that was -- had a chart in it that documented  
611 which questions had been on the census in various years.

612           Q     Was that all he provided you?

613           A     No, he also provided me a draft letter.

614           Q     A draft letter of what?

615           A     It was a draft letter that would request  
616 reinstatement of the citizenship question on the census  
617 questionnaire.

618           Q     Did he tell you where he got that draft letter?

619                     Mr. Gardner. I instruct you --

620           A     No.

621           Q     Did any language in that letter appear in the  
622 letter that the Department of Justice sent to the  
623 Department of Commerce on December 12th, 2017?

624                     Mr. Gardner. I instruct the witness not to  
625 answer.

626                     Ms. Anderson. On what basis?

627                     Mr. Gardner. The same basis.

628

629                     Mr. Anello. Can I ask you a question. Was the  
630 draft letter that he handed you, was it addressed from the  
631 Department of Justice to the Department of Commerce?

632                     Mr. Gardner. Same instruction.

633                     Mr. Anello. So just to be clear, you've told

634 us that he gave you a draft letter, but you're being  
635 instructed not to tell us to whom the draft letter was  
636 addressed. Is that the instruction?

637 Mr. Gardner. You're asking about the contents  
638 of the letter. I'm instructing him not to answer those  
639 questions, correct.

640 Q Besides the pamphlet and the draft letter, was  
641 there anything else that he provided you?

642 A No.

643 BY MR. ANELLO.

644 Q The draft letter that he provided you, had you  
645 requested that he provide you with that draft letter?

646 Mr. Gardner. You can answer.

647 A No.

648 Q Had somebody else asked him to provide that  
649 draft letter to you?

650 A I don't know.

651 Q Why did he give it to you?

652 Mr. Gardner. I instruct the witness not to  
653 answer.

654 Q Do you know why he gave it to you?

655 A I don't, actually.

656 Q Did you agree with the contents of the letter?

657 Mr. Gardner. I instruct the witness not to  
658 answer.

659 Q Did the letter -- the draft letter that he gave  
660 you propose that a citizenship question should be added in  
661 order to assist with VRA enforcement?

662 Mr. Gardner. I instruct the witness not to  
663 answer.

664 BY MS. ANDERSON.

665

666 Q Did the letter contain any rationale for an  
667 addition of a citizenship question?

668 Mr. Gardner. I instruct the witness not to  
669 answer.

670 BY MR. ANELLO.

671

672 Q When you -- I apologize for skipping around a  
673 little bit with the questions here. I appreciate your  
674 indulgence.

675 Mr. Gardner. Sure.

676 Q When you drafted the letter that eventually was  
677 sent to the Department of Commerce on December 12th, were  
678 the words in that letter all your own? I can rephrase if  
679 that's not clear.

680 Mr. Gardner. If you can try to rephrase that.

681 Q You created the first draft of the letter that  
682 eventually was sent to Secretary Wilbur Ross requesting a  
683 citizenship question, correct?

684 A That's correct.

685 Q When you made your first draft, were the words  
686 in that first draft your own?

687 Mr. Gardner. To the extent you can answer that  
688 question without divulging the Department's confidentiality  
689 and litigation interests, you may do so.

690 A I actually don't know how to answer that  
691 question because I believe there were -- I believe that  
692 there were words that came from cases, so I'm not sure how  
693 to answer that question.

694 Q Aside from quotations from case law, were there  
695 any words that were not your own?

696 Mr. Gardner. Same objection. Same  
697 instruction. If you can answer that question without  
698 divulging those interests, you may do so.

699 A Not that I recall.

700 Q Were any -- when you wrote your letter, did any  
701 information that you received from anybody outside the  
702 Department of Justice play a role in what you wrote in that  
703 first draft?

704 Mr. Gardner. I instruct the witness not to  
705 answer.

706 Q Did any information that you received from  
707 somebody who is not a federal employee play a role in the  
708 letter that you drafted?

709                   Mr. Gardner. I instruct the witness not to  
710 answer.

711 BY MS. ANDERSON.

712

713           Q     Okay. I want to go back to kind of that initial  
714 point where you became involved in the citizenship question  
715 issue, okay?

716                   And you said you had spoken with several other  
717 people, both inside and outside of the Department. One of  
718 those people inside of the Department -- do you know who  
719 James McHenry is?

720           A     I do know James McHenry.

721           Q     Where is he?

722           A     I don't know that I ever discussed the issue  
723 with him. I believe he's mentioned in -- I certainly know  
724 who he is, but he's mentioned in some documents, and I  
725 don't recall whether I had a conversation with him about  
726 this issue.

727 BY MR. ANELLO.

728

729           Q     You described a conversation in late August or  
730 early September with the Attorney General and with Mary  
731 Blanche Hankey, correct?

732           A     That's correct.

733           Q     And you stated that -- I believe, that during



734 that conversation you learned that Secretary Ross wanted to  
735 add a citizenship question to the census, correct?

736 A I don't know if that was my testimony.

737 Q Did you learn during that conversation from the  
738 Attorney General that Secretary Ross was interested in  
739 adding a citizenship question to the census?

740 A Now you've changed the question and, so, yes.

741 Q And I believe you also stated a few minutes  
742 earlier that around that same time you learned that there  
743 was some interest at the Department of Justice in  
744 cooperating with that request.

745 A I'm not sure if cooperating is the right word,  
746 but, yes, I had learned that there was interest in the  
747 Department of Justice in examining whether something could  
748 be done to support that.

749 Q Did Attorney General Sessions tell you in that  
750 conversation in late August or early September that he  
751 personally had an interest in helping the Department of  
752 Commerce add the citizenship question to the census?

753 Mr. Gardner. I instruct the witness not to  
754 answer.

755 Q Did the Attorney General tell you that the  
756 Department had an interest in assisting the Department of  
757 Commerce in adding a citizenship question to the census?

758 Mr. Gardner. I instruct the witness not to

759 answer.

760 Mr. Anello. If I might, I believe the witness  
761 has just stated that he learned that the Department of  
762 Justice at this time period had an interest in potentially  
763 helping the Department of Commerce add the citizenship  
764 question. So the only question I'm asking now is did the  
765 Attorney General tell you that.

766 Mr. Gardner. I understand your question.

767 Mr. Anello. So you're telling me that that --  
768 the fact of the knowledge is not something you would object  
769 to, but who gave him that knowledge is objectionable to  
770 you?

771 Mr. Gardner. You're asking about a  
772 conversation between Mr. Gore and the Attorney General. I  
773 instruct the witness --

774 Mr. Anello. Mr. Gore has told us that the  
775 Attorney General told him that the Department of Commerce  
776 wanted to add a citizenship question. So I'm asking any --

777 Mr. Gardner. I understand. I completely  
778 understand. If you can rephrase --

779 Mr. Anello. I fail to understand -- I fail to  
780 understand why this question is objectionable.

781 Mr. Gardner. If you can try to rephrase the  
782 question, I'm happy to let Mr. Gore testify to the extent  
783 he can, consistent with our litigation and confidentiality

784 interests.

785 Q You stated a moment ago that you learned around  
786 this time that the Department of Justice had an interest in  
787 assisting the Department of Commerce with adding a  
788 citizenship question to the census, correct?

789 A I believe that's what I said, yes.

790 Q Did you learn that during a phone call with the  
791 Attorney General and Mary Blanche Hankey?

792 Mr. Gardner. I instruct the witness not to  
793 answer.

794 Ms. Sachsman Grooms. He's already answered,  
795 though.

796 Mr. Gardner. Then why are you asking again? I  
797 don't think he did answer that question.

798 Q I'll rephrase.

799 You learned that information either in late  
800 August or early September, correct?

801 A That is correct.

802 Q Did you learn that information from somebody at  
803 the Department of Commerce?

804 A What information?

805 Q Information that you just said you learned, the  
806 information that the Department of Justice was interested  
807 in assisting the Department of Commerce in adding a  
808 citizenship question. Did you learn that information from

809 somebody at the Department of Commerce?

810 A No.

811 Q Did you learn that information from somebody at  
812 the Department of Justice?

813 A Yes.

814 Q Who at the Department of Justice told you that?

815 Mr. Gardner. I'm going to instruct the witness  
816 not to answer.

817

818 Ms. Sachsman Grooms. Who at the Department of  
819 Justice did you learn that information from?

820 Mr. Gardner. Same instruction.

821 Ms. Sachsman Grooms. So the parameters aren't  
822 around the conversation itself? They're not around the  
823 words within the conversation. They're around his  
824 knowledge set also?

825 Mr. Gardner. I couldn't be more clear. I'm  
826 sorry. I'm not trying to be difficult with you. You're  
827 asking questions that directly implicate the Department's  
828 confidentiality and litigation interests. I instruct him  
829 not to answer. Mr. Gore is here to answer questions, and  
830 we're trying not to be obstreperous. So if you can come up  
831 with a different way to ask these questions, we're happy to  
832 facilitate that.

833 Q So you've testified -- you told us that you did

834 not learn that from somebody at the Department of Commerce,  
835 and you did learn it from somebody at the Department of  
836 Justice.

837 Did you learn it from somebody in the Civil  
838 Rights Division?

839 Mr. Gardner. Go ahead.

840 A No.

841 Q Did you learn it from somebody in the Deputy  
842 Attorney General's Office?

843 A Excuse me.

844 Mr. Gardner. I think at this point I'm going  
845 to instruct the witness not to answer.

846 Q Did you learn it from somebody at the Attorney  
847 General's Office?

848 Mr. Gardner. Same instruction.

849 Q I have one more question about that first  
850 conversation that you said you had with the Attorney  
851 General and Mary Blanche Hankey. You said you took action  
852 -- some actions after that conversation. What were the  
853 actions you took after that conversation?

854 A I conducted some legal research and some general  
855 research regarding the census.

856 Q What research did you conduct?

857 Mr. Gardner. I instruct the witness not to  
858 answer.

859 Q Did you conduct research about the citizenship  
860 question?

861 Mr. Gardner. So at that level of detail, you  
862 can answer that question.

863 A Yes.

864 Q Were you directed by somebody to do so?

865 Mr. Gardner. I'm going to instruct not to  
866 answer.

867 Q Was it your own decision to conduct that  
868 research?

869 Mr. Gardner. Same instruction.

870 Q Aside from conducting research, did you take any  
871 other action?

872 A Not in specific response to that conversation  
873 that I can recall. I did, as I mentioned, have  
874 conversations with many people about the issue, and as I've  
875 already stated, eventually I wrote the first draft of a  
876 letter on behalf of the Department of Justice.

877 Q What was the next action you took after -- after  
878 that conversation?

879 A I'm sorry, which conversation?

880 Q The conversation with the Attorney General.  
881 What was the next action you took related to the  
882 citizenship question after that?

883 A As I've just testified, I conducted some legal

884 research and some general research regarding the census.

885 Q And then after that, what was the next step?

886 A Again, I'm not clear on all of the sequencing as  
887 it played out, but I did have conversations with many of  
888 the people on the list who I just named regarding this  
889 issue.

890 BY MS. ANDERSON.

891

892 Q Did you provide that legal research to anyone  
893 else inside the Department of Justice?

894 A I discussed that legal research with other  
895 individuals within the Department of Justice.

896 Q Who?

897 A I discussed it eventually with the Attorney  
898 General, Rachael Tucker, Gene Hamilton, Danielle Cutrona,  
899 Rachel Brand, Jesse Panuccio, Patrick Hovakimian, Bob  
900 Troester.

901 Q It's fair to say everyone you listed before?

902 A Pretty much everybody. There may have been one  
903 or two people I didn't, but ...

904 Q Did you discuss your legal research with anyone  
905 outside of the Department of Justice?

906 A Yes, I did.

907 Q Is it anyone else who's not mentioned in that  
908 list that you described earlier?



909 A No.

910 Q Was it everyone who's on that list that you said  
911 earlier?

912 A More or less everyone. I don't know if I  
913 discussed legal research with Mark Neuman, but I certainly  
914 discussed it, I think, with everyone else on that list.

915 Q Including those three people you mentioned from  
916 the Department of Commerce?

917 A Not Ms. Teramoto. And I can't remember whether  
918 I discussed it with Mr. Zadrozny. I think not, but I can't  
919 remember.

920 Q What was your initial conclusion after you  
921 conducted your legal research?

922 Mr. Gardner. I instruct the witness not to  
923 answer.

924 Q At some point you became aware that the  
925 Department of Commerce and the Department of Justice had  
926 had conversations prior to your involvement in the  
927 citizenship question; is that correct?

928 A Yes, at some point I did become aware of that.

929 Q Who informed you of those conversations?

930 A I can't remember how I became aware of those,  
931 whether someone informed me or whether it was because  
932 there's a memo in the record in one of the litigation cases  
933 that was shown in my deposition written by Earl Comstock.

934 It's a memo to the file or something like that. I can't  
935 remember if it's because I saw that document or because  
936 somebody told me, but at some point I became aware that  
937 conversations had occurred prior to my involvement in the  
938 issue.

939 Q Who from the Department of Justice was involved  
940 in those conversations that you are aware of?

941 A Again, I'd have to go back in my memory to the  
942 memo that Mr. Comstock wrote, which I don't have right in  
943 front of me, but I believe he mentions having spoken to  
944 Mary Blanche Hankey and to James McHenry, and also that he  
945 spoke to Gene Hamilton, who at that time was at the  
946 Department of Homeland Security. Later he joined the  
947 Department of Justice.

948 Q Did you ever become aware of the contents of  
949 those conversations that occurred between Mary Blanche  
950 Hankey, Gene Hamilton, or anyone else at the Department of  
951 Justice and the Department of Commerce?

952 A Only -- only what's reflected in Mr. Comstock's  
953 memo, which I believe is dated September 8th, 2017.

954 Q Okay. So to be clear, you did not become aware  
955 of those conversations after having spoken with anyone at  
956 the Department of Justice about them?

957 A I don't think so. Not that I recall.

958 Q And you also became aware of conversations that

959 occurred between Secretary Ross and Attorney General Jeff  
960 Sessions; is that correct?

961 A Yes, I became aware of the conversations.

962 Q And those conversations were about the addition  
963 of a citizenship question; is that correct?

964 A Again, I wasn't a party to those conversations,  
965 but that's my understanding.

966 Q Sure.

967 Were you aware of more than one conversation  
968 that occurred between Attorney General Jeff Sessions and  
969 Secretary Ross about an addition of a citizenship question?

970 A I believe so, yes.

971 Q How many conversations?

972 A I think I'm aware of maybe two or three  
973 conversations.

974 Q When did those conversations occur that you are  
975 aware of?

976 A Again, I wasn't a party to those conversations.  
977 It's my understanding that there was at least one  
978 conversation before I received a phone call from the  
979 Attorney General and Mary Blanche Hankey, and there may  
980 have been one or two other conversations thereafter.

981 Q So just to get the timeline, one before that  
982 late August, early September phone call that you received  
983 from Mary Blanche and Attorney General Jeff Sessions; is

984 that correct?

985 A That's my understanding.

986 Q Sure.

987 A I don't know. Again, I wasn't a party to any of  
988 those conversations. I don't know.

989 Q Sure.

990 And then a few that happened after that point,  
991 did those conversations, to your knowledge, happen before  
992 the December 12th, 2017, letter?

993 A Yes.

994 Q So in that September to December time frame.

995 A Correct.

996 Q Were you aware of anyone else being present  
997 during those conversations with Attorney General Jeff  
998 Sessions and Secretary Ross?

999 A No, I am not. I have no awareness one way or  
1000 the other. I should specify. Since I wasn't a party to  
1001 the conversations, I don't know.

1002 Q Did you become aware at any point about the  
1003 contents of those conversations between Secretary Ross and  
1004 Attorney General Jeff Sessions?

1005 A Yes, at least some of the content.

1006 Q Did you become aware of the content of the  
1007 conversation that happened before you became involved in  
1008 the citizenship question?

1009 A Yes.

1010 Q When did you become aware of that?

1011 A On that phone call, meaning the late August,  
1012 early September phone call.

1013 Q And then did you become aware of the contents of  
1014 the conversation that happened between September, that  
1015 phone call, and the December 12th letter?

1016 A Yes, at least some of the contents.

1017 Q Who made you aware of the contents of those  
1018 conversations?

1019 A It was the Attorney General.

1020 Q What did you discuss during those conversations?  
1021 Mr. Gardner. I instruct the witness not to  
1022 answer.

1023 Q Let me just be very clear.

1024 The conversation that happened prior to -- when  
1025 they called you in September -- late Septem- -- I'm just  
1026 going to say early September from now on if that's okay.

1027 A That's fine.

1028 Q Prior to the conversation that happened in early  
1029 September 2017, after the Attorney General informed you of  
1030 the conversation and the contents of that with Secretary  
1031 Ross, what did he tell you about the contents of those  
1032 conversations?

1033 Mr. Gardner. I instruct the witness not to

1034 answer.

1035 Q And as per the conversations that happened  
1036 between Attorney General Jeff Sessions and Secretary Ross  
1037 between early September and December 12th, 2017, what were  
1038 the contents of those discussions between Secretary Ross  
1039 and Attorney General Jeff Sessions?

1040 Mr. Gardner. Same instruction.

1041 BY MR. ANELLO.

1042

1043 Q Did -- I want to ask you a few more questions  
1044 about what you learned about the conversations between  
1045 Secretary Ross and the Attorney General. Did you ever  
1046 learn that Secretary Ross and the Attorney General -- let  
1047 me start here.

1048 You learned that they discussed the citizenship  
1049 question, correct?

1050 A That's correct.

1051 Q The Attorney General told you that.

1052 A That's correct.

1053 Q Did he tell you that they discussed how adding a  
1054 citizenship question could impact census participation by  
1055 immigrants and noncitizens?

1056 Mr. Gardner. I instruct the witness not to  
1057 answer.

1058 Q Did the Attorney General tell you that he

1059 discussed with the Secretary of Commerce how adding a  
1060 citizenship question could impact congressional  
1061 apportionment?

1062 Mr. Gardner. I instruct the witness not to  
1063 answer.

1064 Q Did he tell you that he -- "he" being the  
1065 Attorney General -- discussed with the Secretary of  
1066 Commerce that adding citizenship could impact the outcome  
1067 of any election?

1068 Mr. Gardner. I instruct the witness not to  
1069 answer.

1070 Q Did the Attorney General tell you that he and  
1071 Secretary Ross discussed concealing the process by which  
1072 the citizenship would be added to the census?

1073 Mr. Gardner. I instruct the witness not to  
1074 answer.

1075 Mr. Anello. Just to be clear, is the  
1076 Department of Justice asserting some confidentiality over  
1077 concealment from the public of the nature of the decision?

1078 Mr. Gardner. I'm just plainly stating that  
1079 your question implicates the Department of Justice's  
1080 confidentiality and litigation interests.

1081 Mr. Anello. My question is whether the  
1082 Department of Justice was concealing information.

1083 Mr. Gardner. No, your question was about a



1084 specific conversation that the Attorney General and the  
1085 Secretary of Commerce had that was then disclosed to  
1086 Mr. Gore.

1087 Mr. Anello. Let me rephrase that question  
1088 then.

1089 Q Did the Department of Justice seek to conceal --  
1090 did anyone at the Department of Justice seek to conceal any  
1091 part of the process by which the citizenship question was  
1092 added to the census?

1093 A Absolutely not. I don't think there's any basis  
1094 for that implication.

1095 Q Well, that's something we can talk about off the  
1096 record, but ...

1097 Did you ever -- were there ever any  
1098 conversations about concealing discussions between the  
1099 Department of Commerce and the Department of Justice on  
1100 this topic?

1101 Mr. Gardner. Between whom? I'm sorry, I'm not  
1102 clear what your question is. Can you repeat it.

1103 Q Were you ever involved in any discussions about  
1104 efforts to conceal communications between the Department of  
1105 Justice and the Department of Commerce regarding the  
1106 citizenship question?

1107 Mr. Gardner. You can answer.

1108 A No.

1109 BY MS. ANDERSON.

1110

1111 Q One of the people you said that you spoke with  
1112 from the Department of Commerce around this time, in that  
1113 early September time frame, was Wendy Teramoto; is that  
1114 correct?

1115 A Yes. I believe I spoke to her on September 16th  
1116 of 2017.

1117 Q And Peter Davidson asked you to reach out to  
1118 Wendy Teramoto?

1119 A That's correct.

1120 Q When did he ask you to do that?

1121 A It would have been maybe a few days before that.

1122 Q Why did he ask you to reach out to Wendy?

1123 A There was some confusion at the Department of  
1124 Commerce as to what my job was, and Ms. Teramoto had been  
1125 tasked with scheduling a call between the Secretary of  
1126 Commerce and the Attorney General and thought that I could  
1127 be of assistance in that endeavor.

1128 Q So you said that you spoke with her on September  
1129 16th. Is that correct?

1130 A That's correct.

1131 Q And that conversation was about -- or at least  
1132 about in part the citizenship question; is that correct?

1133 A I understood it to be about scheduling a call

1134 for the Secretary and the Attorney General to discuss that  
1135 topic.

1136 Q Did you discuss that topic with Wendy Teramoto?

1137 A Not really, no.

1138 Q Yes or no? Did you discuss it or did you not  
1139 discuss it?

1140 A I would -- no. I mean, we really discussed the  
1141 scheduling issue, and she asked if I could help schedule a  
1142 call on that topic, and I said that's not my job and I'll  
1143 put you in contact with somebody who can potentially help  
1144 you manage schedules.

1145 Q And you said before, was that the only  
1146 conversation you had with Wendy Teramoto?

1147 A Yes. It's the only one I can recall.

1148 Q So after -- after you received -- or you spoke  
1149 with Wendy Teramoto, you connected her with Danielle  
1150 Cutrona, correct?

1151 A That's correct.

1152 Q And Danielle works at the Department of Justice;  
1153 is that correct?

1154 A Yes.

1155 Q You connected them on September 16th as well; is  
1156 that correct?

1157 A That's correct, yes.

1158 Q At that point when you introduced Danielle to

1159 Wendy, you said that Danielle is the person to connect  
1160 about the issue we discussed today --

1161 A That's correct.

1162 Q Presumably September 16th, correct?

1163 A Yes.

1164 Q -- scheduling to connect Secretary Ross with the  
1165 Attorney General Jeff Sessions to discuss the citizenship  
1166 question.

1167 A That's correct.

1168 (Exhibit 1 was marked for identification and  
1169 attached to the transcript.)

1170 Q So I've handed you a copy of a document that  
1171 I've marked now as Exhibit 1. Do you have a copy of that?  
1172 I can hand you the one that I've actually marked. We can  
1173 trade.

1174 Mr. Gardner. Why don't you trade.

1175 Ms. Anderson. We can trade. I think that's a  
1176 little bit --

1177 Q I handed you a document that's marked as Exhibit  
1178 1.

1179 A Okay.

1180 Q I would like you to turn to the second page of  
1181 that document, the bottom of which -- it's numbered. It's  
1182 numbered 0002637. Are you on that page?

1183 A I am.

1184 Q And this email, the email I'm going -- there are  
1185 several emails on the page so I'm just going to point you  
1186 towards a particular email.

1187 Oh, I'm sorry.

1188 If you just want to review that document for  
1189 just one second.

1190 A Sure. (Document review.)  
1191 Ms. Anderson. Just give me one second.

1192 Mr. Gardner. Take your time.

1193 Q So the top of that -- I'm actually going to  
1194 refer you to the first page, 2636. The top of that is an  
1195 email that's dated September 18th, 2017. And it's an email  
1196 from Wendy Teramoto to John Gore. That would be you; is  
1197 that correct?

1198 A It appears to be.

1199 Q Sure.

1200 That email says, "Hi. AG and Sec spoke.  
1201 Please let me know when you have a minute."

1202 Presumably that's referring to Attorney General  
1203 Jeff Sessions and Secretary Ross; is that correct?

1204 A I think that's correct.

1205 Q Did you speak to Wendy Teramoto on that day?

1206 A I don't recall speaking to her after this email.

1207 Q And then I want -- I want to go to the second  
1208 page -- again, sorry, 2637. There's an email there, the

1209 second email on the page from September 17th, 2017, at  
1210 12:10 p.m. from Danielle Cutrona to Wendy Teramoto.

1211 In that Danielle writes, "From what John said,  
1212 it sounds like we can do whatever you all need us to do."

1213 Did you say that to Danielle Cutrona?

1214 Mr. Gardner. I instruct the witness not to  
1215 answer.

1216 Q What did you mean by that?

1217 Mr. Anello. I'm sorry, are you -- this email  
1218 is -- this is an email that I believe you actually produced  
1219 in litigation, correct?

1220 Mr. Gardner. That's correct.

1221 Mr. Anello. So are you saying the witness is  
1222 not permitted to talk about this document?

1223 Mr. Gardner. I didn't say that.

1224 Mr. Anello. I think he's been asked simply  
1225 whether the statement in the document is accurate.

1226 Mr. Gardner. He's been asked whether  
1227 Ms. Cutrona's reference to a statement that John might have  
1228 told him is accurate. That's what I've objected to. These  
1229 aren't John's words.

1230 Ms. Sachsman Grooms. So is this a different  
1231 objection?

1232 Mr. Gardner. No, it's the exact same  
1233 instruction.

1234                   Try to rephrase it. See if we can do it that  
1235 way.

1236           Q     She then says, "The delay was due to  
1237 miscommunication." Did you tell Danielle Cutrona that the  
1238 delay was due to miscommunication?

1239                   Mr. Gardner. I instruct the witness not to  
1240 answer.

1241           Q     She then says, "The AG is eager to assist." Did  
1242 you tell Danielle Cutrona that the AG was eager to assist?

1243                   Mr. Gardner. Same instruction.

1244           Q     Did you have a discussion with Danielle Cutrona  
1245 prior to connecting her with Wendy Teramoto?

1246           A     Yes, I did.

1247           Q     When was that conversation?

1248           A     It was on the phone on September 16th, 2017.

1249           Q     Did you communicate to Danielle Cutrona why you  
1250 were connecting her with Wendy Teramoto?

1251                   Mr. Gardner. You can answer that with a yes or  
1252 no.

1253           A     Yes, I did.

1254           Q     What did you tell her the reason was for you to  
1255 connect her to Wendy Teramoto?

1256                   Mr. Gardner. I instruct the witness not to  
1257 answer.

1258           Q     Did you tell her that you wanted to connect her



1259 to schedule a phone call between the Attorney General and  
1260 Secretary Ross?

1261 Mr. Gardner. You can answer that.

1262 A Yes.

1263 Q Did you tell her anything else on that phone  
1264 call?

1265 Mr. Gardner. You can answer that with a yes or  
1266 no.

1267 A Yes.

1268 Q Did you tell her anything else on that phone  
1269 call regarding the addition of a citizenship question?

1270 Mr. Gardner. You can answer that with a yes or  
1271 no.

1272 A Yes.

1273 Q Did you tell her at any point during that  
1274 conversation about why the Department of Justice was  
1275 interested in adding a citizenship question to the census?

1276 Mr. Gardner. You can answer that question yes  
1277 or no.

1278 A Yes, to the extent I understand your question.

1279 Q Did you tell her on that phone call anything  
1280 about the Attorney General's interest in a citizenship  
1281 question?

1282 Mr. Gardner. I'm sorry, can you rephrase that?  
1283 That question was a little confusing.

1284                   Ms. Anderson. Sure.

1285           Q     Did you communicate to Danielle Cutrona on that  
1286 phone call anything about what the Attorney General's  
1287 interest was in a citizenship question?

1288                   Mr. Gardner. I instruct the witness not to  
1289 answer.

1290           Q     Did you communicate with Danielle Cutrona on  
1291 that phone call anything that you had learned from your  
1292 discussion or conversation with Wendy Teramoto?

1293           A     Anything I learned from Ms. Teramoto?

1294           Q     Yes.

1295           A     Yes.

1296           Q     Were the contents of what you told Danielle  
1297 Cutrona that you had learned from Wendy Teramoto anything  
1298 besides scheduling?

1299           A     No.

1300 BY MR. ANELLO.

1301

1302           Q     You've read this email from Danielle Cutrona,  
1303 correct?

1304           A     Yes, I have.

1305           Q     Is it accurate?

1306                   Mr. Gardner. I instruct --

1307           Q     Are the representations she made accurate?

1308                   Mr. Gardner. I instruct the witness not to

1309 answer.

1310 Q When you spoke to Danielle Cutrona, did you tell  
1311 Ms. Cutrona what the Attorney General had communicated to  
1312 you?

1313 Mr. Gardner. I instruct the witness not to  
1314 answer.

1315 Mr. Anello. I'm only asking for a yes or no.

1316 Mr. Gardner. You're asking about the content  
1317 of the conversation.

1318 BY MS. ANDERSON.

1319

1320 Q Okay. So after you received an email from Wendy  
1321 Teramoto saying AG and Secretary Ross spoke, you learned  
1322 that they had, in fact, spoken around that time frame; is  
1323 that correct?

1324 A That is correct.

1325 Q Did you become aware of the contents of the  
1326 conversation that happened -- I'm going to put it as  
1327 September 17th, is that okay, for the purposes of this?

1328 A On or about.

1329 Q On or about September 17th --

1330 A Sure.

1331 Q -- did you become aware of the contents of that  
1332 particular conversation between Secretary Ross and Attorney  
1333 General Jeff Sessions?

1334 A Am I aware of the contents? Yes, I believe so,  
1335 at least some of the contents.

1336 Q Who made you aware of that?

1337 A I think I heard from Danielle Cutrona about it.

1338 Q Was she on the phone call?

1339 A Maybe -- I don't know. I wasn't a party to that  
1340 call. And I can't recall whether I specifically heard from  
1341 the Attorney General about that conversation or not.

1342 Q What did you learn the Attorney General and  
1343 Secretary Ross spoke about on that phone call?

1344 Mr. Gardner. I instruct the witness not to  
1345 answer.

1346 Q Did Attorney General Jeff Sessions ask you to do  
1347 anything after his phone call with Secretary Ross?

1348 Mr. Gardner. You can answer that with a yes or  
1349 no.

1350 A No.

1351 Q Did anyone else ask you to do anything after  
1352 Secretary Ross and Attorney General Jeff Sessions spoke on  
1353 or about September 17th, 2017?

1354 A No.

1355 Q Did the Department of Justice's position change  
1356 regarding the addition of a citizenship question after  
1357 Attorney General Jeff Sessions and Secretary Ross spoke on  
1358 or about September 17th, 2017?

1359                   Mr. Gardner. I'm going to instruct the witness  
1360 not to answer.

1361           Q     Were you aware of any conversations between  
1362 Attorney General Jeff Sessions and Kris Kobach regarding a  
1363 citizenship question?

1364           A     No.

1365           Q     Were you aware of any conversations between  
1366 Attorney General Jeff Sessions and Steve Bannon about the  
1367 addition of a citizenship question?

1368           A     No.

1369           Q     Were you aware of any conversations with anyone  
1370 else at the Department of Justice and Kris Kobach about an  
1371 addition of a citizenship question?

1372           A     No.

1373           Q     Were you aware of any conversations between  
1374 anyone at the Department of Justice and Steve Bannon about  
1375 an addition of a citizenship question?

1376           A     No.

1377           Q     Were you aware of any conversations between  
1378 Attorney General Jeff Sessions and the White House about an  
1379 addition of a citizenship question?

1380           A     So, can I just ask for clarification? You keep  
1381 asking me, was I aware, were you aware. Are you talking  
1382 about a specific time frame or at any point in time?

1383                   Mr. Anello. Is the question you're trying to

1384 clarify --

1385 Mr. Gardner. At what point did he know.

1386 Mr. Anello. -- once you became aware of the  
1387 conversation?

1388 Mr. Gore. Well, that assumes there's a  
1389 predicate, but you're asking a past-tense question, "Were  
1390 you aware?" Are you referring to on September 17th or 18th  
1391 or ever?\_

1392 Q No, I'm referring to ever, yes.

1393 A I'm not aware of any conversations between the  
1394 Department of Justice and Attorney General Sessions and any  
1395 of the other individuals you've named.

1396 Q Okay. So I think we paused --

1397 A At any point in time.

1398 Q Sure.

1399 I think we paused on whether Attorney General  
1400 Jeff Sessions had spoken with anyone at the White House  
1401 regarding this issue. Is your answer -- it remains no on  
1402 that as well?

1403 A I have no awareness that he ever spoke with  
1404 anyone at the White House regarding this issue.

1405 Q Do you have any awareness of anyone speaking --  
1406 from the Department of Justice speaking with anyone at the  
1407 White House besides the conversation you identified with  
1408 John Zadrozny in October of 2017?

1409           A     No, but I will clarify that, as I recall that  
1410 conversation with Mr. Zadrozny, it was a conference call in  
1411 which Rachael Tucker and Gene Hamilton also participated,  
1412 but I don't recall anyone else participating on that call.

1413           Q     And no other --

1414           A     So it wasn't just -- I'm just trying to clarify.  
1415 It wasn't just Mr. Zadrozny and me. Rachael and Gene were  
1416 also on the call, as I recall.

1417           Q     And that was your only conversation, that you're  
1418 aware, people from the Department of Justice and people  
1419 from the White House.

1420           A     That is correct.

1421           Q     Okay. You said one of the other people -- let  
1422 me just -- you said one of the other people from the  
1423 Department of Commerce that you had a discussion with was  
1424 Peter Davidson, or discussions with.

1425           A     That is correct.

1426           Q     And Peter Davidson initiated those conversations  
1427 with you; is that correct?

1428           A     Yes, he did.

1429           Q     How did he get in contact with you?

1430           A     Called me.

1431           Q     Did he tell you why he called?

1432           A     Yes.

1433           Q     Why did he call?



1434           A     He called to discuss the Department possibly  
1435 requesting reinstatement of a citizenship question on the  
1436 2020 census questionnaire.

1437           Q     Did he tell you how he came to come in contact  
1438 with you in particular at the Department of Justice?

1439           A     I believe he did.

1440           Q     How?

1441                     Mr. Gardner. I instruct the witness not to  
1442 answer.

1443           Q     Did Peter Davidson tell you that someone had  
1444 told him to contact you?

1445                     Mr. Gardner. Same instruction.

1446           Q     Had you spoken with anyone else at the  
1447 Department of Commerce prior to Peter Davidson contacting  
1448 you?

1449           A     No.

1450           Q     So he was your first point of contact from the  
1451 Department of Commerce; is that correct?

1452           A     That is correct.

1453 BY MR. ANELLO.

1454

1455           Q     So that conversation with Mr. Davidson, you said  
1456 he told you the reason he was calling was to inquire about  
1457 the Department of Justice requesting a citizenship question  
1458 being added on the census. That's what you just said,

1459 correct?

1460 A I don't think I said to inquire. He called me  
1461 to discuss that issue.

1462 Q To discuss the Department of Justice making that  
1463 request.

1464 A Potentially, yes.

1465 Q And why did he tell you he was calling to  
1466 discuss that?

1467 Mr. Gardner. Same instruction.

1468 Q Did he express a particular view on whether the  
1469 Department of Justice should make that request?

1470 Mr. Gardner. Same instruction.

1471 BY MS. ANDERSON.

1472

1473 Q Did he provide a reason why or did he ask you  
1474 why you might be interested in making that request?

1475 Mr. Gardner. Same instruction.

1476 Q Did you -- what did you do after -- did you do  
1477 anything in particular after you had your conversation with  
1478 Peter Davidson?

1479 A No.

1480 Q Did you follow up with anyone else following  
1481 your conversation with Peter Davidson besides Wendy  
1482 Teramoto?

1483 A No. Just to clarify, I had many conversations

1484 with Mr. Davidson, and I'm answering with respect to all of  
1485 them. I don't recall doing anything in particular in  
1486 response to his phone calls.

1487 Q How many conversations would you say you had  
1488 with Peter Davidson between -- between when he first  
1489 contacted you --

1490 A At any time?

1491 Q Yes.

1492 A I think I said earlier it was about a dozen.

1493 Q Were they all by phone?

1494 A Yes, they were.

1495 Q Did you take any notes during those phone calls?

1496 A No, I did not.

1497 Q Was anyone else ever on those phone calls  
1498 besides you and Peter Davidson except for that one or two  
1499 phone calls you mentioned with James Uthmeier?

1500 A No.

1501 Q Did Peter Davidson provide any documentation to  
1502 you throughout this time period?

1503 A No, he did not.

1504 Q Did you provide any documentation to Peter  
1505 Davidson besides perhaps the legal research that you  
1506 mentioned earlier?

1507 A No, and I didn't provide him any legal research,  
1508 but we discussed it. I provided him no documents.

1509 Q You called Peter Davidson on November 28th,  
1510 2017; is that correct?

1511 A If you say so. I don't recall exactly when I --  
1512 that I called him on that date, but I think there's a  
1513 document in the record indicating that I did call him on  
1514 that date.

1515 Q And that would be consistent with your  
1516 recollection that you had a dozen phone calls in this time  
1517 period.

1518 A Yes, that I had phone calls with him over that  
1519 time period. He initiated the first one. I can't remember  
1520 if I ever initiated phone calls or if I just simply called  
1521 him back every time. But we talked over the phone.

1522 Q And during those dozen or so conversations, you  
1523 discussed the citizenship question; is that correct?

1524 A That's correct.

1525 Q Did you discuss where DOJ was in their  
1526 production of a possible request to the Department of  
1527 Commerce?

1528 Mr. Gardner. I instruct the witness not to  
1529 answer.

1530 Q You testified -- you stated earlier that he  
1531 contacted you to see whether the Department of Justice  
1532 would consider making a request to the Department of  
1533 Commerce; is that correct?

1534           A     I think what I said is that he contacted me to  
1535 discuss the possibility of the Department requesting  
1536 reinstatement of the citizenship question on the census  
1537 questionnaire.

1538           Q     Did you discuss that topic at every single one  
1539 of your later conversations or at some point did you  
1540 discuss other things?

1541           A     We certainly discussed that at every one of our  
1542 conversations. I can't remember -- I believe I had a  
1543 conversation with him at one point where he was quite  
1544 literally on a ski slope, and so I asked him how the ski  
1545 conditions were on that particular day. But other than  
1546 that -- we may have exchanged pleasantries, but every  
1547 conversation we had was about that topic.

1548                     Mr. Anello. Did he -- did Mr. Davidson tell  
1549 you in any of those calls that he was calling on the  
1550 instructions of Secretary Ross?

1551                     Mr. Gardner. I instruct the witness not to  
1552 answer.

1553                     Mr. Anello. Did he provide any information to  
1554 you about Secretary Ross' views on the citizenship  
1555 question?

1556                     Mr. Gardner. Same instruction.

1557           Q     Did you discuss with the Attorney General the  
1558 fact that you had been in contact with Peter Davidson?

1559                   Mr. Gardner. I instruct the witness not to  
1560 answer the question.

1561           Q     Did you discuss with the Attorney General  
1562 anything that you had discussed with Peter Davidson?

1563                   Mr. Gardner. Same instruction.

1564           Q     Did you do anything in response to David -- your  
1565 discussions with Peter Davidson?

1566           A     I don't recall doing anything specifically in  
1567 response to those discussions.

1568           Q     Did Peter Davidson direct you to look at any  
1569 documents or any particular legal research during your  
1570 conversations?

1571                   Mr. Gardner. Same instruction.

1572                   Ms. Sachsman Grooms. Why so many conversations  
1573 with Peter Davidson?

1574                   Mr. Gardner. Objection. To the extent you can  
1575 answer that question without divulging confidential or  
1576 litigation interests of the Department, you may do so.

1577 Otherwise, I instruct you not to answer.

1578                   Mr. Gore. I don't know.

1579           Q     Did he always call you?

1580           A     Yes.

1581                   Ms. Sachsman Grooms. Was he checking on the  
1582 status? Was that what was going on?

1583                   Mr. Gardner. Same instruction.

1584

1585                   Mr. Anello. Did the calls stop once the DOJ  
1586 sent its letter?

1587                   Mr. Gore. I can't recall when the last time  
1588 was when I spoke to Mr. Davidson.

1589                   Ms. Anderson. I think we've reached our hour.  
1590 If we could go off the record for five minutes.

1591                                   (A brief recess was taken.)

1592                   Mr. Castor. Back on the record. It's 10:47.  
1593 I'm Steve Castor with the Republican staff.

1594                   I'm going to mark as Exhibit 2 the  
1595 December 12th letter.

1596                   (Exhibit 2 was marked for identification and  
1597 attached to the transcript.)

1598                                   EXAMINATION

1599                   BY MR. CASTOR.

1600                   Q     At the time you were the acting Assistant  
1601 Attorney General for the Civil Rights Division when this  
1602 letter was prepared?

1603                   A     Yes, I was.

1604                   Q     Could you help us understand why that letter  
1605 went out under the Justice Management Division letterhead  
1606 and why Mr. Gary signed it?

1607                   A     Sure, I would be happy to. Mr. Gary serves as  
1608 general counsel of the Justice Management Division, and one



1609 of his responsibilities on behalf of the Department of  
1610 Justice is to make formal request to the Census Bureau  
1611 whenever the Department is seeking addition of questions to  
1612 the census questionnaire or the American Community Survey.

1613           So Mr. Gary had signed these letters -- letters  
1614 such as this one in the past on behalf of requests that had  
1615 been made by the Department, including by the Civil Rights  
1616 Division. There had been a request related to the American  
1617 Community Survey, I believe, sent in about 2016, and  
1618 Mr. Gary is the point person -- think of him as the point  
1619 person between the Department of Justice and the Census  
1620 Bureau for formal requests like this one. So it is  
1621 consistent with standard practice and process in the  
1622 Department of Justice for Mr. Gary to be the signatory for  
1623 this letter.

1624           Q     And you obviously drafted the letter?

1625           A     As I testified before, I wrote the first draft  
1626 of the letter, and I think the record reflects that several  
1627 other people made comments or suggested edits to the  
1628 letter, including Mr. Gary. And this is the final product,  
1629 represents the Department's letter.

1630           Q     You testified earlier that you first started  
1631 looking at this question the end of August, beginning of  
1632 September, and this letter is dated December 12th. Is it  
1633 fair to say that the Department was considering the issue

1634 at the heart of the matter here for that time period?

1635 A Yes.

1636 Q September, October, November, it's about three

1637 and a half months; is that fair?

1638 A Sounds about right.

1639 Q Is it fair to consider that as a thoughtful

1640 effort by the Justice Department before this letter was

1641 sent?

1642 A Yes.

1643 Q And by "thoughtful," I think if the letter was

1644 sent, you know, on September 1st or September 2nd, you

1645 might be -- you might not be able to call that a thoughtful

1646 process, but this is the product of three months of careful

1647 consideration; is that fair?

1648 A Yes, that's fair.

1649 Q Could you walk us through -- there's a Supreme

1650 Court oral argument on April 23rd; is that correct?

1651 A That sounds right, yes.

1652 Q And the Supreme Court is looking at the New York

1653 case, but there are several other pieces of litigation

1654 surrounding this question right now. Is that correct?

1655 A That's my understanding, yes.

1656 Q Are you aware of the various cases?

1657 A I have limited knowledge and awareness of the

1658 cases. Those cases are being handled by the Civil Division

1659 of the Department of Justice on behalf of the Department of  
1660 Commerce, which is the defendant in those cases. The Civil  
1661 Rights Division is not involved in those cases. We're not  
1662 counsel of record. We're not managing the day-to-day on  
1663 those cases, so what I know is what I've seen reported in  
1664 the press, and I've read portions of the New York decision.

1665           There's a case in New York, a case in  
1666 California, and a case in Maryland, and I think there might  
1667 be one more case. And I understand the Supreme Court has  
1668 granted certiorari before judgment in the New York case.

1669           The Department filed its opening brief on the  
1670 merits in that case yesterday, and I do believe the oral  
1671 argument before the Supreme Court is on April 23rd.

1672           Q     It hasn't been considered at the appellate  
1673 level; it went from District Court straight to the Supreme  
1674 Court; is that right?

1675           A     That's correct.

1676           Q     That's relatively unusual, right?

1677           A     In my experience, it is.

1678           Q     And would you say it's fair to conclude that  
1679 this is a unique issue, relatively important question for  
1680 the Supreme Court to reach down and take it right out of  
1681 the District Court level?

1682           A     Like I said, it's very unusual. I have a fair  
1683 amount of experience litigating before the Supreme Court.

1684 I'm not aware of any case where this has happened before.  
1685 It certainly never happened in any of my cases. I can't  
1686 characterize what the court's thinking on that might be,  
1687 but I can certainly say it's an unusual procedural posture  
1688 for a case to arrive in the Supreme Court.

1689 Q I know you're not litigating the case, but what  
1690 are the questions presented as you understand them? You  
1691 got into this a little bit with your May testimony before  
1692 the Committee.

1693 A I don't know much about the issues presented  
1694 except that the appeal on behalf of the United States and  
1695 the Department of Commerce is an appeal from Judge Furman's  
1696 findings of fact and conclusions of law. And, as I have a  
1697 very limited understanding of what Judge Furman decided in  
1698 that 277-page opinion, but I think he found a violation of  
1699 the Administrative Procedure Act, I would imagine that  
1700 that's being appealed from, as well as any other claims he  
1701 may have upheld in that opinion.

1702 Q Bear with me with this question. We're not as  
1703 expert in the history of the citizenship question by the  
1704 Census Bureau, but as I understand it, the question has  
1705 been asked of -- by the census probably since the beginning  
1706 of time. Is that fair?

1707 A I don't know exactly when it was started. What  
1708 I can tell you is that there is a citizenship question on

1709 the census questionnaire that went to every household  
1710 through the 1950 census, as I recall. It was later moved  
1711 to what's called the long form of the census, which was a  
1712 longer form with more questions, as the name implies, that  
1713 went to about one out of every six households from 1960 to  
1714 2000.

1715                   That was the data -- that long-form  
1716 questionnaire included a question about citizenship. And  
1717 that was -- data derived from that long-form questionnaire  
1718 is what the Department of Justice and other plaintiffs  
1719 relied upon when bringing Section 2 vote dilution cases  
1720 where citizenship rights are at issue or can be at issue.

1721                   There's no dispute that the Department of  
1722 Justice and other plaintiffs bringing Section 2 vote  
1723 dilution cases need citizenship data and need that data at  
1724 the block level. The question here is where that data  
1725 comes from.

1726                   So between 1960 and 2000, it came from the long  
1727 form of the census questionnaire. After the 2000 census,  
1728 in about 2004 and 2005, the Census Bureau decided no longer  
1729 to use the long-form questionnaire and started using what's  
1730 called the American Community Survey. The American  
1731 Community Survey is sent, I believe, to about one out of  
1732 every 38 households every year across the country.

1733                   It's a very long survey. I think it takes 45

1734 minutes to an hour to complete. It asks all kinds of  
1735 questions about demographics and socioeconomics. I think  
1736 one of the questions is whether you have a dishwasher in  
1737 the house or something like that, but it does ask a  
1738 citizenship question.

1739                   And that -- the results of the American  
1740 Community Survey are aggregated into one -- now one- and  
1741 five-year rolling averages. There used to be a one-year,  
1742 three-year, and five-year. They got rid of the three-year.  
1743 Now they're one-year and five-year averages.

1744                   That's the data that was used in the 2010  
1745 redistricting cycle with respect to citizenship, came from  
1746 the American Community Survey. And it was used both by map  
1747 drawers and by litigants litigating cases under Section 2  
1748 or under the one person, one vote mandate of the  
1749 Constitution or racial gerrymandering cases or other cases  
1750 that might have arisen under state law.

1751           Q     You walked through in the first hour the sort of  
1752 a roster of folks that you spoke with about this issue.

1753           A     Correct.

1754           Q     Would you be able to go through and help us  
1755 understand where these people fit into the big picture.

1756           A     I can certainly tell you --

1757           Q     To the extent you know.

1758           A     -- some job descriptions about each of these

1759 people.

1760 Q Yeah.

1761 A Obviously, Attorney General Sessions was the

1762 Attorney General. Thank you.

1763 Mr. Gardner. He's here all day.

1764 Mr. Gore. I take tips too.

1765 A The Office of Attorney -- within the Office of  
1766 the Attorney General, the Attorney General has a chief of  
1767 staff and has what are called counsel or senior counsel to  
1768 the Attorney General. It's his personal staff that advises  
1769 him. And so, Rachael Tucker, Danielle Cutrona, and Gene  
1770 Hamilton were all counsel to the Attorney General. I  
1771 believe at the time Mary Blanche Hankey -- I had a  
1772 conversation with Mary Blanche Hankey. That was her title  
1773 as well. She moved on to a different role in the  
1774 Department. She may have been the White House liaison at  
1775 the time as well. I can't recall.

1776 Underneath -- within the organizational  
1777 structure of the Department of Justice, the next office  
1778 below the Office of Attorney General is the Office of the  
1779 Deputy Attorney General. The current Deputy Attorney  
1780 General is Mr. Rosenstein. At the time, I spoke with Bob  
1781 Troester, as I mentioned before, T-R-O-E-S-T-E-R.  
1782 Mr. Troester is a long-time career lawyer at the Department  
1783 of Justice. He was an Assistant United States Attorney in



1784 Oklahoma. I think he's on his second or third tour of duty  
1785 now as the acting U.S. Attorney in Oklahoma. He at the  
1786 time was on detail to the Office of Deputy Attorney  
1787 General, serving as what's called an Associate Deputy  
1788 Attorney General, and was our point of contact in that  
1789 office for civil rights-related issues.

1790 I mentioned Rachel Brand was the Associate  
1791 Attorney General. That made her the third highest ranking  
1792 official in the Department after Mr. Sessions and Deputy  
1793 Attorney General Rosenstein. Her principal deputy was  
1794 Jesse Panuccio. And Patrick Hovakimian -- I can't remember  
1795 if he was the deputy or -- I think he was a deputy in her  
1796 office, but he was our point of contact in that office. He  
1797 had the civil rights portfolio.

1798 Q And then the Justice Management Division, does  
1799 that report up through the Associate Attorney General?

1800 A I don't know.

1801 Q Or is it up through the DAG?

1802 A It's one of -- either one or both. I'm not  
1803 sure. I don't know where it fits in the org chart.

1804 Q And the Civil Rights Division reports up through  
1805 the DAG?

1806 A We report through the Associate Attorney  
1807 General, then to the Deputy Attorney General and then to  
1808 the Attorney General.

1809 Q Okay.

1810 How about Bethany Pickett? Have we talked  
1811 about her yet?

1812 A Yes, Bethany Pickett was counsel in the Civil  
1813 Rights Division's Office of Assistant Attorney General,  
1814 which was the office where I worked, and that's about it.

1815 Q How long were you the Acting Assistant Attorney  
1816 General for the Civil Rights Division?

1817 A I was Acting Assistant Attorney General for just  
1818 over 15 months while the Senate very thoroughly deliberated  
1819 the nomination of Eric Dreiband.

1820 Q And currently you are the principal deputy?

1821 A That's correct.

1822 Q How many deputies are there in the Civil Rights  
1823 Division?

1824 A There's a principal deputy and then four  
1825 deputies.

1826 Q How is the work split up? What are the various  
1827 responsibilities of the four deputies?

1828 A So each of the deputies has a portfolio. So the  
1829 Civil Rights Division is divided into sections that perform  
1830 the law enforcement mission of the division, and each  
1831 deputy has oversight over some number of those sections  
1832 depending on what their portfolio is. And things flow up  
1833 from the sections to the deputy level and then ultimately

1834 to the principal deputy and the Assistant Attorney General  
1835 where appropriate.

1836 Q Did you have any assistance in preparing the  
1837 December 12th letter? Did you have any staffers helping  
1838 you?

1839 A As I mentioned before, I think the record  
1840 reflects that I received comments on and edits to the  
1841 letter from a variety of people.

1842 Q But you primarily drafted it, or did you assign  
1843 it out to a more junior attorney?

1844 A I did the drafting.

1845 Q Prior to coming to the Justice Department, did  
1846 you litigate any Section 2 Voting Rights Act claims?

1847 A Yes, I did.

1848 Q Could you maybe just explain a little bit about  
1849 your experience in that space.

1850 A Certainly. So I handled a number of voting  
1851 rights cases while I was in private practice. I had a  
1852 case, a racial gerrymandering case with Virginia. I had  
1853 some Section 2 and equal population, one person, one vote  
1854 cases in South Carolina and New York as well.

1855 Q So you have some experience in this topic area?

1856 A Yes, I do.

1857 Q Did you personally believe that the Justice  
1858 Department needed additional information from the census as

1859 reflected in this letter?

1860 Mr. Gardner. I'm going to instruct the witness  
1861 not to answer.

1862 Q Did you believe in the content of the letter  
1863 that you were preparing or was it simply an assignment?

1864 Mr. Gardner. Same instruction.

1865 Q If the Justice Department received more accurate  
1866 citizenship data, would that be of assistance in performing  
1867 the mission of enforcing the Voting Rights Act?

1868 A I believe the Department's letter speaks for  
1869 itself and states what the Department's position is on that  
1870 question. The Department is always looking at the academic  
1871 literature, looking for the best sources of data to carry  
1872 out its law enforcement mission. That's certainly what we  
1873 do in the Civil Rights Division. We want to have the best,  
1874 most complete, most comprehensive, and most accurate set of  
1875 data on all the questions that we deal with, including a  
1876 citizenship question where it's implicated by Voting Rights  
1877 Act cases.

1878 So, our goal is to collect as much data as we  
1879 possibly can to identify potential violations of the Voting  
1880 Rights Act and bringing enforcement actions where  
1881 appropriate.

1882 Q And the most accurate data; is that correct?

1883 A Sure.

1884 Q Mr. Zadrozny, of the Domestic Policy Council,  
1885 how did he enter into the mix here?

1886 A As I believe I've testified previously, both  
1887 today and in my deposition, I was -- I received an invite  
1888 to be on a conference call in which Mr. Zadrozny also  
1889 participated, along with Rachael Tucker and Gene Hamilton.

1890 Q And when was that?

1891 A I believe it was in October of 2017.

1892 Q Do you remember the -- how long that call  
1893 lasted?

1894 A Half an hour, maybe.

1895 Q Were there any requests from Mr. Zadrozny?

1896 Mr. Gardner. Objection.

1897 Q Were there any marching orders?

1898 Mr. Gardner. To the extent you can answer that  
1899 question without divulging confidential or litigation  
1900 interests of the Department, you may do so. Otherwise, I  
1901 instruct you not to answer.

1902 Mr. Gore. Can I give a yes or no to that?

1903 Mr. Gardner. You may.

1904 A No.

1905 Q Was the information exchanged bilateral or was  
1906 the Justice Department giving information to the Domestic  
1907 Policy Council? Was the Domestic Policy Council giving  
1908 information to you? Could you help us understand sort of

1909 the contours of that call.

1910 Mr. Gardner. Same instruction. To the extent  
1911 you can answer that question without divulging the  
1912 confidential and litigation interests of the Department,  
1913 you may do so.

1914 A What I can say is all four participants who I  
1915 named who participated in that call spoke during the call.

1916 Q I guess my question was, was the purpose of the  
1917 call, to the extent you know, because the Domestic Policy  
1918 Council wanted to hear from you, wanted an update, or was  
1919 the purpose of the call something else?

1920 Mr. Gardner. Same instruction.

1921 A I don't think I can answer that question  
1922 consistent with that instruction.

1923 Q Did you ever speak with a little known official  
1924 named Steve Bannon?

1925 A I have never spoken to Mr. Bannon in my life.

1926 Q Ever speak with any other official with --  
1927 associated with the White House?

1928 Mr. Gardner. About the census question?  
1929 Mr. Castor. Yes.

1930 A Specifically about the census question, no, just  
1931 Mr. Zadrozny.

1932 Q Okay. And is that the sum total of your  
1933 communications with the White House staff about the census?

1934 A About the census, yes.

1935 Q The individuals at the census -- I'm sorry -- at  
1936 the Commerce Department that you spoke with, obviously we  
1937 identified Mr. Davidson as the general counsel. And then  
1938 you named two other people at the Commerce Department, Ms.  
1939 Teramoto and Mr. Uthmeier?

1940 A Uthmeier.

1941 Q How do they fit into this? Do you know what  
1942 their jobs were?

1943 A Ms. Teramoto at the time was Secretary Ross'  
1944 chief of staff, and Mr. Uthmeier was at least at that time  
1945 employed in the Office of General Counsel of the Commerce  
1946 Department. I don't know whether he's still in that office  
1947 or somewhere else, but I understand that he's still with  
1948 the Commerce Department.

1949 Q Did you ever get a readout from the telephone  
1950 call between -- or any of the communications between the  
1951 Secretary and the Attorney General?

1952 Mr. Gardner. You can answer that with a yes or  
1953 no.

1954 A Yes.

1955 Q Do you know how many communications there were,  
1956 how many phone calls there were between the Secretary and  
1957 the Attorney General?

1958 A I think I stated earlier today that I'm aware of

1959 one phone call before I received the late August, early  
1960 September -- early college football season call from the  
1961 Attorney General and Mary Blanche Hankey. I believe I'm  
1962 aware of maybe two further conversations between the  
1963 Attorney General and Secretary Ross related to this  
1964 particular issue.

1965 Q Did you get readouts from all of them or ...

1966 A Yes, I did. That's how I know about them.

1967 Q Is it still the position of the Justice  
1968 Department that the census should include a citizenship  
1969 question?

1970 A To my knowledge, that remains the position of  
1971 the Justice Department and the Department of Commerce in  
1972 the litigation.

1973 Q Did you receive any feedback from other  
1974 government agencies other than Department of Commerce about  
1975 the inclusion of that question?

1976 A I'm sorry, at what point in time?

1977 Q After the December 12th letter.

1978 A After the December 12th letter?

1979 Q Yes.

1980 A I don't believe so.

1981 Q Did you ever have any communications with the  
1982 Department of Homeland Security about the inclusion of this  
1983 question?



1984 A At what point in time?

1985 Q After the December 12th letter.

1986 A No, I didn't.

1987 Q Or any other -- any other components, such as

1988 ICE?

1989 A No.

1990 Q Have you ever been involved with any discussions

1991 about use of this data in enforcement actions for

1992 immigration?

1993 Mr. Gardner. Are you talking about discussions

1994 with Homeland Security?

1995 Q Or other Justice Department officials. I mean,

1996 he's just -- he's just testified that after the 12th --

1997 MR. GARDNER. I was just clarifying what your

1998 question was.

1999 To be fair, could you just ask the question one

2000 more time so we're all clear what you're asking.

2001 Q After the December 12th letter, did you have any

2002 communications about use of this data for immigration

2003 enforcement matters?

2004 A No, I did not, except I believe I was asked

2005 about that when I testified in front of the full committee,

2006 and I testified to the best of my knowledge as to how this

2007 data could or could not be used, but I'm not an expert on

2008 that.

2009 Q So, to your knowledge, is there anybody at the  
2010 Justice Department that wanted this information for  
2011 purposes of pursuing immigration enforcement matters?

2012 Mr. Gardner. You can answer that question to  
2013 the extent you can do so without divulging confidential or  
2014 litigation interests of the Department. Otherwise, I  
2015 instruct you not to answer.

2016 A Not to my knowledge.

2017 Q So there's no plan that you're aware of to take  
2018 this data, use it to prosecute immigration matters?

2019 Mr. Gardner. Same instruction with the same  
2020 caveat.

2021 A Not to my knowledge.

2022 Q What data does the Civil Rights Division receive  
2023 from the Census Bureau on a regular basis?

2024 A The Civil Rights Division receives a lot of data  
2025 from the Census Bureau, but one -- we are a principal  
2026 consumer of the Census Bureau's data and product, and it  
2027 falls into a variety of different categories. Virtually  
2028 all of the data that we use in the Civil Rights Division is  
2029 publicly available. It's aggregate data. We don't get any  
2030 individual census responses or any individual questionnaire  
2031 responses or any data by any individual person. What we  
2032 get is aggregate data at various levels of census  
2033 geography, the smallest of which is the census block level.

2034                   We get data about citizenship through the  
2035 American Community Survey. We get socioeconomic data  
2036 through the American Community Survey. We get racial data,  
2037 which comes from the short-form census. We also get  
2038 Hispanic origin or Latino origin data from both the census  
2039 questionnaire, and then we get certain data related to that  
2040 from the ACS, including language data.

2041                   Every five years the Census Bureau makes  
2042 determinations about coverage under Section 203 of the  
2043 Voting Rights Act, which is the language minority provision  
2044 of that act. And those determinations identify  
2045 jurisdictions that have to provide voting-related  
2046 materials, ballots, signs, translators, poll workers in the  
2047 covered language. That's all done by the American  
2048 Community Survey every five years.

2049                   So, there's a whole host of data that we  
2050 receive. I'm aware of at least one occasion in which we  
2051 requested Section 203 data in some kind of table format  
2052 that the Census Bureau otherwise wouldn't have produced  
2053 publicly, but other than that, I understand that everything  
2054 else we've received has been publicly available data,  
2055 aggregate data.

2056           Q     Completely anonymous.

2057           A     Completely anonymous.

2058           Q     Do you know if the Census Bureau provides data

2059 to any other government agency that's in any other form?

2060           A     I imagine the Census Bureau provides data to  
2061 many government agencies, but I don't have any knowledge of  
2062 that.

2063           Q     But is it all anonymous?

2064           A     I would believe so. I don't know particularly.  
2065 I'm not an expert on that. I don't work at the Census  
2066 Bureau. Title 13 of the U.S. Code places criminal  
2067 penalties on unauthorized disclosure of individual census  
2068 responses or survey responses to the Census Bureau. I  
2069 don't know how all of that works, but I do know that there  
2070 are other programs within the government where census data  
2071 would be at least relevant, if not important to those  
2072 government programs, so I imagine the Census Bureau shares  
2073 the data with those agencies.

2074           Q     It would be against the law for somebody at the  
2075 Census Bureau of the Commerce Department to take specific  
2076 information about a specific person and use that to go find  
2077 them and prosecute them; is that fair to say?

2078           A     I think what -- I think what's -- my  
2079 understanding -- I haven't studied Title 13 and I'm not an  
2080 expert in that. My understanding is that individuals at  
2081 the Census Bureau who handle the individual questionnaires  
2082 have to sign a nondisclosure agreement and that an  
2083 unauthorized disclosure of one of those questionnaires or

2084 its contents would be a criminal violation of federal law.

2085 Q So, as we understand it, DOJ exclusively uses  
2086 the sampling data to determine voting right -- Voting  
2087 Rights Act violations?

2088 A That's the use -- I'm sorry, which census data?

2089 Q The sampling data.

2090 A That is a use for which we use it in the Civil  
2091 Rights Division. I don't know if there are other uses.

2092 Q Okay. Maybe it would help to just walk us  
2093 through the -- what data sampling is for the record and how  
2094 the Civil Rights Division uses it.

2095 A Data sampling in particular?

2096 Q Yes.

2097 A Or the data we receive from the Census Bureau?

2098 Q The data you receive from the Census Bureau.

2099 A Sure. So as I mentioned, take the American  
2100 Community Survey, for example. That's a sample of data  
2101 since it goes to one in every 38 households. It's not  
2102 given to everybody, so it's not a hard count. And the --  
2103 through the ACS, the Census Bureau can generate estimates  
2104 about -- can extrapolate estimates from the survey  
2105 responses to a larger population.

2106 And the Census Bureau currently reports the ACS  
2107 citizenship data estimates at the level of what's called a  
2108 census block group. A census block group is a collection

2109 of census blocks, usually on -- it's an average of about  
2110 39. But it could be fewer or it could be a lot more,  
2111 depending on how the census has drawn its block groups in a  
2112 particular geographic area.

2113           And so we take that data and conduct further  
2114 estimates to extrapolate it down to the census block level.  
2115 We need census block-level data to identify potential  
2116 Voting Rights Act violations for investigation and  
2117 appropriate enforcement actions.

2118           Q     Can you explain how both the asking and  
2119 answering of the citizenship question will help the  
2120 Department enforce the Voting Rights Act?

2121           A     As I said, as I think the letter speaks for  
2122 itself, the Department's trying to get the most accurate,  
2123 complete, and comprehensive data on citizenship that it  
2124 possibly can, just like it tries to get the most accurate,  
2125 complete, and comprehensive data it can on race or on  
2126 Hispanic origin or on the language minority issues that are  
2127 raised by Section 203 of the Voting Rights Act.

2128                     We haven't asked for the ACS to go away. Quite  
2129 to the contrary, the letter requests that the ACS continue  
2130 both for use in Section 203 cases but also for use in  
2131 Section 2 cases. It's a data-driven world, and we think if  
2132 we have more data and the best possible data, we can  
2133 identify cases and investigations that the Department can

2134 conduct under Section 2 of the Voting Rights Act.

2135 Q Before the September -- late August, early  
2136 September communication with the Attorney General, was  
2137 adding the citizenship question something that the Civil  
2138 Rights Division had planned for or advocated for?

2139 Mr. Gardner. I'm going to instruct the witness  
2140 not to answer.

2141 Q Can you help us understand how the lack of data  
2142 prior to, I guess, the current situation impacts the  
2143 prosecution of Voting Rights Act cases?

2144 A So, as I've explained, we've been making do with  
2145 the ACS data --

2146 Q Right.

2147 A -- and extrapolating the ACS block group level  
2148 estimates down to the block level to identify potential  
2149 investigations and enforcement actions.

2150 Q Right.

2151 A There's, I think, an acknowledgment that the ACS  
2152 data is an estimate. The Census Bureau puts confidence  
2153 intervals and margins of error around it. And we don't  
2154 bring cases unless we can win them. So we've been able to  
2155 file cases and litigate them under -- using the ACS data.

2156 We would like to get an additional source of  
2157 data because there may be districts or cases out there  
2158 where that data provides a clearer picture of what's going

2159 on at the block level and within a particular district or  
2160 redistricting plan, and we might be able to identify  
2161 additional cases for investigation and potential  
2162 prosecution.

2163 Q We may not have time to go through all of this,  
2164 as we only have about 30 minutes left, but I guess we could  
2165 start. Could you walk us through the Section 2 cases filed  
2166 by the Justice Department in 2010 to the extent you can  
2167 list them all?

2168 A The Justice Department did not file any Section  
2169 2 cases in 2010.

2170 Q Do you know if the Justice Department filed any  
2171 in 2009?

2172 A Yes, the Justice Department filed one case in, I  
2173 believe it was May 2009. It was a vote dilution case  
2174 involving a locality in Florida that ultimately was  
2175 resolved by consent decree.

2176 Q Okay. That's one case in 2009?

2177 A Correct.

2178 Q You said there were zero cases in 2010?

2179 A That's correct.

2180 Q How about in 2011?

2181 A Zero cases.

2182 Q 2012?

2183 A Zero.



2184 Q 2013?

2185 A There were three Section 2 cases filed by the  
2186 Department in 2013. Only one of those cases was a  
2187 redistricting case. That's the case, United States versus  
2188 the State of Texas. It was challenges to redistricting  
2189 plans drawn by the Texas legislature in 2011 for the State  
2190 House and for Congress.

2191 Now, ironically at the time the Justice  
2192 Department filed that lawsuit in 2013, the Texas  
2193 legislature had already adopted new plans to supersede  
2194 those 2011 plans. So the case was in a very unusual  
2195 posture.

2196 The Department filed two other Section 2 cases  
2197 in 2013. One was a challenge to Texas' voter ID  
2198 requirement. Another case -- the style was the United  
2199 States versus the State of Texas. And then there was a  
2200 case that the Department filed against the State of North  
2201 Carolina related to voter ID requirement and several other  
2202 voting-related laws that the North Carolina legislature had  
2203 enacted.

2204 Q You need data to file these cases, right?

2205 A Yes, you need data to file all of those cases,  
2206 and you, in particular, need block-level citizenship data  
2207 to file the redistricting cases and vote dilution cases.

2208 Q How many lawyers are there that work on these

2209 cases?

2210 A I don't -- I don't know exactly. We have a  
2211 voting section that handles these cases as well as any  
2212 other voting-related cases under Section 203 of the Voting  
2213 Rights Act. We also enforce the Uniformed and Overseas  
2214 Citizens Absentee Voting Act, which protects military  
2215 voters and other overseas voters. And we enforce the  
2216 National Voter Registration Act, Help America Vote Act, and  
2217 the federal laws pertaining to the right to vote.

2218 Q How many lawyers work on Section 2 cases?

2219 A At any given time, I don't know. Any lawyer  
2220 within the voting section could be staffed on any case  
2221 arising under any of the statutes that we enforce.

2222 Q Could you list all the cases in 2014?

2223 A There were no -- the Department filed zero  
2224 Section 2 cases in 2014.

2225 Q Could you list all the cases in 2015?

2226 A The Department filed zero Section 2 cases in  
2227 2015.

2228 Q Could you list all the cases in 2016 that were  
2229 filed?

2230 A The Department filed zero Section 2 cases in  
2231 2016.

2232 Q So, any cases filed in 2017?

2233 A Yes, there was a case filed in January 2017,

2234 United States against Eastpointe, Michigan. That is a vote  
2235 dilution claim brought against Eastpointe's at-large method  
2236 of electing the city council.

2237 Q How about so far in -- or in 2018?

2238 A The Department filed zero Section 2 cases in  
2239 2018.

2240 Q Any this year so far?

2241 A None so far this year.

2242 Q So it's four cases during the previous  
2243 administration and one case during the current  
2244 administration?

2245 A The 2017 case was actually filed about ten days  
2246 before this administration took office. It was filed on, I  
2247 think, January 10th or something like that. We've  
2248 continued to litigate that case on behalf of the United  
2249 States. It's still in District Court. We have, I believe,  
2250 cross motions for summary judgment pending with the  
2251 District Court.

2252 Q Does the Justice Department collect any of its  
2253 own data to enforce the Voting Rights Act or does it rely  
2254 exclusively on the Commerce Department?

2255 A I'm not aware of the Justice Department  
2256 collecting any citizenship or demographic data.

2257 Q You get that all from the Census Bureau?

2258 A That data, yes.

2259 Q Has the Civil Rights Division ever requested the  
2260 raw data from the Census Bureau that could be used to  
2261 identify ACS respondents?

2262 A I'm not aware of any such request.

2263 Q Has that request ever come up during litigation  
2264 where it was challenged?

2265 A I'm not sure I understand the question, but to  
2266 the extent I understand the question, I'm not aware of that  
2267 ever happening.

2268 Q I think you answered this before, but the  
2269 responses to the -- any of the information collected from  
2270 individual respondents on the census can never be used by  
2271 the Justice Department or any other law enforcement agency  
2272 in any judicial proceeding. Is that fair?

2273 A I don't know the answer to that question because  
2274 I haven't studied the issue. It's a legal question about  
2275 the contours of Title 13. It's my understanding that Title  
2276 13 imposes criminal penalties on the unauthorized  
2277 disclosure of census questionnaire responses or other data  
2278 collected by the Census Bureau.

2279 I don't know as I sit here today exactly what  
2280 the contours of that are. I am not aware of the Department  
2281 of Justice bringing any kind of enforcement action against  
2282 anyone based on a response to the census questionnaire. I  
2283 think I may have read an article suggesting there was some

2284 kind of action in the 1970s against somebody who said or  
2285 did something on a census questionnaire, but I don't know  
2286 anything about it.

2287 Q What are the penalties if somebody does not fill  
2288 out the census form?

2289 A Again, I've not studied that question. That's a  
2290 legal question. I don't know what the answer is to that.  
2291 I think there may be some penalty somewhere in the federal  
2292 code about that. I don't know what it is. I will say it's  
2293 my understanding that the Census Bureau counts all of the  
2294 information from the census questionnaire that it can, even  
2295 from an incomplete questionnaire.

2296 So, let's say, I don't know how many questions  
2297 are on the questionnaire as I sit here today, but let's say  
2298 there are ten. If somebody answers only eight questions,  
2299 the Census Bureau will tally the information received in  
2300 response to those eight questions. It doesn't reject the  
2301 questionnaire in total. So if somebody for whatever reason  
2302 doesn't answer a question or answers it in a way that's  
2303 unintelligible, the Census Bureau still collects from that  
2304 questionnaire whatever data it can make out.

2305 Q You're required by law to fill out the census  
2306 form?

2307 A That's my understanding, but as I said, I  
2308 haven't studied it.

2309 Q But in reality nobody ever gets prosecuted for  
2310 not filling out their census form, right?

2311 A My understanding is that any such prosecution is  
2312 extraordinarily rare to vanishing.

2313 Q Are you aware of any ever?

2314 A As I said, I think I read an article suggesting  
2315 there was -- something happened in the 1970s on this, but I  
2316 don't know the details of that, and I can't independently  
2317 verify that that case even exists.

2318 Q Are you aware of any plan to change that? Is  
2319 the Justice Department talking about possibly prosecuting  
2320 people going forward for not responding to the census?

2321 Mr. Gardner. I'll instruct the witness not to  
2322 answer.

2323 Mr. Castor. On what basis?

2324 Mr. Gardner. You're asking about the  
2325 Department of Justice's deliberations about prosecution  
2326 plans, correct?

2327 Mr. Castor. Okay.

2328 Mr. Gardner. Is that your question?

2329 Mr. Castor. Right.

2330 Mr. Gardner. Based on confidentiality and  
2331 litigation interests, I instruct the witness not to answer.

2332 Q I think we had a hearing during 2018, and  
2333 Justice Department officials said there are, in fact, no  
2334 plans to prosecute people for failing to respond to the

2335 census. Are you aware of any information to the contrary?

2336 Mr. Gardner. Just to be clear, that's a

2337 different question. You asked whether there any

2338 discussions in the Department. Now is your question are

2339 there current plans? I'll let him answer that question.

2340 A I'm sorry, can you restate your question just so

2341 I understand it.

2342 Q Are you aware of any effort to prosecute people

2343 for failing to answer the census? As I mentioned, there's

2344 been testimony before our Committee that, in fact, there is

2345 not a plan to prosecute people for failing to answer the

2346 census, and that's testimony from Commerce Department

2347 officials.

2348 A I'm not aware of any plan to prosecute.

2349 Q So you're not aware of any reason that that

2350 testimony from the Commerce Department is contradicted?

2351 A No, I'm not.

2352 Q How many times have you been asked to testify

2353 about this topic? You had your deposition. You had your

2354 May 2018 appearance before the Committee. Are there other

2355 instances where you've been on the record?

2356 A Today. Those are the only three instances.

2357 Q Okay. So you gave a deposition in the New York

2358 case?

2359 A I believe it was -- I think it may have been

2360 designated in other cases as well.

2361 Q And that deposition is the only one that you've  
2362 given as part of the numerous pieces of litigation?

2363 A Yes. I gave one deposition, and it went the  
2364 full seven hours allowed by the federal rules.

2365 Q Are you aware of former Kansas Secretary of  
2366 State Kris Kobach?

2367 A I am aware of Mr. Kobach, yes.

2368 Q Have you ever had any communications with him?

2369 A Not on this issue. I met Mr. Kobach once at a  
2370 meeting of the National Association of Secretaries of  
2371 State. He came over to meet during a lunch and introduced  
2372 himself. I believe that's the only time I ever spoke to  
2373 him.

2374 Q Do you remember when that was?

2375 A It was in early 2017.

2376 Q Have you ever had any discussions with Stephen  
2377 Miller at the White House?

2378 A No, I have not.

2379 Q There's a fellow by the name of Thomas Brunell?

2380 A No, I have not, not on this issue.

2381 Q But on different issues?

2382 A Yes. I believe when I was in private practice,  
2383 I had conversations with Mr. Brunell connected to a voting  
2384 rights case, but it had nothing to do with the census or



2385 with the Department's request to reinstate a citizenship  
2386 question on the census questionnaire. Maybe it's Dr.  
2387 Brunell, too, I'm not sure, but I think he's a doctor.

2388 Q Does the Justice Department have any role in the  
2389 Commerce Department's submissions to Congress? You know,  
2390 the Commerce Department submits a census question to  
2391 Congress at two points in time before it's finalized. Does  
2392 the Justice Department have a role in that?

2393 A I have no idea.

2394 Q But you probably would know if the -- I mean, if  
2395 the Justice Department was involved with the process, you  
2396 know, you would likely know that, right?

2397 A I don't know. I don't know one way or the  
2398 other.

2399 Q For the 2020 census, Secretary Ross submitted  
2400 the topics to Congress on March 28, 2017. This is required  
2401 by Title 13. And then the final questions were submitted  
2402 in -- a year later. And the question is whether you had  
2403 any role in that submission, or anyone else in your  
2404 Department.

2405 A Not to my knowledge. I know I didn't. Not to  
2406 my knowledge on behalf of the Department of Justice.

2407 Q Who does the Commerce Department consult about  
2408 the propriety of the various questions that go on the  
2409 census? Is that handled inside the Commerce Department or

2410 do they seek legal advice from the Justice Department?

2411 A I don't know.

2412 Q Do you know whether the Office of Legal Counsel  
2413 has any role in helping the Commerce Department with these  
2414 questions?

2415 A I don't know.

2416 Q In any of your discussions with Mr. Davidson,  
2417 did that come up? Did he seek your legal counsel on the  
2418 propriety of this question?

2419 Mr. Gardner. I instruct the witness not to  
2420 answer to the extent it would -- to the extent it would  
2421 divulge confidential or litigation-protected information.  
2422 Otherwise, you may answer the question.

2423 A Yes.

2424 Q What more can you tell us about that?

2425 Mr. Gardner. Same instruction.

2426 Q Anything?

2427 A No.

2428 Q Mr. Gowdy at the May hearing asked the question  
2429 whether if the Secretary wanted to add what's your favorite  
2430 movie onto the census, would he be permitted to do so.

2431 Do you know the answer to that question?

2432 A I don't.

2433 Q If you wanted to add a question, what's your  
2434 favorite movie, what would be the process to get that on

2435 the form? Do you know what type of internal deliberations  
2436 the Commerce Department officials go through, or the Census  
2437 Bureau officials?

2438 A I've never worked at the Department of Commerce  
2439 or Census Bureau. I don't know what process they would  
2440 follow. I also understand that the legal standard  
2441 governing addition of questions to the citizenship -- to  
2442 the census questionnaire is pending in litigation. I don't  
2443 know what the statute says about that in particular or -- I  
2444 understand the Secretary is authorized to make that  
2445 determination, but I don't know under what circumstances,  
2446 so I really don't know. I'm the wrong guy to ask that  
2447 question.

2448 Q Okay. Fair enough.

2449 Do you have any independent knowledge of  
2450 communications Secretary Ross may have had with White House  
2451 officials about this topic?

2452 A I have no knowledge of any such communications.

2453 Q So you don't know whether somebody at the White  
2454 House instructed the Secretary to pursue this?

2455 A I have no knowledge on that one way or the  
2456 other.

2457 MR. CASTOR. I think that's it for now. We can  
2458 come back if we have additional questions later. Thanks.

2459 Ms. Sachsman Grooms. Let's go off the record.

2460 (A brief recess was taken.)

2461 MS. ANDERSON. Back on the record.

2462 So, for the record, again, my name is Tori  
2463 Anderson, and the time is now 11:51.

2464 FURTHER EXAMINATION

2465 BY MS. ANDERSON.

2466 Q So, I want to talk a little bit about the third  
2467 person that you discussed things with at the Department of  
2468 Commerce. That's James Uthmeier. Is that how you  
2469 pronounce it?

2470 A Close enough.

2471 Q We'll just stick with that.

2472 You said you also first spoke with him around  
2473 September of 2017; is that correct?

2474 A That is correct.

2475 Q Did he reach out to you or did you reach out to  
2476 him?

2477 A He reached out to me.

2478 Q Via phone, via email?

2479 A Phone.

2480 Q Is that the first time you had spoken to him?

2481 A Ever?

2482 Q No, as -- about the citizenship question.

2483 A Yes.

2484 Q Did he tell you why he was reaching out to you?

2485           A     Yes.  He told me he was reaching out to me to  
2486 discuss the possibility of the Department of Justice  
2487 requesting reinstatement of the citizenship question on the  
2488 census questionnaire.

2489           Q     And just so I understand kind of the ordering by  
2490 which you had contact with the Department of Commerce, you  
2491 talked to Peter Davidson first and then James Uthmeier and  
2492 then Wendy, or was it a different order?

2493           A     I can't remember whether I spoke with Wendy -- I  
2494 think I may have spoken with Wendy before I spoke to James.  
2495 I think there's an email in the record somewhere that says  
2496 that James called me around September 22nd or something  
2497 like that.

2498           Q     Okay.  Did he indicate that anyone had asked him  
2499 or told him to contact you?

2500                     Mr. Gardner.  You can answer that yes or no.

2501           A     I think so, yes.

2502           Q     Who was that?

2503                     Mr. Gardner.  I instruct the witness not to  
2504 answer.

2505           Q     Was that person inside the Department of  
2506 Justice?

2507                     Mr. Gardner.  Same instruction.

2508           Q     Was that person inside the Department of  
2509 Commerce?

2510 Mr. Gardner. Same instruction.

2511 Q You guys discussed the citizenship question, is  
2512 that correct, on or about that September 22nd date?

2513 A Yes.

2514 Q What did you discuss?

2515 Mr. Gardner. I instruct the witness not to  
2516 answer.

2517 Q Did he ask you or tell you to do anything in  
2518 light of that discussion?

2519 Mr. Gardner. Same instruction.

2520 Q Did you do anything based on your conversation  
2521 with James Uthmeier?

2522 Mr. Gardner. You can answer that to the extent  
2523 you can do so without divulging confidential or litigation  
2524 interests of the Department.

2525 A No.

2526 Q You mentioned that you had several conversations  
2527 with Mr. Uthmeier; is that correct?

2528 A No, I said I had one conversation with him, and  
2529 then he was a participant in one or two of the phone calls  
2530 I had with Mr. Davidson.

2531 Q Those conversations with Mr. Davidson and  
2532 Mr. Uthmeier, were those in the after early September time  
2533 frame? Is that correct?

2534 A That is correct.

2535 Q In the conversation that you had, when he called  
2536 you that first time, did you -- did he tell you he was  
2537 going to provide you any documentation about the  
2538 citizenship question?

2539 Mr. Gardner. You can answer that with a yes or  
2540 no.

2541 A Yes.

2542 Q Did he tell you what that was?

2543 A Yes.

2544 Q What was it?

2545 A That was a memorandum.

2546 Q Was there anything else that he was going to  
2547 send you besides the memorandum?

2548 A I don't know whether he mentioned anything else.  
2549 I don't recall that.

2550 He did, in fact, send me a handwritten cover  
2551 note along with the memorandum.

2552 Q What was the memorandum about?

2553 Mr. Gardner. To the extent you can answer that  
2554 question without divulging any confidential or litigation  
2555 interests of the Department, you may do so. Otherwise, I  
2556 instruct you not to answer.

2557 A The memorandum was about reinstatement of a --  
2558 potential reinstatement of a citizenship question on the  
2559 census questionnaire.

2560 Q Did that memorandum come before or after you did  
2561 your legal research about the reinstatement of the  
2562 citizenship question?

2563 A It came during the time I was doing that  
2564 research.

2565 Q So you had already started doing that research?

2566 A Yes, I had.

2567 Q Did he tell you that the memo you were going to  
2568 receive was about the reinstatement of the citizenship  
2569 question on that phone call?

2570 A Yes, he did.

2571 Q Did he tell you anything else about the contents  
2572 of that memorandum?

2573 Mr. Gardner. I instruct you not to answer.

2574 Ms. Anderson. Sorry, just to be clear, I'm  
2575 asking him did the conversation just include I will send  
2576 you a memo, or did it include I will send you a memo and  
2577 some other?

2578 Mr. Gardner. I see. Okay. To the extent  
2579 that's the question, you may answer that.

2580 A So as I understand your question, you're asking  
2581 if he told me he was going to send me anything in addition  
2582 to the memo?

2583 Q No. My question was --

2584 Mr. Gardner. That was my understanding what



2585 you asked. Try it again.

2586 Q When you were on the phone with him, did he  
2587 simply tell you I'm going to send you a memorandum about  
2588 the reinstatement of the citizenship question or did you  
2589 discuss anything else about the memorandum? Not what did  
2590 you discuss, did you discuss anything else?

2591 Mr. Gardner. Let's try this one step at a  
2592 time. You can answer that with a yes or no.

2593 A Yes, we did discuss -- the phone call lasted  
2594 about 15 or 20 minutes, and I knew Mr. Uthmeier previously.  
2595 We had been employed at the same law firm. So a bunch of  
2596 discussion -- I hadn't spoken to him since around January  
2597 of 2017 when we had come into the government, and so much  
2598 of the conversation was just a social call to catch back  
2599 up.

2600 Q Okay. But just to be really clear, he did not  
2601 just tell you I'm going to send you a memo. You discussed  
2602 other -- did you discuss other things about the memo?

2603 Mr. Gardner. Once again, you can answer that  
2604 with a yes or no.

2605 A Yes.

2606 Q When did you receive the memo?

2607 A I don't recall exactly when I received the memo.  
2608 It was hand delivered to my office with a handwritten cover  
2609 note, and I don't recall how long it took -- how much time

2610 elapsed between that phone call and when I received the  
2611 memo.

2612 Q In that phone call when you were talking -- when  
2613 he informs you he's going to send you a memo, what did you  
2614 specifically discuss?

2615 Mr. Gardner. I'll instruct the witness not to  
2616 answer.

2617 Q You said that he -- it came -- it was delivered  
2618 to you. How was it delivered, that you're aware of?

2619 A All I know is that my assistant brought it to me  
2620 and said it had been hand delivered. I don't know who  
2621 delivered it or whether Mr. Uthmeier did it himself or  
2622 whether somebody else did it. Is that your question?

2623 BY MR. ANELLO.

2624

2625 Q Can I ask a follow-up on that?

2626 A Sure.

2627 Q I don't mean to sound facetious, but you  
2628 obviously have access to email, correct?

2629 A I do.

2630 Q And Mr. Uthmeier, obviously, has access to  
2631 email.

2632 A I imagine he does, yes.

2633 Q So, is it fair to say that he could have emailed  
2634 the memorandum to you if he had wanted to?

2635 A I don't know. You would have to ask him that.

2636 I don't know what format he had the memorandum in and

2637 whether that would have been possible.

2638 Q Do you know why it was hand delivered to you?

2639 A I don't.

2640 Q Do you know whether he was instructed to hand

2641 deliver it to you, Mr. Uthmeier?

2642 A I don't.

2643 Q How often do you receive memorandum -- paper

2644 memos from other agencies rather than receiving memorandums

2645 in electronic form?

2646 A I don't know.

2647 Q Would you say this was unusual?

2648 A No, not necessarily. I sometimes receive memos

2649 in paper rather than through email certainly within the

2650 Department, too.

2651 Q My question is from other agencies. Is a

2652 memorandum coming from the Department of Commerce -- let's

2653 say have you received other hand -- other hand-delivered

2654 memoranda from the Department of Commerce?

2655 A Not that I recall.

2656 Q Have you received other hand-delivered memoranda

2657 from other agencies, outside?

2658 A I don't believe I received memoranda from any

2659 other agencies. This would be the only memorandum I

2660 received from another department or agency, and it was  
2661 delivered by hand. So I guess, to follow your line of  
2662 questioning, that makes it usual.

2663 Q I guess that's a definitional question we could  
2664 quibble with a little bit.

2665 A You were trying to compare it to some other  
2666 practice, and this is the only other practice I've ever  
2667 experienced --

2668 Q It sounds like you're saying it's the only time  
2669 you've ever received a memo from another agency and the  
2670 only time you've ever received one -- a handwritten memo  
2671 hand delivered to you, so I would describe it as unusual.

2672 A No, that was not my testimony. What I said was,  
2673 it's the only time I've received a memorandum from another  
2674 department, and I have on several occasions received  
2675 hand-delivered memoranda within the Department of Justice.  
2676 BY MS. ANDERSON.

2677 Q When you were on the phone and he informed you  
2678 that he was going to send you a memo, did you discuss the  
2679 form of delivery?

2680 A Yes.

2681 Q Did you discuss why he wanted to send it to you?  
2682 Mr. Gardner. I'll instruct the witness -- you  
2683 can answer that with a yes or no.

2684 A Why he wanted to send it to me at all?

2685 Q Sorry. When you discussed the form of delivery,  
2686 did he tell you at that point in time that it was going to  
2687 be hand delivered?

2688 A Yes, he did.

2689 Q Did he tell you why it was going to be hand  
2690 delivered?

2691 Mr. Gardner. You can answer that yes or no.

2692 A Yes, he did.

2693 Ms. Sachsman Grooms. I thought you just said  
2694 you didn't know why he hand delivered it to you. Do you  
2695 know why he hand delivered it to you?

2696 Mr. Gore. I know -- I know why he told me he  
2697 wanted to hand deliver it to me. I don't know why he did  
2698 it.

2699 Q What did he tell you?

2700 Mr. Gardner. I instruct the witness not to  
2701 answer.

2702 Q So you received the memo and you received a  
2703 handwritten note accompanying it; is that correct?

2704 A Yes, I did.

2705 Q Was that the extent of the documentation that  
2706 you received from Mr. Uthmeier?

2707 A Yes, it was.

2708 Q Was that the extent of the documentation you  
2709 received from the Department of Commerce?

2710           A     That's the extent of the documentation I  
2711 received from Mr. Uthmeier. As I've testified previously,  
2712 I got sent documentation from Mr. Neuman, but I did not  
2713 receive documentation from Mr. Davidson or anyone else at  
2714 the Department of Commerce.

2715           Q     Okay. And, so, the handwritten note and the  
2716 memo were together; is that correct?

2717           A     That is correct.

2718           Q     Had Mr. Uthmeier on the phone indicated to you  
2719 that he was going to be giving you the memo alongside any  
2720 other notations, any other notes or anything else?

2721           A     Not that I recall.

2722           Q     Did you discuss -- did you ask -- how do I  
2723 phrase this.

2724                     Did you follow up on any discussion -- on the  
2725 statement that Mr. Uthmeier made to you about why he wanted  
2726 to hand deliver the memo? Did you ask any additional  
2727 questions of him?

2728           A     No, I didn't.

2729           Q     After you received the handwritten note and the  
2730 memo, did you talk to Mr. Uthmeier again about those  
2731 contents -- about the memo or the note?

2732           A     Yes, on one of the conversations I had with him  
2733 and Mr. Davidson, one of the telephone conversations.

2734           Q     Is that the only time you discussed with him the

2735 memo and the note?

2736 A Yes. Again, it may have been one or two

2737 conversations, but I can recall one in particular.

2738 Q Did you read the memo?

2739 A Yes, I did.

2740 Q Did you read the note?

2741 A Yes, I did.

2742 Q Okay. What did the note say?

2743 Mr. Gardner. I instruct the witness not to

2744 answer.

2745 Q Did the note talk about the contents of the

2746 memo?

2747 Mr. Gardner. Same instruction.

2748 Q Did the note talk about the citizenship

2749 question?

2750 Mr. Gardner. Same instruction.

2751 Q Did the note talk about any other rationales

2752 related to the addition of a citizenship question?

2753 Mr. Gardner. Same instruction.

2754 Q Did the note contain any directives or possible

2755 decisions or actions you might have to take from there?

2756 Mr. Gardner. Same instruction.

2757 Q Did the note indicate to you that you should

2758 include any material in your own personal legal research?

2759 Mr. Gardner. Same instruction.

2760                   Mr. Anello. Can I just ask a question. Are  
2761 you -- one of those questions was whether the note related  
2762 to the citizenship question. You're saying the witness is  
2763 not allowed to tell us whether the note related to the  
2764 citizenship question?

2765                   Mr. Gardner. That's a fair clarification.  
2766 You're right. I think he can answer that high-level  
2767 question. So please re-ask that. Thank you.  
2768                   Ms. Anderson. Sure.

2769           Q     Did the note relate to the addition of a  
2770 citizenship question?

2771           A     Yes.

2772           Q     What did the memo say?

2773                   Mr. Gardner. Same instruction.

2774           Q     Did the memo talk about the addition of a  
2775 citizenship question?

2776           A     Yes, as I've already stated.

2777           Q     Okay. Did it include any legal research?

2778                   Mr. Gardner. I instruct the witness not to  
2779 answer.

2780           Q     Did it include anything besides legal research?

2781                   Mr. Gardner. Same instruction.

2782           Q     Did you show or share the memo with anyone else,  
2783 or the note? We'll start with the memo. Did you show or  
2784 share the memo with anyone else?



2785           A     So, with respect to the memo, I did not show or  
2786 share it to anyone with the exception of Kathleen Toomey in  
2787 the Civil Rights Division, who managed the document  
2788 collection in the litigation. So once the litigation was  
2789 filed and document requests were propounded, to which the  
2790 memo might potentially be responsive, I turned it over to  
2791 Ms. Toomey for review and potential production or assertion  
2792 of privilege in the litigation.

2793           Q     So that would have been around March?

2794           A     I don't recall. It was certainly after the  
2795 letter was sent on December 12th.

2796           Q     Did you show or share the note with anyone else?

2797           A     I did the same thing with the note that I did  
2798 with the memo. I didn't show or share it to -- show it to  
2799 or share it with anyone until I gave it to Ms. Toomey as  
2800 potentially responsive to document requests in the  
2801 litigation.

2802           Q     Besides Peter Davidson and James Uthmeier, did  
2803 you discuss the contents of the memo with anyone else?

2804           A     No.

2805           Q     Besides Peter Davidson and James Uthmeier, did  
2806 you discuss the contents of the note with anyone else?

2807           A     No, with the exception on both fronts of handing  
2808 it to Ms. Toomey and telling her what it was.

2809           Q     Okay.

2810 Mr. Anello. Why didn't you share the note or  
2811 the memo with anyone else?

2812 Mr. Gardner. I instruct the witness not to  
2813 answer.

2814 Mr. Anello. Did it -- I'm not asking the right  
2815 question then.

2816 Did the memorandum or the note play a role in  
2817 the Department of Justice's decision to request a  
2818 citizenship question?

2819 Mr. Gardner. I instruct the witness not to  
2820 answer.

2821 Mr. Anello. It's just a yes-or-no question I'm  
2822 asking him.

2823 Mr. Gardner. I understand. I instructed the  
2824 witness not to answer.

2825 Mr. Anello. Did you consider the memo in  
2826 drafting the -- sorry. Did you consider the memo and the  
2827 note from Mr. Uthmeier in drafting the memo that you  
2828 eventually sent back to the Department of Commerce?

2829 Mr. Gardner. I instruct the witness not to  
2830 answer.

2831 Q Did any of the language in the note or the memo  
2832 appear in the draft letter that you made?

2833 Mr. Gardner. Same instruction.

2834 Ms. Sachsman Grooms. I'm sorry, just to

2835 clarify. Did you consider the note or the memo when you  
2836 drafted the initial draft of this December 12th, 2017,  
2837 letter?

2838 Mr. Gardner. Same instruction.

2839 BY MR. ANELLO.

2840 Q Did the -- did either the note or the memo  
2841 discuss the issue of congressional apportionment?

2842 Mr. Gardner. I instruct the witness not to  
2843 answer.

2844 Q Did your conversations with Mr. Uthmeier involve  
2845 the discussion of congressional apportionment?

2846 Mr. Gardner. Same instruction.

2847 Q Did the note or the memo discuss whether the  
2848 addition of a citizenship question would reduce  
2849 participation in the census by certain groups?

2850 Mr. Gardner. Same instruction. I'm sorry.  
2851 Same instruction.

2852 Q Did the note or the memo discuss or contain a  
2853 rationale for the addition of the citizenship question?

2854 Mr. Gardner. I instruct the witness not to  
2855 answer.

2856 Q Did the note or the memo contain a rationale  
2857 that was different from the one that the Department of  
2858 Justice ultimately put in writing?

2859 Mr. Gardner. Same instruction.

2860 Q Did you -- did you describe the note or the memo  
2861 in your testimony to Congress?

2862 A I don't recall whether it came up in that  
2863 testimony or not.

2864 Q Was the Attorney General aware or made aware of  
2865 the note or the memo?

2866 Mr. Gardner. To the extent you can answer that  
2867 question without divulging confidential and litigation  
2868 interests of the Department, you may do so. Otherwise, I  
2869 instruct you not to answer.

2870 A I don't recall specifically, but I don't think  
2871 so.

2872 Q Is the existence of the note or the memo  
2873 inconsistent with his testimony to Congress regarding the  
2874 process that was followed for the addition of a citizenship  
2875 question?

2876 Mr. Gardner. I'm sorry. Can you re-ask that  
2877 question.

2878 Mr. Anello. Sure.

2879 Mr. Gardner. I am not sure I understood it.

2880 Q Secretary Ross has testified about the decision  
2881 to add a citizenship question to the census, correct? Were  
2882 you aware of that?

2883 A I'm aware of that generally, yes.

2884 Q And he testified that that request came from the

2885 Department of Justice.

2886 A I'm not familiar with Secretary Ross' testimony  
2887 or the particulars of it, nor am I Secretary Ross so I  
2888 can't speak to that testimony.

2889 Q You're not familiar with his testimony?

2890 A I'm aware of the fact that he did testify. I  
2891 haven't watched or reviewed that testimony, nor would  
2892 watching it or reviewing it put me in a position really to  
2893 comment on it since it's his testimony and not mine.

2894 Q Let's just go to your knowledge then. Are you  
2895 aware of any public testimony about this issue that would  
2896 be contradicted by the existence of this memo or what is  
2897 written in this memo? That's the memo from Mr. Uthmeier.

2898 Mr. Gardner. I'm not sure I fully understand  
2899 your question. But to the extent you understand it and to  
2900 the extent you can answer without disclosing confidential  
2901 and litigation interests of the Department, you may do so.  
2902 Otherwise, I instruct you not to answer.

2903 A I didn't follow your question. Would you mind  
2904 restating it.

2905 Mr. Gardner. I'm sorry.

2906 Q Sure. I understand you may not have watched  
2907 every word of it, of every piece of testimony in this  
2908 matter, but to the extent that you're aware of any public  
2909 testimony regarding the addition of a citizenship question,

2910 are you aware of -- does the -- is there any testimony that  
2911 is contradicted by the existence of this memo?

2912 Mr. Gardner. So I think I understand the  
2913 problem. Could you lay a foundation as to what testimony  
2914 he's aware of? Because I think that will make for a much  
2915 better question and answer.

2916 Mr. Anello. Sure.  
2917

2918 Q You're aware of the testimony that you gave,  
2919 correct?

2920 A I am aware of that testimony, yes.

2921 Q Is there anything in your testimony inconsistent  
2922 with what was written in the memo?

2923 A I'm still not sure I totally follow the  
2924 question. Let me -- let me put it this way. I'm not aware  
2925 of anything in my testimony that's inconsistent with the  
2926 existence or contents of the memo. You've asked me about  
2927 the existence. You've asked me about the contents.

2928 Q I appreciate you answering both.

2929 A I'm trying to answer your question.

2930 Mr. Gardner. We're trying to work with you.

2931 We're still trying to understand your question.

2932 A Maybe I can just say it this way. I'm not aware  
2933 of anyone else's testimony that would be -- in any  
2934 particular respect or any general respect that would be  
2935 contradicted by the existence or contents of a memo, but I

2936 will say I have I haven't studied anybody else's testimony.  
2937 I'm generally aware that testimony was given, but I'm not  
2938 really in a position to answer that question, I guess is  
2939 what I'm trying to tell you, other than with respect to my  
2940 own testimony.

2941 BY MS. ANDERSON.

2942 Q Would you say that -- can you answer the same  
2943 question with regards to the note that accompanied the  
2944 memo.

2945 A Yes. Same answer with regard to the note.

2946 Mr. Anello. Did the memorandum from  
2947 Mr. Uthmeier include a draft of a letter from the  
2948 Department of Justice back to the Department of Commerce  
2949 requesting the citizenship question?

2950 Mr. Gardner. You can answer.

2951 Mr. Gore. No, it did not.

2952 Q Did it include any other draft language that the  
2953 Department of Justice might send to the Department of  
2954 Commerce?

2955 Mr. Gardner. Sorry, are you asking did the  
2956 memo itself provide draft language; is that your question?

2957 Ms. Anderson. Yes.

2958 Mr. Gardner. I instruct the witness not to  
2959 answer.

2960 Q So you became involved in this decision around  
2961 that early September date, just going back to that.

2962           A     I wasn't aware of a decision at that point.  I  
2963 became aware --

2964           Q     Sorry, in these conversations about --

2965           A     I became aware of a conversation or a  
2966 consideration of this issue.

2967           Q     Yes.  I'm just going to go back to that time  
2968 frame.

2969           A     Fine.

2970           Q     Who told you what your role was going to be  
2971 going forward from when you became aware that these  
2972 discussions were happening?

2973           A     Attorney General Sessions.

2974           Q     Did Attorney General Sessions ask -- tell you or  
2975 ask you not to inquire as to why there was interest in this  
2976 question?

2977                     Mr. Gardner.  I'll instruct the witness not to  
2978 answer.

2979           Q     Did anyone else ask you or tell you not to  
2980 inquire as to why there was interest in this question?

2981                     Mr. Gardner.  Same instruction.

2982           Q     What role were you told you were going to have  
2983 in this consideration process?

2984                     Mr. Gardner.  I instruct the witness not to  
2985 answer.

2986           Q     I want to kind of go back to the people that you



2987 discussed the citizenship question with after you became  
2988 involved.

2989 A Okay.

2990 Q So I'm just going to go through that list again,  
2991 and I apologize. I sometimes can't read my own handwriting  
2992 so I might butcher some names, so if you could clarify  
2993 that, that would be great.

2994 So you said that you spoke with Mary Blanche  
2995 Hankey. That was sort of when you got introduced to this.  
2996 Did you discuss immigration with her with regards to the  
2997 citizenship question?

2998 Mr. Gardner. I instruct the witness not to  
2999 answer.

3000 Q You said you also talked to Rachael -- and  
3001 I'm -- I did not quite grab her last name.

3002 A Tucker.

3003 Q Tucker. Did you discuss immigration with her as  
3004 it related to a citizenship question?

3005 Mr. Gardner. Same instruction.

3006 Q How about with Danielle Cutrona?

3007 Mr. Gardner. Same instruction.

3008 Q How about with Gene Hamilton?

3009 Mr. Gardner. Same instruction.

3010 Q Bob Troester?

3011 Mr. Gardner. Same instruction.

3012 Q Rachel Brand?  
3013 Mr. Gardner. Same instruction.

3014 Q Jesse Panuccio?  
3015 Mr. Gardner. Same instruction.

3016 Q Patrick -- how do you say it?

3017 A Hovakimian.

3018 Q Hovakimian.  
3019 Mr. Gardner. Same instruction.

3020 Q Bethany Pickett?  
3021 Mr. Gardner. Same instruction.

3022 Q Chris Herren?  
3023 Mr. Gardner. Same instruction.

3024 Q Arthur Gary?  
3025 Mr. Gardner. Same instruction.

3026 Q Peter Davidson?  
3027 Mr. Gardner. Same instruction.

3028 Q James Uthmeier?  
3029 Mr. Gardner. Same instruction.

3030 Q Wendy Teramoto?  
3031 Mr. Gardner. Same instruction.

3032 Q Mark Neuman?  
3033 Mr. Gardner. Same instruction.

3034 Q John Zadrozny?  
3035 Mr. Gardner. Same instruction.

3036 BY MR. ANELLO.

3037 Q There are a couple of these conversations I

3038 don't think we've talked about yet so I wanted to ask you  
3039 about one or two.

3040 A Sure.

3041 Q You mentioned Gene Hamilton.

3042 A Yes.

3043 Q When did you speak with him about this issue?

3044 A I spoke with Gene in September or October of  
3045 2017.

3046 Q Was he at the Department of Justice?

3047 A He was at the Department of Justice at that  
3048 time, yes.

3049 Q Whereabout?

3050 A He was in the Office of Attorney General.

3051 Q What was his role?

3052 A I believe he was counsel in the Office of  
3053 Attorney General.

3054 Q What issues did he cover?

3055 A I don't know in particular. I had interactions  
3056 with him, conversations with him about a couple of  
3057 different civil rights issues. And I understand he worked  
3058 on immigration issues and maybe other issues. There were  
3059 issues within -- when Attorney General Sessions was the  
3060 Attorney General, there were people in the Office of  
3061 Attorney General who worked across a variety of areas, and  
3062 both Gene and Danielle would sometimes touch on civil

3063 rights issues. Our main point of contact was Rachael  
3064 Tucker, but the office was fairly horizontal in terms of  
3065 the roles.

3066 Q So why did you speak with him about this issue?  
3067 You said -- I believe you said it was early -- did you say  
3068 it was September, October?

3069 A Yes, probably October. It might have been  
3070 September.

3071 Mr. Gardner. To the extent you can answer that  
3072 question without divulging confidential or litigation  
3073 interests of the Department, you may do so. Otherwise, I  
3074 instruct you not to answer.

3075 A Consistent with that instruction, I can't  
3076 answer.

3077 Q What did you talk about with him?

3078 Mr. Gardner. Same instruction.

3079 Q Did somebody ask you to speak with him?

3080 Mr. Gardner. Same instruction.

3081 Q You can't say yes or no whether somebody asked  
3082 you to speak with Mr. Hamilton?

3083 Mr. Gardner. I think he can answer yes or no.

3084 A I don't recall.

3085 Q Did you take any steps as a result of your  
3086 conversation with Mr. Hamilton related to the citizenship  
3087 question?

3088 A Not that I can recall.

3089 Q Were other people involved in the discussion you  
3090 had?

3091 A I think I talked to Gene, I'm trying to  
3092 remember, once, maybe twice. I think from one of those  
3093 conversations that I can remember, Danielle and Rachael  
3094 were also present.

3095 Q When did you talk to Ms. Brand?

3096 A I spoke regularly with Rachel Brand about civil  
3097 rights issues. As I mentioned before, the Civil Rights  
3098 Division reports up to the Office of Associate Attorney  
3099 General, to the Office of Deputy Attorney General, and to  
3100 the Office of Attorney General.

3101 I had regular meetings with Ms. Brand at least  
3102 every two weeks on civil rights issues generally and to  
3103 update her on what was going on in the Division.

3104 I can recall talking to her about this issue  
3105 maybe four or five times, sometimes in connection with  
3106 those meetings. And maybe once or twice we had a separate  
3107 meeting or conversation about this issue, and that would  
3108 have started in that September -- in September and gone  
3109 into October 2017.

3110 Q What did you talk about with Ms. Brand regarding  
3111 the citizenship question?

3112 Mr. Gardner. I instruct the witness not to

3113 answer.

3114 BY MS. ANDERSON.

3115

3116 Q Did you talk to or hear from any other agencies  
3117 like DHS or ICE about the citizenship question before  
3118 September 12, 2017?

3119 A Yes, I -- the question earlier reminded me, I  
3120 did have a phone call with somebody -- I was on a phone  
3121 call with somebody from DHS about the issue.

3122 Q Do you remember who?

3123 A I don't.

3124 Q About when was that conversation?

3125 A It was in October of 2017, I think.

3126 Q Was anyone else on the phone call?

3127 A Gene Hamilton was on. I think Rachael Tucker  
3128 may have been on. I can't remember whether -- I always  
3129 want to call him by his nickname, Patrick Hovakimian was  
3130 on -- I think he may have been on. And I don't recall who  
3131 else.

3132 Q Do you recall who set up that meeting?

3133 A I think it was Gene, but I don't recall. It  
3134 wasn't a meeting. It was a phone call.

3135 Q Oh, who arranged the phone call, then?

3136 A Yes.

3137 Q About how long was that conversation?

3138 A Oh, gosh. Maybe it was 15 minutes or less.

3139 Q What did you discuss?

3140 Mr. Gardner. I instruct the witness not to  
3141 answer.

3142 Q Did the person -- were there multiple people  
3143 from DHS on the call or just one?

3144 A I think there was more than one, but I don't  
3145 recall either way.

3146 Q Did they participate in the conversation?

3147 A Yes, they were parties to the conversation.

3148 Q Sure. They spoke during the phone call?

3149 A I believe so, yes.

3150 Q Did they tell you to do anything?

3151 Mr. Gardner. To the extent you can answer that  
3152 question without divulging confidential or litigation  
3153 interests of the Department, you may do so. Otherwise, I  
3154 instruct you not to answer.

3155 A No.

3156 Q Did they instruct you to do anything?

3157 Mr. Gardner. Same instruction.

3158 Q And that call, I think you said earlier,  
3159 concerned the citizenship question; is that correct?

3160 A That is correct.

3161 Q Did you talk about immigration on that call?

3162 Mr. Gardner. I instruct the witness not to

3163 answer.

3164 Mr. Anello. I think -- just to make sure I'm  
3165 understanding, just whether that call involved immigration  
3166 is something that the witness can't answer?

3167 Mr. Gardner. Right. I gave my instruction,  
3168 yes.

3169 Q Did you ever make an effort to limit staff  
3170 involvement in the request to add a citizenship question?

3171 Mr. Gardner. To the extent you can answer that  
3172 question without divulging confidential or litigation  
3173 interests of the Department, you may do so. Otherwise, I  
3174 instruct you not to answer.

3175 A To the extent I understand your question, no.

3176 Q Did you ever make an effort to limit who you  
3177 consulted with on your staff regarding your drafting of the  
3178 December 12th letter?

3179 Mr. Gardner. Same objections. Same  
3180 instruction.

3181 A To the extent I understand your question, no.

3182 Q So I want to talk a little bit --

3183 Mr. Anello. Sorry, can we go back to the DHS  
3184 call again?

3185 Ms. Anderson. Sure.

3186 BY MR. ANELLO.

3187 Q I just want to make sure I'm understanding the



3188 context of this DHS call. Generally, DHS is not involved  
3189 in enforcing the Voting Rights Act, correct?

3190 A That's correct.

3191 Q They do enforce immigration laws, correct?

3192 A That's my understanding, yes, as does the  
3193 Department of Justice.

3194 Q So was there an -- did DHS express an interest  
3195 in the citizenship question?

3196 Mr. Gardner. I instruct the witness not to  
3197 answer.

3198 Q Why were they on the call?

3199 Mr. Gardner. Same instruction.

3200 Q Did DHS ask the Department of Justice to make a  
3201 request for a citizenship question?

3202 Mr. Gardner. I instruct the witness not to  
3203 answer.

3204 Mr. Anello. To be clear, we've already heard  
3205 statements today that the Department of Commerce made that  
3206 request. Did the Department of Homeland Security make that  
3207 request? I don't know why he can't answer that.

3208 Mr. Gardner. I understand. I'm instructing  
3209 the witness not to answer.

3210 Mr. Anello. What is the basis for that?

3211 Mr. Gardner. The instruction is  
3212 confidentiality and litigation interests of the Department.

3213                   Mr. Anello. What is the difference between the  
3214 Department of Commerce and the Department of Homeland  
3215 Security?

3216                   Mr. Gardner. I gave you my objection, my  
3217 instruction not to answer.

3218

3219           Q       Did the Department of Homeland Security indicate  
3220 that they thought adding the citizenship question would  
3221 help with immigration enforcement efforts?

3222                   Mr. Gardner. I instruct the witness not to  
3223 answer.

3224           Q       Did the Department of Homeland Security indicate  
3225 that adding the citizenship question would have some other  
3226 impact on immigration policy that they thought was  
3227 beneficial?

3228                   Mr. Gardner. Same instruction.

3229           Q       Do you normally consult with the Department of  
3230 Homeland Security on civil rights issues relating to  
3231 voting?

3232                   Mr. Gardner. You can answer that question to  
3233 the extent you can do so without divulging the  
3234 confidentiality -- the confidential and litigation  
3235 interests of the Department.

3236           A       I have consulted with the Department of Homeland  
3237 Security on civil rights issues, yes.

3238 Q On voting rights issues?

3239 A Not on -- not that I can specifically recall,  
3240 but certainly on civil rights issues.

3241 Q But not on voting. I think your memo -- sorry,  
3242 the letter you wrote to the Department of Commerce was  
3243 about voting.

3244 A Now that I have -- I have actually consulted  
3245 with the Department of Homeland Security on voting issues.

3246 Q About what issues?

3247 Mr. Gardner. To the extent you can answer that  
3248 question without divulging confidential or litigation  
3249 interests of the Department, you may do so. Otherwise, I  
3250 instruct you not to answer.

3251 A I think consistent with that instruction, I  
3252 can't answer.

3253 Q Were those other conversations also related to  
3254 the citizenship question then?

3255 Mr. Gardner. Same instruction.

3256 Q I'm losing the train here. We've talked about  
3257 one call, correct, that you had with the Department of  
3258 Homeland Security about the citizenship question? That  
3259 testimony is on the record, correct? That -- you agree  
3260 with that statement, that this one call we talked about was  
3261 about the citizenship question?

3262 A Yes.

3263 Q Okay. Were there other calls that you had with  
3264 the Department of Homeland Security about the citizenship  
3265 question?

3266 A I do not recall any other calls or conversations  
3267 with the Department of Homeland Security about the  
3268 citizenship question.

3269 To answer your other question, I have consulted  
3270 with the Department of Homeland Security about civil rights  
3271 issues, including voting-related issues.

3272 Q Which voting-related issues have you consulted  
3273 about?

3274 Mr. Gardner. Same instruction.

3275 Mr. Anello. I guess I don't understand. Is  
3276 there -- I'm not understanding because the testimony didn't  
3277 relate to the citizenship question.

3278 Mr. Gardner. You're asking him for the content  
3279 of his discussions with another agency about voting rights  
3280 enforcement, correct? Is that what you're asking?

3281 Mr. Anello. Correct.

3282 Mr. Gardner. I instruct the witness not to  
3283 answer.

3284 Mr. Anello. Are you in litigation about these  
3285 other topics? Did they relate to topics in which you're in  
3286 ongoing litigation?

3287 Mr. Gardner. Again, it's a confidentiality and

3288 litigation-related interest, just so we're clear, Russ.

3289 Again, the instruction remains.

3290 Q I think you said you didn't recall the name of  
3291 the person that you spoke to; is that correct?

3292 A We're talking about the one conversation --

3293 Q The Department of Homeland Security about the  
3294 citizenship question.

3295 A I don't recall the name of that person.

3296 Q Do you recall which office within the Department  
3297 they were in?

3298 A I don't.

3299 Q Were they in an operating division like ICE, for  
3300 example, or were they in DHS headquarters?

3301 A I don't recall.

3302 BY MS. ANDERSON.

3303

3304 Q Did Gene Hamilton tell you why he set up that  
3305 phone call?

3306 Mr. Gardner. The phone call with Homeland  
3307 Security now?

3308 Ms. Anderson. Correct.

3309 Mr. Gardner. You can answer that with a yes or  
3310 no.

3311 A Yes, he did.

3312 Q Why did he set up that phone call?

3313                   Mr. Gardner. I instruct the witness not to  
3314 answer.

3315           Q     I want to talk a little bit about the phone  
3316 call -- I guess conference call you had with John Zadrozny  
3317 in October 2017. And I think you said who participated --  
3318 who else was there, but could you just repeat it really  
3319 quickly.

3320           A     I remember Rachael Tucker and Gene Hamilton also  
3321 being on that call. Whether others were on the call as  
3322 well, I don't recall.

3323           Q     And who set up that phone call, conference call?

3324           A     I don't recall.

3325           Q     Did Mr. Zadrozny indicate why he was involved in  
3326 that conference call?

3327                   Mr. Gardner. You can answer that with a yes or  
3328 no.

3329           A     I don't recall whether he did or not.

3330           Q     Do you know why?

3331           A     I don't think I specifically know why, no.

3332           Q     Did you discuss with anyone else why he was on  
3333 the conference call?

3334                   Mr. Gardner. You can answer that with a yes or  
3335 no.

3336           A     Yes, I guess I did.

3337           Q     Who was that?

- 3338 A Rachael.
- 3339 Q What did you discuss?
- 3340 Mr. Gardner. I instruct the witness not to
- 3341 answer.
- 3342 Q What did you discuss on that phone call?
- 3343 Mr. Gardner. Same instruction.
- 3344 Q Did you take any action after that phone call?
- 3345 A After the phone call, yes.
- 3346 Q Related to the phone call?
- 3347 A No.
- 3348 Q Did anyone else take any action after that phone
- 3349 call related to that phone call?
- 3350 A I don't know.
- 3351 Q You said that was your only conversation with
- 3352 Mr. Zadrozny, is that correct, about the citizenship
- 3353 question?
- 3354 A About the citizenship question, yes.
- 3355 Q You also said earlier, just to clarify, you
- 3356 didn't speak with anyone else at the White House about the
- 3357 citizenship question; is that correct?
- 3358 A That is correct.
- 3359 BY MR. ANELLO.
- 3360 Q Mr. Gore, you spoke to Attorney General Sessions
- 3361 regarding apportionment, correct?
- 3362 A Yes, I believe, as I testified in my deposition,

3363 I've -- I did discuss that topic with him.

3364 Q And when did you discuss that topic with him?

3365 A It was sometime in the fall of 2017, around the  
3366 time when the State of Alabama filed a lawsuit about  
3367 apportionment issues against the Department of Commerce.

3368 Q Was that the same discussion that we talked  
3369 about earlier that happened in early September when you  
3370 also discussed the issue of the citizenship question with  
3371 the Attorney General?

3372 A No, it was not.

3373 Q Did the issue of the citizenship question come  
3374 up in your discussion with him about apportionment?

3375 Mr. Gardner. I instruct the witness not to  
3376 answer.

3377 Q Was the lawsuit that was filed that you  
3378 mentioned related to the census?

3379 Mr. Gardner. You can answer.

3380 A I don't recall the specifics of that lawsuit. I  
3381 think it was. I think they -- I think the case is still in  
3382 litigation so I'm going off of my memory. Again, I'm not  
3383 counsel of record so I can't speak for the Department or  
3384 bind anybody with respect to that. I believe I've read  
3385 part of the complaint or seen part of the complaint, but I  
3386 believe that Alabama has brought a claim against the  
3387 Department of Commerce or the Census Bureau. I do believe



3388 it's somehow census related, about apportionment and  
3389 whether certain individuals should be counted or how they  
3390 should be allocated for purposes of apportionment.

3391           It's -- I'm puzzled by the lawsuit, to be  
3392 honest with you, because there's a federal statute that  
3393 directly deals with this and says how apportionment is to  
3394 be conducted, and it's consistent with the 14th Amendment.  
3395 So I don't know enough about the lawsuit to know whether it  
3396 makes sense to be suing the Department of Commerce over  
3397 this or not, but that's just my memory off the top of my  
3398 head. As I said, I don't know much about it other than  
3399 that.

3400           Q     And so, what was the nature of your discussion  
3401 about apportionment with the Attorney General?

3402           Mr. Gardner. I'm going to instruct the witness  
3403 not to answer.

3404           Mr. Anello. On what basis?

3405           Mr. Gardner. On the same basis,  
3406 confidentiality and litigation interests.

3407

3408           Q     You said this took place in the fall of 2017.  
3409 Can you give us more precision? Was it before or after the  
3410 conversation when you learned that the Department of  
3411 Commerce wanted the Department of Justice to request a  
3412 citizenship question? Before or after that conversation?

3413 A After.

3414 Q Was it before or after you began drafting a  
3415 letter back to the Department of Commerce making that  
3416 request?

3417 A I don't recall specifically.

3418 Q Who else was involved in the conversation where  
3419 you discussed apportionment?

3420 A I think Rachael Tucker was in the room, but I  
3421 don't recall.

3422 Q Who initiated the call or the meeting? Was it a  
3423 meeting or a call?

3424 A No, it was -- it was an in-person meeting, and I  
3425 don't recall who initiated it.

3426 Q Were you given any instructions in the meeting?  
3427 Mr. Gardner. You can answer that with a yes or  
3428 no.

3429 A No, I was not.

3430 Q Did you do anything as a result of that meeting?

3431 A No, I did not.

3432 Q Did you discuss with the Attorney General  
3433 whether adding a citizenship question to the census would  
3434 impact apportionment?

3435 Mr. Gardner. I instruct the witness not to  
3436 answer.

3437 Q Who else did you talk to at the Department of

3438 Justice about apportionment issues?

3439 A Let me think. I don't -- I don't recall exactly  
3440 who all I spoke to about it.

3441 Q Did you talk to other people other than the  
3442 Attorney General and Ms. Tucker?

3443 A I imagine I did.

3444 Q Do you know whether the Attorney General had  
3445 other discussions about apportionment other than the one  
3446 that you described?

3447 A I don't.

3448 Q Do you know whether he talked to Secretary Ross  
3449 about apportionment?

3450 A I don't.

3451 Q Did you talk about apportionment yourself with  
3452 anybody at the Department of Commerce?

3453 A I believe I discussed it with Peter Davidson and  
3454 James Uthmeier.

3455 Q When did those conversations take place?

3456 A Again, in the September or October 2017 time  
3457 frame.

3458 Q So do you remember the first time you talked  
3459 with Mr. Davidson, let's start with him, about  
3460 apportionment?

3461 A I don't.

3462 Q Do you remember the first time you talked to Mr.

3463 Uthmeier about apportionment?

3464 A I don't.

3465 Q About how many times would you say you talked to

3466 Mr. Davidson about apportionment?

3467 A Once.

3468 Q And was that in a conversation when you also

3469 discussed the citizenship question?

3470 Mr. Gardner. I instruct the witness not to

3471 answer.

3472 Q You did talk to him about apportionment in the

3473 fall of 2017, right?

3474 A Yes.

3475 Q You did -- you also talked to him about the

3476 citizenship question in the fall of 2017.

3477 A Yes.

3478 Q Were those in the same conversation?

3479 Mr. Gardner. I instruct the witness not to

3480 answer.

3481 Q So you said you talked to Mr. Uthmeier about

3482 apportionment, correct?

3483 A Yes.

3484 Q You also talked to him about the citizenship

3485 question.

3486 A Yes.

3487 Q Both of those conversations took place in the

3488 fall of 2017 or -- I'm sorry, let me rephrase that.

3489                    You talked to him about both of those issues in  
3490 the fall of 2017, correct?

3491            A     Correct.

3492            Q     Were they in the same conversation?

3493                    Mr. Gardner. Same instruction.

3494            Q     Did his memorandum to you, hand delivered to  
3495 your office, talk about apportionment?

3496                    Mr. Gardner. Same instruction.

3497            Q     Did his handwritten note to you -- again, with  
3498 Mr. Uthmeier, did his handwritten note to you talk about  
3499 apportionment?

3500                    Mr. Gardner. Same instruction.

3501            Q     When you spoke to Mr. Davidson, what was the  
3502 substance of your discussion regarding apportionment?

3503                    Mr. Gardner. Same instruction.

3504                    Ms. Sachsman Grooms. What's the instruction  
3505 again?

3506                    Mr. Gardner. Not to answer.

3507                    Ms. Sachsman Grooms. No, I got that part. But  
3508 what's the basis?

3509                    Mr. Gardner. The same basis as we've been  
3510 talking about all day, confidentiality and litigation  
3511 interests.

3512                    Mr. Anello. But that presupposes, I guess,

3513 that there's -- strike that. We'll keep going.

3514

3515 Q What was the substance of your conversation with  
3516 Mr. Uthmeier regarding apportionment?

3517 Mr. Gardner. I instruct the witness not to  
3518 answer.

3519 Q Was your conversation -- did you talk to  
3520 Mr. Davidson and Mr. Uthmeier in a single conversation  
3521 together about apportionment or were these separate  
3522 conversations?

3523 A I hope so. I'm thinking. Are you asking me  
3524 whether --

3525 Q I'll just rephrase.

3526 A I think I had one conversation with Peter and  
3527 James together. Is that your question?

3528 Q So it's a single conversation with the  
3529 Department of Commerce and two lawyers from the Department  
3530 of Commerce on the call.

3531 A Two lawyers on the call.

3532 Q Was anybody else on the call?

3533 A No.

3534 BY MS. ANDERSON.

3535 Q On the phone call with Peter Davidson and James  
3536 Uthmeier together, did you talk about apportionment on that  
3537 phone call?

3538           A     I talked about apportionment on a phone call  
3539 with James and Peter together.  Is that what you're asking?

3540           Q     Yes.

3541           A     Okay.

3542 BY MR. ANELLO.

3543           Q     Did you talk about apportionment with anybody at  
3544 the Department of Homeland Security?

3545           A     Not that I can recall.

3546           Q     Did you talk about apportionment with anybody at  
3547 the White House?

3548           A     Not that I can recall.

3549           Q     Did you talk about apportionment with Mark  
3550 Neuman?

3551           A     Not that I can recall.

3552           Q     Let's focus in on this period of time from,  
3553 let's say, the fall of 2017.  Did you have any other  
3554 discussions with anybody else that we haven't talked about  
3555 yet regarding apportionment?

3556           A     As I mentioned, I may have talked about it with  
3557 one or two other people in the Department of Justice.  I'm  
3558 trying to remember who those might have been.  I think I  
3559 may have spoken to one of the U.S. Attorneys in Alabama  
3560 about it since.  Once the lawsuit was filed, I believe he  
3561 called me about it.  I would have talked to Ben Aguinaga  
3562 about it, as he was just generally interested in voting

3563 issues, but I can't recall whether I spoke to anybody else.

3564 Q Those conversations you just mentioned, did they  
3565 also relate to the decision or the request, I should say,  
3566 to add a citizenship question to the census?

3567 Mr. Gardner. I instruct the witness not to  
3568 answer.

3569 BY MS. ANDERSON.

3570 Q Did you have any other conversations with  
3571 Attorney General Jeff Sessions about apportionment besides  
3572 the one that you previously mentioned?

3573 A I can only -- I can recall it only coming up  
3574 once.

3575 Q When was that?

3576 A In the fall of 2017.

3577 Q After or before the conversation that you  
3578 mentioned previously?

3579 Mr. Gardner. I think you guys are talking past  
3580 each other. I think he's referring to the conversation you  
3581 already talked about.

3582 A I had the one conversation we talked about. I  
3583 don't recall another one.

3584 Mr. Gardner. I'm just trying to be helpful.  
3585 Ms. Anderson. That's fair.

3586 A I'm not sure I'm following all of this.

3587 Q You just talked to him once in the fall of 2017.



3588 Did you have any other conversations with Attorney General  
3589 Jeff Sessions about apportionment?

3590 A Not that I recall.

3591 Q So I want to talk for a second about what  
3592 happened soon after the letter was sent from the Department  
3593 of Justice on December 12th, 2017.

3594 A Okay.

3595 Q So that's the day that Arthur Gary sent a letter  
3596 to the Department of Commerce, correct?

3597 A That's correct.

3598 Q And then Arthur Gary received a communication  
3599 from the Department of Commerce, specifically Ron Jarmin,  
3600 acknowledging the receipt of that letter. Is that correct?

3601 A As I recall, yes, that's correct.

3602 Q And that email also included a request to have  
3603 technical people at the Department of Commerce meet with  
3604 technical people at the Department of Justice; is that  
3605 correct?

3606 A I don't know whether -- I don't have that  
3607 communication right in front of me. I believe I've seen it  
3608 before. I can't recall whether there was a reference to  
3609 technical people or -- sure. It was a reference to some  
3610 kind of meeting, but I don't -- I can't testify as to  
3611 whether it was technical people or somebody else.

3612 Q But you acknowledge he reached out to set up a

3613 meeting. Would that be fair?

3614 A He reached out to offer a meeting, yes, would be  
3615 the way I would say that.

3616 Q Okay. And Arthur Gary communicated to you that  
3617 the Department of Commerce offered a meeting with the  
3618 Department of Justice; is that correct?

3619 A Yes, he did.

3620 Q And that was -- do you remember when that was?

3621 A I believe he sent me an email shortly after he  
3622 received that one because he wished my family and me happy  
3623 holidays, so I think he sent it to me shortly before  
3624 Christmas.

3625 Ms. Anderson. I'm going to mark this email,  
3626 from December 22nd, 2017, as Exhibit 3.

3627 (Exhibit 3 was marked for identification and  
3628 attached to the transcript.)

3629 Q I'm going to hand you what's marked as Exhibit  
3630 3. Would you mind just taking a second to read that.

3631 A (Document review.)

3632 Q And in particular the email that appears on the  
3633 lower part of the page.

3634 A All right.

3635 Q Is it fair to say that this is the email -- the  
3636 second part -- the second email that appears on the lower  
3637 half of the page that's entitled "Request to reinstate

3638 citizenship question on the 2020 census questionnaire"  
3639 directed at Arthur from Ron Jarmin, is it fair to say  
3640 that's the email that Arthur Gary provided to you at sort  
3641 of the holiday time in 2017?

3642           A     Yes, this looks like -- it appears -- of course  
3643 the "to" line on the email address is redacted, but it  
3644 appears to be that email.

3645           Q     That email says in the part that -- the Census  
3646 Bureau staff has -- I'm going to quote. "They have now  
3647 briefed me, and their finding suggests that the best way to  
3648 provide PL94 block-level data with citizenship voting  
3649 population by race and ethnicity will be through utilizing  
3650 a linked file of administrative and survey data the Census  
3651 Bureau already possesses."

3652                     Did I read that correctly?

3653           A     You did.

3654           Q     Then it says, "This would result in higher  
3655 quality data produced at lower cost."

3656                     Did I read that correctly?

3657           A     You did.

3658           Q     So fair to say that you received this forwarded  
3659 communication through Arthur Gary around that sort of  
3660 holiday time in 2017, and you said earlier that it was the  
3661 Department of Justice's goal to get the highest quality  
3662 data; is that correct?

3663 A That is correct.

3664 Q And to be able to receive that from the Census  
3665 Bureau; is that correct?

3666 A That is correct.

3667 Q And this offer to have a meeting between the  
3668 Department of Justice and the Department of Commerce, that  
3669 did not happen; is that correct?

3670 A The offer didn't happen, or the meeting did not  
3671 happen?

3672 Q Sorry. That the meeting did not happen.

3673 A Oh, the meeting did not happen.

3674 Q I guess my statement is that it did happen, the  
3675 offer, but not --

3676 A The offer happened.

3677 Q The meeting did not happen between --

3678 A That's correct.

3679 Q Why did that meeting not occur?

3680 Mr. Gardner. To the extent you can answer that  
3681 question without divulging confidential or litigation  
3682 interests of the Department, you may do so. Otherwise, I  
3683 instruct you not to answer.

3684 A Consistent with that instruction, I can't  
3685 answer.

3686 Q Did you decide on your own to not have that  
3687 meeting, or was there another decision made to not have the

3688 meeting?

3689 Mr. Gardner. Same instruction with the same

3690 caveat.

3691 A I guess consistent with that instruction, I

3692 can't answer.

3693 Mr. Anello. Haven't you previously testified

3694 that the Attorney General told you to cancel the meeting?

3695 Mr. Gore. I was never told to cancel a meeting

3696 because no meeting was ever scheduled.

3697 Mr. Anello. Have you previously testified that

3698 the Attorney General told you not to accept the offer of a

3699 meeting?

3700 Mr. Gore. I believe what I previously

3701 testified to in my deposition is that the Attorney General

3702 decided not to have the meeting.

3703 Q How was that communicated to you?

3704 A I don't recall.

3705 Q How was that communicated to Arthur Gary?

3706 A I told Arthur, Art.

3707 Q Art, okay.

3708 How did you know that the Attorney General did

3709 not -- did not want to have the meeting with the Department

3710 of Commerce -- or the Census Bureau, to be specific?

3711 A As I said, I don't recall how that was

3712 communicated to me.

3713 BY MR. ANELLO.

3714 Q Can I ask you a question?

3715 Did you want to have the meeting?

3716 Mr. Gardner. I instruct the witness not to

3717 answer.

3718 Mr. Anello. On what basis?

3719 Mr. Gardner. Confidentiality and litigation

3720 interests of the Department of Justice.

3721 Q I mean, I want to maybe back up a second. I

3722 want to make sure I'm understanding the context. The

3723 context here is that this letter you sent says, "As

3724 demonstrated below, the decennial census questionnaire is

3725 the most appropriate vehicle for collecting that data" --

3726 which is the citizenship data -- "and reinstating a

3727 question on citizenship will best enable the Department to

3728 protect all American voting rights under Section 2."

3729 That was a quote from your letter of December

3730 12th. I'm sorry, I was quoting from the end of the first

3731 paragraph of your letter on December 12th.

3732 A Okay.

3733 Q Is that right?

3734 A I wasn't reading along, but if you tell me that

3735 that's -- that you read it out loud, then it's good enough

3736 for me.

3737 Q If I made a mistake, I will correct the record.

3738 I was just reading from the letter.

3739 A Terrific.

3740 Q Then the email that was handed to you just now  
3741 from Ron Jarmin -- who was, I believe, the head of the  
3742 Census Bureau, correct -- the acting head of the Census  
3743 Bureau?

3744 A That's my understanding of who he was at the  
3745 time. I don't know what role he plays now.

3746 Q His email says, "The best way to provide PL94  
3747 block-level data with citizenship -- citizen voting  
3748 population by race and ethnicity would be by utilizing a  
3749 linked file of administrative and survey data the Census  
3750 Bureau already possesses. This would result in higher  
3751 quality data produced at a lower cost."

3752 A That's not what this email says. You've left  
3753 off -- now, let me be clear on this. You've truncated the  
3754 sentence in a way that takes out a very important phrase.  
3755 He says that his staff -- somebody at the Census Bureau  
3756 made findings that suggest that conclusion, not that that's  
3757 the conclusion of the Census Bureau. In fact, that turns  
3758 out to be false. There are gaps in the administrative  
3759 records. Administrative records can't actually provide  
3760 this data. And that was the determination that Secretary  
3761 Ross made in his memo of decision, which is why he decided,  
3762 and I understand from publicly available information, to

3763 reinstate the question and use some kind of administrative  
3764 records data to get at block-level citizenship data. You  
3765 didn't say their findings suggest that. You started with  
3766 "the best way to provide." That's inaccurate.

3767 Q Fair enough. I was not attempting to miss  
3768 something that was in the document. That's right. That's  
3769 exactly what the document says. The question that I'm  
3770 asking -- I didn't get to my question. That was just  
3771 trying to lay a foundation for you.

3772 The question I'm trying to understand is, the  
3773 letter you sent was a request to Dr. Ron Jarmin. This  
3774 email is a response from Dr. Ron Jarmin expressing, as you  
3775 said, the views of his staff as expressed in a briefing to  
3776 him. Is that fair?

3777 A I think it speaks for itself. It says that he's  
3778 had this briefing and that somebody suggested some findings  
3779 that suggest a particular outcome.

3780 Q Can you explain to me why -- strike that.

3781 Wouldn't it have been important in a  
3782 circumstance like this, given a response like this from Dr.  
3783 Jarmin, to meet and talk about the issue?

3784 Mr. Gardner. To the extent you can answer that  
3785 question without divulging confidential or litigation  
3786 interests of the Department, you may do so. Otherwise, I  
3787 instruct you not to answer.



3788 A Can you ask the question again? I didn't follow  
3789 it.

3790 Q Yes. Given the letter that you sent, the  
3791 response that you got back, wouldn't it be important to  
3792 meet with the Census Bureau and talk through these issues?

3793 Mr. Gardner. Same instruction.

3794 A I think consistent with that instruction, the  
3795 only answer I can give is, not necessarily.

3796 Q So you don't think it would be important -- you  
3797 don't think it was important to meet with them to discuss  
3798 this email and the views expressed in this email?

3799 A What I can tell you is no meeting took place,  
3800 and, in fact, the conclusion suggested by these findings is  
3801 inaccurate.

3802 Ms. Sachsman Grooms. Did you -- you just  
3803 stated the conclusions suggested by the findings described  
3804 in this email are inaccurate. Did you know that those were  
3805 inaccurate at the time you received the email?

3806 Mr. Gardner. To the extent you can answer that  
3807 question without divulging confidential or litigation  
3808 interests of the Department, you may do so. Otherwise, I  
3809 instruct you not to answer.

3810 Mr. Gore. Consistent with that instruction, I  
3811 can't answer.

3812 Q Did you tell the Attorney General -- did you

3813 tell the Attorney General that the Census Bureau had sent  
3814 this email?

3815 Mr. Gardner. I instruct you not to answer.

3816 Q Did you conduct additional research after you  
3817 got this email?

3818 A I don't recall.

3819 Q Shouldn't you have conducted additional  
3820 research?

3821 Mr. Gardner. Sorry, can you rephrase that  
3822 question?

3823 Q Wouldn't it have been reasonable and  
3824 responsible, given this -- after having received this  
3825 email, to conduct additional research on the topic?

3826 Mr. Gardner. You can answer that question if  
3827 you can.

3828 A Again, not necessarily.

3829 Q After you received this email, did you have  
3830 further discussions with anybody at the Department of  
3831 Commerce about the issues described here?

3832 A I don't recall.

3833 Q Did you have further discussions with anybody at  
3834 the Department of Justice about these issues?

3835 A Which issues in particular are we talking about?

3836 Q The issues described -- the issues in the  
3837 quotation I just read from Dr. Jarmin.

3838 A I believe I did.

3839 Q Who did you speak to?

3840 A Rachael Tucker, and I think I spoke with the  
3841 Attorney General as well.

3842 Q Why did you have those conversations?

3843 Mr. Gardner. To the extent you can answer that  
3844 question without divulging confidential or litigation  
3845 interests of the Department, you may do so. Otherwise, I  
3846 instruct you not to answer.

3847 A Consistent with that instruction, I can't  
3848 answer.

3849 BY MS. ANDERSON.

3850

3851 Q Did you talk with anybody in the Voting Rights  
3852 Section about the contents of this email?

3853 Mr. Gardner. Same instruction.

3854 A Yes.

3855 Q Who did you talk to?

3856 A Chris Herren.

3857 Q When did you talk to him?

3858 A I don't recall specifically when I talked to  
3859 him.

3860 Q What did you talk about?

3861 Mr. Gardner. I instruct the witness not to  
3862 answer.

3863 Q Did you talk about scheduling this meeting or  
3864 scheduling a potential meeting?

3865 Mr. Gardner. Sorry, can you ask that one more  
3866 time? I just got a little lost in the meaning of what.

3867 Q Did you talk with Chris Herren about scheduling  
3868 a possible meeting with the Department of Commerce?

3869 Mr. Gardner. I think at that level you can  
3870 answer that question.

3871 A Yes. Let me clarify. I talked to him about the  
3872 offer to hold a meeting.

3873 Q Sure.

3874 Did you talk with him about the suggestions  
3875 that are in the email from Ron Jarmin?

3876 Mr. Gardner. You can answer that with yes or  
3877 no.

3878 A Yes, I did.

3879 Q What did Mr. Herren say about the suggestions  
3880 that are outlined in this email?

3881 Mr. Gardner. I instruct the witness not to  
3882 answer.

3883 Q What did he say about the offer for a meeting?

3884 Mr. Gardner. I instruct the witness not to  
3885 answer.

3886 Q Did he want to have a meeting with the  
3887 Department of Commerce?

3888                    Mr. Gardner. I instruct the witness not to  
3889 answer.

3890                    I don't mean to interrupt you, but we've been  
3891 going about an hour again. Is it almost a good time for  
3892 lunch?

3893                    Ms. Anderson. Yes.

3894                    Mr. Gardner. If you have a question or two, I  
3895 don't want to stop you. It's lunchtime.

3896                    Ms. Anderson. We can go off the record.

3897                    (A lunch recess was taken.)

3898                    Ms. Anderson. Back on the record.

3899                    For the record, my name is Tori Anderson, and  
3900 the time, just to be aware, is 1:53.

3901 BY MS. ANDERSON.

3902                    Q     So I just want to go back through -- at the very  
3903 beginning we went through a list of a bunch of people that  
3904 you discussed. So I'm just going to go back through and  
3905 kind of -- and go through that list with you, obviously  
3906 skipping over the ones that we already talked about.

3907                    You said that one of the people that you  
3908 discussed the citizenship question with was Rachael Tucker;  
3909 is that correct?

3910                    A     That's correct.

3911                    Q     How many times did you talk with her about the  
3912 citizenship question?

3913                    A     I don't recall specifically, and at the time she

3914 was our point of contact in the Office of Attorney General,  
3915 and I imagine I spoke with her maybe five to ten times  
3916 about the issue either as part of regular conversations  
3917 about the Civil Rights Division work generally or  
3918 specifically with respect to this issue, and she would have  
3919 participated in conversations between me and the Attorney  
3920 General regarding the issue. She would have sat in on  
3921 those conversations.

3922 Q And did you speak with her substantively about  
3923 the citizenship question issue?

3924 A Yes.

3925 Q What did you discuss with her?

3926 Mr. Gardner. I instruct the witness not to  
3927 answer.

3928 Q How many times did you have a substantive  
3929 discussion with her about the citizenship question?

3930 A I don't recall specifically.

3931 Q The next one I have is Ben. Is that correct?  
3932 What was his last name?

3933 A Aguinaga.

3934 Q I'm not going to get that right.

3935 How many times did you discuss with him the  
3936 citizenship question?

3937 A I don't recall specifically. He was my chief of  
3938 staff at the time, so he attended meetings with me, and we

3939 generally discussed the issues in the Division.

3940 Q Did you have substantive conversations with him  
3941 about the addition of a citizenship question?

3942 A Yes, I did.

3943 Q What were the contents of those discussions?

3944 Mr. Gardner. I instruct the witness not to  
3945 answer.

3946 Q Do you remember speaking with him after you  
3947 first became aware of interest in the citizenship question  
3948 in early September 2017?

3949 A I certainly did speak with him after that time.  
3950 I don't know when I first spoke to him about the issue.

3951 Q You said Bob Troester was in the Office of the  
3952 Attorney General; is that correct?

3953 A Troester.

3954 Q Troester.

3955 A Office of the Deputy Attorney General.

3956 Q How many times did you talk to Bob Troester,  
3957 about?

3958 A So Bob was a point of contact in the Office of  
3959 Deputy Attorney General on civil rights issues, so I talked  
3960 to him regularly about issues in the Civil Rights  
3961 Division -- I can't remember specifically how many times --  
3962 either through more general conversations or broader  
3963 conversations or specific conversations I talked to him

3964 about this particular issue.

3965 Q Did you have substantive conversations with him?

3966 A Yes, I did.

3967 Q What did you talk about?

3968 Mr. Gardner. I instruct the witness not to  
3969 answer.

3970 Q Did you talk to him first, would you say, more  
3971 closely to when you first became aware that this -- the DOJ  
3972 might be considering the Department of Commerce's request  
3973 or later in time?

3974 Mr. Gardner. Could you ask that question one  
3975 more time?

3976 Q Did you first talk to him around that early  
3977 September date or did you talk to him more towards  
3978 December?

3979 A I don't recall.

3980 Q How many times did you talk to Rachel Brand  
3981 about the addition of a citizenship question?

3982 A I don't recall specifically. I think I said  
3983 earlier it was four or five or three or four. I can't  
3984 remember what I said earlier today, but that sounds about  
3985 right.

3986 Q You had substantive conversations with her; is  
3987 that correct?

3988 A Yes, I did.



3989 Q What were the contents of those conversations?

3990 Mr. Gardner. I instruct the witness not to

3991 answer.

3992 Q Did you first speak with her in that early

3993 September range or did you first speak with her later, if

3994 you can recall?

3995 A I can't recall specifically, but I think I first

3996 spoke with Rachel in mid to late September about the issue.

3997 Ms. Sachsman Grooms. I'm sorry, did you say

3998 mid to late September?

3999 Mr. Gore. Yes.

4000 Ms. Sachsman Grooms. Why do you think that?

4001 Mr. Gore. I'm sorry?

4002 Ms. Sachsman Grooms. I thought that the

4003 beginning time frame that we were starting at was late

4004 September, early October.

4005 Mr. Gore. No, it was late August, early

4006 September.

4007 Ms. Sachsman Grooms. Sorry, okay.

4008 Q When you had discussions with Rachel Brand, were

4009 they with -- was anybody else present or were they with

4010 her?

4011 A Other people were present. I can recall Jesse

4012 Panuccio being present and Patrick Hovakimian being present

4013 for at least some of those conversations.

4014 Q How many times did you talk to Jesse Panuccio?

4015 A I don't recall exactly. Probably -- I think I  
4016 talked to Jesse a couple of times in addition to the times  
4017 I spoke with Rachel. So I talked to him two or three more  
4018 times about the issue than I did with Rachel.

4019 Q Just with him or with other people present as  
4020 well?

4021 A Either just with him or with him and Pat  
4022 Hovakimian.

4023 Q Were those subsequent conversations?

4024 A Yes.

4025 Q What did you discuss?

4026 Mr. Gardner. I instruct the witness not to  
4027 answer.

4028 Q You said at some point later you talked to  
4029 Bethany Pickett; is that correct?

4030 A That is correct.

4031 Q And Chris Herren; is that correct?

4032 A That's correct.

4033 Q When did you first have conversations with them?

4034 A With Bethany, I think I first had conversations  
4035 with her in October of 2017. I don't recall specifically  
4036 when I first had conversations with Chris Herren. My  
4037 standard practice within the Civil Rights Division, that if  
4038 someone from the Office of Assistant Attorney General wants

4039 to solicit the views of career attorneys or a career  
4040 section within the Division, to speak directly to and only  
4041 to the section chief, so it would have been extraordinary  
4042 for me to talk directly to any other career staff regarding  
4043 this. So that's our standard practice. That's been  
4044 standard practice in the division going back a very long  
4045 time, it's my understanding. So I would have raised it  
4046 with Chris, and Chris then could have solicited the views  
4047 of other career attorneys if he thought it was appropriate  
4048 to do so.

4049 Q I think -- I think what I would like to do is  
4050 kind of just get a more global understanding of sort of the  
4051 timeline of events and sort of when you were talking and  
4052 who was talking to who, if that makes sense.

4053 A Sure.

4054 Q So I'm going to walk through it to my  
4055 understanding and probably do some follow-up questions.

4056 So you first became aware of this issue in  
4057 early September through talking with Mary Blanche Hankey  
4058 and Attorney General Jeff Sessions. That's still correct?

4059 A That is correct.

4060 Q What did you do next about this issue?

4061 A So, as I mentioned before, I conducted some  
4062 legal research and some general research regarding the  
4063 census.

4064 Q Who did you talk to after talking with Mary  
4065 Blanche Hankey and Attorney General Jeff Sessions, and in  
4066 what time frame was that?

4067 A Eventually I spoke to everyone on the list,  
4068 obviously.

4069 Q Sure.

4070 A I think if you're -- I don't recall exactly the  
4071 timeline of everything. I received my first call from  
4072 Peter Davidson pretty shortly after that initial  
4073 conversation I had, and within the September time frame I  
4074 would have spoken to Rachel, Jesse, Pat -- Rachel Brand,  
4075 Jesse, Pat, Rachael Tucker, Danielle, obviously. I spoke  
4076 with Wendy Teramoto again on September 16th, James Uthmeier  
4077 I think towards the end of September.

4078 I don't recall when I first talked to Gene or  
4079 Bob Troester or Chris Herren. I probably would have spoken  
4080 to Ben Aguinaga pretty soon after since he was the chief of  
4081 staff. I know I talked to Bethany in October.

4082 Q Besides the draft letter that you wrote prior to  
4083 the, I guess the more formal letter on December 12th, did  
4084 you produce any other documents related to the addition of  
4085 the citizenship question?

4086 A Can you clarify what you mean by "produce"?

4087 Q Did you write -- put together any documents?

4088 A I'm trying to think about how to answer that

4089 question. I don't recall. I think at one point I  
4090 participated in or reviewed some talking points regarding  
4091 the issue for the hearing that the Attorney General was  
4092 going to testify at here on the Hill, but I don't recall.  
4093 I think Ben may have written the first draft of those. I  
4094 don't recall. And I don't recall producing -- writing  
4095 anything else related to that other than emails.

4096 Q About what time would -- to your recollection  
4097 were the talking points written?

4098 A I believe it was in October of 2017, but I'm not  
4099 sure. Might have been later. It probably was later now  
4100 that I think about it. So I don't know. I shouldn't put a  
4101 date on it when I don't remember.

4102 Q Okay.

4103 So then that's sort of the September time  
4104 frame. What happened next?

4105 A Let's see, so September time frame. And then in  
4106 October I continued to do some research, legal research and  
4107 research generally about the census. Began drafting -- at  
4108 some point began drafting the first draft of the letter,  
4109 continued to talk to those individuals I mentioned before.  
4110 And at some point along the way, I don't know if it was  
4111 September or October, I talked to Chris Herren and Art Gary  
4112 and the other individuals on the list, Mark Neuman, and, as  
4113 I mentioned, continued to have conversations with other

4114 people in the Department regarding this issue.

4115 Q Did you discuss, with anyone outside of the  
4116 Department of Justice while you were drafting the letter,  
4117 your drafting process?

4118 Mr. Gardner. Sorry, I'm not sure I understand  
4119 the question.

4120 Q Did you discuss drafting what ultimately became  
4121 the December 12th letter with anyone else outside of the  
4122 Department of Justice?

4123 Mr. Gardner. I'm sorry, is your question did  
4124 he discuss the fact that he was drafting the letter?

4125 Ms. Anderson. Yes, that's my first question.

4126 Mr. Gardner. You can answer that.

4127 A Yes.

4128 Q Who did you discuss it with?

4129 A I discussed it with Peter Davidson. I may have  
4130 discussed it with James Uthmeier, although I don't recall  
4131 specifically.

4132 Q Did they give you any comments, feedback, advice  
4133 about the drafting of that letter?

4134 Mr. Gardner. You can answer that with a yes or  
4135 no.

4136 A Yes.

4137 Q Just to be clear, does that yes pertain to both  
4138 Peter Davidson and James Uthmeier or one or the other?

4139 A Both.

4140 Q How many times would you say you discussed,  
4141 received comments, talked about the drafting of that letter  
4142 with Peter Davidson?

4143 A The fact that -- as I understand, you were  
4144 asking about the fact that I was drafting the letter --

4145 Q Sure.

4146 A -- or that process was going on?

4147 Q Yes.

4148 A I think I would have discussed that with him  
4149 every time I talked to him or almost every time I talked to  
4150 him.

4151 Q Did you discuss the contents of what you were  
4152 drafting with Peter Davidson?

4153 A Yes, I did.

4154 Q Every single time as well?

4155 A Maybe not -- probably not every time, but more  
4156 than once.

4157 Q Did he give you any advice, feedback, or  
4158 comments about the contents of your drafting letter?

4159 Mr. Gardner. You can answer that yes or no.

4160 A Yes.

4161 Q Would you say he gave those comments or feedback  
4162 or -- every single time you spoke with him?

4163 A No.

4164 Q Do you remember when that time was where you  
4165 received a comment or anything from Peter Davidson on the  
4166 more substantive parts of the drafting?

4167 A Not specifically.

4168 Q Did you incorporate any of those feedback or  
4169 comments into your draft letter?

4170 Mr. Gardner. I instruct the witness not to  
4171 answer.

4172 Q Did you discuss the -- you said you discussed  
4173 the fact that you were drafting the letter with James  
4174 Uthmeier as well; is that correct?

4175 A Correct.

4176 Q Did you discuss the contents of what was in your  
4177 draft letter with James Uthmeier?

4178 A Yes, I did.

4179 Q How many times?

4180 A Once, maybe twice.

4181 Q Did you receive any comments or feedback or  
4182 thoughts about the contents of your draft letter from James  
4183 Uthmeier?

4184 Mr. Gardner. You can answer that with a yes or  
4185 no.

4186 A Yes.

4187 Q What were the substance of those comments?

4188 Mr. Gardner. I instruct the witness not to



4189 answer.

4190 Q Did any of those comments or thoughts or  
4191 questions go into the draft letter that you wrote?

4192 Mr. Gardner. Same instruction.

4193 Q So you were drafting as part of that October  
4194 time frame, and then what happened next?

4195 A At some point, I believe around November 1st, I  
4196 solicited comments on the draft from a variety of people in  
4197 the Department of Justice.

4198 Q Who were those people?

4199 A Chris Herren. As I explained before, it was  
4200 standard practice in the Civil Rights Division. I wanted  
4201 to get input from the career staff who has a lot of  
4202 experience in Voting Rights Act cases and Voting Rights Act  
4203 issues, and the conduit to do that is to contact the  
4204 section chief, in this case the chief of the Voting  
4205 Section, Chris Herren, and that's what I did with Chris.  
4206 Comments -- I also received comments from Bethany Pickett,  
4207 Ben Aguinaga, Bob Troester, Rachael Tucker.

4208 Q If you could just slow down for just a second.  
4209 Thank you.

4210 Okay. Go ahead.

4211 A Art Gary.

4212 Q Could you just, sorry, quickly remind me of  
4213 those people's positions? I can name them back to you if

4214 that's helpful.

4215 A Chris Herren is the chief of the Voting Section.

4216 Q Yes.

4217 A Bethany Pickett was counsel in the Civil Rights  
4218 Division. Ben Aguinaga was chief of staff in the Civil  
4219 Rights Division. Bob Troester was an Associate Deputy  
4220 Attorney General in the Office of the Deputy Attorney  
4221 General. Rachael Tucker was a counsel in the Office of the  
4222 Attorney General, and Art Gary is the general counsel of  
4223 the Justice Management Division.

4224 Ms. Sachsman Grooms. Did all of those people  
4225 give you feedback?

4226 Mr. Gore. Yes, those are all the people I  
4227 received comments or feedback or edits to the letter from.

4228 Ms. Sachsman Grooms. Were there additional  
4229 people who you sent the letter to that you did not get  
4230 feedback from?

4231 Mr. Gore. Not that I recall.

4232

4233 Q Was there anyone else additional that you had  
4234 contact with outside the Department of Justice about the  
4235 draft letter or that November 1st, I guess, more done draft  
4236 letter?

4237 Mr. Gardner. I'm sorry, I don't understand the  
4238 question.

4239 A I didn't understand. Try again.

4240 Q Besides James Uthmeier and Peter Davidson, did  
4241 you consult with anyone else about the substance of your  
4242 draft letter outside of the Department of Justice?

4243 A Oh, I see. No.

4244 Ms. Sachsman Grooms. What about Mr. Neuman?

4245 Mr. Gore. No.

4246 Q Okay. So then after you, I guess, solicited  
4247 comments from that list of people, what did you do next?

4248 A I received comments from each of those people at  
4249 various points in time and incorporated some of those  
4250 comments into the draft.

4251 Q Whose comments did you incorporate?

4252 Mr. Gardner. To the extent you can answer that  
4253 question without divulging confidential or litigation  
4254 information, you may do so. Otherwise, I instruct you not  
4255 to answer.

4256 A I'm not sure I can answer the question  
4257 consistent with that instruction.

4258 Q Were there comments that you received that you  
4259 did not incorporate into the letter?

4260 Mr. Gardner. You can answer that with a yes or  
4261 no.

4262 A Yes.

4263 Q Whose comments were those?

4264                   Mr. Gardner. I instruct you not to answer.

4265           Q     What did you do next?

4266           A     I don't recall specifically what I did next.

4267     During that period of time, I was continuing to have  
4268     conversations with people in the Department and with  
4269     Mr. Davidson about the letter. And after incorporating all  
4270     of the edits and discussing the letter, at one point -- at  
4271     some point I had a conversation with Art Gary about the  
4272     letter.

4273           Q     When you were having discussions with Peter  
4274     Davidson, did you send to him or review with him your more  
4275     updated draft letter, the one that incorporated comments  
4276     from November 1st?

4277           A     No.

4278           Q     Did you review or send to James Uthmeier your  
4279     more updated letter that incorporated comments from  
4280     November 1st?

4281           A     No.

4282           Q     Did you send Peter Davidson your original draft  
4283     of the letter?

4284           A     No.

4285           Q     Did you send James Uthmeier the original draft  
4286     of the letter?

4287           A     No.

4288                   Let me just clarify. There was a draft around

4289 November 1st, and then there were many drafts after that  
4290 that incorporated rounds of comments.

4291

4292 Ms. Sachsman Grooms. Just to make sure I'm  
4293 clear on this, you had conversations about the contents of  
4294 the draft of your letter with Mr. Uthmeier and  
4295 Mr. Davidson, but you never sent them an actual copy of it.  
4296 Is that accurate?

4297 Mr. Gore. That is correct.

4298 Q What happened next?

4299 A At some point -- I'm trying to remember. So  
4300 that gets us through November, and into December I was  
4301 still receiving comments on the letter and at some point  
4302 incorporated those comments and had further communications  
4303 and conversations with Art Gary and with Rachael Tucker and  
4304 Bob Troester regarding finalizing that letter and whether a  
4305 final decision was made to send the letter.

4306 Q Did you ever show -- let's start with your  
4307 original draft before this sort of rounds of drafts.

4308 Did you ever show that draft to the Attorney  
4309 General?

4310 A No.

4311 Q Did you ever show any subsequent draft to the  
4312 Attorney General?

4313 A I can't recall specifically sharing a draft with

4314 the Attorney General. I don't know whether anyone else  
4315 did. It's certainly possible.

4316 Q And then can you just talk about that final, I  
4317 guess, end of November to December 12th time period?

4318 A Sure. As I recall, I was still receiving  
4319 comments on the letter during that time period. And at  
4320 some point, I believe it was on the morning of December  
4321 12th, I understood that the final decision had been made to  
4322 send the letter, and the letter was sent -- the decision  
4323 became final and the letter was sent that day.

4324 Q Okay. Who did you understand was making the, as  
4325 you said, final decision?

4326 A I believe it came from Department leadership.

4327 Q Who did that include? Who do you mean by  
4328 "Department leadership"?

4329 A The Attorney General.

4330 Q Is that the normal process of approval for  
4331 sending out a letter, or can you talk through what the  
4332 normal process is?

4333 Mr. Gardner. Just to be clear, do you mean any  
4334 letter of the Department? I think we need to be clear  
4335 about this.

4336 Ms. Anderson. Sure.

4337 Q So what was the process that was used to have  
4338 this letter be approved to send out?

4339                    Mr. Gardner. If you can answer that question.

4340            A     Yes. May I describe what process we actually  
4341 did in fact use?

4342            Q     Sure.

4343            A     There are within the Department certain issues  
4344 that --

4345            Q     Sorry. I want to cabin it so you don't have to  
4346 talk about everything all the way back.

4347            A     Okay.

4348            Q     But that final phase, once you were done  
4349 incorporating the comments, what was -- from that point to  
4350 December 12th.

4351            A     As I said, I mean, I think I had further  
4352 conversations with Bob Troester and Rachael Tucker  
4353 regarding the letter, and it was conveyed to me that we  
4354 should send the letter on December 12th, and it was sent on  
4355 December 12th.

4356            Q     Who conveyed that to you?

4357            A     I think I heard from both Bob and Rachael, but I  
4358 think I heard from Rachael last.

4359                    Ms. Sachsman Grooms. Do you know what  
4360 packaging form, what set of documents would have gone to  
4361 the Attorney General for the decision-making on this point?

4362                    Mr. Gore. I have no idea.

4363                    Ms. Sachsman Grooms. So did you get any

4364 package back? You didn't formulate some package together  
4365 with a final letter in a recommendation memo and then send  
4366 that up the chain? Did you do that?

4367 Mr. Gore. No, I did not.

4368 Ms. Sachsman Grooms. You didn't get some piece  
4369 of paper back saying that he had approved it?

4370 Mr. Gore. No, I did not.

4371 Q From January 20th, 2017, to March 2018, so that  
4372 ...

4373 A Okay.

4374 Q Did you have any communications or were you  
4375 aware of any communications involving executive branch  
4376 officials or others about whether adding a citizenship  
4377 question would help with redistricting?

4378 Mr. Gardner. You can answer that with a yes or  
4379 no. You might want to break that up into multiple  
4380 questions because it's awful broad.

4381 Ms. Anderson. Do we have the same time frame  
4382 or would you like me to --

4383 Mr. Gardner. Yes, keep the time frame. Just  
4384 like you can ask him first is he aware of any conversation.

4385 Ms. Anderson. Sure.

4386 Q Did you have any conversations involving  
4387 executive branch officials about whether adding a  
4388 citizenship question would help with redistricting?



4389                    Mr. Gardner. You can answer that question with  
4390 a yes or no.

4391            A     Yes.

4392            Q     Who?

4393                    Mr. Gardner. I will instruct you not to  
4394 answer.

4395            Q     So between the same time frame -- we're just  
4396 going to keep that for now, but if you would like me to  
4397 repeat it, I'm happy to do that -- did you become aware of  
4398 any conversations involving executive branch officials  
4399 involving whether the citizenship question would help with  
4400 redistricting?

4401                    Mr. Gardner. Same instruction. You can answer  
4402 yes or no.

4403            A     Yes.

4404            Q     Who?

4405                    Mr. Gardner. I'll instruct you not to answer.

4406            Q     We'll stick with the executive branch officials  
4407 about whether redistricting -- whether the citizenship  
4408 question would help with redistricting. Do you know when  
4409 you were aware of those conversations occurring?

4410            A     I was aware of the conversations I participated  
4411 in when they occurred.

4412            Q     We can start there. When did those occur?

4413            A     Those occurred -- I can recall conversations

4414 between September and December of 2017.

4415 Mr. Gardner. I thought you were asking between  
4416 January and March.

4417 Ms. Anderson. January 2017.

4418 Mr. Gardner. I'm sorry.

4419 Ms. Anderson. And March 2018.

4420 Mr. Gardner. I'm sorry. That's why I was  
4421 confused. Okay. I'm sorry.

4422 Q Now, going back to were you aware about  
4423 conversations involving executive branch officials about  
4424 whether a citizenship question would help with  
4425 redistricting, were you aware of when those conversations  
4426 occurred?

4427 A I participated in those conversations and I was  
4428 aware of them when they occurred.

4429 Q Okay. Were you involved with any conversations  
4430 with other people about whether adding a citizenship  
4431 question would help -- would help with redistricting?

4432 A Other than who?

4433 Q Other than executive branch officials.

4434 A I think I have given you the list of everyone I  
4435 spoke to.

4436 Q Between the same -- I'll just -- between January  
4437 2017 and March 26, 2018, did you have any communications or  
4438 conversations about whether adding a citizenship question

4439 would influence the outcome of an election?

4440 Mr. Gardner. I'm sorry, can you say that one  
4441 more time? I apologize.

4442 Q Between January 20th, 2017, and March 26th,  
4443 2018, did you have any communications or conversations  
4444 about whether adding a citizenship question would influence  
4445 the outcome of an election?

4446 Mr. Gardner. I see. You can answer that  
4447 question with a yes or no.

4448 A Not that I recall.

4449 Q Were you aware in that same time frame of  
4450 conversations or communications between any executive  
4451 branch officials about whether adding a citizenship  
4452 question would influence the outcome of an election?

4453 Mr. Gardner. You can answer that question with  
4454 a yes or no.

4455 A Not that I recall.

4456 Ms. Anderson. I don't think we have any more  
4457 questions at this time.

4458 Mr. Gardner. Thank you.

4459 Ms. Sachsman Grooms. We can go off the record.

4460 (Interview concluded at 2:21 p.m.)

## ERRATA SHEET

INSTRUCTIONS: After reading the interview transcript, please note any change, addition, or deletion on this sheet. DO NOT make any marks or notations on the actual transcript. Use additional paper if needed.

<b>Investigation Name</b>	Census Investigation
<b>Witness Name</b>	John Gore
<b>Date of Interview</b>	March 7, 2019

<b>PAGE</b>	<b>LINE</b>	<b>CORRECTION</b>	<b>APPROVED*</b>
1	17	Change “Senior Counsel” to “Acting Deputy Assistant Attorney General”	Y
19	443	Insert “except for Ben”	N
56	1362	Change “Chris Kovach” to “Kris Kobach”	Y
56	1370	Change “Chris Kovach” to “Kris Kobach”	Y
72	1779	Add “General” to “Deputy Attorney General”	Y
73	1794	Add period to end sentence after “Jesse Panuccio”	Y
96	2366	Change “Chris Kovach” to “Kris Kobach”	Y
96	2367	Change “Chris Kovach” to “Kris Kobach”	Y
96	2369	Change “Mr. Kovach” to “Mr. Kobach”	Y
136	3365	Insert “and again 2018” (see attached letter from DOJ)	N
143	3559	Add “U.S.” in front of “attorneys”	Y
148	3673	Delete quotation marks	Y
153	3795	Add comma after “is”	Y

\* For COR Majority Staff use only.





**U.S. Department of Justice**

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

**MAR 21 2019**

The Honorable Elijah E. Cummings  
Chairman  
Committee on Oversight and Reform  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Jim Jordan  
Ranking Member  
Committee on Oversight and Reform  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Cummings and Ranking Member Jordan:

This responds to the Department of Justice's (Department) review of a transcript from the March 7, 2019 interview of John Gore, Principal Deputy Assistant Attorney General of the Civil Rights Division. The Department provided proposed errata as noted in the draft transcript on March 19, 2019 and is providing one substantive revision below.

- p. 135-138; 144: Mr. Gore was asked whether he had discussed apportionment with Attorney General Sessions, how many conversations on the topic had occurred, and when those conversations occurred. Mr. Gore indicated that he discussed the topic one time with Attorney General Sessions in the fall of 2017, "around the time when the state of Alabama filed a lawsuit about apportionment issues against the Department of Commerce." p.136. On review of the transcript, Mr. Gore realized that case was filed in 2018 (*see, Complaint, Alabama v. United States Dep't of Commerce*, 18-cv-772 (N.D. Al. May 21, 2018)) and on reflection, he now believes that there were two conversations on this topic – one in the fall of 2017 and one in the spring of 2018. The Department is not prepared at this time to discuss the content of those conversations. As the Department has repeatedly explained to the Committee, not only does the Department have an essential need to maintain the confidentiality of its internal deliberations, but it also has the more specific concern that the Department's litigation position regarding privileges, which was not challenged in litigation, could be compromised if those very same confidential deliberations were made public through a concurrent oversight process.

The Honorable Elijah E. Cummings  
The Honorable Jim Jordan  
Page Two

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "K Antell", with a long, sweeping horizontal stroke extending to the right.

Kira Antell  
Acting Deputy Assistant Attorney General

COMMITTEE ON OVERSIGHT AND REFORM,  
U.S. HOUSE OF REPRESENTATIVES,  
WASHINGTON, D.C.

INTERVIEW OF: GENE PATRICK HAMILTON

Thursday, May 30, 2019

Washington, D.C.

The interview in the above matter was held in Room 6400, O'Neill House Office Building, commencing at 10:04 a.m.



Appearances:

For the COMMITTEE ON OVERSIGHT AND REFORM:

TORI ANDERSON, COUNSEL

RUSSELL ANELLO, CHIEF OVERSIGHT COUNSEL

SUSANNE SACHSMAN GROOMS, DEPUTY STAFF DIRECTOR AND CHIEF COUNSEL

STEVE CASTOR, MINORITY GENERAL COUNSEL

ELLEN JOHNSON, MINORITY SENIOR PROFESSIONAL STAFF MEMBER

CAROLINE NABITY, MINORITY COUNSEL

For the DEPARTMENT OF JUSTICE:

MEGAN L. GREER, SENIOR COUNSEL

KIRA ANTELL, SENIOR COUNSEL

JOSHUA E. GARDNER, SPECIAL COUNSEL



minority staffs will alternate asking you, Mr. Hamilton, questions 1 hour per side per round. The majority staff will begin and proceed for an hour, and the minority staff will then have an hour to ask questions. Thereafter, the majority staff may ask additional questions and so on and so forth. We'll alternate back and forth in this manner until there are no more questions from either side, and then the interview will be concluded.

During the interview, we will do our best to limit the number of people who are directing questions at you during any given hour. With that said, from time to time, followup or clarifying questions may be useful. And if that's the case, you might hear from additional people around the table.

Under the committee rules, you're allowed to have an attorney present to advise you. Do you have an attorney present to represent you in a personal capacity today?

Mr. Hamilton. No.

Ms. Anderson. Would counsel please identify yourselves again?

Mr. Gardner. Josh Gardner, with the Department of Justice.

Ms. Anderson. Okay. I understand that you do not have a personal attorney with you today, but instead, have agency counsel with you. You've identified yourself.

Do you understand that agency counsel represents the agency and not you personally?

Mr. Hamilton. Yes.

Ms. Anderson. And you are choosing to have agency counsel in the room with you today?

Mr. Hamilton. Yes.

Ms. Anderson. There's a stenographer taking down everything I say and everything you say to make a written record for the interview. For the record to be clear, please wait until I finish each question before you begin to answer, and I will wait

until you finish your response before asking you the next question.

The stenographer cannot record nonverbal answers, such as shaking your head, so it's important that you answer each question audibly and verbally. Do you understand?

Mr. Hamilton. Sure.

Ms. Anderson. We want you to answer our questions in the most complete and truthful manner possible, so we are going to be taking our time. If you have any questions or do not understand my questions, please let us know; we will be happy to clarify or rephrase the question as needed. Do you understand?

Mr. Hamilton. I do.

Ms. Anderson. If I ask you about conversations or events in the past and you are unable to recall the exact words or details, you should testify to the substance of those conversations or events to the best of your recollection. If you recall only a part of the conversation or event, you should give us your best recollection of those events or parts of the conversation that you do recall. Do you understand?

Mr. Hamilton. Yes.

Ms. Anderson. If you need a break, please let us know. We are happy to accommodate you. Ordinarily, we take a 5-minute break at the end of each hour of questioning, but if you need to take a break before that, just let us know. However, to the extent there is a pending question, I would just ask that you finish answering the question before you take a break. Do you understand?

Mr. Hamilton. I do.

Ms. Anderson. Although you are here voluntarily and we will not swear you in, you are required by law to answer questions from Congress truthfully. This also applies to questions posed by congressional staff in an interview. Do you understand?

Mr. Hamilton. Yes, I do.

Ms. Anderson. If at any time you knowingly make false statements, you may be subject to criminal prosecution. Do you understand?

Mr. Hamilton. I do.

Ms. Anderson. Is there any reason today you are unable to provide truthful answers in the interview?

Mr. Hamilton. No.

Ms. Anderson. Please know if you wish to assert a privilege over any statement, you must do so pursuant to committee rules. Committee rule 16(c)(1) states that, quote, for the chair to consider assertions of privilege over testimony or statements, witnesses or entities must clearly state the specific privilege being asserted and the reason for the assertion on or before the schedule date of testimony or appearance.

In addition, subsection 3 states, quote, the only assertions of executive privilege that the chair of the committee will consider are those made in writing by an executive branch official authorized to assert the privilege.

Do you understand?

Mr. Hamilton. I understand.

Ms. Anderson. Do you have any questions?

Mr. Hamilton. No.

Ms. Antell. Before you begin questions, I just wanted to clarify, while we are here voluntarily and, you know, we're glad we were able to work out the scheduling issues, we remain disappointed that we were unable to come to a resolution regarding access to the transcript, having a final copy of the transcript after the interview.

We understand that it is committee policy not to provide that final transcript, but we think it's really important for recordkeeping purposes and fundamental fairness that we would have that transcript in the future. Again, we're here, we're ready to answer

questions. But in the future, if you guys decide to request a transcribed interview, we will have to revisit this.

Mr. Anello. If I may just briefly respond to that point. I think we reached a resolution, which is that the committee made an accommodation regarding the transcript. There was a request that we do so, and we did. I think we came to an agreement on that. I think you're correct in stating that the committee's practice under both Democrats and Republicans has not been to provide copies of final transcripts to agencies or to witnesses. However, we do make copies of the transcripts available at our offices. And you will have access to our transcript, which you'll be able to review and provide comments on, if you have any comments or concerns about mistakes or accuracy.

We've also made an offer for you to come back and look at the final transcript after it's been finalized, if you have a desire to do so, which was an additional accommodation. And then we also had an accommodation regarding notice that we discussed.

So obviously, if there is another interview, we can discuss that, but I do believe we reached a resolution and we've made several accommodations.

Ms. Antell. So we reached a resolution in that we're here and we are participating in the interview under the circumstances that you described. But note that we don't necessarily -- this is something we may have to return to.

Mr. Castor. Just for the record, the committee's been doing transcribed interviews of witnesses at a pretty high clip, going back to 2007. And some of those years there have been hundreds of TIs. Like in the IRS targeting investigation, I believe we interviewed almost 80 witnesses. And so our practices are not -- we have a pretty well worn path with our practices.

So I just want to say from the Republican side of things that the decision, you know, not to give the witness or the department a copy of the transcript isn't something new, and it really is the way things have been done. There have been exceptions, but very, very few. And some of those exceptions have related to when there has been IG investigations and they haven't been able to get ahold of the witness because the witness has left the department. And so, you know, maybe this litigation maybe is one of those exceptions, but that's something that certainly can be revisited in the future.

I just wanted to add that for the record, just for context purposes. But this isn't like a new Mr. Cummings rule.

Ms. Anderson. Anyone else want to add anything?

Okay. I will note for the record that it's now 10:12 a.m.

#### EXAMINATION

BY MS. ANDERSON:

Q Mr. Hamilton, can you please tell us when you first started working for the Department of Homeland Security?

A When I first started working for the Department of Homeland Security?

Q Yes.

A August of 2010.

Q Okay. And how about the most recent stint?

A January 20 of 2017.

Q And starting on January 20, 2017, what position or positions did you hold at the Department of Homeland Security?

A I was the senior counselor to the Secretary?

Q Who did you report to in that role?

A The Secretary.

Q Did you have any other roles during your time at DHS, starting in January 2017?

A No.

Mr. Anello. Can I just ask, were you at DHS in 2010 all the way through 2017 as well?

Mr. Hamilton. No.

Mr. Anello. So can you just give us a brief history of what you were doing?

Mr. Hamilton. Yeah. So I was a DHS employee from -- I don't remember if it was August or September. It was right around there, 2010 -- until spring of 2012. I left general counsel's office, went to ICE. I was with ICE from spring of 2012 to February of 2015. 2015 to January 20 of 2017, I was general counsel to Senator Sessions in the Senate Judiciary Committee.

Mr. Anello. Okay.

BY MS. ANDERSON:

Q So in your role as senior counsel, what issues did you work on?

A A number. Immigration, border security, Coast Guard, national security issues. There was a whole host of things.

Q And when did you leave DHS?

A The last -- toward the end of October of 2017.

Q Why did you leave DHS?

A I went to the Department of Justice.

Q What role did you take on at the Department of Justice?

A Counselor to the Attorney General.

Q Who did you report to in that role?

A Primarily the Attorney General. Although, in both situations at DHS and



Justice, there's some reporting involved to the chief of staff, of course, as well, in both places.

Q What issues did you start working on at the Department of Justice once you moved in October 2017?

A Largely the same issues.

Q So that --

A Immigration, border security, some national security issues.

Q Did you staff the Attorney General on those issues?

A I did. And I do.

Mr. Anello. If I might just go back to DHS for a moment. Can you just provide a little bit more detail about your role, let's say, starting with immigration, what your role was regarding immigration issues at DHS?

Mr. Hamilton. What do you mean by what my role was?

Mr. Anello. What did you do regarding immigration?

Mr. Gardner. Are you asking about specific assignments he worked on, Russ?

BY MR. ANELLO:

Q No. I am asking generally if there were particular subject matters you worked on, if you had a particular role. Why don't we start with particular subject matters that you worked on at DHS that related to immigration.

A I don't think I could identify particular subject matters. Just anything that affected immigration, my job was to advise the Secretary and to --

Q Were you -- I'm sorry.

A -- provide him with options, policy options, and to ensure that his decisions were executed on.

Q So were you the Secretary's senior-most adviser on immigration issues

during your time at DHS?

A Yes.

Q And did anybody report to you?

A I had some administrative folks who worked for me directly, but in terms of a chain of command reporting structure, no.

Q And at DOJ, can you describe a little bit more your role in immigration?

Were there particular issues related to immigration that you have worked on at DOJ?

A Very much the same, although it involves advising the Attorney General about litigation, reviewing briefs, doing things like that.

Q Are you the Attorney General's senior-most immigration adviser?

A Yes.

Q And was that the case under Attorney General Sessions as well?

A Yes.

Q And under Mr. Whitaker as well?

A Yes.

Q And is there a team that reports to you or do you have anybody that reports to you other than administrative staff at DOJ?

A On the organizational chart, I do not have any direct reports.

Q And you mentioned a few other issues that you said you worked on border security, national security. Are you also the most -- senior-most adviser to the Attorney General on those issues?

A The national security docket is largely handled by someone else, but I -- there's overlap, so we -- we work as a team.

BY MS. ANDERSON:

Q Has your position changed at all since you started in the Department of

Justice?

A No.

Q When did you first become aware that there were discussions about possibly adding a citizenship question to the 2020 Census?

A I guess probably -- it was probably spring, April of 2017, that time period.

Q How did you become aware?

A My recollection is that I was contacted by John Zadrozny on the Domestic Policy Council that I would be receiving a phone call from someone from the Department of Commerce related to the Census.

Q Okay. Had you worked on Census issues prior to that?

A No.

Q Had you been in contact with John Zadrozny prior to that?

A Almost every day, multiple times a day likely. I mean, it would depend. Some days not, but we were in frequent contact because Domestic Policy Council at the White House, as I am sure you appreciate to know, has a role in the immigration world, and so there was frequent contact on that subject matter. And I've known John for a number of years. And so oftentimes, when John reaches out to me or when he reached out to me when he was in that capacity, it was on the basis of, hey, I know someone at DHS, I know Gene.

Q Okay. When he reached out to you, was that on the phone or email, in person?

A I think it was on the phone to the -- I think.

Q Can you go through a little bit about what John Zadrozny's role was, what your role working with him was like? Can you walk through that a little bit for us?

Mr. Gardner. While he was at Homeland Security?

Ms. Anderson. Yes. In that spring, April 2017 timeline.

Mr. Hamilton. Kind of hard to describe. It's having a normal working relationship in that these issues come up, there's discussions. The White House wants to know what's happening, certain issues. Sometimes we have a role to advise the White House. And so just attending meetings. I mean, there's a whole range of conduct.

BY MR. ANELLO:

Q Was Mr. Zadrozny your primary point of contact at the White House on immigration issues?

A No.

Q Who was your primary point of contact?

A Stephen Miller.

Q And did Mr. Zadrozny work on immigration issues?

A Yes.

Q And so what was his -- how did his role compare to Stephen Miller's role during the time that you worked with both?

A Well, John was a special assistant to the President, I believe, on the Domestic Policy Council, so he was more junior. Stephen's an assistant to the President.

Q And did you work with Mr. Miller at this time on immigration issues also?

A Yes.

Q And what was your working relationship with Mr. Miller like in terms of the types of conversations that you would have?

A I mean, the same general thing. It's hard to describe the meetings. I mean, we work with a lot of people at the White House on immigration generally. It's hard to nail it down to, not just John and Stephen; it is a whole host of people at the

White House. But Stephen is the White House's senior person on immigration.

And so to answer your question earlier, that's the senior-most person I worked with on immigration.

BY MS. ANDERSON:

Q So when he called you and said you might receive a call from DOC, did he tell you who you'd receive a phone call from?

A I think he said Earl Comstock, I think.

Q And did he tell you what that phone call would be about?

A I don't recall.

Q Did he tell you -- do you recall any of the other details about what he told you on that initial phone call?

A No.

BY MR. ANELLO:

Q Did he mention the Census?

A I believe I've already said that, that he mentioned I would be getting a call about the Census.

Q Did he mention the citizenship, the issue of the citizenship question?

A I don't recall.

Q Because I think that you -- I think you initially said the first time you became aware of the idea of adding the citizenship question was the call from Mr. Zadrozny, right?

Mr. Gardner. I don't think that characterizes his testimony accurately, but --

Mr. Anello. Well, he brought up the call, I think, in response to a question about the citizenship question, that's why I mentioned it.

Mr. Hamilton. I mean, I don't want to parse words here, but she asked a

question when did I first become aware of the issue. So looking back now, that's when it arose. I don't have any specific recollection if on that phone call I was told this is about the citizenship issue, but that was obviously my first engagement with the Department of Commerce.

BY MS. ANDERSON:

Q How long after that initial phone call did you receive contact from Earl Comstock or a person named Earl from the Department of Commerce?

A I don't remember exactly. It was pretty soon afterwards.

Q Was that via phone or email or in person?

A I think it was on the phone.

Q So could you describe what role you played regarding the citizenship question while you were at the Department of Homeland Security?

A Could you get a little more specific?

Q Did you have a role with dealing with this issue of the citizenship question while you were at the Department of Homeland Security?

Ms. Antell. Can I just ask you to make that question either more specific about it? I think that's a really -- that's a super general question.

I'm not sure if you're having trouble answering that.

Mr. Hamilton. Yeah. I guess, I mean -- what was my role? I mean, it would help me to better answer your question if we went back to the phone call and relayed some factual information that there was further discussions or something. I mean, this is -- we're taking a giant leap from here to here in your questioning. So if you can break it down, I will be able to give you better answers.

BY MS. ANDERSON:

Q Okay. When you received the phone call, was there anyone else on the

phone call besides Earl?

A Not to my knowledge.

Q Okay. How long did you talk for?

A Just a few minutes.

Q Did he tell you why he was calling?

A He did.

Q Why was he calling?

A He wanted to know if the Department of Homeland Security could use or had a need for the information for citizenship information on the Census that would facilitate a departmental mission.

Q Did he tell you why he was reaching out to see whether you had a need?

A No. Not that I can recall.

Q Is it usual for a different department to call you and ask whether you need information that you haven't requested?

A Sure.

Q In what other context have you received a similar phone call?

A I can't recall specific instances, but it's common practice for people at various departments to call each other to ask about various issues, to ask if something would be helpful or not helpful, or if there's something that they're working on they want to get our input. It's pretty standard practice.

Q And just to be clear, you hadn't asked for that particular dataset or reached out to the Department of Commerce before then?

A No.

BY MR. ANELLO:

Q So you said he asked you whether you could use that data, he meant

citizenship data?

A Yeah.

Q Did he give you any context? What type of citizenship data, where the data was coming from?

A No.

Q He just asked could you use citizenship data?

A Yes.

Q Did he say citizenship data on the 2020 Decennial Census?

A On the Census, Decennial Census. Yes, the one Census, same thing. Yes.

Q Did you have any -- before that phone call, did you have any background in whether the Census asked questions related to citizenship?

A I was generally familiar with the issue, not specific -- I am not an expert on it. But generally, I was vaguely familiar with the public dialogue on the issue.

Q Had you spoken to anybody else about that issue prior to that conversation?

Mr. Gardner. You mean while at Homeland Security or ever?

BY MR. ANELLO:

Q Well, let's start with that, Homeland Security, and then we can go before then.

A At DHS? None.

Q How about prior to your 2017 stint?

A I don't recall having specific discussions about citizenship before. I know that when I was on the transition team, Kris Kobach had reached out to me at some point and mentioned some legislative proposals to something about citizenship. I remembered I didn't do anything with it. Got a lot of ideas from a lot of people, a lot of things that folks wanted to do or have the new administration do. I didn't really do



anything with it.

Q When did Mr. Kobach reach out to you?

A It was probably early November of 2016.

Q Early November, so after the election?

A Yeah.

Q Did he reach out to you before or after the election?

A I don't remember. Sometime around the election.

Q And can you describe what he told you, to the best of your memory?

A It was just he mentioned that he had a number of legislative things that he wanted to propose. One of them I think involved citizenship questions or citizenship on the Census. I don't really know. I didn't have any details on it.

Q Did he tell you what steps he'd taken, aside from calling you, to try to get a citizenship question on the Census?

A I don't think so.

Q Did he tell you that he had talked to anybody else on the transition team?

A No.

Q Did he tell you that he talked to the President-elect about it?

A No.

Q Did you take any further actions after you talked to him?

A No.

BY MS. ANDERSON:

Q Did you work on census issues as part of the transition team?

A No.

Q Did he indicate to you why he was reaching out to you specifically?

A He was -- Kris worked on the transition. He was part of our team, and so it

was not uncommon for Kris to say he was working on some thing or he had some idea or something.

Q What team was that?

A The immigration team.

BY MR. ANELLO:

Q And that was the team -- you were both on the immigration team?

A Correct.

Q Did he send you an email or any documentation relating to the citizenship question?

A I mean, I know he sent me an email saying he had this idea, but I don't think there's anything more than just an email with the idea.

Q An email describing the idea of adding the citizenship question to the Census?

A An email about a legislative proposal that he had related to the Census, but I don't -- I don't recall ever receiving an actual proposal or doing anything with it.

Q Did he explain to you or put in his email the question of -- explanation of why he would want to add a citizenship question?

A No.

Q Did you have a sense, either from talking to him or from talking to other people, about why? It seems like, to me, it's sort of a random thing to ask an immigration staffer on the transition team, right? I guess, did you have a sense of why he came to you?

A No. Look, again, Kris was part of our team. This was a time when people were talking about a lot of things. It was mentioned in the context of a number of legislative packages that he thought that we should advance in the new administration.

So he's more than welcome to share his thoughts and ideas. There's a lot of people who gave us -- much like staffers in Congress, I know you appreciate, you have a lot of folks who want your time -- propose a lot of ideas and you don't always do things with all of them.

Ms. Anderson. Was he part of any other team during the transition?

Mr. Hamilton. I don't think so.

Ms. Anderson. Okay. And then when he emailed you or reached out to you, did he discuss any like draft language for that legislative proposal or draft questions or anything like that?

Mr. Hamilton. I don't remember anything.

Mr. Anello. Did he talk to you during the transition in that conversation or separately about issues relating to congressional apportionment?

Mr. Hamilton. No.

Mr. Anello. Did you have other discussions during the transition about the Census citizenship question?

Mr. Gardner. With Mr. Kobach?

Mr. Anello. No, generally.

BY MR. ANELLO:

Q So there was the one conversation with Mr. Kobach, but did you have any other conversations with him or anybody else?

A Not that I can recall.

Q Prior to the transition, had you had discussions -- was there something that had come up in discussion, the issue of adding a citizenship question?

A Again, I don't recall any specific conversations. I just -- I'm vaguely familiar with it being part of the public discourse for a number of years, but it's not something I've

been --

Q So is it fair to say that that conversation with Mr. Kobach is the only conversation that you recall on this topic until Mr. Zadrozny called you?

A It's the only specific one I can recall. And I don't know that it was a conversation so much as an unsolicited email.

Q Even if you can't remember a specific email, do you have a more vague recollection that you might have talked to other folks during that period?

A No, no.

BY MS. ANDERSON:

Q So you received the phone call from Earl at the Department of Commerce, and he called you and you talked for a few minutes. Is that right? And he doesn't exactly say why the Department of Homeland Security might want this information, just asked whether you might want it?

A Yeah. I mean, it was a vague kind of general discussion about they were thinking about adding it to the Census and wanted to know if we had a need for it, if we could use the information for some reason.

Q Was there any ask or any next steps that were taken at the end of the phone call, or he just asked you whether you want it and hung up the phone?

A I told him, like, I would need to check with folks in the department and get back to him, is my recollection.

Q Who were those -- did you check with any people?

A I know I followed up, I don't know exactly who with, but my standard practice would have been to check with most of the components that were under kind of my portfolio, and with other folks, as well as headquarter's offices. Usually, the component or office head and their chief of staff was kind of my standard practice, just to

make sure that everyone's equities would be represented and everyone had a chance to opine.

So I can't tell you precisely who I contacted, but that was generally who I'd go to when I had questions about incoming things.

Q Which components would that be?

A Generally, we'd be talking about the Office of Policy, general counsel's office, ICE, USCIS, CBP, occasionally others, depending on the issue.

Mr. Anello. For an issue like this, who -- of those groups or others, who do you think you would have asked?

Mr. Hamilton. Probably that group. I mean, I don't know if I went to Coast Guard also, I am not sure. But they were also in my portfolio, but I don't remember if I did or if I didn't.

Ms. Anderson. Do you recall hearing back from any of them whether they could or could not use the particular information, or considered using or not using?

Mr. Hamilton. I don't recall any like specific feedback from any individual person or component, but my recollection is that there was -- no one had anything. And so I got back to Earl, I don't know what time period, maybe it was a couple days, maybe it was a week. I don't remember. -- basically let him know we didn't really have anything for him. We didn't really have a use for the information.

Ms. Anderson. Was that via email, phone, in person?

Mr. Hamilton. I don't remember.

BY MR. ANELLO:

Q Did you speak with the Secretary about this issue?

A I don't remember.

Q The Secretary of Homeland Security?

A I'm sorry, I just don't remember if I -- if I talked to him about it or not.

Q Is this the type of issue that you would have raised with the Secretary?

A Maybe. Again, sorry, it's been a busy 2 years, so --

Q Do you know if you ever had a conversations at DHS with the Secretary about the citizenship question?

A I don't recall any discussions with Kelly or Duke.

BY MS. ANDERSON:

Q Do you recall, besides sort of talking to components that were underneath your portfolio, do you recall talking with anyone else in that April timeframe at DHS about this issue?

A I don't think so.

Q Did you talk to anyone outside of DHS at that time about this issue?

A I don't -- I don't think -- other than Commerce and John Zadrozny at DPC, I don't -- I don't recall.

Q Did you reach back out to John Zadrozny after you'd spoken to Earl Comstock?

A I don't remember if I did or if I didn't.

Q And when you said people at Commerce, was that just Earl or were there other people that you had spoken with?

A Earl's the only one I remember, but maybe there was a couple -- I don't know.

Ms. Greer. Just to clarify, when you say did you reach back out to John Zadrozny after you spoke to Earl Comstock, you're talking specifically about the Census question?

Ms. Anderson. Yes.

Ms. Greer. Okay.

BY MS. ANDERSON:

Q Or did he reach -- did you guys talk at all after that?

A I mean, I talked to John all the time.

Q About the citizenship.

A About other things, but I don't recall any specific issues on a citizenship question.

Q Do you recall speaking about it with anyone else from the White House at that time?

A No.

Mr. Anello. What about later, did you speak to Mr. Zadrozny or anybody else at the White House about this issue later?

Mr. Hamilton. I don't think so. I mean, it might have come up when I was at DOJ, like in terms of a status check on something, but I don't recall, I guess, the specifics of the conversation.

BY MS. ANDERSON:

Q So going back to you informing Mr. Comstock that you didn't necessarily have a use for that data, was that the last time you spoke about this issue while you were at the Department of Homeland Security or did it come up at all after that?

Mr. Gardner. So just to be clear, are you asking about the last time he spoke with Mr. Comstock or --

Ms. Anderson. No, generally.

Mr. Gardner. Okay. Do you understand the question?

Can you just repeat it one more time?

Ms. Anderson. Sure.

BY MS. ANDERSON:

Q Between sort of that April, early April date and when you left the Department of Homeland Security, did this issue come up again? Did you speak with anyone else about this issue during that timeframe?

A No, not that I can recall.

Q And no one else from the Department of Commerce or the Department of Justice reached out to you about this issue when you were at the Department of Homeland Security?

A I don't recall.

Q And you said that you moved to the Department of Justice sometime in October of 2017?

A Yeah. I think it was the last week of October, I think.

Q Did you hear about this issue again in your role after you moved to the Department of Justice?

A I can recall it being an issue that was being looked at by the Department at the time.

Q How did you become aware that it was being looked at by the Department at the time?

A I couldn't tell you specifically like when I first became aware or how I first became aware. I just know generally it was something that was being evaluated. Do you know -- have a sense of what else is happening in the Department or what else is under consideration generally speaking. But the way that the OAG, the Office of the Attorney General, is broken down, it was not my issue. It fell under the Civil Rights Division, and that was not my -- generally not my group.

The Civil Rights Division does some immigration work, so their Immigration and Employee Rights Division in terms of work authorization and things like that, making sure



that people aren't discriminated against. So I know about that kind of work that they're doing. But other than that, Civil Rights Division is not at all in my portfolio and that was someone else at DOJ.

Q Just to go back quickly to when you first talked to Earl Comstock, did he mention where he had gotten -- if he had gotten your contact information from anyone else or if he talked to any other departments before talking to you?

A I don't recall specifically, but it seemed vaguely -- I think he mentioned that he had talked to Justice.

Q You don't remember if he provided any other details about what that entailed?

A No.

Q Did you refer or indicate to Earl Comstock that he should talk to anyone else after you sort of concluded that you didn't have use for that information at the time?

A I think I might have told him -- I'm sorry, it's been a couple of years, so some of this stuff is coming back together and it's hard to remember certain things. I seem to -- I seem to -- I seem to recall that he had told me that he had talked to Justice. I think that's right. He told me that he had talked to Justice at some point. And so I think I just told him to go back to Justice. We didn't have anything for him.

Q Okay. You didn't refer to anyone else inside of the Department of Homeland Security or any other agency?

A I don't think so.

BY MR. ANELLO:

Q Can I go back to one thing you just asked? You said that the Census citizenship question was not an issue that was in your portfolio because it fell under the Civil Rights Division when you were at DOJ.

A Uh-huh.

Q So whose portfolio was it in?

A Racheal Tucker.

Q Racheal Tucker. And her portfolio covered all the Civil Rights Division?

A Yes, that's correct. Racheal had a number of things under her portfolio.

Racheal's great, a really talented person. She's also a little protective of her turf. So she's a good friend, but I tried to tread carefully on making sure I wouldn't intrude on her work product in things that were under her oversight for the Attorney General.

Q Got it. So this is sort of a general question and I am not looking for a long answer, but did the Attorney General divide up all the issue areas among a small number of senior staff? Is that how it worked?

A Yes.

Q Can you give me a rough breakdown, instead of who those staff were, what the breakdown was? It was you, Racheal Tucker -- if this is too much to answer, of course, I understand.

Mr. Gardner. Russ, just to be clear, is there a particular time period?

Mr. Anello. Let's start with the time period we're talking about, which was, I guess, October 2017 when you started.

Mr. Hamilton. So in October, I mean, OAG I think was Matt Whitaker was the chief of staff, Gary Barnett was there, Danielle Cutrona, Racheal Tucker, me, Brian Morrissey. I think that might have been it. And so we all covered different offices and issue areas generally. Of course, as I touched on with my own work, occasionally there's overlap, and so you try to work together and make sure everything's -- everyone is playing nicely. We have a great team, a collaborative effort, but generally wouldn't get involved with something in someone else's portfolio.

BY MR. ANELLO:

Q I understand. So for the issues of immigration, that would be you?

A Yes.

Q Anybody else kind of keep all their immigration --

A Not really. I mean, people would be vaguely involved with, you know, things if there's overlap, but --

Q And on issues of voting or voting rights, would that have been Racheal?

A Yes.

Mr. Anello. Okay.

BY MS. ANDERSON:

Q So you became sort of vaguely aware that DOJ was working on this after you arrived in October of 2017. What do you mean by working on it?

A I mean, it was under consideration. I don't really know a better way to put it. It was something that was being evaluated.

Q By whom?

A I think by the Civil Rights Division and by the Attorney General.

Q Do you recall sort of the decision point or progress point that the Department was at when you first got there?

Mr. Gardner. I am not sure I understand the question.

Ms. Anderson. Sure. You're saying it's being considered, right? That's kind of, I presume, a broad range of what is considered in sort of the process of that. Do you remember when you first became aware of what part of the process they were in considering? Was it being considered for a few months? Was it right out the gate? Had anyone, you know -- can you describe what that point of the process they were in at that time?

Mr. Hamilton. Again, I want to make sure I give you the best answers here. It's been a while, but vaguely, I just seem to recall that it had been something they had been looking at for some time. It had been some months or something, I think. And I recall the AG had a discussion with Wilbur Ross at some point months before I got there. So I think that folks were looking at the issue as to whether, you know, there is the Department could use the information from the citizenship question on the Census.

Ms. Anderson. Did you learn anything else about -- or did you ever learn about the contents of the conversation between the Attorney General and Secretary Ross?

Mr. Hamilton. I don't recall any of the contents. And I can -- I remember a meeting I was at with John Gore, Racheal, and the boss. And I seem to recall they mentioned the discussion, the past discussion with Wilbur Ross, but I don't recall if they said anything specifically about the contents.

BY MR. ANELLO:

Q And do you remember when that -- based on -- if you remember, based on that conversation when the discussion had taken place with Mr. -- with Secretary Ross?

A No. It was sometime before I got there. I just don't recall.

Q At that meeting with Mr. Gore and the Attorney General and Ms. Tucker, was there a decision made to take some action?

A I don't recall. I don't think so.

Q Do you remember why the meeting took place and what was being discussed at the meeting, aside from the fact of this previous discussion?

A No. I mean, look, it's -- it might be like working for your member, your committee leadership. You're in the boss's office all the time to talk about all kinds of things all the time, on a frequent basis. So I couldn't tell you what the genesis was. I imagine it was something they're looking at, but I couldn't tell you.

BY MS. ANDERSON:

Q Besides your general awareness that this was an issue under consideration, did you talk to or discuss this issue with anyone at the Department of Justice?

A I mean, I guess I probably talked in -- I mean, if I was at a meeting where it came up, I must have talked with Racheal. I imagine it probably came up. I seem to recall having a couple of conversations with Racheal about it.

Q What were those conversations about?

A Just where things were with it, in general. How it was important to the AG to make a decision, I think, on, you know, what they were going to do to get back to the other -- to Secretary Ross on the issue, to be responsive. I think the AG felt like he owed an answer to him one way or the other about whether the Department could use the information.

Q Did you ever hear sort of prior to the, I guess a letter that went on December 12, that the Attorney General made a particular decision?

A No.

BY MR. ANELLO:

Q Did Racheal Tucker ever express a view on this issue to you?

A What do you mean by a view?

Q So you said that the Attorney General was -- felt it was important to make a decision and get back to the Department of Commerce, correct?

A Yes.

Q So did Racheal ever express a view on what that decision should be?

A I don't recall a specific discussion of her sharing her personal views of what the decision should or shouldn't be.

Ms. Anderson. Did you hear about anyone else's personal perspective on

whether the Department should request the question?

Mr. Gardner. I mean, just a yes or no and then follow up.

Mr. Hamilton. Could you say it again?

Ms. Anderson. Do you ever recall hearing about anyone else's personal perspective on whether the Department should ask the question?

Mr. Hamilton. I don't -- no, not a personal.

Ms. Anderson. What about a professional perspective?

Mr. Hamilton. I know that besides Racheal, I seem to recall Danielle also thought it was important to get back to Secretary Ross, for the boss.

Mr. Anello. Is that Danielle Cutrona?

Mr. Hamilton. Correct.

Ms. Anderson. Did she express a particular response she wanted or anticipated would be the response to Secretary Ross?

Mr. Gardner. You can answer that with a yes or no.

Mr. Hamilton. Not that I can recall.

BY MS. ANDERSON:

Q Did you ever see any materials generated by the Department of Justice or -- let's start there, by the Department of Justice about the citizenship question?

A I think so.

Q Okay. What do you think you saw?

A I think I saw the letter.

Q Okay. Was that the final letter or a draft of the letter?

A I think I saw a draft.

Q About what time did you see a draft?

A Either November or December.

Q Who gave you that?

A Racheal.

Q Why?

A I don't know.

Q Did she ask you to offer feedback or comments?

A I think she might have.

Q Did you do that?

A I think I got back to her. I don't think I gave her any feedback or comments or anything.

Q Was the draft that you saw different than the final draft that the Department sent to the Census Bureau?

A I couldn't tell you.

Q Do you remember seeing anyone else's comments or suggestions about the draft?

A Other than Racheal, no.

BY MR. ANELLO:

Q So you told us before this issue was not in your area or your portfolio, correct?

A Yeah.

Q And your primary portfolio was immigration?

A Correct.

Q Did you discuss with Racheal or others at the Department whether the citizenship question related in some way to your portfolio?

A I don't recall any specific discussions.

Q What about when you discussed that draft letter?

A I don't --

Mr. Gardner. Can you re-ask that same question again? I --

Mr. Anello. Sure. So you did, I believe, recall discussions with Racheal regarding a draft letter, because you said she asked you to take a look at it.

Mr. Hamilton. Yeah.

Mr. Anello. During those discussions, did the issue of immigration come up?

Mr. Hamilton. I don't think so.

Ms. Anderson. Do you recall seeing any materials from anyone outside of the Department of Justice about this issue?

Mr. Hamilton. Any materials from anyone on -- I mean, other than what's like in the news?

Ms. Anderson. Sure.

Mr. Hamilton. I mean, no.

Mr. Gardner. Wait. Hold on one second. Are you asking if he's seen things like newspaper articles?

Ms. Anderson. No.

Mr. Gardner. Or are you asking if people outside DOJ provided things to DOJ about the citizenship question?

Ms. Anderson. Correct.

Mr. Gardner. I think you guys probably passed each other. So do me a favor, re-ask the question again, because I think there was a lack of clarity on both sides.

Ms. Anderson. Sure.

BY MS. ANDERSON:

Q Do you remember seeing any materials that were received from people outside of the Department of Justice --



A No.

Q -- about the citizenship question?

A No.

Q Do you remember if anyone discussed receiving materials or having seen materials from outside of the Department of Justice?

A No.

Mr. Anello. Are you aware of anybody at the Department of Justice having conversations with people outside the Department of Justice about this issue?

Mr. Hamilton. I mean, other than the Department of Commerce?

Mr. Anello. Let's say other than the Department of Commerce.

Mr. Hamilton. Not that I can recall.

BY MS. ANDERSON:

Q Besides the draft letter that Racheal showed you the first time, did you see any other drafts of anything regarding the citizenship question?

A No, I don't think so.

Q You didn't see any follow-up drafts to that letter, nothing like that?

A I don't think I received any follow-up drafts.

Q I don't know if I already asked this, but I'll ask it again just in case. Did you speak with anyone outside of the Department of Justice about this issue while you were at the Department of Justice?

A During what time period?

Q Presumably after you got there in October through, let's say, the new year.

A I don't think during that time period that I had any discussions with anyone. Although, I don't remember, there's some litigation that followed. I don't remember when that started, but I would have been vaguely aware of the ongoing litigation --

Q As far as you know, did the Department of Homeland Security or any of its components change its position on whether it could use this citizenship data during this time?

Mr. Gardner. Just to be clear, by during this time, you mean after Mr. Hamilton went to the Department of Justice did DHS change its position?

Ms. Anderson. No. Let's start with you indicated to Mr. Comstock we don't need this at this time. From that point until now, are you aware of the Department of Homeland Security changing its position or any of its components about whether it could use this particular information?

Ms. Antell. I'm not really sure how Mr. Hamilton can be responsible for the Department of Homeland Security's position after the time he left.

Ms. Anderson. I'm just asking whether he became aware of the position changing, not whether he was responsible for the position changing.

Mr. Hamilton. I have no knowledge of anything changing.

Mr. Anello. Just to follow up on that one point, though, do you work closely with people at the Department of Homeland Security?

Mr. Hamilton. Yeah.

[Hamilton Exhibit No. 1

Was marked for identification.]

BY MS. ANDERSON:

Q I'm going to hand you what's marked as exhibit No. 1, and I'll just give you a chance to read it.

A Okay.

Q So I've handed you what's marked as exhibit No. 1. It's an email that's time stamped September 16, 2017, sent from Earl Comstock to Wendy Teramoto.

Is Earl Comstock the Earl that we've been discussing?

A Yeah.

Q Okay. And do you have that email in front of you right now?

A Yes.

Q Okay. So the email appears to be a memo from Earl Comstock sent to Secretary Ross on September 8, 2017, and it reads -- and then let me know if I've gotten anything wrong -- quote: In early May, Eric Branstad put me in touch with Mary Blanche Hankey as the White House liaison and the Department of Justice. Mary Blanche worked for AG Sessions in his Senate office and came with him to the Department of Justice. We met in person to discuss the citizenship question. She said she would locate someone at the Department who would address -- who could address the issue. A few days later, she directed me to James McHenry in the Department of Justice.

I spoke several times with James McHenry by phone. And after considering the matter further, James said that Justice staff did not want to raise the question, given the difficulties Justice was encountering in the press at the time (the whole Comey matter). James directed me to Gene Hamilton at the Department of Homeland Security.

Gene and I had several phone calls to discuss the matter, and then Gene relayed that after discussions with DHS -- after discussions, DHS really felt that it was best handled by the Department of Justice.

At that point, the conversation ceased, and I asked James Uthmeier, who had by then joined the Department of Commerce, Office of General Counsel, to look into the legal issues and how Commerce could add the question to the Census itself.

Did I get that right?

A Seems about right.

Q Approximately.

Okay. Do you know James McHenry or had you worked with him while you were at DHS or DOJ?

A Yes.

Q Okay. In what capacity did you work with him?

A James is currently the director of the Executive Office for Immigration Review, the Department of Justice. So I work with him now pretty regularly. I know I had worked with James previously when I was at DHS and he was at DOJ at the start of the administration. And James and I also worked together at ICE.

Q Did James McHenry reach out to you or speak to you at all about referring Earl Comstock to speak to you about this issue?

A I don't -- I don't recall. He never mentioned it.

Q Do you know why he would have directed Earl Comstock to speak with you?

A No.

Q Did Earl Comstock indicate at all that he had spoken to James McHenry when he contacted you?

A He might have. I just -- I don't remember.

Q Did he indicate why James McHenry thought of you after he had spoken with the Department of Justice?

A No.

Q Did you ever have any conversations, to your recollection, with James McHenry about citizenship question being added to the 2020 Census?

A I don't remember any.

Q Were you aware that Mr. McHenry said that "Justice staff did not want to raise the question given the difficulties Justice was encountering in the press at the time, the whole Comey matter"?

A I don't remember that because I don't know that I was ever told that. And this email seems to indicate that this was a discussion between James and Earl, so I don't know why I would know that.

Q Are you aware, though, of any circumstances surrounding that or any more details regarding what he would be referring to?

A No.

Q And just to be clear, had you ever spoken to Earl Comstock before he called you?

A I don't think so.

BY MR. ANELLO:

Q I know we talked a little bit about the conversation already, but I just want to clarify something. When he called you and he mentioned the citizenship question --

A Who's he?

Q Earl Comstock.

A Okay.

Q -- and he mentioned the citizenship question, did he explain why he was asking for your thoughts on whether DHS would be interested in having that data?

A Again, I think we covered this, but I don't recall him saying why he wanted the information.

Q Did he say that the Department of Commerce had an interest in adding a citizenship question?

A I don't recall him saying that they had an interest or they didn't have an interest. I couldn't tell you.

Q Did he mention Secretary Ross', Secretary Wilbur Ross' views on the topic?

A No, I don't recall.

Q Did he tell you anything about Secretary Ross? For example, did he say that Secretary Ross had asked him to place this call?

A I don't recall.

Q And did you ask him for any context about this?

A I don't remember.

BY MS. ANDERSON:

Q Did he provide any reason why DHS might want this information?

A Did he give me any reason why he thought he just might want to --

Q Sure.

A Not that I can recall.

Q Did you give him any indication how DHS might use this before you sort of went to check in with the different components?

A Not that I can recall.

Mr. Anello. So just to make sure I'm getting it, it sounds like he came sort of a request that was out of the blue and random. Is that fair, from your understanding?

Mr. Hamilton. I think that's fairly -- that's a fair assessment. I mean, it was kind of unexpected, other than the fact that John Zadrozny had let me know that Earl would be reaching out to me. It was a little bit out of the blue.

Mr. Anello. And you went ahead and then polled sort of the components and offices within your department on this issue without having any background on it?

Mr. Gardner. That mischaracterizes Mr. Hamilton's testimony. Previously, he said he didn't recall what he did, but he stated his general practice previously.

Mr. Anello. Okay. But I think you said you thought that's what you would have done in the circumstance. I guess I'm asking what -- what you told us that in the circumstance, you got no context for the request, but you still think you would have gone

and polled everybody at the components, the senior folks at the components that you work closely with.

[11:03 a.m.]

Mr. Hamilton. Sure. I don't -- I'm telling you today I don't kind of recall any specific information he told me about it, but I seem to recall asking people questions about it at the Department. I don't -- couldn't tell you specifically who I asked, but --

Mr. Anello. Did the fact that John Zadrozny had called you from the Domestic Policy Council beforehand influence your decision about how to handle this request?

Mr. Hamilton. I don't know that it did, but, I mean, it showed me he was aware of it, the White House was aware of it. But I couldn't -- I don't recall any specific reasoning.

BY MS. ANDERSON:

Q Does John Zadrozny or someone from the White House reach out to you every time before someone from a different agency reaches out?

A No.

Q About how -- you know, if you were to put a percentage on it or kind of tag how often that happens, how often does it happen that he calls you and says someone from somewhere else might call you?

A I couldn't put a number on it, but it happens when -- oftentimes, it's -- the White House does a good job of introducing people from different departments when they don't know each other. And so given that half the battle in the government is actually knowing the human being on the other end of the phone call to talk to, when people don't know the other human being to talk to, sometimes they'll make connections. So it happens occasionally, but I couldn't give you an estimate.

Q Would you say it's fewer or more than 10 times?

A I couldn't -- I couldn't give you an estimate.

Q But it wasn't the only time that he did that, or was this the only time that he



did that?

A I seem to recall John reaching out on multiple occasions to introduce me to different people over the last couple of years, and continues to today. John works at the State Department now, and if there's someone at the State Department that we need to talk to or something, he'll make an introduction. I mean, it's -- it's just kind of the way people interact.

Q From your recollection sort of when he was at the White House talking to you and coordinating with you was mainly the people he was introducing you to other people in the immigration space?

A I mean, a lot of the time, but it could have been other issues too. Again, I think with John especially, since I've known John since 2015, it's really a matter of, hey, I know someone who works at that department, not necessarily related to specific issues but, you know, that you can at least help put a, you know -- you can at least tell him where to go or vice versa if there's a question.

Q You said that sometimes when you hear from, I guess, John or someone else from the White House, that that indicates to you that the White House might be aware. Did you have anymore specific indication that the White House was aware of this issue or a particular person at the White House was aware of this issue or interested in this issue?

A No, not that I can remember.

BY MR. ANELLO:

Q Did you ever talk to Stephen Miller about the citizenship question?

A I don't remember ever talking to Stephen about the citizenship question.

Q I do want to ask one more question about the conversation with Mr. Comstock. Did you talk about the Voting Rights Act with Mr. Comstock?

A I don't -- I don't recall talking about the Voting Rights Act.

Q Did he mention it when he asked if DHS would have an interest or a use for citizenship data?

A I don't remember.

Q I mean --

A Again, vaguely I think he said something about having to talk to the Department of Justice, but I don't recall any specifics.

Q DHS does not enforce the Voting Rights Act, right?

A As far as I'm aware.

Q Does -- are you aware that DHS has any particular expertise in the Voting Rights Act?

A I don't think so.

Q And I think you told us you don't have a particular expertise in the Voting Rights Act?

A No.

Q Is it fair to say that if the Voting Rights Act was the subject of the call, you would not have been the right person to talk to about it?

A I think that's -- I would not have been the right person to talk to about it.

Ms. Anderson. Did you ever ask why there was this interest in, I guess, adding the question or considering adding the question?

Mr. Gardner. Ask Earl Comstock or anyone?

BY MS. ANDERSON:

Q Well, we'll start with Earl Comstock.

A I don't remember.

Q Okay. How about -- so you said you didn't hear about it again until you got to the Department of Justice?

A That's my recollection.

Q Sure. Did you recall asking or hearing -- well, let's start with asking. Do you recall asking anyone at the Department of Justice why Secretary Ross, the Department of Commerce was interested in considering or wanting to add the citizenship question?

A I don't think so.

Q Okay. How about, do you remember asking or inquiring why the Attorney General or anyone at the Department of Justice might be interested in adding or supporting the Department of Commerce in adding the citizenship question?

A I don't recall anything.

Q So when Racheal Tucker handed you this document, did you have any -- do you recall having a conversation around it? Did she drop it off in your mailbox?

Mr. Gardner. Just so we have a clear transcript. By document you mean the draft of the December letter?

Ms. Anderson. Correct. Yes. Thank you.

Do you remember having any conversation around why she was -- not why but any conversation about the contents of the letter or any other context, or did she just kind of hand you something?

Mr. Hamilton. Well, to go back, I can recall at least one meeting that I was in in the AG's office where it came up. And I think I said this earlier also, I may have had a couple discussions afterwards about the general subject with Racheal, maybe Danielle, maybe not. I don't recall specifically.

So vaguely, I was kind of aware of what was going on, and so it wasn't completely out of the blue when Racheal sent the draft letter to me. But I don't recall -- I don't recall much about the time around there or the --

Mr. Anello. I just have one question. You mentioned a meeting just now. Is this the meeting we already discussed where you learned about Secretary Ross talking to the Attorney General --

Mr. Hamilton. Yes.

Mr. Anello. -- or was it a different meeting?

Mr. Hamilton. Yes.

BY MS. ANDERSON:

Q When you said she sent the letter to you, was that via email?

A I think so.

Q Okay. And did you also respond to that via email or in person?

A Probably on email.

Q Okay. Did Earl Comstock indicate to you at all why the Department of Commerce was reaching out to agencies to see whether they needed the information?

A I don't recall.

Q When you indicated to him the Department of Homeland Security does not currently need that information, do you recall more specifically what you told him?

A No.

Q Were there any other reasons for the Department of Homeland Security declining to request the question besides sort of what you think may have been your survey of the components?

Mr. Gardner. I'm not sure I understand that question.

Ms. Anderson. Sure. So you indicated to Mr. Comstock that, you know, DHS did not have a need at that time for the question. Were there any other factors that influenced that decision from the Department of Homeland Security to not request or not support the request for the addition of the question?

Mr. Hamilton. I'm still not sure I understand your question.

Ms. Anderson. Okay. So --

Mr. Anello. Maybe -- can I maybe just back up. Do you remember the reason that you told him DHS did not need this information?

Mr. Hamilton. Well, I think we already talked about this, and I think what I conveyed back was that we didn't have a use for it, generally. I think that's what we talked about. I don't have the transcript in front of me, but I'm fairly certain we talked about that about 10 minutes ago.

Ms. Anderson. Was there any other reason -- besides not having a general need, was there any other reason involved?

A I presume no.

Ms. Antell. We've been going just about 1 hour. Is this a good time for a break?

Ms. Anderson. Sure.

Ms. Antell. Great.

[Recess.]

Ms. Anderson. We're going back on the record at 11:24. I believe the Republican staff has decided to not take their hour at this moment, so we will continue from here.

BY MS. ANDERSON:

Q I want to point your attention back to Exhibit 1, which I handed you before our break. Mr. Comstock indicated that he had spoken with you on the phone several times. Do you recall only one conversation or do you recall his several times recollection of that?

A I don't recall several times. It was -- define several, right. And, I mean, I

know he reached out to me and I got back to him, so that's two times. But I don't think there's anything beyond that.

Q Okay. So you don't recall any other details regarding any conversations that you had with Mr. Comstock besides his initial phone call and then your, I guess, return communication or phone call?

A No. I don't recall anything else.

Q When he called you, I think you indicated that it was just the two of you on the phone. Is that correct?

A I think so.

Q Okay. When you returned his phone call or reached back out to him again, did you have anyone else on the phone with you at that point?

A I don't think I did. I don't remember exactly, but I seem to think it was just the two of us.

Q Okay. And you spoke with -- or did you ever have conversations with John Gore at the Department of Justice about the citizenship question?

A Well, during what time period?

Q Let's go with from when you started at the Department of Homeland Security to, I guess, January 20, 2017, through the rest of 2017.

A I don't recall specific conversations with John. I just -- I know that there was at least one meeting that if we were in there and that was a topic, we arguably would have discussed it then. But it's -- I don't recall a specific additional question -- discussions with John.

Q Do you recall speaking with him in the fall of 2017, I guess, outside of that one meeting about this issue?

A No, I don't think so.

Q Okay.

A I don't recall.

Q And I think you indicated earlier that you don't recall specific discussion points around the citizenship question; it's just it may have been discussed at that meeting. Is that accurate?

A I think so.

Q Okay. Were you ever asked to do anything or were you ever responsible for doing anything regarding the citizenship question at the Department of Justice?

A I don't recall having any -- been asked to do anything or --

Q Were you aware of specific actions being taken by other Department of Justice officials regarding the citizenship question besides, I guess, the drafting of the letter? Were you -- let me -- I'll rephrase.

Mr. Gardner. Yes.

BY MS. ANDERSON:

Q Were you aware of any other conversations that Department of Justice officials were having with anyone outside of the agency regarding the citizenship question?

A No.

Q Okay. Were you ever aware, just to be more specific, of conversations that were occurring between the Department of Justice and the Department of Commerce about the citizenship question?

A Not -- not more than just generally knowing -- no, there was ongoing discussions of some kind.

Q Okay. So you never participated in any phone calls or anything regarding that?

A I don't remember any phone calls.

Q Did you arrange a phone call between John Gore and the Department of Homeland Security in the fall of 2017?

A I don't remember.

Q After you joined the Department of Justice, did you often arrange communications between not yourself and other members of the Department of Justice and officials from the Department of Homeland Security?

A I mean, on an as-needed basis, I would -- I'm happy to make connections between people who need to talk to each other.

Mr. Anello. Can I ask that just -- do you recall, at any point after you came to DOJ, speaking to anybody at the Department of Homeland Security about the issue of the citizenship question?

Mr. Hamilton. I don't remember having any additional conversations.

Ms. Anderson. You mentioned that you had a conference call or a phone call with John Zadrozny after you joined the Department of Justice about this issue? Or am I misremembering?

Mr. Gardner. I think that misrepresents the testimony.

Ms. Anderson. Okay. Did you have any conversations with John Zadrozny or anyone else at the White House regarding the citizenship question after you joined the Department of Justice? I'm happy to cap in the timeframe a little bit more if that's helpful. Why don't we do -- I guess you joined in October 2017, and when Secretary Ross issued his decision memo in March of 2018.

Mr. Gardner. And the question is what? I'm sorry.

Ms. Anderson. Did you -- do you recall any conversations that you had or participated in with John Zadrozny or anyone at the White House about the addition of



the citizenship question in that timeframe?

Mr. Hamilton. I don't think so. I mean, again, it's been a very, very busy time in the administration. There's been a lot happening. I know that the issue has come up, but it might have just been -- come up with counsel's office in terms of litigation. But I don't -- I couldn't tell you when the litigation started. I don't know when Ross made his decision. I don't know.

Mr. Anello. Well, let me just ask you this. Are you aware of a conference call that involved John Gore, Racheal Tucker, John Zadrozny in roughly October 2017 about the citizenship question?

Mr. Hamilton. No.

BY MS. ANDERSON:

Q Was John Zadrozny Racheal Tucker's point of contact in the White House as well or primarily yours?

A I don't know that we -- I don't know that I understand your question. I mean, he -- he works at the White House and we work at the Department of Justice, and you talk to whoever you need to talk to.

Q Okay. I'll rephrase. Did John Zadrozny stay your primary point of contact at the White House when you moved from the Department of Homeland Security to Department of Justice?

A Well, he -- I mean, he was a person I dealt with. He was not a primary contact. He was -- I do not have a primary contact at the White House. I have many contacts at the White House.

Q Okay. Are you aware of Racheal Tucker communicating with John Zadrozny about general issues or specific issues?

A She could have. I just -- I don't know. I mean, I -- Racheal, like me,

knows -- has known John for a while, so I couldn't tell you how often they talk or don't talk.

Mr. Anello. What is John Zadrozny's portfolio at the Domestic Policy Council, to your knowledge?

Mr. Gardner. You mean what was it?

Mr. Anello. Yes. What was it at the time?

Mr. Hamilton. I know he dealt with some immigration stuff, but he dealt with a lot of other things too. I don't know what they were because I didn't really interact with him on things outside of the immigration space, except if it was to connect me, you know, as I said earlier, unless it was like, hey, Gene, I'm looking for such and such, can you point me in the right direction.

Ms. Anderson. I'm going to hand you what's marked as Exhibit 2.

[Hamilton Exhibit No. 2

Was marked for identification.]

Mr. Anello. The first Bates stamp number should be 125753.

Mr. Gardner. Four pages?

Mr. Anello. Yes.

Mr. Gardner. Is yours five pages?

Mr. Hamilton. 753 through 756?

Mr. Anello. Yes.

Mr. Hamilton. Those are the pages I have.

Okay.

BY MS. ANDERSON:

Q Okay. So I've handed you what's marked as Exhibit 2. I'm going to direct you to the fourth page of the document. It's DOJ number 00125756. Are you looking

at that page?

A Yes.

Q Okay. The email is from John Zadrozny. Is that -- that's the John Zadrozny we've been speaking about?

A Yes.

Q Okay. And the email reads on February 16, 2018: Brian, James, and Gene, I want to connect with the three of you about having that conversation we discussed at some point this week.

And then goes on to --

Mr. Gardner. Some point next week.

Ms. Anderson. Sorry. What did I say?

Mr. Gardner. This week.

Ms. Anderson. Oh, sometime next week. Thank you.

BY MS. ANDERSON:

Q And then it goes on to, I guess, discuss where it will be hosted and the timing.

A Okay.

Q And that email is sent to you. Is that correct?

A Looks like it was, yes.

Q And the other people on the email appear to be James Uthmeier at the Department of Commerce and Brian Lenihan.

A Okay.

Q Does that appear correct?

A Those are the names.

Q Sure. Do you recall what this particular meeting was supposed to be

concerning?

A No.

Q Okay. Did you have any cause to or had you ever had any other discussions with James Uthmeier about other topics or about topics in general?

A No. I don't recall having any discussions with James Uthmeier or Brian Lenihan. I couldn't pick them out of a lineup.

Mr. Anello. Do you know them? Do you know who they are?

Mr. Hamilton. I don't. It doesn't -- sounds like they work for the Department of Commerce and it seems to vaguely seem familiar. I --

BY MS. ANDERSON:

Q Were you aware that James Uthmeier worked, I would say, fairly extensively on the citizenship question issue from the Department of Commerce side?

A No.

Q And you said you had never had a conversation with James Uthmeier. Is that correct?

Mr. Gardner. I think he said he didn't recall.

Ms. Anderson. Sure.

Mr. Hamilton. I don't recall ever having a conversation with him or with Brian.

Mr. Anello. Do you work on any issues that involve Domestic Policy Council and the Department of Commerce?

Mr. Hamilton. I don't know. Maybe.

Mr. Anello. Well, do you remember any issues you've worked on?

Mr. Hamilton. No. I don't think so. I mean, I -- Department of Commerce and DPC have been on phone calls with other components of the White House that I've been on various things, but I don't generally -- no, I don't think so.

Ms. Anderson. Have you ever had discussions with Peter Davidson from the Department of Commerce?

Mr. Hamilton. I don't think -- I don't think so. I don't recall.

Ms. Anderson. On the first page of that document, Exhibit 2, there's an email from you that says, quote, Thanks, John. I have an unavoidable conflict at 4:30, and I'm slammed -- and a slammed afternoon otherwise. -- And I just can't read today. Sorry about that. -- Can I call?

And John Zadrozny writes back, quote, I'll fill you in on what happens. I'm trying to avoid phones on this one.

Do you know what he means by --

Mr. Gardner. For this one.

Ms. Anderson. For this one. Thank you. It's just one of those.

BY MS. ANDERSON:

Q Do you recall what he meant by "I am trying to avoid phones for this one"?

A No, I couldn't tell you.

Q Would there be any reason why he'd want to avoid phones on a particular topic?

A I don't know why he would want to avoid a phone call.

Q Would that sort of hit on your radar as something unusual or odd?

A I mean, it seems odd to me looking at it now. But I have no knowledge of this or recollection of his reasons why he'd want to avoid a phone.

Q Were there other topics where he indicated he wanted to avoid phone calls about them?

A Not that I can remember.

Ms. Sachsman Grooms. Were there any topics that you talked to John Zadrozny

about that were extremely sensitive?

Mr. Gardner. You can say yes or no, if you understand.

Mr. Hamilton. I don't think I understand what you mean by extremely sensitive.

Ms. Sachsman Grooms. Were there any topics that you talked to John Zadrozny about that you or he felt were so sensitive that they needed to not be discussed over the phone?

Mr. Gardner. You can answer that with a yes or no.

Mr. Hamilton. I don't think so. I don't recall anything. If there was ever a sensitive discussion, we would -- presumably involving classified information, we would use secure modes of communication to have those conversations.

BY MS. SACHSMAN GROOMS:

Q Sure. How about sensitive topics that are not classified?

A No, I don't think so.

Q Did you ever have a conversation with Mr. Zadrozny about not writing down any particular information in an email?

A I don't think so.

Q Did you have any conversations with anyone else at the White House about not documenting or writing down any particular information in an email form?

Mr. Gardner. You're talking about ever or with respect to the citizenship question?

Ms. Sachsman Grooms. Ever.

Mr. Gardner. You can answer that yes or no.

Mr. Hamilton. I don't think so.

Ms. Sachsman Grooms. Have you ever discussed with anyone at the Department of Justice not writing down any particular information in a document or an email?

Mr. Gardner. You can answer that with a yes or no.

Mr. Hamilton. Not that I can recall.

[Hamilton Exhibit No. 3

Was marked for identification.]

Ms. Anderson. I'm going to hand you what's marked as Exhibit 3.

Mr. Hamilton. Okay.

Ms. Anderson. It's from the same email chain, so --

BY MR. ANELLO:

Q So if you look at this email, the bottom of the first page, it's the same email from John Zadrozny --

A Okay.

Q -- to James Uthmeier and you. It looks like they blacked out the third name. It says it's addressed to Brian, James, and Gene. And then your response to -- on February 16 at 1:34 p.m. is, Remind me when I see you what this meeting is about. And John writes, Will do.

A Okay.

Q Do you know why you asked him to remind you when you see him what the meeting is about?

A No. It could have -- no, I don't remember.

Q Okay. Why didn't you just ask him to tell you over email what the meeting was about?

A Well, generally, on -- during this time period, I think there were standing meetings at the White House on Friday afternoons that we would both attend. So -- and I think they happened around 2:00 or 3:00, so I don't know. But he responds at 6:00 saying, Will do. So I -- honestly, I don't have any idea.

Q Okay. So I just want to make sure we're understanding the context here. His email said, I wanted to connect with the three of you about having that conversation we discussed at some point next week.

So from this email, it appears that you had previously talked to him about having a future conversation, correct? Is that how you read this?

A That's what his sentence says. I don't recall having any discussion with John Zadrozny that would have involved James and Brian.

Q I -- we have reason to believe that this conversation related to the citizenship question, based on the production from your department. Do you have any recollection that this conversation may have related to the citizenship question?

A No.

Q To provide you some context, this was February 16 of 2018. Secretary Ross issued his decision memo March -- 26?

Ms. Anderson. 28th.

BY MR. ANELLO:

Q -- 28th, 2018, so a little bit over a month later. Do you recall ever having a meeting or a call or discussion at the White House that related to Secretary Ross' decision memo?

A No.

Q Did you ever discuss that decision memo with anyone at the White House?

A No.

Q Did you ever discuss it with anybody at the Department of Commerce?

A No, I don't think so. I don't think I've ever talked about it with anybody, other than at DOJ and then the ensuing litigation.

Q Did you have any discussions in February 2018 about Secretary Ross'



decision or impending decision regarding the citizenship question?

Mr. Gardner. Discussions with anyone?

Mr. Anello. Correct.

Mr. Hamilton. I don't remember any discussions during that time period about this issue.

[Hamilton Exhibit No. 4

Was marked for identification.]

BY MR. ANELLO:

Q I want to show you another email. So this is DOJ 00125641. This is another version of the same email chain. And in this one, if you look at the first page, the second email down you write to John Zadrozny, on February 21, 4:37 p.m., Can we just turn this into a call?

A Okay.

Q And Mr. Zadrozny responds, We need to do this as a meeting because of the sensitivity of the content. Can you do Monday? I would rather hold off until James is physically back in the United States.

A Okay.

Q Does that jog your memory as to --

A No.

Q Do you recall any other circumstances when Mr. Zadrozny told you he didn't want to talk about an issue over the phone because of the sensitivity of the content?

A I can't recall any specifics.

Q Is this unusual?

A For some people, yes. John can be a little quirky about things, but he can be very sensitive about talking about things or approaching different issues, but I don't

recall any specifics.

Q So you don't recall any other time that he told you there was an issue he didn't want to talk about over the phone?

A I just said I can't recall a specific time.

BY MS. SACHSMAN GROOMS:

Q To be clear, do you recall this time?

A No. I just said that.

Q So --

A I don't recall this. I don't recall anything about this. You all can ask me about it all day and we can waste the next 4 hours sitting here, but I'm telling you, I don't remember.

Q Okay. On Exhibit 3, after he said to you, I want to discuss -- "I wanted to connect with the three of you about having that conversation we discussed at some point next week," you say, "Remind me when I see you what this meeting is about."

A Okay.

Q Do you know why you didn't just ask him what the meeting was about?

A We just talked about this. I just answered that question with your colleague. Like, I don't have any idea what this is about. Clearly, I had no idea what this meeting was about at the time. I don't have any idea why I would say remind me or, you know, why don't I just hit reply with a question mark. I have no idea.

BY MR. ANELLO:

Q Who is David Wetmore?

A Dave Wetmore is -- who is he now? Who was he then? What time period?

Q That sounds existential. How about who was he at the time?

A Who was he at the time? Dave Wetmore was a tremendous individual who worked at the Domestic Policy Council. He was on a detail. He is today -- I'll go ahead and just answer your next question. He is today a tremendous person who works at the Department of Justice for the deputy attorney general.

Q On February -- in February of 2018, did he already work -- had -- did he work at the Department of Justice or at the Domestic Policy Council?

A I don't remember. He turned -- not turned. He changed back to DOJ around that timeframe. I don't know -- I don't recall when.

[Hamilton Exhibit No. 5

Was marked for identification.]

BY MR. ANELLO:

Q All right. I'm going to show you another email. So this is DOJ00125693. This is another version of the same email chain, and I wanted to direct your attention to the bottom of page three.

A When you say page three --

Q Sorry, the third page.

A -- you mean Bates stamped 695?

Q Yes.

A Okay.

Q So this is an email from February 26, 2:41 p.m. John Zadrozny, he wrote: Gene, and I'm adding Dave, if either or both of you two can be available at 4:00 p.m., we can call one of your numbers so you are in on the conversation. I just don't want to set up a conference line.

A Okay.

Q David Wetmore wrote back, I will be available. And you said, I shall -- I

should be around for a little while.

Why -- do you know why Mr. Zadrozny would not have wanted to set up a conference line?

A No.

Q Were there concerns about the security of conference lines used by the Department of Justice or the White House?

A I have no idea.

Q So this is not a concern you've heard before from him or others at the White House?

A No. I mean, I know that conference lines can be -- I'm generally familiar with principles of operational security, that if someone has a phone number and a conference line access code, you can call in. But I -- other than that, I don't know why he wouldn't want a conference line.

Q Okay.

A It doesn't make sense.

Q There's then some further scheduling emails. And then if you go to the first page, which is 00125693 --

A Okay.

Q -- there's an email from David at the bottom, David Wetmore to you. "Are you on the call?" You respond, "No one called me." He responds, "Odd."

A Okay.

Q Do you have any memory of this email?

A No.

Q Do you have any memory of ever talking to David Wetmore about the Census citizenship question?

A No.

Q Do you know if he played any role in that question?

A No.

BY MS. ANDERSON:

Q What was his portfolio at the White House -- or when he was at the White House and then when he was at DOJ?

A He worked at the Domestic Policy Council. I don't know precisely what all he did on -- in his portfolio. He did a lot of immigration stuff, but I know -- I think -- I seem to recall he did other things too.

Q Okay. So did you work with him in that capacity when you were at DHS?

A Yes, I think so.

Q Okay. And then at DOJ?

A Yeah.

Q And then what was his portfolio when he -- this email seems to indicate that he was at the Department of Justice in February?

A Yes, it does seem to indicate that. So that's good, so he did turn into a DOJ employee again. That's good.

Q What did he work on at DOJ?

A I think he primarily does immigration.

Q Does he work on voting rights at all?

A Not that I can recall. Not that I know of. I'm not aware of John -- or Dave.

BY MR. ANELLO:

Q Who is Theo Wold?

A Theo works -- I think he still works at -- I mean, I think at -- Theo works at the Domestic Policy Council now, I think. Pretty sure.

Q Do you know what his portfolio is there?

A No.

Q Okay.

A He works on a lot of different things, but I don't know specifically.

Ms. Anderson. Do you know where he worked before?

Mr. Hamilton. He came from the Hill. I think he came from Senator Lee's office, I seem to recall.

BY MR. ANELLO:

Q Senator Mike Lee?

A Yeah.

Q I apologize. I literally just asked this. Did you ever talk to Mr. Wold about the citizenship question?

A I don't think so.

Q Who is James Sherk, S-h-e-r-k?

A I think James works at the Domestic Policy Council.

Q Do you know if he ever talked -- do you know what his portfolio is?

A I think James primarily works on regulatory matters.

Q And have you ever talked to James about the Census citizenship question?

A Not that I can recall.

Ms. Sachsman Grooms. Have you ever talked to James about any other topic?

Mr. Hamilton. I think we had a general discussion about regulatory effort at some point in the past, but I don't remember what it was about.

BY MS. ANDERSON:

Q To your knowledge, did the President or anyone else at the White House direct or encourage Secretary Ross to add a citizenship question to the Census?

A I have no idea.

Q To your knowledge, did anyone at the White House or the President direct or encourage the Attorney General to support the addition of a citizenship question?

A Couldn't tell you.

Q Are you aware of any communications between the President and Secretary Ross about the addition of a citizenship question?

A No.

Q Are you aware of any communications between the President and the Attorney General about the addition of a citizenship question?

A No.

Q What about anyone at the White House and the Attorney General?

A No.

BY MR. ANELLO:

Q Aside from the communications we just talked about, are you aware of any communications with anybody at the White House that related to the Census citizenship question?

A Between whom?

Q Between the White House and any agency. Are you aware of any conversations involving the White House? I think we've talked about a handful of conversations with John Zadrozny. Aside from those, are you aware of any conversations?

A No, I don't think so.

Q What about Steve Bannon when he was at the White House?

A No.

[Hamilton Exhibit No. 6

Was marked for identification.]

BY MS. ANDERSON:

Q I'm handing you what's marked as Exhibit 6.

A Okay.

Q I'm handing you a document which is now marked as Exhibit 6. It's DOJ00036385. Is that the document that you have?

A Yes.

Q Okay. On the -- I'm going to direct your attention to the second page, which is an email from April 2nd, 2018, and it is a -- for immediate release, a statement by Attorney General Sessions on today's new lawsuit against the State of California, and it was sent to Stephen Miller.

A Okay.

Q And then right above that there's a email from Stephen Miller to you and several other folks, I think, about less than -- no, a little over 10 minutes later.

A Okay.

Q Stephen Miller writes, quote: Does DOJ have a press release on the actual new lawsuit itself? What is the suit?

Have you ever had any conversations with Stephen Miller about Census or citizenship question?

A I think I answered that earlier.

Q Just --

A I don't remember having any conversation with Stephen.

Q Did you ever become aware of him having conversations with anyone else about Census or a citizenship question?

A I couldn't tell you.



BY MR. ANELLO:

Q Do you recall this email?

A I mean, no, other than I'm on it and it's a press release on something completely different.

Q Do you recall the lawsuit that is under discussion?

A Of course.

Q Did the lawsuit relate in any way to the citizenship question?

A No.

Q Do you know whether the -- this press release raised any questions for Mr. Miller or others that related to the citizenship question?

A No, but I'm reading the Attorney General's quote on 387, and there's a line in there that says: And we are forced spend our resources to defend against lawsuits that are patently meritless, like one now filed by California claiming that adding back a question on citizenship to the Census is unconstitutional after decades of its inclusion.

So that line is there.

Q Do you remember any discussion about why the citizenship question was described in that release?

A Well, no, but, again, I don't know the point of this. The paragraph says: We are forced to spend our resources to bring these lawsuits against States like California that believe they're above the law and are passing facially unconstitutional laws specifically intended to interfere with the Federal Government's ability to carry out its legitimate law enforcement duties. And we are forced to spend our resources, blah, blah, blah.

So it seems to be a resource issue. But I don't -- I couldn't tell you.

Q Okay. But you don't remember any conversations about the citizenship

question relating to the lawsuit --

A No.

Q -- to this lawsuit or to this press release?

A No.

Ms. Anderson. Did you ever have any conversations with someone named Mark Neuman about the citizenship question?

Mr. Hamilton. What was the name?

Ms. Anderson. Mark Neuman.

MR. Hamilton. No.

BY MR. ANELLO:

Q Do you know who that is, N-e-u-m-a-n, Mark Neuman?

A No.

Q He's a member of the President's transition team?

A Mark Neuman? No.

Q He also apparently served as some kind of outside adviser to the Department of Commerce on the issue of the citizenship question?

A I have no idea who he is.

Q Do you remember ever hearing that there were -- that there was more outside advisers providing advice or guidance to the Department of Commerce or to the Department of Justice --

A No.

Q -- relating to the citizenship question?

A Huh-uh, no.

Q Did John Gore ever told you -- ever tell you that he had interactions with folks outside the government relating to the citizenship question?

A No. Not that I can recall.

BY MS. ANDERSON:

Q Did you ever hear of -- did you ever speak to or hear of anyone speaking to Thomas Hofeller?

A No.

Q Also a member of the transition team.

A Okay.

Q Doesn't ring a bell?

A No.

Q Okay.

Mr. Anello. That's H-o-f-e-l-l-e-r.

Mr. Hamilton. He could spell it H-o-e-f-f-l-e-r, and I have no ideas who he is.

Mr. Anello. Yes. But the person doing our transcript has to spell it correctly.

BY MR. ANELLO:

Q Are you aware of -- strike that.

Are you aware -- so you mentioned that you had a discussion with Mr. Kobach during the transition about the citizenship question, correct, or you got an email from him?

A I got an unsolicited email from him.

Q Did you have any further conversations with him after the transition about this topic?

A No.

Q Okay. Did you ever hear that adding a citizenship question to the 2020 Census could be advantageous for congressional apportionment purposes?

A I have heard the public discourse in the media and allegations in the lawsuits

about the issue generally, but before that, not really.

Q So -- let's say before any lawsuits were filed, so let's say before March of -- before the March 2018 decision memo came out from Secretary Ross, had you ever heard any discussions or participated in any discussions about whether adding a citizenship question to the Census could impact congressional apportionment?

A Not that I can recall.

Q Or whether adding a citizenship question to the Census -- again, did you participate or hear of conversations about how adding a citizenship question to the Census could advantage Republicans or disadvantage Democrats?

A Not that I can recall.

Q How about whether adding a citizenship question to the Census could provide more representation for non-Hispanic Whites and would provide -- and with less representation for Hispanics?

A Not that I can recall.

Q Did you ever become aware of a memorandum that was related to the Census citizenship question that was written in 2015?

Mr. Gardner. So that's really vague.

BY MR. ANELLO:

Q Okay. Did you ever become aware of a memorandum by Thomas Hofeller that was written in 2015 and related to the Census citizenship question?

A No. I testified I have no idea who Thomas H-o-f-f-l-e-r --

Q One F.

A One F, sorry. I have no idea who he is. I am not aware of any memo. I'm not aware of anything about the guy.

Q Okay. Are you aware of a memorandum written on the topic of the

Census -- of adding a citizenship question to the Census and how that might impact redistricting efforts?

A No.

Q When you reviewed a copy of the draft letter from the Department of Justice to the Census Bureau --

A Okay.

Q -- in 2017 --

A Okay.

Q -- were you told that any information contained in that letter came from any source outside of the Department of Justice?

Mr. Gardner. You can say yes or no.

Mr. Hamilton. No.

BY MR. ANELLO:

Q Were you told anything about sort of where the information in that draft letter came from?

A No. I have no idea. I would assume Department of Justice.

Q Do you assume that for a particular reason?

A We typically write our own letters.

Q Would it be unusual for the Department of Justice to write a letter based on text or research that was done by somebody outside the Department of Justice?

A I have no idea.

Q You said you usually write your own letters.

A In my experience, we write our own letters. I have no idea if other people do different -- anything different. I couldn't tell you.

Q Okay. So it had been your experience DOJ writes its own letters?

A Yeah.

Q So in your experience, it would be unusual for DOJ to issue a letter that it had not written?

Ms. Antell. Well, I think he said in his experience, but I don't think you can expand that to the rest of the Department of Justice.

Mr. Anello. I didn't expand it. I'm saying in his own experience.

Ms. Antell. I just -- I don't --

Mr. Hamilton. All I can tell you is that the only letters that I'm aware of are letters, you know, that, like, I've helped write for the Attorney General on different issues and things, and those came from us. I don't know what everyone else does. I couldn't tell you.

Mr. Anello. Understand. But the letters that you've worked on, as you just said, those came from us, meaning those came from within the Department of Justice?

Mr. Hamilton. Yeah.

Mr. Anello. When Mr. Kobach reached out to you during the transition, did he tell you or indicate that he was in touch with anybody else in the transition team on this issue of the citizenship question? Do you remember?

Mr. Hamilton. I don't -- I don't remember him saying anything about who he was -- or if he was talking to anybody else.

Ms. Anderson. Are you aware of any conversations that happened within the administration about whether adding a citizenship question would impact immigration policy or immigration enforcement?

Mr. Hamilton. No.

Ms. Anderson. Were you aware of any documents that came from the Department of Commerce to the Department of Justice about the citizenship question

issue?

Mr. Hamilton. No.

Ms. Anderson. Okay.

BY MR. ANELLO:

Q So you said you were not aware of any discussions about the citizenship question impacting immigration policy. Is that correct?

A I don't recall having any discussions about that.

Q Okay. How about impacting immigration enforcement?

A I don't recall having any discussions about that.

Q When you were at the Department of Justice, you were -- you said you were the senior-most immigration adviser -- or sorry, you are at the Department of Justice.

You are the senior-most immigration adviser at the Department?

A For the Attorney General, yeah.

Q Okay. Was that the case in December of 2017?

A Yeah.

Q So I want to ask you about a memo -- sorry. Do you mind getting Exhibit 4?

This is a memo that we understand is a draft memo, as we understand, was written on -- I believe it was December 16, 2017, so 4 days after the letter on the citizenship question was sent to the Census Bureau.

A Okay.

Q Are you familiar with this memo?

Mr. Gardner. I noticed there were no page labels on this. Where did this come from?

Mr. Anello. This is a public document.

Mr. Gardner. Okay.

Mr. Anello. Yeah.

Mr. Hamilton. A public document from -- that relates -- okay.

BY MR. ANELLO:

Q So are you familiar with this memo?

A I think I've seen it before.

Q When did you see it?

A I don't remember exactly.

Q You don't remember exactly? In what context did you see it then?

A I think DHS may have sent a memo to us to look at. I think this might have been it. But what does this have to do with the citizenship question?

Q So who at -- sorry. Who at DHS sent this to you?

A What does this have to do with the citizenship question?

Ms. Antell. Before we go any further -- yes.

Mr. Hamilton. There's nothing on any of these pages that has anything to do with citizenship. So --

Mr. Anello. I appreciate if you would answer the question. I think that this is pertinent --

Mr. Hamilton. I would appreciate it if you don't waste my time.

Ms. Antell. So I certainly understand that you have interest in this, and it sounds like Mr. Hamilton may have seen this at some point. Is there something in this that's directly related to the citizenship question?

Mr. Anello. I don't know. That's why we're asking these questions, among other reasons.

Ms. Antell. Okay. Is there anything in the language of this that relates to the citizenship question?



Mr. Anello. The language of the memo?

Ms. Antell. Yes.

Mr. Anello. The language of the memo talks about a number of different immigration issues --

Ms. Antell. Okay. So --

Mr. Anello. -- and it appears to be discussing those issues in December 16, 2017, 4 days after the citizenship question memo was issued, a memo that the witness has apparently reviewed. I don't know if there's a connection between these two things, and that's one of the reasons that we want to ask about them.

Mr. Gardner. I think --

Mr. Anello. And I don't see any reason -- this document has been public I think for 6 months, and the witness has said that he's reviewed the document.

Mr. Gardner. I -- I --

Mr. Anello. And I --

Mr. Gardner. I'm sorry.

Mr. Anello. I don't understand any reason that we couldn't ask these questions.

Mr. Gardner. I think the simplest way to do it is to ask him if there's any connection between this and the citizenship question.

Mr. Anello. That's a question we can ask.

Ms. Sachsman Grooms. I mean, he's still in the very beginning of laying a foundation of what the document even is.

Mr. Gardner. Sure.

Ms. Sachsman Grooms. So I think --

Mr. Gardner. The fact is we made Mr. Hamilton available to ask your questions about the citizenship question, and that's what he's here to do. To the extent that there

is no tether to that -- that issue, we don't think it would be appropriate for him to answer questions about that, certainly not today.

Mr. Anello. If he has knowledge of this document, I don't see why we can't ask him about it.

Mr. Gardner. Not if it's not within the scope of the topics for which he --

Mr. Anello. It is within the scope.

Mr. Gardner. You just said you haven't even --

Mr. Anello. You cut me off, first of all. Second of all, our request letter did not say we were going to limit every single question to the citizenship question. That is absolutely the focus of this interview. That's why we are here. We think this may be related to it, but it's an issue that is important and we have questions about it either way.

So I intend to ask about the document. I'm very interested in understanding whether it's related to the citizenship question, and I intend to lay a foundation to find that out. But we have a number of questions about this document that I think we have a right to ask.

Ms. Antell. So I think we are certainly prepared to answer any questions that you may have. Certainly, the first question is in -- is to Mr. Hamilton's knowledge is this related to the citizenship question, and maybe we will move from there.

[12:13 p.m.]

Mr. Anello. Okay. So we'll repeat the question. Who at the Department of Homeland Security sent you this document?

Ms. Antell. So, again, that's not the question.

Mr. Anello. I'm laying a foundation.

Ms. Sachsman Grooms. We're laying a foundation for what the document is.

Ms. Antell. So where's the --

Ms. Sachsman Grooms. You don't get to conduct the way we conduct our investigation.

Ms. Antell. I certainly understand that, and I --

Ms. Sachsman Grooms. And you don't get to say what questions we ask or don't ask as we are laying a foundation of what a document is so that we can then ask some additional followup questions. So if you could just let us do it, I'm sure we'll get to a point where we can have the conversation about whether it's related. Okay?

Go ahead.

BY MR. ANELLO:

Q Who at the Department of Homeland Security sent this memo to the Department of Justice?

A I don't recall.

Q Do you know who at the Department of Homeland Security drafted the memo?

A I don't. I don't know.

Q Okay. On December 16, 2017, who at Department of Homeland Security was in charge of drafting policy options to respond to the border surge of illegal immigrants?

A Could've been a number of folks. I have no idea.

Q Who would be the most likely folks, based on your experience at the time?

A I don't know.

Q You have no idea?

A Well, DHS has multiple immigration components. They have an Office of Policy, they have an Office of General Counsel, they have a secretary's office. They have all kinds of places where this could've been -- that could've written something. I don't know who did it.

Q Was there someone -- again, we're talking December 16, 2017. Was there somebody in charge of this particular issue at the Department of Homeland Security that you interacted with at the time?

A There were and there are lots of people at DHS who worked in immigration policy that I interacted with.

Q So this memorandum is policy options to respond to border surge of illegal immigration. As of December 2017, who was your primary point of contact at the Department of Homeland Security --

Ms. Antell. I'm sorry. We're just not prepared to answer questions about this today. If this is a topic that you'd like to talk about in the future, we're certainly prepared to have that discussion.

Mr. Anello. I haven't even laid the foundation for how he got the document.

Ms. Antell. And I understand that. But I've never seen this before. We weren't --

Mr. Anello. This document was published, I believe, in maybe January, February. It's been out there. The witness has said he has seen it before.

If you guys need a minute to read it, I'm happy to give you a minute to read the

document.

Ms. Antell. I'm sorry. I think --

Mr. Hamilton. So how about I tell you this? And maybe this will help focus your questioning. I am not aware of anything in this document -- nothing in this document triggers anything at all related to the citizenship question. I'm not aware of any immigration nexus to immigration enforcement, surge of illegal immigration, anything. No discussions ever dealing with the citizenship issue.

Mr. Anello. Okay.

Mr. Hamilton. So, I mean, like, the connection is not there. I have never discussed the issues at the same time. It's never been something I've even heard about.

Mr. Anello. Okay. Can you tell me who at the Department of Homeland Security was your primary point of contact on the issues discussed in this memo?

Ms. Antell. So, again, we're not going to answer questions about this. Mr. Hamilton has just explained that he is aware of no nexus between this --

Mr. Anello. That doesn't get to the issues, necessarily, that I need to understand. Laying the foundation for this might reveal a connection that he does not remember or is not aware of, and it's important that we have the ability to lay that foundation.

If you guys want to talk after we lay the full foundation and we understand what he knows about this document, where it came from, when he saw it, what he did with it, I'm happy to then have that conversation afterwards. But you're cutting me off repeatedly before we can ask even a basic question about the document. So it's going to make this process a lot harder, not easier.

Ms. Antell. I doubt --

Mr. Anello. So I'd ask again that we be allowed to ask these very basic questions of the witness. I'm not aware of any privilege being cited. This is a public document

that the witness has seen before that he apparently played a role in reviewing 4 days after the December 12, 2017, memo on the citizenship question.

So I don't think this is a rabbit hole. I think it's important that we at least lay the foundation. I don't think this is going to take too long. I understand you may have time issues. We can always come back after -- I know you have a call at 12:15. We can always come back and ask these questions afterwards. But I think we need to have the ability to at the very least lay the foundation, and then we can go from there.

Mr. Hamilton. What's the date on the document, by the way?

Ms. Antell. Well, can we --

Mr. Anello. There was an NBC News story that identified it, as we have written -- I think we have copies of the story if you want to see it. So I couldn't --

Ms. Antell. That's fine. You can ask him.

Ms. Sachsman Grooms. So, again, that's what we're doing, is laying the foundation.

Could you tell us when you saw this document?

Ms. Antell. So we're at 12:15, and we did agree that we need to go and take a call. I do understand your interest in this, and we can certainly resume --

BY MR. ANELLO:

Q I'd like to come back and continue these questions. But before we take a break, I'd like to ask one question, which is, if you look at the comments on the side here, there's a number of comments that say HG(1), HG(2), HG(3), HG(4).

A Okay.

Q Can you just take a minute and look at the comments, let's just say, on the first page?

A Sure.

Q We won't make you read the whole document, given that I know you have to take a break.

A Okay.

Q Did you write those comments?

A I don't know. I might've. But I don't specifically recall.

Q "HG," is that Hamilton comma Gene?

A It might've been my -- I don't know. I mean, typically, when we get things from other departments to review, I collect comments and consolidate feedback from across the departments.

Q Is that what you did in this instance?

A I don't know. I don't remember.

But, again, this citizenship question on the Census has nothing to do with illegal immigration.

Q I understand that. You've made your view on that clear. But I'm trying to just get an answer to the question that I asked.

A And I think I just answered your question.

Q Well, my question is whether these were your comments.

A And I just told you I don't know if they were all my comments. I don't know if some of them are mine or if any portion of them are mine. I couldn't tell.

Q They're all the same user. So I guess -- I don't want to put words in your mouth. Are you saying that either you might have drafted them or you might have compiled them? Is that what you're saying?

A It's possible.

Ms. Sachsman Grooms. When you input things into Word and do track changes and do put comments, does it come up as "HG"?

Ms. Antell. So, again, you had one more question. We're now far beyond that. And we do have this additional engagement we need to run to. So can we take our 1-hour break now?

Ms. Sachsman Grooms. Yeah, we just have one outstanding question --

Ms. Antell. No.

Mr. Anello. We just haven't gotten an answer to this question.

Ms. Greer. Well, you have. You just don't like the question -- the answer to the question.

Mr. Anello. No, I don't think we have. I think he --

Ms. Antell. You can certainly come back --

Ms. Sachsman Grooms. We are just trying to understand if he's "HG" when he does inputting on any document.

Ms. Antell. So we're now a few minutes late over the time that we agreed.

Ms. Sachsman Grooms. So we could debate it, or he could just answer the question.

Ms. Antell. Or we could just stop, as I've requested.

Mr. Castor. They're coming back in an hour. So just do your call or get a sandwich and --

Ms. Sachsman Grooms. I'm curious if he's "HG" when he does inputting.

Mr. Anello. Could we just do the "yes" or "no"? Could we just do the "yes" or "no" on that? And then we can go to break. I think that might resolve this.

Mr. Hamilton. I'm not sure. I have no idea.

Mr. Anello. You don't know whether you come up as "HG"?

Mr. Hamilton. I don't know.

Mr. Anello. Okay.



[Recess.]

[1:21 p.m.]

Ms. Anderson. All right. We're back on the record at 1:21 p.m.

BY MR. ANELLO:

Q So we wanted to ask a couple questions relating to some of the conversations and documents that you've had. We just want to make sure we have a good sense of some of your email practices to make sure we understand where these conversations would've taken place.

So you mentioned that you believe you received an email, unsolicited, from Mr. Kobach during the transition. Do you know to what email account that would've come?

A Is it my transition?

Q Transition? Transition.gov or something like that?

A Dot-gov.

Q Did you use that email address exclusively for transition-related --

A Yes.

Q -- communications?

A Yes.

Q Okay. Did you use your personal email during the transition?

A No.

Q Okay. Did you use text messages or other forms of messaging services during the transition to talk about transition issues?

A No, I don't think so, other than, "Hey, where are you? Do you want to go to lunch?"

Q "Do you have a K-Cup?"

A "How about a K-Cup?"

Q How about with Mr. Kobach in particular? Do you remember using any

other form of communication with him?

A No.

Q Okay.

Fast-forward to DHS, 2017. Did you use any form of communication other than your official DHS email account to have communications about any work-related issues?

A And my phone to talk?

Q Sorry. I mean for written communications.

A For written communications? No.

Q Okay.

How about, thinking specifically about this citizenship question, when you were at DHS, do have you any memory of having any communications, any written communications, using your personal email?

A No.

Q Using text messaging or other messaging services?

A No.

Q Okay.

Do you know whether you communicated in writing at all with Mr. Comstock?

A If I did, it would be on a work email. But I don't seem to recall.

Q Okay.

So fast-forwarding to DOJ --

A Okay.

Q -- in your current role there, do you use personal email ever to communicate with people inside or outside the Department about work-related issues?

A No.

Q Have you ever done that, used personal email to communicate regarding the

Census citizenship question?

A No.

Q How about with anybody at the White House?

A No.

Q With John Zadrozny in particular, have you ever communicated with him using personal email?

A No.

Q Or using text messaging or messaging services?

A Not that I can recall.

Q How about Stephen Miller?

A No.

Ms. Sachsman Grooms. Have you ever received a communication from anybody at the White House where they were using their personal email?

Mr. Hamilton. I don't think so.

Mr. Anello. Aside from the White House, are you aware of anybody else in the administration that communicated regarding the citizenship question on a personal email account or using text messages or anything?

Mr. Hamilton. I honestly couldn't tell you. I have no idea.

[Hamilton Exhibit No. 8

Was marked for identification.]

Mr. Anello. So this is exhibit -- what are we up to?

Ms. Anderson. Eight.

Mr. Anello. Exhibit 8, DOJ00036371.

BY MR. ANELLO:

Q So this is an email from July 23, 2018. And it starts with an email from

Errical Bryant, OAG, who's the director of scheduling. And it says, "Sec. Ross would like to talk to the AG regarding the Citizenship questions. Any issues with setting up later today?" And that was sent to Matt Whitaker and to Danielle Cutrona.

Was that the time Mr. Whitaker was the chief of staff?

A Yep.

Q And Errical then forwarded this to you and wrote, "Would this be your issue."

A Uh-huh.

Q And you wrote, "Me and Rachael."

A Okay.

Q And then there's some followup.

So what did you mean when you said "me and Rachael"?

A I don't recall exactly, but I think that -- so this is July of 2018. At this point, I think we had been involved in litigation, and it had been alleged that this was an immigration issue. So, based on those allegations, I became more aware. Had to keep the boss, you know, advised if it affected immigration at all.

Q So, functionally, what did you do regarding this issue during that period?

A Nothing really, other than keeping abreast of the litigation.

Q Did you have conversations with officials at other departments regarding the citizenship question during this period, after March 2018, let's say?

A I don't think so.

Q Do you know whether this conversation between Secretary Ross and the Attorney General went forward?

A I don't. I don't remember.

Q Aside from that earlier conversation in 2017 that we discussed earlier, are

you aware of any conversations between the Attorney General -- Attorney General Sessions, I should say -- and Secretary Ross on the citizenship question?

A No. I mean, not specifically. No.

Q Did you sit in on any, for example?

A I don't recall sitting in any discussions.

Q I'd like to get your understanding. So the citizenship question, I think you're -- are you familiar with what the question asks?

A I presume it asks if you're a citizen or not.

Q Right. Do you know whether the Department of Homeland Security is permitted to use data gathered from the citizenship question on the Census to enforce the immigration laws?

A I don't know specifically if they would or wouldn't be.

Q Do you have any awareness of the rules governing whether Census data can be used for immigration enforcement?

A Not really. I vaguely think that there are some restrictions that are applied to the information generally that's provided on the Census form, but I don't know.

Q Has that issue ever come up? Did it ever come up when you were at DHS? Did anybody ever ask you, even if it was beyond the issue of citizenship, whether Census data could be used for immigration enforcement purposes?

A Not that I can recall.

Q Did it ever come up -- has it come up at the Department of Justice?

Mr. Gardner. About whether DHS can use the information?

Mr. Anello. Yeah, let's say, whether the Federal Government can use the information for immigration enforcement purposes.

Mr. Hamilton. Not that I can recall.

Mr. Anello. Based on your -- you are an expert on immigration law. Based on your expertise, do you have a view on that?

Mr. Gardner. Lack of foundation.

Mr. Anello. Well, he's told us he's the senior-most immigration advisor to the Attorney General and previously was the senior-most immigration advisor to the Secretary of Homeland Security. So I think he qualifies.

Mr. Gardner. That doesn't establish anything about how Census information is used. So lack of foundation.

BY MR. ANELLO:

Q Well, that's the question.

The question is, do you have a view on whether Census data may be used for immigration enforcement purposes?

A Do I have a view as to whether it may be used?

Q Correct. Legally. Whether it would be legal to use.

A I don't know enough about it to know if legally -- I couldn't answer that question for today. I'd have to do some research.

Q Do you know if anybody in the current administration has done an analysis, a legal analysis, of that issue?

A Not that I can think of. That would be, to be frank with you, a waste of resources.

Q Why would that be a waste of resources?

A DHS already knows generally the location of millions of unlawfully present aliens in the United States. I don't know why they would want to use the information from the Census form to find out more for enforcement purposes. That doesn't seem to make sense.

Q Are there other purposes related to immigration that it would be useful to have that data, from your perspective?

A I mean, I could give you a hypothetical, but --

Q Sure.

A I mean, it could be helpful to use with USCIS to know where they need to allocate resources in terms of their field offices located across the country. They have a large noncitizen population. It's possible that they might have a need for USCIS's services.

Q Are you aware of any proposals to use citizenship data for that purpose?

A No.

Q Are you aware of any proposals -- and I mean proposals that may have been discussed within the administration -- to use citizenship data from the Census for any purpose related to immigration?

A No.

Q Putting aside the specifics, the specifics of the December 12 DOJ letter, are you aware of any proposals within the administration to use the Census citizenship data for any other purpose?

A I haven't heard of any.

Mr. Anello. I'd like to go back to the document and see if we can continue to authenticate it, the one that I was -- was that exhibit 7?

Ms. Antell. So, with respect to exhibit 7, I do understand that you have a number of questions about this document. I think you have come back after the break and asked questions that are directly tied to the Census, and we'd like to proceed and answer any questions you might have that are tied to the Census. And, you know, Mr. Hamilton has, I think, been quite open to answering those questions. So is it possible to



wait until the end, if have you any other questions, to discuss this topic, this document?

Mr. Anello. I don't think we have other issues.

Ms. Antell. So this document -- which everyone in the room acknowledges there's nothing, on its face, that has anything to do with the citizenship question, correct?

Okay. So the point is we're here to talk about the citizenship question. Mr. Hamilton has answered apparently all of your questions related to the citizenship question and the Commerce Department's decision to reinstate it. He has also said that, to his knowledge, there's no relationship between the citizenship question and this document. So I don't think we have anything else to answer about this.

This does relate directly to another investigation that your committee is undertaking. You have an open inquiry on this, and it seems to me that that would be the appropriate arena in which to ask questions about this document.

Mr. Anello. Okay. So I hear your point. We were interrupted when we were simply trying to authenticate this document. And I think what we have established is that the witness was involved in reviewing, if not editing -- I think there was a question about whether he edited -- but Mr. Hamilton was involved in reviewing a draft letter on the citizenship question while he was at DOJ, while he was the senior immigration advisor to the Attorney General. That letter went out 4 days before this memo came out.

Ms. Antell. So you've said --

Mr. Anello. I'm sorry. Let me just finish. Can I just finish?

Ms. Antell. Yes, please.

Mr. Anello. Mr. Hamilton does not recall conversations related to immigration and the citizenship question, but I don't believe we got a blanket "no" that they didn't happen. I think what he said is he doesn't recall.

We know there are a number of conversations around this time with immigration

staffers, including Mr. Zadrozny at the White House, that DOJ suggested related to immigration, because we got the document that was part of -- excuse me -- that related to the citizenship question, because they were part of a document production related to that. But Mr. Hamilton doesn't recall the conversation.

So there are a lot of unanswered questions that Mr. Hamilton doesn't seem to have a recollection of. So I don't think we know exactly the extent of the conversations that he may have had, just based on the recollection that he may not have at this point. And that's fine.

But we have a document that he appears to have been involved in drafting right around the same time, and I think it's fair to just ask him basic authentication questions to understand where the document came from and who was involved in drafting it and what his role is.

And then if we've established after that that there are no further questions that are relevant to this topic, then we're happy to have a further discussion about it. But we haven't really even gotten through the authentication because we've been interrupted a few times.

So I would just ask if we could go ahead and continue that, and then if you guys feel like you don't want to let Mr. Hamilton or Mr. Hamilton doesn't want to answer any more questions about it and he wants to potentially come back again or talk about it at a different time, we're happy to have that discussion.

But I do think -- I guess I don't really see why we can't just continue to go through that verification that we had before and try to understand what this document is and where it came from.

Ms. Antell. So my first question is, there's no date on this. There's no email transmitting this. You've represented that it came in December.

Mr. Anello. So I don't know that to be the case, but we could ask the witness that. And we also have an article, an NBC News story, that states it comes from December 16, I think, 2017. But NBC News could be incorrect, and Mr. Hamilton may have different views on it, which he's obviously welcome to share with us.

If you'd like to see the article, we can introduce it as an exhibit. This is 9.

[Hamilton Exhibit No. 9

Was marked for identification.]

Mr. Anello. There may be information here about, you know, where they got the date. I don't know.

BY MR. ANELLO:

Q So I'll direct your attention to -- oh, I guess it depends on the copy. This one is the bottom of page 2, but I think on your copy it's the top of page 3.

It says: "In the draft memo, called 'Policy Options to Respond to Border Surge of Illegal Immigration' and dated Dec. 16, 2017, officials from the Departments of Justice and Homeland Security lay out a blueprint of options, some of which were later implemented and others that have not yet been put into effect."

Ms. Antell. So can I just note that the, I guess, exhibit 8, the "Policy Options to Respond to Border Surge of Illegal Immigration," has no date on it.

Mr. Anello. Noted.

Ms. Antell. So how do we know that it's the same?

Mr. Anello. That's the question that we posed.

Mr. Gardner. I'm not really quite understanding how he would know what NBC is referring to in this news article.

Ms. Sachsman Grooms. We're not asking him about --

Mr. Anello. We're not asking him about that. We're asking --

Mr. Gardner. If he knows the date of this document? I mean, if you want to ask that limited question, go for it.

Mr. Anello. Okay.

So do you -- could we start again? Because it's been a little bit interrupted. We didn't actually want to jump right to the date. Would it be okay if we start with the authentication again and just try to get this --

Mr. Gardner. Well, then why not just ask about the date first?

Mr. Anello. We're asking the questions. I'm not sure why we have to ask the question about the date first.

Mr. Gardner. Well, because I think we're having difficulty understanding the relevance of this to the questions about --

Mr. Anello. We have reason to believe -- what you're looking at, we have reason to believe it was on -- if this memo came out just 4 days after the December 12 memo. I think it's clear that we have reason to believe that. We don't know if it's true, and that's why we're posing the question. But that's one of questions we have.

Other questions would involve who wrote it, what role Mr. Hamilton played in it. Because to the extent, for example, that the same folks involved in this were involved in the citizenship question, that would be relevant information for us.

And so I think these are all fair questions. I take your point that we don't know for sure when the document was written; we only have what was published by NBC News. But I'm not sure why we can't just go in a straightforward way and ask our questions.

Ms. Antell. Well, Mr. Hamilton has said he didn't know who wrote that.

BY MR. ANELLO:

Q Mr. Hamilton, do you know who the author of this document is?

A No.

Q Do you know what agency this document came from?

A Department of Homeland Security.

Q Okay. And have you seen this document before?

A I can recall seeing this document before.

Q When did you see this document before?

A I don't know. Late 2017.

Q Late 2017?

A Early 2018. Somewhere in there.

Q Would you say it was before or after you left DHS and joined the

Department of Justice?

A After.

Q After you left. So you were at the Department of Justice at the time.

A Correct.

Q In your current role.

A Correct.

Q Okay. And do you recall who provided you a copy of this document or how you received the document?

A No.

Q Okay.

You said you don't know who at DHS wrote the document but you know that the document came from DHS. Is that correct?

A Yes.

Q How do you know that it came from DHS?

A Because I remember it came from DHS.

Q And the subject line -- the topic -- the title of the document -- there we go -- is "Policy Options to Respond to Border Surge of Illegal Immigration." Is that an issue that you were working on at the time at the Attorney General's Office?

Ms. Antell. So, again, I just -- I understand that you believe there is a nexus. I'm not --

Mr. Anello. No. I haven't gotten to the question yet.

Ms. Antell. But that is the question.

Mr. Anello. No, that's not the question.

Ms. Antell. And I --

Mr. Anello. The question is going to be --

Ms. Antell. If you'd like to ask this question in the context of the committee's other investigation, that is certainly a conversation we can have. I don't see how this relates.

Mr. Anello. Okay. The question that I was going ask was whether this is an issue he worked on, whether he worked at DHS on this issue at the time. Then I'd like to find out who the people at DHS were that he worked on this issue with. That's the question I have. I think that's a relevant question. I've already explained why it'd be relevant.

So could the witness please -- Mr. Hamilton, can you please tell us who at DHS was the point of contact for you on the issues discussed in this memo?

Ms. Antell. Mr. Hamilton has told you that -- from my recollection, from what we've talked about today, Mr. Hamilton has said that he didn't talk to anyone at DHS with respect to the citizenship question after coming over to the Department of Justice.

Mr. Anello. He told us he didn't recall that. We have reason to believe he may have. But he told us he didn't recall that.

You may have reason to believe that he did as well.

Ms. Sachsman Grooms. Yes. Mr. Gore came in and told us about a conversation.

Ms. Antell. It's not Mr. Gore's recollection. This is Mr. Hamilton's recollection.

Mr. Anello. That's correct, and we're trying to refresh it. Either Mr. Gore was entirely incorrect or perhaps Mr. Hamilton doesn't remember. And so part of this is understanding who his contacts were at DHS at the time on immigration issues. It's relevant.

Ms. Greer. You said you wanted to lay a foundation for the document.

Mr. Anello. Yes.

Ms. Greer. -- two different issues that are irrelevant to the foundation of this document.

Mr. Anello. I asked for the foundation of the document. I believe I was interrupted and not allowed to finish the question.

The question I had was -- Mr. Hamilton explained to us that he didn't know who drafted this document.

But I think you also told us that you did have contact with people at DHS at the time on immigration issues. I presume you had contact on issues involving the surge of illegal immigration and perhaps even policy options to respond to that. Is that correct?

Mr. Hamilton. I've had lots of discussions with DHS about immigration issues.

Mr. Anello. So, in late 2017, which I think is the time -- or early 2018 -- I think that was the time period you said you think you saw this document -- who were your primary points of contact on the issues described in the document, specific to the document, at DHS?

Ms. Antell. The document -- again, I'm sorry to interrupt, but the document

which is 100 percent related to a different topic based on its face.

Mr. Anello. You know what? I feel like we're getting different feedback from the other folks on the other side of the table. What I'm attempting to do is simply understand where this document came from and what Mr. Hamilton's role in the document is. That's really all I'm asking. I haven't asked a single question about the substance of the document.

Mr. Gardner. But he's answered both those questions. He said he doesn't know who the author was. He said he did see the document, and he doesn't recall whether these are his comments.

Mr. Anello. Why is this the hill to die on, who his contacts were at DHS on the issue of immigration? I don't understand why that is information he can't answer.

Ms. Greer. Because you're asking specifically about a different subject other than the topic that we're here to discuss today.

Mr. Anello. Immigration?

Ms. Greer. That's the issue. Yes. We're here --

Ms. Sachsman Grooms. That's your interpretation, that the citizenship question and immigration are totally unrelated. That is not the view of the committee. The committee is investigating whether the citizenship topic and the immigration topic are related.

We understand that, from Mr. Gore, not from this witness -- because this witness does not recall -- this witness set up conversations with Mr. Gore and individuals from DHS. And so if we want to know who his contacts at DHS were on different topics, I think that's directly relevant to the questions that we're asking.

And these are our -- we don't really have to explain the purposes for our investigation or why we ask any particular question. That's not the purpose of this.



We are conducting an investigation. We have questions. These are our questions. We'd like to move forward with them. I don't think they're going to take that much longer. And we can kind of finish them, which I think would be my suggestion.

I'm not sure what the -- I mean, I can't imagine that the people he spoke with at the Department of Homeland Security on this topic is, like, a secret. So we would like to inquire further.

Ms. Greer. To be clear, based on that description, anything that Mr. Hamilton worked on that touched immigration within the administration is certainly not our understanding of what the topic of today's interview is about.

So just because it's immigration and the committee is alleging that immigration is tied to the Census question does not open the door to the relevance of any immigration-related questions.

Ms. Sachsman Grooms. I mean, we have not asked any immigration-related questions. We've asked a pretty specific set of questions.

So if we could move forward on this topic. We haven't really gone into, like, what conversations he had with Jeff Sessions on any immigration-related topic. That would be, obviously, a very interesting conversation to have, and I'm happy to have a conversation about having that conversation. But that's not where we're at. We're just at a pretty basic level of understanding who his contacts were at the Department of Homeland Security on this topic.

Ms. Antell. On a completely separate topic than the topic we're here to discuss.

Mr. Anello. Again --

Ms. Antell. You're asking about a memo, and you'd like to know who he talked about on -- who his contacts were with respect this topic. This is a topic that you have an open investigation on, and we understand there's, frankly, a subpoena to the

Department of Justice on this very topic. And if that is something you'd like to take up at a later date or you want to talk about, then we certainly understand that there's an avenue for that.

Mr. Anello. We would like a reply to the subpoena, but that's not what we were here to talk today. Today we're here to talk to Mr. Hamilton about his role in the citizenship question. And we are very interested in the extent to which -- I mean, look, we started this interview by learning that Mr. Hamilton was the senior-most immigration advisor at DHS. And, in that capacity, he had conversations about the citizenship question.

He then became the senior-most immigration advisor to the Attorney General and, in that capacity, had multiple conversations within the Department and possibly with the White House and possibly with DHS, although there wasn't a recollection of that, on this topic.

Four days after the most significant event at DOJ happened regarding the citizenship question, this issue comes down. And we'd like to know whether there's a potential relationship here, and we just haven't been able to ask the questions to get that.

I understand Mr. Hamilton's perspective is that there is not a relationship, but we'd like to authenticate that by understanding the provenance of the document, and then we'll decide if we have more questions. These are legitimate questions we have.

And I guess the question is, when the Department is telling us, you know, they're saying you're not willing to answer the question, I don't really understand what the objection is. If there's an objection, tell us, and we can respond to it. But I'm not sure I understand what the objection is.

You're saying it's a different topic. I understand that's your view. Our view is

there's a potential relationship here. We'd like to ask the questions. If you guys are objecting, maybe just tell us what the objection is. "It's a different topic" is not really an objection.

Ms. Greer. Well, it is. And we're here voluntarily to discuss topic A, and you're asking about topic B. And I understand you're trying to probe a connection between topic A and topic B, but, to some extent, we have to rest with the witness's recollection that there is no -- that's his answer. And additional questions might waste a lot of time and committee energy, but that doesn't change what the witness's answer is.

Mr. Anello. It doesn't change the witness's answer to the question that was asked, but we haven't gotten an answer to the questions we haven't asked yet or we've not been able to get an answer to.

So I'm not sure what else to say here. If you guys are instructing the witness not to answer the questions, if that's the instruction -- I haven't heard the instruction. If not, I'd like to proceed with the questions.

Ms. Antell. Yeah. I think we'd like to just take a break to discuss this.

Mr. Anello. Five minutes?

Ms. Antell. Yeah, that's fine.

[Discussion off the record.]

Ms. Anderson. Back on the record.

Mr. Gardner. Let's take it question by question. We'll see where we go.

Mr. Anello. Okay.

BY MR. ANELLO:

Q I think you had told us before the break that you did not know who at DHS authored this document, the draft memorandum, but you did recall that it came from DHS, correct?

A Yes.

Q Okay. And the title of the memorandum is "Policy Options to Respond to Border Surge of Illegal Immigration."

Do you recall during roughly the period when you remember seeing this memorandum, which I think you said was late '17 to early '18, do you remember who at DHS were your points of contact on policy issues involving illegal immigration?

A I worked with a lot of people, and I continue today -- for example, just about everybody in the Secretary's office, to the General Counsel's office, to people in Policy, senior leadership at CBP, senior leadership at USCIS. So there's, I don't know, 30, 40 people that I worked with.

Q So this document appears to be a pretty comprehensive set of policy options. And it discusses DHS, it discusses ICE, it discusses CBP, DOJ. Given the comprehensive nature of this, do you have a sense of who -- which office, let's say, would have drafted it?

A No.

Q No idea?

A No.

Q Okay. Was there somebody at DHS that you had conversations with addressing the range of policy options, as opposed to specific options that might have been applicable to particular offices at DHS?

Mr. Gardner. I'm sorry. I didn't understand that question.

BY MR. ANELLO:

Q Right. So Mr. Hamilton said that he talked to many, many people in many, many offices at DHS. And I'm trying to narrow down the folks at DHS that you might have had conversations with on the subject matters described in this memorandum.

And the point I was making is that this memorandum describes a range of policy options at a fairly high level. So I'm asking whether that jogs your memory as to who you might have discussed these issues with.

A No. It's the same as what I just said. I coordinated -- it could've been with any number of folks.

Q Can you please look at comment number one?

A Okay.

Q Did you read it?

A Yep.

Q Okay. Did you write that comment?

A I don't remember.

Q Do you recall whether you shared those sentiments at the time that are expressed in that comment?

Mr. Gardner. Do you mean that he held them?

Mr. Anello. Correct.

Mr. Gardner. Okay.

Mr. Hamilton. Prosecuting people who smuggle aliens into the United States, that's a Federal crime. So, sure, that seems fine.

Mr. Anello. So do you agree with the comment?

Mr. Hamilton. I agree that it's a good idea to prosecute people who violate the laws of the United States.

Mr. Anello. Okay. But the comment says other things as well. Do you agree with everything in the comment?

Mr. Gardner. Objection. Over-broad.

Mr. Anello. Okay. We can go sentence by sentence.

Mr. Gardner. At this point, I want to be flexible and cooperative with you all, and, you know, we have in good faith let Mr. Hamilton answer some questions about this document. But, at this juncture, we're not prepared to have Mr. Hamilton go through each of these comments and express his views about these.

Mr. Anello. Yeah. I guess I still view this as laying a foundation. We're really trying to understand whether these comments are his.

Mr. Gardner. No, and I -- he testified that he doesn't recall if they were his. He expressly said that multiple times.

Mr. Anello. But to the extent he agrees with everything written in them, that'd be pretty helpful information for us to know.

Mr. Gardner. I understand that you think it would be helpful, but, again, there's no tether between that and the topics upon which Mr. Hamilton's here today.

Look, I'm not agency counsel for the litigation reflected in exhibit No. 7, and we're just not prepared today to have him talk substantively about this exhibit. I know you want to --

Mr. Anello. No. Again, I'm not -- my intention's not actually to talk about it. My intention is to understand whether, in reading these comments, it jogs Mr. Hamilton's recollection that he may have actually drafted these.

Mr. Gardner. If you ask him that question, I'll let him answer that. But that's not the question you've asked.

Mr. Anello. Well, I'll ask that question.

Have you read all of comment one?

Mr. Hamilton. Yes.

Mr. Anello. Okay. Does it jog your memory as to whether you wrote that comment?

Mr. Hamilton. No.

Mr. Anello. Why don't you take a look at comment two.

Ms. Antell. Is it your plan to go through all 16 of the comments?

Mr. Anello. Not necessarily, no.

Mr. Hamilton. Okay. Do you have a question?

BY MR. ANELLO:

Q Yes. Does this jog your memory as to whether you drafted this comment --

A No.

Q -- after you read it? So you don't recall if you drafted this?

A No.

Q All right.

Let's skip ahead to, I guess, the third page of the document, comment number 10.

Can you read that?

Actually, why don't I -- I'll just read that one out loud. This is in reference to item number six, it looks like, on the previous page, "Eliminate Abuses in the SIJ Program."

"This is all good to do -- and is something that should have been done all along. But it doesn't address the heart of SIJ visa abuse. I recall that we had discussed a number of options when I was still there -- including having the Secretary withhold her statutory consent in any case in which the minor was living with one parent or legal guardian." And then it goes on.

Does that comment jog your memory that you might have drafted this?

A It seems vaguely familiar, this comment.

Q In what way does it seem vaguely familiar?

A I mean, I know it's an issue that we've discussed in the past.

Q Okay.

I would also note, you know, the comment says that "I recall we had discussed a number of options when I was still there -- including having the Secretary withhold her statutory consent."

Now, you had previously been at the Department of Homeland Security, correct?

A Right. And so that line is what makes me -- I think I remember discussing this issue.

Q Okay. Do you remember you who discussed it with?

A Would've been the same range of folks.

Q Sorry, just to clarify, did you say you recall discussing it around the time of this memo at DOJ? Or you recall discussing it previously when you were at DHS?

A Previously.

Q Okay.

Let's take a look at comment 13. "I would suggest family detention capacity should be the priority, but perhaps somewhat modified from what we have now in terms of facilities that can handle family units on a short-term basis -- and that can eventually be converted to single adult facilities."

Do you know if you wrote that comment?

A No.

Q If you look at the next page, page 5, comment 15 on "Mandatory Detention of Arriving Aliens Who Claim Credible Fear," the comment says: "I know folks don't want to prejudge things, but 'could' isn't the word I would choose here."

That's referring to a comment that says DHS could rescind the memo thereafter, after a reference to a SCOTUS decision, pending SCOTUS decision.

A Okay.

Q Do you recall if you wrote that comment?



A No.

Q Do you recall if that was an issue that you discussed at the time?

A What issue? Rescinding the memo?

Q So, the issue of mandatory detention of arriving aliens who claim credible fear or any of the items discussed in the paragraph or the comment.

A Sure. Those are issues that have been discussed numerous times.

Q Let me just show you one more, number 16, this next comment. It's comment 16, and it's item 16.

It says, "This, too, is a legally binding requirement from an EO. But it won't have any effect on UACs, and likely a more limited effect on family units (but it could be helpful). We need to expand ER, but maybe after separating family units, prosecuting parents, and doing the other things first."

Is that your comment?

A I don't know.

Q You don't know. Okay.

Have you had a chance to look at this whole memo today or just the ones that I've taken you through?

A I think we've gone through almost everything here.

Q Well, why don't I give you a minute to look at the ones we haven't talked about, and you can let us know if that jogs -- let us know when you're finished. If you want to just focus on the comments, that's fine.

Ms. Greer. Is the question -- are you trying to jog the witness's memory as to whether he wrote specific portions or whether this document had any connection to the citizenship questions, the nexus?

Mr. Anello. Those are both good questions.

Ms. Greer. Okay. Well, I'm just trying to understand what he's --

Mr. Anello. There's not been a question asked yet.

Ms. Greer. Okay.

Mr. Hamilton. Do you have a question?

Mr. Anello. Yes. So, if you've read all the comments, do you now -- does it jog your memory as to whether you are the person who drafted those comments?

Mr. Hamilton. No.

Mr. Anello. Do you think somebody else -- do you think you drafted them? Do you think somebody else drafted them?

Mr. Hamilton. I might've been involved with some of them. I just -- I don't -- I don't recall.

Mr. Anello. Okay. Do you recall discussions about any of these topics in late 2017?

Ms. Antell. And are we talking about the memo or just generally the topics?

Mr. Anello. The topics described in the memo.

Mr. Gardner. And with whom? Just so I understand your question.

Mr. Anello. With others at the Department of Justice or the Department of Homeland Security.

Mr. Gardner. If you know, you can answer that.

Mr. Hamilton. Yes.

BY MR. ANELLO:

Q Did any of those discussions involve discussions about citizenship data?

A No.

Q Okay. Who did you discuss the issues with?

A Again, I have generally discussed a number of immigration issues with a

number of folks at DHS and DOJ.

Q So you said you recall discussions, but do you recall who those discussions were with specifically?

A No. I mean, I couldn't begin to try to recall every single discussion about -- the range of issues that are listed in this memo are pretty broad. So I couldn't begin to tell you who I talked with about the specific topics in this context.

Q You don't remember any, or you can't? I guess the question is, do you remember any such conversations during that time period and with whom?

A I do remember general discussions, but I can't remember any specific discussions.

Q I feel like there's a lack -- go ahead.

Mr. Gardner. I think the problem is, as you note, this memo covers a number of different topics, and so it's a very broad question the way it's phrased.

BY MR. ANELLO:

Q Do you remember any conversations during this time period -- and I think you said in late '17 or early '18 is when you remembered seeing this document. Do you remember conversations that encompassed either all or many of the topics that were covered in this, as opposed to, you know, one-off conversations or one that may have either covered each of these topics or covered many of the topics during that period?

A I don't recall -- again, I don't recall specific discussions, but suffice it to say that all these issues are immigration-related issues, and there are numerous discussions all the time about the range of issues related to any number of these topics. I just don't have any specifics to give you.

Q Okay. And just to be really clear -- I think you've answered this already, but I want to make sure. You don't remember any specific discussions about this

memorandum?

A No.

BY MS. ANDERSON:

Q When you were discussing these issues, would you primarily do that on the phone, like, by calling someone at DHS, or would you do it via email?

A It depends.

Q What would you say your default would be?

A I mean, there is no default. Sometimes you talk on the phone, sometimes you meet in person, sometimes we send an email. It just really depends.

Q Okay. But fair to say that some conversations happened via email and some happened on the phone?

A Probably all of the above. In-person meetings, phone calls, emails. I mean, this is a range of immigration-related topics, and, I mean, we have a general practice of talking about immigration-related topics.

Mr. Anello. Do you remember any conversations with anyone at the White House, again, from the same time period we're talking about, the period that you remembered seeing this memo, about the range of policy options to address the surge in illegal immigration?

Ms. Antell. So now we have really moved pretty far beyond the citizenship question. He has answered the question about with whom he spoke. And I understand your interest in this, I understand why you want to go down this, but I just don't think, at this point, we are prepared to have that kind of a conversation today.

Mr. Anello. Well, I guess I asked -- I appreciate that point. I asked the witness to respond, unless there's an instruction not to respond, about conversations he had with the White House on this.

Mr. Gardner. So you're asking if conversations occurred?

Mr. Anello. I asked if he had any conversations in late 2017 or early 2018, the time period when he remembers seeing this memo, that addressed the range of policy options to respond to the border surge of illegal immigration.

Mr. Gardner. You can answer that with a "yes" or "no."

Mr. Hamilton. Yes.

Mr. Anello. Okay. And who did you speak with?

Mr. Gardner. Let's go off for a second.

[Discussion off the record.]

Mr. Gardner. I appreciate your patience.

Look, I appreciate your view that you had foundational questions to ask about exhibit 7. Mr. Hamilton has answered all the foundational questions about who drafted this, who drafted the comments, the context behind this. We are getting further from that now, in terms of conversations with the White House about the substance of this. That's not why Mr. Hamilton voluntarily appeared today, and he's not prepared to answer those kind of questions.

So if you have questions about the citizenship question, about his role in that process, he's here today to answer those questions. He's been available all day to answer those questions. He has answered those questions. But if we're going to proceed down this path, being this far afield, then we're done today.

Mr. Anello. So, just to be clear, our goal is not to delve into the specific -- any of these -- you know, there's, like, 20 issues here. Our goal is not to delve into any specific issue. Our goal is to really -- we're trying to understand the document, where it fit in, and what was going on at the time.

And so the question was with whom Mr. Hamilton spoke at the White House

regarding the range of policy options described in this memo. That's what we're trying to understand.

Mr. Gardner. That's divorced from the memo. And, again --

Mr. Anello. It's not necessarily divorced from the memo.

Mr. Gardner. Well, the way your last question was phrased, it absolutely was divorced from the memo. You said, look, you know, who did you discuss, you know, these policy options with at the White House, whether they're in the memo or outside of the memo.

But more fundamental than that, I appreciate your view on these things, but we are now past the point where we are productively using Mr. Hamilton's time to discuss the topic on which he's here today voluntarily, which is the citizenship question.

If you have any additional questions about the citizenship question, let me be clear: Mr. Hamilton is here, and he's prepared to answer the questions to the best of his ability. If we're going down the path of talking about policy options related to border surge of illegal immigrants, that's not why Mr. Hamilton's here today and we're done.

Mr. Anello. We have just a handful of other questions on this topic, including the one I just asked, which we would like to ask. So if you're instructing the witness not to answer, then we'll go from there. But if you're not making the instruction, we would like to ask the question.

Mr. Gardner. I understand your preference, Russ, but he's not available today to talk about the contents of this document that has, on its face, nothing to do with the citizenship question and, as Mr. Hamilton clearly testified, has nothing to do with the citizenship question. I understand your view, but --

Mr. Anello. So the question -- just so we have it on the record, the question we

asked was: With whom at the White House did Mr. Hamilton speak about the range of policy options relating to the surge of illegal immigration around the time that this memo was received? And I think the answer we're getting back is, he's not permitted to answer that question.

Mr. Gardner. He's not available today to answer these questions that are clearly outside the scope of the reasons why Mr. Hamilton voluntarily appeared today, which is to discuss DOJ's involvement in the citizenship question.

Mr. Anello. The only other question that I wanted to ask then -- so I have that answer on the record. The only question was whether Mr. Hamilton is aware of the purpose of this memo or what this memo was used for at the time.

I think you said you remembered receiving it. You remembered reviewing it, I believe. You said you might have been involved with the comments. Do you know what the purpose of the memo was or what it was used for?

Mr. Gardner. You can answer that with a "yes" or "no."

Mr. Hamilton. Ask it again.

Mr. Anello. Do you recall what the purpose of this memo was?

Mr. Gardner. You can answer that with a "yes" or "no."

Mr. Hamilton. Yes.

Mr. Anello. Okay. What was the purpose of the memo?

Mr. Gardner. Again, we're far afield from the purpose by which Mr. Hamilton voluntarily appeared today.

Mr. Anello. Do you recall what the memo was used for?

Mr. Gardner. You can answer that with a "yes" or "no."

Mr. Hamilton. No.

Mr. Anello. You don't recall what it was used for.

Mr. Hamilton. It's not my memo. I don't know.

Mr. Anello. But it's a memo you saw at the time, correct?

Mr. Hamilton. Yes.

Mr. Anello. So you saw it at the time, but you don't know what it was used for?

Mr. Hamilton. No.

Mr. Anello. Do you know why you were asked to review it?

Mr. Gardner. You can answer with a "yes" or "no."

Mr. Hamilton. No, I don't know.

Mr. Anello. Okay. I mean, you or whoever wrote the comments marked "HG" appear to have spent a lot of time reviewing this and provided very detailed comments. Do you have any idea why?

Mr. Gardner. Objection. Lack of foundation.

Ms. Antell. So I think we're done answering questions about this memo. If you have more questions about the citizenship question or if the Republicans have questions that you'd like to ask, we're happy to answer those questions, but we're done discussing this memo today. We're just not prepared to answer questions about it today.

Mr. Anello. I'm not going to ask a question if I'm not permitted to ask a question.

Does anybody else have questions that you'd like to ask that we're permitted to ask?

Mr. Castor. Just, if I may, you mentioned that there's other litigation going on concerning -- name some issues mentioned in the memo. And so if the Department's going bring in witnesses to talk about this topic voluntarily, you have to go through an analysis about what you can talk about, what you can't talk about, issues related thereto. Is that right?

Mr. Gardner. That's exactly correct.



Mr. Castor. Okay. I'm just concerned from a -- if you look at this transcript, it's going to seem like all of a sudden this memo's taking on an outsized -- the role of this memo's significance is sort of -- we're getting carried away with talking about the memo. And so if the Department needs to go back and, you know, think through these things, that might be the best way to proceed.

Ms. Sachsman Grooms. So you think they should come back another time?

Mr. Castor. What's that?

Ms. Sachsman Grooms. Have them come back another --

Mr. Castor. Come back with further, you know -- well, just what their position is on this. I mean, I don't know that Josh knows here today, you know, what the issues are involved with some of the other pieces of litigation.

[2:23 p.m.]

Mr. Gardner. I mean, you're exactly right. And I want to be very clear with this. I mean, we really did make Mr. Hamilton available today for discussing the citizenship question, and I think the record reflects that he answered every question that was in his ability to do that.

I recognize there's a difference of opinion about whether exhibit 7 falls within the scope of that or not, but, in our judgment, it clearly doesn't. And I'm just not prepared today to have Mr. Hamilton testify about a document that I think, in my judgment, is clearly out of scope.

Mr. Anello. I mean, we understand your position. This is a voluntary interview. And if you're not going to permit the witness to answer this question, then that's a position the Department has taken.

We disagree. We feel that the fact that he was involved in both of these issues at almost the exact same time and the fact that there are real significant questions out there as to the purpose behind the citizenship question and whether it related to immigration, I think it is absolutely fair to understand what else was going on on that front at the time.

And I believe the questions we asked were really pretty foundational as to who was involved in having discussions, who was involved in the document. We did not get into any, you know, detailed policy questions.

Mr. Gardner. Sure. And to be clear --

Mr. Anello. I understand your position, but that's why we're asking the question.

Mr. Gardner. And to be sure, our position is that we did allow Mr. Hamilton to answer what we considered foundational questions about exhibit 7, giving you the provenance of it, and based on the answers to those set of questions.

So, unless there are any further questions about the citizenship question, I think we're done.

Mr. Castor. Just so the record reflects, I mean, I think the witness did give us a lot of probative information about this memo. He looked at it. He provided some, you know, genuine testimony about what he remembers. And the record doesn't always reflect the body language of the witness, but he -- it looked like he was giving it a genuine effort to recall what's in the memo. And his testimony here today seems reflective of a genuine effort to answer these questions.

To the extent the Department has concerns about some other questions, that shouldn't be reflected negatively on the witness.

Mr. Anello. Do you have any questions on your side, Stephen?

Mr. Castor. No.

Mr. Anello. Susanne, anything else?

Ms. Sachsman Grooms. Nothing.

Mr. Anello. Anybody else have anything they want to say before we go off the record?

[Whereupon, at 2:30 p.m., the interview was concluded.]

## ERRATA SHEET

INSTRUCTIONS: After reading the interview transcript, please note any change, addition, or deletion on this sheet. DO NOT make any marks or notations on the actual transcript. Use additional paper if needed.

<b>Investigation Name</b>	Census Investigation
<b>Witness Name</b>	Gene Hamilton
<b>Date of Interview</b>	May 30, 2019

<b>PAGE</b>	<b>LINE</b>	<b>CORRECTION</b>	<b>APPROVED*</b>
18	20	Change “many” to “census”	Y
27	2, 3, 4, 13,19,	Change “Rachel” to “Racheal”	Y
28	6	Change “Rachel” to “Racheal”	Y
29	9	Change “Rachel” to “Racheal”	Y
30	4, 5,15, 20	Change “Rachel” to “Racheal”	Y
31	7	Change “Rachel” to “Racheal”	Y
32	1, 14, 20	Change “Rachel” to “Racheal”	Y
33	2	Change “Rachel” to “Racheal”	Y
33	19	Change “passed” to “talked past”	Y
34	11	Change “Rachel” to “Racheal”	Y
44	11, 21, 24	Change “Rachel” to “Racheal”	Y
50	7, 10, 21, 23	Change “Rachel” to “Racheal”	Y
89	5	Add “US” before “CIS”	Y

\* For COR Majority Staff use only.



COMMITTEE ON OVERSIGHT AND REFORM,  
U.S. HOUSE OF REPRESENTATIVES,  
WASHINGTON, D.C.

INTERVIEW OF: KRIS KOBACH [VIA TELEPHONE]

Monday, June 3, 2019

Washington, D.C.

The telephone interview in the above matter was held in 6200 O'Neill House  
Office Building, commencing at 10:04 a.m.

Appearances:

For the COMMITTEE ON OVERSIGHT AND REFORM:

TORI ANDERSON, COUNSEL

RUSSELL ANELLO, CHIEF OVERSIGHT COUNSEL

SUSANNE SACHSMAN GROOMS, DEPUTY STAFF DIRECTOR AND CHIEF COUNSEL

[REDACTED]

STEVE CASTOR, MINORITY GENERAL COUNSEL

ELLEN JOHNSON, MINORITY SENIOR PROFESSIONAL STAFF MEMBER

CAROLINE NABITY, MINORITY COUNSEL

TYLER SANDERSON, MINORITY COUNSEL

For KRIS KOBACH:

J. CHRISTIAN ADAMS, ESQ. [VIA TELEPHONE]

KAYLAN PHILLIPS, ESQ. [VIA TELEPHONE]

Public Interest Legal Foundation

Ms. Anderson. So, I'm just going to read a short preamble and then ask a few questions, and then we'll get started with the interview. First of all, thank you guys for being --

Mr. Adams. Can we take a roll first?

Ms. Anderson. Sure, yes, absolutely. My name is Tori Anderson. I work for the House Oversight Committee on the majority staff.

Mr. Anello. Hi, everybody. I'm Russ Anello. I'm also on the majority staff of the committee.

[REDACTED]

Ms. Johnson. Ellen Johnson, Republican, committee staff.

Ms. Nabity. Caroline Nabity, Republican staff.

Mr. Castor. Steve Castor, Republicans.

Ms. Sachsman Grooms. Susanne Grooms, Democratic staff. And then we've got some stenographers.

Mr. Adams. Christian Adams for Mr. Kobach. With me is Kaylan Phillips, also for Mr. Kobach, and Mr. Kobach is on the line.

Ms. Anderson. Thank you. I'm just going to proceed with this is a transcribed interview of Kris Kobach conducted by the House Committee on Oversight and Reform. This interview was requested by Chairman Elijah Cummings as part of the committee's oversight investigation into the addition of a citizenship question to the 2020 Census.

Mr. Kobach, if you could please state and spell your name for the record.

Mr. Kobach. Yes. Kris Kobach, K-r-i-s K-o-b-a-c-h.

Ms. Anderson. Mr. Kobach, again, my name is Tori Anderson. I work for majority counsel for the Committee on Oversight and Reform. I want to thank you again



for appearing by phone for the interview today. We appreciate you being willing and making the time to speak with us voluntarily.

I believe everyone else has introduced themselves, but just for the record, if we could go around again and put our names on.

Mr. Anello. Russell Anello, majority staff.

Ms. Johnson. Ellen Johnson, Republicans.

Ms. Nabity. Caroline Nabity, Republicans.

Mr. Castor. Steve Castor, Republican staff.

Ms. Sachsman Grooms. Susanne Sachsman Grooms, majority.

Ms. Anderson. I'm just going to go through some ground rules really quickly for the transcribed interview. If you can't hear me or need me to repeat anything, just let me know.

The way this interview will proceed is as follows: The majority and minority staffs will alternate asking you questions, Mr. Kobach, 1 hour per side per round. The majority staff will begin and proceed for an hour, and the minority staff will then have an hour to ask questions. Thereafter, the majority staff may ask additional questions and so on. We'll alternate back and forth in this manner until there are no more questions from either side and the interview will be over.

During the interview, we will do our best to limit the number of people who are directing questions at you during any given hour. That said, from time to time, following up or clarifying questions may be useful, and if that's the case, you might hear from additional people around the table.

Under the committee's rules, you are allowed to have an attorney present to advise you. Do you have an attorney representing you in a personal capacity today?

Mr. Kobach. Yes.

Ms. Anderson. Mr. Adams, will you identify yourself for the record, please.

Mr. Adams. Christian Adams.

Ms. Anderson. Thank you. There is a stenographer taking down everything I say and everything you say to make a written record of the interview. For the record, to be clear, please wait until I finish each question before you begin your answer, and I will wait until you finish your response before asking you the next question. This may seem obvious on the phone, but the stenographer cannot record nonverbal answers, such as shaking your head, so it's important that you answer each question audibly and verbally.

Do you understand?

Mr. Kobach. Yes.

Ms. Anderson. We want you to answer our questions in the most complete and truthful manner possible, so we are going to take our time. If you have any questions or do not understand any of the questions, please let us know. We'll be happy to clarify or rephrase our questions.

Do you understand?

Mr. Kobach. Yes.

Ms. Anderson. If I ask you about conversations or events in the past and you are unable to recall the exact words or details, you should testify to the substance of those conversations or events to the best of your recollection. If you recall only a part of the conversation or event, you should give us your best recollection of those events or parts of conversations that you do recall.

Do you understand?

Mr. Adams. Right. This is Christian Adams. I want to just inject here a second that he's not going to be speculating about best recollections. He's going to give you the

recollection he has if he recalls something. So, with a caveat there.

The other thing I wanted to mention is we didn't have any discussions about ground rules. So, I just want to make sure the transcription is clear that this 1 hour back and forth was not something that the parties had any discussion about. I foresee no problem with it right now, but if that circumstance or conclusion changes, I'll be sure to let you know.

Ms. Anderson. Okay. Do you understand that if -- okay. If you need to take a break, please let us know. We are happy to accommodate you. Ordinarily, we take a 5-minute break at the end of each hour of questioning, but if you need a break before then, just let us know. However, to the extent that there is a pending question, I would just ask that you finish answering the question before we take a break.

Do you understand?

Mr. Kobach. Yes.

Ms. Anderson. Although you are here voluntarily, Mr. Kobach, and we will not swear you in, you are required by law to answer questions from Congress truthfully. This also applies to questions posed by congressional staff in an interview.

Do you understand?

Mr. Kobach. Yes.

Ms. Anderson. If at any time you knowingly make false statements, you may be subject to criminal prosecution.

Do you understand?

Mr. Kobach. Yes.

Ms. Anderson. Is there any reason today that you are unable to provide truthful answers in the interview?

Mr. Kobach. No.

Ms. Anderson. Please note that if you wish to assert a privilege over any statement, that the assertion must be compliant with the committee rules. Committee rule 16, subsection (C), subsection (1), states, quote: For the chair to consider assertions of privilege over testimony or statements, witnesses or entities must clearly state the specific privilege being asserted and the reason for the assertion on or before the scheduled date of testimony or appearance, end quote.

In addition, committee rule 16(C)(3) states, quote: The only assertions of executive privilege that a chair of the committee will consider are those made in writing by an executive branch official authorized to assert the privilege, end quote.

Do you understand?

Mr. Kobach. Yes.

Ms. Anderson. Do you have any other questions before we begin?

Mr. Kobach. No.

Ms. Anderson. One other thing. I think someone stepped in the room since we started. Could you just identify yourself for the record?

Mr. Sanderson. I'm Tyler Sanderson. I'm a counsel for the minority staff.

Mr. Adams. That was not audible on the telephone. If somebody might relay that.

Mr. Anello. The name was Tyler Sanderson.

Ms. Anderson. He's a counsel for the minority.

Mr. Adams. Thank you.

Ms. Anderson. I will note for the record that it is now 10:10, and we will begin.

#### EXAMINATION

BY MS. ANDERSON:

Q Mr. Kobach, could you please tell us what your role was on President

Trump's campaign?

A I served as an informal adviser to the President throughout the campaign, starting roughly at the end of February 2016, and continued through the campaign, advising the President principally on issues of immigration, voting, and related matters.

Q And what was your role on the transition team? Was it the same, the informal adviser?

A No, it was more formal. I was a member of the transition team. I believe it was referred to as the policy branch of the immigration issue team. And, of course, I continued to informally advise the President, not in my capacity as a member of the transition team, continuing to provide policy advice during the transition period.

Q When did you first discuss adding a citizenship question to the Census?

Mr. Adams. Objection. Look, I don't want to do objections like we're in a deposition, but could you be more clear about that question? Because he's obviously been discussing this for quite some time.

You didn't ask -- I mean, are you asking a question about him writing about it? In what context?

Ms. Anderson. I think just when it first came up for you, Mr. Kobach. When did you first discuss the idea of adding a citizenship question to the Census?

Mr. Kobach. I'm assuming you are saying with the President, or are you saying --

Ms. Anderson. No, with anyone.

Mr. Adams. Well, that's not the question that was asked. So that's why I asked for some clarity about what the question is.

Ms. Anderson. Okay. Would you like me to repeat it?

Mr. Adams. Well, if you want to just repeat the same question.

Ms. Anderson. Mr. Kobach, when did you first speak or discuss the idea of

adding a citizenship question to the Census with anyone at any time?

Mr. Adams. Well, again, I'm going to instruct the witness not to answer the question unless there's clarity about who because his answer may violate various privileges. But if you have a particular person or if you're asking generally, I'd at least ask you to clarify that.

Ms. Anderson. So, when did the idea first come up?

Mr. Kobach. I've been very familiar with the Census practices and the issue of the absence of a citizenship question for years. So, if you're asking me when did I first discuss this topic with anyone, I cannot recall. It would have been a very long time ago.

Mr. Anello. Mr. Kobach, do you recall why you first became interested in it or whether there was an event that led you to first become interested?

Mr. Adams. I didn't realize we were going to have more than one person asking questions.

Mr. Anello. This is Russ Anello, also on the majority staff.

Mr. Adams. Look, this gets into the ground rule issue. We're happy to have one person ask questions. We didn't agree to a firing line.

Mr. Anello. We don't intend to have a firing line. There are just a couple of us here on the majority staff. Just the two of us, I believe, will be asking questions.

Mr. Adams. Maybe we need to have a discussion offline about how we're going to do this. I had assumed that this was going to be the sort of thing, like a deposition, where one represented interest is asking questions, not five or six people from the same represented interest.

BY MS. ANDERSON:

Q Okay. Mr. Kobach, what first brought up the idea of the citizenship question?

A Can you repeat that? What was the question?

Q Sure. So, what -- was there an event or a particular interest point that first brought up the idea of adding a citizenship question to the Census?

A No, there was no event or specific occurrence. And, of course, it's not adding; it's restoring the citizenship question to the Census after it's been dropped.

Q Was there a particular reason why you became interested?

A I can't recall other than to say, you know, generally much of my career for the last 20 years or so has been involved in issues of citizenship, immigration, elections, and related topics. So, this is -- and, of course, I was a professor of constitutional law for 15 years at the University of Missouri, Kansas City. And so, these issues frequently come up in cases involving voting rights and elections.

Q When did you first come to the conclusion that, I suppose in your records, restoring the citizenship question to the Census should be something that should be done?

Mr. Adams. Okay. Look, he asked -- you asked, and he answered that. He said about 20 years ago. But I'll let this go, but we'll all be happier if we don't repeat questions.

Ms. Anderson. I was just trying to clarify in the sense that we first discussed when he first became aware, and I think he identified that as a long time ago. And the question here was when did he first come to the conclusion that the question, in his words, should be reinstated.

Mr. Kobach. I don't recall the exact time. I would imagine it would be sometime between 10 and 20 years ago.

Mr. Adams. And I would instruct the witness not to speculate about things.

Ms. Anderson. During the campaign, President Trump's -- now President

Trump's campaign, did you ever discuss adding a citizenship question or restoring a citizenship question to the Census with anyone?

Mr. Kobach. With anyone, including the President?

Ms. Anderson. Yes.

Mr. Adams. Well, to clarify, the question was about the campaign.

Ms. Anderson. Yes.

Mr. Kobach. I'm sure I discussed it with someone. I don't know whether I -- well, I don't recall discussing it with the President during the campaign, but I certainly discussed the issue with people during the campaign.

BY MS. ANDERSON:

Q Who did you discuss the issue with during the campaign?

A I can't recall.

Q Were there any members of the campaign in particular or no recollection?

A Could you repeat that? You blacked out a second there.

Q Sure. Were there any particular members of the campaign that you spoke with about this issue?

Mr. Adams. Okay. You asked that, and he answered. He said he couldn't recall.

Ms. Anderson. Okay.

BY MS. ANDERSON:

Q During the transition, did you ever discuss the issue with anyone?

A It's possible, but I can't recall. The transition team -- if you're talking about discussions with other members of the transition team, I'm answering that question, and I'm saying I can't recall. We covered the waterfront of issues, and it's possible that this one was discussed. I just -- there were literally dozens of issues discussed.



Q During the campaign or the transition, did you ever contact Gene Hamilton about the possibility of adding a citizenship question to the 2020 Census?

A Gene Hamilton was a member of the transition team immigration subgroup, and if -- and he was on most of those phone calls and in most of those meetings. So, if the issue was brought up, he probably was aware of it, but beyond that, I don't know.

Q Do you recall ever specifically speaking with him about the issue?

A I don't have any specific recollection of speaking about it with Gene, but, again, my memory of all the communications during the transition period is pretty foggy at this point. That was more than 2 and a half years ago and there were so many issues being discussed, it's hard to remember specifically.

Q During the campaign or transition, did you ever discuss adding a citizenship question to the 2020 Census with a transition official named Mark Neuman, and I'm happy to spell that if that's helpful.

A I don't recall anybody named Mark Neuman. It's possible I met him and forgot him, but that name does not ring a bell at this time.

Q During the campaign or transition, did you ever discuss adding a citizenship question to the 2020 Census with Thomas Hofeller?

A I don't recall that name either, and I don't believe I've ever spoken to him.

Q It may also be pronounced Hofeller.

Mr. Adams. You're mispronouncing that name, by the way.

Ms. Anderson. Sure. How do you pronounce it? Mr. Adams, how do you pronounce it?

Mr. Adams. Yeah, it's Hofeller, if that's who I think you mean. So maybe you want to ask the question with a different pronunciation, just so the witness' recollection might be properly triggered if there is one.

Ms. Anderson. Sure.

BY MS. ANDERSON:

Q Mr. Kobach, during the campaign or transition, did you ever discuss adding a citizenship question to the 2020 Census with Thomas Hofeller?

A I don't recall ever meeting or talking with anyone by that name. I just read an article yesterday about -- I think it was that -- but -- and my recollection upon reading the article was that I've never heard of this guy.

Q During the campaign or transition, did you ever discuss adding a citizenship question to the 2020 Census with Steve Bannon?

A I spoke during the transition with Steve Bannon about a variety of issues. I don't recall whether or not we specifically talked about the citizenship question.

Q During the campaign or transition, did you ever discuss the issue with Stephen Miller?

A The same answer. Stephen Miller and I spoke about a variety of issues during both the campaign and the transition, and I don't recall whether or not we talked about the citizenship question.

Q During the campaign or transition, did you discuss the issue with candidate Trump and then-President-elect Trump?

A I don't recall specifically whether I spoke -- well, I can say, during the campaign, I don't believe we talked about it during the campaign. During the transition, I'm not certain.

Q Do you recall discussing the issue with anyone else on the campaign or transition teams?

A If you're speaking just during the campaign or transition period, I can't -- well, let me answer your question specifically. You say anyone else. I think it's

pretty likely that I spoke about it with people who were not on the campaign team and transition team. And, of course, I did say that I'm not sure about whether I spoke about it with transition team members. But if you're saying, did I speak about it with anyone at all, including any member of the private sector who's not involved, I would say it's probably -- I almost certainly did speak about it with other people.

Q Who did you discuss it with?

A I can't recall all the people that I discussed it with. I can think of a couple people that I routinely talk about these kind of issues with. One person is -- he's a person that I've had serve as an expert witness in some of the cases I've litigated. His name is Steven Camarota with the Center for Immigration Studies.

Q Sorry, I didn't quite catch the first name.

A Steven.

Mr. Adams. Steven Camarota.

Ms. Anderson. Okay.

BY MS. ANDERSON:

Q And who else?

A I've also -- I've also spoken about the issue with several attorneys that I litigate -- with whom I litigate. I think I have probably discussed it with Garrett Roe, R-o-e, who serves at the Kansas Secretary of State's Office.

There are probably others that I'm not recalling at the moment, but I'm sure I've spoken about it certainly with those two and probably with others. I just can't recall.

Q Do you recall when those conversations occurred?

A No. But, again, as I mentioned earlier, this -- the absence of a citizenship question after 2000 was dropped from the long form has been an issue that's been out there for quite a while and an issue that I have been aware of for quite a while.

Q During the campaign or transition, did you ever send or receive emails, text messages, or other written communications about the citizenship question?

A Could you repeat? You said during the campaign?

Q Or transition.

A I don't recall specifically sending an email, no.

Q Do you remember generally if you sent any communications about the issue during those times?

Mr. Adams. Okay, let me pause here a second. I let a couple of these slide. Is this an inquiry about his activity as a private citizen? I mean, if that's what the committee is interested in, this is a whole different can of worms if you're going to be investigating somebody's exercise of First Amendment associational and speech rights.

I didn't understand that that's what this interview was about was, what does a citizen do to exercise their constitutional rights? I let a couple of those slide, but I just want to caution this process that that's not what we're here for. And we'll be out of here in 5 minutes if that line of questioning continues about what a private citizen does on their own time.

Ms. Anderson. I think I've been fairly clear about restricting it to his time when he was part of the campaign and transition. I think he said --

Mr. Adams. Right, but the last question the transcript will clearly show was not.

Mr. Anello. This is Russ again. I think the question was whether Mr. Kobach sent or received written communications, either on the campaign or on the transition team, relating to the Census citizenship question.

I think his first answer was that he didn't have a specific recollection of such communication. And so then the second question was whether he has a general recollection of such a communication.

Mr. Adams. Well, the transcript will speak for itself. I thought we were going to have one person representing each party. If you'd like us to have a firing line, I can bring in Ms. Phillips from time to time to also raise her views on this.

So, look, we will answer questions about what you asked about in your written request, and that doesn't have anything to do with his role as a private citizen. And I've let this go, but you're getting perilously close to interrogating him about his exercise of First Amendment rights. Now, maybe that doesn't trouble you like it does us, but, nonetheless, it is something that would terminate this interview prematurely. So, I would just caution us to stay on focus on what you ask about for this interview.

Ms. Anderson. I'm going to repeat the question just so we're very clear about what the question is. Is that okay?

Mr. Adams. Go ahead.

BY MS. ANDERSON:

Q Okay. While -- during the campaign or transition, did you ever generally receive or send messages about the citizenship question?

A I do not recall doing so, but that's not to say I didn't. I don't recall. I used the term "specifically recall" earlier, but specifically or generally, no, I don't recall sending a message.

Q While you were on the transition team, what format would you send communications from? Was it primarily email or messages?

A The transition team had a number of conference calls -- or the transition team subgroup on immigration had a number of conference calls. And, principally, we would exchange ideas on conference calls, then sometimes there would be email communication.

Q Okay. Did you use a transition email address?

A I did not.

Q Did you use personal email as part of your role on the transition team?

A Yes, I used a personal email address.

Q Which email address did you use?

A [REDACTED]

Q After his inauguration, when did you first speak to President Trump about the citizenship question issue?

Mr. Adams. Well, and here we have arrived at the moment where the White House has informed us that he is not to answer questions related to discussions between the President, his advisers, the executive branch, and Mr. Kobach. So that the witness is being instructed not to answer that question.

Mr. Anello. This is Russ Anello again. Not a firing line, just another counsel.

Mr. Adams. I mean, look --

Mr. Anello. Sorry, can I just -- let me just respond.

Mr. Adams. We're not going to have a firing line here. There's one questioner.

Mr. Anello. This is a response to you, Mr. Adams. This is not a question.

Mr. Adams. We're not going to get into an argument. The witness is instructed not to answer that question.

Mr. Anello. I'd just like to -- this is not a question to Mr. Kobach. This is a response to you, Mr. Adams.

The White House's instruction which, as you know, we disagree with strongly, was that Mr. Kobach was not to discuss the substance of any conversations he had with the President or other senior White House advisers.

There is no instruction in here about discussing whether those conversations occurred, when they occurred, what happened before or after those conversations.

And there's really not an argument that the White House could make that any of those conversations -- that those other items I mentioned could be covered by any privilege.

Now, we disagree strongly with the White House's assertion that there could be a privilege of the communications themselves and the substance of those, but Ms. Anderson's question did not go to the substance of those conversations at all. It went to whether the conversations occurred and when they occurred, and those are different, and they are not covered by any letter or instruction from the White House.

Mr. Adams. Okay. I understand what you're saying, and we can perhaps revisit the question. We're not going to have a free for all about this today, a wheeling discussion with two, maybe three or four shortly, majority staff about this.

So, if you want to re-ask the question, go ahead and re-ask.

Ms. Anderson. Okay. After his inauguration, when did you first speak to President Trump about the addition of a citizenship question?

Mr. Adams. Okay. Look, that question presupposes a substance. And with all due respect to chair number two, when you ask a question about substance of a conversation and he gives you a time, you're confirming that the substance of the conversation occurred.

Ms. Anderson. Mr. Adams --

Mr. Adams. I understand your argument, chair number two, but you're still invading the privilege.

Ms. Anderson. Mr. Adams, did you receive the attachments I sent you this morning?

Mr. Adams. No.

Ms. Anderson. Okay. Well, there's an article that was published in The Kansas City Star on March 27, 2018, and in there, there is an interview that Mr. Kobach had given

and spoke about this issue. And I'm happy to read it to you. I'm happy to let you have a minute if you want to go look at those attachments because we did provide those this morning.

Mr. Adams. Well, what I would suggest we do regarding anything you've sent to me that we haven't seen is we schedule a time to go through them if you want to. We're not going to answer questions about something that was dumped on us. I still haven't seen it.

Ms. Anderson. Let me just -- I'll just --

Mr. Adams. I mean, I don't know how we can possibly do that. If you want to go ahead and ask, but he's obviously not going to speculate about things.

Ms. Anderson. Okay. Well, in that interview, Mr. Kobach is quoted as saying that he discussed this issue with the President shortly after he was inaugurated. So, I think we're simply asking about things that Mr. Kobach has already very publicly discussed, in fact, was quoted as discussing in a newspaper.

And so, I would just ask again, Mr. Kobach, to the best of your recollection, when do you remember discussing this issue with the President?

Mr. Adams. I'm instructing the witness not to answer. If you want to ask him questions about The Kansas City Star, even ask if the newspaper got it right, I don't even -- I mean, look, we haven't seen these documents. The time to provide these would have been last week, not this morning.

Ms. Anderson. Okay. I can definitely ask your question.

Mr. Kobach, would that be correct that you first discussed this issue with the President shortly after he was inaugurated, as quoted in The Kansas City Star?

Mr. Adams. Look, let's just -- let's not waste everybody's time here. He is not going to answer questions that invade a privilege that the White House has instructed us



and informed you that they are asserting here. And to ask a question about when he spoke about a substantive issue presupposes he spoke about a substantive issue.

Now, you can ask that question 10 times till Tuesday, but he's not going to answer questions that violate those instructions to us.

Ms. Anderson. And I just want to, for the record, just clearly sort of state the question that you had raised, Mr. Adams. The quote, just again for the record, says that Mr. Kobach said, quote: He may have been aware of it -- referring to the President -- and, quote, he absolutely was interested in this.

And my question now is, is that an accurate statement?

Mr. Adams. Are you asking if the newspaper quoted him correctly or is the substance of the quote accurate?

Ms. Anderson. Did the newspaper quote him correctly?

Mr. Adams. The witness can answer that.

Mr. Kobach. Yes, the newspaper quoted me correctly.

Ms. Anderson. Was there anyone else present when this issue first arose?

Mr. Kobach. Please explain what you mean when you say, "when the issue first arose."

Ms. Anderson. Sure. When the issue -- when the President expressed his interest in the citizenship question, was there anyone else present? I'm not asking about the substance of that conversation, just whether another person --

Mr. Adams. But you're asking -- that's a subterfuge to ask the question did the President express interest. And he's not going to answer a question that has a presupposition that gets to the privilege. That's exactly what you're doing when you ask a question like that.

Ms. Anderson. Okay. I'll do a different question, Mr. Adams.

BY MS. ANDERSON:

Q Mr. Kobach, the article also quoted you as saying, quote, "I won't get into exact detail, but I raised the issue with the President shortly after he was inaugurated." Is that an accurate quote?

A That is an accurate quote, yes.

Q It also quoted you as saying, quote: I wanted to make sure the President was well aware, end quote.

Is that an accurate statement?

A I think it probably is. I don't recall specifically saying that, but it sounds accurate.

Q Were these statements accurate when you told the newspaper, when you met with the newspaper journalist?

Mr. Adams. Objection. I'm sorry; he's not going to answer that because that is asking about the substance of his conversations.

Mr. Anello. I think it was just asking if the quote he gave to the newspaper was accurate.

Mr. Adams. Who is that?

Mr. Anello. Again, this is Russ Anello. We've spoken before.

Mr. Adams. Russ, look, I mean --

Mr. Anello. Mr. Adams, just to be clear, the rules do permit us to have more than one questioner. We did read that in the preamble and it's something we do routinely with interviews. We've done it --

Mr. Adams. Well, I'm sorry; we didn't have a discussion about that prior to us agreeing to do this. So maybe -- I mean, we'll go with this for a while, but realize you're testing our time and patience.

But he's not going to answer questions where the privilege has been asserted. I just got a note here that the White House sent a letter to Chairman Cummings, I guess it was this morning, that once again reasserts this privilege that Mr. Kobach's communications with the President and senior White House advisers are falling squarely within the scope of executive privilege. And he just can't answer these questions about that. I mean, he's not the one asserting this privilege. So, you know, it's not -- it's not him that -- that is deciding this. It's somebody else.

Ms. Anderson. I think you mentioned previously, Mr. Kobach, that you had perhaps had a conversation or conversations with Steve Bannon about this issue. Is that accurate?

Mr. Adams. Well, again, he said -- his testimony was it was prior to the inauguration he did.

Ms. Anderson. I'm sorry. Mr. Adams, I was clarifying what the witness said with the witness. So just like if he could say whether that was an accurate representation.

Mr. Adams. Well, it depends on -- I mean, if you're asking the same question again, he's not going to answer it twice. If you're asking a new question about a different time period, please specify.

Ms. Anderson. I apologize if my foundation was not something that was -- okay. Did you have any conversations after the transition with Steve Bannon about this issue?

Mr. Adams. After the transition is an area that Mr. Kobach is not going to testify about for the reasons we have stated. And I have a running instruction to the witness not to testify about questions that invade the privilege that the White House has asserted. And that instruction would apply to that question.

BY MS. ANDERSON:

Q Mr. Kobach, are you aware of members of the transition team or members of the White House taking any action about the citizenship question around the inauguration period?

A Could you repeat that question, please?

Q Sure. Are you aware of any members of the transition team or any members of the White House taking action around the citizenship question during the -- around the inauguration?

A Yes.

Q What actions were those?

A Setting up communication and meetings.

Q Meetings with who?

A As we just discussed, as I mentioned in the article in the Kansas City Star, I did meet with the President and this issue was a subject during a meeting with the President. And I also -- I also met with Steve Bannon, senior adviser to the President, as well.

Q Were there any actions that were taken after those meetings?

Mr. Adams. It wasn't clear what you said. We couldn't hear that.

BY MS. ANDERSON:

Q Were there any actions that you were aware of that took place after those meetings?

A There may have been actions taken by others that I'm not aware of, but all I'm aware of is subsequent communications. So, I had a phone call after those meetings. The only other person that I can recall in those communications was Reince Priebus, Chief of Staff to the President. And I don't know what actions they took other

than setting --

Q Sorry. Yeah, I wanted to be a little bit clear in my question. Were you aware of any actions that were taken after your meeting with the President?

A If by "actions" you mean including, you know, setting up a phone call or talking to other people?

Q Yes.

A I know that -- I know that, yeah, further communication was set up, but I don't know what other actions they took without my knowledge.

Q And who were those further communications with?

Mr. Adams. Okay. What -- further communications regarding what issue?

Ms. Anderson. The citizenship question.

Mr. Adams. Okay. Well, you're getting into the privilege again then.

Ms. Anderson. So, I wasn't asking about the substance of those conversations. I was just asking -- he said that further communications occurred. I was just asking who those further communications were with.

Mr. Adams. Right, but that presupposes the substance, and he's not going to testify whether or not the substance occurred.

Ms. Anderson. I believe that he already has. He said he met with the President about the issue and then met with Steve Bannon about the issue. And then, subsequent to those meetings, there were communications, including perhaps a phone call and then some further communications.

And so, the question was, after he answered those previous questions, who were those phone calls with, or those --

Mr. Adams. I don't think that was what his testimony was. I think his testimony was that a working group existed about immigration issues, not about the

Census question, because he would not have testified about privileged communications.

Mr. Kobach. Actually, Christian, I wasn't talking about during the working group, just to clarify my question. I was talking about after inauguration regarding those communications.

BY MS. ANDERSON:

Q So do you remember more specifically when those meetings occurred that you previously discussed?

A If you're talking about post inauguration, it would have been late January-early February of 2017.

Q Did you meet with the President and Steve Bannon on the same day, or were those separate days?

A I believe it was the same day, but I'm not certain.

Q Was it -- do you think it was two meetings or three meetings, or do you have any more specific recollection?

A I think it was two meetings, one with Steve Bannon and then -- and perhaps -- and then, again, the timing is unclear to me, but one with Steve Bannon and then a subsequent meeting -- I think it was subsequent -- with the President. Mr. Bannon may have been in the room, and Mr. Priebus may have also been in the room.

Q Were there meetings about this issue after that set of meetings?

Mr. Adams. Okay. He's not going to answer a question about this issue, meaning Census question discussion. That's privileged information.

Ms. Anderson. Do you recall -- I think the question, just to be very clear, is whether there were other meetings later, not the substance of those meetings, but whether there were other meetings after that first set of meetings.

Mr. Adams. Well, he may have had other meetings, but he's not going to reveal whether or not they involved the Census question. That's privileged. The White House has asserted a complete privilege over those issues.

Mr. Anello. I understand. This is Russ Anello again. Just to be clear, I think he told us that that meeting -- he had two meetings about the citizenship question: one with Mr. Bannon, one with the President and possibly Mr. Bannon and with Reince Priebus.

So, the question is just whether there were others that took place after that. That's the question.

Mr. Adams. Right. But, look, this is privileged. Asking the question "did you have a meeting to discuss with the President the addition of the Census question" invades the privilege. He's not going to discuss meetings with the White House about the Census question.

Ms. Anderson. So, Mr. Kobach --

Mr. Adams. He asserted a privilege.

BY MS. ANDERSON:

Q Mr. Kobach, did you have any other meetings with the President?

A Yes.

Q What were those meetings about?

A A whole variety of topics, and I continue to meet with the President on a variety of topics.

Q Do you have any -- can you be a little bit more specific, please?

A Without getting into the substance of our discussions, I routinely meet with the President on issues of immigration law, border security, citizenship issues, election issues. Sometimes we talk about constitutional issues, so -- and other issues.

But, again, my principal expertise in advising the President has been in

immigration-related and election-related issues.

Q And have you ever had any other meetings with Steve Bannon while he was still at the White House?

A Yes.

Q And what were those meetings about?

Mr. Adams. Okay, hold on there. There is a letter that Chairman Cummings received this morning that says: Contrary to claims in your letter, we have a well-established legal basis for instructing Mr. Kobach not to answer questions about his communications with the President or senior White House advisers. The White House is instructing Mr. Kobach not to answer questions about these discussions.

And you all have that letter, or at least your chairman does. Mr. Kobach should not answer any questions -- any questions -- during his interview about his communications with the President or senior White House advisers, and that would include whether or not they occurred or when they occurred.

BY MS. ANDERSON:

Q Mr. Kobach, did the meeting you previously describe lead to any other meetings?

A Which meeting are you referring to when you say the meeting I previously described?

Q Sure. The day of meetings that you had with the President and Steve Bannon, did that set of meetings -- and perhaps Mr. Priebus -- did those set of meetings lead to any other meetings?

A I don't recall them specifically leading to other meetings, no.

Q Did you ever have any meetings or discussions with anyone at the Department of Commerce about the citizenship question?



Mr. Adams. We're going to object. The letter from the White House today says the witness should not be answering that question.

Ms. Anderson. Sorry. I think it was about the Department of Commerce, and that has a whole host of people that aren't senior administrative or White House --

Mr. Anello. Yes. To be clear, the White House's instruction related to the White House and her question was about the Department of Commerce, so there's no overlap with the White House instruction at all.

Mr. Adams. The witness can answer, but senior advisers is going to include the Secretary.

Mr. Anello. The letter is about senior White House advisers. I mean, that's just quoting from the letter.

Mr. Adams. Go ahead and ask the question. I'm not going to argue with you. If you ask a privileged question, he's not going to answer.

Ms. Anderson. We just wanted to be really clear about kind of what we're discussing. The letter itself, I believe the one that you previously quoted to us fairly extensively, said that he's not allowed to discuss -- answer questions about his communications -- this is a quote -- "with the President or senior White House advisers."

BY MS. ANDERSON:

Q And so the question is, did you have any discussions or conversations with anyone about the citizenship question at the Department of Commerce?

A Yes.

Q Who at the Department of Commerce?

A Secretary Ross.

Q When do you first remember speaking with Secretary Ross about the citizenship question?

A I don't recall the exact date, but I would say it was in the first half of 2017.

Q Did you have a conversation with him before he was the Secretary, or was it after he was the Secretary?

A After he was the Secretary.

Q Did you speak with anyone else at the Department of Commerce about the addition of a citizenship question?

A I think I may have spoken with one of Secretary Ross' schedulers in arranging a phone call, and I do recall speaking with someone else at the Department of Commerce about -- I think they notified me that there was a notice and comment period if I should wish to make any formal comment on the issue. Those are the only other conversations I can recall.

Q Do you remember who the scheduler was?

A I don't specifically remember, no.

Q Do you remember who the person is who notified you about the notice and comment period?

A No. I remember it was a male. I think the scheduler was female, but I don't have a specific recollection.

Q Did those, I guess, conversations or communications, were those on the phone, on email, on text message, do you recall?

A I don't recall regarding the gentleman who alerted me that there was a, you know, opportunity for notice and comment, whether that was email or phone. I think with respect to the -- I think it was a lady who arranged or somehow facilitated the phone call between me and the Secretary, I would guess that it was probably both email --

Mr. Adams. I'm going to instruct the witness not to guess.

Mr. Kobach. Okay. I think there was an email. I would -- beyond that, I'm not

sure.

BY MS. ANDERSON:

Q Okay. Did you -- with the scheduler, did you discuss -- do you remember any specific discussions or communications with that person?

A No, I do not.

Q How about with the person that reached out to you about the notice and comment period?

A I don't recall the details. To my recollection, I think he was just generally letting me know that the Department was opening up a notice and comment period and that if I wished to participate in it, I could.

Q For the latter one, the notice and comment, was that something you received through your official role as secretary of state of Kansas or was that in a personal capacity?

A How would you define that, that distinction, I mean?

Q Sure. Did it come --

Mr. Adams. I mean, you are asking him to speculate about something he wouldn't know the answer to.

Ms. Anderson. Sure. Sorry, and I'll clarify.

BY MS. ANDERSON:

Q Did it come to your official email, your official Kansas government email, or did it come to your personal email?

A I think I said I wasn't sure whether my communication with him was email or phone.

Q Okay.

A So I don't even -- so since I can't recall whether it was an email or phone, I

certainly wouldn't be able to recall whether it was an official email or a personal email.

Q Okay. Do you recall having any discussions with anyone at the Department of Justice about the citizenship question?

A I don't specifically recall. However, that doesn't mean the answer is no. I did have -- I have discussed a variety of issues with people at the Department of Justice. I just don't have a specific recollection --

Q Sorry, the last bit of your answer cut out a little bit.

A I said I don't -- I had a variety of discussions with officials at the Department of Justice post inauguration. I can't recall all the topics that came up in those discussions.

Q Who did you have discussions with at the Department of Justice?

A I had discussions with at least one -- I think he was an Acting Assistant AG, Mr. Gore. And there was another Assistant AG, and I can't remember his name. I've also -- I also had a discussion with the Attorney General himself, Mr. Sessions. There were other people in the room when I had that discussion with Mr. Sessions, but I don't recall their names.

Q Do you -- I'll just start with the first one, Mr. Gore. Do you remember when that discussion or discussions occurred?

A I would say in the -- probably in the February or March of 2017 period.

Q How about the other Acting Assistant Attorney General?

A That would be --

Mr. Adams. Well, what's the question here? How about the other Acting Assistant Attorney General? That's -- if I was in a deposition, I'd say object to form.

Ms. Anderson. Okay.

BY MS. ANDERSON:

Q Mr. Kobach, when -- if you recall, when did the conversations that you had with the other Acting Assistant Attorney General, I believe you do not remember that person's name, when did those discussions occur?

A I believe it was in the February-March of 2017 period.

Q And do you recall when your conversation with Attorney General Jeff Sessions occurred?

A It would be roughly in that same time period.

Q Were those conversations following up on your conversations that you had with Mr. Bannon or President Trump?

Mr. Adams. Okay, I'm going to object there. First of all, the question, the form of the question is vague. "Following up on" could mean at least 50 things I can think of, some of which are going to invade the privilege.

So, if you want to refine that question to something that is unlikely to invade the privilege, he can answer it, but that one I'm going to instruct him not to answer, because its vagueness lends itself to violating the privilege.

Ms. Anderson. Mr. Kobach, were the discussions or conversations you had with Department of Justice officials related to the conversations that you had with White House officials?

Mr. Adams. Objection again to -- well, the question is vague. Related to. I mean, if you want to ask a more refined question, he can answer, but that's not the kind of question that can be answered.

Ms. Anderson. Mr. Kobach, did you have discussions or conversations with Department of Justice officials as a result of the discussions that you had with the White House?

Mr. Adams. And that would require him to speculate. He doesn't know why

they --

Mr. Kobach. I didn't perceive them as being related. In other words, I didn't receive a -- you know, a request for a meeting saying, "following up on such and such discussion in the White House," or anything like that.

BY MS. ANDERSON:

Q Mr. Kobach, those discussions that you had with DOJ officials, did you initiate those conversations or discussions?

A The one with Attorney General Sessions I initiated. The ones -- and, again, I can't remember if it was just one Assistant Attorney General or two, but I can recall specifically one, which I think it was Mr. Gore. I believe that one was more of a chance meeting where we were both at the same place, and we talked about a variety of issues.

Q The meeting that you initiated with the Attorney General, was that as a result of your meetings with the White House?

Mr. Adams. Again, you are invading the privilege through an unclear question. If you want to specifically ask, "Did the White House ask Mr. Sessions to talk to you," that's a different kind of question because it has clarity and specificity. As a result of, it calls for speculation and it's vague.

Ms. Anderson. Mr. Kobach, did the White House instruct you to meet with anyone at the Department of Justice?

Mr. Adams. That invades the privilege.

BY MS. ANDERSON:

Q And your conversation with Attorney General Sessions, was that about the Census?

A As I mentioned earlier, it was a variety of topics, and I can't recall whether the Census topic came up.

Q Mr. Kobach, did you ever discuss -- or did you ever have discussions or conversations with anybody at the Department of Homeland Security?

A Are you saying in general, ever?

Q About the citizenship question.

A I can't recall any such discussions at the time.

Q Did you ever have any discussions or conversations about the citizenship question with anyone else at any other agency?

Mr. Adams. Okay. You're getting into, once again, his capacity as a private citizen about his exercise of associational and speech rights under the First Amendment. We'll let this one go, but just a cautionary note about a previously raised concern.

Ms. Anderson. Mr. Kobach, would you like me to repeat the question?

Mr. Adams. He can answer the question.

Ms. Anderson. I was just asking whether he would like me --

Mr. Adams. The question is out there.

Ms. Anderson. Okay.

Mr. Kobach. Go ahead and repeat it, please.

BY MS. ANDERSON:

Q Okay. Mr. Kobach, did you have any discussions or conversations about the citizenship question with any other agencies?

A I don't recall doing so. Again, this was 2 and a half years ago, this time period we're talking about, so it is possible I'm forgetting something, but I don't recall any, no.

Q Mr. Kobach, you said that you discussed the citizenship question with Secretary Ross. Do you remember when you -- I believe that you -- yeah, you said you first discussed it the first half of 2017. What did you discuss with Secretary Ross?

A Well, other than the general subject matter -- I don't believe I agreed to answer the specifics, but the subject matter generally was, of course, the citizenship question.

Mr. Anello. I'm sorry. This is Russ Anello again. Just to be really clear, there is no instruction that I'm aware of from the White House or from anybody else that would restrict your ability to answer questions that relate --

Mr. Adams. -- want to get clarity --

Mr. Anello. I'm sorry, Mr. Adams, could I just finish? Mr. Adams, can I just finish real quick? I'm not aware of any instruction from the White House or from anybody else that would restrict Mr. Kobach's ability to answer questions about communications --

Mr. Adams. Did you read the letter from this morning?

Mr. Anello. Yes. And it relates to the President, conversations with the President and senior White House advisers. That distinction is very important from a legal perspective, which is I'm sure why the White House put it in there.

Mr. Adams. That's fine and dandy, but here's what I would suggest we do on this, is we need to get some more clarity about whether the Secretary of Commerce falls into that category. So why don't we carve out an availability once we can get some clarity about that?

Mr. Anello. So, let me just make a couple points there, Mr. Adams, first. This is the first I've ever heard that that communication could be covered by any kind of privilege.

Mr. Adams. Well, that's great. I don't really care if it's the first you ever heard. What I'm suggesting is we find a time to answer your questions once we can get some clarity on that. I'm saying that we'll be available on that, and would you give us the



courtesy of getting some instruction about that?

This is not our direction that's in play here. And it may be that you are not aware of anything, but we need to be comfortable about what our instructions are.

Mr. Anello. So, I think this is something we could certainly talk about after lunch, but our goal would be to complete it during this interview.

Mr. Adams. Well, we're going to be over before lunch. So, we can talk about it after lunch if you want, but I'm just saying let's make ourselves available at another time involving Secretary Ross. We just need some clarity about what the instruction is.

Mr. Anello. So, if you want to call -- if you'd like to take a break during lunch to call, and then we can continue the interview afterwards, I think that would be fine with us. But our goal is to be able to complete our questions today, and obviously, minority staff may have questions as well.

Mr. Adams. Well, that's your goal. Our goal is to respect the privilege and complete.

Mr. Anello. Yes. Yeah, I think we'd be able to do both. I'm sure you can handle this with a quick phone call because it's pretty clear from the text.

Mr. Kobach. This is Kris Kobach. A way we might proceed is we could proceed as if we believe the privilege does assert -- does include Secretary Ross, and then if we learn from the White House that it doesn't, then we can continue.

Mr. Adams. Right. And that's the option is we just do that and inform you that if we find that our assertion is misplaced, we can all reconvene. How's that sound?

Mr. Anello. So, I think these are very important questions, and I think you guys -- I'm pretty sure we all knew these were questions that were going to come up. They were discussed by Secretary Ross.

Mr. Adams. Well, you might be sure about that, but I'm not. We can have all

sorts of trim here. What about the suggestion that we do it that way?

Mr. Anello. Sorry, what is the suggestion?

Mr. Adams. Well, Mr. Kobach said that we proceed as if Secretary Ross' discussions are covered by the privilege assertion. If we're mistaken in that, we can make ourselves available to you once we get clarity.

Mr. Anello. That -- go ahead.

Ms. Sachsman Grooms. We proceed as if we just skip those questions for now, take a break. We check and then --

Mr. Adams. Sorry, we couldn't hear you.

Ms. Anderson. I believe we'll proceed now, and then when we take a break, we'll give you an opportunity to check with that, and then we'll return, and we can proceed from there.

Mr. Adams. Okay.

BY MS. ANDERSON:

Q Mr. Kobach, who initiated the conversation between you and Secretary Ross?

A I can't recall who set it up.

Q Did you talk on the phone or in person?

A On the phone.

Q Was anyone else present on the phone call?

A To my recollection, no one was present with me on my end of the phone call. I do not know who was present on Secretary Ross' end of the phone call.

Q How many other times did you discuss the citizenship question with Secretary Ross?

Mr. Adams. He's not going to answer that question until we sort this out. Next

question.

Mr. Anello. This is Russ. One thing I'd say -- so we're going to be switching shortly and taking a break in about 2 or 3 minutes. The one thing I would say is in addition --

Mr. Adams. We couldn't hear you. I'm sorry.

Mr. Anello. So, we're going to be taking a break, because our hour is almost up. We're going to be taking a break pretty shortly. The one thing I'd say is, in addition to resolving the issue that you'd like to resolve regarding the scope of your instruction, it would also be great if, when we reconvene, you're able -- you have the documents that we sent you because we would like to ask about those documents. There's a very small number of them.

Mr. Adams. Okay, I couldn't hear that, something about -- you must be further away from the phone.

Mr. Anello. What I said was when we reconvene, in addition to having a response regarding the scope of the instruction, it would be very helpful if you can pull up the emails or the small number of documents we sent you so that Mr. Kobach is able to answer questions about those.

Mr. Adams. Okay. What small number of documents you sent us, was this last week?

Mr. Anello. These were documents that we sent you in advance of the interview. Just so you know, our normal practice is to provide documents during an interview, but as a courtesy -- because Mr. Kobach did not want to travel here, we, as a courtesy, allowed you guys to do this on the phone, we emailed them to you in advance. And so there's not a need to study the documents in advance.

Mr. Adams. I have some time to take a look at those this afternoon, and we can

get back to you on that.

Mr. Anello. I just want to let you know before the break that we do have questions about them, so just wanted to give you one more heads-up about that. We can talk about that after the break.

Mr. Adams. Well, I just want to let you know we're not going to answer them because we haven't had time to look at them. So, you can waste everybody's time and ask them, but I would suggest we carve out another time to get to those because it's not going to be in the next couple of hours.

If you sent them to us last Friday, it would be a different discussion, but I don't have any idea what they are, and I need to discuss them with the client. And that's not going to happen during the break.

Mr. Castor. I don't know what I want to do with this. I mean, this is just --

Ms. Sachsman Grooms. Can we ask him to take a break and call the White House?

Mr. Castor. This is just extremely frustrating, so --

Mr. Adams. I'm sorry; we can't hear that on the phone.

Mr. Castor. Okay, so you can't hear it. You're not here. Is the hour up?

Mr. Anello. We've got about a minute left, so I think we're happy to --

Ms. Sachsman Grooms. So, the hour is up. The option at this point is that we could take a break and allow the witness' counsel to make a phone call to the White House to clarify the instruction and then reconvene in about 15 to 20 minutes after that's done, and then you guys can have your hour if you'd like it if you have questions to ask. Do you have questions?

Mr. Castor. We'll have to talk.

Ms. Sachsman Grooms. And if you don't have questions, then we will reconvene

with our hour.

Mr. Castor. Yes. So, we'll all take a break, maybe get some friendly pills.

Ms. Sachsman Grooms. Do you want to identify who you are?

Mr. Kobach. This is Kris Kobach. What time are we reconvening?

Ms. Sachsman Grooms. So, what we would like to do is give your attorney some time to call the White House. Assuming that he can reach someone there, let's reconvene in 20 minutes. So that would be at 11:30. And hopefully, we'll be able to pick back up with the clarification from the White House.

Mr. Kobach. Okay.

Mr. Adams. All right.

[Recess.]

[11:31 a.m.]

Ms. Anderson. You can now proceed.

Mr. Adams. All right. We had an opportunity to discuss with White House counsel what exactly they're asserting privilege over, and I would suggest you pick up your -- your questions. We're back on the record.

BY MS. ANDERSON:

Q Okay. For the record, I believe the Republican side has decided not to take their hour at this time. It is 11:32 a.m.

Mr. Kobach, I want to talk about the first time that you discussed the citizenship question with Secretary Ross. I believe you said it was in the first half of 2017. What did you discuss with Secretary Ross?

A Well, I thought it was -- hold on I had the phone on mute, sorry about that. Can you hear me?

Q Yes.

A I recall discussing the subject of adding the citizenship question to the Census. I don't recall the specific things that were said in the discussion, however.

Q Okay. Did you initiate that discussion, or did Secretary Ross?

A I can't recall whether his office reached out to me or I reached out to his office.

Q Why did you think the citizenship question should be added to the Census?

A Are you asking me generally, or are you asking me -- as I said, I don't recall what I said to Secretary Ross. I can tell you generally my -- my thoughts on the topic.

Q Okay. I'll rephrase.

Did you tell Secretary Ross you thought the question should be added to the Census, the 2020 Census?

A Yeah.

Q And do you recall whether he responded to that, whether he agreed with that?

A I don't recall his response.

Q Were you aware of any actions Secretary Ross took after that initial conversation regarding the citizenship question?

A When you say action Secretary Ross took, are you referring to actions taken by the entire Department of Commerce, or are you talking about him specifically doing something like -- something that he specifically did?

Q Why don't we start with him?

A I don't recall him taking specific action. I'm aware generally of the agency putting the issue up for notice and comment.

Q How many other times did you talk to Secretary Ross about the citizenship question?

A I know that I -- I emailed him once. I can't recall if we spoke a second time on the phone. I -- I have no recollection of speaking to him a second time on the phone, but it's possible, but I -- I know I certainly sent him an email.

Q So just to return to that first conversation briefly, was that call arranged by Steve Bannon?

A I don't recall who arranged it.

Q Do you recall the purpose of that particular phone call?

A I believe the purpose was to discuss the restoration of the citizenship question to the Census.

Q Did you discuss with Secretary Ross the steps that could or should be taken to have the citizenship question appear on the 2020 Census?

A Can you clarify what you mean by steps that could be taken?

Q Did you discuss with him any next steps that the Department or he or you should take or could take to have the question appear on the 2020 Census?

A I don't recall discussing any, you know, specific steps that an agency might take in restoring the question.

Q Did you discuss with or explain to Secretary Ross why you thought it should be added to the Census?

A I did say to Secretary Ross that it should be added. I can't -- as I said before, I can't recall specifically what I said to Secretary Ross.

Q So why did you think the question should be added?

A And again, is this question just in general terms, why -- why generally do I believe it should be added?

Q Yeah. Yes.

A I think there are multiple reasons why it should be added. I mean, one -- one reason is that the principle of one person, one vote is at stake if a State or a political jurisdiction does not know how many citizens it has.

I've laid this out in an article that I wrote, I -- I assume you probably have it, at Breitbart.com in I think January of 2018. But basically the idea is that if you have two representative districts, and let's say one district has 700,000 citizens and no illegal aliens and maybe -- well, let's just -- to make it simple, all citizens and no illegal aliens, and one district has 350,000 citizens and 350,000 illegal aliens. Then the citizens in that second district have twice as much voting power as the citizens in the first district.

So, it affects the -- it impairs the principle of one person, one vote that the Supreme Court laid out in 1964 in *Westbury v. Sanders* when you have unequal district size or unequal numbers of citizens in each district. That was one concern.



There are multiple other concerns that different agencies would have if they don't know the number of citizens. Obviously, the Department of Homeland Security has a concern, has multiple concerns about where -- how many aliens, both legal and illegal, are in the United States, where they're living.

The Department of Labor has concerns about the labor supply and the proportion of the labor supply that might fit into the various categories of U.S. citizens, alien lawfully present, alien unlawfully present.

The Department of Justice has concerns about the Voting Right Act -- Voting Rights Act. Specifically, one of -- one of the concerns is to ensure that all population groups with particular emphasis on -- on racial minorities are given the opportunity to register to vote, and you can't calculate a percentage of people registered to vote unless you know the denominator, and the denominator is the number of citizens. If you only know the number of persons in a district or you don't know which number of those-- which of those persons are U.S. citizens and which are not U.S. citizens, then you don't have the denominator.

You can't say that -- you can't say that a given percentage of eligible voters are registered because you haven't calculated -- since noncitizens aren't eligible voters, you have to know the percentage of citizens, and that's a fundamental concern of the Voting Rights Act.

Those are -- those are some of the, you know, the biggest questions, biggest issues that are affected by a country not knowing the number of citizens that it has, so those are generally my concerns on the issues.

Q With regards to the one person, one vote issue that you brought up, how would adding or including a citizenship question in the 2020 Census affect that concern?

Mr. Adams. Okay. He answered that question when he explained the

distribution of citizen voting power.

Ms. Anderson. So, I think the question is not what the concern is, Mr. Adams. The question is gathering this information, how would that affect or address that concern for Mr. Kobach's opinion or from his perspective. So, I think they're slightly different than the question that we answered previously, and I'm happy to ask it again if that helps you understand what my question is.

Mr. Adams. Right. I mean, we'll let this go, but once again, you're getting into his private capacity thoughts. And I didn't realize the committee had designs on interrogating a private citizen about their private-held thoughts about what is the best policy for government, but we'll let this one go, but realize you're on a short leash.

BY MS. ANDERSON:

Q Mr. Kobach, would you like me to repeat the question?

A No. I remember the question.

Q Okay. Thank you.

A Well, that information would assist whoever the -- the person or committee or commission, depending on the State, you know, drawing voting district lines. So if you have -- in the State of Kansas where I was secretary of state, if you have, you know, one representative district in one part of the state where -- to go back to the example I gave earlier, where half of the individuals in that represented district as currently drawn are unlawfully present in the country, then there would be a strong argument that the citizens in that district are actually twice as powerful in their votes. It's like one person, two votes. And so that would assist the State if they wanted to conform with the one person, one vote principle as articulated in *Westbury v. Sanders*.

Mr. Anello. This is Mr. Anello. I just wanted to make sure I understood it because -- I'm sure Tori got it, but it's a little complicated for me.

Mr. Kobach, it sounds like, if I'm getting this right, the goal of gathering the data with respect to apportionment would be that once you had this data, this citizenship data, a decision-making body could use it to draw district lines that would exclude certain noncitizens or maybe exclude all noncitizens for the purpose of apportionment. Is that right?

Mr. Adams. Okay. Wait a minute. First of all, he didn't testify to that.

Mr. Anello. That's why I'm asking for clarification.

Mr. Adams. He didn't use the word apportionment. He talked about redistricting, for one.

And secondly, this is now the third question that's delving into his own private views as a citizen, and that's not what the purpose of this interview was about.

Mr. Anello. Yeah. I'm just asking for a clarification of what he just said.

Mr. Adams. No. You asked -- you asked him about something he didn't testify about. Apportionment isn't what he testified about. You should go look up what that means, but that -- that is not what he testified about, and you are trying to put words in his mouth, and that's not what he testified about.

Mr. Anello. Okay. Well, maybe we can ask Mr. Kobach if that is what he meant, and if he -- if it's not, then he can certainly --

Mr. Adams. Look. I said earlier that we're not going to have a firing line with a series of people about his own private views, and then you -- it wouldn't be so bad if you didn't put words in his mouth. He never said anything about apportionment.

Mr. Anello. Okay. I'm not -- to be clear, I'm not trying to put words in his mouth. I just phrased it as a question because I want to understand if that's what he meant or not.

Mr. Adams. But that's what you did. It doesn't matter what you tried to, that's

what you did.

Mr. Anello. But if it is, he can certainly say that.

Mr. Adams. He never said anything about apportionment.

Ms. Anderson. I think we're just trying to clarify, and if Mr. Kobach does not agree with the phrasing that we used, we're happy to hear how he would phrase what Mr. Anello asked.

BY MS. ANDERSON:

Q Mr. Kobach, if you don't mind responding, does that adequately capture what your view was, or is there something you would like to clarify?

A My concern is that we should respect the principle of one person, one vote. And in determining voting districts, we should try as much as possible to ensure that there are an equal number of citizens voting in each district because if you don't do that -- and this is, of course, what the Supreme Court has told us for more than 50 years. If you don't do that, then some citizens have effectively more votes than others, and I think all of us as Americans want to ensure that our votes are equal.

Q And so -- sorry. Just to clarify to make sure that we are all on the same page, that would -- the mechanism for doing that would be removing noncitizens from those calculations. Is that --

Mr. Adams. Okay. Look. This is -- we're not going to get into a debate here about what a private citizen thinks is the best government policy. You asked for time to learn about what he said to people like Secretary Ross, but we're not going to have a running soliloquy between two people who disagree over the issue --

Ms. Anderson. Well, I think, Mr. Adams, you took --

Mr. Adams. -- about what his views are.

Ms. Anderson. Mr. Adams, you took issue with the way it was phrased. I was

rephrasing it in order to, you know, not work against the issue that you --

Mr. Adams. No. I took issue with your second chair calling it apportionment when -- it wasn't how it was phrased. It was misrepresenting what the testimony was.

Ms. Anderson. Okay. And Mr. Adams, I --

Mr. Adams. Apportionment and redistricting are two radically different things, and he never testified about apportionment. But he put words in his mouth when he said apportionment because he never testified about apportionment.

Ms. Anderson. And Mr. Adams, I appreciate --

Mr. Adams. That is not the same thing as drawing districts.

Ms. Anderson. I appreciate your concern, but I, as you put it, the first chair asked him a different question that did not use that word, and so I was asking him to answer that question. And so, I understand and am appreciating --

Mr. Adams. We're not going to have him answering questions about private citizen's views about -- about redistricting.

Ms. Anderson. Mr. Adams, I would just like to finish -- I would like to finish my point.

Mr. Adams. It's not going to happen.

Ms. Anderson. Mr. Adams, I just want to finish my point if you would allow.

Mr. Adams. Right.

Ms. Anderson. I was asking a separate question, and that question is whether Mr. Kobach agreed with what I said, and I would just like if he would be allowed to answer that question because understanding and appreciating your previous concerns --

Mr. Adams. Right. Well, he's not going to answer questions about his private views.

Ms. Anderson. Okay.

Mr. Kobach, did you --

Mr. Adams. This has gone on now -- this was supposed to be about a governmental policy, not about a private citizen's private views.

BY MS. ANDERSON:

Q Mr. Kobach, did you share your concerns or the reasons why you thought a citizenship question should appear on the 2020 Census with Secretary Ross?

A As I said earlier, I did share some reasoning, but I can't recall now what specific things I said to Secretary Ross.

Q Okay. At the time you had that conversation with Secretary Ross, the reasons that you shared with us, the three reasons why you thought the question should appear, were those views that you held at that time?

A Yes, but I would clarify that the second reason is actually multiple reasons. It's all the many reasons the government needs to know, you know, the number of citizens it has, and that includes labor calculations. That includes settling of immigrants into a society. That includes all kinds of things, so that second reason is really a plethora of reasons rolled into one.

Q And Mr. Kobach, sort of getting to that mechanism for the one person, one vote, and sharing in those discussions you had with Secretary Ross, would the mechanism of that be removing or excluding noncitizens from calculations of apportionment or redistricting?

Mr. Adams. Before he answers that question, what is the time? Does your -- whatever mechanism you have for transcription have the time that we're at?

Ms. Anderson. It's 11:48 a.m.

Mr. Adams. Okay. It seems to me you've run an hour and a half now.

Ms. Sachsman Grooms. Okay. So, the way our system works is that the

majority goes for an hour, and then the minority has the opportunity to go for an hour. In this instance, the minority waived that opportunity for now and reserved the right to go later, and so the majority is taking its second hour. So, we are now in the majority's second hour.

Mr. Adams. We need to wrap this up.

Mr. Anello. I'm sorry. Why do you need to wrap it up?

Mr. Adams. I said we need to wrap this up.

Mr. Anello. Yeah. I was just asking why do you need to wrap it up?

Mr. Adams. Because I said so.

Mr. Anello. Okay.

Ms. Sachsman Grooms. Okay. Well, so the committee continues to have questions for Mr. Kobach. Obviously, this is a voluntary interview, so if you choose to not answer questions or to get off the phone, that's certainly something that you can do, but we have not completed our questions at this time.

Mr. Adams. Okay. How much longer do you anticipate this taking?

Ms. Sachsman Grooms. It would take a lot less time if there were fewer interruptions, and we were permitted to ask the questions.

Mr. Adams. Well, it would take a lot less time if you would answer the question I asked and not criticize me for representing the client. But how long do you anticipate this taking?

Mr. Anello. Honestly, I think it depends on whether -- how quickly we can go through these. Some of these questions I think could be answered relatively rapidly, but at the pace we're going, it seems to be much more extended than I had anticipated.

We have a few documents that we'd like to go through and a few other issues we'd like to talk through. I think it could be another hour, maybe, maybe slightly more

on our end.

Mr. Adams. Well, that's not possible. We can't go another hour, so we'd have to -- we'd have to hold this over, and I told you earlier, we don't have documents. We don't have those documents.

Mr. Anello. You do have the documents. We sent them to you.

Mr. Adams. Yeah, I understand that, but we haven't had time to look at them and discuss them with counsel. I don't suspect that you're suggesting that we don't -- we should not exercise that right to have a discussion with our client about documents you sent us an hour or two ago.

Ms. Sachsman Grooms. So, we are moving forward with the interview. We would like to move forward with the interview. I'm not sure that-- I don't believe that you indicated that there were time constraints on the interview today before we scheduled it, but if you would permit us to continue moving forward, we will do that right now.

Mr. Adams. Okay. I don't believe that we did indicate there were time constraints, but you said it was going to take an hour of questioning, and we're now almost at two.

Ms. Anderson. Just to be very clear, when we first began this this morning, we said that the procedures were the majority counsel takes one hour, and then we switch, and the minority counsel takes an hour, and we go back so on and so forth until there are no more questions. I'm happy to read that directly to you again, but that is what I said this morning, and those are our procedures.

Mr. Adams. Okay. But you are now on your second hour.

Ms. Anderson. Correct, because the minority counsel did not want to take their hour at this time, and so we proceeded with our second hour.



Mr. Adams. All right. We'll go up to noon, and then we'll take a break.

Mr. Anello. That's 8 minutes from now. You'd like a break then?

Mr. Adams. Well, it would be easier to take a break --

Mr. Kobach. From my perspective, if we can -- I don't want to just keep going on and on and on all afternoon, so you know, let's go 15 minutes or whatever and then see how many more questions you have because I'd rather not take a lunch break and then come back if we don't have to.

Mr. Anello. Yeah. I think from our perspective, we're happy to keep going. It's just been a little bit -- it's been a bit tough sledding because we haven't been able to get through any of these questions, and so we have to go back and repeat them.

So, we're happy to try to be efficient with your time. Our goal is not to waste it at all. Our goal is just to get our questions answered and move on.

BY MS. ANDERSON:

Q Mr. Kobach, did you speak with anyone else about these concerns or the reasons why you thought the question should appear on the 2020 Census, anyone else in the administration?

A I can't recall speaking about it with anyone else in the administration other than the people we've already discussed.

Q So we provided your attorney with a copy of a document, and I'm going to talk through it if you do want to take a second to try to pull that up. However, if not, I will just -- I'll go through it on the phone.

Mr. Adams. Well, I mean, we've asked you -- we have asked specifically for the opportunity to look at these documents, and you said take a second. Well, that illustrates the problem. We're not going to take a second and then answer questions about something.

Ms. Anderson. Okay. Mr. Adams, I'm happy just to go through.

Mr. Adams. You sent us --

Ms. Anderson. I'm happy just to go through and describe the document and see if that triggers Mr. Kobach's recollection, and then we can go from there. Does that sound all right?

Mr. Adams. That sounds fine.

Ms. Anderson. Okay.

Mr. Kobach, I'm marking as exhibit 1 an email.

[Kobach Exhibit No. 1

Was marked for identification.]

BY MS. ANDERSON:

Q The top email is from Monday, July 24th, 2017. And the first email -- it's an email chain. The first email in the email chain is from Friday, July 14th, 2017. It's an email to you from Secretary -- to you -- to Secretary -- from you, excuse me, to Secretary Ross at his DOC email address.

And the email reads: Secretary Ross, Kansas Secretary of State Kris Kobach here. I'm following up on our phone discussion from a few months ago. As you may recall, we talked about the fact that the U.S. Census does not currently ask respondents their citizenship. This lack of information impairs the Federal Government's ability to do a number of things accurately. It also leads to the problem that aliens who do not actually, quote, "reside," end quote, in the United States are still counted for congressional apportionment purposes. It is essential that one simple question be added to the upcoming 2020 Census. That question already appears on the American Community Survey that is conducted by the Census Bureau, question number 8.

A slight variation of that question needs to be added to the Census. It would

read as follows: Is this person a citizenship -- a citizen of the United States, question, and then the answer says yes, born in the United States, yes, born in Puerto Rico, Guam, the U.S. Virgin Islands, or Northern Marianas, yes, born abroad of U.S. citizen parent or parents, yes, U.S. citizen by naturalization, parent, (year of naturalization.) No, not a U.S. citizen. This person is a lawful permanent resident, in parentheses, (green card holder,) end parenthesis. No, not a U.S. citizen, this person, citizen of another country who is not a green card holder, parentheticals, (for example, holds a temporary visa or falls in another category of non-citizens.)

The email then reads, quote, please let me know if there is any assistance that I can provide to accomplish the addition of this question. You may reach me at this email address or at my cell phone at -- the cell phone is redacted. Yours, Kris Kobach.

Mr. Kobach, do you recall sending this email?

A Yes.

Q Okay. Where did you get Secretary Ross' contact information?

A I don't recall who gave it to me. I -- I just don't recall.

Q Okay. And why did you decide to contact him?

A The Secretary of Commerce is the official in charge of the agency that includes the Census Bureau.

Q So the email said that you had spoken a few months prior. What prompted you to reach out to Secretary Ross again?

A I think I was just following up because I hadn't heard anything after our phone conversation.

Q Had anyone else from the administration asked you to follow up with Secretary Ross?

A I don't recall anyone asking me to follow up with Secretary Ross.

Q In that email, you said or you wrote, quote, as you may recall, we talked about the fact that the U.S. Census does not currently ask respondents their citizenship. This lack of information impairs the Federal Government's ability to do a number of things accurately. It also leads to the problem that aliens who do not actually reside in the United States are still counted for congressional apportionment purposes.

What did you mean by the lack of information leading to the, quote, problem that aliens who do not actually reside in the United States are still counted for congressional apportionment purposes?

Mr. Adams. Okay. Let me interject something here. We have stated numerous times that answers to these questions should occur after the witness and his attorneys have an opportunity to look at these.

You have indicated a desire to have complete answers. I would submit that you're probably going to get a lot of I do not recall answers unless we have an opportunity to review these documents, but if you want to proceed and ask questions that he hasn't had the time to look at -- about documents he hasn't had time to look at, you go right ahead.

BY MS. ANDERSON:

Q Okay. Thank you.

Mr. Kobach, would you like us to repeat the question?

A Yeah. Go ahead.

Q Okay. In that July 14th email you wrote, quote, as you may recall, we talked about the fact that the U.S. Census does not currently ask respondents their citizenship. This lack of information impairs the Federal Government's ability to do a number of things accurately. It also leads to the problem that aliens who do not actually reside in the United States are still counted for congressional apportionment purposes.

What did you mean when you wrote that the lack of information leads to, quote, the problem that aliens who do not actually reside in the United States are still counted for congressional apportionment purposes?

A So there are multiple categories of aliens. A lawful permanent resident or green card holder does reside in the United States, but I think anyone who studies this issue, both legally and as a matter of policy, would agree that an illegal alien or an alien unlawfully present in the United States does not reside in the United States in the eyes of the law. And so I was simply pointing out that you would have -- it could result in the potential problem of one person, one vote being violated.

And this goes back to the point I made earlier. If you had a district where 350,000 citizens and 350,000 illegal aliens were present, and you had a district somewhere else in the country where there was 700,000 citizens, people in that first district would have twice -- citizens in that first district will have twice the voting power of citizens in the other district. Again it's all about the desire to have equal voting power for citizens across the country.

Q How would the citizenship question, I guess, tackle that problem and address the issue that aliens who do not actually, as you said, reside in the United States are still counted for congressional apportionment purposes? How would it address the question for congressional apportionment purposes?

Mr. Adams. Okay. He answered this question.

Mr. Anello. Mr. Adams, this is Russ Anello. I don't believe he answered that specific question. I believe he explained why he -- I'm sorry. If you could just let me finish, Mr. Adams. Mr. Adams, if you could just let me finish, I think we'd have a more productive conversation. Thank you.

You indicated you thought that he didn't answer the question, that he already

answered it. He did not answer this.

Mr. Adams. Look. I have now -- this is the fifth time I've asserted a concern that a congressional committee is interrogating a private citizen and --

Mr. Anello. This is about an email he wrote to the Secretary of Commerce advising him to add a question to the Census --

Mr. Adams. Right.

Mr. Anello. -- which affects millions of people. So this is an issue of public policy and public concern, and it's an issue that we believe a reason to ask him about. So I appreciate that he is a private citizen.

Mr. Adams. You're interfering with his right to petition the government. I see.

Mr. Anello. We're not at all interfering with any right. We're simply asking to understand what he did.

Mr. Adams. Well, that's not what you're asking. You're asking about his private views.

Ms. Anderson. No, Mr. Adams. We're asking about an email that he has stated he sent to the Secretary of Commerce Mr. Adams, if I could finish.

Mr. Adams. But you're asking him about his private views.

Ms. Anderson. Mr. Adams, if I could finish -- we're asking what he meant when he sent an email to the Secretary of Commerce in the Secretary of Commerce's role as the Secretary of Commerce.

Mr. Adams. Right. But that's not what your question was.

Ms. Anderson. Mr. Adams, I'm not finished. I'm not finished. I'm asking what he meant when he said that they are still counted, people who he considers not actually residing in the United States. They're still counted for congressional apportionment purposes, and I'm asking how he thought the citizenship question would affect

congressional apportionment purposes. He did not answer it.

Mr. Adams. You can ask the question, what he said to Secretary Ross about that, but you are getting into some very tricky territory when you're asking about his personal views.

Ms. Anderson. Mr. Adams, are you instructing him not to answer my question?

Mr. Adams. Not yet, but it's getting close.

Ms. Anderson. Okay.

Mr. Kobach, would you like me to repeat my question --

Mr. Adams. If you want to ask what he said to Secretary Ross, that's one thing.

BY MS. ANDERSON:

Q I would like Mr. Kobach to answer the question that I previously asked.

Mr. Kobach, can you please answer that question?

A Yes. My view is that at a minimum, we just need to know the information.

In other words, we just need to know the number of citizens in the country and in specific parts of the country. We need to know the number of illegal aliens in the country and in specific parts of the country.

And ideally, we would know the number of legal permanent resident aliens and also the number of aliens here on temporary visas, although we -- the Department of Homeland Security has some knowledge of that, but it is not entirely accurate knowledge of that regarding the number of people here on temporary visas because we don't have exit control. So if you come in on a work visa, we don't know whether you're still here or not.

So it's just -- my concern is that we have the information, and then what each government entity does with that information is up to them, but right now, we as a country are in a position of willful ignorance.

So, you know, Congress would ultimately decide whether this would affect apportionment. A State would ultimately decide whether they want to ensure that citizens have one person, one vote and that some citizens aren't given more voting power than others. I would hope every State would want to do that, to ensure that citizens have equal voting power.

And, you know, you could look at departments. The Department of Transportation, for example, might say well, you know, we have X number of people living in this region. To the Department of Transportation, it probably doesn't matter whether a person is a citizen, a lawfully present alien, or an unlawfully present alien. They're all going to be using the highways, so from our perspective, the information doesn't matter. So my point is you need the information for government to be effective and for citizens to have equal voting power in our constitutional republic.

Q So my question, to be narrow and specific and so that we're all on the same page, is what is the mechanism you envisioned using the data for to affect congressional apportionment purposes as quoted in the email that you wrote to Secretary Ross?

A I don't envision a specific mechanism. I just want the United States Government to know this information so that Congress can decide what to do about it and also so States can decide, you know. With regard to States, I think the mechanism is quite clear, that whatever the entity is that draws up represented districts within the State, they should and, indeed, I believe they would have a constitutional obligation to insure there are equal numbers of citizens in each district. Otherwise, one person, one vote is offended and violated.

Q And the way to do that is to exclude non-citizens from that calculation?

Mr. Adams. Look. We're done. We're done. He's answered your questions three different times, okay. He's not going to answer that.



Ms. Anderson. And Mr. Kobach, just to be clear, the question was and the way to do that would be to exclude noncitizens from the calculations?

Mr. Adams. We're done. He's not going to answer that. He's already answered that question two different times, and you're interrogating him about his private views. He didn't propose anything to Secretary Ross was his testimony in that regard. He's not answering that.

BY MR. ANELLO:

Q Okay. I understand the witness -- this is Russ Anello. I understand the witness has been instructed not to answer that question.

In your email to Secretary Ross, again, you said that it, meaning the lack of a citizenship question, leads to the problem that aliens who do not actually, quote, reside in the United States are still counted for congressional apportionment purposes.

And so I'm trying to understand. Did you believe that adding the citizenship question would impact or could impact, let's say, congressional apportionment in a manner that would increase the political power of one political party?

A No, I did not believe or -- well, I mean, obviously any change in any apportionment potentially affects the balance of power, but no, that was not the --

Q Well, this is something -- go ahead.

A Go ahead.

Q This is something you talked about publicly, right, that doing what you suggest here, changing congressional apportionment, would reduce, for example, the number of seats that California has in Congress, right? That's something you've talked about publicly?

Mr. Adams. Does it say that in the letter, the email?

Mr. Anello. No.

That's something you said -- Mr. Kobach, that's something you've said publicly before, right?

Mr. Adams. Well, that's not what he said in the email.

Mr. Anello. Right. And I'm trying to provide additional context so I can understand --

Mr. Adams. Okay.

Mr. Anello. -- what he's getting at in his email. That's all.

Mr. Adams. We just need a break now, guys. If you want to reconvene at -- we're 8 minutes past our scheduled break.

Ms. Anderson. Just to be very clear, you asked for a break. We did not schedule a break because we were in our second hour which I believe still goes for another 20 minutes or so. If you're requesting a break, we would just ask that again, Mr. Anello be allowed to finish his question.

Mr. Anello. I think Mr. Kobach actually asked us to continue, if I'm remembering correctly, but I could be mistaken.

Mr. Kobach. Well, how many -- how many more minutes of questioning or how many more questions do you have? I would like to be concluded with all of this by 1:00 your time at the very latest.

Mr. Anello. We're obviously trying to go through these as quickly as we can. We do have a number of other questions, but we're getting bogged down because we've not been able to ask these, so I think I estimated last time --

Mr. Adams. Right.

Mr. Anello. Okay. Again, he can't answer the question.

Mr. Adams. Can we take a 5-minute break and hop back on?

Ms. Sachsman Grooms. I'm sorry. We didn't understand you.

Mr. Adams. Could we take a quick 5-minute break and hop back on?

Ms. Sachsman Grooms. Sure.

Mr. Adams. Okay. Thank you.

[Recess.]

BY MS. ANDERSON:

Q We can go back on the record. Thank you.

Mr. Kobach, you also wrote in that email, quote, it is essential that one simple question be added to the upcoming 2020 Census. You proposed language that you said was a, quote, light -- slight variation, end quote, on the language that already appears on the American Community Survey.

Who came up with the language for the question that you sent to Secretary Ross?

A I did.

Q Did you discuss that variation with anyone else?

A I'm not certain.

Q In the email, you also offered your assistance and said, quote, you would offer your assistance to, quote, accomplish the addition of this question, and you provided your cell phone number.

Did Secretary Ross respond to your email?

A Let me just amend my answer to the previous question. I believe I discussed it with Steven Camarota just to get some background on the phrasing, how the question had been in the past. I don't -- I didn't -- but my suggested phrasing of the question to Secretary Ross was my own.

Q Okay. Thank you for that clarification.

Did you want me to repeat my last question?

A Yes, please.

Q Okay. In the email, you offered your assistance, quote, to accomplish the addition of this question and provided your cell phone number.

Did Secretary Ross respond to that email?

A I don't recall Secretary Ross specifically saying I need your help and here's how or anything like that.

Q I'm sorry. Just to clarify my question, my question was did he respond to that email?

A Are you asking -- are you asking did he send me an email in response?

Q Yes.

A I do not believe he did.

Q Did he ever --

A I don't recall.

Q Okay. Did he ever call you on the numbers that you provided or otherwise?

A This is where my memory is unclear. I can't -- I do recall the one conversation that I had with Secretary Ross or recall having a conversation prior to that email. I can't recall whether I had a substantive conversation with him.

Q Okay. Was the email address you used to communicate that [REDACTED] address you gave us previously?

A Yes.

Q Okay. Did you use any other email address or any text messages or messaging app to communicate about the citizenship question?

A I may have used my secretary of state email when opining -- when making an official comment because, of course, the secretary of state of a State, in Kansas, anyway, is the chief election official.

So as I mentioned previously, in order to ensure one person, one vote within a State, that is, of course, a principal concern of the chief election official, and this information would be helpful, so it's possible that I used my secretary of state email --

Q Okay.

A -- for that official communication to the Department of Commerce, but I'm not certain.

Q Okay. Did you ever provide any other written materials to Secretary Ross or anyone else in the administration about the citizenship question?

A I did provide the official comment, for the notice and comment, and I assume you -- if you don't already have it, you could probably get it from the Department of Commerce.

Q Yes.

A I do recall providing that, that written material that I wrote.

Q Was there anything besides this email and that comment?

A I don't recall writing anything else, no.

Q In that email -- in an email that you sent to Wendy Teramoto who was Secretary Ross' chief of staff, on July 21st, 2017, you wrote, quote, Wendy, nice to meet you on the phone this afternoon. Below is the email that I sent to Secretary Ross. He and I spoke -- had spoken briefly on the phone about this issue at the direction of Steve Bannon a few months earlier. Let me know what time would work for you on Monday if you would like to schedule a short call. The issue is pretty straightforward, and the text of the question to be added is in the email below.

Do you recall writing that email?

A I don't recall writing the email, but I do -- but that does sound like what I would have written to her if I was trying to see if they wanted to schedule a follow up call.

Q And that email included the sample question or the slight variation that you had previously sent to Secretary Ross. Did Steve Bannon direct you to speak to Secretary Ross during that time?

Mr. Adams. You're in the privilege. Sorry. He's not going to answer that question.

Ms. Anderson. Mr. Kobach, is the email that I read to you, are the statements in that email correct?

Mr. Adams. Sorry. Once again, that's a subterfuge for the same -- the previous question. He's not going to answer that question.

Ms. Anderson. Mr. Kobach, Ms. Teramoto wrote back to you, quote, we can speak today at 2:30. Please let me know if that works, and then you wrote back, quote, that works for me. What number should I call, or would you like to call me? To which she replied, quote, Kris, can you do a call with the Secretary and Izzy tomorrow at 11 a.m. Thanks, Wendy, end quote, to which you responded, quote, yes, end quote.

Does that refresh your recollection of recalling a conversation you may or may not have had with the Secretary at that time?

Mr. Adams. Just so the record is clear on this, Mr. Kobach doesn't have this document in front of him because we have not had an opportunity to discuss with our client these documents were sent to us just before this interview took place. So with that -- with that note, he can answer.

Mr. Kobach. Assuming that what you are reading from that email chain is accurate, that sounds like me and Ms. Teramoto trying to schedule a time to talk with the Secretary, but what I don't recall is ever having such a conversation with the Secretary.

I do recall the earlier one that we previously discussed, but I don't recall actually having that second one. I have no recollection.

Ms. Anderson. Does the email that you wrote which said, quote, nice meeting you on the phone this afternoon directed at Wendy Teramoto, quote, below is the email that I sent to Secretary Ross. He and I had spoken briefly on the phone about the issue at the direction of Steve Bannon a few months earlier, end quote.

Does that refresh your recollection regarding how the meeting was set up or attempted to be set up?

Mr. Adams. Okay. Again, when you talk in terms of recollection refreshed, it normally refers to a document the witness is looking at. Just so it's clear, he is not looking at this email. He does not have this email. You are simply reading from a document to him.

Mr. Anello. And since we're making the record clear, this is Russ Anello again. For the record, we did provide this email to you, Mr. Adams. It has been mentioned several times --

Mr. Adams. You provided your --

Mr. Anello. I think it's hard for the stenographer.

Mr. Adams. Can I finish, please?

Mr. Anello. No. No. You cut me off, actually, and it's very difficult for the stenographer to keep the record if you cut me off. So how about I just get my sentence out, and then you'll have your chance to respond?

The point I was making is that we did send this email to you, Mr. Adams, with the intention that you would share with your client. You and/or your client have obviously made a decision not to look at it, and so we've been trying to accommodate that by reading it out loud on the phone. The reason this is necessary because we've also accommodated you in not coming here today.

Mr. Adams. We didn't choose not to look at it. Unlike perhaps your situation,

we have other matters, and you sent it to us with an unreasonable short duration for me to have the opportunity to look at it, much less share it and discuss it with my client. And so if you had sent it to us even a day in advance, even an evening in advance, it would have been more productive to having your questions answered.

Ms. Sachsman Grooms. Okay. Mr. Kobach, would you like us to email you this document right now?

Mr. Adams. You aren't suggesting having a direct communication with a represented party, I assume.

Ms. Sachsman Grooms. I am not. We would include you on that email. I'm merely asking whether you would like us to facilitate the providing of this document to your client so that he can look at it while we're asking him questions.

Mr. Adams. Right. And that's still a direct communication with a represented party by including him. Doesn't matter if you just happen to include us.

Mr. Kobach and I will have that discussion at another time. All I'm saying is had you sent this to us prior to one hour or thereabouts before this interview, this would be a different interview.

BY MS. ANDERSON:

Q Mr. Kobach, the email on July 21st sent from you to Wendy Teramoto says, quote, nice meeting you on the phone this afternoon. Below is the email that I sent to Secretary Ross. He and I had spoken briefly on the phone about this issue at the direction of Steve Bannon a few months earlier.

Does that refresh your recollection regarding how the meeting with Secretary Ross was set up or attempted to be set up?

A It does not refresh my recollection. In other words, I don't suddenly recall having a communication, but you know, if I -- whatever I wrote in the email was



presumably -- was truthful. I wouldn't write anything that was untrue.

Q Okay. And Wendy Teramoto wrote to you, quote, Kris, can you do a call with the Secretary and Izzy tomorrow at 11 a.m.? Thanks, Wendy, end quote, on July 24th, 2017.

Was Izzy referring to Israel Hernandez at the Department of Commerce?

A I don't know who that was referring to.

Q Okay. Do you recall any other conversations you had with Secretary Ross at any other time about the citizenship question besides the initial conversation you had in the first half of 2017?

A The only one I recall is the one from the first half of 2017. Obviously that chain of email refers to attempts to schedule a subsequent call, but I just don't remember if a subsequent call occurred or not. I don't have a recollection of it.

Q Okay. Did Secretary Ross ever express an opinion about the sample question that you included in your July 14th email with a slight variation or any comments on any of the options in the question?

And I'm happy to read the variation that you provided again, if that's helpful.

A That's okay. I remember it.

Q Okay.

A No, I don't recall -- the answer to your question is I do not recall what Secretary Ross said in response.

Q Did he reject the question?

A Well, I don't recall what he said. I could say this. If he had said flatly no, I don't, whatever, you know, I think that's a bad idea, I probably would have remembered that. So I think his -- I don't remember his specific response, but I'm pretty sure it wasn't, you know, absolutely no.

Q Okay. Did you ever speak with Earl Comstock at the Department of Commerce?

A What was the first name?

Q Earl, and his last name is Comstock.

A I don't recall ever speaking to that person. The name doesn't sound familiar.

Q Did you ever speak with Peter Davidson, the general counsel at the Department of Commerce?

A I don't specifically recall, but as I mentioned earlier, there was one -- there was one individual, a male, who informed me about the notice and comment period, that if I wanted to send an official letter, I could, and I don't remember that person's name.

Q Okay. Did you ever speak with James Uthmeier at the Department of Commerce, the Deputy General Counsel?

A I don't remember that name. It is certainly possible that one of those people was the one I spoke to on the phone, but I don't remember those names specifically.

Q Okay. After your July call with Secretary Ross, did you have any further contact or discussions with anyone in the administration about the citizenship question?

Mr. Adams. Well, I'll instruct the witness to answer to the extent he can without violating any of the privileges that have been asserted in this.

Mr. Kobach. I believe the subsequent phone call with someone, a male in the Secretary of -- or in the Department of Commerce about the opening of a comment period and the -- about my, you know, being able to formally submit a comment, I believe that occurred after that chain of email that you were just discussing. I don't recall exactly when, so -- and then, of course, I did write the formal -- you know, the formal

comment, and I believe that would have been subsequent to those emails in July of 2017. Certainly those few communications occurred.

[12:30 p.m.]

Ms. Anderson. Do you remember any other communication?

Mr. Kobach. No.

[Kobach Exhibit No. 2

Was marked for identification.]

Ms. Anderson. I'm going to mark as exhibit 2 a letter that was written by you in your capacity as secretary of state on February 12th, 2018. It's addressed to Secretary Ross at the Department of Commerce. The letter, I will read it in part, and then ask you if you remember writing this letter.

The letter says, quote:

"I am writing in support of the Department of Justice's request that, quote, 'a question regarding citizenship,' end quote, be added to the decennial Census of 2020. As you know, secretaries of state are the chief election officials of their respective states. There are a number of election-related reasons why it is essential that a citizenship question be added to the Census.

"Adding that question would be extremely helpful in ensuring that state and local jurisdictions are in compliance with the Voting Rights Act and are not discriminating through race-based vote dilution. In order to assess whether such vote dilution exists, it is necessary that a precise count of the number of citizens of voting age occur.

"Adding a citizenship question will also be extremely helpful to secretaries of state across the country in the administration of elections. We need to know the exact number of citizens in our states in order to administrate elections fairly and to collect accurate data within our states regarding the percentage of voting-age citizens who are registered to vote.

"A version of the citizenship question already appears on the American

Community Survey that is conducted by the Census Bureau (question #8). A slight variation of that question needs to be added to the Census. It is important that the question be phrased as follows:

"Is this person a citizen of the United States?"

"Yes, born in the United States.

"Yes, born in Puerto Rico, Guam, the U.S. Virgin Islands, or Northern Marianas.

"Yes, born abroad of U.S. citizen parent or parents.

"Yes, U.S. citizen by naturalization -- Print year of naturalization \_\_\_\_.

"No, not a U.S. citizen -- this person is a lawful permanent resident (green card holder.)

"No, not a U.S. citizen -- this person citizen of another country who is not a green card holder (for example holds a temporary visa or falls into another category of non-citizens).

"This slight variation of ACS question #8 is absolutely essential if the new Census question is to be maximally useful to Federal, State, and local governments. The variation occurs in the final two categories, which serve to separate noncitizens into lawful permanent residents versus all other category of noncitizens. It is important to know the number of lawful permanent residents because these individuals are part of the population of continuous residents in a state, and are not temporarily present or illegally present. State governments (and the federal government) must have a reliable count of the number of citizens plus lawful permanent residents in order to fairly distribute public services and benefits.

"An equally important reason to know the number of lawful permanent residents is because these individuals are the ones who are on the cusp of becoming U.S. citizens. If a jurisdiction is experiencing lower-than-average naturalizations of lawful permanent

residents, that might indicate that discrimination against such noncitizens is occurring with the effect that they are discouraged from naturalizing. In addition, secretaries of state and county election officials need to know the number of lawful permanent residents in their jurisdictions in order to effectively plan for growth in the voting electorate (by purchasing election equipment, adding polling places, et cetera).

"For all of these reasons, I strongly support the Department of Justice request; and I specifically support the addition of the question as phrased above.

"Yours sincerely, Kris W. Kobach, Kansas Secretary of State."

Mr. Kobach, do you recall writing this letter?

Mr. Adams. And before the witness answers, just so the record is clear again, that the witness does not have this letter in front of him. And we're not disputing the long recitation of the letter, but the witness doesn't have this letter in front of him, just for the record.

BY MS. ANDERSON:

Q Okay.

Mr. Kobach, I think you said this, I just want to make it clear for the record, do you remember writing this letter?

A Yes, I do remember writing that letter and that sounds accurate. I don't have it in front of me, but that sounds like the letter I wrote, yes.

Q Okay. Thank you.

A And that was the subsequent communication I was referring to as far as the official comment.

Q Thank you for clarifying.

You proposed a question -- and that matched the question that you proposed in an email to Secretary Ross in July of 2017. Is that correct?

A Yes, I believe it's the same.

Q And that letter that you wrote, I guess the notice and comment letter, had some language that is similar to your email. In your July email -- July 2017 email -- you wrote, quote: "It is essential that one simple question be added to the upcoming 2020 Census. That question already appears on the American Community Survey that is conducted by the Census Bureau, question eight. A slight variation of that question needs to be added to the Census. It should read as follows."

And then in your February 12th, 2018, letter, or comment letter, you wrote, quote: "A version of the citizenship question already appears on the American Community Survey that is conducted by the Census Bureau, question #8. A slight variation of the question needs to be added to the Census. It is important that the question be phrased as follows."

Did you use your July 2017 email as a model for your February 2018 letter to Secretary Ross?

A I can't recall whether I, you know, cut and pasted it or used it as a model or not. I would imagine that I -- I would imagine that I probably looked at the question as I previously suggested it and made sure that I was consistent in my phrasing the second time.

Q There's --

Mr. Adams. But I'd instruct the witness -- excuse me -- I'd instruct the witness not to speculate and the witness' answer appeared to be speculation.

Mr. Kobach. Yeah. I don't know for sure how I created the official letter of January, what I had in front of me at the time.

Ms. Anderson. Okay. There's one issue in your July 2017 email that did not get mentioned in your February 2018 letter. Your email stated that the lack of citizenship

question, quote, "leads to the problem that aliens who do not actually reside in the United States are still counted for congressional apportionment purposes," and you did not discuss that in your letter. Is that correct?

Mr. Adams. Again, the witness doesn't have the letter in front of him. He can answer to the best of his recollection.

Mr. Kobach. To my recollection, as you just recited my January letter, I don't think I mentioned that issue.

As I mentioned earlier, there are so many issues that are affected by the ignorance of a country as to the number of its citizens, and so really you're talking about a whole host of reasons that could be mentioned. But, no, it doesn't sound like I mentioned that in the official letter.

BY MS. ANDERSON:

Q And, Mr. Kobach, you specifically cited the congressional apportionment purposes in your July 2017 email. Why did you not include it in your February 2018 letter?

A As I just said, there are a host of reasons, and they all are equally important. Although, I personally think -- I shouldn't say they're all equally important.

In my view, one person, one vote is the most important principle, but beyond that, there are many, many other reasons why. So I'm not certain why I chose one set of reasons in one email and another set of reasons -- well, some of them overlapped, obviously -- in a subsequent letter.

Q If it's one of the most important reasons, is it unusual that it was not included in your February 2018 email -- or letter?

A No. I think I said it to the chief election official and I spoke of the need to ensure that people are -- that they are registered. And I was speaking -- the main



reason would be the duties of the chief election official, and the chief election official is -- one of his or her responsibilities is to make sure that voter registration occurs and occurs easily, and to plan for upcoming elections with the -- with an adequate number of voting machines and polling places.

And so since I was writing on my official letterhead, I was probably selecting issues that the secretary of state as secretary of state would be most concerned about.

So the front and center ability is the administration of elections. So that is what -- that is -- again, I don't -- I told you, I don't have a specific recollection of what I had in front of me when I was putting together that official letter. But as secretary of state, the chief concerns are the administration of elections, and so I focused on those issues.

Q Had you been told by anyone that mentioning apportionment in the letter would be unhelpful?

A No, I'd never been told that by anyone.

Q Were you ever told by anyone that your letter should focus on the Voting Rights Act as a reason for adding the question?

A No, I was never told by anyone what my letter should look like. The letter was entirely my own creation without anyone telling me what to put in it.

Q Did you ever discuss the letter with anyone before sending it?

A No, I did not.

Q Did you ever speak with -- I think you mentioned that you spoke with Attorney General Sessions about the citizenship question, is that correct, on at least one occasion?

A No, I did not say I spoke to him about the citizenship question. I just said that I had a meeting with him in the first half of 2017 and that issue may have come up.

I am not sure whether it came up or not.

Q Okay. Do you have any recollection about whether you ever spoke with Attorney General Sessions about the citizenship question?

Mr. Adams. He just answered you.

Mr. Kobach. My previous --

BY MS. ANDERSON:

Q I'm sorry. My understanding of his answer is that he didn't recall if it came up in that meeting. I was just asking whether he -- if he remembered it ever coming up with the Attorney General. And I apologize if I don't remember the answer, but if you could just answer that, that would be great.

A If -- I believe that that meeting was the -- I'm not sure. I think that was the only meeting I had with Attorney General Sessions when he was serving as Attorney General. And I, like I say, I just -- I don't recall specifically whether that was one of the multiple topics we discussed.

Q Did you ever discuss the issue with him when he wasn't Attorney General?

A I don't recall.

Q I believe that you mentioned speaking with John Gore at the Department of Justice about the citizenship question.

Mr. Adams. He testified about that. The record -- the transcript will answer the question.

BY MS. ANDERSON:

Q Do you recall specifically what you discussed with John Gore or the Assistant Attorney General that you talked to at the Department of Justice?

A I don't recall the specifics of the discussion, no.

Q Did you ever discuss any specific documents or direct anyone to look at

particular documents at either the Department of Justice or the Department of Commerce?

A Not with respect to the citizenship question, no.

Q Okay. Did you ever become aware of conversations that occurred between the Attorney General -- at that point Attorney General Sessions -- and Secretary Ross about the citizenship question?

A No, I was not aware of any such discussions between Secretary Ross and Attorney General Sessions. And that doesn't mean that -- I'm not suggesting that they didn't occur, I'm just saying I don't know about them.

Q Understood. Did you ever talk to Gene Hamilton at the Department of Homeland Security or the Department of Justice? Yeah. Sorry. That was the end of the question.

A You want to (inaudible) Gene Hamilton?

Q Yes, about the addition of -- go ahead.

A Well, I've spoken with Gene Hamilton many times. I don't recall specifically whether I spoke with Gene Hamilton about the citizenship question on the Census.

Q Okay. Did you ever speak with a Rachel Tucker at the Department of Justice about the addition of a citizenship question?

A The name sounds vaguely familiar. It's possible that she was sitting in on my discussion with the Attorney General.

I don't recall the names of all the people who were -- he had, I would say, maybe three or four people on his staff sitting in on that discussion and I can't remember their names, so it's possible that she's one of them. But I don't recall specifically speaking with her, no.

Q Okay.

Mr. Adams. What's our time?

Ms. Anderson. It's 12:41.

Mr. Adams. Right. How much time were we going to go?

Mr. Anello. I think our hour -- I think we have another 10 minutes roughly in our hour. We may be able to finish in that time, but we may have a few more, and then the Republican staff will have an opportunity to ask questions, so --

Ms. Johnson. We started at 11:32.

Mr. Anello. Oh, we did? So we're over an hour?

Ms. Sachsman Grooms. We also took a break.

Mr. Anello. We have a few more -- we have a few more questions to complete. We then would probably want to regroup for a couple minutes and see if we anything more. But we're closer to the end than the beginning, so if you guys want to try to power through for another few minutes, we could then take a pause and see who has more questions after that.

Ms. Anderson. Mr. Kobach, were you aware of a 2015 study that Mr. Hofeller wrote about the citizenship question?

Mr. Kobach. No, I've never read any such study or heard of any such study. As I said, there was an article about that gentleman, I think I saw it yesterday, that alluded to a study, but I'd never heard of it until I read that article.

Ms. Anderson. Okay. The study says, quote:

A shift from a redistricting population base determined using total population to adult population is radical departure from the Federal, quote, 'One-Person One-Vote Rule' presently used in the United States. Without a question on citizenship being included on the 2020 Decennial Census questionnaire, the use of citizen voting-age population is functionally unworkable.

The Obama administration and congressional Democrats would probably be extremely hostile to the addition of a citizenship question to the 2020 Decennial Census questionnaire. The chances of a U.S. Supreme Court's mandate to add a citizenship question to the 2020 Decennial Census are not high.

A switch to the use of citizen voting-age population as the redistricting population base for redistricting would be advantageous to Republicans and non-Hispanic whites. The proposal to use CVAP can be expected to provoke a high degree of resistance from Democrats and the majority/minority groups in the Nation.

Do you agree with that?

Mr. Adams. Wait. Hold on now. Before he answers that, are you reading from a document or a newspaper article? Because the witness doesn't have it in front of him.

Ms. Anderson. Sure. The document --

Mr. Adams. So --

Ms. Anderson. Would you like me to answer?

Mr. Adams. Please.

Ms. Anderson. The document was one that was provided this morning to you, Mr. Adams. It also appears referenced in the news article that Mr. Kobach already stated that he has read, I think he stated it a couple times now, and it's publicly available.

Mr. Adams. And it's your assertion that that entire thing you read was a news article?

Ms. Anderson. It's -- it's --

Mr. Anello. This is Russ Anello. It's been quoted heavily, but what we just did was we read the entire conclusion section, and I'm sure Tori could read it again, but we read the entire conclusion section from the document that we provided to you this

morning. It's pages 8 to 9 of the document.

Mr. Adams. And you didn't answer my question. Is what you read, was that in the news article? Because you created the inference that Mr. Kobach should be familiar with this when you revived the fact that he said he saw a news article. And so my question is, and it hasn't been answered, is what you just read into the record quoted in the news article?

Mr. Anello. Yes, it is quoted in the news article.

Mr. Adams. The entire thing you read is part of the new article?

Mr. Anello. It may not have every bullet that was read, but, yes, it was quoted heavily.

Mr. Adams. Oh, heavily? So it's not entirely quoted?

Mr. Anello. The somewhat long quote is from the New York Times story.

Why don't we read it again? It sounds like it would be helpful, Tori, to just read it one more time and that way there won't be any confusion as to what it says.

Mr. Adams. Well, look, if you want to read the whole thing over and over you're going to run out your own time. So I think it's a lot better when it comes to documents if we have a chance to have them in front of us when you ask these questions, and I've said that maybe five times throughout this interview and offered to be available for that at a future date. But you have consistently rejected that possibility and prefers to read long excerpts into the record and then ask the witness questions about things he doesn't have in front of him. But go ahead and do that.

Ms. Anderson. So --

Mr. Anello. Mr. Kobach, do you need us to read that a second time?

Mr. Kobach. Yeah, please do.

Ms. Anderson. So it says: A shift from a redistricting population-based

determination using total population to adult population is radical departure from the Federal 'One-Person One-Vote Rule' presently used in the United States. Without a question on citizenship being included in the 2020 Decennial Census questionnaire, the use of citizen voting-age population is functionally unworkable.

The Obama administration and congressional Democrats would probably be extremely hostile to the addition of a citizenship question to the 2020 Decennial Census questionnaire.

The chances of a U.S. Supreme Court mandate to add a citizenship question to the 2020 Decennial Census are not high. A switch to the use of citizen voting-age population as the redistricting population base for redistricting would be advantageous to Republicans and non-Hispanic whites.

A proposal to use CVAP can be expected to provoke a high degree of resistance from Democrats and the majority/minority groups in the Nation.

Mr. Kobach, do you agree with that?

Mr. Adams. Okay. I want to raise another point. If this is essentially -- if this were a deposition that would be a compound question because there's at least 10 different concepts in there that you're asking whether he agrees with.

We will stipulate -- we will stipulate that the addition of a citizenship question is going to engender a high degree of Democratic opposition or else we wouldn't be sitting here right now. There's a lot of other things --

Ms. Anderson. Okay. I'll go through point by point --

Mr. Adams. Can I please finish.

Ms. Anderson. Sure.

Mr. Adams. But if you want to ask him specific questions unrelated to the matter that we stipulated to, then that might be a better way of doing it. But you can't

just ask a blanket statement: Do you agree with a statement that contains 9 or 10 different discrete principles?

Ms. Anderson. Okay.

Mr. Kobach, I'll read the first point: A shift from a redistricting population base determined using total population to adult population is radical departure from the Federal 'One-Person One-Vote Rule' presently used in the United States?

Do you agree with that statement?

Mr. Kobach. To reiterate, I've never heard of this guy until yesterday and I've never read anything he's ever written. That sentence sounds a little bit convoluted to me. I'm not even sure what he means by that sentence. So I would not --

Mr. Adams. Right.

Mr. Kobach. I don't know what he means.

Mr. Adams. And, look, if you want to use your remaining 2 or 3 minutes to ask a private citizen if they agree with the views of another private citizen that's fine, but that's going to be the end of the line when it comes to interrogating him about his private views.

BY MR. ANELLO:

Q If you'd look at -- so the second -- this is Russ Anello -- the second point was: Without a question on citizenship being included on the 2020 Decennial Census questionnaire, the use of citizen voting-age population is functionally unworkable.

Mr. Kobach, do you know what citizen voting-age population means?

A I don't know exactly what he's referring to. I mean, I think what -- so I'm trying to read into what he -- what that written statement's saying. If he's saying that you won't know the exact number of people who are citizens of voting age, then I would agree with that statement. But if he's saying something else, then I don't know whether



I agree or not.

Q Okay. So would you agree -- let me phrase it as I understand it. You can tell me if you agree with this or not. And if you don't, that's totally okay. I'm not putting words in your mouth.

Would you agree that if one were to desire to change congressional apportionment from apportionment based on the total population of a State, let's say, or a district, and to change that to an apportionment that is based only on the use of citizen -- only on the citizen voting-age population within that State or district, would you agree that adding a citizenship question to the 2020 Decennial Census is important?

Mr. Kobach. What was your last word? Adding a citizenship question is what?

Mr. Anello. Would you agree that adding a citizenship question to the 2020 Census would be important for accomplishing the goal of moving from apportionment based on total population to apportionment based on citizen voting-age population? Do you agree with that statement?

Mr. Adams. What does this have to do with the addition of the Census question? You arranged this interview about what Mr. Kobach's role was in that, not what his beliefs are.

Mr. Anello. But, Mr. Adams, Mr. Kobach wrote about this issue. Okay.

Mr. Adams. (Inaudible) you're comfortable asking questions about his personal beliefs and whether he agrees with Tom Hofeller.

Mr. Anello. Okay. Are you instructing Mr. Kobach not to answer my question?

Mr. Adams. Did I? Did you hear me say that?

Mr. Anello. No, but you appeared to log an objection, which I -- and so the question to you is, are you instructing him not to answer? If not, I'd like him to answer. We've heard your objection.

Mr. Kobach, would you answer the question, please?

Mr. Kobach. Could you repeat the question?

BY MR. ANELLO:

Q Sure. So the question is this. And I might rephrase it a little differently, but you can just go with the new version.

If someone -- it doesn't have to be Tom Hofeller -- if somebody was trying to change the way that congressional seats or States -- legislative seats are apportioned in the following way, that they're no longer apportioned based on total population and are instead apportioned based on citizen voting-age population, if that was one's goal, would you agree that adding a 2020 -- adding a citizenship question on the 2020 Census would help to achieve that goal?

A Let me answer first by saying that would not -- I do not share Mr. Hofeller's goal. I think the way that the Constitution speaks of persons residing -- living in a district -- so I think -- this is just me throwing out my legal interpretation of the Constitution -- you probably would include citizens and lawful permanent residents.

Q I see.

A But that was my reading of the United States Constitution.

So I don't share what appears to be Hofeller's goal. Again, I've never heard of this guy and I'm just listening to you read something of what he says.

Do you need to know the number of citizens for Congress to decide which -- how to -- how apportionment should be done if it chooses to modify anything? Yeah, you would -- you need -- the government needs information. A country should know how many citizens it has.

Q Got it. Now, I heard -- it sounds like you just took issue with his use of citizen voting-age population and you noted that you think that legal permanent

residents would also be counted as residents for purposes of -- under the Constitution Enumeration Clause. Is that right?

A That's my reading of the clause. But, you know, again, then you look at what -- how a State -- once a State uses this information to apportion its own representative districts. We need to know how many citizens there are in each county in Kansas, for example, or even more specific, a Census box of population, so that we can draw our districts so that one person has one vote and we don't have unequal voting strength in Kansas.

So just having knowledge is essential to having a fair electoral system so that some people don't have higher voting strength than others.

Q Mr. Kobach, if I'm understanding, it sounds like there's a step between those things, right? There's a step of the 2020 Census question that you wanted to have added and then there's the redistricting in a way that there's the same number of citizens and legal permanent residents, let's say.

Am I right that the steps that would have to take place between those is that you have to exclude people who are not legal residents from congressional apportionment, right? Because if -- then you couldn't accomplish what you're trying to accomplish there, correct?

Mr. Adams. Okay, you've for the second time, you've confused congressional apportionment with redistricting.

Mr. Anello. No, I didn't confuse them. I'm saying that the apportionment is a necessary step to achieve the redistricting. I'm asking whether this change in apportionment would be a necessary step to achieve the redistricting and the fairness that Mr. Kobach is saying --

Mr. Adams. But if they're not even related, redistricting and apportionment are

not related.

Mr. Anello. Well, then can the witness tell me that? Let the witness tell me that if that's the case. This is a question for the witness.

Mr. Adams. Well, look, you're wasting our time in having a philosophical discussion --

Mr. Anello. I think you're filibustering. I've asked this question a number of times and every time I ask it you keep jumping in and refusing to let the witness answer. So my conclusion from that is you don't want him to answer the question.

Mr. Adams. Because this doesn't have anything to do with what we agreed to appear about.

Mr. Anello. Are you instructing Mr. Kobach not to answer this question?

Mr. Adams. You're getting real close to that.

Mr. Anello. I take that as a no.

Mr. Kobach, can you please answer the question?

Mr. Adams. But if you ask questions related to what you asked us to appear about that would be a different question.

Mr. Anello. It's very directly related, it's a very central issue, and that's why I'm trying to get an answer.

Mr. Adams. In your mind it is, but it's not related -- it's not related to any policy.

Mr. Anello. Okay. Mr. Kobach, would you please answer the question? And if you need me to restate it, I'm happy to do that.

Mr. Kobach. Yeah, please restate it.

Mr. Anello. Okay. The question is this. You stated in your -- you stated in your email to Mr. -- to Secretary Ross that the lack of a citizenship question leads to the problem that aliens who do not actually reside in the United States are still counted for

congressional apportionment purposes.

And you told us on the phone today that one of the reasons you wanted to add a citizenship question is so that we know how many citizens we have and that ultimately we can achieve One-Person One-Vote, where you have an equal number of voters in each district.

Is that all right?

Mr. Adams. It's not what his testimony was.

Mr. Anello. Okay. I'll let the witness -- Mr. Kobach, is that correct?

Mr. Adams. Well, I object to the mischaracterization of his testimony, and I'm entitled to raise that objection when you mischaracterize his testimony.

Mr. Anello. Mr. Kobach, if I mischaracterized that, please tell me. The question was whether I was accurate or not. So can you tell us whether that was accurate or not?

Mr. Kobach. The part that I remember is, is it accurate that having this information is necessary to uphold the principle of One-Person One-Vote? The answer is yes.

But bear in mind that asking -- just asking the question and having the information from asking the question is just the first step. And so it's incumbent upon States and Congress to act to preserve the principle of One-Person One-Vote, and I've described how a State can act when it draws its districts internally.

Mr. Anello. But in order to draw the districts the way suggested, where you would have an equal number of voters, would there have to be a step before that in which the apportionment method is changed?

Mr. Adams. No, you're mischaracterizing it again.

Mr. Anello. Again, I would love to hear the witness answer this question,

because I keep asking it, I've asked it 20 different ways, and you jump in every single time.

Mr. Adams. (Inaudible) but you can't mischaracterize his testimony.

Mr. Anello. Okay. But I'd like Mr. Kobach to explain if there's a mischaracterization. He has not said that. You've said that.

Mr. Adams. (Inaudible) difference between apportionment and redistricting.

Mr. Anello. Mr. Kobach, could you answer my question, please?

Mr. Kobach. The answer is no, technically, you wouldn't have to change apportionment. For example, Congress could leave apportionment exactly the way it is, but we still could have incredible benefits at the State level from knowing this information, even if it doesn't change the apportionment of congressional seats.

At least in Kansas, we have our four congressional seats, and we can now ensure that if we have this information we could now ensure that citizens have equal voting strengths and that there are an equal number of citizens in the four congressional districts and that there are an equal number of citizens in the 125 State representative districts and so on.

So one does not -- one does not necessarily imply the other. In other words, you know, it's ultimately up to Congress what they do with apportionment. But at the very least, we should allow States to ensure One-Person One-Vote when they draw up voting districts.

Mr. Anello. Your email to Secretary Ross, if I'm right, I don't believe it uses the phrase One-Person One-Vote, but it does say that adding the citizenship question would address the problem of aliens who do not actually reside in the United States still being counted for congressional apportionment purposes. Is that right?

Mr. Adams. Look, this is getting argumentative. What you're doing is nitpicking with his testimony and then throwing the word "right" with a question mark at

the end.

Mr. Anello. I'm reading his email.

Mr. Adams. I mean, this is so far beyond the pale of usefulness for anyone listening. You just want to argue with him about his beliefs and we're way off the topic.

Mr. Anello. Okay. Mr. Kobach?

Mr. Kobach. You have correctly stated my -- what the text of that email to Secretary Ross is.

I'll tell you, one other thing that I disagree with with the Hofeller letter, so we can just save time in going through, I mean, he makes multiple assertions. I don't agree with his assertion about what the Supreme Court may or may not do.

I don't agree with his assumption that when you count -- when you count accurately the number of citizens, that that necessarily helps one party or another party. We don't know. For example, people have suggested that Texas has a large number of noncitizens. As a country, we don't know which States have a lot of noncitizens, so one could argue -- we're just -- as a country we're in the dark right now as to which States have what percentage of citizens and what percentage of noncitizens.

So I don't know which party it would help or hurt whether you're talking -- in political power, whether it's Congress or anything else.

Mr. Adams. All right. We're wrapping up now.

Mr. Anello. Did you ever have a discussion with anyone in the Trump administration -- I'm sorry?

Mr. Adams. Do you want to take your last break in case there's anything left?

Mr. Anello. Have you ever -- I wanted to just ask this one question I was in the middle of.

Mr. Kobach, did you ever speak with anybody --

Mr. Adams. Whoa, whoa, whoa, whoa, whoa, whoa. Hold on.

Mr. Anello. Yeah?

Mr. Adams. It's 1 o'clock. You've gone about 10 minutes longer than you said you would and about an hour longer than you said you would before that. So my question is, do you want to take that final break to assess if you have anything else?

Mr. Anello. I think that would be fine. I would like to just ask this one question and then I'd be happy to do that. Would be that be okay with you?

Mr. Adams. Go ahead.

Mr. Anello. The question I had was, Mr. Kobach, whether you ever had any discussions with anybody in the Trump administration regarding whether the citizenship question, adding a citizenship question to the Census, would impact the political power of Democrats or Republicans?

Mr. Adams. Okay. The extent that the answer does not require the invasion of the privilege, the witness can answer.

Mr. Kobach. So I think you need to divide the question up, Department of Commerce, where I guess the White House is not asserting its privilege, and then White House, where the White House is asserting its privilege, because basically it's a compound question unless you divide it --

Mr. Anello. It's just a simple yes or no that I'd like on that and then I'm happy to ask further followups after that. This is just a general question about whether you've had any conversations with anybody in the administration?

Mr. Adams. We're done after this.

Mr. Kobach. What I'm saying is by definition, if you're encompassing White House, then I am, by answering your question yes or no, describing the substance of communications with the White House.



Mr. Anello. So I'm sorry. Are you saying you did have a conversation with the White House on this topic and you can't talk about it?

Mr. Kobach. I'm asking you to -- and I'll defer to my counsel -- but I'm asking you to divide your question because I can't -- the White House has said I can talk about the substance of my communications with the Department of Commerce but not with the White House.

Mr. Adams. Right. If you want to rephrase your question to nonprivileged areas, he will answer you.

Mr. Anello. Okay. Excluding the President and the President's senior White House advisers, have you ever had a discussion with anybody in the Trump administration about whether adding a Census citizenship question would impact the political power of Democrats or Republicans or any other political parties?

Mr. Kobach. I do not think I have had such a discussion. I don't recall having such a discussion.

Mr. Anello. And excluding your conversation with --

Mr. Adams. Sorry. That's the last one.

Mr. Anello. Okay. I don't think that's helpful, to cut me off with a scream, but if you'd like to do that we can come back.

Ms. Sachsman Grooms. Okay. So you wanted to take a break. How long of a break would you like?

Mr. Adams. Well, I think we're done entirely. If you have -- if the minority staff has questions, we'd be available to them.

Ms. Sachsman Grooms. Well, that's not the way this works. This works when we say that we're done with our questions.

Would you like to take a break right now? And if so, how long of a break?

Mr. Adams. Okay. Well, you have exceeded your -- we have accommodated you beyond what you indicated would be involved in time.

Mr. Anello. Not true. We did not give you a 1 o'clock timeframe.

Mr. Adams. And we are therefore done unless you want to change the rules and keep going longer than you said you would.

Ms. Sachsman Grooms. So I think you have mischaracterized that. But regardless, would you like to take a break right now? And if so, how long of a break would you like to take?

Mr. Adams. Well, it was your idea to take a break whenever you indicated you wanted to get together to see if we were done or not --

Ms. Sachsman Grooms. We have not indicated --

Mr. Adams. -- and if the minority had questions.

Ms. Sachsman Grooms. We have not indicated --

Mr. Adams. And it was your idea. And I said now is when you can do it.

Ms. Sachsman Grooms. We have not indicated that we are done with our questions such that we were ready to take that break to have a conversation about what the next steps are.

Mr. Adams. Right. We've been going for 3 hours, and when I asked a half hour ago how much longer this would go, the answer was 10 minutes. We let it go 30. So now's the time for us to see if the minority has questions.

Ms. Sachsman Grooms. So that's not an accurate characterization of the conversation. The question on the table right now is whether you would like to take a break right now or if you would like us to continue.

Mr. Adams. I'd like to hear if the minority has questions.

Ms. Nabity. This is Caroline Nabity with the Republican staff. We have no

questions at this time.

Mr. Adams. Well, then it sounds like we're done for the day.

Ms. Anderson. No.

Ms. Sachsman Grooms. No, that is not what has occurred. The majority staff continues to have questions on the table. We would like to continue to ask those questions. If you choose not to answer those questions --

Mr. Adams. But you indicated numerous times --

Ms. Sachsman Grooms. Can I speak?

Mr. Adams. -- and the transcript will show this, that this will go X amount of time, and you've exceeded that significantly.

Ms. Sachsman Grooms. May I speak?

Mr. Adams. And now if you're telling me that you have the expectation that we would acquiesce to contradicting the amount of time you thought it would be, then that's not accurate. We did not have that expectation.

Ms. Sachsman Grooms. May I speak?

So the majority staff continues to have questions on the table. We will ask those questions now or, if you choose to stop the interview, you may stop the interview and end questioning. You always have that option. Would you like to continue with the interview?

Mr. Adams. How many questions?

Ms. Sachsman Grooms. I cannot tell you that. We will continue with the interview or you can get off the phone and stop doing the interview. Those are your choices. If you'd like to take a break, we also are happy to give you a break.

Mr. Adams. Let's agree on a fixed amount of time and we'll continue.

Ms. Sachsman Grooms. Sure.

Mr. Kobach. I've got a maximum 30 minutes available, left to go. I really didn't expect this to go more than 3 hours. But if you can wrap it up in 20 minutes; otherwise, maybe we'll have to reschedule and continue later.

Mr. Adams. No. Well, look --

Ms. Sachsman Grooms. We can certainly attempt to --

Mr. Adams. What's the amount of time that you expect?

Ms. Anderson. Why don't we continue now and see if we can complete the questions in the 20 minutes?

Mr. Kobach, were you ever made aware --

Mr. Adams. No, no, no, no, no, no. We want a fixed amount of time and then we'll go forward.

Ms. Sachsman Grooms. Sorry. We can't agree to a fixed amount of time. What we can agree to is trying --

Mr. Adams. Okay. Well, then, you're obviously not interested in wrapping this up, because all I'm asking for is telling us how much longer.

Ms. Sachsman Grooms. So we are attempting to use the time allotted as quickly as possible.

Mr. Adams. Right.

Ms. Sachsman Grooms. If you will let Ms. Anderson ask the questions, we will try to do that. We are certainly trying to go as quickly as possible, and if you will let us do that, we will certainly make that attempt. But we cannot reassure you that we will be 100 percent done in 20 minutes. And so if Mr. Kobach has to get off at that point, we might need to reschedule at that point.

Mr. Adams. When you said the time allotted an hour ago, that time allotted kept changing. So --

Ms. Sachsman Grooms. If you would like to continue to discuss this, I'm sure we can eat up more of that 20 minutes. Would you like us to ask the questions?

BY MS. ANDERSON:

Q Mr. Kobach, were you ever made aware of any written materials that the Department of Commerce created about the citizenship question?

A I don't recall ever being told about any written materials, no.

Q Were you ever made aware of the contents of a memo -- or were you ever made aware of a memo that was written by James Uthmeier at the Department of Commerce in August of 2017 about the citizenship question?

A I don't have any knowledge of any such memo, no.

Q Were you ever made aware of a memo that was hand delivered from Department of Commerce to the Department of Justice about the citizenship question?

A I don't recall ever hearing about such a memo.

BY MR. ANELLO:

Q Have you ever had any conversations regarding the citizenship question with anybody at the Republican National Committee?

A No.

Q Have you had any conversations with any individual who was on the transition team since the administration began?

A Have I ever --

Q I'll make that more clear, Mr. Kobach. Sorry. That was a little bit unclear. Since January 20th, 2017, have you had any conversations about the citizenship question with former members of President Trump's transition team?

A I don't recall one way or the other.

Q Have you ever had any discussions with anybody in the Trump

administration discussing whether the Voting Rights Act rationale in the Department of Justice's December 2017 letter was indeed the sole reason why Secretary Ross decided to add the citizenship question?

A I have not had any discussions with anyone about why Secretary Ross made the ultimate determination to add a citizenship question -- which, by the way, is not the question that I recommended to him. It's similar, but it's not the same.

Q Did you ever have any conversations with anybody in the administration regarding the drafting of the December 12th, 2017, letter from the Department of Justice to the Census Bureau requesting a citizenship question?

A Well, as I mentioned, you have the email that I sent to Secretary Ross which suggests the version of the question that I thought would be best, which ultimately the Department of Commerce chose not to use.

It is possible that I reiterated what I thought the preferred phrasing of the question would be to someone on his staff, you know, maybe when they were asking about -- when they were inviting me or telling me about the opportunity to write an official comment letter. I just can't recall.

Q Sorry, Mr. Kobach, my question was a little bit different. It was about the letter that the Department of Justice wrote to the Department of Commerce, specifically to the Census Bureau, requesting a citizenship question. That letter had a Voting Rights Act at the core of it. That was the issue described in the letter.

My question was whether you ever had any conversation regarding the drafting of that letter, not about your wording of your citizenship question.

A Oh, I see. I see. I misunderstood your earlier questions.

No, I did not have any conversation with anyone about the Department of Justice's letter to the Department of Commerce.

Q When you spoke to Secretary Ross, or when you communicated with Secretary Ross, did he express a view regarding what I think you described as a problem of aliens who do not actually reside in the United States still being counted for congressional apportionment purposes?

A As I stated earlier, I don't recall Secretary Ross's statements in our phone call. I just can't remember exactly what he said.

Q Do you have -- understanding that -- but do you have a memory of whether Secretary Ross expressed an interest to you when you communicated with him about adding the -- regarding adding the citizenship question?

A In vague terms, as is obvious from the fact that he added it subsequently, I think he generally was appreciative that I made a phone call to him, or had made one to him. I think he was genuinely appreciative for my input, but beyond that I can't remember.

Q Sorry. You said he was appreciative of your input, but did he communicate to you in some way that he was interested in adding a citizenship question to the 2020 Census when you communicated with him?

A As I said before, I don't recall his -- what he said in that conversation. I just don't recall the specifics. It was 2 years ago.

Q Okay. Do you know, aside from what's been public, do you know who made the decision ultimately within the Trump administration, who made the decision to add the citizenship question?

Mr. Adams. That is a vague question: Ultimately who made? What do you mean by that? The Secretary of Commerce makes a decision. Do you mean something different than that?

BY MR. ANELLO:

Q Okay. Sure. I'll clarify.

Do you know whether Secretary Ross was instructed by anybody to add -- to make the decision that he made regarding the citizenship question?

A No, I have no knowledge of what other members of the administration ultimately said to Secretary Ross when the decision was made by the Department of Commerce.

Q Do you know whether the White House was involved in that decisionmaking process?

A I do not know.

Q Putting aside your meetings with folks at the White House, do you know who at the White House was involved in the citizenship question issue?

A The only ones I'm aware of are the ones I've already mentioned who were present in various meetings. So beyond those, no, I don't know.

Mr. Anello. I don't believe we have any further questions.

Minority staff?

Ms. Nabity. No further questions.

Mr. Anello. Mr. Kobach, anything else that you'd like to tell us while we're on the record?

Mr. Adams. No, we have nothing further.

Mr. Kobach. Nope.

Ms. Anderson. Okay. We can now go off the record.

[Discussion off the record.]

Mr. Anello. Mr. Kobach, thank you for your time today. We appreciate it.

[Whereupon, at 1:30 p.m., the interview was concluded.]



## ERRATA SHEET

INSTRUCTIONS: After reading the interview transcript, please note any change, addition, or deletion on this sheet. DO NOT make any marks or notations on the actual transcript. Use additional paper if needed.

<b>Investigation Name</b>	Census Investigation
<b>Witness Name</b>	Kris Kobach
<b>Date of Interview</b>	June 3, 2019

<b>PAGE</b>	<b>LINE</b>	<b>CORRECTION</b>	<b>APPROVED*</b>
17	4-5	Redact personal email	Y
54	5	Change “paren” to “parent”	Y
56	11	Change “maid” to “made”	Y
61	17	Change speaker from Mr. Adams to Mr. Kobach	Y
98	11	Change “he” to “had”	Y

\* For COR Majority Staff use only.

PUBLIC INTEREST  
— LEGAL FOUNDATION —

(via email: [REDACTED])  
Ms. Tori Anderson  
House Committee on Oversight and Reform  
2157 Rayburn House Office Building  
Washington, DC 20515

June 7, 2019

Re: June 3, 2019 Interview of Mr. Kobach

Dear Ms. Anderson,

A transcript of Mr. Kobach's interview from June 3, 2019 was made available to me yesterday at Representative Carson's office. Below are the errors I observed:

1. Page 17, line 4-5: Personal email address needs to be redacted
2. Page 56, line 11: "maid" should be "made"
3. Page 61, line 17: I recall the speaker as Mr. Kobach, not Mr. Adams
4. Page 98, line 11: there is an apparent typo – "or had made one to him"

Sincerely,



Kaylan Phillips  
Public Interest Legal Foundation

cc: Mr. Russell Anello ([REDACTED]),

COMMITTEE ON OVERSIGHT AND REFORM,  
U.S. HOUSE OF REPRESENTATIVES,  
WASHINGTON, D.C.

INTERVIEW OF: JAMES UTHMEIER

Tuesday, June 11, 2019

Washington, D.C.

The interview in the above matter was held in Room 6200, O'Neill House Office Building, commencing at 9:35 a.m.

Appearances:

For the COMMITTEE ON OVERSIGHT AND REFORM:

TORI ANDERSON, COUNSEL

RUSSELL ANELLO, CHIEF OVERSIGHT COUNSEL

SUSANNE SACHSMAN GROOMS, DEPUTY STAFF DIRECTOR AND CHIEF COUNSEL

KATHLEEN TELEKY, PROFESSIONAL STAFF MEMBER

CAROLINE NABITY, MINORITY COUNSEL

STEVE CASTOR, MINORITY GENERAL COUNSEL

TYLER SANDERSON, MINORITY COUNSEL

ELLEN JOHNSON, MINORITY SENIOR PROFESSIONAL STAFF MEMBER

For DEPARTMENT OF COMMERCE:

DAVID DEWHIRST, ESQ. [VIA TELEPHONE]

CORDELL HULL, ESQ. [VIA TELEPHONE]



staffs will alternate asking you questions 1 hour per side per round. The majority staff will begin and proceed for an hour, and the minority staff will then have an hour to ask questions.

Thereafter, the majority staff may ask additional questions and so on. We will alternate back and forth in this manner until there are no more questions from either side and the interview will be over.

During the interview, we will do our best to limit the number of people who are directing questions at you during any given hour. With that said, from time to time, follow-up or clarifying questions may be useful. And if that is the case, you might hear an additional person around the table.

Under the committee rules, you are allowed to have an attorney present to advise you. Do you have an attorney representing you in a personal capacity with you today?

Mr. Uthmeier. I do not.

Ms. Anderson. I understand you do not have a personal attorney with you today, but instead have agency counsel with you. Would agency counsel please identify themselves for the record?

Mr. Dewhirst. David Dewhirst, D-e-w-h-i-r-s-t, deputy general counsel for litigation at the Department of Commerce.

Mr. Hull. Cordell Hull, H-u-l-l, also deputy general counsel, Department of Commerce.

Ms. Anderson. Mr. Uthmeier, do you understand that agency represents the agency and not you personally?

Mr. Uthmeier. I do.

Ms. Anderson. Are you choosing to have agency counsel with you today?

Mr. Uthmeier. Yes, I am.

Ms. Anderson. There is a stenographer taking down everything I say and everything you say for the written record for the interview. For the record to be clear, please wait until I finish each question before you begin your answer, and I will endeavor to wait until you finish your response before asking you the next question. The stenographer cannot record nonverbal answers, such as shaking your head so it is important that you answer each question with an audible verbal answer. Do you understand?

Mr. Uthmeier. I do.

Ms. Anderson. We want you to answer our questions in the most complete and truthful manner possible so we are going to take our time. If you have any questions or do not understand any of our questions, please let us know and we will be happy to clarify or rephrase our questions. Do you understand?

Mr. Uthmeier. Yes.

Ms. Anderson. If I ask you a question about conversations or events in the past and you are unable to recall the exact words or details, you should testify to the substance of those conversations or events to the best of your recollection.

If you recall only a part of the conversation or event, you should give us your best recollection to those events, or parts of conversations that you do recall. Do you understand?

Mr. Uthmeier. Yes.

Ms. Anderson. If you need to take a break, please let us know and we will accommodate you. Ordinarily, we take a 5-minute break at the end of each hour of questioning. But if you need a break before then, just let us know. However, to the extent there is a pending question, I would ask that you finish answering the question before you take a break. Do you understand?

Mr. Uthmeier. Yes.

Ms. Anderson. Although you are here voluntarily and we are not swearing you in, you are required by law to answer questions by Congress truthfully. This also applies to questions posed by congressional staff in an interview. Do you understand?

Mr. Uthmeier. Yes.

Ms. Anderson. If, at any time, you knowingly make false statements, you would be subject to criminal prosecution. Do you understand?

Mr. Uthmeier. Yes.

Ms. Anderson. Is there any reason you would be unable to provide truthful answers in today's interview?

Mr. Uthmeier. No.

Ms. Anderson. Please note that if you wish to assert a privilege over any statement today, that assertion must comply with the committee rules. Committee rule 6(c)(1) states, quote, "For the chair to consider assertions of privilege over testimony or statements, witnesses or entities must clearly state the specific privilege being asserted and the reason for the assertion on or before the scheduled date of testimony or appearance," end quote.

In addition, committee rule 16(c)(3) states, quote, "The only assertion of executive privilege that the chair of the committee will consider are those made in writing by an executive branch official authorized to assert the privilege," end quote. Do you understand?

Mr. Uthmeier. I do not have the rules in front of me, but I will take your word for it. Yes.

Ms. Anderson. Do you have any questions before we begin?

Mr. Uthmeier. No.



Ms. Anderson. I will note for the record that we will start our hour at 9:41 a.m.

EXAMINATION

BY MS. ANDERSON:

Q Mr. Uthmeier, did you serve informally on President Trump's 2016 presidential campaign?

A I worked at a law firm and provided legal counsel to the campaign, the campaign was a client.

Q And so what was your role in that position?

A I was in the business and tort litigation practice group at the law firm, primarily. So most of my responsibilities involved several litigation matters. I also --

Ms. Anderson. Have we lost him?

Mr. Dewhirst. Can you hear us?

Mr. Anello. Now we can, but we cut out.

Ms. Anderson. Is everyone on the line?

Mr. Dewhirst. We are still here. We can hear you just fine.

Mr. Anello. I think the last thing we heard you say was you worked on several litigation matters, and then you cut out.

Mr. Dewhirst. Just start, you did business in tort litigation?

Mr. Uthmeier. I am.

I worked on several litigation matters primarily. However, I spent, I would say, a quarter of my time providing legal counsel to our political law practice group and other than that quarter, I would say a third or less of my time, I provided counsel to the campaign on a range of various activities.

BY MS. ANDERSON:

Q Did you ever discuss, during that campaign, anything regarding adding a

citizenship question to the Census?

A No.

Q Did you serve formally or informally on President Trump's transition team?

A Yes.

Q What was your role on the transition team?

A While still working at Jones Day after the election, I provided some volunteer services to the transition team. To the best of my recollection, I was vetting candidates for certain government positions in the new administration. In addition, I believe I also conducted some research and fact-finding to understand current ongoings in executive branch agencies. So when new officials began working in 2017, I could help to brief them on, you know, the work that was ongoing in the executive branch.

Q How did you become involved on the transition team?

A At Jones Day, having served as counsel to the campaign in various capacities, I was working with attorneys that were also providing services to the campaign. And I do not remember who specifically would have asked me, or invited me to continue helping the campaign in a voluntary capacity, but I was working with several other attorneys at the firm that were helping the transition.

Q How long did you serve on the transition team?

A I would have served on the transition team off and on in both an informal and formal capacity up until I left the law firm the week before inauguration, and then there was 2- to 3-week period, while HR was preparing my onboarding material to begin working at the Department of Commerce. So I don't know exactly what the timeframe looks like, but I would have began shortly after the election and I supposed officially concluded with the beginning of the new administration.

Q Did you ever have any discussions with anyone during the transition period

about adding a citizenship question to the Census?

A No.

Q Did you communicate with now-Secretary Ross during the transition?

A I -- I believe I did, once or twice, but I did not have significant contact with him with directly at that time, no?

Q Did you discuss the citizenship question with him during that time.

A No.

Q Did you ever have any discussions with Mark Neuman during the transition period?

A I did not.

Q Did you ever have any talks or discussions with Kris Kobach about adding a citizenship question during the transition or any other time?

A No.

Q Did you ever have any talks or discussions with Gene Hamilton during the transition or any other time about adding a citizenship question to the Census?

A I do not believe so, no. The name now rings a bell, and I certainly would have heard his name come up in conversation, but I do not believe we had direct communication.

Q Do you recall indirect communication?

A I remember hearing his name.

Q Do you remember in what context?

A The context that I am thinking of I would have heard his name in discussions about scheduling a meeting between the Secretary and the Attorney General.

Q In what timeframe was that? Do you recall?

A I believe it would have been in the fall of 2017. But I do not remember the

specific timeframe, no.

Q Do you recall learning anything else about that scheduling or the reason for the, I guess, the meeting or the conversation that was being scheduled?

Mr. Hull. This is Cordell Hull. I mean, to the extent you are asking about the content, I think we are going to ask -- direct him not to answer.

Ms. Anderson. I believe the first question was, does he remember anything about the content.

Mr. Uthmeier. I remember that it has to do with the Census. But specifically other than that, I don't remember.

Ms. Anderson. Was it about the citizenship question?

Mr. Hull. To the extent that that calls for discussion about the content of the meeting, we are going to instruct the witness not to answer.

Mr. Anello. Are you instructing -- this is Russ Anello. Are you instructing the witness not to answer whether the meeting with about the citizenship question?

Mr. Hull. You are asking him in his context as attorney for the Department whether he was privy to a discussion that I can only imagine would come to him in his role as a lawyer. And so, to get out what --

Mr. Anello. He didn't say that.

Mr. Hull. -- about it would necessarily entail conversations he had at the Department.

Mr. Anello. Okay. Just to back up, we didn't ask for -- the question didn't call -- I am sorry?

Mr. Dewhirst. Counsel, you were breaking up, go ahead.

Mr. Anello. The question was whether the subject of the meeting with the citizenship question. So that doesn't call for any kind of legal analysis. It doesn't call

for anything that I could possibly imagine would be objectionable. But I just want to make sure we are understanding what the question is. Is this meeting between the Attorney General and the Secretary, was it about the citizenship question, just a yes or no.

Mr. Dewhirst. To the extent the witness can answer without discussing any conversations, if there's a way you could answer it, Mr. Uthmeier?

Mr. Uthmeier. I do not know what the meeting was about, and I was not in the meeting.

BY MS. ANDERSON:

Q Mr. Uthmeier, what was your involvement with the scheduling of that meeting?

A I did not have a primary role in scheduling, but the senior official with the Commerce Department, at that time, worked in a very unique workstation format. It was basically a bullpen setup, so I would have been present for other conversations about this, and it would have been in that capacity that I would have heard discussion of the schedule.

Q What did you hear in those discussions?

Mr. Hull. I am going to instruct the witness not to answer about internal executive branch deliberations.

Mr. Anello. Mr. Uthmeier, who did you hear discussing setting up scheduling this meeting?

Mr. Uthmeier. I do not recall.

Mr. Anello. Was somebody else in the bullpen with you?

Mr. Uthmeier. It would have been somebody else in the secretary suite, but I do not remember who.

Mr. Anello. Okay. And did you hear from somebody else in the Secretary's suite that the meeting related the to the citizenship question?

Mr. Uthmeier. I do not recall hearing specifics of the meeting, but I do know that it involves the Census.

Mr. Anello. But you do not know if it involved a citizenship question? I just want to make sure I understand that.

Mr. Uthmeier. I do not remember what specifically it involved, other than the Census.

BY MS. ANDERSON:

Q Mr. Uthmeier, do you know who Thomas Hofeller is? Or Hoffler?

A I am familiar with the name. But I do not know this individual, no.

Q Did you ever speak or communicate with him during the transition, or any other time?

A I did not.

Q Have you ever read anything or seen anything written by him?

A No. To my knowledge, no, I have never seen anything written by him.

Q Have you ever discussed him with anyone?

A I discussed him with counsel in preparation for this interview. However, I had no other discussions. I was present for the deposition of Mark Newman, where I also would have heard the name mentioned.

Q Are you familiar with his 2015 study or report?

A I am not.

Q During the transition team, did the transition team create a written report or plan for the Commerce Department?

A There were written materials that involved the Commerce Department, and

I believe there was a plan, but I do not recall the contents of the plan.

Q Do you recall if the plan, or any of the written materials discussed the citizenship question?

A I do not remember specifically, no.

Q Do you recall remember whether generally it discussed that issue?

A I do not remember, no.

Q You mentioned earlier that you also had a formal role on the transition team. What was that role?

A I served on the landing team. That was the group of individuals that were assigned to agencies to begin doing some research and understanding the ins and outs of the agency, and what that agency's specific roles were, statutory function and so forth.

From there, I was then assigned to the Commerce beach head team, and that was the team was sent in as the initial batch of political appointees after the beginning of the new administration. It is kind of a gray area as to when the transition responsibilities began and ended. I guess even as a new political appointee, I would have been part of the transition of the new administration assuming its leadership role.

Q In either your formal or informal role, did you work on issues related to the Census?

A I did, yes.

Could you repeat that question one more time?

Q Sure. In either your formal or informal role on the transition team, did you work on Census issues?

A Yes. I would have worked on Census issues.

Q In what capacity?

A I would have been researching what the Census is, how it works. I was

quickly made aware that the 2020 Census was going to be coming up soon, and this was one of the Department's most significant undertakings, requiring many personnel, significant resources, and budget, and numerous related issues. So it would have been a big topic facing the new political appointee.

Q Who did you discuss this issue with during the transition team?

A Are you referring to my work prior to beginning at the Department of Commerce or after beginning?

Q Prior.

A To the best of my recollection, I remember speaking with Eric Branstad. There may have been another individual, but I cannot remember specifically.

Q Did you have discussions with Mark Newman at the time?

A I did not speak with Mark Newman, to my recollection, during my transition period. The first time I would have communicated with him, either in person or over the phone, would have been after I was already a Department of Commerce employee.

Q Did you create any written materials about your research into the Census?

A No.

Q During that time, did you -- what email address did you use?

A During which time?

Q The transition when you were working informally and formally on the transition team?

A I would have used my Jones Day law firm email for some matters. At some point, I would have likely used my Gmail address as well.

Q Did you have a transition team email address?

A I did not.

Q So, I believe you mentioned earlier that you first joined the Department of



Commerce a few weeks after the inauguration. Is that accurate?

A Yes. It would have been mid February.

Q What was your role when you joined the Department of Commerce?

A I joined as a special adviser to the Secretary as part of the beach head team.

There I was supposed to conduct fact-finding missions throughout the Department to learn all of the Department's inner workings. And then immediately upon beginning at the Department, I was assigned to serve in the Office of General Counsel as the sole political appointee there, coordinating the Office of General Counsel's efforts to support the Secretary.

Q What were your responsibilities in that role as special adviser?

A I served as a -- I served as counsel to the Secretary. I was his point person in that office overseeing, you know, the Department's legal work, as well as all of the specific Bureau counsel. So it was to provide legal advice.

Q Was what was your role at that time regarding the Census?

A It would have been to oversee legal issues surrounding the Census.

Mr. Anello. Sorry, this is Russ. I want it to make sure I understand the timeframe. You said you joined in February as a special adviser to the Secretary. But then, you said you were immediately moved to the general counsel's office. Is that right?

Mr. Uthmeier. On my first day of work, I was sent to the Office of General Counsel, and I was asked to focus on the legal services provided by the office.

Mr. Anello. Okay. And how long did you have -- were you in that role?

Mr. Uthmeier. I worked in the Office of General Counsel until the general counsel was finally confirmed by the Senate, I believe, in mid to late August 2017. I then continued working in that office under his direction for several months, I believe,

probably 5, 6 months. Following that time, I was relocated to provide legal services in the Secretary's immediate office.

BY MS. ANDERSON:

Q During the time you first joined the Department of Commerce, what was your role regarding the citizenship question?

A The citizenship question first came up as I was conducting my fact-finding, briefings and obtaining information from the career staff at the Bureau. I believe I also would have heard about it in conversations with counsel in the Office of General Counsel. I did not have a specific role that dealt with the citizenship question. It was just one of many issues that would have been presented to me. It was certainly not an issue that was being discussed a lot. The Census had several important projects and issues that were being worked on. And the citizenship was just something that was on the radar of the staff.

Q And who was it -- could you explain a little more, who was it on the radar for, who are you referring to?

A I met with many people immediately after beginning at the Department. I would have met with Census career officials, acting leadership of the Bureau, as well as career officials that were heading up the Department's Office of General Counsel. I do not recall specifically who would have been the one that brought up the Census citizenship question, but it was presented to me as something that they were aware of. It was on the radar as something that could become an issue for the Bureau.

Q And who were those people?

A Who were what people?

Q You said it may have come up with some of the Census career staff and some the general counsel staff. Who were those people specifically?

A I do not recall who specifically would have mentioned the citizenship question. I recall meeting with multiple people in the agency, but I do not recall who would have brought this up for the first time.

Q Who were the people you met with at the agency?

A At the Census Bureau, the director of operations, I believe his name was Allen -- I cannot remember his last name, Lisa Blumerman. Again, I am probably mispronouncing her last name. At some point, I would have met with Ron Jarmin, Enrique Lamas, I do not remember exactly what timing.

Within the Office of General Counsel, the individual performing the duties of general counsel when I arrived was Michelle McClellan, I would have spoken with her. I would have spoken with Barry Robinson, who was the lead counsel on Census matters. I would have spoken with the head contract lawyers that the Census was going through, many different contract issues. I would have spoken to the Office of General Counsel, budget, specialists who were also deeply involved in ongoing Census issues. I probably would have spoken to the employment counsel. I -- John is his name. He would oversee employment issues. John Gunther. I would have spoken to litigation counsel about the Census, because I was aware that every Census leads some sort of litigation. I would have spoken to dozens of people being the sole political appointee attorney at such a large agency.

Q Why was this issue on the radar?

A I don't know.

Q Had you heard that there was any particular interest in the question?

A I do not remember specifically why, why it was on the radar. But it was made clear to me that the career staff knew that it was something that might need to be researched.

Mr. Anello. This is Russ. Just to be clear, why did they know it was something that needed to be researched? Did they express to you why they thought it would have to be researched?

Mr. Dewhirst. To the extent it calls for conversations he had with folks in the Department and his attorney, I am going to instruct him not answer. If there is a way that you can answer it in a way that doesn't invoke privilege, go ahead.

Mr. Uthmeier. I don't know why they thought it might need to be researched.

BY MS. ANDERSON:

Q And you said that you worked in that capacity until around August, or midsummer. Is that correct?

A I served as a legal adviser to the Secretary throughout my entire at the Department. I was housed in the Office of General Counsel up until, perhaps, the middle of 2018. I do not remember the specific date. But I certainly worked under the general counsel after he arrived for at least a few months.

Q Did your responsibilities change with that sort of, I guess, reorganization in your role?

A I -- yes, they did. I assumed more responsibility. During my time at the Department of Commerce I served as the regulatory reform officer where I oversaw all of the Department's regulatory issues. That role expanded as I moved into the Secretary's suite, and became more of a priority for the Department. The Secretary also wanted to work hard to advance the commercial space industry, and I was put in charge of that project, and was working to help him create a new space team that would draw experts from all of the various Bureaus at the Department that touch on space from Patent and Trademark to the Bureau of Industry and Security, to NTIA spectrum issues. There's an Office of Space Commerce within NOAA, N-O-A-A, is the abbreviation. They deal with

space weather, satellite issues, GPS.

So, I began diving into that realm in a big way, and I believe the reason I was asked to transition into that is the President had directed the Department -- the Vice President, specifically, who heads up National Space Council, he directed the Department to take on a leadership role in space commerce, and specifically, to identify ways to streamline the regulatory process that somebody would have to go through to conduct commercial activities in space.

Q When did you next hear about the citizenship question?

A I am not sure what you mean by that question. When did I next hear about it in relation to what?

Q So you mentioned earlier that this was an issue that was on the radar.

What happened next with regards to the citizenship question? Did you hear about it? When did you next hear about it again? Did it change on the radar?

A I would have -- I began, you know, conducting my due diligence on this topic, in addition to the many other topics that we were working on at Census, and immediately would have been conducting research into the types of questions that were asked on the Census on all of the various surveys, the processes for determining what questions are going to be asked; the preparations that are required for making decisions on how preparations are asked. How data is used, or at least what the proper uses of data are from various departments within the executive branch. So I would have continuously worked on the citizenship question issue to just be prepared for whatever might come, and then, I would have had discussions with other officials at the Department going on into 2017 on the topic.

Q Who did you have discussions with?

A Well, in my position, I had discussions with the Secretary; I had discussions

with policy staff; I had discussions with legislative affairs personnel, since there is a congressional Hill element, and there are statutory requirements involving the Census, and when the Department needs to provide information to Congress relating to the Census. I would have spoken with attorneys to gather more information about all of the questions on the Census, or at least many of the questions, including the citizenship question and how it was currently being used, and how it had been historically used.

I would have also spoken with budget personnel, but -- part of my role at the Department was ensuring that people are getting briefed up on my research and everything that I was doing.

BY MR. ANELLO:

Q This is Russ Anello again. It sounds like you did a lot of work. I think you have described some pretty detailed research that you did. You described a list of maybe 6, 7, 8 categories of people that you talked to. Is it fair to say that you didn't do this amount of research for every single issue that came in front of you as the only political appointee doing legal work in the entire Department, right?

A I'm sorry, I don't I don't think I understand the question.

Q Is it --

A I did not do this level of research on all the projects I was working on?

Q Right.

A I did a lot of legal research and advice on many topics. The Census issues were just one that we were working on. The Department had a leading role in trade. Regulatory reform, probably took up the largest amount of my time. Space commerce issues, I would say, took up a large amount of time. I was also involved in congressional requests for documents, and have an oversight role to play.

Q I understand. Mr. Uthmeier, I don't want to cut you off. But I am asking

specifically about this issue, not about space commerce, not about regulatory reform. I am just asking about this issue. And my point is only that it sounded like you were spending a lot of time on it. And my question for you is why you are spending -- why did you do this much due diligence on this issue, and why did you talk to so many people about it?

A I exercised significant due diligence on all topics. That's just the way I am.

Q But why did you exercise that on this topic?

Mr. Dewhirst. Sorry. Could you repeat that? You broke up.

BY MR. ANELLO:

Q The question is, why, Mr. Uthmeier, did you conduct such an intense level of due diligence on this particular topic. You said that it was on the radar screen, but you haven't explained anything more than that, so it doesn't make sense to me. I am trying to understand why did you conduct such an intensive due diligence on adding a citizenship question on the topic of a citizenship question?

Mr. Dewhirst. Counsel, I think counsel he is trying to answer in a way that doesn't implicate any privilege while, at the same time, giving the committee position information to show that this was a part of the bigger picture of what he was doing at the end of the day. But I will let the witness answer. He's trying to be helpful on this, and I just want that context out there.

Mr. Uthmeier. What I am saying is, you know, I dedicated time to this like I would have any other issue that was put on my plate. I like to be well-informed and I like to be able to offer thought-out advice.

BY MR. ANELLO:

Q So are you saying that you just, on your own accord, you talked to some career folks, and then on your own accord, you put in all of this due diligence without

being instructed to do so by anyone. Is that your testimony?

A No. I think one thing being misconstrued here is the timeframe. In the beginning the citizenship question came up as one item that the Census was aware of. And there all the work that I just laid out that I conducted, I am talking about throughout the duration of my time at the Department. I didn't realize you are focusing on the first month or 2. This became a more significant research topic for me as 2017 progressed, and I realized it may be reinstating the question, may be something that the Secretary ultimately decided to do.

Q So when did you become aware that reinstating the question was something the Secretary might ultimately decide to do?

A The Secretary asked me to look into the issue. I would say at some point in the spring of 2017, likely March or April.

BY MS. ANDERSON:

Q How did he let you know that?

A And to be clear, are you asking written or orally, is that still the question?

Q For now, yes, let's start there.

A To the best of my recollection, it would have come up in one of our in-person briefings, likely while we were talking about multiple topics, where he was trying to get more information to help him make decisions. I know that I was also asked by Earl Comstock, the policy director, to begin looking into the issue as well.

Q What did the Secretary ask you to look into?

Mr. Dewhirst. I am going to direct the witness not to answer, that implicates executive branch confidentiality and litigation concerns.

Mr. Anello. Are you asserting a privilege?

Mr. Dewhirst. I am sorry, if you didn't hear me.



Mr. Anello. I did hear you. But I am asking if you are asserting a privilege?

Mr. Dewhirst. The question implicates executive branch and confidentiality and litigation concerns.

Mr. Anello. Right. But are you asserting a privilege?

Mr. Dewhirst. I'm sorry, Russ. Are you having some trouble hearing me?

Mr. Anello. No, I appreciate your concern about my ability to hear you. That's not the issue.

You said something about executive branch confidentiality interests, but as far as I am I aware, that's not a privilege. And I am asking whether you are asserting a particular privilege. Are you asserting that this is privileged information that he can with not ask the witness about?

Mr. Dewhirst. To the extent you are asking about the substance of the communications between a client and an attorney, I am going to instruct the witness not to answer because that implicates executive branch confidentiality and litigation concerns.

Mr. Anello. Sorry. Again, I am not sure I am following. Are you saying that you are asserting attorney-client privilege, or are you saying you are asserting some other privilege, or you are not asserting privilege? I understand you believe it is confidential, but confidentiality is not a privilege. I don't --

Mr. Dewhirst. -- voluntary interview, we are going to assert executive branch confidentiality and litigation interests. We will endeavor to let the witness answer as much as he can without implicating those interests. Now, as we go through this and understand the committee's questions, we will do our best to try to get the committee information we can, either through the accommodation process or through alternative nonprivilege means, but for the scope of today's interview, we are going to instruct the

witness to answer -- we are going to instruct the witness not to answer based on executive branch confidentiality of litigation.

Mr. Anello. To be clear, I think you are saying you are not asserting a privilege, you are simply saying that there are confidentiality interests, and on that basis, you are instructing the witness not to answer, correct?

Mr. Dewhirst. We are saying the question implicates privileges covered by executive branch confidentiality interests. And on that basis, we are instructing the witness not to answer.

Mr. Anello. But which privilege?

Mr. Dewhirst. We will continue to work with the committee to get it the information it needs, but today, in the scope of this voluntary interview, we are going to let the witness discuss nonprivileged information, and we can try to work with the committee through the accommodation process to get the committee the information it needs.

Mr. Anello. I understand. But you're saying you are going to let the witness answer nonprivilege information, which would imply you think this is privileged, but then you haven't asserted what privilege it is. So I understand you keep saying confidentiality interest. That's not a privilege.

Mr. Dewhirst. I have asserted what I am going to assert and we will let the witness answer or we can let the witness answer, or we can hash it out later, and try to get the committee if there are privileges, the Department can wait. We can consider that, but for purposes of today's interview, we are trying let the witness answer as much information as he can. You are asking questions of a former senior lawyer at the Department about predecisional matters. As you know, that implicates a number of confidentiality concerns, including, but not limited to, the deliberative process privilege,

the attorney-client privilege, the attorney work product privilege, and we are simply saying, we are not going to let him answer those today. Once we have the questions, we may be in a better position to establish ways to get you information, or perhaps, permit the witness to give that information in another way.

Ms. Sachsman Grooms. Okay, in this context -- this is Susanne -- you permitted the witness to tell us that the Secretary instructed him to look into the issue of citizenship of putting the citizenship question on to the Census. And then when asked more detail about what that instruction was, you have prohibited from giving any more detail. So it's unclear as to why the fact of the instruction is something that you are willing to share, but any more detail about what specifically the instruction was would be covered by some additional concern.

Mr. Hull. I am not sure that that was a comment.

Ms. Sachsman Grooms. I mean, can he give us a little more detail about what he was instructed to research on behalf of the Secretary? So the Secretary instructed him to do something. He's already told us that. Can you please --

Mr. Uthmeier. Correct.

Ms. Sachsman Grooms. -- provide us more detail about what you were instructed to do?

Mr. Hull. And what I am saying, counsel, is to the extent the Secretary or anybody in the Department of Commerce directed the witness in his capacity as a lawyer for the Department of Commerce, the Department is going to assert executive branch confidentiality and litigation interests to instruct the witness not to answer that question today.

Once we have gone through this process and seen the questions the committee has asked, we may be able to provide that information in a different way. And we plan

to do that. But sitting here today, if you are asking him to talk about conversations he had with Department personnel about a predecisional matter, the Department is not prepared to permit the witness to answer that question today.

Mr. Anello. Are you saying that you will provide us the information about what the Secretary said in a different format?

Mr. Dewhirst. I'm saying once we have the scope of the committee's questions we are willing to consider a position and see what we can give the give the committee through the accommodation process.

BY MS. ANDERSON:

Q What did Earl Comstock tell you to do regarding the citizenship question in the spring of 2017?

Mr. Dewhirst. Again, I am going to instruct the witness not to answer, because that implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q Did Secretary Ross express a particular view about whether he thought the question should be added in the spring of 2017?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q Did Earl Comstock express of you about whether he thought the question should be added in the spring of 2017?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q Did Secretary Ross state or tell you why he was interested in a citizenship question?

Mr. Dewhirst. Same instruction.

BY MS. ANDERSON:

Q Did Earl Comstock say or tell you why he thought he was interested, or why the Secretary was interested in the citizenship question?

Mr. Dewhirst. Could you ask that question again, please?

BY MS. ANDERSON:

Q Sure. Did Earl Comstock tell you or indicate to you why he might be interested in adding a citizenship question, or discussing a citizenship question.

Mr. Dewhirst. I am going to instruct the witness not to answer?

Mr. Anello. Yes or no, basis?

Mr. Dewhirst. You have a couple of questions wrapped in there.

Ms. Sachsman Grooms. Break them out.

Ms. Anderson. Sure.

Mr. Dewhirst. Go ahead. Sorry to interrupt.

BY MS. ANDERSON:

Q Did Earl Comstock tell you why the Secretary was interested in a citizenship question? That's a yes or no.

Mr. Dewhirst. I am going to instruct the witness not to answer.

Mr. Anello. I am sorry, if I could pause there. Are you asserting a confidentiality interest over the yes-or-no question about whether this witness was told why the Secretary was interested?

Mr. Dewhirst. Well, you sort of built the deliberative material right into the question, haven't you? So yes, I am instructing the witness not to answer.

BY MS. ANDERSON:

Q Did Earl Comstock indicate to you or tell you why he was interested in learning more about the citizenship question?

Mr. Dewhirst. Same instruction to the witness.

Mr. Anello. Did Secretary Ross tell you that he was interested in adding a citizenship question because the White House instructed him that this was a priority?

Mr. Dewhirst. Same instruction to the witness.

Mr. Anello. Did the Secretary tell you that he was interested in adding a citizenship question because Steve Bannon had told him that this was a priority?

Mr. Dewhirst. Same instruction to the witness.

Mr. Anello. Did Secretary Ross tell you that he was interested in adding a citizenship question in order to influence congressional apportionment or redistricting?

Mr. Dewhirst. Could you repeat that, please?

Mr. Anello. Did Secretary Ross tell you that had he was interested in adding the citizenship question in order to influence congressional apportionment --

Mr. Dewhirst. Before you get to the end, start over again. I am missing a word or two in the middle of that.

Mr. Anello. Did Secretary Ross tell you that he was interested in adding a citizenship question in order to influence congressional apportionment or redistricting?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q Were you ever told explicitly or implicitly not to ask why the Secretary was interested in the citizenship question?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q In the spring of 2017 what was the rationale offered at a basis for considering adding a citizenship question?

Mr. Dewhirst. Yeah, I am going to instruct the witness not to answer.

BY MS. ANDERSON:

Q Were you ever involved in any discussions about the congressional notification process for topics that would appear on the 2020 Census?

Mr. Dewhirst. Same instruction -- actually, ask the question one more time, Tori?

BY MS. ANDERSON:

Q Sure. Were you ever involved in discussions about the congressional notification process for topics that would appear on the 2020 Census?

A Yes, I was.

Q Who was present during those discussions?

A The Census career officials would have been present for some of these discussions. Counsel that worked on Census issues would have been present, various policy officials would have been present. The deputy chief of staff at the time is Israel Hernandez, was spearheading much of the Census preparations. He would have likely been present for some of these conversations as well.

Q Did you ever discuss the issue with Secretary Ross?

Mr. Dewhirst. I am going to instruct the witness not to answer because that implicates executive branch confidentiality and litigation concerns?

BY MS. ANDERSON:

Q Did you ever discuss the congressional notification process for topics with Earl Comstock?

Mr. Dewhirst. Same instruction.

Mr. Anello. So I'm sorry, I just want to make sure I am understanding this. So it was okay to say whether he had a conversation about the citizenship question, and the issue of congressional notification, just the topic itself is something that he cannot

confirm or deny he had a conversation about?

Mr. Dewhirst. The witness testified that he had conversations about the congressional notification issue.

Mr. Anello. I am asking about whether he had conversations.

Mr. Dewhirst. -- between the Department's director of policy, and its senior attorney at the time.

Mr. Anello. Correct. I mean even if you did think this was privileged, this would be information in a privileged slot. So I am not sure I understand the basis for your objection.

Mr. Dewhirst. Maybe you can restate the question then.

BY MS. ANDERSON:

Q Did you ever discuss the issue of congressional notification for topics that would appear on the 2020 Census with Secretary Ross?

Mr. Dewhirst. And just to be clear -- sorry, this is David, when you say topics --

Ms. Anderson. Subjects that would appear.

Mr. Dewhirst. You are referring to something specific?

Mr. Anello. It is a statute, it is a law.

Ms. Anderson. Yes.

Mr. Dewhirst. Okay. And one more time with the question.

BY MS. ANDERSON:

Q Did you ever discuss with Secretary Ross the congressional notification process for topics that would appear on the 2020 Census?

A Yes, I did.

Q Did you discuss topics that would appear on the 2020 Census in the connection with the citizenship question?



A Can you be more specific?

Q Did you discuss with Secretary Ross a congressional notification process for topics that would appear on the 2020 Census in relation to, or with regards to the citizenship question?

A I do not recall.

Q Did you ever have discussions with Secretary Ross about the process for adding questions or having questions appear on the 2020 Census?

Mr. Dewhirst. I am going to instruct the witness not to the answer that question in that it implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q Did you ever discuss with Secretary Ross having missed any deadlines to notify Congress about topics that would appear on the 2020 Census?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q Did you ever have any discussions about approaching other agencies to request the addition of a citizenship question to the 2020 Census?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q You indicated the Secretary had instructed you to look into the issue. Did you ever learn why the -- whether the Secretary wanted to add a question -- citizenship question to the 2020 Census?

Mr. Dewhirst. Same instruction to the witness.

Just to be clear for the record, the instruction is I am instructing the witness not to because it implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q And just to be clear, the question is whether he learned if Secretary Ross wanted to add a question, not what he learned about that, but whether he learned the answer to that kind of thing?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q So realizing that you received the email this morning, I would like to direct your attention to the email that, I believe the first part of it is exhibit 1, it is a calendar invitation from June 28, 2017.

Mr. Dewhirst. This is exhibit 1, Tori?

[Uthmeier Exhibit No. 1

Was marked for identification.]

BY MS. ANDERSON:

Q And I am going to mark it as exhibit 1. Mr. Uthmeier, do you have that in front of you, or have you had a chance to review that?

A I am looking at it right now, yes.

Q It is a calendar invite from, was set on June 2017 for a meeting on June 28, 2017, and the meeting title is "hold: Meet with James re: Census and citizenship." It is with Earl Comstock and it was sent to you. Do you recall this meeting?

A I recall meeting with Earl on multiple occasions, on many topics. This specific meeting, I do not recall.

Q When did you first speak with Earl Comstock about the addition of a citizenship question to the 2020 Census?

A At some point in the spring or summer of 2017. I do not remember specifically when.

Q Who initiated the conversations between you and Earl Comstock?

A I do not recall.

Q Did you and Earl Comstock discuss the purpose of why he wanted to discuss with you the citizenship question?

Voice. Someone has left the conference.

Ms. Anderson. Off the record.

[Discussion off the record.]

BY MS. ANDERSON:

Q Did you and Earl Comstock discuss why you were meeting or speaking about the citizenship question in the spring of 2017?

Mr. Dewhirst. I am going to instruct the witness not to answer because that implicates the executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q Was anyone else ever present for your discussions or conversations with Earl Comstock about the addition of a citizenship question?

A Are you talking about this specific meeting or any meeting?

Q Do you now recall this specific meeting?

A I only recall what I see on the exhibit in front of me that it appears to have been scheduled for June 28.

Q Do you recall anyone else being present for discussions you do remember in the spring of 2017 about the citizenship question with Earl Comstock?

A I -- people would have -- other people would have been present for meetings with Earl on the Census citizenship topic, yes.

Q Who were those people?

A Well, it depends on the time period, Peter Davidson the general counsel, would have been present for meetings, Carrie Ann Kelly, after she arrived at the

Department would have been present, Peter Langdon worked for Earl at the policy office. He would have been present. Let's see who else. Sahra Park-Su, he was an individual that worked for Earl in his policy office. She would have been present. Wendy Teramoto was the chief of staff at the time. I believe she would have been present for, you know, at least a meeting or two.

At some point, someone from legislative affairs probably would have been involved in a meeting, certainly would have. I cannot remember which individual for which meeting, but they would have been around -- all internal DOC people.

Q Did you do anything as a result of Earl Comstock directing you to research the citizenship question in the spring of 2017?

Mr. Dewhirst. I am going to in the witness to the to answer. What was the full question? I may have cut you off.

BY MS. ANDERSON:

Q I said, Mr. Uthmeier, did you do anything as a result of the direction of Earl Comstock to look into the citizenship question in the spring of 2017.

Mr. Dewhirst. I'm going to instruct the witness not to answer.

BY MS. ANDERSON:

Q Did Earl Comstock every provide to you or discuss with you rationales for adding a citizenship question to the 2020 Census?

Mr. Hull. Same instruction.

[10:36 a.m.]

Ms. Anderson. We're going to speak with you a little bit about what was emailed as exhibit No. 5. I'm marking it as exhibit 2 for the record. Please let me know --

Mr. Dewhirst. Really? Do we have to do that? We've got these things in email. Is there any way we can just call it exhibit 5? Is that possible? It's just going to get confusing on our end.

Ms. Anderson. Sure. Okay.

Mr. Anello. We'll mark it as 5.

Mr. Dewhirst. That'll take you a little bit out of order, but if that's okay, that would be really helpful. Thank you.

Ms. Anderson. That's fine.

[Uthmeier Exhibit No. 5

Was marked for identification.]

BY MS. ANDERSON:

Q It's an email, just so we all know we're talking about the same thing and you can review the same thing, from Earl Comstock to Wendy Teramoto on September 16, 2017. And it includes an email and then a memo that's marked as dated September 8, 2017.

Have you had a chance to read it?

A Yes.

Q Okay. The memo that appears at the bottom of the email, Mr. Comstock writes that he made phone calls or had meetings with the Department of Justice and the Department of Homeland Security regarding the addition of a citizenship question.

Were you aware of those calls or meetings?

A I was not.

Q Okay. Were you involved in any way in those calls or meetings?

A I was not.

Q He writes at the end, the last paragraph, quote: At that point, the conversation ceased, and I asked James Uthmeier, who had by then joined the Department of Commerce Office of General Counsel, to look into the legal issues and how Commerce would add the question to the Census itself.

Do you recall having that conversation with Earl Comstock?

A I remember speaking with Earl Comstock about legal issues and how Commerce could add the question to the Census itself, yes.

Q What legal issues did he ask you to look into?

Mr. Dewhirst. I'm going to direct the witness not to answer, because it implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Sorry. Could you just identify yourself for the record for the stenographer?

Mr. Dewhirst. Sorry. David Dewhirst.

Ms. Anderson. What did you do in response to his request for you to, quote, look into the legal issues and how Commerce could add the question to the Census itself?

Mr. Dewhirst. Same instruction to the witness.

Ms. Anderson. Did you look into the legal issues and, quote, how Commerce could add the question to the Census itself?

Mr. Dewhirst. Same instruction to the witness.

Ms. Anderson. Did you conclude whether the Department of Commerce could, quote, add the question to the Census itself?

Mr. Dewhirst. Same instruction to the witness.

Ms. Anderson. Did you conclude whether it would be likely or unlikely that the Commerce Department would be able to add the question itself?

Mr. Dewhirst. Same instruction to the witness.

Mr. Anello. This is Russ Anello. I just want to make sure I'm understanding even what this email means. It says that Mr. Comstock asked you to look into the legal issues and how Commerce could add the question to the Census itself.

What does it mean to add the question to the Census itself?

Mr. Dewhirst. I'm going to instruct the witness not to answer that.

Mr. Anello. Your department produced this document to us. I don't understand. You produced this document to us. I'm simply asking what the document means.

Mr. Dewhirst. Russ, I think we're talking over each other a little bit.

Mr. Anello. Okay.

Mr. Dewhirst. Let me finish. I'm instructing the witness not to answer because it implicates the executive branch confidentiality and litigation concerns.

Mr. Anello. Okay. Is this document confidential, in your view?

Mr. Dewhirst. We're talking over each other again. Sorry. I was just going to say, proceed. Sorry. Go ahead.

Mr. Anello. Okay. This is for the attorneys. I'm trying to understand. This document was produced without redaction, correct? So I'm just asking for interpretation of what the document means. I'm not asking for anything beyond an understanding of the document that has already been produced. So I don't understand how that implicates confidentiality concerns.

Mr. Dewhirst. -- lawyer to provide an interpretation of a conversation and work that he may have done in relation to a client? I mean --

Mr. Anello. No. Well, this was a determination your department made.

Mr. Dewhirst. Yeah, I'm giving instruction to the witness.

Mr. Anello. Okay.

To be really clear, the Department of Commerce provided an email that says that Mr. Uthmeier was asked to look into how Commerce could add the question to the Census itself. I'm simply asking, what does it mean to look into how Commerce could add the question to the Census itself? I don't see how that implicates any privilege. I'm asking for an understanding of the document you produced.

If you're not going to let the witness testify about this small number of documents that have been produced, I'm not sure I understand what's going on.

Mr. Dewhirst. Well, do you want to ask the question again --

Mr. Anello. Sure.

Mr. Dewhirst. -- or do you want to just move on? What do you want to do?

Mr. Anello. I'm happy to ask the question again.

What did you understand Mr. Comstock to mean when he says that he asked you to look into how Commerce could add the question to the Census itself?

Mr. Dewhirst. But, again, you're asking him about a document he didn't write.

Mr. Anello. He said he remembered it.

Mr. Dewhirst. You're asking him to interpret -- let me finish. You're asking him about a document he didn't write and saying, "What did it mean? Tell me about a conversation you had with a senior official at Department of Commerce in your role as a lawyer."

Mr. Anello. Okay.

Mr. Uthmeier, is it correct, is it accurate, that Mr. Comstock asked you to look into the legal issues and how Commerce could add the question to the Census itself? Is that



accurate?

Mr. Uthmeier. Yes.

Mr. Anello. Okay. What did he mean by "how Commerce could add the question to the Census itself"? How did you understand that question? What did you understand that question to mean?

Mr. Dewhirst. I'm going to instruct the witness not to answer that. That question implicates executive branch confidentiality and litigation concerns.

Ms. Sachsman Grooms. Are you going to instruct the witness -- this is Susanne Grooms. Are you going to instruct the witness not to answer any questions about any of the work that he did surrounding the addition of the citizenship question to the Census?

Mr. Dewhirst. Well, it's hard to answer a question like that, Susanne, without actually hearing the questions posed. So --

Ms. Sachsman Grooms. Sure.

Mr. Dewhirst. -- I don't think we're prepared to make any representation about your specific question right now. I mean, I think we'll just have to take these as the questions come along. But that's why we're here voluntarily.

Ms. Anderson. Did Earl Comstock direct you or ask you to do anything regarding the citizenship question?

Mr. Dewhirst. Sorry. Who is speaking now?

Ms. Anderson. Sorry. It's Tori. Back to me.

Mr. Dewhirst. Tori. Sorry. Go ahead.

Ms. Anderson. Did Earl Comstock direct you or ask you to do anything else regarding the addition of the citizenship question?

Mr. Dewhirst. I'm going to instruct the witness not to answer because it implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Did Earl Comstock direct you or ask you to speak with anyone else regarding the addition of a citizenship question?

Mr. Dewhirst. Same instruction to the witness.

Mr. Anello. Mr. Uthmeier, did you take any action with regard to the addition of the citizenship question that you're willing to share with us today?

Mr. Uthmeier. Could you be more specific? I've been sharing quite a bit of information today.

Mr. Anello. Well, not about the questions we're asking you, unfortunately.

Did you take any action at the Department of Commerce while the issue of the citizenship question was under consideration that you can describe to us today?

Mr. Uthmeier. I'm sorry. I'm going to need you to be more specific. I don't know what you're asking me.

Mr. Anello. Okay. We'll keep going.

Mr. Castor. I think the hour is up, right?

Mr. Anello. Is it?

Ms. Anderson. Yeah.

Mr. Anello. Okay.

So we normally take about a 5-minute break.

Ms. Anderson. Our hour has been up. We usually do take a 5-minute break. Would you like to take a 5-minute break?

Mr. Dewhirst. Yes, 5 minutes would be great.

Ms. Anderson. Okay. So we'll return at -- sorry?

Mr. Dewhirst. Sorry, Tori. I was just going to ask what the normal protocol is. Do we just leave the line open?

Ms. Anderson. You can. You can also dial back in.

Mr. Dewhirst. Okay. Why don't we do that. We'll dial back in -- it's 10:45.

We'll dial back in at 11:00.

Ms. Anderson. 10:50 for a 5-minute break.

Mr. Dewhirst. Oh, sorry. 10:50, yeah, that's correct. Sorry.

Ms. Anderson. Okay. All right. Thank you.

Mr. Dewhirst. Thank you.

[Recess.]

Mr. Castor. This is Steve Castor with the Republican staff. Can you guys hear us okay?

Mr. Dewhirst. We can hear you, Steve. Cordell is working on downloading the attachments.

Mr. Castor. Okay.

Mr. Dewhirst. Can you just give us just a second on that?

Mr. Castor. Sure.

Mr. Dewhirst. Thank you very much.

Mr. Castor. You've indicated a couple times you're having trouble hearing or the line's not clear. So if that's the case, definitely we'll stop talking and try to start over.

Mr. Dewhirst. Sounds great. Are you hearing us clearly?

Mr. Castor. We're hearing you great. And so, in fact, because the line on our end is so clear, if you're having trouble hearing us, at least on our end, it sounds confusing, but evidently you guys aren't hearing us as clearly.

Mr. Dewhirst. Yeah. We get some clicks and pops occasionally, and then we dropped off that one time. So that seems to be the issue. But most --

Mr. Uthmeier. And we're on a land line, which is odd.

Mr. Dewhirst. But most of the time, we can hear you just fine.

Mr. Castor. Okay. So feel free to ask us to repeat a question. We'll do our best here, given the circumstances aren't ideal.

If, during the course of the day, after you've heard the -- and this is more for the lawyers, for David and Cordell. You know, after you've heard sort of the balance of the questions, you know, if there is an opportunity, especially during the 90-minute break, to revisit any of your instructions not to answer, you know, we would certainly appreciate that, you know, understanding that you make these assertions or objections when the question's asked, and then sort of at the end of the day, after you've heard a body of questions, you might be able to revisit it, and that's sort of how the accommodation process works.

And so maybe the 90-minute break will -- you know, maybe that will loosen up some things. Maybe it won't. But we just wanted to invite you to do that.

Ellen Johnson from our staff, she's going to ask the questions when we're ready to go.

Mr. Dewhirst. Okay.

Mr. Castor. And we're all here back in the room.

Mr. Dewhirst. Great. We're ready on our end.

Mr. Castor. And just so you know, the court reporters, they do an incredible job for us. And so they come in and out on 1-hour increments, roughly. And so it is helpful for them if, Cordell, David, James, if you identify yourself when you start talking. I know that sounds clunky or cumbersome, but to the extent you can just chime in with your name, that's really helpful for our court reporters. And thank you.

Mr. Dewhirst. Definitely. We'll try to do that.

The Court Reporter. And who was that?

Ms. Johnson. That was David.

The Court Reporter. That was David?

Mr. Castor. That was David, yeah.

Mr. Dewhirst. Just so you were wondering, David Dewhirst is being amazingly cooperative.

Mr. Castor. Okay.

The Court Reporter. Got it.

Mr. Castor. And just -- David's been doing most of the talking, and Cordell is sort of the second lawyer there in the room, and James is the witness.

So is everybody ready to go, or are you still trying to download something? Our first couple questions won't implicate the documents, so maybe it's okay to get going.

Mr. Dewhirst. That's fine. We got them.

Mr. Castor. Okay, great. Okay. I'll turn it over to Ellen. Thank you.

Mr. Dewhirst. Thank you.

Ms. Johnson. Thank you, Mr. Uthmeier. This is Ellen Johnson. It's nice to meet you on the phone.

#### EXAMINATION

BY MS. JOHNSON:

Q Can you tell me, how long were you employed at the Department of Commerce?

A I was there a little over 2 years. I began in February of 2017. I believe it was February 11th. And I continued working there until late March.

Q Is that 2019?

A 2019, yes.

Q Okay.

And in your previous statements, you said you were in the Office of General

Counsel and later in the Secretary's Office directly. Was your title the same the whole time?

A My title was changed a few times. It was kind of a fluid process that I always would lose track where the paperwork was. But I certainly went from a special advisor to counsel to senior counsel. I believe at one point I was senior advisor and counsel. I was counsel and, at the Secretary's request, special advisor for space.

I also received a promotion at some point in 2019 to become a deputy chief of staff for strategic initiatives, but I'm not sure where that paperwork ended up in the process. I left shortly after to move home to Florida.

Q Okay.

Did you know anyone, either political or career, at the Department of Commerce before you joined on February 11, 2017?

A I had been in contact with some individuals who were, I believe, part of the transition team that subsequently became employees at Commerce. But I did not have, you know, personal relationships with anyone at that time, no.

Q Okay.

And did you work with Secretary Ross before he was confirmed by the Senate at all -- after he was nominated but before he was confirmed?

A I definitely had an interaction or possibly two with him. I know he was working to help the transition as well. So we saw each other, but we were not working together, you know, in any significant depth.

Q So is it fair to say that your working relationship really with Secretary Ross began after his confirmation on February 28, 2017?

A Yes.

Q So, after you joined the Department, previously you said you worked on a

number of issues at the Department of Commerce. Can you tell me again what other issues you worked on not related to the 2020 Census?

A Sure. Regulatory reform was one of my primary responsibilities. I ensured the Department satisfied the requirements of various Executive orders. I also reviewed agency proposed rulemakings and final rules for, you know, legal analysis.

I was the Department's lead on infrastructure issues, infrastructure permitting reform. I oversaw responses to congressional investigations, document productions. I helped with National Oceanic and Atmospheric Administration satellite licenses.

I traveled on multiple occasions with the Commercial Law Development Program, an office at the Department that works to help foreign officials and countries to develop new laws to better facilitate business activity. As a result, I traveled to Morocco, I traveled to Georgia -- the country Georgia, and, you know, was involved in various conferences and educational training seminars in that capacity.

I also was involved in the, you know, day-to-day workings of the Office of General Counsel that, you know, basically is advising, you know, almost a large business in a way, dealing with employment law issues, contract issues, procurement issues, various litigation issues, trade-related issues. Trade was a very big topic for us at the beginning of the new administration and took up quite a bit of time. As a result of that, I traveled to China with the Secretary on an occasion.

I traveled with the Secretary on many domestic trips to promote economic development, minority business growth, regulatory reform.

It was a very busy couple years. I lost a lot of sleep.

Q Okay.

And after you joined the Department, can you tell me, notwithstanding the citizenship question, did you work on any other issues related to the 2020 Census?

A Yes. I worked on several issues related to the Census. The citizenship question was certainly not one of the priorities or, you know, early big-picture projects that was put in front of me.

I worked on analyzing the budget. We had some very serious concerns that perhaps, you know, the Census was not being managed effectively.

I worked on some contract issues involving contractors and subsidiaries that would be executing Census activity, looking at some of the tests that were going to be coming up, reviewing some agency request-for-information questions.

Immediately, on day one at the Department, as I'm working my way around to various offices to get briefed and understand the lay of the land, it was made very clear to me that 2017, the Census is already in the 11th hour at that point. It's one of the largest undertakings that the Department has. It only comes around 10 years. It involves many personnel resources and millions and millions of dollars to get it done. And the Secretary, having been an enumerator when he was a student and a younger guy, you know, he took it very serious and wanted to ensure that we conducted as complete and as accurate of a Census as possible.

So I was dealing with many other issues in addition to possible new questions or reinstatement of questions like citizenship.

Q Okay.

And when you first started with the Department and you were being briefed on the budget, contract issues, the question topics, what was your impression about the state of the 2020 Census when you joined the Department in February of 2017?

A As I said, looking at it, I believed that the Census had some oversight and management issues and perhaps was well above budget in the way it was being run, which we, as senior officials, worked very hard to address.



Q So I want to ask you about the budget issues. We heard testimony from Secretary Ross in October of 2017 that he presented an updated lifecycle cost estimate to us that requested an additional, I think, \$3.5 billion for the Census.

Could you tell me, where was the budget when you started? And how did you get to a place where the Census was now going to -- the updated lifecycle cost was going to be \$3-plus-billion more?

A You know, I don't remember the specifics from, you know, back in 2017 on the budget. All I know is that, ultimately, we determined, I believe, that the budget needed to be increased by about 25 percent to adequately reach hard-to-reach populations.

We were very focused on the race-based undercount. We were trying to make sure that we could incorporate new technology, that we could incorporate new languages on surveys.

Again, we just did not believe the Census was in the best position it should have been.

Ms. Johnson. Hello? Are you still there?

Off the record.

[Discussion off the record.]

Ms. Johnson. We'll go back on the record.

BY MS. JOHNSON:

Q So, Mr. Uthmeier, did you want to finish what you were saying, or were you done with the question?

A I believe the last thing you were asking me about is, you know, my opinion of the budget. You know, without going into the perceptions or beliefs of others at the Department, I can tell you I was concerned that it was being mismanaged and that it was

being operated over budget and that it did not adequately account for, you know, contingencies, new technologies, and a significantly growing and more diverse population.

Q Okay.

Would it be fair to say that the previous administration had mismanaged the Census, leading up to the 2020 Census?

A Yes.

Q When you consider the state of the 2020 Census in 2017, do you think Secretary Ross was more concerned about fixing the problems facing the 2020 Census or adding a citizenship question to the Census?

Mr. Hull. I'm going to instruct him not to answer what his belief of what Secretary Ross's belief was.

Mr. Castor. That was Cordell?

Mr. Hull. Yes, sir. I'm sorry. It's Cordell.

BY MS. JOHNSON:

Q When you first starting working on Census issues, were you aware that Secretary Ross had monthly meetings with top Census Bureau leadership to discuss the status of the 2020 Census?

A Yes.

Q Did you participate in any of these meetings?

A Yes.

Q Do you know the topics of conversation at these meetings?

A Yes.

Q Were they focused on budget issues?

Mr. Hull. You can answer without revealing anything privileged.

This is Cordell. Sorry.

Mr. Uthmeier. Yes. Many, if not most, dealt with budget issues.

BY MS. JOHNSON:

Q Did you discuss the IT system issues at this meeting?

A Yes.

Q Did you discuss any other management-related topics not related to the citizenship question at these meetings?

A Yes, absolutely, I would have.

Q What were some of the other non-citizenship-related topics you discussed?

Mr. Hull. This is Cordell Hull.

I want to be clear. He's in a room in his capacity as a lawyer with folks internal to Department of Commerce. I think anything he's going to answer on that topic is necessarily going to reveal his mental processes as a lawyer.

Ms. Johnson. Okay.

Mr. Hull. So I would instruct him not to answer that question.

Ms. Johnson. So, other than IT systems and budget, you said you discussed contract issues as well?

Mr. Uthmeier. Yes.

Ms. Johnson. What were the major contracts at the time that the Census Bureau was working on?

Mr. Hull. I'm going to instruct the witness not to answer based on executive branch confidentiality and litigation interests.

Ms. Johnson. Okay.

Regarding the decennial Census program, where do you believe the citizenship question ranked in order of importance? For example, do you believe the citizenship

question was more important --

Mr. Dewhirst. Excuse me. Excuse me, Ellen. You cut out for a couple seconds there at the beginning. I'm sorry. Can you start over?

Mr. Castor. Is this David Dewhirst?

Mr. Dewhirst. This was David. I'm sorry, yeah. I'm sorry. This is David.

Ms. Johnson. Okay.

Regarding 2020 Census program, where do you believe the citizenship question ranked in order of importance? For example, was the citizenship question more or less important than cost overruns in the 2020 program or the IT system development?

Mr. Hull. This is Cordell. Ellen, the line broke up again about a third of the way through there. I'm sorry. Could you repeat the question?

Ms. Johnson. Sure.

Where do you believe the citizenship question ranked in order of importance based on all of the other issues of the 2020 Census? Was it more or less important than cost overruns or IT system development?

Mr. Uthmeier. This is James. Are you asking my personal ranking of issues, or are you talking about others at the Department generally?

Ms. Johnson. I'm asking your belief.

Mr. Uthmeier. I mean, my recollection is that citizenship --

Mr. Dewhirst. I just want to be clear, before James proceeds -- this is David Dewhirst -- that we do have an instruction that I think still applies. But I think, you know, in an effort towards accommodation, we're willing to, you know, allow James to move forward with answering this.

Sorry to interrupt, James. Go ahead.

Mr. Uthmeier. Based on my recollection, the citizenship question topic was not

one of the, you know, priority items on the Census that was leading to meetings and discussions. It was one of several topics that were being discussed. And in early 2017, you know, into the summer, it certainly was not discussed as much as other items.

BY MS. JOHNSON:

Q Okay. Thank you.

In a given week for you at the Department of Commerce, how much time did you spend working on matters not related to either the citizenship question or the 2020 Census?

A That breakdown, you know, would have fluctuated throughout the duration of my time at the Department. But I would say, on average, Census work made up certainly less than a quarter of what I was doing, at times certainly less than 10 percent.

Q And you listed several things -- I think you said reg reform and trade were big items for the Secretary and for the Department generally. How much time did you spend in 2017 working on reg reform matters and trade matters?

A I'll have to give you rough estimates. Combined, regulatory reform and trade matters probably took on 15 percent of what I was doing during 2017. After November of 2017, I was deeply involved in commercial space activities, and that would have quickly escalated as far as, you know, a breakdown of my portfolio.

Q In terms of all of the priorities you previously listed that you worked on, do you believe the citizenship question was more important than those items or less important than those items?

A Well, you know, I think the Census work generally was probably on an equal footing. And it certainly -- you know, it's listed high up in the Department's, you know, strategic initiatives that are submitted to Congress every year. So the Census was very, very important.

The citizenship topic was just one aspect of my Census work towards furthering that the Department can conduct as complete and as accurate a Census as possible.

Q Okay.

In your professional background, did you work on Census matters previously?

A Could you be more specific?

Q Prior to joining the Department of Commerce, while you were at Jones Day or other previous employment, did you ever deal with any of the Census products, be it the 2010 Census or the American Community Survey or the Current Population Survey or the economic surveys that they do? Did you have any previous knowledge about the Census or any Census products?

A No, not to my recollection. No.

Q So it'd be fair to say that when you joined the Department the 2020 Census and Census generally was a new topic area for you?

A Yes. And in the new administration, everyone is trying to get their bearings.

Q Okay.

So I'm going to provide -- I think we sent you a couple of exhibits. I'm going to pull in two for you, the first one titled "Questions on the January 19 Draft Census Memo to Department of Justice." Do you have that?

Mr. Hull. I'm sorry. This is Cordell Hull. The document, January 2018, internal question responses from Census?

Ms. Johnson. Yeah. "Questions on the Jan 2019 Draft Census Memo on the DOJ Citizenship Question Reinstatement Request." Do you have that?

Mr. Hull. Yes.

Ms. Johnson. Okay.

What do you want me to mark this as?

Ms. Sachsman Grooms. So we have -- 2 is open, if you'd like.

Ms. Johnson. Two? Okay.

Mr. Anello. Well, it's open for now. We have documents up to, like, 20-something.

Mr. Castor. Should we use the letter A?

Ms. Johnson. Yeah. We're going to mark this as A.

[Uthmeier Exhibit No. A

Was marked for identification.]

Ms. Johnson. Okay. And then the second exhibit I'm going to mark as B, and that is Secretary Ross's March 26, 2018, decision memo.

[Uthmeier Exhibit No. B

Was marked for identification.]

Ms. Johnson. Do you have that?

Mr. Hull. Yes.

Ms. Johnson. Okay.

Okay, I want to first start with exhibit A.

Well, first of all, let me back up. Secretary Ross has said that the Department of Justice letter triggered a formal interagency process for reviewing the citizenship request. Would you describe that process?

Mr. Hull. This is Cordell. To the extent he can do so without revealing executive branch confidentiality interests, we'll let him answer.

Mr. Uthmeier. Yes, we were made aware by the Census Bureau career officials that there is a process that must be followed after an agency receives a request -- or after the Census Bureau receives a request from another agency to add a question asked on a

Census survey. They informed us, and a process was initiated to look at the --

Ms. Johnson. Hello?

[Discussion off the record.]

Mr. Dewhirst. Hello?

Ms. Johnson. Oh, yeah. Okay.

Mr. Dewhirst. We're here.

Ms. Johnson. Okay.

Mr. Dewhirst. Where did James drop off? This is Dewhirst.

Ms. Johnson. He said "a process was initiated to look at the" --

Mr. Uthmeier. -- the legal program and policy considerations. The Census Bureau career officials, they led this process and began to conduct an analysis.

Ms. Johnson. And is exhibit A, the memo titled "Questions on the Jan 2019 Draft Census Memo on the DOJ Citizenship Question Reinstatement Request," part of that formal process?

Mr. Uthmeier. Yes.

Ms. Johnson. Have you seen this memo before?

Mr. Uthmeier. Yes, I have.

Ms. Johnson. And what was the purpose of this document?

Mr. Hull. This is Cordell. To the extent he knows.

Mr. Uthmeier. This document was to collect additional information and provide some answers to questions by getting more information from the Census Bureau officials that were leading the review process.

Ms. Johnson. Who were providing the questions? Who wrote these questions? Did you write these questions?

Mr. Hull. This is Cordell. To the extent that calls for revelation of his role as



attorney, I'm going to instruct the witness not to answer.

Ms. Johnson. Okay.

So do you know who drafted this document?

Mr. Uthmeier. Yes.

Ms. Johnson. Was it multiple people in the Department working on the document?

Mr. Hull. Again, I'm going to instruct the witness not to answer that question.

Mr. Castor. That was Cordell.

Mr. Hull. Yes, I'm sorry. That's Cordell.

Ms. Johnson. Are you able to reveal who drafted the document?

Mr. Hull. I'm going to instruct the witness not to answer that question. Cordell Hull.

Ms. Johnson. Okay.

Can you tell me when the first draft of this document was first -- you were first made aware of the first draft of this document?

Mr. Hull. This is Cordell Hull. I'm going to give the witness the same instruction.

Ms. Johnson. Okay.

Does the title, "January 19 Draft Census Memo," does that specifically refer to an early draft of the Wilbur Ross reinstatement of the citizenship question on the 2020 decennial questionnaire memo marked as exhibit B?

Mr. Hull. To the extent the witness can answer -- this is Cordell. To the extent the witness can answer that without revealing executive branch confidentiality interests, we'll permit him to answer.

Mr. Uthmeier. No. The reference to the January 19th draft Census memo, I

believe, is referring to a memo that was put together by the Census career officials that were leading the process, not the Secretary's decision memo that ultimately was released in March.

Ms. Johnson. Okay.

I want to turn to exhibit B. Have you seen this memo before?

Mr. Uthmeier. Yes, I have.

Ms. Johnson. Did you write the first draft of Secretary Ross's decision memo?

Mr. Dewhirst. I'm going to note that this question calls for information that implicates executive branch confidentiality and litigation concerns, but as an accommodation, we're going to allow the witness to answer.

Ms. Johnson. Was that Cordell or David?

Mr. Dewhirst. I'm sorry. It's David.

Mr. Uthmeier. Yes, I was the author of the initial drafting stage of this memo.

Yes.

Ms. Johnson. Okay. And, to your knowledge, who else worked on the first draft with you?

Mr. Uthmeier. The Secretary, Wilbur Ross.

Mr. Dewhirst. And I'll interject, even though he's already answered the question, that the same notation and caveat should apply to that answer.

Ms. Johnson. Okay.

BY MS. JOHNSON:

Q Did any other staff, to your knowledge, at the Department of Commerce work on this memo?

A Other staff would have provided input, yes.

Q Can you name those staff?

A I know that Earl Comstock provided some input.

At this point, a new deputy general counsel had come on board, Mike Walsh. He provided some input as well.

I believe that Karen Kelley, who was the -- I believe she was performing the duties of Deputy Secretary at that time. She certainly was the Under Secretary for Economic Affairs. I believe that she had provided some information that was used for this memo.

Certainly, you know, other data and information was provided to us by the Census Bureau and, thus, you know, led to the basis of the decision.

Q Okay.

The memo has listed four options, Options A, B, C, and D. Can you please walk us through, to the best of your recollection, what Option A called for in the Secretary's memo?

A Yeah, as I think the memo lays out, Option A was the status quo baseline of basically the Department's decision to not do anything different and to not reinstate the citizenship question.

Option B, I believe, was consideration of reinstatement of a citizenship question.

Option C was a proposal made by the Census career officials to utilize administrative records to collect more accurate citizenship data in lieu of reinstating a question on the short-form decennial census.

And then Option D was a combination of B and C, asking the citizenship question of everyone on the decennial Census, but also using supplemental records, data to ensure, you know, accurate information -- or more accurate information, I should say.

Q What official at the Census Bureau brought Option C to either your attention or the Secretary's attention?

A I'm sorry. Did you say Option B or C?

Q Option C.

A Option C. I do not recall which specific official would have made that recommendation.

Q And do you recall who recommended Option D?

A I do not. But I know that Option D came after some back-and-forth followup analysis, and it was, you know, information provided to the Secretary, you know, as a result of his questions and analysis.

Q Okay. When did Option D emerge as an option?

A You know, it was certainly after January, so it would've been February or March. I don't remember the specifics, but I do know that it came about as a result of the Secretary's request for, you know, another alternative, more information.

Q How long had you and the Department been considering these three options, A, B, and C? Did you start considering them immediately after the DOJ December 12th letter?

A Immediately after receiving the DOJ letter, the Census Bureau officials began, you know, what was described to us as a typical Census-led process that would have to be conducted to consider an agency request for a Census question.

It was at that time that the officials conducted an analysis and recommended various options to the Secretary for consideration. We certainly were not looking at various options prior to receiving the letter from the Department of Justice, because, you know, we didn't know whether or not there was going to be an agency request for this information.

Q Okay. So you were not looking at any options before DOJ sent their letter on December 12th. Is that correct?

A To the extent you're referring to the options that are laid out in the decision

memo specifically, no, we were not considering the analysis of these options prior to receiving the Department of Justice letter.

Q Previously, you said that, with respect to exhibit letter A, that the January 19 draft Census memo was a document drafted together by Census Bureau career staff, correct?

Mr. Hull. This is Cordell. I don't think he actually said that.

Ms. Johnson. I asked him in exhibit A, January 19 Draft Census Memo, what did that -- did that refer to Secretary Ross's March 26th decision memo, and he said, no, it refers to a memo put together by the Census Bureau.

Mr. Uthmeier. The question -- this is James. The questions are in response to a memo that was put together by the Census Bureau.

Ms. Johnson. Okay.

BY MS. JOHNSON:

Q The memo that was put together by the Census Bureau referenced in exhibit A, was that the first, I guess, time the Census Bureau laid out the various options to the Secretary and the Department of Commerce for responding to the DOJ letter?

A I do not recall.

Q Okay.

So it is still fair -- is it correct to say that the Census Bureau were the ones who put together Options A, B, and C for the Secretary and for the Department of Commerce?

A Yes. And then, at his request, Option D as well.

Q Okay. So, between December 12, 2017, and March 26, 2018, when did Option D emerge as an option?

A I do not remember the specific date, but it would have been subsequent to, you know, the -- subsequent to the submission of questions that you referenced in exhibit

A, so at some point in late January or February.

Q Okay.

And Option D was the option ultimately selected by Secretary Ross in response to the DOJ letter, correct?

A Yeah, as was laid out quite extensively in the decision memo.

Q Okay.

On page 4 of the decision memo, at the bottom, the bottom paragraph, under -- so as the Secretary is laying out Option D, it says, quote: This approach would maximize the Census Bureau's ability to match the decennial Census responses with administrative records.

How did you come to the determination that administrative records were needed in coordination with decennial Census responses?

A I'm not sure I understand your question.

Q So the Secretary says that both administrative records and a question on the decennial Census are both needed. Can you tell me, in your opinion, where the nexus is between those two? How do they work together to get the best, most accurate information for the 2020 Census?

A Sure. So, after the DOJ request came in, the initial analysis that the Census Bureau conducted revealed that where the Census Bureau does collect citizenship information, on the American Community Survey, that that data suffers from significant inaccuracies.

In working to figure out how they came to that conclusion, it was brought to my attention, and others' as well -- it was brought to our attention that the Census Bureau already has access to administrative records in the possession of multiple Federal agencies and that those records are used by the Census for statistical collection and

analysis purposes.

That's where Option C came to play. The Census Bureau recommended that as a possible alternative to reinstatement of the citizenship question on the decennial Census, and the Secretary found it to be a very attractive alternative.

However, upon further review and analysis, Census Bureau officials made clear that that alternative would not be able to reach the entire population, and, I believe, you know, 90 percent or almost 90 percent of the population would be covered by the administrative records, but there would still be millions of people that were not going to be able to be considered under that option.

And that's when the Secretary directed Census staff to come back with Option D, which was utilizing administrative records, which I, at that time, was made aware was a growing trend and movement that the Census Bureau had been working on for several years. It just was not quite ready to be used. But we could utilize administrative records and reinstate the citizenship question to ensure the most complete and accurate data possible.

Q So is it correct to say that the career staff at the Census Bureau were looking into acquiring additional administrative records on citizenship for several years?

A That's my impression and understanding, yes.

Q So, even in the previous administration, career Census Bureau staff were considering requesting additional administrative records to respond to a citizenship -- to enumerate citizenship.

A It's my impression -- and I did not know this when I first began working on all Census issues, but it came to light as part of this process. It is my impression and understanding that the Census Bureau has for some time now been working to utilize administrative records on all Census questions, not just citizenship specifically.

The Census career officials made clear that using administrative records is the way of the future for Census in an effort to reduce costs and better count a growing and changing population where people are moving and living in, you know, new, alternative lifestyles, utilizing Airbnb for more permanent residences, you know, student housing, things like that, that the administrative records will make it easier on everyone to conduct a Census.

Q So is it fair to say that Option D, which incorporates what the career staff at the Census Bureau wanted, for additional administrative records, with the addition of a citizenship question on the 2020 Census questionnaire would provide a greater level of accuracy than just self-response alone?



[11:40 a.m.]

Mr. Uthmeier. I certainly believe option D is the best option. I stand by the decision memorandum. And Secretary Ross certainly agrees with that as well because he, you know, signed and delivered the decision memorandum to Karen Dunn Kelley, who was overseeing the Census in the, you know, Economic Affairs Department.

Ms. Johnson. Okay. On page 5 of Secretary Ross' decision memo, in the paragraph starting with the bolded Consideration of Impacts, it says, quote: I find that the need for accurate citizenship data and the limited burden that the reinstatement of the question would impose outweigh fears about a potential lower response rate, end quote.

Can you tell me what you -- what discussions were about the potential lower response rate?

Mr. Dewhirst. Ellen, this is David Dewhirst. Could you be maybe more specific with what types of discussions you are asking about?

Ms. Johnson. Sure. Were there policy discussions about how a lower response rate could impact how the 2020 Census is budgeted for or how it is perceived by the population as a whole?

Mr. Uthmeier. Yeah. As I mentioned, part of the Census Bureau analysis and review after receiving the Department of Justice letter involving programming analysis and central to programming is budget and cost to execute a Census. So there would have been discussions on -- on budget and response rate, yes.

Ms. Johnson. The -- in the next sentence of the memo, the Secretary said, quote: The Department's review found that limited empirical evidence exists about whether adding a citizenship question would decrease response rates materially.

Do you have any sense of what evidence you all looked at to come to that

conclusion?

Mr. Dewhirst. Ellen, this is David Dewhirst again. Could you point to the sentence that you are referring to?

BY MS. JOHNSON:

Q Sure. It is on page 5, the second -- start of the second paragraph under Considerations of Impact. It says: Importantly, the Department's review found that limited empirical evidence exists about whether adding a citizenship question would decrease response rates materially.

Do you see it?

A Yes. I see it. Thank you.

Q Could you tell me --

A What was the question? Sorry.

Q Could you tell me what evidence did you review that led the Secretary to reach that conclusion?

A Specifically, I cannot recall, but I do remember that I was able to review limited empirical evidence that we analyzed whether the citizenship question would, you know, drive down response rates in a material or significant way. And I also looked at the planned budget for the Census, including contingency fees and -- you know, contingency that was prepared in the event of any nonresponse rates. And, again, ultimately, we concluded that, you know, the need for accurate citizenship data was -- you know, it exceeded the burden that we perceived reinstatement of a citizenship question might have on response rates.

Q And the information that was provided to come to that conclusion was provided or looked into by career officials at the Census Bureau, correct?

A Correct. Generally all information was provided to us through Ron Jarmin

or Enrique Lamas.

Q Okay.

A Stakeholders also were consulted by the Secretary and provided information as well. I was involved in some of those meetings, but not many.

Q Okay. I want to dive deeper into option D, calling for the use of additional administrative records in conjunction with adding a citizenship question to the 2020 questionnaire.

Do you know what agencies the Department contacted to implement alternative D with respect to administrative records?

A I do not know the full extent. I am aware that there were communications with the Department of Treasury, Social Security, the State Department, possibly others as well.

Q Were you the point of contact for the Department on setting up those -- that administrative records transfers?

A No, I was not. And, in fact, you know, as it was presented to us by the Census staff, these conversations had already been ongoing prior to any review of DOJ's request that citizenship be reinstated on the Decennial list. This was something that the Census Bureau team was already doing to pursue a more complete and accurate Census.

Q Okay. So it was career Census Bureau staff that worked to execute option D's administrative records request?

A Yes.

Q Okay. To your knowledge --

A To my knowledge, yes.

Q Okay. To your knowledge, does the Department have signed memorandums of understanding to execute alternative option D?

A It was my understanding that there were meetings with Census officials that focused on the topic of the MOUs and the fact that we did not have all of the MOUs executed, which was a concern with option C on its own.

Q Were those MOUs executed between the Department of Commerce and the other agency, or were they executed between the Census Bureau and the other agency?

A I do not know. I have not seen them.

Q Okay. Do you -- when you left the Department in March of 2019, were you aware of the status of the MOUs relating to option D?

A No.

Q Okay. To your knowledge, did any agency decline to provide records to the Census Bureau pursuant to option D?

A Not to my knowledge.

Q Okay. Do you remember when news about the Department of Justice December 12th letter requesting reinstatement of the citizenship question broke?

A I am sorry. Can you repeat that? I want to make sure I am getting the right timeline down.

Q Yeah. When the news broke of the DOJ letter, do you remember when that was?

A I do remember. I remember it was during the holiday time because I was notified in the middle of some sort of holiday gathering.

Q So late December 2017?

A Yes, that sounds right.

Q What was your reaction when you were told that the news about the DOJ letter was going to break?

A You know, I don't know. I was prepared to answer questions as needed. I

was not sure how the letter was leaked. I am not sure how to answer that question. I am sorry.

Q That is okay.

After it came to light that the Department of Justice had sent a letter to the Census Bureau on December 12th asking for reinstatement of the citizenship question, do you know approximately how many letters you received from advocacy groups on the subject?

A I know we received letters. I do not know how many.

Q Were you involved in responding to any of the letters?

A I may have been consulted for some responses, but I do not remember specifically. I was working on -- I was advising and providing legal counsel pertaining to many letters regarding the Census and other issues at the Department.

Q Okay. But it is fair to say that you, the Department, received letters both in support of reinstatement of the citizenship question and in opposition to reinstatement of the citizenship question, correct?

A That is correct.

Q Did you review any comment letters that proposed modifications to the language of the citizenship question that is found in the American Community Survey?

A Not to my recollection. I don't recall.

Q Okay. But Secretary Ross ultimately decided to use the American Community Survey question and just put the question on the 2020 Census questionnaire. Is that correct?

A Yes, the question being reinstated on the Decennial Census form, the short form, is the same question as that which is on the American Community Survey.

Q Do you know why it was decided to use the question as is and not make any

modifications to it?

A To my recollection, the Census Bureau advised that that question had already undergone testing; it had been used in, you know, various samples; it was distributed on surveys to millions of people in the United States every year through the American Community Survey; and that it was the best structure or format for collecting the data.

Q So, to your knowledge, was there any additional testing that could be done that would be more robust than asking the question on the American Community Survey?

A Not in that timeframe. This is what was presented to us by the Census Bureau as, you know, the best way to format the question, and they said it had already gone through testing. I am not an expert on statistical sampling and things like that, but that is what was made known to us by the Census Bureau officials.

Q Okay. So, when you were working with the Secretary and the other folks at the Department of Commerce, did you have a sense that your decision or the Secretary's decision would cause the level of backlash that it has caused?

Mr. Dewhirst. So I am going to again note that I think this question likely calls for information that would implicate executive branch confidentiality and litigation concerns. And, actually, on that basis, I am going to instruct the witness not to answer.

Ms. Johnson. Okay.

Mr. Castor. All right. I was just about to --

Ms. Johnson. We will close with that.

Mr. Castor. -- stop here.

Ms. Anderson. Would you guys like to take another 5-minute break?

Mr. Dewhirst. Can we take a quick break before we jump back in? We will have a hard stop at 12:30. But can we dial back in at 12:00, and we will get a good half

hour in?

Ms. Anderson. Yeah, we will do that.

[Recess.]

Ms. Anderson. All right. We will go ahead and get back --

Mr. Hull. James, you wanted to --

Mr. Dewhirst. Yeah, go ahead and get back on the record.

Mr. Uthmeier. Yeah, this is James. I just want to remind everybody, I do have to leave at 12:30 and can start back again at 2. I appreciate your understanding on that. I did my best to clear the whole day's schedule but had one unavoidable conflict in the calendar. So I will do my best to be back promptly at 2.

Ms. Anderson. Okay. And if you just -- if one of the lawyers just want to -- if you want to just do a 5-minute heads-up, that is always good so I don't get on a roll here.

Mr. Hull. This is Cordell. We will do.

Ms. Anderson. Okay. Great.

BY MS. ANDERSON:

Q So I want to go back to talking about kind of in that spring 2017 time, you indicated that both Secretary Ross and Earl Comstock had asked you to look into the citizenship question.

After those two conversations, what did you do next regarding the citizenship question?

A I conducted research and looked into the issue, as I was directed.

Q And what timeframe was that?

A When I specific -- when I first began doing research, I am not totally certain. It would have been spring of 2017, and I would have continued doing research and analysis throughout the summer. And, you know -- it would have been ongoing really

until we -- you know, we made the decision in March of 2018, till the Secretary released his decision memo.

Q During the summer period from the spring of 2017, let's say, until the end of the summer months, did you discuss or speak with anyone about your research?

A Yes.

Q Who did you speak with?

Mr. Dewhirst. I am going to allow him to answer to the extent that -- I am going to give him some -- some rope here to answer.

Mr. Uthmeier. I spoke with the Secretary about my research. I spoke with other senior Department officials. That would have been, again, the same people that I listed previously that would have been involved in meetings on the topic: Earl Comstock; people working in his policy office; other counsel at the Department; certainly Barry Robinson, who was, you know, the chief counsel for the Census; Peter Davidson at the time he arrived in August; Karen Dunn Kelley.

BY MS. ANDERSON:

Q How many times did you talk to the Secretary about your research?

A Multiple times. I met with the Secretary on this and several other issues, you know, if not daily, when he was in the office, certainly multiple times a week. I would give him updates from time-to-time.

Q Did he ask for updates, or did you just provide updates?

A Sometimes I provided; sometimes he asked.

Q Did you create any documentation about your research?

A Yes.

Q What did you create?

A I put together a legal memo on the topic. I pulled documents from the



Census website. I collected surveys dating back to, you know, the earliest Census forms that are in the Department's possession. I compiled, you know, many public documents, the historical analysis, and timeline, looking at how questions have been asked on the Census dating back to the 1800.

Q Did anyone else ever provide you documentation during your research period?

A Yes.

Q Who was that?

A Census career officials would have provided me documents. Counsel working in the Office of General Counsel would have provided me documents, and --

Q Did it anyone -- I apologize.

A Sorry? Can you all hear us?

Q I apologize for interrupting. Go ahead.

A Occasionally, I asked a law clerk that worked there over the summer to provide some documentation. Usually, those were, you know, items that were available publicly on the Census website. And then I also consulted Mark Neuman, who was someone that was referred to me as an expert on all things Census. He had been involved in the transition team briefings and also provided documents to me.

Q When -- or who referred you to Mark Neuman?

A I do not remember.

Q When did you first talk with him?

A I believe it would have been March or sometime in the spring of 2017.

Q How many times did you consult with him or speak with him?

A I met with Mark on multiple occasions, again, because we had so many issues at Census that were important to us. So I would have talked with Mark about

budget. Mark was working on, you know, providing us with information on past practices at Census that had been unsuccessful and was trying to help advise us on ways we might be able to conduct a more accurate count and, you know, count people in hard-to-reach communities and populations --

Q So let me -- I can?

A -- in --

Q -- it for you a little bit.

So how many times did you speak with Mark Neuman about the citizenship question?

A I can't give you a good number, only because Mark would come in to meet with us on multiple topics. The biggest thing or the thing that Mark discussed most prevalently was the black/white differential undercount and how to address it. The citizenship topic would usually be one of numerous items on a list. So I would have met with him several times in meetings where citizenship would have come up.

Q Okay. And you said that he provided you documents. When was that?

A He provided me documents in the summer of 2017, and these would have been, you know, Census -- publicly available Census documents.

Q Did he provide you anything that was related to the citizenship question?

A Well, he provided me Census documents that had information about citizenship. He had, you know, worked on the transition to provide briefings to get new officials up to speed. And, you know, one topic -- one topic within the document that he provided was citizenship. It would have been, you know, Census information about why citizenship data is collected, how long it has been collected, what years it was collected, and what the data is used for. And he would have provided this information in addition to information on other topics, how they were collected and how that data was used.

Q So I want to talk a little bit about the legal memo that you said that you created. Was that memo related to the citizenship question?

A Yes.

Q Who asked you to create the legal memo?

Mr. Dewhirst. I am going to direct the witness not to answer as that implicates executive branch confidentiality and litigation concerns. This is Dewhirst.

Ms. Anderson. Did someone direct you to write the memo?

Mr. Uthmeier. I do not recall if -- I mean, at some point, someone asked me for a memo. I do not recall whether I began working on it as part of the, you know, research and analysis I was already doing or as part of, you know, a senior official request. I do not recall how it began. But at some point, I was asked to provide a memo for consideration, yes.

Ms. Anderson. Who was the memo supposed to be for?

Mr. Dewhirst. I am going to direct the witness not to answer. That implicates executive branch confidentiality and litigation concerns. Dewhirst again.

Ms. Anderson. I am going to direct you to look at what we emailed that is marked as exhibit 6, and I will mark it as exhibit 6.

[Uthmeier Exhibit No. 6

Was marked for identification.]

Mr. Uthmeier. Okay.

BY MS. ANDERSON:

Q Please let me know when you have had a chance to look at it.

A Okay. Okay. We have it up.

Q Okay.

A Would you like to describe it to make sure we are looking at the same thing?

Q Absolutely. So it is an email -- the top email is from Secretary Ross to Earl Comstock on August 8th. The subject is redacted. And the bottom email -- I am sorry -- to Secretary Ross from Earl Comstock, and the bottom email is from Secretary Ross to Earl Comstock.

The bottom email reads, in the unredacted parts, quote: Were you on the call this morning about Census? Where is the DOJ in their analysis? If they still have not come to a conclusion, please let me know your contact person, and I will call the AG. Wilbur Ross.

Is that the email that you are looking at?

A I see the email, yes.

Q Okay. Do you know what this call refers to that Secretary Ross mentioned?

A I do not.

Q The email reply from Mr. Comstock in the unredacted parts says, quote: Will be back shortly with an update on Census question. I have two attorneys in the DOC General Counsel's Office working on it.

Was he referring to you as one of those two attorneys?

A I believe he was referring to me, yes.

Q Who else was he referring to, the second attorney?

A I am not sure specifically. I had other attorneys that were providing historical information to me, but I do not know.

Q Do you know -- what was Earl Comstock referring to when he said, quote, "Will be back shortly with an update on the Census question"?

A I don't know.

Ms. Anderson. So I would like you to now look at the email that we sent to you that starts with exhibit 7. And I will mark it here as exhibit 7.

[Uthmeier Exhibit No. 7

Was marked for identification.]

BY MS. ANDERSON:

Q It is an email -- the top email is from Earl Comstock to Wendy Teramoto, and it cc's Secretary Ross from August 16th, 2017. And the bottom email is dated August 11th, 2017, sent from Earl Comstock to the Secretary.

A Yes.

Q Okay. So, in that bottom email on August 11th, Earl Comstock wrote, quote: Mr. Secretary, per your request, here is a draft memo on the citizenship question that James Uthmeier in the Office of General Counsel prepared and I reviewed.

Is that the memo -- the legal memo that you wrote?

A Looks like it, yes.

Q What did the email say? Or what did the memo say?

Mr. Dewhirst. I am going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. The email then says, quote, once you have a chance to review, we should discuss so we can refine the memo to better address any issues.

Did you ever receive feedback or comments from Secretary Ross or Earl Comstock about your legal memo?

Mr. Uthmeier. Yes, I did.

Ms. Anderson. What were those comments?

Mr. Dewhirst. I am going to instruct the witness not to answer as the question implicates executive branch confidentiality and litigation concerns. This is Dewhirst.

Ms. Anderson. Thanks.

Mr. Uthmeier, did your legal memo come to any conclusion about whether the

Department of Commerce could add the citizenship question itself to the 2020 Census?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q The last part of the email said -- says, quote: Before making any decisions about proceeding, I would also like to bring in Peter Davidson and Census counsel to ensure that we have a comprehensive analysis of all angles.

What does Mr. -- what did Mr. Comstock mean by "proceeding"?

A I don't know. Based on this email, it appears that he is talking about a meeting or discussion. I don't know.

Q Wendy Teramoto responded to that email and said, quote: Peter Davidson and Karen Dunn Kelley -- I believe it is a typo -- wi both be here Monday. Let's spend 15 minutes together and sort this out.

Do you know if that meeting occurred?

A Sorry. Did you ask -- would you repeat that?

Q Sure. The email above that was sent on August 16th from Wendy Teramoto to Mr. Comstock and Secretary Ross said, quote: Let's spend 15 minutes together and sort this out.

Do you know if a meeting occurred with those people?

A I certainly met with those people on the topic. I do not know if this happened as referenced here on this specific Monday.

Q Okay. After you provided Mr. Comstock your -- did you provide your -- you provided your legal memo to Mr. Comstock. Is that correct? I believe you said that.

A Yes.

Q Okay. Who else did you provide it to?

Mr. Dewhirst. I am going to -- well, you can answer it.

Mr. Uthmeier. I cannot remember if I gave it directly to the Secretary or if it was given to him by somebody else, but I know he received it. I provided it to Peter Davidson, the general counsel, to Karen Kelley, and -- sorry. I am just thinking if there was anyone else. I believe Wendy Teramoto received it. And then I would have given it to other attorneys that were providing information and counsel on the topic to assist me.

BY MS. ANDERSON:

Q Did you provide it to anyone outside the Department of Commerce?

A I did. I provided it to the Department of Justice.

Q Who did you provide it to at the Department of Justice?

A I believe the only individual that I directly gave the memo to was John Gore.

I was directed to him as the legal expert on Voting Rights Act issues.

Q Do you remember when that was?

A I am sorry. When what was?

Q When you gave Mr. Gore at the Department of Justice the memo.

A I do not remember specifically. I believe it was the summer -- sometime in the summer of 2017.

Q Okay. After you gave the memo to the people you discussed at the Department of Commerce, what did you do next regarding the citizenship question?

A Could you be more specific?

Q Did you take any actions or do anything else regarding the citizenship question after you provided the memo?

A Well, we, you know, continued to consider the question. So, yes, I did take other action.

Q Okay.

Ms. Anderson. I would like you to look at the email that is marked exhibit No. 2.

[Uthmeier Exhibit No. 2

Was marked for identification.]

BY MS. ANDERSON:

Q And the bottom email is an email sent from Peter Davidson to Israel Hernandez, Earl Comstock, you, and cc's Wendy Teramoto from August 29, 2017.

The email says, quote, the Secretary asked to set up a briefing on some of the key legal issues he is concerned about.

A Can you give me -- I am still pulling it up here.

Q Sorry. Sure.

A The last -- just one minute.

Okay. I got it. You are reading at the bottom?

Q Yes. It says, quote: The Secretary asked to set up a briefing on some of the key legal issues he is concerned about. Can we get something on the books for next week when Izzy returns?

And then proceeds. And then in response -- oh, why did Secretary Ross ask to set up a briefing?

A I do not remember specifically. The Secretary likes to be kept well informed on all Department matters.

Q Do you know what, quote, key legal issues Mr. Davidson was referring to?

Mr. Hull. To the extent you can answer without revealing anything privileged. This is Cordell.

Mr. Uthmeier. In the context of this email, no, I do not know.

BY MS. ANDERSON:

Q Mr. Davidson also wrote in that email at the last line, quote: Izzy, I know



you and James have been working on this for a while, and so I will hand off to you to coordinate.

What was Israel Hernandez' role in this -- in the citizenship question?

A Izzy was serving as the deputy chief of staff. And because the senior officials that were at the Department quickly realized that the Census was not being adequately managed upon our arrival, he was directed to immediately take Census under his wing as one of his primary portfolio items and, you know, monitor all of the various workings of the Census. So anything I would have done, I would have communicated with him to make sure he was in coordination.

Q Did you brief the Secretary on the, quote, key legal issues regarding Census around this timeframe?

A I briefed the Secretary multiple times. I am not sure if a briefing took place in the context of this specific email.

Ms. Anderson. I would like to have you look at exhibit -- labeled exhibit 20 in your email.

[Uthmeier Exhibit No. 20

Was marked for identification.]

Mr. Uthmeier. Okay. I believe I have it.

BY MS. ANDERSON:

Q Okay. In the second email on the page written by Chelsea Newhaus, on August 29th, 2017, sent to a variety of people at the Department of Commerce. And there is a list, and it says, quote: Hi all. Would one of you be able to confirm that these are the only attendees that should be included in the next Wednesday Census briefing re: legal questions.

Lists Wendy Teramoto, Israel Hernandez, Earl Comstock, you, Peter Davidson, and

Karen Kelley.

Do you recall what happened at this briefing at all?

A I do not remember what happened at this specific briefing, no.

Mr. Hull. And this is Cordell, counsel. Sorry to interrupt your line of questioning. I just wanted to give you the 5-minute heads-up.

Ms. Anderson. Thank you.

Mr. Uthmeier. And I should add to that -- sorry. I am not even sure that there was a meeting at all. I can't be certain.

Ms. Anderson. I actually think it may be -- before I start on a new area, it may be a good time to break, if that is okay with you guys, and then we can reserve the 35 minutes on the 2 o'clock timeframe.

Mr. Uthmeier. Okay. That is fine with me. This is James. Thanks again.

Mr. Dewhirst. Yeah, whatever -- whatever works best for you all.

Ms. Anderson. If you guys -- I can give you my email address in case there is any timing issue that you need to communicate with us about or you can use the one -- I think my email should be on the email -- we can also go off the record.

[Recess.]

[2:04 p.m.]

Ms. Anderson. It is now 2:04. Mr. Uthmeier, can you please look at the -- the document we emailed you, which is exhibit no. 3.

[Uthmeier Exhibit No. 3

Was marked for identification.]

Mr. Dewhirst. You are referring to exhibit 3?

BY MS. ANDERSON:

Q Yes, exhibit 3. It is an email that was sent. So the top email is from you to Mr. Comstock, ccing Mr. Davidson on September 7, 2017.

A Okay. I am reviewing it.

Q Okay. So the bottom email was sent on September 7, from Earl Comstock to you and Mr. Davidson. It reads, quote, "Hi, Peter and James as I discussed with James a little while ago the Secretary would like an update on progress since the discussion yesterday regarding the citizenship question. If we could get a short email or memo today, that would be great. Thanks, Earl."

Do you recall what discussion he was referring to in that email?

A No. I just recall that the Secretary had some follow-up questions to the August memo that we were discussing prior to the lunch break we just had.

Q What were the Secretary's follow-up questions?

Mr. Dewhirst. I direct the witness not to answer that question, as it implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q Thank you.

Did anyone else have any follow-up questions or comments on your legal memo

from August?

A Yes.

Q Who was that?

A I recall that Karen Dunn Kelley had some comments or questions on the memo and that's all I recall right now.

Q What were her comments or questions?

Mr. Dewhirst. I am going to instruct the witness not to answer because the question implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q What did you understand Mr. Comstock to mean when he said, quote, "the Secretary would like an update on progress since the discussion yesterday."

A The that the Secretary would like an update on the progress.

Q Was there something specific that you were meant to do?

A I don't recall outside the context of this email. But the Secretary was -- if you are working for him, you know he's a demanding guy. When he asks you for additional information and follow-up questions, he expects to get information returned very quickly on all topics.

Q What was Mr. Comstock asking for progress -- what was the Secretary asking for progress on?

A The Census research.

Q Did you prepare an update memo or email for the Secretary?

A I believe I provided some additional information by email and also provided some information by way of an in-person briefing.

Q What was the topic that the Secretary asked for research on or additional?

Mr. Dewhirst. Sorry.

Ms. Anderson. Go ahead.

Mr. Dewhirst. I am going to instruct the witness not to answer that, because of executive branch confidentiality and litigation concerns.

Ms. Anderson. The email has a redacted response by you. Do you remember what you wrote back to Mr. Comstock?

Mr. Dewhirst. I am going to instruct the witness not to answer, if he has any recollection on the same basis as I stated previously.

Ms. Anderson. Just to be clear, we are just asking whether he remembers what he wrote back. This question was not about the content.

Mr. Dewhirst. That is right. And on that basis, Tori, I will withdraw my objection to the question.

BY MS. ANDERSON:

Q Mr. Uthmeier, do you recall what you wrote back to Mr. Comstock?

A I do not recall what information is redacted here, what my response was to that email, no.

Q When you -- you said that you may have written an email in response to this request from Mr. Comstock. Would you have sent that back to Mr. Comstock or directly to the Secretary?

A If the request is coming from Earl, I probably would be sending it directly to Earl.

Q Now I would like to look at the email we sent you marked as exhibit no. 4.

[Uthmeier Exhibit No. 4

Was marked for identification.]

Mr. Hull. Let me take a quick look at it.

BY MS. ANDERSON:

Q We are just going to start with the top most email.

A Exhibit 4, correct?

Q Yes. Yes exhibit 4.

The email chain is also from September 7, it's an extended version of exhibit no. 3. The top email was sent from Mr. Comstock to you, Mr. Davidson and cc's Ms. Teramoto as well. And Mr. Comstock wrote, quote, "I suggest setting up a call for tomorrow. The Secretary is asking for progress on this."

What did Mr. Comstock mean by the Secretary is asking for progress on this?

A I don't know, other than looking at the document here as it appears, the text speaks pretty much for itself, the Secretary wanted an update on progress.

Mr. Anello. Actually this document is very heavily redacted which is why we are asking -- this is Russ, sorry. But it doesn't speak for itself. So do you remember what he was asking for progress on?

Mr. Dewhirst. I think he has answered that question.

Mr. Anello. This is a different email.

Mr. Dewhirst. Which email are you referring to right now? The very top of the chain?

Mr. Anello. Correct.

Ms. Anderson. Yes.

Mr. Hull. This is Cordell. So if you are asking him to opine on something that's been redacted. We are going to instruct the witness not to answer. He may answer the follow on question, but if follow on question is what did the email below that, we will instruct our witness not to answer on the grounds of executive branch confidentiality and litigation concerns.

Mr. Anello. So what was he asking for progress on?

Mr. Uthmeier. Looking at this email and based on my recollection, I can tell you he was looking for progress on the Census citizenship research that I was working on. More specific than that, I just don't remember looking back at this email today.

Mr. Anello. Was he looking for an update on -- excuse me, was he looking for progress on outreach to other agencies?

Mr. Dewhirst. I am going to instruct the witness not to answer. It implicates executive branch confidentiality and litigation concerns.

Mr. Anello. I'm sorry. He said, the witness Mr. Uthmeier just said that he felt the progress related to research that he was doing. But did it also relate it outreach to other agencies?

Mr. Dewhirst. I think that objection covers it. It is predecisional.

Mr. Anello. He answered one thing --

Mr. Dewhirst. May I finish, please. It is a predecisional document that a senior official at the Department asking the lawyer about something. And you are asking the lawyer what the content of the communication was or what he was asking about. So I think the objection and the instruction stand.

Mr. Anello. But Mr. Uthmeier just told us he thought one of the things he was asking -- the Secretary was asking for was progress on research. And I am asking whether there was also progress on other things.

So why don't we start by saying that, was he asking for progress on other things other than just research potentially?

Mr. Dewhirst. Same objection as before and same instruction to the witness.

Mr. Anello. Had the Secretary already decided at this point that he wanted to add the citizenship question?

Mr. Dewhirst. I am going to instruct the witness not to answer on the basis that

that question implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q At this point, had you spoken to anyone at any other agency about the citizenship question?

A This would have been -- are you talking about at the time that the email was sent?

Q Yes.

A I believe I had already spoken to John Gore at the Department of Justice at this time.

Q When did the Department of Commerce conclude that it may need or wanted another agency to make the request to add a citizenship question?

A Can you repeat that question one more time?

Q Sure. When did the Department of Commerce conclude, or decide that it may need or want another agency to make a request to add a citizenship question?

A I don't think I can answer that on behalf of the Department of Commerce.

Q Okay. When did you -- did you decide that another agency should or could ask for a citizenship question to be added to the 2020 Census?

Mr. Dewhirst. I am going to --

Mr. Hull. This is Cordell Hull, is there a way, Mr. Uthmeier, you can answer that question without revealing privileged information?

Mr. Uthmeier. I want to make sure I know the question. When did I determine that another agency should or could request information on the Census. Is that what you are asking me?

BY MS. ANDERSON:

Q Let's try it this way. When did you first learn that there had been a



determination that another agency could ask the Department of Commerce or the Census Bureau to add a citizen question?

A Okay. That -- I would have come to that understanding in the spring, likely in March, possibly in February, February or March of 2017, as I began to do a deep dive and get up to speed on all the various workings of the Department, Census included, I quickly would have been briefed on the fact that agencies do ask routinely for information from Census and do ask for questions to be included on Census surveys.

I certainly would have reviewed and would have seen requests from other agencies on topics like this in the spring of 2017.

Q When did you become aware that the Department of Commerce concluded that another agency needed to add a citizenship question to the 2020 Census?

Mr. Hull. I am going to object to that. Based on the formulation of the question, you are implicating executive branch confidentiality and litigation concerns.

Mr. Anello. Sorry, just to back up, I think Mr. Uthmeier was able to tell us when he first learned that another agency could make the request. So the question now is when did you first learn that another agency needed to make that request, if you were going to add the question.

Mr. Hull. And there's a lot built into that question, including sort of the internal deliberative process of the Department. And so on that basis, my instruction is going to stand.

Mr. Anello. Did you ever make a -- did you ever learn that the Department of Commerce had made a determination that another agency had to make that request in order to add the question to the 2020 Census?

Mr. Hull. You are addressing that to Mr. Uthmeier?

Mr. Anello. Yes, correct.

Mr. Hull. Will you ask the question again?

BY MR. ANELLO:

Q Yes. Did you ever learn that the Department of Commerce made a determination that another agency would have to request the citizenship question in order to add that question to the 2020 Census?

A When you say the Department of Commerce generally I am not sure how to answer the question. Certain people at the Department have certain opinions on how questions should be added or were added in the past, certain people at the Department had other opinions.

So when you are saying the Department of Commerce made the conclusion, are you referring to me, are you referring to the Secretary, are you referring to Earl Comstock?

Q Well who do you know who had an opinion on that topic?

A Who had an opinion on the topic?

Q Yes.

A I believe that Earl Comstock had an opinion on the topic.

Q And what was his opinion?

Mr. Hull. I am going to instruct the witness not to answer. That question implicates executive branch confidentiality and legislation concerns.

Mr. Anello. Okay. Who else had an opinion?

Mr. Uthmeier. Several of the census career officials also had an opinion?

Mr. Anello. And what was their opinion?

Mr. Hull. Same instruction.

Mr. Anello. Okay. Anybody else?

Mr. Uthmeier. I had an opinion of my own.

Mr. Anello. Okay, what was your opinion?

Mr. Dewhirst. Same instruction.

Mr. Anello. Okay. Anybody else? Did Secretary Ross have an opinion?

Mr. Uthmeier. I do not recall if Secretary Ross had an opinion there.

Ms. Anderson. Was your opinion the same as Earl Comstock's opinion?

Mr. Hull. I am going to object on the same basis and deliver the same instruction to the witness.

BY MS. ANDERSON:

Q Did you share your opinion with Secretary Ross?

A Yes, I did.

Q Were you aware that Earl Comstock shared his opinion with Secretary Ross?

A Yes, I believe he did.

Q Did you share that opinion before or after you provided your legal memo to the Department of Justice?

A I do not recall.

Q Did you share your opinion before or after Secretary Ross spoke with the Attorney General about this issue?

Mr. Dewhirst. Sorry, to clarify, did he share his opinion with who or at all?

Ms. Anderson. With the secretary.

Mr. Uthmeier. I do not recall specifically when the Secretary met or spoke with the Attorney General. And I also do not recall specifically when I would have expressed my opinion.

BY MS. ANDERSON:

Q Okay I just want to go back to a little bit of the timeline. So you said that you provided your legal memo to Earl Comstock, eventually it got to the Secretary.

Were you instructed or did you do anything else regarding the citizenship question after you provided the memo, and after you received this email asking for progress and provided a progress update email?

A Did I do anything about --

Q The citizenship question?

A With regard to the citizenship question?

Q Yes.

A Can you repeat that question? I'm sorry.

Q Sure.

You said earlier that you provided a legal memo to Earl Comstock and the Secretary. And then after that we talked about the emails that were sent in early September. And you said you remember providing an update email to the Secretary or a response to him asking for progress.

Did you do anything after that time period with regard to the citizenship question?

A Yes.

Q What did you do?

A I continued to collect information and receive counsel from Census officials as well as attorneys that worked on Census issues. And I would have had other conversations within the administration on the topic.

Q Who did you have conversations with within the administration?

A I consulted John Gore at the Department of Justice. Again, as I said earlier, I was referred to him as the Department's, you know, Voting Rights Act expert. I believe at the time he was heading up the Office of Civil Rights at Justice. And I would have provided updates to individuals at the White House.

Q Who at the White House would you provide updates to?

Mr. Hull. I am going to instruct the witness not to answer.

Mr. Anello. The names of the officials? Is it a secret who works at the White House? I mean what's the basis for that?

I think the question was he said he provided updates to people at the White House. The question is to whom did he provide the updates, it is not a substantive question about the updates themselves.

Mr. Dewhirst. The instruction remains.

Mr. Anello. On what basis? These are public servants, right? Taxpayers are paying their salaries. So if they work at the White House I think we can know that they were there. And if he can tell us that he talked to someone at the White House, I think he can tell us who. I am not aware of any basis for withholding the name of somebody that he spoke to.

You haven't held that line anywhere else during this many-hour conversation.

Mr. Dewhirst. The instruction remains in effect.

Mr. Anello. Did you talk to the President of the United States about this?

Mr. Dewhirst. Yeah, same instruction.

Mr. Anello. On what basis? Is it a confidentiality interest to talk to -- the fact that he had a conversation? I am is serious, what is the basis for this objection?

Mr. Dewhirst. Look, Russ or Ross, what --

Mr. Anello. It's Russ. Thank you.

Mr. Dewhirst. The instruction remains in effect.

Mr. Anello. But I haven't heard what the basis for the objection is.

Mr. Dewhirst. Okay.

Mr. Anello. Our rules require us to have the basis for the objection. Is there a basis for the objection? Maybe I missed it. I don't know. Does anybody know what

the basis is?

So you are just sort of refusing to tell us who you talked to at the White House, is that what we have, but without a reason?

Mr. Dewhirst. Yeah, I don't know how much clearer I can be on this, Ross. But he's --yeah, he's instructed not to answer.

Mr. Anello. Without a basis, it is just a clean instruction not to answer?

Mr. Dewhirst. No, it is on the same basis.

Mr. Anello. What is the basis for the instruction?

Mr. Dewhirst. Executive branch confidentiality concerns.

Mr. Anello. So the identity of the White House officials with whom Mr. Uthmeier spoke is something that you cannot tell Congress?

Mr. Uthmeier, did you speak with Steve Bannon about this issue?

Mr. Dewhirst. Same instruction to the witness.

Mr. Anello. Did you speak with the chief of staff at the White House this time?

Mr. Dewhirst. Same instruction.

Mr. Anello. Did you speak to anybody at Domestic Policy Council?

Mr. Dewhirst. Same instruction.

Mr. Anello. Did you to Stephen Miller about it?

Mr. Dewhirst. Same instruction.

Mr. Anello. Did anybody at the White House tell you to pursue this issue?

I haven't heard an answer or an instruction to that question. Did anybody at the White House tell you to pursue the issue of citizenship question?

Mr. Uthmeier. No.

BY MR. ANELLO:

Q Okay. Did anybody at the White House express interest in the citizenship

question?

A No different than interest in other ongoing at the Department.

Communications made to the White House on this topic were in briefing nature, in update nature, coordination in keeping the White House apprised as I would do on any other topic.

Q Did anybody at the White House express interest in the citizenship question issue question?

Mr. Dewhirst. Beyond what Mr. Uthmeier has just answered, I am going to instruct him not to answer this question, same basis as before.

BY MR. ANELLO:

Q Well he already told us they did not tell him to do anything, but now, what is the difference between that question is something he can't answer, but expressing interest is something that he cannot answer? I am not sure I understand the basis there.

A I did not receive any directives or direction from the White House on the topic of the Census citizenship question. Communications I made to the White House were of the nature that they were briefings and updates.

Q Great. So it sounds like there should not be confidentiality issues then. So who did you brief?

Mr. Dewhirst. Same instruction as before.

BY MR. ANELLO:

Q Was the White House involved in the decision to add a citizenship question? Did they play a role in that decision?

A No, they did not.

Q Okay. If they didn't play a role in the decision, then there is provided your

legal no basis for the objection. So can you tell us who you spoke to at the White House about this in the briefing that you gave?

Mr. Dewhirst. Ross, I appreciate your opinion on this, but my previous instruction still applies.

Mr. Anello. So what is the confidentiality interest that you are protecting?

Mr. Dewhirst. This is what is -- the confidentiality interest, Russ, is the free willed advice between the folks in the Department and the White House and he's trying to answer the question, give the committee information it needs but you guys are asking that beyond that and you are asking specifics and you are asking.

And at this point the Department is not prepared to have Mr. Uthmeier to answer it that question. It is something that we can certainly try to get the committee the information it needs through the accommodation process. As we said earlier, we are committed to working through that with you guys, but sitting here today we are not going to permit Mr. Uthmeier to answer that question.

Mr. Anello. Did you talk to John Zadrozny at the White House about the issue?

Mr. Hull. I am going to instruct the witness not to answer, on the same basis previously stated.

Mr. Castor. This is Steve Castor from the Republicans. Can you guys off-line and think about this some more because we have had plenty of witnesses come in and tell us that they had meetings with Mr. Zadrozny. And Zadrozny called them up on the phone and they had meetings, you know all sorts of things with John Zadrozny.

Even the Justice Department hasn't asserted a litigation interest in John Zadrozny. Does it make sense to think this through or what is the best way to maybe unlock an answer like that?

Mr. Dewhirst. Do you want to pause for a few minutes while we think it over



and see if we can --

Mr. Castor. This is the Democrat time, so would you like to pause or would you just like to have them take it up on the next 5 minute break?

Ms. Anderson. So we are going to have a 5 minute break in about 10 minutes so maybe we can allow you to think about it during that time.

Mr. Dewhirst. Sure.

BY MS. ANDERSON:

Q Okay. You mentioned that Peter Davidson came to work at the Department in the summer of 2017. Is that correct?

A Yes.

Q And he started working on this issue as well. Is that accurate?

A Yes.

Q Did he review your legal memo?

A Yes.

Q Did he ever provide feedback, an opinion or comments about the legal issues that were analyzed in that memo?

A We certainly discussed the memo after he reviewed it. I cannot recall any specific feedback or questions he may have had.

Q And what did you guys discuss?

Mr. Dewhirst. I going to instruct the witness not to answer. That question implicates the executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q Did he direct you to do anything in response to the update that was requested by the Secretary?

A Which update?

Q The update that was referenced in early September of 2017.

A Can you repeat the question?

BY MS. ANDERSON:

Q Sure. So in exhibit 3 and 4 there was a request by the Secretary for progress update on the citizenship question issue. Did Mr. Davidson direct you or ask you to do anything with regards to that request?

A I do not recall. The Secretary, you know, asked for updates and more information on multiple things and Peter was the general counsel. So any legal research issues would have been coordinated with him absolutely.

Q I would like you to look at exhibit no. 8 that we emailed to you.

[Uthmeier Exhibit No. 8

Was marked for identification.]

Mr. Uthmeier. Okay.

BY MS. ANDERSON:

Q All right. It's an email from you to Mark on September 8, 2017, the subject is questions Re: Census. And it reads, hi, Mark, I am working on some Census legal questions for the Secretary and Peter Davidson, our new GC, and they asked me to reach out to you about some research that I have been doing. Any chance you might have a few minutes this morning to discuss? I am available all morning at the number below or happy to give you a call whenever convenient.

Did you write that email to Mark Neuman?

A It appears that I did.

Q What role did -- what questions did you want to ask Mark Neuman.

Mr. Dewhirst. Instruct the witness not to answer on the basis that the question implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Why did the -- sorry. Are you finished?

Mr. Dewhirst. No, I was just saying my name. Let you know who's talking.

BY MS. ANDERSON:

Q Was Mark Neuman a member of the executive branch at this time?

A No.

Q Okay. Why did the Secretary and Peter Davidson ask you to reach out to Mark Neuman.

Mr. Dewhirst. I am going to instruct the witness no the to answer, same instruction as before.

Ms. Anderson. What questions did you ask Mark Neuman?

Mr. Dewhirst. Same instruction as before.

BY MR. ANELLO:

Q Did you know who -- sorry this is Russ.

Did you know who Mark Neuman was at the time?

A I believe so, yes.

Q Okay. What did you know about him?

A I knew that he was a brilliant man on all things Census. He had just an unbelievable amount of knowledge on the inner workings of Census, especially historical information from prior years, prior administrations. And I believe I had already spoken with him on such topics.

Q Who introduced you to him?

A I do not recall.

Q Okay. When did you first talk to him?

A I believe it was at some point in the spring or summer of 2017, but I do not remember the specific date.

Q And what did you talk about when you first spoke to him?

A I talked to him about multiple subjects. I talked to him about hard to reach

populations for the Census I think we probably spoke about the rate base undercount in every meeting or discussion we ever had. I talked to him about advertising and ways to develop new community groups through partnerships, and agreements to better get the word out about Census. And then I also asked him for background information on citizenship and other topics that are asked about on the Census.

Q Did you have a particular reason for asking him -- is there a particular a reason that you went to him for information on citizenship?

Mr. Dewhirst. Instruct the witness not to answer on the same basis articulated before.

Mr. Anello. The question is did you have a reason to think he -- is there a reason you picked him as your source?

I am not asking why you were motivated to ask about the citizenship question generally, I am asking why did you pick Mr. Neuman as somebody to ask?

Mr. Dewhirst. Well, I can tell you this, I am going to assert -- I am going to provide the same instruction. I mean, even though you are trying to parse the question a certain way Ross, I think it still implicates the same interest. And so I am going to instruct the witness not to answer.

BY MS. ANDERSON:

Q You talked earlier before we took our break that -- and you said Mr. Neuman provided you documentation, some documents. Was one of those a draft letter from the Department of Justice to the Census Bureau requesting a citizen question?

A No.

Q Did he ever provide you with any draft language that would go into a letter from the Department of Justice to the Census Bureau asking for addition of citizenship question?

A No, not to my recollection, he never provided me anything like that.

Q Did he ever provide you with legal research about adding a citizenship question to the 2020 Census?

A No. He may have provided me some cases, case names or information on prior legal issues that face the Census Bureau during previous administrations, knowing that I was a new political counsel and would be working on Census issues.

Other than cases and a brief overview of some of those litigation matters, no, no legal research.

Q Did he ever provide you with any information about citizen voting age population data?

A Yes.

Q What did he provide you?

A I do not recall specifically, but it would have been Census data, most likely public information.

Q Did he ever provide any analysis or comments on that citizen voting age population data?

Mr. Dewhirst. I am going to jump in and instruct the witness not to answer, that implicates the executive branch confidentiality and litigation interests.

Ms. Anderson. Just to be clear, I was asking whether he provided that, not specifically what his analysis was at this point.

Mr. Dewhirst. Okay. On that basis I will withdraw the instruction. Can you please ask the question one more time?

BY MS. ANDERSON:

Q Sure. Did Mark Neuman provide any comments, thoughts, opinions or analysis of citizen voting age population data?

A He commented and did provide analysis. Yes, he was an expert on the Census and we relied on him for information and feedback.

Q Was that related to the citizenship question?

A I believe so, but it was in relation to many topics. I mean, I -- knowing that Mark had been a transition team -- I don't know if he was a volunteer or what he was, but I know he was pretty active in providing briefings and thus turned to him for consultation.

Q So what was the comment or comments that were related to the citizenship question?

Mr. Dewhirst. And on that I am going to reassert the instruction and instruct you not to answer.

Ms. Anderson. Okay. I believe we are at the end of our hour and you guys would like to take your hour?

Mr. Castor. Yes.

Ms. Anderson. Okay. So we will a 5 minute break and we will allow you to consult about the White House issue and we will returned at 2:45, 2:46.

Mr. Dewhirst. That sounds good, thank you.

[Recess.]

BY MS. JOHNSON:

Q This is Ellen Johnson and I will note that it is 2:56 and we will begin.

So Mr. Uthmeier, do you believe that a citizenship question is needed on the decennial Census questionnaire?

A I do, yes.

Q Why do you believe that?

A I believe that for all of the reasons that are laid out in the Secretary's March decision memorandum. As I have stated already, I was involved in working with him in

drafting that and stand by it entirely.

Q So it's fair to say that your opinion on the matter is the same or similar to Secretary Ross' decision memo?

A My opinion on the matter is reflected in the decision memo that Secretary Ross sent to Karen Dunn Kelley on March, 26, 2018, yes.

Q Do you believe it is important to know the number of citizens in the United States?

A I do, yes.

Q Why do you believe that?

A Well, I think the Census Bureau clearly publishes online the reasons for collecting citizenship data. Citizenship data is used for a host of reasons, knowing about the population in the country is important for a host of reasons ranging from education, to healthcare, to infrastructure. Is part of my review. And it quickly became apparent that the Department of Justice has requested citizenship data in the past and used it for the Voting Rights Act enforcement specifically. And we review that the Census Bureau officials conducted of the policy program and legal review revealed that there are sufficiency of data concerns with regard to Census citizenship data. That information is laid out in the March 26 memo.

And for all the reasons laid out in the memo, option D is what the Secretary and I believe to be the best course forward to ensuring a complete and accurate a Census as possible.

Q Okay. Do you believe in the principle of one person, one vote?

A I haven't really thought about it. Yes, I suppose so.

Q Okay. I am going to ask you some questions that may sound familiar. So on the citizenship question, did you have contact with Gene Hamilton?



A As I think I already stated I do not recall communicating directly with Gene Hamilton, but certainly overheard his name I believe in the context of scheduling a meeting between the Secretary and the Attorney General.

Q But you did not have any specific conversations with Mr. Hamilton directly on the citizenship question?

A Not to my recollection, no.

Q Did you have any contact with Kris Kobach on the citizenship question?

A No.

Q Did you have any contact with John Zadrozny on the citizenship question?

Mr. Dewhirst. So I think Mr. Uthmeier has already testified that, this is Dewhirst, that the White House in no way factored in the decision-making process at the Department. I think Mr. Zadrozny has demonstrated in documents that he was in contact with Mr. Uthmeier. And so on that basis I will allow him to answer that question.

Mr. Uthmeier. Yes, I did speak with John Zadrozny.

BY MS. JOHNSON:

Q When did you speak with Mr. Zadrozny?

A I do not recall specifically when. It would have been fall or late 2017.

Q How many times did you speak with Mr. Zadrozny on the citizenship question?

A Certainly more than once, but not many times. I would say two or three occasions roughly.

Q Were your conversations with him over email and over the phone?

A I do recall emailing with him on multiple occasions. I do recall speaking on the phone as well. And I believe I met with him in person on one occasion.

Q And all of those calls, emails, and meetings were in the fall or winter 2017, correct?

A It is possible that I may have had a conversation with him in January of 2018.

Q What did you discuss with Mr. Zadrozny related to the citizenship question?

Mr. Dewhirst. I am going to instruct the witness not to answer based on executive branch confidentiality and litigation concerns.

Ms. Johnson. All right. Have you had any contact with Stephen Miller on the citizenship question?

Mr. Dewhirst. So on these questions, you know, we did -- this is Dewhirst. We did spend some time sort of working through this issue. As you can see on Zadrozny we sort of resolved that piece of it, but we are still sort of working through this.

And so if you ask these questions again right now, you are probably going to get the same answer, but we are working through them. And hopefully we will have -- we may be in a different position on that.

Mr. Castor. Okay. Would it be okay if we then gave you the names that we are interested in and we'd be interested in a yeah, yes or no, I spoke with them. And then if he did speak with them, any clarity, was it on the phone, email, some of the questions Ellen just asked about Zadrozny.

There's not a lot of officials here, it's Miller, Bannon, the AG, personally, the AG, the President personally, and the chief of staff, Reince Preibus. And, you know, I understand that you have got some serious concerns over litigation, but, you know, a lot of these, I think you can probably -- if the answer is no you can probably answer no without impacting the litigation. If the answer on it's face seems like obviously it would be no. So anyway.

Mr. Dewhirst. So, no I appreciate that. So I have written the names down and

we will circle back to those. The one person on that list of five that you just gave me, the Attorney General I think is -- that's probably one you could ask about right now.

Ms. Johnson. Okay. Did you have any contact with Attorney General Sessions on the citizenship question?

Mr. Uthmeier. No.

Mr. Castor. And just one more name, that Hofeller guy, which I think you already testified this morning that you didn't have any communications with him, if I am remembering that correctly.

Mr. Uthmeier. I did not have any communications with him, no.

Mr. Castor. Okay, I will turn it back to Ellen. Thank you.

BY MS. JOHNSON:

Q Can you describe what an average day was like at the Department of Commerce?

A That varied from day to day. I can tell you they were very long days and very stressful days. I was usually running around and working on, you know, a dozen topics per day.

Certainly would have had some senior staff meetings in the morning, sometimes those may have been focused on the Secretary's immediate office staff. Sometimes those meetings would have been focused on agency heads, coordination. Sometimes those meetings would have been focused on the general counsels or chief counsels at the various Commerce agencies.

I certainly would have been reviewing congressional requests for information. I would have been reviewing many proposed rules, regulations, final rules. I would have been working with other agencies on executive order drafts, joint rules, reviewing proposed legislation.

I would have been reviewing general litigation matters, contract matters. I would have been reviewing trade related issues, antidumping investigation issues, numerous issues.

[3:08 p.m.]

BY MS. JOHNSON:

Q So you said that generally in the mornings, you would have a meeting with senior staff. Did those happen generally every morning, or how many times a week would those senior staff meetings occur?

A The schedule for those meetings would change from time to time. Usually there was a weekly bureau heads meeting that would take place, I often attended those. There would usually be one or two front office secretary suite meetings to focus more so on his schedule and immediate priorities of the week.

If there was any travel, we would walk through that as well. I would often attend the Office of General Counsel senior staff meeting, where every single bureau would report on ongoing legal activities. There are some bureaus at the Department that the general counsel, once he arrived. He would run those meetings, but I often would run them in several respects before he arrived. Even after I moved into the Secretary's suite, I still would attend those meetings on occasion.

Generally, the legislative affairs office would have staff meetings that incorporated individuals relevant to briefing candidates for confirmation processes, or discussing possible legislation, congressional hearings, oversight and productions, all of those sorts of things.

I also worked very closely with the Secretary and would review correspondence, would review speeches, would consult him on legal questions he may have on all these topics. I worked -- I worked as the regulatory reform officer, which I we already established, and in that capacity, was interacting with all the various bureaus, working with NTIA on legal issues pertaining to Federal spectrum allocation, the Patent and

Trademark Office, looking at some efforts they were doing to try to empower minorities and women and revitalize the workforce.

I did a lot of work with NOAA relating to infrastructure, permitting, and licensing timelines. I did a lot of work with the Bureau of Industry and Security on export control reform. I also served as the Department's chief environmental review protection officer, CERPO for short. I might be getting that --

Ms. Johnson. Hello, are you -- are you there? We can go off the record.

[Discussion off the record.]

Ms. Johnson. We can go back on the record.

Mr. Uthmeier. It dropped again.

BY MS. JOHNSON:

Q Last thing I heard was chief environmental review officer.

A Yeah, in that capacity, I served on various agency working groups for multiple agencies who are involved in --

Ms. Johnson. Hello.

Mr. Uthmeier. Hello. Is there someone else on the conference?

Ms. Johnson. Is there someone else there?

Mr. Uthmeier. Hello. Hello.

Ms. Johnson. Okay.

Mr. Uthmeier. That is unsettling.

BY MS. JOHNSON:

Q Mr. Uthmeier, do you want to finish your answer.

A Yeah, in my capacity as the chief environmental review permitting officer, CERPO for short, I would work with career teams at NOAA on environmental reviews as they pertain to certain infrastructure projects, and also ensure that we were complying

with our FAST-41 obligations.

Q Okay. And so, you have listed several senior staff meetings across the Department. Did Secretary Ross attend any of those meetings regularly?

A Not regularly. He would attend some of those meetings on occasion.

Q Do you know in what circumstance Secretary Ross would attend -- generally attend the meeting versus determining not to attend the meeting?

A I think if his schedule permitted him to come in and provide updates to staff on his priorities and administration-wide priorities, I mean, he would come in there. He would certainly come in, you know, after holidays, or if there was going to be some sort of social gathering, he always made strong efforts to come in and thank the staff for all the hard work that they were doing. He is a brilliant man, but a very tough man to work for, and he expects topnotch service all the time, but he was very grateful for those of us who traveled a lot with him and devoted a lot of time and energy and short hours of sleep.

Q Can you describe what you mean by "tough man to work for"?

A He is the most detail-oriented person I have ever met. He reads and reads and reads. In addition to, you know, staying apprised of current events, he is always reading publications all the time, and he expects if the material touches on an issue that you should be familiar with, that you have also read everything. He expects the senior staff to be very well-briefed, and to have answers. And if people do not have answers, then he expects you to go and find the answers if they are out there as quickly as possible. He is very meticulous, very demanding, and very much in the details on all matters that touch the Department of Commerce.

He is the kind of guy that will figure out who a specialist is on a matter. Bankruptcy, for example, and rather than speak to the general counsel on something, he

may just pick up the phone and get connected right to that expert and put him through the ringer trying to get information. He is borderline obsessed with expanding new commercial markets like space commerce, and that is why he asked me personally spearhead a new space team focus at the Department. In that capacity, I would speak with him, you know, almost daily, we spent hours and hours talking about new ways to stimulate growth and bring down the cost and access to entry into space to try to help entrepreneurs that are engaging in small satellite constellation enterprises, small launch telecommunications, 5G, you know, remote sensing, you name it. Secretary Ross wants to do anything possible to create more American jobs, and go from the depths of the seas all the way up to the stars, as he likes to joke with me.

Q So Secretary Ross is intimately involved with every step of the development of Department of Commerce positions from birth to final execution? Is that correct?

A Generally, yes. And, within reason, he is not speaking to all 50,000 or so, you know, Department employees, but he is the guy that wants to get into the weeds. He does not like the high level, and rather than getting a short summary on something, if he wants to be well-informed, he wants to have all the publications and data, you name it.

Q You said you interacted with Secretary Ross on a daily basis regarding space commerce issues. Were there any other issues on which you interacted with Secretary Ross on a daily basis?

A I would often interact with the Secretary on multiple issues at a time. If he was in the office, I would say I met with him almost daily, but occasionally, it was infrequent. We often discussed infrastructure. We often discussed regulatory reform. You know, all the big issues I talked about, I updated him as often as possible.

Q Would it be fair to characterize Secretary Ross as a micro manager?



A You know, I don't know that that is true. He certainly trusts people to do their jobs, but he has high expectations and certainly demands results. He trusts his staff to bring him information, but if people have trouble, he is going to go looking for it, he is not going to wait for the answers to come to him.

Q Okay.

A I cannot emphasize enough how detail driven he is. He reviews data and if he sees inconsistencies or the numbers don't add up, it is amazing how quickly he will realize it. And that goes from everything, trade, infrastructure, Census data, space, you know, economic development numbers, everything.

Q Do you have an example of the detail to which Secretary Ross -- that you can recall?

A One example is there was a report on the transition of the international space station that had come out, it was a pretty lengthy document that I believe NASA published. I had not reviewed it. I had no idea that he even knew it existed, and he called me in one day and it was sitting on his desk and he asked me a specific question about some data on, you know, how profitable or challenges to profitability of utilizing something like that for commercial purposes in space, as opposed to government purposes, and then he had a specific question about something on a page and assumed that I would have the answer. So I had to go read the document.

Q Okay. So referring back to the majority's exhibit No. 4, the top part of the email, unredacted. It says: The Secretary was asking for progress on this. The expectation would then be that the Secretary would need an answer quickly, within -- would it be fair to say within 24 hours? What do you -- when the Secretary gives a direction asking for progress, what is your expectation of turnaround for that?

A Are you referring to a specific exhibit or --

Q Yes.

A -- or are you asking me generally?

Q Well, I am referring to exhibit No. 4, but also generally is fine as well.

A That would vary. If there was some sort of deadline where we needed to make a decision by, you know, a certain timeframe, you know, he would charge me to meet deadlines. But if it was general research and information generally, he wanted it as soon as possible, yesterday. At times, he would ask me to find something and I would be in meetings with him for a couple hours, and he would see me at the end of the meeting and ask me what the answer was, and I would look at him, and say, Sir, I have been sitting in meeting with you for the last 2 hours, so I certainly have not had time to find the answer. But that is the way he operates.

Q Would he accept that answer and allow you to go and look up the information?

A The urgency that he placed on all questions would not dissipate, it would remain. He sometimes would not have a choice, because I needed to go spend some time on it.

Q Okay. Okay. I am going to shift gears a little bit. Are you familiar with Title 13 protections for Census data?

A I know a little bit about them, but it has been a while since I reviewed Title 13. I did in the context of my position at the Department.

Q As part of your background research into the Census generally, when you first joined the Department, did you research the requirements of Title 13 with respect to data protection?

A I do remember researching those topics, yes. I do not know if I read everything, but I certainly did include that in my research.

Q Do you recall the penalties under Title 13 for disclosing confidential responses to the citizenship question?

A I only recall that there are significant penalties, but I cannot remember specifics, no.

Q If I told you that the penalties were 5 years in prison and a \$250,000 fine, would that be consistent with your research into the topic?

A Yes, that sounds right.

Q Okay. To your knowledge, will the responses to the 2020 Census question on citizenship be used by either the Department of Justice, the Department of Commerce, or any other law enforcement agency in any judicial proceeding?

A To my knowledge the data is not allowed to be used for those purposes pursuant to Federal law.

Q And to your knowledge, would responses to the 2020 Census question be permitted to be used in any immigration or deportation proceeding?

A No.

Q If such information were to be used, either in a judicial proceeding, deportation proceeding, or other immigration-related proceeding, and the Department of Commerce found out about it, what do you believe the Department's response would be?

A Can you ask that question one more time?

Q Sure. If the Department of Commerce became aware that data from the Census was used in any sort of judicial deportation or immigration proceeding, what do you think the Department's response would be to that disclosure?

A I don't want to speculate for the Department, but I can tell you if I was still there in my capacity as a senior lawyer, I would ask the Department of Justice to take immediate action.

Q So when you were there, you believe that if the Census data was disclosed, you would recommend the Department immediately refer a criminal case to the Department of Justice?

A Yes. Yes, absolutely. The Title 13 protections are imperative to data collection to ensure that people across the country feel comfortable providing information to the government. The data and studies show that Americans are generally suspect of the government coming in to their homes and asking questions about anything. So Title 13, we certainly at Commerce, I know the Census Bureau had some advertising that they were working on, that tries to make it known to the public, that this data cannot be used for anything other than statistical collection purposes, and it cannot be used for law enforcement or immigration purposes.

I wish that attorneys general in all the States were also echoing that information rather than startling people through, you know, negative press and, you know, allegations.

Q When you were at the Department, did you do any research, or were you aware of the safeguards put in place by the Census Bureau to prevent unauthorized disclosures?

A I am aware that the Bureau has been involved in those efforts. I cannot speak specifically about it today. On that topic, though, one thing that does come to mind is the discussions I had with Census Bureau officials on administrative records ensuring data protections and privacy as administrative records are shared with the Bureau with other agencies. That was a major concern and something the Bureau was looking into. They wanted to make sure before the Census begins moving towards more administrative records uses as has been in the plan for, I believe, years, that data security and cyber security, data protection, that all of that is accounted for and in good shape.

Q Okay. In your research, when you were at the Department, how does the Census Bureau and the Department ensure that field staff, so enumerators who are out in the field, or address canvassers who are going around collecting and updating the address list, adhere to the confidentiality oath that they sign, acknowledging the requirements under Title 13?

A I could tell you that I know that there are procedures in place, and that the enumerators are trained and made aware of the Title 13 requirements. There is specific training and technology used. But sitting here today, I cannot speak with any more specificity. I think the people have to take an oath that they will adhere to Title 13 before they have given access to Title 13 data collected via the Census.

Q And do you think that if, in your experience in the general counsel's office, if a field enumerator, someone in the field staff at the Census Bureau were to break that confidentiality oath, that the Department's Office of General Counsel would also refer that person for criminal prosecution to the Department of Justice?

A Again, today, I don't want to speak for the Department, but if I am a senior lawyer and somebody is breaking Federal law, is breaking their confidentiality oath, then, yes, I am going to seek immediate criminal sanctions and solicit the Department of Justice to help.

Q And so, all of these Title 13 protections that we have discussed, they apply to every question the Census Bureau asks, and would also apply to the proposed reinstatement of the citizenship question, correct?

A Yes.

Q To your knowledge, has anyone been prosecuted for failing to complete a Census questionnaire?

A I don't know.

Q To your knowledge, has anyone been prosecuted for not returning a Census questionnaire at all?

A I'm not aware of anyone, but I don't know.

Q To your knowledge, what does the Census Bureau do if someone doesn't return a questionnaire in its entirety?

A I am not exactly sure, but I am not aware of any prosecutions having taken place, but it is a Federal crime to not complete the Census. And I do know that the Census Bureau has nonresponse follow-up questions if the people do not submit information, where they will conduct calls at certain defined hours of the day. And in last event circumstances, send people door-to-door in an attempt to get information if people -- if the Census Bureau enumerators are not successful at that point, there are occasions where they will solicit information from neighbors.

Q And so, after these multiple attempts at contacting a nonresponding household, and then trying to use a proxy or a neighbor to respond to the household, and the Census Bureau is still not able to obtain an answer to the decennial questionnaire, do you know what happens at that point?

A I am aware that there are instances where the Census Bureau will make best efforts to impute data.

Q Meaning, they will use administrative records to try to answer the questions for a nonresponding household?

A Yes, if the career officials believe that they have sufficiently accurate administrative records to be able to impute such data, then, yes, I have been made aware through this process that that occurs, yes.

Q So if a household does not respond to the citizenship question on the 2020 Census, then the Census Bureau would use administrative records to attempt to answer

that question for them, correct?

A I believe that is the correct, but only if the Census Bureau determines that it has sufficiently accurate records.

Q Right. And that is what Option D outlined in Secretary Ross's March 26 decision memorandum was attempting to obtain additional administrative records relating to citizenship to accurately enumerate nonresponding households. Is that correct?

A Option D does discuss use of administrative records in tandem with reinstatement of the question on the decennial to ensure that it goes to every person in the United States in an attempt to collect more complete and accurate data. To that extent, Option D does mention use of administrative records. But I do want to be clear, something I did not realize when I began working at the Department, but discovered through this review and other preparations for 2020, the Census Bureau has been working very diligently over the last few years to improve its access to administrative records generally.

Q Can you tell me, not relating to this citizenship question, to your knowledge, what other records has the Census Bureau attempted to obtain to better enumerate households on the 2020 Census?

A I probably could have told you this with more specificity, you know, a year ago. I know there are SNAP records, information on women and children, I forget the acronym, Social Security information, Department of State information, passport information, driver's license information, that the Federal Government seems to have a document for everything these days. And if the Census gets access to it, given that the protections that are in place, in an attempt to reduce the cost of administering the Census and achieve more accurate data, then I think it is a good idea for the Census to

continue pursuing more records.

The Census Bureau career officials, and I can tell you that the attorneys don't get angry at me here, the Secretary is very motivated to reach hard-to-count population. He is very serious about that, and Karen Dunn Kelley, who is overseeing the Census work, she is as well. I know the Department, on that note, has spent about a half a billion dollars in communications to try to reach more individuals in community groups, that they have set a record almost, everywhere possible, with regards to advertising efforts to target hard-to-count groups.

Q And when you are talking about hard-to-count groups, how do you define that term?

A I just know that that is a term that is used by career officials quite often. I don't know that I would be the best one to define it, but as the population evolves where we are in a situation where housing circumstances are very different today than they were in past generations, more young adults are having to live with their parents on occasion, even when they become adults. Several individuals often share housing. You know, I mentioned earlier, Airbnb and some of these new housing opportunities where people are taking advantage of housing share platforms, to lower their rent, and the new advertising technology -- everything is trying to make it less intrusive for the government to conduct the Census, and more accurate.

Q And, so, your belief is that Secretary Ross is highly motivated to ensure that all the hard-to-count populations are accurately enumerated?

A Yes.

Q Do you believe that that includes all races, all genders, all ages?

A Secretary Ross wants to count everyone. That I know for sure.

Q Okay. And regardless of their -- anything related to their situation, it is just



a blanket, everyone -- the Constitution says everyone should be counted, and so we should count everyone. Is that your understanding?

A Yes.

Q Okay. So when you talked to -- I believe you said you talked to a John Gore or other government officials, like Mr. Zadrozny about the citizenship question, did you do so believing that any citizenship data would be used for law enforcement or deportation proceedings?

A I think -- can you repeat that?

Q Sure. When you went into these conversations with DOJ or other government officials, did you enter those conversations thinking that data collected by asking the citizenship question would be used by the government or other agencies for law enforcement or deportation proceedings?

A I just --

Mr. Hull. Obviously, we had a discussion about that in the last round, so let me try to get at it this way. If the witness can answer that in a way that doesn't invoke any of the interests we have asserted, go ahead and answer that.

Mr. Uthmeier. I did not have communications with anyone that touched on the topic of using this data for law enforcement purposes, and I was never under the impression that any government actor was considering use of this data for law enforcement purposes.

Ms. Johnson. Okay. So we are -- we are done with our round two. So we will take a 5-minute break and come back.

Mr. Dewhirst. That sounds great. Maybe for your colleagues on the majority side, we are just trying to -- Cordell and I sort of need to plan for how long we are going to need to use the room that we are occupying tonight. Does anyone there have a

sense about the amount of time you have left?

Ms. Anderson. I think it is hard for us to put an exact number on it. It could be that we need another two rounds. It could be that we end in the next round. Sorry, it is a very lawyerly answer.

Mr. Dewhirst. I would say that answer myself. Okay. Thank you very much.  
We will call back in 5 minutes.

Ms. Johnson. Okay.

Ms. Anderson. Thank you.

[Recess.]

Ms. Anderson. Okay. We can go back on the record, it is 3:54 p.m.

[Uthmeier Exhibit No. 25

Was marked for identification.]

BY MS. ANDERSON:

Q Before we took our break on the majority side, Mr. Uthmeier, we were talking about your interactions with Mark Neuman, I would like you to look at exhibit No. 25. We will mark it as such here. It is a copy of a Word document that came off of Thomas Hofeller's drive. It says in quotes: "We note that in these two cases, one in 2006 and one in 2009, courts reviewing compliance with requirement of the Voting Rights Act and its application in legislative redistricting, have required Latino voting districts to contain 50 percent plus one of 'Citizen Voting Age Population,' or CVAP. It is clear that full compliance with these Federal Court decisions will require block level data that can only be secured by a mandatory question in the 2020 enumeration. Our understanding is that data on citizenship is specifically required to ensure that the Latino community achieves full representation in redistricting."

Did you ever receive any documentation from Mark Neuman that contained this

wording or this information?

A I do not recall ever receiving this document at all. You know, this seems to be the first time I am looking at it, so information contained herein I would have even gleaned from my own -- from my own research.

Q And I would like you to also look at exhibit 24. And not to be confused, it is marked as exhibit 18, but we will mark it for our purposes as exhibit 24.

[Uthmeier Exhibit No. 24

Was marked for identification.]

Mr. Uthmeier. Okay. I have opened it up. I am looking at it now.

BY MS. ANDERSON:

Q Did Mr. Neuman ever provide you with this document or any part of this document?

A No.

Q Did you ever discuss with Mark Neuman why the Department of Commerce wanted -- or did you ever talk to Mark Neuman about whether he knew why Secretary Ross was interested in a citizenship question?

A No.

Q Did you ever discuss legislative apportionment or redistricting with Mark Neuman?

A Not to my recollection. To the extent it doesn't just deal with ensuring majority, minority populations obtained fair representation.

Q Did you ever discuss with Mark Neuman about how adding a citizenship question could affect participation of immigrants or noncitizens in the Census?

A Can you repeat that question?

Q Sure. Did you ever discuss with Mark Neuman about how adding a

citizenship question could impact Census participation by immigrants and noncitizens?

Mr. Dewhirst. I am going to note that I think this implicates executive branch confidentiality and litigation concerns, but as an accommodation, I am going to allow the witness to answer if he can.

Ms. Anderson. Who was that speaking?

Mr. Dewhirst. Sorry, this is Dewhirst.

Mr. Uthmeier. I want to make sure I heard the question correctly. I apologize.

Can you repeat it one more time?

BY MS. ANDERSON:

Q Sure. Did you discuss with Mark Neuman about how adding a citizenship question could impact Census participation by immigrants or noncitizens?

A I do not recall.

Q We talked a little bit earlier about a memo that you provided to John Gore at the Department of Justice. Do you recall?

A Yes.

Q Did someone direct you or instruct you to provide that to Mr. Gore?

Mr. Dewhirst. I am going to instruct the witness not to answer, that implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q Was Mr. Gore the first person you spoke with at the Department of Justice about the citizenship question?

A I do not recall, however, I do remember being pleasantly surprised when I was referred to John Gore, and I believe it was someone else at the Department of Justice that suggested I reach out to him because I was seeking advice, legal advice, on the Voting Rights Act from someone that was a specialist in the area. And I recognized the name because he had been a partner, and someone that I looked up to at Jones Day when I was in private practice.

Q Who was it at the Department of Justice that referred to you John Gore?

A I do not remember.

Q And so you reached out to him first. Is that correct?

A I believe so, but I am not totally sure. I wanted to get advice pertaining to the Voting Rights Act. It had come up in my research, and I am not well-versed on the law.

Q Had the Voting Rights Act come up from anyone else or just in your research?

Mr. Dewhirst. I am going to assert an objection and instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns. I am sorry, Tori, is there a way that you can answer the question without doing that?

Ms. Anderson. Had you come across the Voting Rights Act in any other context besides your research with regards to this citizenship question?

Mr. Uthmeier. Here is what I can say, and I believe I have already said, I was looking at why questions had been asked in the past and uses for questions on multiple topics, and I quickly found documentation at the Department that had been received from the Department of Justice. It was, you know, included in court documents that I received from the Census Bureau.

BY MS. ANDERSON:

Q I guess I can try to ask this in a slightly different way that might be helpful. Did anyone else bring up the Voting Rights Act to you prior to your conversation with John Gore, or the person that referred you to John Gore at the Department of Justice?

A I believe I did speak with other internal individuals about DOJ's use of citizenship data for Voting Rights Act enforcement and other issues, and then I also was involved -- or I also was aware of legal opinions that were out there talking about majority, minority voting populations and requirements that States not redistrict or gerrymander in a way that would be unfair to certain communities. And I was aware of

the fact that DOJ had requested citizenship data on Voting Rights Act issues in the past, and that led me to try to better understand what DOJ's uses for the citizenship data were, and if they needed more granular data.

Q Did you discuss with John Gore why the Department of Commerce was interested in a citizenship question?

Mr. Dewhirst. I am going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q When you asked John Gore whether the Department of Justice could use the data, did he give you a response on your initial conversation about whether they could use or wanted to use the data?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q Did you discuss with him at the time why Secretary Ross was interested in the citizenship question?

Mr. Dewhirst. Same instruction.

BY MS. ANDERSON:

Q Did you discuss any rationales that would support the citizenship question to the 2020 Census?

Mr. Dewhirst. Same instruction.

BY MS. ANDERSON:

Q Did you ask or discuss with Mr. Gore or anyone at the Department of Justice other efforts to talk to other agencies about whether they could use the data?

Mr. Dewhirst. Same instruction.

BY MS. ANDERSON:

Q Did you ask Mr. Gore or discuss with Mr. Gore -- well, let me start with this. Did you ask Mr. Gore whether the Department of Justice would make a request for the citizenship question at that time?

Mr. Dewhirst. Same instruction to the witness.

Ms. Anderson. Okay.

BY MS. ANDERSON:

Q And you said that you provided Mr. Gore with your legal memo. Is that correct?

A I did so that he could review it.

Q Did you provide him any other materials besides the legal memo?

A I remember -- I had hoped to give the memo to John and have a conversation with him about it. He was busy when I, you know, when I attempted to give him the memo, and I remember leaving it with his secretary, and I believe I pulled a note card out of my jacket pocket to leave him a note in addition to the memo.

Q What did the note say?

Mr. Dewhirst. I am going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q Why did you send him the legal memo?

A Again, I was -- in my research, the Voting Rights Act came up, and I am not very familiar with the Voting Rights Act and all of its nuances, and thus, I was hoping John would provide legal advice that dealt with the memo and the topics that I was investigating.

Q Did the memo discuss the Voting Rights Act?

Mr. Dewhirst. I instruct the witness not to answer as that implicates executive



branch confidentiality and litigation concerns. Dewhirst.

BY MS. ANDERSON:

Q Did you provide anything to John Gore that was not included in the legal memo version that you had sent to the Secretary, I guess, the month before?

A I don't remember.

Q Did the document contain any draft language or cases that you thought would be useful to the Department of Justice if they were to make a request to have the citizenship question?

Mr. Dewhirst. I am going to instruct the witness not to answer for the reasons previously stated. Dewhirst.

BY MS. ANDERSON:

Q Did any of the contents of either the memo or the note appear in the December 12, 2017, letter from the Department of Justice to the Census Bureau requesting the addition of the citizenship question for the 2020 Census?

Mr. Dewhirst. Can you ask that question again, please?

BY MS. ANDERSON:

Q Did any of the content of the note or the legal memo appear in the Department of Justice's December 12, 2017, letter to the Census Bureau requesting addition of a citizenship question to the Census?

Mr. Dewhirst. I am going to instruct the witness not to answer, that implicates executive branch confidentiality and litigation concerns. Dewhirst.

Ms. Anderson. Did the document -- sorry, did you get that -- who was talking. Mr. Dewhirst.

Mr. Dewhirst. Do you want me to keep doing that? I am happy to not say my name after --

Ms. Anderson. No, the stenographer would appreciate that. I will endeavor not to cut you off.

Mr. Dewhirst. Definitely -- definitely if it is helpful, I will keep doing it.

Ms. Anderson. Yes, please.

BY MS. ANDERSON:

Q Did the document or the memo discuss the effects -- of the possible effects of a citizenship question on the Census?

Mr. Dewhirst. The same instruction previously stated. Dewhirst.

BY MS. ANDERSON:

Q Mr. Uthmeier, how did you deliver or leave the memo and the note for Mr. Gore?

A I left -- I left it with his secretary, I believe, or someone, an administration official in his office. He was in a meeting and would be tied up for some time, I believe.

Q And you discussed with Mr. Gore before you left the memo that you intended to hand-deliver the memo. Is that correct?

Mr. Dewhirst. I am going to -- I think you are asking about substance of conversations between James and Gore, and James was communicating with Gore for the purpose of soliciting legal advice. I offer as an accommodation, I will -- I am going to not instruct Mr. Uthmeier to not answer this question. He can answer the question.

Ms. Anderson. Okay.

Mr. Dewhirst. Dewhirst.

Mr. Uthmeier. If I recall, I had been speaking to John on the phone and I did tell him that I was going to be in the area and would swing by with the document to discuss.

BY MS. ANDERSON:

Q Did you hand-deliver or drop off the memorandum and the note in order to

avoid it being part of the administrative record?

A No, absolutely not.

Q Did you hand-deliver or drop off the memorandum and the note in order to conceal the process by which the citizenship question was added to the Census?

A No.

Q Presumably, when you worked at that the Department of Commerce, you had a government email. Is that correct?

A Yes, I did.

Q Was your initial conversation with Mr. Gore on the phone or in person?

A I first communicated with John in his capacity as a Department of Justice official by phone. I may have run into him in person, you know, on occasion as well. But the first communication while we were both working in the administration, was over the phone.

Q And on that phone call you indicated to him that you were going to send him this memo. Is that correct? Or provide him the memo?

Mr. Dewhirst. Again, I think you are getting at the substance of communication between the two. I think it implicates the interest, but as an accommodation, I am going to allow Mr. Uthmeier to answer.

Mr. Uthmeier. Could you please repeat the question.

BY MS. ANDERSON:

Q Sure. And when you talked to him on the phone, you indicated to him that you were going to provide him with a legal memo. Is that correct?

A Yes, I told him that I put together a memo and that I was going to give it to him for review.

Q So I just -- I am trying to understand, why didn't you just email it to him?

A I was going to be in the neighborhood. Again, I knew John from my life in private practice before. I had not seen him in several months. I had not seen him since we were working at Jones Day, and I hoped to run into him in person and speak with him a little bit about the research I was doing, because he was unavailable and would be tied up for some time, I was not able to wait for him. So I -- that is the reason I left a note in addition to the memorandum.

Q Were you made aware of conversations that occurred between Secretary Ross and Attorney General Sessions about this citizenship question?

A Was I aware that there were conversations?

Q Yeah.

A Yes.

Q How did you become aware?

Mr. Dewhirst. I am just going to caution the witness that he can answer this if there is a way for him to do so without implicating executive branch confidentiality and litigation concerns.

Mr. Uthmeier. I believe I said before, most of these senior Department officials worked in a bullpen setting, a large room with multiple desks and a work station. And I remember overhearing the scheduling discussions about that issue, about the meeting taking place.

BY MS. ANDERSON:

Q When did you overhear those discussions? When did you become aware of those discussions between the Secretary and the Attorney General occurred?

A I do not recall a specific date, it was -- it would have likely been in the summer or fall of 2017.

Q Did you ever become aware of the contents of what Secretary Ross and the

Attorney General discussed?

A I do not recall specifically. I am aware that they spoke about the Census.

Q Did you become aware that they spoke about the citizenship question issue?

Mr. Dewhirst. And there I am going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns. Dewhirst. Sorry.

BY MS. ANDERSON:

Q Were you ever made aware of a specific conversation that happened between Secretary Ross and the Attorney General on September 17, 2017?

A Again, I am aware that there was at least one conversation between the individuals, but I do not -- you know, I can't state that I remember that date for certain. I also, you know, I continued to work as counsel at the Department, you know, up until 2019, and may have been made aware of that fact through litigation. But I recall overhearing some discussions about the scheduling, but I also recall having seen documents that discuss a meeting taking place between the Secretary and the Attorney General.

Q Are you aware of the Department of Justice's position changing regarding whether they would like to ask for the addition of a citizenship question around September of 2017?

[4:14 p.m.]

Mr. Uthmeier. I am not aware of --

Mr. Hull. This is Cordell. To the extent the witness can answer that without revealing privileged information, we will of course let him answer that, but I would caution him to keep in mind his role as a lawyer.

Mr. Uthmeier. I am not aware of any positions changing. I can tell you we received a request from the Department of Justice in December, on the 12th, I believe. I am not aware of any request or direction one way or the other from Justice prior to that time.

Ms. Anderson. Okay. I would now like you to look at exhibit no. 10.

[Uthmeier Exhibit No. 10

Was marked for identification.]

Mr. Dewhirst. Tori, do you know which email that was attached to, the first or the second?

Ms. Anderson. I believe it would have been the first.

Mr. Dewhirst. Okay. Yep. There it is. Okay.

Tori, you said exhibit 10?

Ms. Anderson. Yes.

Mr. Dewhirst. Thank you.

BY MS. ANDERSON:

Q And specifically the second email. I don't think at this point we need to have you read the entire chain.

Have you had a chance to look at it?

A Yes.

Q Okay. So on September 17th, 2017, Danielle Cutrona from the Department of Justice emailed Wendy Teramoto at the Department of Commerce. And part of the that email says, quote, from what John told me, it sounds like we can do whatever you-all need us to do and the delay was due to a miscommunication. The AG is eager to assist. And then proceeds to say thank you.

Do you know what she meant by that?

A No.

Q Do you know why the Attorney General was eager to assist the Department of Commerce?

A No.

Q Were you ever made aware of why later the Attorney General told Department of Justice officials to decline an offer to meet with Census Bureau officials about the Department's December 12, 2017, letter?

A No, I -- I am not made aware of that fact.

Q I want to return to some of the people that the minority staff asked you about before we took our break.

Did you ever speak with Steve Bannon about the addition of a citizenship question to the 2020 Census?

Mr. Dewhirst. So, Tori, Cordell and I have diligently been trying during the breaks to figure out a way to accommodate your interest in the list. I think -- I think Russ asked about them, and then Steve asked in the last round. And I think one way -- I can think of a way to address this, I believe, but I think that we probably -- we have to ask the questions in a particular way, and you can tell me if you don't think that is a good idea.

But if you -- if you will indulge me for a minute -- I don't want to take your

time -- but maybe I can put the questions to James in a way that would provide you with the information that you are interested in but also safeguard the interests that we are striving to protect on our end.

So I am going to put a couple of questions to James, and just let me know if you can't hear any of this.

James, have you -- have you ever had a conversation with Steven Miller?

Mr. Uthmeier. Not to my knowledge, no.

Mr. Dewhirst. Have you ever had a conversation with Stephen Bannon?

Mr. Uthmeier. Not to my knowledge, no.

Mr. Dewhirst. Have you ever had a conversation with former Chief of Staff Reince Priebus?

Mr. Uthmeier. Not to my knowledge, no.

Mr. Dewhirst. Do you recall ever having a conversation with President Trump?

Mr. Uthmeier. I did not ever speak with President Trump. Any interactions I may have had with him or senior staff prior to him becoming President would have been, you know, as part of my private practice and would not have involved the Census.

Mr. Dewhirst. And you never had a direct conversation with Donald Trump before he was President?

Mr. Uthmeier. Not to my knowledge.

Mr. Dewhirst. And you have already testified earlier today that before your time as a Commerce Department employee, you didn't discuss the issue of the citizenship question on the Census with anyone; isn't that right?

Mr. Uthmeier. Right.

Mr. Dewhirst. Okay.

So that is sort of -- maybe you find that helpful, maybe you didn't. But I believe



that is the way that we can provide that information in a way that safeguards our interests and provides you with -- with the information you are looking for.

BY MS. ANDERSON:

Q Did you ever become aware of conversations between anyone at the Department of Commerce and anyone at the White House about the citizenship question?

A Yes.

Q Okay. Who did those conversations occur between?

Mr. Dewhirst. And that is where I am going to instruct the witness not to -- not to answer on the bases previously stated.

Ms. Anderson. Were you aware --

Mr. Dewhirst. If I could -- I am sorry to cut you off. But the witness has previously testified a couple of times today that -- that he received -- no one at the Department received any direction on the issue of the citizenship question and that the White House is not involved in the ultimate decision the Secretary made on the citizenship question.

Ms. Anderson. I understand that. My question was --

Mr. Dewhirst. I am sorry. Go ahead.

Ms. Anderson. My question was a little bit different than that. So I will just repeat it just so the record is very clear about what my question was, which was --

Mr. Dewhirst. Sure.

Ms. Anderson. He answered yes to the question that he was aware of conversations that happened between the Department of Commerce and the White House. And then I asked about the citizenship question, and I asked him who did those conversations occur between.

And then I understand that is where you were not allowing him to answer that question. Is that correct?

Mr. Dewhirst. That is correct.

BY MS. ANDERSON:

Q Were you ever aware of Secretary Ross speaking with Kris Kobach about the citizenship question?

A I was made aware of that fact, but I believe -- I cannot remember when I learned of that fact. I was made aware of it. It may have been while I was conducting research and meeting with senior Department officials on the topic. But it may also have been as a result of litigation, having seen some emails.

I have also heard at least part of the Secretary's testimony before the committee, and I believe information on this topic came out at the time. So I do not recall when I learned that fact, but I did not ever participate in any of those discussions.

BY MR. ANELLO:

Q This is Russ Anello. Are you aware of any conversations involving the citizenship question that the President participated in?

A No.

Q Are you aware of any conversations that Mr. Bannon participated in relating to the citizenship question?

Mr. Hull. This is Cordell. And to the extent the witness can answer that without revealing privileged information, we will permit him to answer.

Mr. Uthmeier. I am aware of at least an email communication that took place involving Mr. Bannon only as a result of discovery for litigation purposes.

Mr. Anello. Okay. Are you aware of any other conversations with White House staff aside from Mr. Zadrozny, which I guess we addressed separately, related to the

citizenship question?

Mr. Hull. Again, this is Cordell. And reiterating the bases on which we have had the discussion about this. But I will allow him to answer to the extent that he can answer within the parameters we have set out.

Mr. Uthmeier. Yeah. As I have stated, I spoke with White House personnel. I am aware of at least, you know, a couple of other individuals that would have also spoken with the White House on this topic, always in a briefing capacity, providing updates, insuring that, you know, the executive branch is coordinated and that there are no surprises.

When the DOJ letter was leaked, immediately there were press stories, there were -- there were allegations, things were misconstrued. And myself and other Commerce personnel provided -- you know, answered questions and provided briefings to other administration officials to explain, you know, what we were working on and just provide updates generally.

Mr. Anello. Okay. Who at the White House did you brief about the citizenship question?

Mr. Hull. And again, this is Cordell. Again, we have laid out the parameters on this, so I would instruct the witness not to answer.

Mr. Anello. But I guess I don't understand. He is allowed to say who he didn't talk to, but he can't say who he did talk to? Is that what you're saying?

Should we, like, read a list of everybody at the White House, and he can say no and then just not answer the people he did talk to?

Mr. Hull. Mr. Anello, we are trying to provide accomodation to the committee. You asked about a certain number of people --

Mr. Anello. The minority staff had unlimited number of people. I would like to

know anybody that he talked to.

Mr. Hull. We have let you finish. I am trying to explain the basis. You continue to interrupt me. We have explained the basis for this. I understand that the committee doesn't agree with that, and that is fine, and we will continue to look for a way to try and get the committee the information it seeks.

We tried to make an accomodation earlier during this round to get you the information you are seeking. I understand you believe that to be unacceptable. But sitting here today, right now, this is where we are.

Mr. Anello. Okay. But just to be really clear, you will not tell us who you talked to at the White House? If we guess the name is wrong, you will tell us the name is wrong, but you will not --

Mr. Castor. That is not true. I mean, we --

Mr. Anello. I am serious. I want to know who he talked to.

Mr. Castor. I understand you want to know that.

Mr. Anello. If we give him a name he didn't talk to, he will tell us that, but he won't tell us who he did talk to. That doesn't any make sense.

Mr. Castor. Based on what we do know, we know that it is unlikely that he talked to the President, and so he was able to confirm that. I mean --

Mr. Anello. But that is why we are here for the interview, to learn something new from him, to learn who he talked to. And if he is only willing to tell us people that we know he didn't talk to, I am not sure what --

Mr. Castor. I mean, if you give him a list of names, I am sure he will --

Mr. Anello. The list is anybody who worked in the White House. Why would I have to give him the list of names? He knows who he talked to. He can tell us.

Mr. Castor. I don't think it is anybody other than Zadrozny, but --

Mr. Anello. Well, then, he can tell us that. I am not trying to be -- this is not a trick question.

Mr. Castor. I know, but I mean, it is not fair for them -- for us to ask him to go back and say, like, check the names Trump and Priebus and --

Mr. Anello. He doesn't have to check anything. I am asking from his recollection.

Mr. Castor. I know, but it is just -- I mean, it was like a good faith effort by them, and you kind of got -- you kind of quarreled a little bit there with them.

Mr. Anello. Well, I don't mean to quarrel. I just don't understand the basis here. I just would like to know, if you are able to start picking off individual people he didn't talk to, it seems a little unreasonable to tell us you are not going to tell us who he did talk to.

Mr. Castor. And I think they will go back --

Cordell, you can go back and figure out if there is a way to answer this?

Mr. Dewhirst. This is David, and we will absolutely continue to try to figure out ways to accommodate the committee's interest.

But I will note this. With the information the witness has provided, Russ, what I haven't heard from you, given the fact that we have established the White House wasn't involved in any way with the decision-making process that --

Mr. Anello. That is you -- you have stated that. I don't think we have established that.

Mr. Dewhirst. Let me finish, please. Let me finish. I don't appreciate that you are constantly talking over me.

So let me -- let me finish my thought, please.

And that is this. What is the legislative purpose for this inquiry in the first place if

we have already had the witness testify truthfully about the underlying issue, that they had no material involvement, that the nature of the conversations were mere briefings. I mean, he said that multiple times, Russ.

And if you -- if you can't articulate why you have a particularized need for this information, if you can't articulate what the legislative purpose is for that piece of information, then we have to refer you to the White House for that information, and we are happy to do that.

Mr. Anello. Okay. I take it that you are refusing to answer -- you are refusing to allow the witness allow --

Mr. Dewhirst. Please, Russ, please let me finish.

Mr. Anello. Go ahead.

Mr. Dewhirst. Please. We will be -- as I mentioned to Steve, just like we have already done today in the span of a couple of hours, we are going to put our heads together and try to figure out a way to provide the information, because we know you are interested in it.

But I will say, on the other hand, that this accommodation process is a two-way street. And this information seems highly immaterial to the investigation, to the fact-finding you are trying to conduct. And if you can't articulate a purpose for that specific piece of information, then we will just have to refer you to the White House.

Mr. Anello. Okay. If you are finished, we have articulated our purposes for asking these questions and all the questions in this investigation many times. The role of the White House is absolutely material. We have heard many instances in which the White House was involved in this decision-making process, contrary to what you just asserted, and the question is what Mr. Uthmeier knows about that.

Now, I understand his opinion is that they did not play a role in the

decision-making process. But it is also possible that he may have limited information about the role that they played. And the communications that he did have with the White House might be extremely material in helping us understand who at the White House was involved in these issues.

So I don't think there is any question -- I am sorry -- I am going to finish now.

I don't think there is any question that we have a legislative purpose. I am kind of surprise to hear you suggest otherwise. And I understand the instruction that you have made to the witness, which is not to answer the question. And I am happy for us to move on at this point.

Mr. Dewhirst. I think we can move on. I think that is fine.

[Uthmeier Exhibit No. 14

Was marked for identification.]

BY MS. ANDERSON:

Q If you could look at Exhibit 14.

A 14?

Q Yes. 14.

A I am sorry. Give me just a minute.

Q Okay. And it should be in the first email.

Have you had a chance to review?

A Yes, I have.

Q Okay. It is an email from John Zadrozny on February 16, 2018, to you, Gene Hamilton, and -- it is blacked out, but Brian.

And it says, quote, I want to connect with the three of you about having that conversation we discussed at some point this week.

Why was he connecting the three of you?

A I do not recall.

Q Was the conversation that he was referring to about the citizenship question?

A I am not sure. I do not recall ever meeting with Gene Hamilton. You know, if I may have had interaction with him and forgotten, I apologize. But I am not even sure if this meeting took place.

Q Do you remember speaking with John Zadrozny around this time?

A I remember speaking with John on multiple occasions around this time, yes. I don't know if it was specific to this day.

Q Okay. And you spoke with him about the citizenship question; is that correct?

Mr. Dewhirst. I am going to interpose an instruction of the witness not to answer. That implicates the executive branch and litigation concerns, confidentiality and litigation concerns.

Ms. Anderson. Was John Zadrozny --

Mr. Dewhirst. Dewhirst.

Ms. Anderson. I am sorry. That was Mr. Dewhirst.

Mr. Dewhirst. I am sorry, too. That is an awkward thing, but anyway.

BY MS. ANDERSON:

Q Was John Zadrozny one of the people at the White House that you did brief about the citizenship question issue?

A Yes, among several other individuals.

Q How many times did you brief him about the citizenship question?

A I provided updates on a couple of occasions. I know I provided updates following this leak of the DOJ letter and several press stories that broke thereafter. But



it is kind of hard for me to remember how many times I spoke to John on this topic, because I -- I did know him prior to his service in the White House, and I would have seen him at several social settings as well.

Q Did you discuss the rationale that the Department of Justice used to support their request on December 12, 2017, to add the citizenship question to the Census?

Mr. Dewhirst. I am going to instruct the witness not to answer as that question implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q You mentioned when you were speaking with minority staff that you did a draft of Secretary Ross' March 2018 memo. Is that correct?

A I am not familiar with a March 18th memo.

Q I am sorry. March 2018.

A 2018. Oh, his decision memo?

Q Yes.

A Yes, I was involved in that.

Q Did the White House have any role in drafting that decision memo?

A No.

Q Did Mark Neuman have any role?

A No.

Q Did anyone else have any role in drafting that memo?

Mr. Hull. This is Cordell. And, again, this is getting into an area that does have confidentiality -- to the extent that the witness can answer in a way that doesn't implicate those interests, we will permit him to answer.

Mr. Uthmeier. You know, I -- I was the principal author, but I was working in close collaboration with the Secretary as he, you know, laid out his -- his decision. I

would have also consulted several other senior officials. I believe Census senior leadership reviewed and cleared the memorandum. Our policy director would have reviewed and cleared the memo, and I know he had some comments and edits.

Mike Walsh, our deputy general counsel; probably Peter Davidson, our general counsel. Karen Dunn Kelley certainly would have, you know, reviewed and provided updates.

Ms. Anderson. Did Secretary Ross direct you to include or exclude any information in the decision memo that you drafted?

Mr. Dewhirst. I am going to instruct the witness not to answer, because it implicates executive branch confidentially and litigation concerns.

And I will also note that his response to the last question did pull the curtain back a little bit, and we allowed that question to move forward as an accommodation to the committee.

Ms. Anderson. Did Earl Comstock direct you to exclude any particular information from the 2008 March decision memo?

Mr. Dewhirst. I am sorry, Tori. I didn't mean to cut you off. Same instruction, though, to the witness.

BY MS. ANDERSON:

Q Did you ever consider the issue of whether the Department of Commerce needed to request -- to receive a request of another agency in order to add a citizenship question to the 2020 Census?

A Could you please repeat that question?

Are you there?

Q Yeah. Just one second.

A Oh, yeah.

Q Mr. Uthmeier, did you ever discuss legislative apportionment, restricting, or election outcomes in connection with the citizenship question?

Mr. Hull. I am going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Did you have any discussions about legislative apportionment, redistricting, or election outcomes in connection with the citizenship question with anyone outside of the administration?

Mr. Hull. To the extent that you can answer in a way that doesn't implicate executive branch confidentiality and litigation concerns, you may.

Mr. Uthmeier. I consulted a law professor, a long-time mentor, to obtain information on how citizenship data was used historically, as I was just beginning to brief up on all topics census at the Department.

He would have provided some overview to me on the statutory authorities that dictate how censuses are conducted. In that context, he may have discussed the various reasons why certain questions are asked on certain forms, and he may have discussed apportionment in that context. But absent that, I am not aware of any conversations, no.

BY MS. ANDERSON:

Q And who was that?

A His name is John Baker.

Q And where does he currently work?

A I do not know. I believe he still teaches at Georgetown Law on occasion.

Q Mr. Uthmeier, you mentioned briefly that part of your role at the Department of Commerce was responding to congressional requests. Is that correct?

A That is correct, yes.

Q Did you have any role in responding to requests from the oversight -- the House Oversight Committee?

A Can you be more specific?

Q Sure. Did you have any role in responding to requests from the House Oversight Committee about the Census or the citizenship question?

Mr. Dewhirst. I am going to instruct him not to answer. That implicates executive branch confidentiality and litigation concerns. This is Dewhirst.

Ms. Anderson. And just to be clear, it was a yes-or-no question about whether or not he had a role in responding.

Mr. Dewhirst. That is right. And the instruction stands.

BY MS. ANDERSON:

Q Mr. Uthmeier, did you ever review a draft of the Department's December 12, 2017, letter?

A What letter are you talking about specifically?

Q Sure. The letter that the Department of Justice sent to the Census Bureau. Did you ever review or comment on a draft of that?

A No.

Q Okay. Did you ever discuss with anyone at the Department of Justice a letter -- the letter or draft of the letter that they ultimately sent on December 12?

Mr. Hull. This is Cordell. I mean, this also implicates executive branch confidentiality and litigation concerns. But to the extent that the witness can answer it without revealing privileged information, we will of course let him answer it.

Mr. Uthmeier. No, I have never discussed a draft of anything that became the letter in December. I certainly talked with John about my research in the context of getting his legal opinions, but nothing about the contents of the letter, no.

I did not review a draft or see any element of the letter until we received it at the Department. I believe a courtesy copy was sent to the Office of General Counsel, you know, sometime shortly after the December 11 date of the letter.

BY MR. ANELLO:

Q This is Russ. Mr. Uthmeier, I believe you mentioned, maybe an hour or two ago now, that there were discussions after -- after receiving the letter from the Department of Justice, the December 2017 letter, about how a citizenship question would impact response rates. Is that right?

A Could you repeat the question? I --

Q Yeah, I am sorry. I think you said in response to my Republican colleague's question that you had discussions after receiving the December 2017 letter from the Department of Justice that touched on the issue of response rates and how a citizenship question could impact response rates.

A That was certainly a topic of discussion as part of the Census Bureau's program review that they initiated following receipt of the Department of Justice's letter, yes, although I certainly was not leading any of those discussions.

Q Okay. And what did you learn about how a citizenship question would impact response rates?

Mr. Dewhirst. I am going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

I will note that a lot of the information you just asked about is available in the expansive public record that we have provided to the committee.

BY MR. ANELLO:

Q Okay. Seems like it either is or is not confidential. But okay.

Did you have discussions about the response rate and how -- oh, sorry -- how the

citizenship question could impact the response rate prior to receiving the letter from the Department of Justice in December of 2017?

A No.

Q Was that an issue that you researched?

Mr. Dewhirst. I am going to again interpose an instruction not to answer as that implicates the executive branch confidentiality and litigation concerns. Dewhirst.

BY MR. ANELLO:

Q Mr. Uthmeier, were you aware of a request, -- again, after the December 2017 letter, a request from the Census Bureau to meet with the Department of Justice and discuss the letter?

A I am not aware of any specific request, no.

Q Were you aware generally that a request was made?

A Could you repeat the question again?

Q Were you aware generally that a request was made? You said you weren't aware of a specific request.

A Again, here I am not sure if my recollection is from information I learned as part of the litigation or if -- if I made these factual discoveries prior to the beginning of the litigation.

But I am aware that Census Bureau officials were going to reach out to the Department of Justice to gather more information. I am aware of that, yes.

Q And are you aware of what happened when they made that request?

A I am not aware, no.

Q Okay. So do you know whether DOJ accepted the meeting or rejected it?

A I remember speaking with, you know, John Gore on multiple occasions, but, you know, I cannot speak for what other people did or did not do at the Department.

Q Okay.

Mr. Anello. If you can just give us just one minute. We are at the end of the hour, but we are checking to see whether we have anything else we wanted to cover.

Mr. Uthmeier. Okay. Take your time.

Mr. Anello. Thanks.

Ms. Anderson. I don't think we have any other questions for you at this time.

I don't believe the Republican staff has any further questions.

Mr. Castor. We have one more hour.

Just joking.

Ms. Anderson. Mr. Uthmeier, is there anything that we did not ask you that you would like to say on the record before we conclude?

Mr. Uthmeier. No.

Ms. Anderson. Okay. We can go off the record.

[Whereupon, at 4:50 p.m., the interview was concluded.]

## ERRATA SHEET

INSTRUCTIONS: After reading the interview transcript, please note any change, addition, or deletion on this sheet. DO NOT make any marks or notations on the actual transcript. Use additional paper if needed.

<b>Investigation Name</b>	Census Investigation
<b>Witness Name</b>	James Uthmeier
<b>Date of Interview</b>	June 11, 2019

<b>PAGE</b>	<b>LINE</b>	<b>CORRECTION</b>	<b>APPROVED*</b>
6	14	Change “6(c)(1)” to “16(c)(1)”	Y
7	17	Change “in” to “and”	Y
9	11	Change “Chris” to “Kris”	Y
12	18	Change “Newhaus” to “Neuhaus”	Y
14	11-12	Change “Newhaus” to “Neuhaus”	Y
17	9	Change “McClellan” to “McClelland”	Y
17	16	Add “to” after “I was aware that every Census leads”	Y
21	15	Delete “position”	Y
24	14	Change “nonprivilege” to “nonprivileged”	Y
25	8	Add “him” after “And then when asked more detail about what that instruction was, you have prohibited”	Y
25	11	Change speaker to Mr. Dewhirst	Y
25	11	Change “comment” to “question”	Y
26	5	Change speaker to Mr. Hull	Y

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## ERRATA SHEET

<b>PAGE</b>	<b>LINE</b>	<b>CORRECTION</b>	<b>APPROVED*</b>
27	6, 8	Change “?” to “.”	Y
28	21	Change “at” to “as”	Y
29	17	Change “?” to “.”	Y
33	24	Change “Carrie Ann Kelly” to “Karen Dunn Kelley”	Y
34	2	Change “he” to “she”	Y
69	13	Add “that” after “We will do”	Y
76	10	Change “wi” to “we”	Y
79	19, 21	Add quotation marks	Y
79	19	Change “Newhaus” to “Neuhaus”	Y
82	7	Change “too” to “to”	Y
101	14	Add “take” after “Okay. So we will”	Y
101	15	Change “returned” to “return”	Y
102	15	Change “we” to “the”	Y
137	25	Change “unlimited” to “a limited”	Y

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