

September 18, 2018

Dear Chairman Brady and Ranking Member Neal:

Common Cause is a good government watchdog organization with more than 48 years of experience in forming innovative, pragmatic, and comprehensive pro-democracy policy.

On behalf of our 1.2 million members and supporters, we call on the House Ways and Means Committee (the Committee) to conduct a thorough investigation of Commerce Secretary Wilbur Ross's comments to the House Ways and Means Committee on March 22, 2018.

The recent release of emails involving Secretary Ross and Commerce Department staff is just further proof that Secretary Ross has made false statements under oath to deceive the Committee and the American people into believing that the Department of Justice ("DOJ") requested the addition of a citizenship question on the census survey. **Perjury is a serious offense that, if proven, requires accountability.**

On March 22, 2018, Secretary Ross stated under oath that the "Department of Justice, as you know, initiated the request for inclusion of the citizenship question."¹ He went on to say that "Because it is from the Department of Justice, we are taking it very seriously, and we will issue a fulsome documentation of whatever conclusion we finally come to."²

Ross also stated that the DOJ's interest in collecting exact population data was to prohibit discrimination when performing redistricting, as outlined in the Voting Rights Act of 1965.³

We now know that was a lie.

¹ Rizzo, Salvador, "Wilbur Ross's false claim to Congress that the census citizenship question was DOJ's idea," Washington Post, 30 July 2018, https://www.washingtonpost.com/news/fact-checker/wp/2018/07/30/wilbur-rosss-false-claim-to-congress-that-the-census-citizenship-question-was-dojs-idea/?utm_term=.16e0a60f477f

² Id

³ Id

Emails released earlier this summer made clear that Secretary Ross was not *only* interested in the citizenship question due to DOJ's request, but for clear partisan gain.⁴ In emails to Commerce Department staff more than seven months before the letter from the DOJ requesting that the Census Bureau reinstate a question on citizenship, Secretary Ross wrote an email to Earl Comstock, the director of the department's Office of Policy and Strategic Planning, on May 2, 2017, stating "I am mystified why nothing have [sic] been done in response to my months old request that we include the citizenship question. Why not?"⁵ ⁶

Comstock responded the same day, stating he will "get that in place" and adding, "[w]e 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."⁷

We now have indications for how that meeting with DOJ turned out. It appears that DOJ was not initially interested in adding the question. Another email ordered to be released by Judge Furman last night reveals that adding a question on citizenship to the census form was in fact pushed by Secretary Ross's Commerce Department -- contradicting Ross's previous statements under oath to the Committee on March 22, 2018.

In the email to Secretary Ross released yesterday, dated September 8, 2017, Comstock made clear that the Department of 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)."⁸ The email went onto say that Comstock would look into how "Commerce could add the question to the Census itself."

⁴ "Commerce Department's Administrative Record For Census Citizenship Question Lawsuits," NPR, 10 June 2018, <https://apps.npr.org/documents/document.html?id=4500011-1-18-Cv-02921-Administrative-Record#document/p775/a428456>

⁵ Elliott, Justin, "Trump Justice Department Pushes for Citizenship Question on Census, Alarming Experts," ProPublica, 29 December 2017. <https://www.propublica.org/article/trump-justice-department-pushes-for-citizenship-question-on-census-alarming-experts>

⁶ Bahrapour, Tara, "Wilbur Ross actively pushed to add citizenship question to 2020 Census, documents show," Washington Post, 24 July 2018, https://www.washingtonpost.com/local/social-issues/wilbur-ross-actively-pushed-to-add-citizenship-question-to-2020-census-documents-show/2018/07/24/5601b3b6-8f65-11e8-bcd5-9d911c784c38_story.html

⁷ Id

⁸ https://twitter.com/Dan_F_Jacobson/status/1041797632706977792

These emails not only show that Secretary Ross lied under oath, but that he blatantly continues to abuse the power he holds as Commerce Secretary.

We ask that an investigation into his conduct and his comments be conducted immediately.

The decennial census has a long and infamous history of undercounting communities of color, beginning with the Three-Fifths Compromise. The addition of a citizenship question for blatantly nefarious reasons will continue the tradition of undercounting minorities, silencing voices and votes in the process. Secretary Ross knew that adding a citizenship question will weaponize the census against the communities that need the most support, robbing them of the nearly 800 billion dollars in federal funding that the most vulnerable depend on. His conduct needs to be investigated.

The addition of a citizenship question on the 2020 Census will result in the systematic exclusion of large communities from being counted.

It is imperative to the Census Bureau's mission that participants feel safe sharing their personal information and are confident that the census data will not be used to target their families or communities. Mistrust of the Census Bureau has the potential to diminish census responsiveness for generations to come. Including the question on citizenship will aggravate existing concerns, ultimately resulting in a significant number of non-responders.

During pretesting of the 2020 Census, the Census Bureau's own researchers found an "increase in respondents spontaneously expressing concerns about confidentiality" due to anti-immigrant rhetoric expressed by the current administration.⁹ Studies have also shown that if a citizenship question is included on the census, nonresidents who do submit responses are more likely to incorrectly classify themselves as citizens, resulting in inaccurate counts.¹⁰

John Abowd, chief scientist and associate director for research and methodology at the Census Bureau, shared his finding with Ross on January 18, 2018, concluding that that the

⁹ Center for Survey Measurement. Memo to the Associate Directorate for Research and Methodology. 20 September 2017. <https://www2.census.gov/cac/nac/meetings/2017-11/Memo-Regarding-Respondent-Confidentiality-Concerns.pdf>

¹⁰ Van Hook, Jennifer, and James D Bachmeier. "How Well Does the American Community Survey Count Naturalized Citizens?" Demographic Research, vol. 29, 2 July 2013, pp. 1–32., www.demographic-research.org/volumes/vol29/1/29-1.pdf.

citizenship question will place three main burdens on the bureau.¹¹ First, increased non-response rates will force the bureau to perform greater numbers of Non-Response Follow-Up (NRFU) visits to the many households that have not filed their census forms. Second, the NRFU visits would cost the Census Bureau an additional \$27.5 million in public funds, creating financial strains and draining funds provided by the American taxpayers. Third, and most importantly, the influx of non-responses will decrease the accuracy of the census, undermining its primary goal of gathering accurate population data for widespread use.

Secretary Ross was fully aware of this research and the Census Bureau's apprehension to adding a citizenship question when he announced on March 28, 2018, that the bureau would proceed with adding a question on citizenship to the form.

A citizenship question will undermine the Founders' basic and simple instructions for the intended census operation. Article 1, Section 2 of the Constitution clearly states that the census should collect an "actual Enumeration" of those living in the United States.¹² Because the question will likely result in an inaccurate enumeration of the American population, Ross's inclusion of it demonstrates disregard for the census and Census Bureau's founding purpose.

For these reasons Common Cause is urging the House Ways and Means Committee to conduct a thorough investigation into Secretary Ross's comments under oath and his conduct as Secretary of Commerce.

Sincerely,



Karen Hobert Flynn
President of Common Cause on behalf of our 1.2 million members and supporters

cc: All Members of the House Ways and Means Committee

¹¹ Abowd, John. Memo to Wilbur L. Ross, Jr, Secretary of Commerce. 19 January 2018.

<http://www.osec.doc.gov/opog/FOIA/Documents/AR%20-%20FINAL%20FILED%20-%20ALL%20DOCS%20%5bCERTIFICATION-INDEX-DOCUMENTS%5d%206.8.18.pdf#page=1289>

¹² Van Hook, Jennifer. "Why the 2020 Census Shouldn't Ask about Your Citizenship Status." The Conversation, The Conversation, 6 Aug. 2018, theconversation.com/why-the-2020-census-shouldnt-ask-about-your-citizenship-status-91036