

HEARING WITH SECRETARY OF COMMERCE  
WILBUR L. ROSS, JR.

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HEARING  
BEFORE THE  
COMMITTEE ON  
OVERSIGHT AND REFORM  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

March 14, 2019

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*The documents entered into the record during this hearing are listed below,  
and are available at: <https://docs.house.gov>.*

- \* Resolution offered by Rep. Jordan regarding Michael Cohen's testimony; submitted by Mr. Jordan.
- \* Letters from Mr. Cummings to various officials and Chairman regarding the Census question - dated 3/27/18, 4/4/18, 4/24/18, 5/21/18, 6/28/18, 8/2/18 and 9/24/18; submitted by Ms. Hill.
- \* Op-ed dated 3-13-19, written by Reps. Jordan and Meadows; submitted by Mr. Jordan.
- \* Opinion by Supreme Court Justices Gorsuch and Thomas dated 10-22-18; submitted by Mr. Higgins.
- \* Excerpts from the transcript of the 3-17-16 hearing on Flint, MI drinking water; submitted by Mr. Connolly.
- \* Letter to the Assistant Secretary of the Army for Civil Works dated 7-24-15; submitted by Mr. Connolly.
- \* Letter to the Assistant Secretary of the Army for Civil Works dated 10-28-15; submitted by Mr. Connolly.
- \* Article by NPR dated 3-14-19, "Commerce Secretary To Face Lawmakers In Hearing On Census Citizenship Question;" submitted by Mr. Meadows.
- \* Article in the Orange County Register dated 8-23-18, "A citizenship question on the 2020 census could cost your city some federal money;" submitted by Mr. Rouda.
- \* Memo from CRS dated 3-7-18; submitted by Ms. Maloney.
- \* Memo from CRS dated 3-8-19; submitted by Mr. Meadows.
- \* Article by NPR dated 3-27-18, "Fact Check: Has Citizenship Been a Standard Census Question?;" submitted by Ms. Hill.
- \* Long form Census 2000; submitted by Ms. Wasserman Schultz and Mr. Meadows.
- \* New York v. U.S. Department of Commerce-Furman Decision; submitted by Ms. Speier.
- \* Letter from the Asst. Attorney General, DOJ, dated 1-27-00; submitted by Mr. Meadows.
- \* Section 141 of Title 13 of the U.S. Code - Population and Other Census Information; submitted by Ms. Ocasio-Cortez.
- \* 1950 Census form with citizenship question; submitted by Ms. Ocasio-Cortez.
- \* Questions planned for the 2020 Census and ACS Citizenship form; submitted by Ms. Ocasio-Cortez.
- \* GAO High Risk Series Report; submitted by Mr. Meadows.
- \* Heritage Foundation Report on voter ID laws; submitted by Mr. Jordan.
- \* Questions for the Record submitted by Mr. Cummings and Mr. Lynch.



**HEARING WITH SECRETARY OF COMMERCE  
WILBUR L. ROSS, JR.**

**Thursday, March 14, 2019**

HOUSE OF REPRESENTATIVES  
COMMITTEE ON OVERSIGHT AND REFORM  
*Washington, D.C.*

The committee met, pursuant to notice, at 10:01 a.m., in room 2154, Rayburn House Office Building, Hon. Elijah Cummings (chairman of the committee) presiding.

Present: Representatives Cummings, Maloney, Norton, Clay, Lynch, Cooper, Connolly, Krishnamoorthi, Raskin, Rouda, Hill, Wasserman Schultz, Sarbanes, Welch, Speier, Kelly, DeSaulnier, Lawrence, Plaskett, Khanna, Gomez, Ocasio-Cortez, Pressley, Tlaib, Jordan, Amash, Gosar, Foxx, Massie, Meadows, Hice, Grothman, Comer, Cloud, Gibbs, Higgins, Norman, Roy, Miller, Green, Armstrong, and Steube.

Chairman CUMMINGS. The committee will come to order. Without objection, the chair is authorized to declare a recess of the committee at any time.

This hearing will receive the testimony of the Honorable Wilbur Ross, Secretary of Commerce, regarding the 2020 Decennial Census.

I now recognize the ranking member.

Mr. JORDAN. Thank you, Mr. Chairman.

I would like to start with a resolution that we have, Mr. Chairman, a resolution I'd like to introduce for the committee's immediate consideration. The resolution deals with the fact that, two weeks ago, we had a witness come here and, at our count, lied at least seven times on the witness stand, two obvious lies when he said he did not seek a position at the White House, did not want a position at the White House when, in fact, we all know that he did. And then, of course, his statements that he never, and I stress the word never, sought a pardon.

We think that it is important. We sent you a letter yesterday, Mr. Chairman. And we'd love for you to join us in calling for the Justice Department to examine this issue.

So we have a resolution. I would be happy to read it, if the chairman wants, but a resolution that we'd like for immediate consideration for the committee saying that Mr. Cohen committed perjury and he should be investigated by the Department of Justice.

Chairman CUMMINGS. As the gentleman, I am sure is well aware, the resolution is out of order. However, we would welcome you to submit the resolution as a document for the record.

Mr. JORDAN. I ask unanimous consent that the resolution that we prepared be entered into the record saying that Michael Cohen willfully and knowingly provided false information, false testimony under oath before the committee on February 27, 2019.

Chairman CUMMINGS. Without objection, so ordered. It is a part of the record, part of the record only.

Chairman CUMMINGS. All right. I recognize the gentleman for his opening statement.

Mr. JORDAN. Thank you, Mr. Chairman.

Before I begin, I want to thank Secretary Ross for appearing today. Also, I want to take note that, under your leadership, your team, led by Karen Dunn Kelley, managed to turn around the 2020 Census.

Under the Obama Administration, the 2020 Census was in disarray. Nobody knew how much was being spent on the census. The IT development was a mess. Simply, there was no leadership.

I applaud you and your team for your excellent leadership. I am more confident now than I was two years ago when you last testified before the committee that we will have a successful 2020 Census.

Now I want to turn to the reason we are here today. It is the most talked about issue on the 2020 Census, the citizenship question. I mean, for the life of me, I do not know why the Democrats don't want to know how many citizens are in the United States of America. But for some reason, they are focused on this question. Maybe it is politics. It seems clear to me we're having this hearing today for that reason. The majority insists on politicizing the 2020 Census.

Before we get too far into this sideshow, I want it on the record what the citizenship question actually asks. It says this: Is this person a citizen of the United States? The answers you can choose from are the following: Yes, born in the United States. Yes, born in Puerto Rico, Guam, the U.S. Virgin Islands. Yes, born abroad of a U.S. citizen parent or parents. Yes, a U.S. citizen by naturalization, or, no, not a U.S. citizen. That is it.

The question doesn't even ask the next logical question. If you're not a citizen, are you in this country legally?

While I strongly support asking if a person is in this country legally, I am satisfied the public policy goal of enforcing the Voting Rights Act can be accomplished with just the citizenship question.

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.

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 the 2018 Census test.

The American Community Survey is sent to 3 million households annually, while the 2018 Census test in Providence, Rhode Island, was only tested on 600,000 people one time. If you're doing the math, in the past 10 years, the citizenship question has already been answered by 30 million households.

But wait, there's more. In an effort to address some of my colleagues' objections, the Census Bureau agreed to conduct a 2019 Census test specifically on the citizenship question. So it is just not true that this question is untested.

We all know one of the biggest threats to the census is lack of trust in government. Today people don't trust government and don't want to voluntarily provide private information. Therefore, people are less likely to fill out the 2020 Census than they were 10 years ago for the 2010 Census. The majority's drumbeat against a legitimate question on a person's citizenship status only compounds the problem. If self-response for the 2020 Census declines, it will be due to the majority's spreading of misinformation.

Instead of scaring people out of completing their census form, let's work together to collect the data the Department of Justice says is needed to enforce the Voting Rights Act. The purpose of the data collected by the citizenship question is after all to ensure everyone's vote is counted fairly and no one suffers discrimination at the ballot box. Surely the majority does not object to a robust enforcement of the Voting Rights Act. Till last year, I would have assumed any data collected to assist in this would have been welcomed by my colleagues. I guess I was of wrong. I guess I was wrong.

What concerns me the most, though, about the majority's obsession with the citizenship question is it distracts from this committee's work, from conducting oversight on other parts of the 2020 Census. This committee should be holding hearings about the 2020 Census' use of its IT systems and cybersecurity preparations. After all, this will be the first time households can respond to the census questionnaire online.

We should bring in the Government Publishing Office to explain their epic contradicting disaster with the 2020 Census print contract, which will cost taxpayers another 30 million if there are no cost overruns.

As Members of Congress, we have a duty to encourage people to complete their census form honestly and accurately. Article I Section 2 of the Constitution requires the government to enumerate the population of the United States. If it were up to me, I would ask only one question: How many people are in your household? This is all that's required by the Constitution. However, Congress and Presidents for decades have determined it is an interest of public policy to ask Americans more questions about the composition of their family. If we are already asking people their age, their race, their relationship status, certainly, certainly, it is in the public interest to ask if they are citizens of the greatest country in history.

Mr. Chairman, I yield back.

Chairman CUMMINGS. We now recognize Mr. Meadows.

Mr. MEADOWS. Thank you, Mr. Chairman.

Secretary Ross, thank you and your entire team for being here. As you are well aware, this is not the first hearing on the census. In fact, when the Republicans were in the majority, we had not one, not two, but multiple hearings and briefings as it relates to the census. And I see some of your staff behind you shaking their head yes. They will know that I have not always been the most positive when it comes to where we are in our census progress.

I do want to state for the record today that your team has been extremely responsive to the point where we had critical missions. In fact, some critical missions that still exist today that we should be using this hearing for when we talk about end-to-end testing, when we talk about the security, the cybersecurity of what we're going to actually implement in this new process of gathering information, Mr. Secretary.

And so I want to say thank you for listening to the calls, in a bipartisan way, of really looking to make sure the census is reliable and one that actually counts the citizens of this great country and every person that is here.

Now, with that being said, that is not what this hearing is about, sadly. And we can see by the crowds and the cameras that this has nothing to do with making sure that the census is accurately implemented and cybersecurity is dealt with. In fact, it has just the opposite. This comes down, as the gentleman from Ohio, the ranking member, indicated to one question and why we are asking that one question.

Now, Mr. Secretary, I am sure we will hear from your testimony today that this is not the first time that we have asked the citizenship question on the census. In fact, when President Bill Clinton was in office, we actually asked one in six people if they were a citizen of the United States of America on the census. But it wasn't just then. Every 10 years, predominantly we have asked this question, whether it's been one in six or one in five, or even dating back to the 1950's and 1940's when we asked everyone this question. All of a sudden, the census has taken on a new height of political spectrum that I fail to realize why would we not want to know if someone was a citizen of this great country or not.

Now, when we look at this, to go even further, Mr. Secretary, here is my concern. The Supreme Court has weighed in on this. In fact, Justice Gorsuch and Justice Thomas both raised concerns that when we start to ask questions, that it would be used to influence the courts. In fact, they ruled on it and said we shouldn't be doing that, but yet here we are today asking questions to try to influence the highest court in the land.

Now, I say that. These are not just my words. It is actually the words of a member from this particular committee. A member from this committee actually said, and I quote, that he hopes that the testimony today, quote, that the courts can use it, close quote.

Now, if we're setting up a hearing today to try to bypass what the Supreme Court has already ruled on, and yet we are thinking that we are going to do this in the name of being great supporters of the Constitution, that is not accurate, Mr. Secretary. And I am troubled by that, because it is very clear what the Supreme Court has asked. It is very clear what our role should and should not be. And yet we look at this particular question. Are we saying that



asking a citizenship question is unconstitutional? I hope not, because we ask that on a variety of other things.

We ask it many times for a driver's license. We actually ask whether you're a citizen or not in order to get a firearm in the state of California. Should we take the citizenship question off and make it easier for people to get firearms regardless of whether they're a citizen or not? I don't know that we would get the same response from my friends and colleagues opposite.

Mr. Secretary, we are here today, and we are hoping for very clear and transparent testimony from you. I expect that we will get that. But yet, just be clear, many of the questions that you will receive today have nothing to do with accurately counting the number of people that are here in the United States of America. It has everything to do with politics and everything to do with trying to make sure that one particular message comes across.

And, Mr. Chairman, I yield back.

Chairman CUMMINGS. Thank you very much.

I am about to declare a recess because we have a vote to the members. We have alerted the floor that we are running a little late. We are going to go and vote, and we will come back at 20 of the hour, 20 of the hour.

Secretary Ross, I'm sorry, but we have got to vote.

And so I now declare us in recess until 20 of the hour.

[Recess.]

Chairman CUMMINGS. I now call the——

Ms. HILL. Mr. Chairman? Mr. Chairman, I have a number of motions I would like to make at this time.

Chairman CUMMINGS. Well, let me come out of recess first.

Ms. HILL. Sorry. I'm really excited about my motions.

Chairman CUMMINGS. No problem.

Mr. HIGGINS. Mr. Chairman, point of order.

Chairman CUMMINGS. Yes.

Mr. HIGGINS. I ask to be recognized.

Mr. Chairman, pursuant to House rule XVI, clause 4, alpha one, I have a privileged motion. Taking into consideration the statements made before the committee today could potentially be used to influence a pending Supreme Court case, I respectfully make a motion to adjourn.

Chairman CUMMINGS. The gentleman is not recognized.

Mr. HIGGINS. Mr. Chairman, I believe you did recognize me, and this is a privileged motion.

Chairman CUMMINGS. I was recognizing the gentlelady. She already had the floor. I'll come back at you, Okay? But she had the floor.

Mr. JORDAN. Mr. Chairman, he cited the rule.

Mr. HIGGINS. Mr. Chairman, my understanding is that I was recognized, and this is—a privileged motion has been presented before the committee.

Chairman CUMMINGS. The motion is not debatable.

Those in favor, signify by saying aye.

Those opposed, no.

Mr. JORDAN. Ask for a roll call.

Chairman CUMMINGS. Roll call.

Mr. HIGGINS. Mr. Chairman, I ask for a recorded vote.

Chairman CUMMINGS. That's what we're doing.  
Mr. HIGGINS. Thank you, sir.  
Chairman CUMMINGS. The clerk will call the role.  
The Clerk. Mr. Cummings?  
Chairman CUMMINGS. No.  
The Clerk. Mr. Cummings votes no.  
Ms. Maloney?  
[No response.]  
The Clerk. Ms. Norton?  
Ms. NORTON. No.  
The Clerk. Ms. Norton votes no.  
Mr. Clay?  
Mr. CLAY. No.  
The Clerk. Mr. Clay votes no.  
Mr. Lynch?  
Mr. LYNCH. No.  
The Clerk. Mr. Lynch votes no.  
Mr. Cooper?  
Mr. COOPER. No.  
The Clerk. Mr. Cooper votes no.  
Mr. Connolly?  
Mr. CONNOLLY. Nay.  
The Clerk. Mr. Connolly votes no.  
Mr. Krishnamoorthi?  
Mr. KRISHNAMOORTHI. No.  
The Clerk. Mr. Krishnamoorthi votes no.  
Mr. Raskin?  
Mr. RASKIN. No.  
The Clerk. Mr. Raskin votes no.  
Mr. Rouda?  
Mr. ROUDA. No.  
The Clerk. Mr. Rouda votes no.  
Ms. Hill?  
Ms. HILL. No.  
The Clerk. Ms. Hill votes no.  
Ms. Wasserman Schultz?  
Ms. WASSERMAN SCHULTZ. No.  
The Clerk. Ms. Wasserman Schultz votes no.  
Mr. Sarbanes?  
Mr. SARBANES. No.  
The Clerk. Mr. Sarbanes votes no.  
Mr. Welch?  
[No response.]  
The Clerk. Ms. Speier?  
Ms. SPEIER. No.  
The Clerk. Ms. Speier votes no.  
Ms. Kelly?  
[No response.]  
The Clerk. Mr. DeSaulnier?  
[No response.]  
The Clerk. Ms. Lawrence?  
Mrs. LAWRENCE. No.  
The Clerk. Ms. Lawrence votes no.  
Ms. Plaskett?

Ms. PLASKETT. No.  
The Clerk. Ms. Plaskett votes no.  
Mr. Khanna?  
Mr. KHANNA. No.  
The Clerk. Mr. Khanna votes no.  
Mr. Gomez?  
Mr. GOMEZ. NO.  
The Clerk. Mr. Gomez votes no.  
Ms. Ocasio-Cortez?  
Ms. OCASIO-CORTEZ. No.  
The Clerk. Ms. Ocasio-Cortez votes no.  
Ms. Pressley?  
Ms. PRESSLEY. No.  
The Clerk. Ms. Pressley votes no.  
Ms. Tlaib?  
Ms. TLAIB. Nope.  
The Clerk. Ms. Tlaib votes no.  
Mr. Jordan?  
Mr. JORDAN. Yes.  
The Clerk. Mr. Jordan votes yes.  
Mr. Amash?  
[No response.]  
The Clerk. Mr. Gosar?  
Mr. GOSAR. Yes.  
The Clerk. Mr. Gosar votes yes.  
Ms. Foxx?  
Ms. FOXX. Aye.  
The Clerk. Ms. Foxx votes yes.  
Mr. Massie?  
Mr. MASSIE. Yes.  
The Clerk. Mr. Massie votes yes.  
Mr. Meadows?  
Mr. MEADOWS. Aye.  
The Clerk. Mr. Meadows votes yes.  
Mr. Hice?  
Mr. HICE. Yes.  
The Clerk. Mr. Hice votes yes.  
Mr. Grothman?  
Mr. GROTHMAN. Yes.  
The Clerk. Mr. Grothman votes yes.  
Mr. Comer?  
Mr. COMER. Yes.  
The Clerk. Mr. Comer votes yes.  
Mr. Cloud?  
Mr. CLOUD. Yes.  
The Clerk. Mr. Cloud votes yes.  
Mr. Gibbs?  
Mr. GIBBS. Yes.  
The Clerk. Mr. Gibbs votes yes.  
Mr. Higgins?  
Mr. HIGGINS. Yes.  
The Clerk. Mr. Higgins votes yes.  
Mr. Norman?  
Mr. NORMAN. Yes.

The Clerk. Mr. Norman votes yes.

Mr. Roy?

Mr. ROY. Yes.

The Clerk. Mr. Roy votes yes.

Ms. Miller?

Mrs. MILLER. Aye.

The Clerk. Ms. Miller votes yes.

Mr. Green?

Mr. GREEN. Yes.

The Clerk. Mr. Green votes yes.

Mr. Armstrong?

Mr. ARMSTRONG. Yes.

The Clerk. Mr. Armstrong votes yes.

Mr. STEUBE.

Mr. STEUBE. Yes.

The Clerk. Mr. Steube votes yes.

The Clerk. On this vote we have—on this vote we have 17 yeas and 20 noes.

Chairman CUMMINGS. Thank you very much.

I now recognize Ms. Hill.

Ms. HILL. Thank you, Mr. Chairman.

Point of clarification, I know that I'm new, which is why I got a little overeager earlier, but prior to us getting here, how many times did we as Democrats try to shut down a hearing like this while the Republicans were in the majority?

Chairman CUMMINGS. In my 22, 23 years on this committee, never.

Ms. HILL. Thank you. Mr. Chairman, I have a number of motions I would like to make at this time.

Chairman CUMMINGS. The gentlelady is recognized.

Ms. HILL. As the gentleman from Louisiana suggested, following Mr. Jordan's and Mr. Meadows' publishing an op-ed yesterday asserting that today's hearing is, and I quote, designed to interfere with the ongoing Supreme Court case, that statement is false.

I ask unanimous consent to enter into the record the invitation letter that Chairman Cummings sent to Secretary Ross on January 8, 2019.

Mr. MEADOWS. I object.

Chairman CUMMINGS. The gentleman objects.

Mr. CONNOLLY. Mr. Chairman, would my colleague yield for a second?

Ms. HILL. Yes.

Mr. CONNOLLY. I would plead with my friend from North Carolina, if we're going to go down the road of objecting to unanimous consent inclusions of material for the record, it will be a sad day for this committee, and two can play that game. And so I would strongly urge my friend from North Carolina to withdraw his objection to a unanimous consent.

Mr. MEADOWS. I appreciate the tone and tenor of where my good friend from Virginia would certainly articulate his concerns, and I have some of the same concerns. We don't want to go down this.

I would ask the gentlewoman to consider changing one of the phrases that she put in there, where she says this is false. I mean, you can say I have a resolution that contradicts, we have a number

of things, but to suggest that it is false when we have a quote from a Democrat member of this committee stating what I said in my opening statement, that would certainly be evidence to support my opening statement. So if she wants to put in a resolution that offers a counterpart, I would be glad to withdraw my objection.

Ms. HILL. I will change my phrasing and say that we have a—several things that I would like to enter into the record that contradict what the statement that was put in place in your op-ed and by the gentleman from—

Mr. MEADOWS. Then I certainly withdraw my objection.

Mr. CONNOLLY. And I thank both of my colleagues.

Chairman CUMMINGS. Without objection, so ordered.

Next document.

Ms. HILL. Thank you. I ask unanimous consent to enter into the record the invitation letter that Chairman Cummings sent to Secretary Ross. That's the one we did. That letter was sent over a month before the Supreme Court agreed to hear the case.

For the record, the chairman sent his invitation letter to Secretary Ross before either the district court in New York or the district court in California ruled in their cases.

I would also like to ask unanimous consent to insert—

Chairman CUMMINGS. Without objection, so ordered on that—that was a second document, right?

Ms. HILL. No, it is the same one. I was just elaborating.

Chairman CUMMINGS. Okay. Go ahead.

Ms. HILL. I would also like to ask unanimous consent to insert into the record the following letters from Chairman Cummings dating all the way back to March of last year on this exact same topic. It is a March 27, 2018, letter to Chairman Gowdy requesting this very hearing with Secretary Ross. He declined.

There is an April 4, 2018, letter requesting documents from the Commerce Department. They refused.

There is an April 24, 2018, letter asking Chairman Gowdy to issue a subpoena. He declined.

There's a May 21, 2018, letter asking Chairman Gowdy to allow a vote on subpoenas. He declined.

There is a June 28, 2018, letter from Chairman Cummings, Rep. Maloney, and 50 other Democrat members asking Secretary Ross to answer questions. He never did.

There is an August 2, 2018, letter asking Chairman Gowdy, again, to hold a hearing with Secretary Ross. He refused.

There's a September 24, 2018, letter from Representative Cummings and Representative Connolly asking Chairman Gowdy to subpoena Secretary Ross to testify about his misleading statements to Congress. He declined to do so.

As all of these letters show, the Republican claim that we are trying to interfere with the Supreme Court case is completely contradicted.

Chairman CUMMINGS. Without objection, the documents referred to by the gentlelady, Ms. Hill, are ordered into the record.

Ms. HILL. Thank you. We are an independent branch of government, and it is time we start acting like it.

Thank you.

Chairman CUMMINGS. Thank you very much.

Mr. JORDAN. Mr. Chairman, can I get one quick unanimous consent?

Chairman CUMMINGS. Yes, please.

Mr. JORDAN. That the op-ed that was published yesterday, we would like to enter that into the record, from Mr. Meadows and myself.

Chairman CUMMINGS. Just tell me a little bit more. He says it's an op-ed.

Mr. JORDAN. The Democrats—the op-ed that was on FOX News that—

Chairman CUMMINGS. Without objection, so ordered.

Mr. JORDAN. Thank you.

Mr. HIGGINS. Mr. Chairman?

Chairman CUMMINGS. Yes.

Mr. HIGGINS. I would like to submit a letter penned by Supreme Court Justice Gorsuch and Supreme Court Justice Thomas warning against further record-seeking endeavors in a legal setting because, to quote them, after weighing, among other things, the likelihood of review and the injury that could occur without a stay, this letter written by two Supreme Court Justices, not by a member of a committee in Congress, warning against further legal proceedings, to which this certainly is, which could injure the integrity of the case pending before the Supreme Court. I ask that it be entered into the record.

Chairman CUMMINGS. Without objection, so ordered.

Mr. CONNOLLY. Mr. Chairman?

Chairman CUMMINGS. Yes.

Mr. CONNOLLY. I also have a unanimous consent request. There's been some speculation by some members of this committee that we can't possibly have this hearing or even request documents when there's pending civil litigation, and we have a long history on this committee of actually doing just that.

I ask unanimous consent to enter into the record excerpts from the Flint Water Committee hearing transcript of March 17, St. Patrick's Day, 2016. That hearing was the third hearing as part of the bipartisan investigation, which was then led by Chairman Chaffetz, as well as yourself, Mr. Cummings. The committee conducted these hearings despite pending litigation filed by environmental and civil rights groups against several individuals, including the Michigan Governor at that time, Rick Snyder, in January 2016. I would ask unanimous consent to enter that into the record.

Chairman CUMMINGS. Without objection, so ordered.

Mr. CONNOLLY. And I would also like to ask unanimous consent to insert into the record two letters dated July 24, 2015, and October 28, 2015, from Chairman Chaffetz, Chairman Jordan, and Chairwoman Lummis to the Assistant Secretary of the Army at that time. These letters were part of the committee's investigation into the decisionmaking process for the Waters of the United States Rule. That investigation was conducted, nonetheless, at the same time as litigation filed in June 2015 by 22 states challenging the rule. Subsequently, the committee demanded and obtained documents in response to their request during the pending litigation. I ask that those letters be entered into the record.

Chairman CUMMINGS. Without objection, so ordered.

Mr. CONNOLLY. I thank the chair.

Mr. MEADOWS. Mr. Chairman, I have got one last unanimous consent request. I ask unanimous consent that the article published in NPR on March the 14, where it has a quote from a member of this committee suggesting that this hearing would be used as evidence before the Supreme Court be entered into the record.

Chairman CUMMINGS. Without objection, so ordered.

Mr. MEADOWS. Thank you.

Chairman CUMMINGS. I now recognize myself.

Let me say this. At the beginning of the hearing, I provided the other side with an extra opening statement. Rather than take additional time for my side, at this time I will reserve for our side so we can start the hearing and proceed to member questions.

Good morning, everyone. Today the committee will hear testimony from Secretary of Commerce, the Honorable Wilbur Ross, about preparations for the 2020 Census.

The Constitution requires our government to conduct a census every 10 years. The Constitution also requires us to count every person. The latest census begins next year, and significant challenges have been raised by the Government Accountability Office and others about whether we will be ready.

Today's hearing will be our first of several this year, and we will look to our very able Subcommittee on Civil Rights and Civil Liberties, headed up by the Honorable Jamie Raskin, to followup with additional hearings. We want to make sure that we're tracking progress, highlighting small problems before they become large problems, and ensuring that outstanding recommendations are being implemented effectively and efficiently.

Today, we will also examine Secretary Ross's decision to add a new citizenship question after experts—listen up—at the Census Bureau warned, and I quote, that it harms the quality of the census challenge. Let that sink in. That's what the experts told Secretary Ross.

We have very serious questions about whether Secretary Ross was truthful when he appeared before Congress last year and testified on three occasions that he added the citizenship question only because the Department of Justice requested it.

Ladies and gentlemen, on March 20, 2018, Secretary Ross testified, and I quote, we are responding solely to the Department of Justice's request, end of quote. He repeated the same claim on March 22, and then he did it again on May 10.

After Secretary Ross testified, new documents showed that he was engaged in a secret campaign to add the citizenship question from the very first days after he arrived at the Department of Commerce. These documents showed that he was not merely responding to a request from another agency. To the contrary, he was choreographing these efforts behind the scenes. He became impatient when his demands were not being met, and he was working directly with officials at the highest levels of the Trump administration to force this issue through, including Steve Bannon and Jeff Sessions.

These are the facts. They are not in dispute. Two judges, two judges have already struck down the citizenship question, and they issued stinging decisions finding that Secretary Ross violated—I

didn't say it, Federal judges said it—violated Federal law and the United States Constitution. They found that his claim of merely responding to a request from the Department of Justice was a pretext and a false one. Again, I didn't say that; the judges said that.

Let me address that pretext directly. Secretary Ross and others in the Trump administration have claimed that adding the citizenship question was necessary to obtain better data to enforce the Voting Rights Act. First of all, I do not know anyone who truly believes that the Trump administration is interested in enhancing the Voting Rights Act. This administration has done everything in its power to suppress the vote, not to help people exercise their right to vote.

Second, I have championed voting rights all of my adult life, and the Voting Rights Act is an essential tool. It is what underpins our democracy. But in the more than 50 years since it was signed into law, voting rights, the Voting Rights Act enforcement has never used citizenship data from every U.S. household. Not once.

Third, the judges who examined this evidence held that the Voting Rights Act claim was a fake justification for the citizenship question. I didn't say it; they said it. One judge ruled that Secretary Ross, and I quote—listen to this, this is what they said about Secretary Ross, a judge. He says, quote, concealed its true basis, rather than explaining it, end of quote.

So the key question we will ask Secretary Ross today is what was he hiding from the Congress. What's the real reason that the Trump administration wanted to add this unconstitutional citizenship question? Every piece of evidence we discover brings us closer to the truth.

Just this past week, the committee conducted a transcribed interview with a key witness from the Department of Justice, John Gore, who was involved with drafting the request for citizenship question. Mr. Gore admitted that a former transition team official provided him an initial draft of a letter from the Department of Justice asking for the citizenship question to be added. We have summarized this and other information from Mr. Gore's interview in a supplemental memo that I am providing to members this morning.

Unfortunately, throughout this entire process, the Trump administration has obstructed and delayed our investigation. Both the Department of Commerce and the Department of Justice have withheld key documents and refused to answer legitimate questions.

Now, Secretary Ross and I exchanged several letters last week. We accommodated some of his concerns, and thankfully, he accommodated some of ours. And I appreciate that, Mr. Secretary. Based on these agreements, 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. So I appreciate that and I look forward to his answers.

Chairman CUMMINGS. And with that, I am very, very pleased to have the Secretary stand, please.

Secretary ROSS. Good morning, Chairman Cummings.

Chairman CUMMINGS. I want to swear you in first.



Secretary ROSS. Oh, sorry.

Chairman CUMMINGS. I'm sorry. I apologize. Thank you very much.

Mr. Secretary, do you swear or affirm that the testimony you're about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Secretary ROSS. I do, sir.

Chairman CUMMINGS. Thank you very much.

Let the record show that the witness answered in the affirmative. And you may be seated and you may proceed.

**STATEMENT OF THE HONORABLE WILBUR L. ROSS, JR., SECRETARY,  
U.S. DEPARTMENT OF COMMERCE**

Secretary ROSS. Good morning, Chairman Cummings.

Chairman CUMMINGS. Good morning.

Secretary ROSS. Ranking Member Jordan and members of the committee, thank you for inviting me to testify. I also thank the chairman for limiting this hearing's scope so that my staff can produce documents beyond the approximately 8,700 already provided. And I appreciate your agreement that I can submit written answers to questions about my personal finances after the hearing for the record.

Many of you have questions about the 2020 Decennial Census, and I welcome the opportunity to discuss that topic today. Let me be clear at the outset. The Department of Commerce is fully committed to administering as complete and accurately a decennial census as we can. We intend to try to count every person and are taking all necessary actions to do so.

When I assumed office in 2017, I immediately began a deep dive into oversight of the decennial census. There was significant work to do preparing for the hiring and training of more than 450,000 part-time, temporary census workers. Working with outside experts, we concluded that the prior administration underestimated the budget by \$3.2 billion, about 25 percent. OMB and Congress accepted our finding.

We were also making far greater use of administrative records than ever before, especially for one of the most severely undercounted segments, children. We have a half billion dollar advertising campaign specially designed to reach hard to count communities, and on the 2020 Decennial Census, people will now be able to respond in 12 non-English languages, five more than in 2010.

We started our community partnership program a year earlier relative to the census than last time. There already are more than 1,500 state, tribal, and local governments helping us, double what the census had in 2010. And we will do our best to collect more complete data.

On March 26, 2018, I decided to reinstitute a citizenship question on the 2020 Decennial Census, pursuant to the statutory authority given to me by Congress. My reasoning is explained in my March 26, 2018, decision memo. It is available on the Department of Commerce website.

Questions about citizenship or country of birth or both were asked as part on all but one U.S. Decennial Census for 180 years, from 1820 to the year 2000. Indeed, the citizenship question con-

tinues to be asked every year by the Census Bureau on the American Communities Survey, or ACS for short. It is a sample survey distributed annually to about 2.64 percent of the American population.

Prior to my March 26 decision, we understood that the Department of Justice might want a citizenship question reinstated on the decennial census. There is no formal process for adding questions to the decennial census. However, other Federal agencies had previously submitted written requests for questions to be added to the ACS, and such requests triggered an internal Census Bureau review prior to a final decision.

I instructed staff to followup with DOJ for a written statement confirming whether or not DOJ was going to ask for reinstatement of the question. I wanted to make sure that we had enough time to adequately consider any formal request that DOJ might make.

Ultimately, on December 12, 2017, DOJ made a formal written request that the Census Bureau reinstate the citizenship question on the decennial census. DOJ sought census block-level citizenship data for use in Voting Rights Act enforcement. In response, the Census Bureau initiated a legal policy and programmatic review process to consider ultimate means of meeting DOJ's request.

We had discussions with numerous external stakeholders and elected officials, including Speaker Pelosi and including Chairman Cummings, both of whom opposed the idea. We evaluated thousands of pages of analysis, including written submissions by other members of this committee. We submitted our list of decennial census questions to Congress by the March 31, 2018, statutory deadline.

Following receipt of DOJ's letter and during our review, Census Bureau officials recognized that current ACS data did not meet DOJ's request for census block-level data. The Census Bureau analysis also showed that when noncitizens respond to the ACS question on citizenship, they respond incorrectly approximately 30 percent of the time. In my March 26 decision memo, I describe more details of the decisionmaking process and the alternatives we considered to reinstating the citizenship question.

As you know, certain aspects of this issue are in litigation before the Supreme Court and before other courts. However, I look forward to answering as many of your questions as I can.

Again, I want to be clear that we intend to count as many people as possible. I will be happy to discuss the actions we are taking to try to do so. Thank you for your indulgence.

Chairman CUMMINGS. Thank you very much.

I now recognize myself for some questions.

Secretary Ross, you have claimed repeatedly that you added the citizenship question only because the Justice Department asked you to. You testified under oath on three occasions. Each time, you said you were responding solely to the Department of Justice's request. But now we have obtained documents showing that you were working to add the citizenship question from your very first days at the Commerce Department.

Secretary Ross, our interest is getting to the truth, and then once we get to it, we are going to defend it. And my approach is to give a witness a chance to come clean, to tell the truth, and to clarify

their previous testimony, if necessary. That is what I did with Michael Cohen, and that is what I want to afford you the opportunity to do today.

So, Mr. Secretary, let me ask you here today, in light of all of these documents that have come to light, do you wish to withdraw your previous testimony to Congress that your decision to add the citizenship question was based, and I underline, solely, solely on requests from the Department of Justice?

Secretary ROSS. May I answer, sir?

Chairman CUMMINGS. Yes, of course.

Secretary ROSS. My reasons for adding the citizenship question are described in detail in the March 26, 2018, decision memo. After we received the Department of Justice letter on December 12, 2017, we, namely Commerce Department, myself, and the Census Bureau, initiated a very detailed, very thorough process to consider that request. That's what we were responding to.

I had been told—that's what I would say at this stage. If you have detailed questions about the testimony, we can get into them later on.

Chairman CUMMINGS. Well, I just want to make sure we're clear, because a lot has been said in this committee about the truth. And I'm not trying to trip you up; I'm just trying to make sure that the committee is clear, because I think it is very, very important. So I'm just going to ask you one more time, then I'm going to leave that alone.

So are you saying, again, in light of all of these documents that we have come—that have come to light, you do not wish to withdraw your previous testimony? Is that what you're saying?

Secretary ROSS. I testified truthfully to the best of my ability in response to what my understanding of the questions were.

Chairman CUMMINGS. Okay. And you understand that there are documents that, on their face, seem to contradict what you're saying. Do you understand that?

Secretary ROSS. I welcome the opportunity to get into the individual documents whenever you wish, sir.

Chairman CUMMINGS. All right. Mr. Secretary, on March 10, 2017, just—just 10 days after you took office, your staffers sent you an email about, quote, your question on the census, end of quote. His email explained that undocumented immigrants are counted for apportionment purposes and not included in the census.

Mr. Secretary, this was nine months before you got any letter from the Justice Department. Isn't that right?

Secretary ROSS. That is correct as to the timing. I was early on in the administration, and I wanted to understand lots of questions' answers. One of the questions was that one, and I received an answer to it.

Chairman CUMMINGS. And it is your testimony today, sir, that your interest in the citizenship question had nothing to do with counting undocumented immigrants for apportionment purposes?

Secretary ROSS. No, sir, it did not. That was simply seeking information. If you look at my emails during that period, you will find lots and lots of other questions, and if you look at the records of my conversations with members of the Department, you'll find

I have lots of questions to this day seeking further information, seeking clarification, seeking details of things that I was unsure of.

Chairman CUMMINGS. All right. Speaking of seeking details, in early April 2017, you got a call from Steve Bannon about the citizenship question. That was also a month before the Department of Justice sent its letter. Is that correct?

Secretary ROSS. Yes, sir.

Chairman CUMMINGS. Is it your testimony that your call with Mr. Bannon had nothing to do with efforts to pursue the citizenship question?

Secretary ROSS. Steve Bannon called with the simple request, namely asking if I would take a call from Kris Kobach, and I agreed to that request as a courtesy since he was a White House staffer. And shortly thereafter, possibly the next day, I did have a conversation with Kris Kobach.

Chairman CUMMINGS. And so at Mr. Bannon's direct—you spoke to Mr. Kobach on July 14, 2017. Is that correct?

Secretary ROSS. Yes. I don't remember the date, but sometime around—

Chairman CUMMINGS. That was the date.

Secretary ROSS [continuing]. That point in time there was a followup from Kris Kobach to me.

Chairman CUMMINGS. And so Mr. Kobach, you spoke to him on July the 14, 2017, and Mr. Kobach emailed you and asked you to add the citizenship question. He wrote that it was needed to address the—and I want you to listen to me carefully, this is what Mr. Kobach wrote to you. He said he wanted it added because, and then it says, quote, problem that aliens who do not actually reside in the United States are still counted for congressional apportionment purposes, end of quote.

That was also several months before any letter from the Justice Department came to you. Is that correct?

Secretary ROSS. It is correct that that was before the census letter. It is also correct that I rejected the question that Kris Kobach wanted asked.

Chairman CUMMINGS. Is it your testimony that nothing in your emails or phone calls with Mr. Kobach had anything to do with your efforts to push the citizenship question?

Secretary ROSS. Well, I have no control over what Kris Kobach or anyone else puts in an email sent to me.

Chairman CUMMINGS. Mr. Secretary, as we evaluate the truth, we often look to see whether testimony is corroborated by documents. And these documents, on their face, show that the reason you have given to us for adding the citizenship question is a pretext.

In fall of 2017, your staff hand-delivered a secret memo and handwritten note about the citizenship question to John Gore at the Department of Justice. Did the secret memo or note describe the real reason you wanted to add the citizenship question?

Secretary ROSS. First of all, sir, I think I'd like to correct the record.

Chairman CUMMINGS. Please do.

Secretary ROSS. I don't believe there's anything in evidence that my staff delivered a message of that sort to Gore.

Chairman CUMMINGS. Well, that's why we need to see the documents, so that we can get to the truth. We have been trying—no, you go ahead.

Secretary ROSS. I'm sorry, sir.

Chairman CUMMINGS. Did you want to say something to me, Mr. Secretary? Were you about to say something?

Secretary ROSS. Yes. What I would like to ask, sir, is if you feel you have a document of that sort, would you oblige me to show it to me?

Chairman CUMMINGS. I promise you I'll do that.

Mr. Secretary, we have been trying to get certain documents for months, and we specifically requested it in advance of this hearing. Why have you not provided documents to the committee?

Secretary ROSS. I'm sorry. I didn't hear the question, sir.

Chairman CUMMINGS. I said why have you not provided the document to the committee?

Secretary ROSS. We have provided 8,700 documents already.

Chairman CUMMINGS. But not this document, this particular document.

Secretary ROSS. I can't talk to a specific individual document, sir. I believe by agreement you said that we could provide additional documents supplementary, and I will discuss that with my staff after the hearing.

Chairman CUMMINGS. Well, when you discuss it with your staff, it's our understanding that Mr. Meyer presented it to Mr. Gore. I mean, just for your information. Mr. Meyer. Uthmeier, I'm sorry.

Secretary ROSS. I'm sorry, who?

Chairman CUMMINGS. Uthmeier. When we had a transcribed interview with Mr. Gore, he said that Mr. Uthmeier presented it to him. So I'm just—just for your information, so maybe you can—and it will be helpful in you finding it, okay?

Secretary ROSS. Thank you very much, sir.

Chairman CUMMINGS. All right. We will now—my time has expired.

Mr. MEADOWS.

Mr. MEADOWS. Mr. Secretary, over here. There seems to be some indication that there were nefarious purposes for including this particular question on the census. Do you believe that President Bill Clinton had nefarious purposes in mind when he included a citizenship question on the 2000 Census?

Secretary ROSS. I have no ability to read President Clinton's mind, but I have no reason to believe that he had nefarious purposes in including the question.

Mr. MEADOWS. Do you have any knowledge of any other Democrat President who had nefarious purposes in mind when they included the census question on previous—I mean the citizenship question on previous censuses?

Secretary ROSS. Well, I'm sure there were, but I have not approached this as a partisan matter, so I haven't tried to differentiate whether there's a Democratic President or a Republican President.

Mr. MEADOWS. So you're saying that you're approaching this just from a census point of view to get an accurate count for the United States of America. Is that your sworn testimony?

Secretary ROSS. Yes, sir. As explained in the decision memo of March 26, 2018, it is also to comply with the request by the Department of Justice that we add the citizenship question so that they could have block-level census data.

Mr. MEADOWS. So let me go a little bit further. If your team, who—I would assume that this one question is not the highest priority of making sure that we have an accurate delivery of the system census. Is that correct?

Secretary ROSS. Well, we have worked very hard to make sure that this is the best census that we can possibly deliver. I explained earlier in my prepared remarks that we have added \$3.2 billion to the budget, and we got the concurrence of the OMB and ultimately the Congress to add that to the life-cycle cost.

If I had a nefarious purpose, I surely wouldn't have added \$3.2 billion to the budget for the census. And specific things that we have done to try to improve it, we are using far more administrative records than has ever been the case before.

I mentioned briefly that we're adding many records from the state and local levels about children. We now have access, for the first time ever, to the WIC records, the SNAP records, and the TANF records from many constituencies. And I made many calls to the Governors to try to get them to agree to give us those documents. We also have far more census complete count committees with state and local governments than ever before.

Further, we are hiring far more partnership specialists than had ever been the case before. Partnerships are important because they are trusted local institutions from within the community who will be cooperating with us and encouraging people to understand why it's important to complete the census and that their privacy will be maintained. Our advertising program will emphasize both themes, and we will have advertising available in multiple languages. We also will have census documents available in 12 languages versus the five other than English that were available before.

And we have done a couple more—many more things. A couple of which that occur readily to mind, we have provided for those who wish to do so the ability to respond to the census by internet. They're not required to fill out forms, they're not required to do anything of that sort. They still can fill out forms if they want. They still can respond by telephone if they want, but they're not required to do so.

Mr. MEADOWS. So let me—

Secretary ROSS. So we are taking those and many other steps. I'm sorry, sir.

Chairman CUMMINGS. The gentleman's time has expired. The gentleman's time has expired.

Mr. MEADOWS. Mr. Chairman, you had 10 minutes. I'm the opening questioner.

Chairman CUMMINGS. Whoa, whoa, whoa, whoa, whoa. Hold up. Remember, I had an extra five minutes that I had reserved, and I used it. So I used 10 minutes.

Mr. JORDAN. You had a nine-minute opening statement and 10-minute opening questioning round. All he's asking for is one more question.

Chairman CUMMINGS. One question.

Mr. MEADOWS. So, Mr. Secretary, to be clear, you have taken—is it correct that you have taken extraordinary measures to not only count the number of people accurately, but to expand the way that we do that that is unparalleled in the history of the census?

Secretary ROSS. That is correct, sir. We have increased the ways that they can respond. We have increased the advertising budget for response. We have increased the community outreach. We have increased the census complete count committees in states. We have done all kinds of things that we could think of to make sure that we have the best census possible.

Mr. MEADOWS. I appreciate the chairman's courtesy.

Chairman CUMMINGS. Thank you very much.

Mr. DESAULNIER.

Mr. DESAULNIER. Thank you, Mr. Chairman.

Mr. Secretary, I want to really narrow in on specific communication between your department—you and the Department of Justice that the chairman was eluding to. So on August 11, 2017, Earl Comstock, a senior official at the Department of Commerce, emailed you about a memo. And he said, according to our information, this is quotes from you—or from him: 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.

Mr. Secretary, why did you request a memo on the citizenship question in August 2017?

Secretary ROSS. If you have the memo, it would help me refresh my recollection, sir.

Mr. DESAULNIER. All right. Well, if you will provide us, because in our efforts to get this information, your counsel's made it more difficult.

So you don't remember the request, you don't remember—

Secretary ROSS. I don't remember the details of any memos, sir. If you could show it to me—

Mr. DESAULNIER. Do you remember it at all?

Secretary ROSS. If you could show it to me, I would be happy to try to be refreshed.

Mr. DESAULNIER. So you don't remember it at all? Okay.

Secretary ROSS. You posed a very broad question to me, sir.

Mr. DESAULNIER. No, it's very specific, Mr. Secretary, and this is very important.

Secretary ROSS. I'm sorry, I couldn't hear you.

Mr. DESAULNIER. This is very specific and very important as to what you claim is your defense. So we would appreciate as much information from you directly as possible.

Let me continue. Last week, committee staff interviewed John Gore, the senior DOJ political appointee, who was in charge of drafting DOJ's request letter. Mr. Gore said that in September 2017, he received a call from your counsel, Mr. Uthmeier, to discuss this citizenship question. After the call, Mr. Uthmeier hand-delivered a memo and a handwritten note about the citizenship question to Mr. Gore's office. He didn't email it over; he had someone walk it over.

Mr. Uthmeier explained to Mr. Gore why he was walking over the memo, but the Justice Department blocked Mr. Gore from telling us, that's the committee, the reason why he walked it over. And

Mr. Gore said he did not show the memo to anyone else at the Justice Department.

Mr. Secretary, do you know what Mr. Uthmeier's memo and note said about the citizenship question?

Secretary ROSS. I do not know, sir, as I sit here.

Chairman CUMMINGS. Keep your voice up.

Secretary ROSS. I do not know as I sit here what the Uthmeier memo said.

Mr. DESAULNIER. Did you direct him to do it? He's your counsel.

Secretary ROSS. I'm sorry, sir?

Mr. DESAULNIER. Did you direct Mr. Uthmeier to do the memo and to walk it over because you were concerned about email?

Secretary ROSS. I do not have any recollection of that as I sit here.

Mr. DESAULNIER. Mr. Secretary, so far, the committee has been unable to get a copy of these documents, despite multiple requests and interviews with your staff and with Department of Justice staff. We need your commitment, your full commitment with these specific communications, that we'll get cooperation to get to the facts; otherwise, it's hard for us not to conclude that you're, at the very least, obfuscating your role and what you said in front of this committee. So will you commit to giving it all to us and letting your counsel clear the way to get direct answers to our questions?

Secretary ROSS. 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.

Mr. DESAULNIER. Mr. Secretary, with all due respect, you're a Cabinet member. The buck stops with you. Will you specifically, individually, in front of this House committee, under oath, promise to cooperate with us and get us the information? You not your staff, you.

Secretary ROSS. We already have—

Mr. DESAULNIER. Yes or no, Mr. Secretary, with all due respect.

Secretary ROSS. Sorry, I can't answer it yes or no. I need to answer it the best I can.

Mr. DESAULNIER. Are you responsible, you?

Secretary ROSS. I will discuss it with counsel and with my staff, and we will give you a prompt response.

Mr. DESAULNIER. I will yield the balance of my time to the chair.

Chairman CUMMINGS. When can we expect that response?

Secretary ROSS. I'm sorry, sir?

Chairman CUMMINGS. You just said that you would give us a response. You said you would consult with your staff and give us a response with regard to the documents.

Secretary ROSS. After the hearing, sir.

Chairman CUMMINGS. All right. All right. Does that mean today?

Secretary ROSS. I'll discuss it with them. I don't know how long it will take them to come up with their response.

Chairman CUMMINGS. Well, we'd like to have an answer as soon as possible, if you don't mind.

Secretary ROSS. I understand the request, sir.

Chairman CUMMINGS. We've been waiting for a while.

Secretary ROSS. I will take it up with my staff.

Chairman CUMMINGS. Very well.



Mr. STEUBE.

Mr. STEUBE. Thank you, Mr. Chair.

I'm over here, Mr. Secretary, to your left. Thank you, Mr. Secretary, for being here today. I just want to say kind of at the outset, I just find this whole issue fascinating. We've already heard in this committee time and time again that historically in this country, even under Democratic Presidents, the census has asked the question whether you're a citizen or not, so why would we as the Government of the United States not want that information? It's a very legitimate question to ask, and I don't understand how that's necessarily a problem.

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.

Mr. STEUBE. I'd like to continue to read in the concurring opinion. So in their concurring opinion, Justice Gorsuch and Justice Thomas abandoned lower court's ruling that Secretary Ross had demonstrated bad faith in deciding to reinstate a citizenship question to the census, stating: 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 an Cabinet Secretary's motives.

And it goes on to say on page 3: It stays Secretary Ross' deposition after weighing, among other things, the likelihood of review and the injury that could occur without a stay.

Yet here we are questioning you under oath today.

It goes on to say: Respectfully, I would take the next logical step and simply stay all extra record discovery pending our review.

It goes on to state: 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 de-

pose Secretary Ross, try to persuade the trial court to proceed quickly to trial on the basis of the remaining extra record evidence that they can assemble.

Extra record evidence.

Mr. Secretary, would it be your opinion that this exercise today by Chairman Cummings and the Democrats is assisting the plaintiffs in their extra record evidence by putting you under oath under penalty of perjury and asking you the very questions that I'm sure the plaintiffs in this case would like to ask you in a deposition?

Secretary ROSS. Thank you for that question. I can't judge what might be Chairman Cummings' motivation. He has been very courteous to me, and I'm trying to be very courteous to him in return.

Mr. STEUBE. Well, did you specifically request to delay your testimony today pending the Supreme Court case?

Secretary ROSS. I'm sorry, could you repeat the question, sir?

Mr. STEUBE. Didn't you specifically request to delay your testimony today until the conclusion of the Supreme Court case on this very issue?

Secretary ROSS. We had requested a delay. Chairman Cummings said that he was not prepared to give a delay, and, therefore, I'm here voluntarily.

Mr. STEUBE. And I mean, do you have any opine as to why the chair doesn't want to wait pending a Supreme Court decision and wanted you to come and testify here today?

Secretary ROSS. Well, again, sir, I can't guess what might be in Chairman Cummings' mind, but I am here, I am here voluntarily, and I'll do the best I can.

Mr. STEUBE. And I thank you for being here. I've got two minutes, but I want to make a couple of statements.

By allowing Secretary Ross to testify before a congressional committee where rules of evidence and civil procedure do not apply, the Democrats are allowing a prolonged, probative inquiry into a question that is at the very crux of the Supreme Court case. In holding this hearing, the Democrats have run afoul of the Supreme Court stay of Secretary Ross' deposition and polluting the evidentiary record of a case that the Justices have yet to even hearing oral arguments on.

And I would ask in my remaining question, I would direct a question to the chair as to has there been any communication by the plaintiffs' lawyers in this case to both the chairman or your staff or any other members of this committee directing or asking specific questions to be asked on the record?

Chairman CUMMINGS. Would you repeat that, I'm sorry?

Mr. STEUBE. Has there been—

Chairman CUMMINGS. I'll give you time to repeat it. Go ahead. I was just—my staff was just reminding that we had postponed this several times, and so I was just getting the dates straight, and they were letting me know that Secretary Ross picked this date. But go ahead.

Mr. STEUBE. Oh, that makes sense, because the October stay was October—the stay was October 22.

But my question was, since we're here, and the Secretary is under oath, has there been any communication—has there been any communication between the plaintiffs' lawyers, or any of the

plaintiffs, as it relates to the chair or staff in asking specific questions of the witness?

Chairman CUMMINGS. No.

Ms. NORTON. Mr. Chairman, point of information. The record of this hearing cannot be used by the court in its decision because this hearing and what happens in this hearing is not a part of the record of the cases that are now before the Federal courts.

Chairman CUMMINGS. All right.

Mr. MEADOWS. Point of clarification. I'm not sure that the gentleman's statement is correct.

Mr. MEADOWS. Point of clarification. I'm not sure that the gentleman's statement is correct.

Chairman CUMMINGS. First of all, let me recognize you.

Mr. MEADOWS. Okay. My apology, Mr. Chairman.

Chairman CUMMINGS. I recognize the gentleman.

Mr. MEADOWS. I thank the chairman.

I'm not sure that the context of the gentlewoman's statement is accurate, because we are putting things in the congressional Record, and certainly previous Supreme Courts have been able to use documents—

Ms. NORTON. Could I respond?

Chairman CUMMINGS. I am going to let you respond, and then we want to move on to questions.

Go ahead.

Ms. NORTON. These cases are being appealed to the Supreme Court. They are not in the record of the courts below. The Supreme Court can only look at what is in the record that has been brought in the courts below. That is why I have objected to the member's objection.

Chairman CUMMINGS. And now I recognize the gentlelady from the District of Columbia for her questions.

Ms. NORTON. Mr. Chairman, I appreciate this hearing. I have introduced a bill to bar a citizenship question on the census.

But I am interested, Secretary Ross, in the apparent increased costs. We have a budget before us with many reductions because of the increase in the deficit, for example. I am not going to speak about the deterrent effect on residents. I am interested in the costs.

And I do want to be clear that the Constitution says "all persons," with Indians not counted. So for the strict constitutionalists in the room and the committee, I note that part of the Constitution.

Secretary Ross, I am going to quote from a memo announcing your decision: "A significantly lower response rate by non-citizens would reduce the accuracy of the decennial census and increase costs for non-response followup operations." That is a quote from you, is that not correct, from your memo?

Secretary ROSS. Is there a question, ma'am?

Ms. NORTON. It is, sir.

Secretary ROSS. What is the question?

Ms. NORTON. I just quoted an announcement of your decision, and the date is March 26, 2018. "A significantly lower response rate by non-citizens would reduce the accuracy of the decennial census and increase costs for non-response followup operations." That is a quote, sir. I just want to make sure we are talking about the same thing.

Secretary ROSS. Could you tell what page of the memo—

Ms. NORTON. I can only tell you it is March 26, 2018.

Sir, I am not going to spend my time. I am assuming that this quote is correct because it is a quote.

Now, on January 19 of last year, your own Census Bureau chief scientist sent you a memo. It contained a technical analysis regarding adding citizenship. And here I am giving you what your own chief scientist, that is Mr. Abowd.

They calculated what they called a conservative estimate of the increase, because you'd have to do nonresponse followup, since many people would not answer the question door-to-door or phone followup, for example. And he found—that is your own chief scientist—found the cost is approximately \$27.5 million.

By this time, I assume that you, Mr. Ross, or the Census Bureau have calculated the addition the citizenship question would add to taxpayers if it were included in this census. What is that number, please, sir? What is your number for how much it would be, how much in dollars and cents would be added?

Secretary ROSS. The chief scientist, Dr. Abowd of the Census department, testified under oath as follows.

May I please put up a chart so that people can see it, Chairman?

Chairman CUMMINGS. No problem.

Secretary ROSS. It is demo two.

This is the chart that I'm referring to. I'd like to read from it, if I may.

Ms. WASSERMAN SCHULTZ. Mr. Chairman?

Secretary ROSS. "Therefore, there is no credible quantitative evidence that the addition of a citizenship question will affect the accuracy of the count."

That is a statement that was made under oath by Dr. Abowd, the chief scientist of the Census Bureau.

Ms. NORTON. The information we have is that that quote is taken entirely out of context. The memo also says that adding the citizenship question is very costly, harms the quality of the census count, and would use substantially less accurate citizenship status data than are available from administrative records.

Chairman CUMMINGS. The gentlelady's time has expired.

You may respond, though.

Secretary ROSS. I have nothing to say, sir.

Chairman CUMMINGS. Very well.

Ms. Foxx.

Ms. FOXX. Thank you, Mr. Chairman.

Secretary Ross, thank you very much for being here today. We appreciate it.

I think we have heard it here enough, but I will say it again. The question is not new. It has been asked before. And it is completely appropriate for the Secretary to add this question to the decennial census.

Mr. Secretary, I have been interested in this issue since the last decennial census in 2010. In fact, in 2009 I introduced a bill to require citizenship be asked on the 2010 Census and every census thereafter. If Congress had enacted my bill, you wouldn't have been put in the position to reinstate the citizenship question. It would already be part of the census.

We are in the midst of a national debate on immigration. There are millions of people living in this country illegally who are counted the same, the same as U.S. citizens and people who followed our laws and entered our country legally.

The Department of Homeland Security has great data on legal immigration and the number of naturalized U.S. citizens. We have this accurate data because these folks followed the rules and entered our country the right legal way.

The fact is we don't have reliable data on illegal immigration in this country. Estimates by DHS seem out of date the moment they are released. The most recent estimates by DHS are from 2015. Even DHS relies heavily on census data.

Mr. Secretary, my point is we must ask this citizenship question so we can get the data we need to have a full and honest debate about immigration in this country. If we don't ask the citizenship question, we are all debating without knowing the facts.

Mr. Secretary, in your opinion, how can the citizenship question better inform the debate over immigration?

Secretary ROSS. 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, 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.

I am sorry that it takes so long to answer, but it's a very important question, and it's very important that people in the country be aware that this is a sacred oath, their privacy will not be violated by the Census Bureau, and there would be extreme punishments if people did not do so.

So I hope that answers the question, ma'am.

Ms. FOXX. No apology necessary, Mr. Secretary. We need to get the facts on the table.

Mr. Chairman, I yield the remainder of my time to my colleague from North Carolina, Mr. Meadows.

Mr. MEADOWS. I thank the gentlewoman for yielding.

Mr. Secretary, I want to followup on something that my colleague from North Carolina was talking about, because you made an important distinction. Asking the citizenship question on the census will not provide any data to whether they are here illegally or not. Is that correct?

Secretary ROSS. That is correct, sir. We are not asking legal status of people, whether citizens or not.

Mr. MEADOWS. In fact, a large percentage of those people who may check that they are not citizens will be here legally, because

they have either got a green card or some other legal means of being here in the United States. Is that correct?

Secretary ROSS. That's correct. They could be here on a visa. They could be here on any variety of things.

The purpose of the census is not as a tool for enforcement of the immigration laws. The purpose of the census is simply to provide aggregated data.

Mr. MEADOWS. I yield back.

I thank the gentlewoman for yielding.

Chairman CUMMINGS. Thank you.

Mr. Clay.

Mr. CLAY. Thank you, Mr. Chairman.

Mr. Secretary, on March the 20th, 2018, you testified in front of a subcommittee of the House Appropriations Committee, and here's what you said.

[Audio recording played.]

Mr. CLAY. Two days later you testified before the House Ways and Means Committee, and here's what you said.

[Audio recording played.]

Mr. CLAY. On May 10, you testified in front of the Senate Appropriations Committee, and here's what you said then.

[Audio recording played.]

Mr. CLAY. Now, I would like to talk about what you did not tell Congress. You wrote the following email to your staff on May the 2, 2017. You wrote, and I quote: "I am mystified why nothing has been done in response to my month's old request that we include the citizenship question. Why not?" end of quote.

So you requested the addition of the citizenship question prior to May 2017, correct?

Secretary ROSS. No, sir. What I was referring to was that I was frustrated that I had not gotten an answer to the question, would the Department of Justice formally request the question to be re-instituted or would they not? That's what I had in my mind, sir.

Mr. CLAY. Well, now, wait a minute now. This was more than seven months before DOJ sent its letter in December 2017, though, correct?

Secretary ROSS. That was part of my frustration. I had been seeking to get clarification of what was the interest, if any, of the Department of Justice in the question, because the census has to be done on a specific day, starting on a specific day in a specific year, and there are also congressional reporting—

Mr. CLAY. I am well aware of that, because I—

Secretary ROSS. Let me finish my question.

Mr. CLAY. Wait a minute. No. I have the time.

I am well aware of that, because in 2010 I oversaw that census. But when you testified last year you failed to mention any of this. Is that correct?

Secretary ROSS. What was contained in the decision memo of March 26, 2018, was the basis for the decision.

Mr. CLAY. Well, Mr. Secretary, you wrote to the committee a few months ago that the reason you did not mention all your efforts to add a citizenship question before DOJ's letter was because these efforts were merely, and I quote, "informal and hypothetical discussions."

With all due respect, that explanation does not pass the laugh test.

Secretary ROSS. Well, that is the fact, sir. I am sorry that you are dissatisfied with it.

Mr. CLAY. Well, you testified three times, and each time you withheld critical information that Congress needed to oversee preparations for the 2020 Census.

Mr. Secretary, will you take responsibility today for misleading Congress, whether intentionally or not, about the process you follow to add the citizenship question to the 2020 Census?

Secretary ROSS. I have never intentionally misled Congress or intentionally said anything incorrect under oath. I have never intentionally done that.

Mr. CLAY. Mr. Secretary, you've lied to Congress, you've misled the American people, and you are complicit in the Trump administration's intent to suppress the growing political power of the non-White population. You have already done great harm to the Census 2020, and you have zero credibility, and you should, in my opinion, resign.

I yield back.

Secretary ROSS. Is there a question in that, sir?

Mr. JORDAN. I'm next.

Chairman CUMMINGS. Mr. Armstrong.

Mr. JORDAN. No, I'm going to go next.

Secretary ROSS. Mr. Chairman, we have been at this now for somewhat more than an hour.

Would the committee indulge me in taking a break?

Chairman CUMMINGS. Yes. Of course. We will recess for 10 minutes.

Secretary ROSS. Thank you, Mr. Chairman.

Chairman CUMMINGS. Thank you very much.

[Recess.]

Chairman CUMMINGS. We will now resume the hearing.

Mr. Armstrong.

Mr. ARMSTRONG. Thank you, Mr. Chairman.

I would just like to start by saying I think that accusations of Secretary Ross being a liar seem to be a little bit hypocritical considering two weeks ago Michael Cohen was sitting in that chair.

Then, with that I would like to get back to just something that was said earlier about the record and the Supreme Court and trial court cases. As far as I know, there is at least one pending lower court case going on, and, obviously, which I will get into in little more detail, an oral argument in front of the Supreme Court.

To say that this deposition, which is what it is, or this under-oath testimony isn't part of the record, is absolutely true for the Supreme Court case. However, everything here can continue to be used in any pending lower court case.

Not to mention and probably more importantly, I've spent a little bit of time in trial court. I've spent a little time in front of appellate court judges. And to think that this isn't going to come up in oral arguments is absolutely folly.

I am assuming all the lawyers on both sides of this case have actually taken appellate advocacy. And anything that is being done

here today under oath is going to be more than free game in front of oral arguments.

We have Justice Department drafting essentially that says—going back as far as 2000, is what I found, that we always have to satisfy legitimate legislative interests while protecting certain confidentiality interests and disclosures which may compromise open civil litigation. And that is one of the reasons they do that.

I emphasize the word “may,” because I will be the first one to admit that if we can never call an agency in front of here that had any pending litigation going on in any way, shape, or form, we probably wouldn’t have many executive branch agencies here at all.

But we don’t have to go to any kind of hypothetical. We have it specifically written. And just to back up a little bit, the first case I believe was filed on March 26 of 2018. And since that date, whenever a pending case exists, 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.

The reason I bring that up is because those two things are absolutely not mutually exclusive. 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 legislative’s oversight role and what is pending in the criminal case.

In the Supreme Court stay, they specifically stated that they stayed Secretary Ross’ deposition. And I tend to agree with the concurrence where they also said they should stay all extra record discovery considering that there is not a lot of distinction between Secretary Ross and the agency as a whole.

And much of what went on many that case in the lower court decisions talk about what is in the hearts and mind regarding adding the citizenship question. And I don’t know what is in the hearts and minds of my friends in this room on both sides of the aisle, but what I can tell you is the effective result of this is an absolute end run around the stay on a deposition. This information is here, it is under oath, and to think it is not going to be used in the pending litigation is just not true.

Again, we don’t have to go to hypotheticals regarding this. It was specifically stated in the concurring opinion. And the concurring opinion from Justice Thomas and Justice Gorsuch was very specific. And one of things they said is protecting the very review which the Supreme Court is inviting at this time.

So I have one question, and then I just want to end with a little bit.

Secretary Ross, do you believe that anything that is going on here today will be used in either the lower court opinion or oral arguments at the Supreme Court?

Secretary ROSS. That would require a legal opinion, sir. I am not qualified to give a legal opinion. I am a civilian.

Mr. ARMSTRONG. And I would also just like to point out, a lot of the protections that are available in a deposition are not available in a hearing under oath in front of Congress.

I will end with this. If the Supreme Court rules in favor of the plaintiffs in this case, oversight from this committee is absolutely



appropriate. If the Supreme Court rules in favor of Commerce or DOJ, oversight from this committee is absolutely appropriate.

What is not appropriate is weaponizing this congressional hearing to effectively create an end run around a Supreme Court order staying the deposition of Secretary Ross.

With that, I yield back.

Chairman CUMMINGS. Mr. Raskin.

Mr. RASKIN. Thank you, Mr. Chairman.

Do I have the opportunity to respond at this point to the legal argument that was just made by the gentleman from North Dakota?

Chairman CUMMINGS. This is your time.

Mr. RASKIN. Oh, am I being recognized for my time?

Okay. Well, let me start with this then.

Secretary Ross, you asked for a memo on the citizenship question from your Office of General Counsel, and you got it back from James Uthmeier on August 11, 2017.

What did that memo say?

Secretary ROSS. We've produced some 8,700 documents here, and I gather there are some more that the committee may wish to—

Mr. RASKIN. Okay, so you are willing to produce that memo then, too?

Secretary ROSS. I am sorry. I didn't hear the question, sir.

Mr. RASKIN. Are you willing to produce that memo that was written to you by James Uthmeier about precisely what we are investigating here today, the citizenship question?

Secretary ROSS. I will take it up with staff and with counsel following this hearing, and we will—

Mr. RASKIN. Well, you know, I have seen from the record that you are quite effective at getting your staff to do things, for example, moving on the citizenship question. Will you tell them to turn this memo, which deals precisely with what we are investigating, over to the Congress of the United States?

Secretary ROSS. I will be delighted to take it up with my staff after the hearing, and we will consult with counsel, and they will give you a response.

Mr. RASKIN. Okay. Well, I understood your testimony before to be that you would refuse to turn it over on the grounds that there is ongoing litigation. And we just heard that argument echoed by the gentleman from North Dakota.

And I must say, Mr. Chairman, I am quite astounded by this line of argumentation today by our colleagues. To begin with, the Supreme Court has been perfectly clear in a series of cases, including *Hutcheson v. United States* in 1962 and *Sinclair v. United States* in 1929, that the fact of ongoing litigation is not a valid grounds for withholding documents from Congress.

Are you aware of that, Secretary Ross?

Secretary ROSS. That requires a legal opinion, sir. I will have to refer that to counsel.

Mr. RASKIN. Okay. Well, that principle goes back at least 90 years. And we can give you countless examples of investigations by both Republican and Democratic chairmen of this committee, as well as dozens of other committees in Congress, that have con-

ducted investigations and received documents while there was ongoing litigation.

For example, Chairman Chaffetz had a hearing on the Waters of the United States EPA rule when it was still being litigated and got documents there. He did the same thing in the Keystone XL pipeline hearings when there was ongoing litigation. And Chairman Chaffetz did the exact same thing with the Equifax data breach.

So you are not a lawyer, you may not be aware of Congress' power to obtain documents, including the so-called secret memo which is being withheld now. But our colleagues certainly should be perfectly aware of that fact.

And the representative from the District of Columbia is perfectly right, of course, the Supreme Court is limited to review of those facts that are on the record of the case. All the more so in an appeal from an Administrative Procedure Act decision, right, where everything is in the administrative law record.

That record also was very clear about what you had done. That record said that your decision to add the citizenship question was arbitrary and capricious, that you violated the law, that you violated the public trust, that your stated rationale to promote Voting Rights Act enforcement was pretextual, a veritable smorgasbord of classic, clear-cut APA violations.

But you are aware that when the Supreme Court treats this matter, it is going to treat it as a matter of fact on the four corners of the administrative law record, are you not?

Secretary ROSS. That is a very lengthy question, sir. I think it calls more for a legal opinion than my opinion. I'll be happy to—

Mr. RASKIN. Okay. Well, your decision was also struck down on the basis of the Enumerations Clause, so it was constitutional as well. Is there anything that you would tell us that would somehow alter the Supreme Court's interpretation of whether or not your judgment to add the citizenship question is constitutional?

Secretary ROSS. I don't quite understand the question, sir. Could you repeat it?

Mr. RASKIN. Okay. Let me ask you this. The California district court said what ensued was a cynical search to find some reason, any reason, or an agency request to justify a preordained result.

So let's just put it in very simple terms. I'm not going to ask you about the law. Obviously, you don't want to talk about the law, and that is fair enough.

But did you not have a search—they describe it as cynical, but whether or not it was cynical—did you not have a search to get to a preordained result? Wasn't the whole purpose to get the citizenship question added regardless of what was found in the administrative law process?

Chairman CUMMINGS. The gentleman's time has expired.

You may answer that question.

Secretary ROSS. The rationale for my decision is encompassed in the March 26, 2018, decision memo. That is the basis on which the decision was made, sir.

Chairman CUMMINGS. Thank you very much.

Mr. Gosar.

Mr. GOSAR. Thank you, Mr. Secretary.

Mr. Secretary, we know that decennial census data is used to apportion congressional seats. Each state gets one seat. The remaining 385 seats are divided amongst the 50 states based on total population.

For over 150 years, the standard has been to count every person residing in the United States, every person regardless of legal statute in the United States.

This whole time we have been counting legal and illegal immigrants to apportion congressional districts. Yet only citizens can vote.

So we count illegal immigrants, but we don't want to ask questions about citizenship? We don't even ask legal status.

Mr. Secretary, this seems like a huge problem. And I, for one, am very supportive of your decision to add a citizenship question to the 2020 Census, and so is my delegation.

This is the reason the citizenship question is such a threat. The Democratic majority believes if we only count citizens, they are going to lose their majority in Congress. This whole hearing is so transparently political it is beyond legitimate overstate.

So my questions to you, Secretary Ross. Would you agree that the main purpose of a census is to get accurate data about the U.S. demographics?

Secretary ROSS. The constitutional mandate, sir, for the census is to try to count every person residing in the U.S. at their place of residence on the dates when the census is conducted. It is not to be used for immigration enforcement. It is not to be used for any other kind of enforcement or, for that matter, for any other purpose.

Everybody with access to the data takes a lifetime oath not to disclose individuals' private data. And the punishment for doing so under Title 13, as I understand it, is it could be a combination of a prison sentence and a substantial fine.

Mr. GOSAR. So the basis of this is to better govern. Would that not be the case?

Secretary ROSS. I'm sorry, I couldn't hear the question.

Mr. GOSAR. So the basis of the census we could actually look at is to better apply governing to the people.

Secretary ROSS. We are obliged, sir, to count every person who is here regardless of citizenship status and regardless of anything else. We are required.

Mr. GOSAR. Right. And that is my point, is that the resources are better distributed to govern the people.

Secretary ROSS. I believe that was the congressional intent. But I wasn't there at the time, so I really can't judge, sir.

Mr. GOSAR. Yes. Do other nations query their populations for census demographics about citizenship?

Secretary ROSS. Would you repeat the question?

Mr. GOSAR. Do other countries query their populations for citizenship?

Secretary ROSS. Oh, yes. The U.N. encourages all countries to ask the citizenship question, and quite a few do. A few of those that I can recall offhand include Australia, Canada, France, Germany, Ireland, Mexico, and the United Kingdom. I'm sure there are others, but those are the ones that occur to me offhand.

Mr. GOSAR. So I want to make sure I heard that right. The United Nations pushes that initiative, right?

Secretary ROSS. The United Nations recommends that countries ask the citizenship question, yes, sir.

Mr. GOSAR. Wow.

Now, did Thomas Jefferson have the Federal Government ask about citizenship as far back as 1800?

Secretary ROSS. Yes. The question has been asked, I believe, at least since 1820 in one form or another, in one venue or another.

Mr. GOSAR. So this administration should be given credit for following Thomas Jefferson's footsteps, should it not?

Secretary ROSS. Well, I am a great admirer of Thomas Jefferson. But is there a question in that, sir?

Mr. GOSAR. Well, I mean, this administration is following in the footsteps of Thomas Jefferson by asking this question.

Secretary ROSS. I believe that we are doing it for the reasons that were outlined in my March 26, 2018, decision memo. Those are the reasons why I did it, sir.

Mr. GOSAR. And my last question. Is it true that states often have to bear the cost of noncitizens, including providing healthcare, schools, law enforcement, food stamps, and housing?

Secretary ROSS. I believe that all people are counted for those purposes, sir.

Mr. GOSAR. Thank you very much, Mr. Secretary.

Chairman CUMMINGS. Thank you very much.

Before we go to Ms. Plaskett, I want to thank all the members. Many of you have changed your schedules just to be here, and I really do appreciate that. And I think it is very important. I am talking to both sides. Thank you very much.

Ms. Plaskett.

Ms. PLASKETT. Thank you very much.

Before I go on to my questioning, Mr. Ross, you are aware also that Thomas Jefferson believed that slaves should be counted as three-fifths of a person for population basis. So I am not sure if Thomas Jefferson should be the litmus test for what we should be doing for counting census.

I wanted to ask you about the citizenship piece that you have here in the questions. I note that you have different delineations of categories for individuals.

Where would individuals that were born in the District of Columbia fall under?

Secretary ROSS. I'm sorry, I didn't understand the question.

Ms. PLASKETT. Where would individuals who were born in the District of Columbia fall under your census question, your citizenship question?

They are not born in a state, nor are they listed as Puerto Rico, Guam, the U.S. Virgin Islands, Northern Marianas, or were they born abroad. Where would they check off?

Secretary ROSS. I think that would require a legal decision. I'm not sure I'm qualified.

Ms. PLASKETT. But that is the question as how you have it outlined here, the different buckets that individuals could put down.

Secretary ROSS. Oh, yes. The reason that we had for using those particular buckets is those are the ones that were asked repeatedly on the American Community Survey.

Ms. PLASKETT. So where would someone from the District of Columbia check?

Secretary ROSS. I'm sorry, ma'am. I wasn't able to finish my answer.

Ms. PLASKETT. But I just need an answer to that. Where would they check?

Secretary ROSS. I'm trying to answer your first question, if I could be permitted to—

Ms. PLASKETT. Where would they check on your list?

Secretary ROSS. The reason that we use the exact same question—

Ms. PLASKETT. I don't—I'm not interested in why you use the question. I just want to know if someone born in the District of Columbia, where would they check off on the listing that you have here?

Secretary ROSS. I think the list speaks for itself, ma'am.

Ms. PLASKETT. It doesn't speak for itself, because you have born in the United States. Are you saying that people who are from Puerto Rico, Guam, the U.S. Virgin Islands, or Northern Marianas not born in the United States—that is a separate one. But so where would an individual from the District of Columbia?

I think you are just showing that, even from this alone, you don't think of individuals born in the territories as being part of the United States. And I'm just wondering where someone from the District of Columbia, if you were to make the argument that it is States—

Mr. JORDAN. Would the gentlelady yield?

Ms. PLASKETT [continuing]. that is not a state.

Mr. JORDAN. Would the gentlelady yield?

Ms. PLASKETT. So my question—no, I will into the yield. I don't have a lot of time.

So I wanted to ask you about the Census Bureau chief scientist report that you discussed. You said Mr. Abowd wrote to you about the effect of the cost and accuracy of the census. He estimated that the addition of a citizenship question would lower response rates by approximately 5.1 percent and would, quote, also reduce the quality of the resulting data, lower self-response rates, degrade data quality, because data obtained from NRFU, non-response followup, have greater erroneous enumeration and whole-person imputation rates.

Mr. Secretary, is that what the memorandum stated?

Secretary ROSS. Chief Scientist Abowd also testified under oath. With your permission, Mr. Chairman, I will put up—

Ms. PLASKETT. No. I saw that. I just wanted to know, is that correct that he stated what I just quoted to you?

Secretary ROSS. Can you refer me to the section of the memo that says that, ma'am?

Ms. PLASKETT. I think the memo is already listed in the record. And in that memo, he states the lower response rate to be approximately 5.1 percent.

Secretary Ross, I understand that you are a businessman, and as such, you understand the cost and accuracy and the need for cost-effectiveness. Why would you be in favor of something that was more costly and diminishing the accuracy of your census by putting in the citizenship question?

Secretary ROSS. The reasons for including the citizenship question are the ones that are outlined in my March 26, 2018, decision memo. Those are the bases on which I concluded that it was appropriate to ask the citizenship question—

Ms. PLASKETT. Your chief scientist—

Secretary ROSS. I'm sorry, ma'am. May I finish my answer?

Ms. PLASKETT. No, you may not, because I have—you're taking quite a while to answer the question, and most of my questions do not require that much of a response. So I need to get to other questions in here.

But the reason I'm asking that is because you testified before this committee in October that most of the census budget is spent on encouraging the last few million households to respond, whereas it says in the scientific report of Dr. Abowd that it will cost you 27 million additional funding to take up the inaccuracy of that.

And in the court's opinion, which is the court's opinion of the State of New York v. the Department of Commerce and New York Immigration v. the United States, the Department of Commerce, that it is unlikely to remedy the reduction of self-response rates, which means that hundreds of thousands, if not millions of people will go uncounted in the census if the citizenship question is included.

Why would you want to increase the cost for that question?

Chairman CUMMINGS. The gentlelady's time has expired, but you may answer the question.

Secretary ROSS. I have nothing to say, sir.

Chairman CUMMINGS. Very well.

Mr. HICE.

Mr. HICE. Thank you, Mr. Chairman.

I will just say, the last time I checked, the District of Columbia is in the United States, so I think the questions do speak for themselves.

I'd like to build a little bit—

Ms. PLASKETT. And so is the U.S. Virgin Islands.

Mr. HICE. This is my time.

I would like to build a little bit on Mr. Steube's line of questioning a little bit earlier, Mr. Secretary. And thank you again for being here.

We all know in this room that there is ongoing civil litigation about the citizenship question on the 2020 Census right now before the Supreme Court. Do you have any idea when the Supreme Court is scheduled to hear oral arguments?

Secretary ROSS. I believe it is somewhere around the 21st of April.

Mr. HICE. That's right. Somewhere in the 23rd—six weeks from now, more or less.

Secretary ROSS. More or less six weeks.

Mr. HICE. So six weeks from now.

Mr. Secretary, when the lower courts were considering the citizenship question, were you required to testify or were you deposed?

Secretary ROSS. I was not testified. I was not deposed. The Supreme Court had issued what I believe is called a temporary stay that stayed any deposition or testimony by me.

Mr. HICE. That is the whole point of this. In fact, the fact that you were not required to testify in the lower court, that in itself became a matter of contention and drew its own separate civil litigation.

And as you just referenced, the Supreme Court stepped in because that issue was so important, literally they plucked it out of the lower courts. And they themselves said that they wanted to weigh in on that. And as you just mentioned, the Supreme Court placed a stay on you.

This is what is so amazing to me about this whole hearing today. The Supreme Court, the highest court in the land, has said Mr. Ross should not be deposed or give testimony on this matter until after they are able to decide on this matter. And it is alarming to me the willingness of this committee to disregard the wishes of the Supreme Court.

And for all practical purposes, you are sworn in today. For all practical purposes, this is a deposition.

Do you think it is reasonable to suspect that some plaintiffs involved in this case are possibly watching this today?

Secretary ROSS. I have no idea who is watching it today, sir.

Mr. HICE. We don't know who is watching. But I think it's kind of reasonable to assume that those who are involved in this case are probably watching, which would make this, in essence, part of the discovery process. And so here we are virtually in a deposition going against the wishes of the U.S. Supreme Court.

And, you know, I just look at the direction of this committee. Two weeks ago we have Michael Cohen here, an individual convicted of lying to Congress, coming back to give more testimony to Congress, and appears in every way that he lied again while he was here. And now we are having a hearing, in essence a deposition, going against the wishes of the Supreme Court. It just seems like this committee is—this whole hearing is inappropriate and out of order.

And I would like to yield the remainder of my time to the gentleman from North Carolina, Mr. Meadows.

Mr. MEADOWS. I thank the gentleman for yielding.

Mr. Secretary, I want to come to you.

Over the past 100 years, prior to 2010, when President Obama decided not to include a citizenship question on the census, the prior 100 years, was there not a citizenship question on each of those censuses that were taken between 1910 and 2000?

Secretary ROSS. Yes, sir, I believe that is the case, that it was routinely asked in one form or another.

Mr. MEADOWS. Are you aware that there were five Democrat Presidents that controlled what was going on the census and five Republican Presidents that controlled what was going on the census during that same time period so it was not partisan?

Secretary ROSS. I haven't tried to make this a partisan event, sir, so I haven't kept track of which Presidents did what.

Mr. MEADOWS. Well, that speaks well to the way that you are looking at this.

One last question that I have for you. On the American Community Survey, there is a citizenship question that we currently ask each and every year to about one percent of the population. Is it correct that the most unanswered question on there is not about citizenship, but about their income?

Secretary ROSS. If memory serves, on some of those surveys, the largest nonresponse rate, certainly a larger one than the question of citizenship, did relate to weekly wages.

Mr. MEADOWS. All right. I yield back. I thank the chairman.

Chairman CUMMINGS. Mr. Krishnamoorthi.

Mr. KRISHNAMOORTHI. Good afternoon, Secretary Ross. Over here. Over here.

Secretary ROSS. Oh, I'm sorry. I'm sorry. I'm not familiar with the seating, so thank you for pointing it out.

Mr. KRISHNAMOORTHI. That's Okay.

In your written testimony today, Secretary Ross, you said, quote, "on December 12, 2017, DOJ made a formal written request for reinstatement of a citizenship question on the decennial census so that the Census Bureau could provide census block-level citizenship data to assist DOJ in the enforcement of the Voting Rights Act," correct?

Secretary ROSS. That is my understanding of the request. That was made by the Department of Justice—

Mr. KRISHNAMOORTHI. Correct.

Secretary ROSS [continuing]. in a formal letter to us on December 12, 2017, sir.

Mr. KRISHNAMOORTHI. Got it. And so you included the citizenship question to enforce the Voting Rights Act, correct?

Secretary ROSS. That is what my recollection says, that the letter from the Department of Justice—

Mr. KRISHNAMOORTHI. Correct.

Secretary ROSS [continuing]. said was the reason, yes, sir.

Mr. KRISHNAMOORTHI. Now, as you have pointed out, block-level data, citizenship block-level data are not currently available because the citizenship question is not included in the decennial census, right?

Secretary ROSS. Is that a question, sir?

Mr. KRISHNAMOORTHI. Correct.

Secretary ROSS. The Census Bureau reported that the block-level data—as I described in the decisionmaking memo—block-level data is not available from the ACS, which is sent out annually. And I believe that is an uncontested fact, sir.

Mr. KRISHNAMOORTHI. Correct. And as you know, the citizenship question has not been part of the decennial census given to every household since 1950, right?

Secretary ROSS. There were times when it was distributed to households in the form of a different form from the other census. And then—

Mr. KRISHNAMOORTHI. But not the short form, not the short form survey given to every household, right?

Secretary ROSS. Sir, I would like to finish my answer to your first question, if you would indulge me.



Mr. KRISHNAMOORTHY. Go ahead

Secretary ROSS. There were different forms that were used at different times. And the form that asked that question I believe was only sent to a fraction, a portion, of the population. And the same is true of the citizenship question that was asked routinely on the ACS survey.

Mr. KRISHNAMOORTHY. Correct.

Secretary ROSS. That, too, is only sent to a small fraction of the total population—

Mr. KRISHNAMOORTHY. Right.

Secretary ROSS [continuing]. as opposed to the census itself, which goes to the—

Mr. KRISHNAMOORTHY. I understand. My time is limited, sir. I understand your answer. And you have basically said that it has only been elicited from a fraction of households, not every household in the United States, and that has been true since 1950.

As you know, for the entirety of the existence of the Voting Rights Act of 1965, the DOJ has litigated voting rights acts numerous times, voting rights cases numerous times, without citizenship data from every household in the United States, right?

Secretary ROSS. The Department of Justice used the information that was then available to them, as I understand the situation that had prevailed prior to the present time.

Mr. KRISHNAMOORTHY. Correct.

John Gore, the acting assistant attorney general for civil rights at the DOJ, authored the letter, the December 2017 request to you.

And he was recently deposed. And in his deposition, he was asked: Mr. Gore, the data collected through the census questionnaire is not necessary for Department of Justice's Voting Rights Act efforts, enforcement efforts.

Mr. Gore responded: I do agree with that, yes.

Sir, in light of this new information elicited from Mr. Gore at the deposition, I would assume that you would go back and reconsider including the citizenship question in the survey?

Secretary ROSS. I am not familiar with the deposition to which you are referring. Do you have a copy of it, sir, that I could refer to?

Mr. KRISHNAMOORTHY. Yes, sir, we can provide that right after the questioning.

Sir, when was the last time that you discussed the citizenship question with President Trump?

Secretary ROSS. I published a list in one of the litigations of the parties with whom I had had discussions about the citizenship question prior to the receipt of the December 12, 2017, memo. President Trump was not listed as one of the parties with whom I had discussions prior to the December 12 letter.

Mr. KRISHNAMOORTHY. And when you were interviewed for the position of Commerce Secretary, at that time, before you joined the Trump administration, did you talk with anybody at the White House about the citizenship question?

Secretary ROSS. Not that I can recall, sir.

Chairman CUMMINGS. The gentleman's time has expired.

Mrs. Miller.

Mrs. MILLER. Thank you, Mr. Chairman.

And, Mr. Secretary, thank you so much for being here today.

As we have discussed the decennial census in this committee, I want to make this point perfectly clear: It is not controversial to count who is in the United States. In fact, it is important for us to know how many people are living within our Nation's borders and within our individual states so that we can properly and fairly distribute Federal funds. Without these raw numbers, there is no way for us to ensure our citizens have sufficient funds to access critical programs like Medicaid, SNAP, Pell grants, and other important programs.

We need to know how many people within the United States are school age and accessing public schools. This number is critical for correctly appropriating Federal funds to our states for their school systems.

Even further, census data is used to calculate funding for the National School Lunch Program. Without proper data, it is impossible to ensure each state has adequate funding to provide lunches for impoverished students.

Mr. Secretary, are you aware that there are 132 programs that used Census Bureau data to distribute more than \$650 billion in Federal funds just in Fiscal Year 2015?

Secretary ROSS. I am well aware that the census data are used as part of the appropriation process. I am not conversant with the exact numbers you cited, but it is certainly big numbers.

Mrs. MILLER. Mr. Secretary, did you know the top five programs which use Census Bureau data to distribute funds are Medicaid, SNAP, Medicare part B, highway construction funds through the Department of Transportation, and Pell grants through the Department of Education?

Secretary ROSS. That wouldn't surprise me at all.

Mrs. MILLER. Mr. Secretary, did you know decennial census data is used to determine a rural community, a suburban community, and an urban community?

Secretary ROSS. I believe that is the case, yes, ma'am.

Mrs. MILLER. Census data is necessary to determine what is rural and what is not. This data is used to determine who is in my district that is eligible for rural grants and aid.

There are 22 programs at the Department of Agriculture and 33 programs at the Department of Health and Human Services that use this data to distribute Federal funds. Even further, there are 16 programs at the Department of Education, 13 at the Department of Housing and Urban Development, and even 7 in the Department of Justice.

Without this critical data, so many of our constituents would not receive sufficient access to these programs. That is why I am even more surprised that my colleagues don't want to fully count the number of people within our borders.

For the first time, using census data, Congress could get an accurate picture of how many citizens use these important Federal programs and, also, how many noncitizens are using Federal programs.

I think my constituents would want to know about where their tax dollars are going to support Federal benefits for noncitizens.

Mr. Secretary, would you agree that this is an important public policy goal?

Secretary ROSS. I am well aware that the census data is importantly relied on for a whole wide variety of public policy objectives, and I am very proud of the fact that that is the case.

Mrs. MILLER. Thank you very much.

I yield the rest of my time to Mr. Meadows from North Carolina.

Mr. MEADOWS. I thank the gentlewoman for yielding.

Mr. Secretary, let me come back, because a lot's been made of documents that have been requested, that haven't been requested. I know that you have sworn that you've given over 8,700 documents to this committee.

And is it my understanding that you are going to get with counsel and do the very best you can to give documents to this committee that are responsive as long as they don't interfere with the pending litigation that is before the Supreme Court. Is that correct?

Secretary ROSS. I am perfectly willing to put forward anything that counsel do not object to. I have to be guided by counsel in that regard.

Mr. MEADOWS. So, Mr. Secretary, let me go a little bit further, then. And I appreciate your response.

One of the areas that has come up is that the previous administration under President Barack Obama really was the first time that we didn't ask a citizenship-type question. I'm sure in your archives, and we want to make a priority on being responsive to this request first, but are you willing to work with this committee to provide other responsive documents in terms of the decisionmaking on why, for the first time in a century, a citizenship question was not included in 2010? Would you be willing to do that?

Secretary ROSS. I really have no idea who was involved in the process or why. I will confer with staff and see whether there is something we could reasonably do that would be responsive.

Mr. MEADOWS. I yield back.

Thank you, Mr. Chairman.

Chairman CUMMINGS. Mr. Secretary, do me a favor. I'm going to be frank with you. I can barely hear what you're saying. So can you keep—when you talk, can you get a little closer to the mic? A number of members have been complaining that they can't hear you.

Secretary ROSS. Oh, I'm sorry, sir. I will try my best. I have a bit of a cold. I think I might have caught the cold you had last week.

Chairman CUMMINGS. Alrighty. I'm blamed for a lot of things, but okay. I'll take that one.

All right now. You got me that time, Mr. Secretary.

We will now hear from Mr. Rouda.

Mr. ROUDA. Thank you, Mr. Chairman.

Good afternoon, Mr. Secretary.

While I am extremely concerned about yours and other Trump administration officials' purported longstanding conflicts of interest with Russian oligarchs and ties to Vladimir Putin, we are focusing on the 2020 Census in today's hearing. Nevertheless, I will be submitting my questions on those matters for the record, and I look forward to seeing your responses to those questions.

Mr. Secretary, many Federal agencies use census data to distribute Federal funds. In fact, the Census Bureau found 132 programs used census data to distribute \$675 billion in funds in 2015. Census data is used to distribute programs like Medicaid, SNAP, Medicare, Pell grants, temporary lunch programs, Temporary Assistance to Needy Families, and Section 8 Housing Choice Vouchers. Federal agencies rely on this data when determining how to properly distribute their funds.

Mr. Secretary, do you agree that it is important for Census Bureau data to be accurate?

Secretary ROSS. I'm well aware of the multitude of public policy uses and appropriation uses to which the census data are used, and that is why I was so insistent to make sure that the census was properly funded. It was at my initiation that the Office of Management Budget—

Mr. ROUDA. Excuse me, Secretary. This is kind of a softball question. I just wanted to ask you, do you agree that it is important for Census Bureau data to be accurate?

Secretary ROSS. We are pledged to provide the best—

Mr. ROUDA. Yes or no, Census Bureau data should be accurate?

Secretary ROSS. I'm trying to answer, sir, as best I can.

We are dedicated to the concept of providing the most accurate and best data that we possibly can. And that is why we have committed so many resources and so much effort, as I have described before.

Mr. ROUDA. So that would be a long-winded yes?

Secretary ROSS. I think the answer speaks for itself.

Mr. ROUDA. Inaccurate census data could affect the proper allocation of Federal funding as well, correct? So if it's inaccurate, to the degree it's inaccurate, it will impact how Federal funds are distributed, correct?

Secretary ROSS. I believe that the census data should be as accurate as it can be for that whole variety of reasons, sir.

Mr. ROUDA. If the census data is inaccurate, to whatever degree it may be, that would hurt people's access to critical programs, since those programs I cited are funded in part based on the census data.

Secretary ROSS. That is a kind of hypothetical question. I have very great difficulty answering it, sir.

Mr. ROUDA. I'm sorry, could you repeat your answer.

Secretary ROSS. I said that's a hypothetical question that I have great difficulty answering, sir.

Mr. ROUDA. So you are saying that if we had inaccurate data you don't know whether that would impact Federal funding in these programs and how it is disseminated by a state?

Secretary ROSS. I don't think that was the question. I think the question was, would inaccuracies in the census data reduce the amount of funding that went to a given state?

The reason that that is hypothetical is that involves the assumption that the only errors would be undercounting.

Mr. ROUDA. Businesses and industries also rely on this data to develop strategies and support their businesses. Would you agree that inaccurate census data could hurt businesses that rely on the data?

Secretary ROSS. We are pledged to trying to provide the most accurate and most complete data that we can under the circumstances for those reasons and for the host of other reasons that already have been cited here earlier in some of the remarks and in my testimony itself.

We will continue to be pledged to do so. And that is why I have worked so hard to get the complete count committees, to get the partnerships developed, to do massive advertising, and to hire more partnership specialists by far than ever were hired before, sir.

Mr. ROUDA. Thank you, Mr. Secretary.

I am concerned—

Secretary ROSS. We are doing more—

Mr. ROUDA. If I could reclaim my time.

I am concerned that your decision to add a citizenship question to the 2020 Census, which has drawn strong criticism from Democratic and Republican former Directors of the Census Bureau, could adversely impact communities across the country, since this census will determine the allocation of Federal funding to vital programs throughout the year 2030. I have heard from numerous communities across southern California that they are worried about the undercount of the census taking place.

Those concerns were highlighted in this article published in the Orange County Register on August 23, 2018. And I'd like to ask unanimous consent to have this article placed in the record.

Chairman CUMMINGS. Without objection, so ordered.

Mr. ROUDA. Thank you. I yield back.

Chairman CUMMINGS. Mr. Gibbs.

Mr. GIBBS. Thank you, Mr. Chairman.

Thank you, Mr. Secretary, for being here today on a voluntary basis. There's been a lot of discussion on the census and this, and it's quite clear in the Constitution it says, "We the people of the United States," referring to the sovereignty of the citizens body who constitute the Nation, and uses the word "citizen" 27 times. The Declaration of Independence also recognizes that "governments are instituted among men to secure their rights."

Citizenship and sovereignty of our Nation are fundamentally linked, and I think it's important to get an accurate count of the American body for the politics and especially in light of what's going on in the immigration debate.

As was an earlier question, but I just want to reemphasize it, the United Nations emphasizes that countries should ask the citizenship question, and you named the countries Canada, Indonesia, Germany, Australia, and others. My first question is, when a census form comes back and one of the questions is left blank, is there any action taken, or how does the Census Bureau handle that if there's one question that's not answered?

Secretary ROSS. Thank you for that question, sir. The Census Bureau career professionals have a process for estimating the answer to the question. We this time will be using more extensive administrative records than have ever been used before, and we hope that that will be a very useful guide, both to getting to all the people, as many as we can, and to providing correct answers.

Mr. GIBBS. Okay. Also, does the Census Bureau or your department have—for example, on the American Communities Survey,

which we ask the citizenship question, is there data that says that non-Hispanics or Hispanics have a different ratio of answering the question? Is that on there?

Secretary ROSS. Yes. That is one of the statistical results of that American Communities Survey. I believe we referred to that in my decision memo of March 26, 2018, and that provides quite a bit of detail on the differences in response rates.

Mr. GIBBS. I understand that, but did you see an ethnic group like the Hispanics more likely not to answer the question than non-Hispanics, for example, because that question is on there?

Secretary ROSS. If memory serves, non—White—White non-Hispanics had the highest response rate, the lowest nonresponse rate. I believe that Black non-Hispanics had the highest nonresponse rate, and I believe that Hispanics had the second highest, but that's just by memory. I would really refer you to my March 26, 2018, decision memo because that will have the specific numbers in it.

Mr. GIBBS. Also, there was a bill sponsored in the last Congress by one of my colleagues, 4906, and it specifically would not ask a naturalization question, an immigration question, or a citizenship question, but it did allow for—to ask those questions on the American Communities service—Survey.

Secretary ROSS. The American Communities Survey has asked the exact same question routinely for quite a lot of years, and that's the exact set of questions that we've proposed to use would—has been exposed to over 30 million Americans over a period of time. That's a much more extensive set of tests than ever would have been done in a little sample test directly to prepare for an individual census.

Mr. GIBBS. Yes, but I guess my point, it's for my colleagues on the other side of the aisle there, you know, so advocating for not having the citizenship question on the regular census, but they don't have a problem having it on the community survey, American Communities Survey. So I don't quite understand the thought process on that one.

But I do believe that it's important that we do this. We ask a lot of questions on the census as, you know, race, nationality, income, and a lot of personal detailed questions. Obviously, can't—only used for statistical purposes in the aggregate, and it makes perfect sense we ought to know how many citizens are in this country as opposed—because you could still be in this country and not be a citizen, you can be a legal resident. We're not asking if you're illegal, and so we—I guess what I'm trying to say, legal and illegal, so, you know, it doesn't make any sense, but citizens.

So I see I'm out of time, but I appreciate you being here and moving forward in this. Thank you.

Chairman CUMMINGS. Thank you.

Mrs. LAWRENCE.

Secretary ROSS. The census does not ask about legal status. The census only asks the exact same question.

Chairman CUMMINGS. Mr. Secretary, Mr. Secretary, I want you to be a little louder. I swear to God, I can't hear you.

Secretary ROSS. Oh, I'm sorry, sir. I'm doing the best I can.

Chairman CUMMINGS. You have better ears than I do.

He wasn't finished.

Secretary ROSS. I'll repeat the answer.

Chairman CUMMINGS. Thank you.

Secretary ROSS. We do not ask about legal status in the ACS, nor do we ask about it, or do we propose to ask about it in the census question itself. We are asking the exact same question that the ACS asked to over 30 million Americans over a long period of years. So it is a very well tested question, and we are not deviating one word from it.

Mr. GIBBS. Thank you, Mr. Secretary.

Secretary ROSS. Thank you, Mr. Chairman.

Chairman CUMMINGS. Mrs. Lawrence.

Mrs. LAWRENCE. Secretary Ross, you are an accomplished man, Yale and Harvard educated, and my question is about the funding of the census, because I'm—based on your personal wealth, you know how to do a budget.

So the census funding per household has increased every decade. In the late 2017, the Census Bureau estimated that the cost of the 2020 Census would be more than \$100 per household. In its 2019 high risk report, the GAO found that the Census Bureau's ability to conduct a cost-effective census, quote, is at risk. Last year, the GAO found before the agency's cost estimates were, quote, not reliable.

I am concerned, Mr. Ross, and I would hope that you will be able to answer this question based on your personal knowledge, education, and ability to do budgets, that the President has and the Commerce Department has underestimated how much the 2020 Census will cost. You know, there's a saying, if you want to know what someone believes in and what they really care about, follow the money. The budget that has been presented does not reflect a budget that will give an accurate reading, as you have said you're committed to counting other people.

Is it or isn't it true that one reason costs are increasing is because the Nation's population is increasingly hard to count?

Secretary ROSS. A whole lot of questions in that, Representative. I will try to answer them as best I can. The way we came to the estimate of the funding that would be required was by using professional cost estimators brought in from outside and from within government. We had one group do a top down estimate, the other group do a bottoms up. We compared them. We spent huge amount of hours trying to get to the right answer.

We also introduced, at my insistence—

Mrs. LAWRENCE. Well, do you believe that the proposed budget for 2020—

Secretary ROSS. I'm sorry, I'm trying to answer your question.

Mrs. LAWRENCE [continuing]. will provide the \$7.2 billion for the Census Bureau, do you believe that the proposed budget is significant? Do you feel that as the Secretary, sir, that \$7.2 billion for the Bureau and based now that we're behind schedule, that that number is sufficient to achieve what you said your goal and your commitment to this country in counting every person in America?

Secretary ROSS. Well, first of all, you had referred in the earlier question that I was trying to answer to the findings of the GAO. I'm happy to report that just last week, the GAO put out a new

report that gave us credit for having improved the situation on all five of the categories with which they took exception in their earlier report, the one to which you referred, back in 2017.

As you know, back in the early part of 2017, it was essentially the process that had been used by the former group, not by me. As of now, GAO has said we've made improvements in all five categories.

Mrs. LAWRENCE. So, Mr. Ross, I'm not being rude, but for questions I only get five minutes.

The \$7.2 billion is less than what the prior administration requested and what Congress approved in 2010, the last time the Census Bureau needed to ramp up for a decennial census, and this is where the numbers don't add up. In fact, in late 2017, the Commerce Department estimated that the census cost for Fiscal Year 2020 will be about 7.4. Why is the President's budget, sir, below this request and this estimate?

Secretary ROSS. Well, I have no idea why the President's budget is below the request.

Mrs. LAWRENCE. Did you have any input in it?

Secretary ROSS. I did not.

Mrs. LAWRENCE. So you as the Secretary of Commerce had no input on what the numbers were presented for the census for the record?

Secretary ROSS. The President's budget is the President's budget. I'm not at liberty—

Mrs. LAWRENCE. So what is your budget, sir?

Secretary ROSS. I'm sorry. I believe that the total budget that we requested and that had been approved by the Congress is adequate to deal with the needs of the census. The President's budget request, I haven't really had a chance to review because I've been trying to get ready for this very hearing, but I will be testifying before both Appropriations Committees in about a week.

I would also point out to you that what we did was we forward-funded, with the permission of the Appropriations Committees, we pulled money into the recent past that would not have been spent until the future. I requested that because the more—the farther along we get, the quicker, the less risk there is of a big overrun. So I think in aggregate from start to finish, the life-cycle costs will be adequate to deal with the needs of the census this time.

Mrs. LAWRENCE. Mr. Ross, if we don't fund, we will not be able to count. I'm on Appropriations and I will be listening and watching.

Chairman CUMMINGS. Mr. Massie.

Mr. MASSIE. Mr. Secretary, I thank you for coming here today voluntarily and answering our questions on the census. I am convinced that just about everything's been asked, but not everybody has asked it yet. And I'm also convinced that you're going to do a great job on this census. We'll have probably the best understanding of the population in this United States I think we've ever had.

But the census is not the only constitutional function that we as Congress has entrusted to your department. You're entrusted also with administering patents. And I've been here six years, we've never had a Commerce Secretary come here, and we've never had



any oversight in the patent aspect of your job. So if you'll indulge me, I would like to ask a few questions about patents.

Secretary ROSS. Surely, sir.

Mr. MASSIE. So Article I Section 8 Clause 8 authorizes Congress, and this is what we've given to you to administer, to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries. And I think this is an undervalued function of the Department of Commerce.

Occasionally, you see people running for President and they say we should get rid of the Department of Commerce. And I think they forget that, No. 1, you're charged with doing the census, which is constitutional; and, No. 2, you're charged with administering patents.

Can you give us an update on sort of the status and your approach and strategy and where we are in terms of implementing the patent clause of the Constitution within your department?

Secretary ROSS. Yes, sir. I'm a great proponent of strong patents and strong enforcement of the patents, both in terms of within the U.S. and externally. I recently had the great pleasure to sign with the director of the patent office and with the President the 10 millionth patent issued by the United States of America. No other country has ever issued anything like 10 million patents. And interestingly, about half of those were within the last 20 years, because the rate of innovation in this country is growing at a very rapid pace, and it is a very good thing because that's a lot of what our future will depend upon.

So one of the important topics in the current discussions with the Chinese is enforcement of intellectual property rights. And when I came into office, I came to the conclusion that we needed a director of the patent office who was as committed as I am to strong enforcement of patent rights, and I believe that with Andrei Iancu we have achieved that and we will do very, very well in patent enforcement going forward.

I'm very proud of the work that the patent office has done, and I'm also very pleased that I had the opportunity to speak at the recent event where we renamed the patent auditorium for Clara Barton. She was the first woman to be working in an important capacity in the census department way back in 1841, and she later became much better known for being a wonderful nurse during the Civil War. But we were commemorating her overall, and especially we were commemorating her work in the patent office.

And so I am a very keen supporter of the patent office, and I'm happy informally or however to discuss with you whatever you would like regarding patents.

Mr. MASSIE. I'm glad to hear that the director that you've chosen supports strong patents, because patents have been the economic engine for this country since its formation, and the Founders recognized that, and that's why they put that in the Constitution. And I believe actually that that's a more important function of your department, and I hope we don't lose focus on that aspect of what the Department of Commerce does.

I do, in the remaining 30 seconds, want to ask if you could remind us how the patent office is funded, what the primary source of funding for the patent office is.

Secretary ROSS. The patent office is actually the Patent and Trademark Office, and it is funded by the fees paid by users. The funding requires appropriation by the Congress, but as I understand it, there's no Federal funding of the operations of either the trademark part or the patent part of the office. It is totally funded by civilians paying user fees.

Mr. MASSIE. What is not to like about the patent office?

Chairman CUMMINGS. The gentleman's time has expired.

Secretary ROSS. Mr. Chairman, we've been at this for over an hour. Would you indulge me in a brief break?

Chairman CUMMINGS. Okay. What do you consider brief? I just want to—the last one was—I just want to know how much time do you need, that's all.

Secretary ROSS. I'm sorry, I couldn't hear you, sir.

Chairman CUMMINGS. I said I just need to know how much time do you need?

Secretary ROSS. Oh, 10 minutes will be plenty.

Chairman CUMMINGS. We'll give you 15. All right.

Secretary ROSS. Oh, thank you, sir, for being generous.

Chairman CUMMINGS. Okay. Thank you very much, sir.

Secretary ROSS. Thank you, Mr. Chairman.

[Recess.]

Chairman CUMMINGS. I call the hearing back to order.

Mr. CONNOLLY.

Mr. Connolly?

Mr. CONNOLLY. Yes, sir.

Chairman CUMMINGS. I'm sorry, I'm calling on you.

Mr. CONNOLLY. Thank you, Mr. Chairman.

Welcome, Secretary Ross. Secretary Ross, on March 15 of 2018, you and I had a conference call with one of your aides to talk about the citizenship question. Might you recall that conversation at all?

I'm sorry, sir, I cannot hear you.

Secretary ROSS. I don't specifically recall.

Mr. CONNOLLY. Okay. Well, you and I had—actually had scheduled a call, and we had it, in which I conveyed my deep concern about the citizenship question and the consequences that could flow from it in terms of compliance with the census, extra enumerated costs, accuracy.

Had you already made up your mind by that date, by March 15, 2018, that you were going to have the citizenship question anyhow?

Secretary ROSS. On what date, sir?

Mr. CONNOLLY. This was March 15. You announced 11 days later that you were going to have the question. And I'm trying to understand whether you made a legitimate effort at getting feedback and tried to evaluate it or were you going through the motions of checking the box to be able to say, well, I talked to Members of Congress, I heard them out.

Secretary ROSS. No, sir. The process was as outlined in my March 26, 2018, memo. It was as complete and thorough a process as I know how to make it.

Mr. CONNOLLY. So when you and I talked on March 15, you had not yet finalized a decision. You were still factoring in outside opinions like mine?

Secretary ROSS. I did not finalize the decision until right around the 26th of March, yes, sir.

Mr. CONNOLLY. Well, that's good to know.

Mr. Secretary, section 141(f)(1) of the Census Act requires you to submit a report to Congress at least three years before the census that contains, and I quote, subjects proposed to be included and the types of information to be compiled in the census.

Did you resubmit a report under that section in March 2017?

Secretary ROSS. In March 2017, sir, if I recall correctly, the report was due at the very end of the month, and as of the end of the month, we had not, by a long shot, decided anything about the census.

Mr. CONNOLLY. But did you submit a report?

Secretary ROSS. Yes, we did. I did submit a report of the topics. That report was not required to state the individual questions. That report, as I understand it, was to report on the topics that were then under consideration for the 2020 Decennial Census.

Mr. CONNOLLY. So you're anticipating my question, and I'll accept that answer, that from your point of view, that reporting requirement did not require you, from your point of view, to give a heads-up about the fact that you were thinking about adding the citizenship question. That's your answer.

Secretary ROSS. My answer, sir, is I believe that that requirement was to discuss the topics that were to appear on the 2020 Census. As of that date, there was no decision to put anything like citizenship on.

Mr. CONNOLLY. All right. That's a report required by law, but there's another report required by law. Section 141(f)(3) of the Census Act allows the Secretary to modify the subjects of questions after the initial deadline for notifying Congress if the Secretary identifies, quote, new circumstances that require the modification.

Did you ever submit that statutory report to Congress under 141(f)(3)?

Secretary ROSS. Well, I can't cite the individual chapters, sir, because I'm not lawyer, but I have been advised by counsel that my reports fully complied with the statutory requirements.

Mr. CONNOLLY. Well, you might want to check with those lawyers because we have no record of your department or you submitting a report as required by law. That report says if there are new circumstances, and that's the only condition on which you make modifications, you've got to tell us about those new circumstances.

When you added the citizenship question, that should have triggered Section 141(f)(3), and yet I think to this day, we still don't have a report from you or the Commerce Department justifying a rather extreme modification in terms of its implications.

Secretary ROSS. I don't think, sir, that it's an extreme modification. This was restoring a question that had been asked many times—

Mr. CONNOLLY. Restoring a question, sir, that had not been in the census since 1950.

Secretary ROSS. The question, sir, had been asked in one form or another quite regularly, and we used the same language in the—proposed same language in 2020.

Mr. CONNOLLY. And I'll end with this. Apparently, nobody advised you, because you're downplaying this, this simple modification, been asked before. So nobody told you well, gee, Mr. Secretary, this could have real implications in terms of the cost and the accuracy of the census, and you might want to think about that?

Chairman CUMMINGS. The gentleman's time has expired.

Did you want to answer that?

Secretary ROSS. I didn't really hear the question, but let's move on.

Mr. CONNOLLY. I'm not surprised he doesn't want to answer, Mr. Chairman.

Chairman CUMMINGS.

Mr. GROTHMAN.

Mr. COMER.

Mr. COMER. Thank you, Mr. Chairman.

Mr. Secretary, over here. Mr. Secretary, I want to emphasize once again the citizenship question is not new. In fact, a citizenship question appeared on the census from 1820 to 1950. The citizenship question has been on the long form census or American Communities Survey, ACS, since 1970. It is ironic my Democrat colleagues don't object to the citizenship question being asked on the ACS.

A couple of other members on the other side have mentioned the ACS, and I just want to focus on this for a moment. In fact, last Congress, my colleague, Ms. Holmes Norton, introduced a bill to prohibit the citizenship question, but in the same bill, she actually exempted the American Communities Survey so the citizenship question could still be asked on the ACS. You all can look it up. It's H.R. 4906, the Ensuring Full Participation in the Census Act, from last Congress.

So if I'm understanding the position of my colleagues, it's okay to ask about the citizenship question on the ACS, but it's not okay to ask about citizenship on the decennial census. I think that's really interesting that my colleague, Mr. Clay, would mention and suggest that the citizenship question deterred participation in the census but not in the ACS. Are there no concerns from my colleagues about suppressing participation in the ACS?

So, Mr. Secretary, I have a question. Do Hispanics respond to the citizenship question on the ACS at the same rate as non-Hispanics?

Secretary ROSS. I believe, sir, that I had already answered that question. I refer to my March 26, 2018, decisionmaking memo, and that lists the relative participation rates. I believe that non-Hispanic blacks have the highest nonresponse rate. Hispanics have the next highest, and white non-Hispanics have the least deterioration in response rate.

Mr. COMER. So, Mr. Secretary, do you believe participation in the ACS has been reduced because the ACS asked about citizenship?

Secretary ROSS. I think the statistics speak for themselves, but the ACS is really not too comparable in many ways to the decennial census in that it is a survey of something like 2.64 percent of the population, whereas the decennial is to 100 percent.

Second, the ACS is strictly by mail. There's no internet response. There's no marketing movement toward encouraging people to participate, nor is there any NDFU, namely, nonresponse followup. So it's really, in many ways, not quite comparable to the environment within which the 2020 Decennial Census will be administered.

Mr. COMER. All right. The most troubling part about all this, the very startup by my colleagues on the other side of the aisle on the citizenship question actually has the consequences of suppressing participation. All people hear about is the citizenship question and they immediately think they should not throw their—well, they immediately think they should throw their census in the trash. This is the exact opposite message my colleagues should be sending to Americans.

In fact, my colleagues are creating a self-fulfilling prophecy with their rhetoric. Let's focus on the real oversight needs of the census: information technology—

Mrs. MALONEY. Will the gentleman yield? Point of information.

Mr. COMER [continuing]. cybersecurity—no, I will not. I would like to reserve my time. I'm asking the Secretary a question.

Let's focus on the real oversight needs of the census, information technology and cybersecurity, and stop this partisan attack on the census. The census is very important to determine the makeup of Congress, to determine Federal funding, and we need to have the participation of all Americans, and we need to have data that's been asked since the beginning of the formation of this country and get a head count of every American.

Thank you.

Chairman CUMMINGS. Thank you very much.

Mr. LYNCH.

Mr. LYNCH. Thank you, Mr. Chairman, for holding this hearing.

Let's take the gentleman up. Let's take him up on that. I was going to ask him questions about the census, but, Mr. Secretary, I do want to talk to you about the importance of compliance with congressional documents.

So this committee and several outside groups are doing an investigation regarding the transfer of sensitive technology to Saudi Arabia, sensitive nuclear technology to Saudi Arabia. Your office oversees the export of sensitive technology to foreign countries.

Now, we have information from several—from multiple whistleblowers that this program called Middle East Marshall Plan, which was originally initiated by Michael Flynn, the former National Security Advisor who pleaded guilty, and Jared Kushner, who is the special adviser to the President, also his son-in-law, and Thomas Barrack, who ran the inauguration committee for the President. As the—now, they have an obligation under the Atomic Energy Act to discuss this with you and with us.

May I ask you, have you had any conversations with Mr. Kushner or Mr. Barrack or former National Security Advisor Michael Flynn about the transfer of sensitive nuclear technology to Saudi Arabia?

Secretary ROSS. I believe, sir, that the conversations between myself and other administration officials, particularly White House officials, is confidential, and I'm not authorized to disclose it. Beyond which, I believe by agreement with Chairman Cummings, we

were not going to talk about technology transfers to Saudi Arabia in today's hearing.

Mr. LYNCH. I was just encouraged by my colleagues on the other side of the aisle to get into this information. I was invited by my colleague to talk about some other issues regarding national security and other matters. So I'm just following up on an invitation and trying to see if you'll be any more responsive to those issues.

Secretary ROSS. I don't know that—

Mr. LYNCH. So I'm not interested in—I understand the confidentiality aspect of that, but I'm just asking you if those conversations happened, if you have had meetings with those individuals regarding the transfer of sensitive technology to Saudi Arabia, that's all.

Secretary ROSS. Could you repeat the question, sir?

Mr. LYNCH. Sure. Have you had any conversations or your staff had any conversations with either Michael Flynn, Jared Kushner, or Tom Barrack, who are involved in trying to transfer nuclear technology to Saudi Arabia? Have you had those conversations with any of them?

Mr. JORDAN. Mr. Chairman?

Chairman CUMMINGS. The gentleman has the floor.

Mr. JORDAN. But, Mr. Chairman, this goes explicitly against what you sent in the letter to Mr. Ross. The scope of the committee's March 14 hearing will not include questions relating to the transfer of nuclear technology to Saudi Arabia. Again, you said this several times earlier, not my words, your words.

Mr. LYNCH. We were just invited by your side to ask him this question.

Mr. JORDAN. I'm just telling you—that's not what our side was talking about, obviously, and that's not what the chairman told the Secretary that the scope of the hearing was going to be focused on.

Chairman CUMMINGS. Mr. Lynch, the Secretary is right. We had an agreement. And you do not have to answer the question, but if you wanted to, it's fine, okay?

Now, Mr. Lynch, we will go back to you.

Mr. LYNCH. Would the Secretary like to answer that question?

Secretary ROSS. Thank you, Mr. Chairman.

My conversations with White House officials are confidential. I'm not authorized to disclose their content, nor to disclose the fact of any such conversation.

Mr. LYNCH. Okay. So let's talk about the requests for documents, then, just to the Commerce Department. I'm not asking any particulars; I'm just asking about the process here. So ourselves, this committee, as well as several public interest groups, have been asking for documents related to that subject, and we have received zero documents from the Commerce Department, your office. And do you understand the obligation to submit that information?

Secretary ROSS. As I understand it, sir, we have submitted some 8,700 documents, and with permission of the chairman, we will be—we are entitled to make some subsequent submissions. As to the details of what gets submitted, I will rely on advice of counsel.

Mr. LYNCH. So you're saying here under oath that you sent 8,000 pages, excuse me, in response to our request?

Secretary ROSS. I'm told by my staff—

Mr. LYNCH. Because on our end, we haven't received a single page, so maybe they were misdelivered. I'm just trying to figure that out.

Secretary ROSS. I'm told by my staff that we have submitted some 8,700 pages. I am also told by my staff that they are continuing to study the further document requests, and that we are permitted to submit additional documents post this hearing. And I am sure that they will responsibly deal with those requests.

Mr. LYNCH. Very good. Thank you.

Mr. Chairman, my time has expired.

Mr. MEADOWS. Mr. Chairman? Mr. Chairman, a point of clarification.

Chairman CUMMINGS. Yes.

Mr. MEADOWS. I think, and I don't want to speak for the gentleman where he was going with his questions and where the answer, I think there was a different answer to a different question, and I think he was talking about—

Mr. LYNCH. If we can straighten that out right now, that would be helpful.

Mr. MEADOWS. Well, because we're going to have to come back and straighten that out. I think he was talking about they've responded with 8,700 documents to the initial request. Your request I think was with regards to the nuclear Saudi Arabia, and I don't think his question was—I think you all were talking over each other.

Mr. LYNCH. For the record, I just want establish that we haven't received any documents with respect to the transfer of nuclear technology to Saudi Arabia. Just put that on the record, and I can understand if the gentleman was confused.

Thank you.

Chairman CUMMINGS. All right. Thank you.

Mr. GROTHMAN.

Mr. GROTHMAN. Thank you.

First of all, I'd like to apologize for you having to be here today. It kind of amazes me that anybody would think—over here—amazes me to think that anybody would think it's controversial to put this question on the annual survey.

I'll just make one other opinion. I notice on your plan survey you break down citizens between people born in the United States, people born abroad of U.S. citizens. You break things up, and you break up no, not a citizen into only one group, just not a citizen. And of course, there are many reasons why you might be in this country and not a citizen. You could be here on a work visa, could be here on a student visa, could be here illegally. And I guess I wish you would consider breaking the list down, because as a Congressman, I'd like to know the different reasons why you would be here and not be a citizen. But now I'll go on to the questions I had planned for you.

I've looked at a few examples of state driver's license applications, including some driver's license applications from states that would normally be considered Democrat states. I think I've given you some handouts of some of those, correct? And I want to show you an example. I think they have it here to put up, an example

from my home State of Wisconsin. It's right behind me. Good, good, good, good, good. I hope you can see that.

We have an example here from the District of Columbia. Okay. We have another form, an I9 form, which employees must complete as a condition of employment. Here we have there. United States condition of employment.

You can see, would you agree that in today's society asking someone if they're a citizen on a form is commonplace?

Secretary ROSS. I'm sorry, I didn't hear the question, sir.

Mr. GROTHMAN. Would you agree looking at these forms that it is commonplace in our society to ask people whether they are a citizen of our government?

Secretary ROSS. It seems so, sir. They're so far away, and my eyes are not so good enough, so I can't read all the questions, but it sounds like that's the case.

Mr. GROTHMAN. We're not making it up. All those forms have questions on there.

Secretary ROSS. Yes, sir. I would like to clarify for the record, in my response to Congressman Lynch, I was referring to the documents produced regarding census. I'm sorry if I might have misunderstood your question, sir.

Mr. GROTHMAN. Okay. I'll ask you—I'm not a big fan of the United Nations, but the United Nations itself has recommended, you know, finding out about citizenship of its occupants. Is that true? Are you aware of that?

Secretary ROSS. Yes. 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.

Mr. GROTHMAN. So I would assume that even citizens who come up here from Mexico, they maybe would be expecting to see a question like that on the form, right, or from Canada?

Secretary ROSS. Well, my understanding is that Mexico asks the citizenship question in some format or another.

Mr. GROTHMAN. Correct. I think we have some more slides of these, and I maybe won't even put them up. But I'm looking around, we even have a slide up here from Mongolia. Even Mongolia would ask a question like that. It would really have to be, I think, some really—a country which has a very tenuous relationship with its citizens that you wouldn't ask a question like this. Correct?

Secretary ROSS. All I know, sir, is that it had been routinely asked in the United States in one form or another for most of the last 120 years, and it is asked in other countries, some of which I described in my testimony before. And it is also recommended by the United Nations to be asked.

Mr. GROTHMAN. Okay. Thank you very much, and I'll just hope that when you leave here—

Mrs. MALONEY. Will the gentleman yield, my good friend from Wisconsin?

Mr. GROTHMAN. Since I'm such a good friend, yes, only for you.

Mr. MEADOWS. You shouldn't have been that good of a friend.



Mrs. MALONEY. Listen, there's been so much discussion about the history of the census. I ask unanimous consent to put this memo from the congressional Research Service on the history of the citizenship question, which clearly details that a question on citizenship has not been asked to the entire American population since 1950. And they do an outline and a detail of every—of every time that this question has been asked, in what form, on the long form and other areas.

Chairman CUMMINGS. Without objection, so ordered.

Mrs. MALONEY. Thank you.

Mr. MEADOWS. Mr. Chairman, I've got a unanimous consent request then with a CRS report as well that's germane.

Mrs. MALONEY. This is a CRS report.

Mr. MEADOWS. Well, I've got one that's dated actually—well, the chairman hasn't recognized me.

Chairman CUMMINGS. Thank you.

Mr. MEADOWS. I'm learning. It's hard, but I'm learning, Mr. Chairman.

Chairman CUMMINGS. You know, my mother used to say you teach people how to treat you.

Mr. MEADOWS.

Mr. MEADOWS. Thank you, Mr. Chairman.

I ask unanimous consent that we enter into the record the congressional Research report of March 8 that actually does outline everything. It says that all but the earliest census have included questions reflecting some national interest in citizenship, immigration, foreign birth, and foreign percentage. And I ask unanimous consent that it be entered into the record.

Chairman CUMMINGS. Without objection, so ordered.

Chairman CUMMINGS. Ms. Hill.

Ms. HILL. I'm going to ask unanimous consent as well. We earlier—I believe it was Mr. Meadows asked to enter an NPR article into the record, so I think we have a joint belief that NPR is a credible news source and not fake news. So this article is—it contradicts what my colleagues in the minority and what Mr. Ross have been saying all afternoon that citizenship has been a standard census question. NPR clarifies that this claim is inaccurate, incomplete, and misleading, and that a quick history of the decennial survey makes that clear. So I would like to enter that into the record.

Chairman CUMMINGS. Without objection, so ordered.

Ms. HILL. Okay. And two more points of quick clarification. The ACS only represents—or only surveys three percent of the population, so it's a very different comparison to when we're asking the entire population to fill out a survey, and that it's only in combination with the deportation policies and anti-immigrant rhetoric of this administration that we are so concerned about it suppressing participation.

Moving on. Secretary Ross, on March 20, 2018, you testified in front of the House Appropriations Subcommittee on Commerce, Justice, and Science. Can we please roll the clip?

[Video played.]

Ms. HILL. Mr. Ross, since your testimony, however, new evidence has come to light showing that a senior White House official did

contact you about the citizenship question. In fact, you since admitted this in a letter to our committee on December 21, 2018, writing, quote, Steven Bannon called in 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.

In spring of 2017, Mr. Bannon worked at the White House as chief strategist and senior counselor to President Trump. Is that correct?

Secretary ROSS. I'd like to refer back to the slide that you put up because I don't think—

Ms. HILL. Well, just please answer if he worked as the White House—at the White House as the chief strategist and senior counselor to President Trump.

Secretary ROSS. I'm sorry, would you repeat the question?

Ms. HILL. Did Mr. Bannon work at the White House as the chief strategist and senior counselor, was that the time you spoke with him?

Secretary ROSS. I believe that is correct.

Ms. HILL. What did you discuss with Mr. Bannon about the citizenship question?

Secretary ROSS. The extent of the discussion was he requested that I consider taking a phone call from an individual called Kris Kobach.

Ms. HILL. What did he say that—what did Mr. Bannon say he wanted you to speak about with Mr. Kobach?

Secretary ROSS. He said that Kobach had a question that he thought should be asked on the census.

Ms. HILL. Did Mr. Bannon support the addition of a citizenship question?

Secretary ROSS. That's the extent of the conversation as I remember it, is what I already testified to.

Ms. HILL. So he just hung up after that?

Secretary ROSS. The phone call was very brief, and its purpose, as far as I could tell, was simply to ask me if I would take a call from Kris Kobach, and I agreed to do so.

Ms. HILL. Did you have any other conversations with Mr. Bannon or anyone else at the White House about the citizenship question at any time?

Secretary ROSS. My conversations with others at the White House are confidential. I'm not authorized to disclose them, but I did provide in a supplemental memorandum a list of parties with whom I had conversations prior to the December 12, 2017, formal request from Department of Justice that we add the question, and the names that are on that are complete.

Ms. HILL. Did Mr. Bannon or Mr. Kobach or anyone else tell you the President's view on the citizenship question?

Secretary ROSS. I'm sorry, could you repeat the question? Someone was coughing.

Ms. HILL. Did Mr. Bannon or anyone else tell you the President's view on the citizenship question, including in your subsequent conversation with Mr. Kobach?

Secretary ROSS. Other than what I've already testified to in connection with the phone call from Mr. Bannon, any other communications I have had with people in the White House are confiden-

tial. I'm not authorized to disclose them, and that's been the long-standing policy of both Democratic and Republican administrations.

Ms. HILL. Well, okay. Then when you testified to Congress before Congress last year, you swore to tell the whole truth. So I'm just a little bit confused when you said you're not aware of any such conversations—any such conversations, but then you say that you were—it was confidential. How did these two work together?

Secretary ROSS. Mr. Chairman, may we please put up demo one?

These are excerpts from the videotape of that testimony that I gave. You can see in the upper left is the point in time when the Representative Meng put out the question—the document that had apparently been issued the day before without my knowledge or consent or anything else by the Republican National Committee.

You notice the two red stripes on it. The one on the lower left is approximately a few seconds later. I can't see that far away, but it looks like it's only a couple of seconds after she put it up. I'm reading it as I'm answering the question.

And as you look at the third slide, which was another couple of seconds later, that is when I was completing my testimony, and you can see from the red stripes, I was referring to the very same document. That is the document to which I was responding.

Chairman CUMMINGS. Were you finished?

Secretary ROSS. I'm finished, Chairman. Thank you for your indulgence in letting me put up the demo.

Chairman CUMMINGS. Thank you very much.

Mr. Cloud.

Mr. CLOUD. Thank you.

Mr. Secretary, I am to your left. Way left. Over here. Hello, sir. Thank you for being here.

Secretary ROSS. I'm sorry, I'm unfamiliar with the way seating works at these hearings.

Mr. CLOUD. Not a problem. Welcome to your fourth hour of testimony. The chairman has said that this was a new census question. It's been repeated a number of times that this isn't a new question. This question's been used before. As a matter of fact, the proposed question in the census is virtually identical to the one the Clinton Administration used in the 2000 long form census.

Now, that census is personally of note because that was the first census that my family had to fill out, and for me and my new bride, the citizen question was a notable one in that I was born here and am a citizen, and at the time she was not. Yet we didn't find that question offensive nor invasive. As a matter of fact, a number of the other questions on that census, the phone number, does this person speak a language other than English at home, how does this person know English—or how well does this person know English, what's the mental and emotional health, does this person have difficulty bathing or dressing, where did you work last week, how did you get to work, what time did you leave your house, how long was your commute? One filling out this census could feel like they're the subject of a song by Sting.

So the point is that this citizenship question is not really that invasive and was expected by my new immigrant wife coming into this country.

Back to the basics for a moment. We have a census because it's constitutionally mandated, right?

Secretary ROSS. I'm sorry, I couldn't hear the question.

Mr. CLOUD. We have a census because it's constitutionally mandated. That's correct?

Secretary ROSS. Yes. The Constitution mandates that once every 10 years we do a count of the population.

Mr. CLOUD. Does the Constitution require us to ask about age?

Secretary ROSS. No, sir.

Mr. CLOUD. Sex?

Secretary ROSS. About——

Mr. CLOUD. Sex?

Secretary ROSS. No, sir.

Mr. CLOUD. Relationship status?

Secretary ROSS. No, sir.

Mr. CLOUD. Race?

Secretary ROSS. No, sir.

Mr. CLOUD. Phone number?

Secretary ROSS. I don't believe they had phone numbers back in the Constitution time.

Mr. CLOUD. I think you're correct. Alexander Graham Bell was soon to be working on it.

But what is required to be asked?

Secretary ROSS. I believe the constitutional requirement is simply to count all people who are residents here as of the date of the census in the place where they reside.

Mr. CLOUD. Correct, for the purposes of apportionment.

If my colleagues are concerned that asking personal questions lead to an undercount and add cost, should the Bureau consider a census with only the one question required?

Secretary ROSS. It has been the longstanding practice to ask more than the one question. That is nothing new. The fact is the census asks fewer questions than the ACS. If I remember correctly, the ACS asks something like 45 questions, and the census, prior to this, had asked about 10 questions. So it's far more condensed than is the ACS.

Mr. CLOUD. And the information that's gathered is very helpful to policymaking. Is that why we ask those questions?

Secretary ROSS. I believe so. I don't know the exact history of how each of the questions came to be asked, but I do know that there are widespread use of all sorts of data that come from the census, both by the public sector and by private sector, individuals and businesses.

Mr. CLOUD. Okay. And there's been an argument that this question is unconstitutional, yet we've used it several times. Is that correct?

Secretary ROSS. What has been used several times?

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?

Secretary 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.

Mr. CLOUD. Well, thank you. Thank you, Mr. Secretary.

I yield my 10 seconds back.

Chairman CUMMINGS. Ms. Wasserman Schultz.

Ms. WASSERMAN SCHULTZ. Thank you, Mr. Chairman.

Before my time begins, I'd like to ask unanimous consent. I have three documents that I'd like to enter into the record, and I'd like to note that Secretary Ross, during this hearing, acknowledged that the American Communities Survey is not too comparable to the decennial census.

I have here the 2000 Census, Decennial Census form, which does not include a citizenship question.

Chairman CUMMINGS. Without objection, so ordered.

Ms. WASSERMAN SCHULTZ. Thank you. I have here the American Communities Survey from 2000, which went to approximately 3-1/2 million people and was used in only four test counties in the entire country.

Chairman CUMMINGS. Without objection, so ordered.

Ms. WASSERMAN SCHULTZ. That did have a citizenship question on it, but was not the decennial census. And I have here the long form question from 2000, which went to one in six people, which is also not the full decennial census, and that does include a citizenship question.

Chairman CUMMINGS. Without objection, so ordered.

Ms. WASSERMAN SCHULTZ. Thank you. The point being that there was not a citizenship question on the 2000 Census as has been referred to here multiple times. I appreciate that, Mr. Chairman.

Secretary Ross, I want to ask you about your conversations with Attorney General Jeff Sessions before DOJ requested a citizenship question in December 2017. On August 8, 2017, you wrote to Earl Comstock, a senior official at the Department of Commerce, and I'm quoting you here, you emailed: Were you on the call this morning about census? They seem dug in about—not sling, I assume you mean asking, 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.

Mr. Secretary, your note mentioned, the one that I just read aloud, mentioned a call that took place the morning of August 8. Do you recall who you were on a call with who seemed dug in from the census or outside the census about not asking the citizenship question?

Secretary ROSS. I don't have the document in front of me. Could you provide me with a copy of the document, please?

Ms. WASSERMAN SCHULTZ. It'd be my pleasure. This is an email from you where you said: Were you on the call this morning about census? They seemed dug in about not asking 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.

Is that a conversation you recall, and who is it that was dug in with whom you were on the phone with, and were they inside the census or outside the Census Bureau?

Secretary ROSS. I still haven't seen the document. Could you please have your staff provide me with a copy?

Ms. WASSERMAN SCHULTZ. Okay. Is it possible for staff to provide the emails that we're talking about? Okay.

Well, my time is clicking here, and I—you don't have a recollection of this conversation, Mr. Secretary?

Secretary ROSS. I'm trying to recall it, but it would help me a great deal if you could give me a copy.

Ms. WASSERMAN SCHULTZ. Okay. Well, I'd like my time not to expire while this transaction is occurring.

Secretary ROSS. If you would lend me your copy, I promise to give it right back.

Ms. WASSERMAN SCHULTZ. Oh, sure, I'm happy to do that. Can someone provide the Secretary? And if I can ask the chairman's indulgence of a few additional seconds so that I can account for the need to remind the Secretary of his own email and meeting.

Secretary ROSS. Thank you. As you can see from this document, it's filled with typographical errors—

Ms. WASSERMAN SCHULTZ. Well, it's an email from you, Mr. Secretary.

Secretary ROSS. I beg your pardon?

Ms. WASSERMAN SCHULTZ. It's an email from you.

Secretary ROSS. Yes. My email is filled with typographical errors. It says they seem dug in, clearly a typographical error.

Ms. WASSERMAN SCHULTZ. Right. I assume it's dug.

Secretary ROSS. About not sling the census—

Ms. WASSERMAN SCHULTZ. Asking? I'm assuming that you were saying, and you can confirm this for me, they seem dug in about not asking the citizenship question.

Secretary ROSS. Well, my point is it is quite obvious from the typos that this was a very hastily written email.

Ms. WASSERMAN SCHULTZ. Okay. I don't want to—

Secretary ROSS. I'm sorry, ma'am.

Ms. WASSERMAN SCHULTZ. Mr. Secretary, it was your email and your phone call. Who were you referring to that was dug in that morning on that call from the—and were they inside or outside the census, about not asking the citizenship question? That is clearly what you were asking, typos or not.

Secretary ROSS. I do not know the answer to your question as I sit here, ma'am.

Ms. WASSERMAN SCHULTZ. You are just continuing to stonewall. You don't know the answer? Is that because you don't remember the conversation on the phone? You don't remember sending your own email that is before your very eyes?

Secretary ROSS. This does not say that I had a phone conversation—

Ms. WASSERMAN SCHULTZ. Okay. It said: Were you on the call this morning about the census?

Secretary ROSS. No. I was asking—

Ms. WASSERMAN SCHULTZ. Anyway, I'm going to move on, but I would like you to answer that question for the record, please.

Secretary ROSS. Well, I was asking the question——

Ms. WASSERMAN SCHULTZ. Yes.

Secretary ROSS [continuing]. whether that other person was on the call.

Ms. WASSERMAN SCHULTZ. And did you get an answer?

Secretary ROSS. Would you please let me answer the question?

Ms. WASSERMAN SCHULTZ. If you would actually answer it, yes.

Secretary ROSS. I was asking the question whether the recipient of this email had been on the call.

If I was on the call I would have known who was on it. So pretty clearly, whatever call this is referring to, it does not appear I was even on it.

Ms. WASSERMAN SCHULTZ. Okay. Mr. Secretary, I'm going to move on, but I'd like the answer to that question about what you were referring—who you were referring to and what you were referring to for the record, please.

The note that I mentioned that I just read aloud took place the morning of August 8. Do you recall who you were on a call with who seemed dug in about not asking the citizenship question?

Secretary ROSS. I'm sorry, but I have to correct——

Ms. WASSERMAN SCHULTZ. You were on the phone. You were on the phone with an individual. Do you recall who you were on a call with or who your staff was on a call with that you were referring to who seemed dug in about not asking the citizenship question?

Secretary ROSS. This questions asks Earl Comstock, who was the recipient, whether he was on the call. It doesn't say that I was on it.

Ms. WASSERMAN SCHULTZ. Do you recall his—okay. Do you recall his answer?

Secretary ROSS. I don't recall being on any call.

Ms. WASSERMAN SCHULTZ. Did you call the Attorney General following that email in or around August 2017? And if so, would did you ask him to do?

Chairman CUMMINGS. The gentlelady's time has expired, but you may answer.

Secretary ROSS. I will answer. My conversations with the Attorney General are confidential and——

Ms. WASSERMAN SCHULTZ. I'm sorry. Are you claiming executive privilege, Mr. Secretary? Because your conversations with the Attorney General are not confidential. You are fully able to answer this question.

Chairman CUMMINGS. You may answer.

Secretary ROSS. That is not a question, so I have nothing more——

Ms. WASSERMAN SCHULTZ. It is a question. I am asking if you are claiming——

Chairman CUMMINGS. Mr. Jordan.

Ms. WASSERMAN SCHULTZ. Mr. Chairman, can you direct the Secretary to answer whether he is claiming executive privilege and refusing to answer my question as a result? Because he is fully able, as far as I understand the law, to answer that question.

Chairman CUMMINGS. Are you claiming executive privilege?

Secretary ROSS. I am not claiming executive privilege, sir, on this topic. But I am claiming, and I believe is a fact, I don't say that I was on the call with anyone.

Ms. WASSERMAN SCHULTZ. But, Mr. Chairman—

Secretary ROSS. That's what the original question was. I was asking someone else—

Ms. WASSERMAN SCHULTZ. Mr. Chairman, my question that I am referring to is, did you call the Attorney General following that email in or around August 2017? And if, so what did you ask him to do?

And the Secretary said his conversations with the Attorney General are confidential. But now he says he is not claiming executive privilege.

So if he is not claiming executive privilege, then he needs to answer that question, because that's what the purpose of this hearing is for.

Secretary ROSS. I have been told by counsel that I am not—appropriate for me to answer that question, and that answer is consistent—

Ms. WASSERMAN SCHULTZ. Mr. Chairman, can I ask you a question? Is not appropriate part of the rules here in terms of what the witness is required to answer when we are asking him a question? Unless he is claiming executive privilege, then I believe he has to answer the question.

Secretary ROSS. I believe the questioner's time is up, sir.

Chairman CUMMINGS. Were you finished? Were you finished?

Secretary ROSS. I believe the questioner's time is up. I have answered the question as best I can.

Chairman CUMMINGS. Very well.

Mr. JORDAN.

Mr. JORDAN. Thank you, Mr. Chair.

Here is the fundamental question. Why don't they want to know? Why don't the Democrats want to know how many citizens are in the United States of America? That is a fundamental question.

You go anywhere in this country, anywhere in this country, you go to Columbus, Ohio, Boston, Massachusetts, you go anywhere in this country, you walk up to someone on the street, and you say, "You know what, the Constitution requires us to do a census. Do you think we should find out how many citizens are in the country?" You know what that person is going to say? "Well, heck, yes. Aren't you doing that already?"

And you know what the answer to that question is? Yes. We have been doing it for 100 and some years, until now. The Democrats don't want to ask that fundamental question.

So the real question for the hearing today is, why don't they want to know? Everyone else in the country assumes it's already being done. It is already being done. You are going to do it the exact same way it's always been done. And they're asking about conversations.

Mr. Secretary, it's probably appropriate for a Cabinet secretary to talk to other important people in the government when you are making important decisions, right?

Secretary ROSS. Yes, sir.

Mr. JORDAN. Yes. It happens all the time.



Secretary ROSS. Yes, sir.

Mr. JORDAN. It's called governing.

Secretary ROSS. Yes, sir.

Mr. JORDAN. That's how this great system we live in works.

Now, the chairman said to ask this question is unconstitutional. It's been said 100 times. But just once again for the record, how many years have we asked the citizenship question on some form of the census?

Secretary ROSS. I believe it's been asked quite routinely for over 100—

Mr. JORDAN. Over 100 years. And again, every single—it's common sense. You talk to any American across this country. They say, "Of course. Of course you need to ask that question. Aren't you doing it already?" Yes. Over 100 years we've been doing it.

But you did the added thing. You said, you know what? I'm going to check with folks. I'm going to make sure we are doing it right, right?

Secretary ROSS. Yes, sir.

Mr. JORDAN. And you were explicitly told by not just any old agency, you were explicitly told by who? The Justice Department, right?

Secretary ROSS. Yes, sir.

Mr. JORDAN. They sent you a letter. What is the date on this? Secretary ROSS. December 12, 2017.

Mr. JORDAN. December 12, 2017, they send a letter to Dr. Ron Jarmin—who works for you, right, Mr. Secretary?

Secretary ROSS. Yes, sir.

Mr. JORDAN. Mr. Jarmin works for you. And this letter is from the Justice Department, Arthur Gary, General Counsel, Justice Management Division of the Justice Department. Is that right?

Secretary ROSS. That is correct, sir.

Mr. JORDAN. Let me just read from this letter sent by the Justice Department to the guy who runs the U.S. Census Bureau, who works for you, certified return receipt 70142120000080644964, the official letter. And here's what they said: The Department formally requests that the Census Bureau reinstate into the 2020 Census a question regarding citizenship. Is that right, Mr. Secretary?

Secretary ROSS. Yes, it is, sir, yes, sir.

Mr. JORDAN. And so that's why you put it on the census.

Secretary ROSS. That's what triggered our investigation into it. Yes, sir.

Mr. JORDAN. And, of course, you had conversations. You're getting ready for the—Mr. Meadows has had hearings after hearings, along with Mr. Connolly, how the Commerce Department is getting ready for the census, in the previous administration, in your administration. There are all kinds of conversations that take place. But you still wanted a formal request from the Justice Department before you proceeded, and that is exactly what they gave you.

Secretary ROSS. Yes, sir.

Mr. JORDAN. And there is nothing un constitutional about that whatsoever.

Secretary ROSS. Not to the best of my knowledge, sir.

Mr. JORDAN. No. This is common sense. It's common sense to ask the question. It's common sense to follow the procedures and proc-

ess that you followed. And here we are having a question. And guess what? The Democrats don't want to ask it.

So I am back to where I started. Why? Why? Why don't we want to know. That's the question we need answered, and not from you. Frankly, from them. Because you can go talk to anyone across this country and everyone would say, "Ask that question." The only people opposing it are Democrats in Washington, DC.

Democrats, Republicans, independents, libertarians, Green Party people, anyone across the country, You know what? They are saying, "Well, you ought to ask the question. I thought we did it all along." And the answer to that is we have been doing it all along. But now they want to change.

And that's the part that troubles me. And, frankly, when the American people see this, that's the part, I think, troubles them. That's the part that troubles them.

And you're just doing as best you can. And you have a formal directive from the Department of Justice saying, Put the question on the census. Imagine that. You went above and beyond what, frankly, I think you have to do. But that's how you did it.

Secretary ROSS. Yes, sir.

Mr. JORDAN. I got 25 seconds. I was fired up.

But I will yield the last 25 to my good friend from North Carolina.

Mr. MEADOWS. I thank the gentleman for yielding.

I would ask unanimous consent that this census form, which says Census of the United States from 2000, which actually is the long form from 2000 and declares and has a citizenship question on it, is it not part of the census, the long form, Mr. Secretary?

Secretary ROSS. Yes, sir.

Mr. MEADOWS. I ask unanimous consent that it be entered into the record.

Chairman CUMMINGS. Without objection.

Secretary ROSS. Mr. Chairman, we have been at this for about an hour. Would you indulge me in a brief break?

Chairman CUMMINGS. Yes, of course, sir.

Secretary ROSS. Thank you.

Chairman CUMMINGS. We'll recess.

Secretary ROSS. How much time, sir?

Chairman CUMMINGS. You tell me.

Secretary ROSS. Five or 10 minutes, sir.

Chairman CUMMINGS. I'll give you 15.

Secretary ROSS. Thank you, sir.

Chairman CUMMINGS. All right.

[Recess.]

Chairman CUMMINGS. We will resume.

Ms. Speier.

Secretary ROSS. Mr. Chairman, would you indulge me to make a very brief statement?

Chairman CUMMINGS. Sure.

Secretary ROSS. As you know, sir, we had told your staff that I had a hard stop at 3 o'clock. But I know you're anxious to conclude this hearing, and I have postponed that meeting so that we can complete the record today as best we can, sir.

Chairman CUMMINGS. Thank you very much. Thank you.

Ms. Speier.

Ms. SPEIER. Thank you, Mr. Chairman. And thank you, Mr. Ross, for accommodating us.

Let me start off by asking the question—is your general counsel—I am right here, sir. Over here. Over here.

Secretary ROSS. Oh, I'm sorry.

Ms. SPEIER. That's all right.

Is your general counsel here in the audience?

Secretary ROSS. Is my general counsel—

Ms. SPEIER. Is your general counsel here in the audience?

Secretary ROSS. My general counsel? I don't know if he's here. But Peter Davidson is the general counsel of the Department of Commerce. He is not here.

Ms. SPEIER. He is not here.

Do you have counsel represented here?

Secretary ROSS. There is counsel here, but my general counsel is not here, nor—excuse me, I'm not quite finished.

Ms. SPEIER. All right. So I was just hoping that what we could do, in order to comply with the request made by Mr. Raskin about the cases that he cited, we could ask the counsel who's representing you here to review those cases so we could determine today whether or not you are going to comply with the request for information. But I will move on.

I would, Mr. Chairman, like to provide for the record the document by Judge Furman, his decision in the Southern District of New York.

Chairman CUMMINGS. Without objection, so ordered.

Ms. SPEIER. Thank you.

Let me ask you this question. This particular decision points to a deposition by your then deputy chief of staff Earl Comstock. And Earl Comstock, in a deposition under oath, said that he first heard about the notion of adding a question about citizenship to this decennial census from the Secretary himself shortly after the confirmation.

Do you recall that?

Secretary ROSS. I don't recall his deposition. Do you have a copy of it, ma'am?

Ms. SPEIER. Well, I have the decision by the court, by the judge. Have you not read the decision by the judge when he found that you violated the APA?

Secretary ROSS. I believe you're referring to a document that was submitted as, I think you said, a deposition by Mr. Comstock.

Ms. SPEIER. But this is the decision by the judge in which he referenced what Mr. Comstock said.

Do you recall that you said to Mr. Comstock, shortly after your confirmation, that you wanted to add the question of citizenship to the census?

Secretary ROSS. I'd like to see—

Ms. SPEIER. All right. Let's move on.

Secretary ROSS [continuing]. the deposition because I do not recall—

Ms. SPEIER. You do not recall.

Secretary ROSS. If you would let me finish my answer, please.

I do not recall saying to Earl Comstock early in the administration—

Ms. SPEIER. All right. Thank you for that answer. I now would like to move on to your statement.

Secretary ROSS. I'm sorry—

Ms. SPEIER. On March 22, 2018, before the Committee on Ways and Means, you said the Department of Justice initiated the request for inclusion of the citizenship question. That's what you said then. And we now have Mr. Comstock's under-oath statement that you came to him shortly after your confirmation.

And while we've had a lot of discussion today about the census and whether or not to include the issue of immigration status, my issue here is that you can't lie to Congress. Michael Cohen lied to Congress, and he's going to prison.

You actually testified before the Ways and Means Committee, you've testified before this committee. And you've said in all of these circumstances it was the Department of Justice that initiated the request. Your own deputy chief of staff says you initiated it.

But let me go on. In your written statement before the committee, you say the Department of Commerce asked the Department of Justice whether it would have interest in obtaining more granular citizenship data.

So which is it? How did this process initiate? Did the DOJ initiate it, as you testified in Ways and Means, or was it the written— or as in your written testimony, did Commerce initiate it?

Secretary ROSS. First of all, I believe, ma'am, that you are mischaracterizing Earl Comstock's testimony. I am not aware that he testified that I told him that I had decided to add citizenship to the decennial census any time before the December 12 memo letter requesting it by the Department of Justice—

Ms. SPEIER. Except that in the same—

Secretary ROSS [continuing]. as a formal request.

Ms. SPEIER [continuing]. in the same decision by the court, he references an April 20 email from you in which you say, we must get our issues resolved before this. And on May 2, you say you're mystified why nothing has been done in response to your month-old request that we include the citizenship question. This is in the court's decision.

And with that, I yield back. My time is up.

Chairman CUMMINGS. Thank you very much.

Mr. Higgins.

Did you answer—

Secretary ROSS. I don't think there was a question there, sir.

Chairman CUMMINGS. All right.

Mr. Higgins.

Mr. HIGGINS. Mr. Chairman, I'd like to yield to Mr. Norman.

Chairman CUMMINGS. Mr. Norman.

Mr. NORMAN. Thank you, Mr. Higgins.

Secretary Ross, thank you for coming today. You've been great. You've been here going on, I guess, five hours. And I want to publicly thank Chairman Cummings for allowing the breaks that are well deserved for you to have.

And the other thing, Mr. Chairman, when you narrowed the scope, as you agreed to do on the questioning, we appreciate you doing that.

Secretary Ross, how many documents have you provided?

Secretary ROSS. How many documents have we filed with the committee?

Mr. NORMAN. Yes, sir.

Secretary ROSS. My understanding is it's around 8,700 individual documents.

Mr. NORMAN. So you tried, to the best of your knowledge, to give everything that this committee wanted. Were there anything—any other documents requested that are outstanding?

Secretary ROSS. There may well be. I would have to check with counsel on that.

Mr. NORMAN. But you've gone overboard to try to get this committee what they want so you can answer the questions to the best of your recollection.

Secretary ROSS. 8,700 documents. Quite a lot, sir.

Mr. NORMAN. Kind of a lot of trees that went down, isn't it?

Secretary ROSS. Yes, sir.

Mr. NORMAN. I guess as my good friend from Ohio, Congressman Jordan, said, this is really basic; is people looking in on this hearing, what's left, looking in, you know, do we have a right to know how many citizens there are in this country, is pretty basic. And as my legal colleagues were asking, why are they doing this with the Supreme Court hearing coming up, a Supreme Court case being considered. Why would they be bringing this up? Everything we're saying today is public knowledge.

Secretary ROSS. Well, the Supreme Court is going to rule on the fundamental question. As I believe I testified earlier, somewhere around the 21st of April is when I believe the oral arguments will be heard by the Supreme Court.

Mr. NORMAN. Do you agree the integrity of the census is fundamental to the integrity of the structure of this body?

Secretary ROSS. I'm sorry. I didn't hear it, sir.

Mr. NORMAN. Okay. Do you agree the integrity of an accurate census is—

Secretary ROSS. Yes, sir. I have worked very hard to try to achieve that. I outlined earlier I got over a \$3 billion increase in the budget toward that end. We've got a half a billion dollar marketing budget toward that end. I called a lot of Governors and other officials to get more complete count committees than they ever had. We have more partnership specialists than we ever had. We will have many more partnerships of trusted local institutions to encourage people to comply with the census requirement. We're doing everything we can to do the best job that we possibly can do.

Mr. NORMAN. And had you not taken the integrity of the census seriously, you would—definitely would not have asked for increased funding, would you?

Secretary ROSS. Well, no. If I wanted to not count everybody, the easiest thing would have been simply to accept the budget that had been prepared under the Obama Administration, and that would, in my view, have left the census severely underfunded and probably would have guaranteed a massive undercount.

Mr. NORMAN. And particularly, and where we sit in our seats in the House and Senate, this data is used to apportion the number of seats in this country, correct?

Secretary ROSS. As I understand it, it's used for apportionment of the House of Representative seats, yes, sir.

Mr. NORMAN. For over 150 years, this standard has been to count every person residing in the United States. And it is every person regardless of legal status, correct?

Secretary ROSS. That's correct, sir.

Mr. NORMAN. Well, I just want to thank you. I had other questions, but I don't want to beat a dead horse. I admire you for staying here and extending your time to answer each and every question.

And I yield the balance of my time to the Congressman from North Carolina, Mr. Meadows.

Mr. MEADOWS. I thank the gentleman from South Carolina.

Mr. Chairman, I would like to submit for the record a letter, actually, from the assistant attorney general under Bill Clinton, from January 27 of 2000, where he makes the same point that many of us have been making in his letter, actually, to the Honorable John Linder, the chairman of the Subcommittee on Rules and Organization of the House. But he said inquiries of this type create the risk that public and the courts will perceive undue political and congressional influence over the law enforcement and litigation decisions.

I ask unanimous consent that that be entered into the record.

Chairman CUMMINGS. Without objection.

Mr. MEADOWS. Thank you, Mr. Chairman.

I yield back.

Chairman CUMMINGS. Mr. Sarbanes.

Mr. SARBANES. Thank you, Mr. Chairman.

Secretary Ross, thank you for being here. I think that you and the Department are in a somewhat precarious position increasingly so, partly because of the substance of the decision with respect to the citizenship question, but even more so because of the process by which it was reached, and there's serious questions about that.

I want to get back to this idea that adding a citizenship question to the census was important for enforcing the Voting Rights Act, because I think that that was a rationale that was concocted by your department and then foisted upon the DOJ and others based on some other agenda that was underway.

And you've now been referred a couple of times to an exchange that you had on May 2 with Earl Comstock, who you certainly know, a senior official at Commerce, who emailed you in response to your request on the citizenship question, basically where you were saying, you know, what's going on with this? Why is time lagging?

And he wrote back to you, quote, we need to work with Justice to get them—I want to repeat that, 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, end quote.

Was Mr. Comstock saying that the Department of Commerce had done its own legal research to find court cases to justify DOJ's need for a citizenship question?

Secretary ROSS. I don't know the answer to that. That's Mr. Comstock's email. It's not my email.

Mr. SARBANES. It's not your email, you're right. It's a response to an email that you sent to him. But it certainly sounds, from the way he's phrasing it, we've got to get them to request that citizenship be added back.

So you're saying you can't get into his head. It's fairly clear from this what he was intending.

If DOJ really needed this data that he's talking about, wouldn't they have already done their own legal analysis and determined their own need independently?

Secretary ROSS. I'm not aware that they didn't make the determination nor that they didn't do it independently. What I do know is that on December 12, 2017, DOJ sent an official request that we include the citizenship question on the 2020 Decennial Census.

Mr. SARBANES. They did indeed do that, you're right. You've testified to that all day long. We're trying to get to how that came about.

Mr. Comstock testified at a deposition, again, this has been referred to, that in the spring of 2017, he came up with the decision on his own that the government needed detailed citizenship data from the decennial census.

Is it true that Mr. Comstock came up with the rationale that was being offered?

Secretary ROSS. I have no idea what you're talking about. I only know that in December 12, 2017, Department of Justice submitted a formal request saying that we should include the citizenship question in order to assist them with the more granular citizenship—

Mr. SARBANES. And we can all stipulate to the fact that they did do that. What we're trying to understand is what happened before that that led up to their submitting the request. And it appears from all of the documentary evidence that what led to that was a leaning on the Department of Justice or a making suggestions to the Department of Justice or directly inviting the Department of Justice to submit that request based on an agenda and a set of rationales that had been developed inside the Department of Commerce.

In the deposition, Mr. Comstock was asked: Who told you that the government needed, in the spring of 2017, more detailed information about citizenship than was contained in the American Communities Survey?

And he said: Nobody.

And the next question was: You came to that decision on your own. Is that right?

And he said: Correct.

So Mr. Comstock then also testified that he raised the idea with the Department of Justice in May 2017. He said that he spoke with James McHenry at the Department of Justice, and asked whether DOJ would, quote, be inclined to send a letter asking us to add the citizenship question.

I could go on, but the documents indicate that this idea of using the VRA as a rationale for putting the citizenship question originated inside, at the very least, the Department of Commerce, if not from other parts of the administration. And that's the process that we have serious, serious questions about.

And I yield back my time.

Chairman CUMMINGS. Very well.

Mr. Higgins.

Secretary ROSS. Is there a question in that, sir?

Chairman CUMMINGS. Did you want to say something, Secretary?

Secretary ROSS. Yes. I was simply going to say, anybody who's followed recent events knows that Attorney General Sessions was not someone I or anyone else could bully into any decision. Jeff Sessions is very much his own person. And the official document from the Department of Justice reflects their view.

Chairman CUMMINGS. And you're saying that—let me understand. You're saying that Sessions was concerned about voting rights?

Secretary ROSS. I'm sorry, sir?

Chairman CUMMINGS. Are you saying he was concerned about voting rights?

Secretary ROSS. Yes. The Department of Justice sent the document saying that they wanted the citizenship question added in order to help them enforce the Voting Rights Act.

Chairman CUMMINGS. Thank you very much.

Mr. Higgins.

Secretary ROSS. Any conversations I had with Attorney General Sessions are confidential, as I've described before.

Chairman CUMMINGS. Mr. Higgins.

Mr. HIGGINS. Thank you, Mr. Chairman.

Secretary Ross, thank you for being here today. You have been strong and courageous, good sir. A testament to your department and to your generation.

The word "compliance" has been used by my colleagues across the aisle several times today. I will suggest that perhaps my colleagues across the aisle should consider compliance with the advice of the Supreme Court of the United States, because despite clear instructions from the Supreme Court that deposition and sworn testimony of you, Secretary Ross, should be stayed because of the pending case before the Supreme Court could be injured, here we sit in an open and public hearing where you're presenting sworn testimony.

During his opening remarks, the chairman referred extensively to specifics from the very case that is pending before the Supreme Court. And I say again that by allowing Secretary Ross to testify under oath before a congressional committee where the rules of evidence and civil procedure do not apply, the majority is allowing a prolonged and probative inquiry into a question that is at the center of the Supreme Court case, that being the citizenship question.

The citizenship question has remained on every U.S. Census in one form or another since the very first census in these United States. In 1950 was the last census conducted person-to-person, household-to-household. This is why historically there was a change since then.



I believe the real question should regard why was the question removed. And we've used the word "add." Add the citizenship question to the census. The real word should be "restore." We're restoring deeper accuracy to the census of these United States.

I ask you, Mr. Secretary, was your understanding as you communicated with various members, as has been pointed out by Congressman Jordan, is quite normal for ranking members of the executive to communicate freely and openly with each other to share ideas. Was it your understanding as you sought clarification from the Department of Justice regarding adding this question, was your intent to have a clear, legal clarification from the DOJ, despite the fact that the question of citizenship may have been spoken of in various forms, including in this body, prior to that ruling from the DOJ?

Secretary ROSS. I was interested to know whether DOJ would make a formal request or not. And that was the subject which I was trying to get an answer to. My actual conversations with members of the DOJ are confidential and are subject to the constraints that I described before.

The reasons for adding the question are those that were contained in the March 26, 2018 decision—

Mr. HIGGINS. Yes, sir, which I have reviewed and you have supported with your testimony today.

This question has been referred to as unconstitutional. May I say it was not unconstitutional under President Clinton, and there's been no constitutional amendment since President Clinton was in office. And I suggest to my colleagues that if you intend to make this question unconstitutional, then by all means, introduce an amendment to our Constitution and let us follow that process, see what happens.

And let me refer finally that voting rights have been referred to here. We all know, America watching knows, that this is at the center. It is a right of an American citizen to vote, not otherwise. But there's been talk of extending this privilege, this right, earned by the blood of patriots past to extend this privilege to others that live within our country. I refer to the opening words of the 15th and 19th Amendment: The right of citizens of the United States to vote shall not be denied nor abridged.

Are you familiar with those words, Mr. Secretary: The right of citizens of the United States to vote shall not be denied or abridged?

I shall take that as a yes.

Mr. Chairman, I yield back.

Chairman CUMMINGS. Mrs. Maloney.

Mrs. MALONEY. Thank you, Mr. Chairman.

Secretary Ross, I'd like to ask you about your decision to include the citizenship question.

On January 26, 2018, six former census directors, four Democrats and two Republicans, wrote you saying, and I quote, We believe that adding a citizenship question to the 2020 Census will considerably increase the risk to the 2020 enumeration, end quote.

Secretary Ross, did you read the letter from the six former census directors before you decided to add the citizenship question? Yes or no. And I request permission to place it in the record.

Secretary ROSS. I did read the letter. And my testimony——

Mrs. MALONEY. So you did. Yes.

Okay. On January 19——

Secretary ROSS. I'm sorry, Congresswoman, I'm not finished with my answer.

Mrs. MALONEY. I wanted a yes-or-no question.

On January 19, 2018, the Census Bureau's chief scientist, Dr. Abowd, sent you a memo describing the Bureau's technical review on the impact of a citizenship question, and he recommended against adding the question saying it would be, quote, very costly. Harms the quality of the census count, end quote.

Did you read the analysis from Dr. Abowd, which I would place in the record? Yes or no.

Secretary ROSS. Dr. Abowd also——

Mrs. MALONEY. Did you read it? Yes or no.

Did you read it? Yes or no.

Did you read it?

Secretary ROSS. I'm sorry, Congresswoman, not all questions can be answered yes or no.

Dr. Abowd also gave sworn testimony——

Mrs. MALONEY. Okay. Listen, I wanted an answer to that. I take it as a no.

Mr. Secretary, on March 1, Dr. Abowd sent you another memo where he again recommended that you not add a citizenship question saying, quote, it would result in poor quality citizenship data than administrative records, end quote.

Did you read his second analysis from Dr. Abowd? Yes or no.

Secretary ROSS. All the——

Mrs. MALONEY. Well, you're not prepared. You have to say yes or no.

Secretary Ross, is it fair to say that the Census Bureau's technical experts, the scientists, the experts, the professionals, did not agree with your proposal for adding the citizenship question? Yes or no.

Secretary ROSS. As Dr. Abowd said——

Mrs. MALONEY. They have said uniformly that they thought it was a very bad idea.

Mr. MEADOWS. Mr. Chairman?

Mrs. MALONEY. Disagreed with your decision.

On August 20, which was after you decided to add the question, Dr. Ron Jarmin——

Mr. Meadows. Mr. Chairman, the witness has been cooperating. He's been—he's been——

Mrs. MALONEY. Excuse me, Mr. Meadows, I asked for—okay.

Mr. MEADOWS. Yes, sir, you do.

Mr. Chairman, he's been interrupted over 33 times. I mean, if we're going to ask questions, let him answer. And with all due respect, you know, he's been cooperating.

I yield back. I thank the gentleman.

Chairman CUMMINGS. Let me say this.

Thank you very much.

I try to not interfere with people's questioning, because I just—I try not to. But if you need—and at the end, if there's something

that you need to answer, sir, I will allow you at the end to do that. But I understand. Okay?

Mrs. MALONEY. Thank you.

Secretary ROSS. Thank you very much, Mr. Chairman, for your courtesy.

Chairman CUMMINGS. I don't want to be policing everybody's questions, because that doesn't get us too far.

Secretary ROSS. Thank you very much, Mr. Chairman. I'm doing the best I can.

Chairman CUMMINGS. I will put one minute on your time.

Mrs. MALONEY. Okay. Thank you.

Chairman CUMMINGS. All right.

Mrs. MALONEY. Okay. Secretary Ross, two Federal judges ruled that you broke the Federal law and have ordered that the question, the citizenship question, be removed. Judge Furman of the Southern District of New York called your decision, quote, arbitrary and capricious and a veritable smorgasbord of clear-cut administrative procedure act violations, end quote.

Judge Seeborg agreed in calling for the question to be removed.

So let's go over this. Six former census directors, bipartisan, four Democrats and two Republicans, the Census Bureau's chief scientist, and other professionals, the acting director of the Census Bureau, and two Federal judges have all said that the citizenship question will lead to an undercount and an inaccurate census.

So do you mean to tell us that all these professionals are wrong and you're right? Is that really what you're telling us? Every professional at the Census Bureau, not political appointees, professionals said this will lead to an undercount, thereby undermining our representation and our democracy.

And I want to say very, very clearly that this decision of Judge Furman everyone should read. He clearly points out with facts that you entered the building with a clear political agenda that would undermine our democracy by adding the citizenship question. He points out that you talked to people in the White House, Bannon, Sessions, and others. That you shopped for different agencies to ask the question. That the Department of Justice asked the question saying it was dependent on voting rights. But he says it's not, that it doesn't prove that. He says that a political appointee, AAA Gore goes—he wrote the question and then had a career at Justice sign it, and that it went forward.

And I just want to close by saying that the census is one of the most important parts of our democracy, and that's why we are so concerned about it. And we know that every professional is saying that this will lead to an undercount. And if you don't count everyone, then you're not represented, and the distribution of over \$650 billion will not be fair.

And under the Clinton Administration, my good friend on the other side of the aisle was inaccurate when they said they asked that question. They did not. The citizenship question has not been asked since 1950. It is on the long form survey but not on the short form that we are encouraging everyone to fill out.

And so, again, if you care about democracy, I would suggest that everyone read Judge Furman's decision where he clearly and factually points out that this was contrary to all of the advice of all the

professionals, Republican and Democratic, census directors, who all advised against adding this question.

Chairman CUMMINGS. Mr. Roy.

Mr. ROY. Thank you, Mr. Chairman.

Secretary Ross, thanks for being here. Thanks for your patience being here for a long time this afternoon. Really appreciate it and appreciate your service to our Nation.

I'm interested by the phrase "if you care about democracy." In our country, I'm pretty sure that it's citizens who vote. Is that not right, Mr. Secretary?

Secretary ROSS. Yes, sir.

Mr. ROY. Why are we here? We're here because my colleagues on the other side of the aisle simply do not want to know who is a citizen and who is not. It is unfathomable. This is just the basics. Here we are again in a long hearing, all afternoon, questions over and over again. Seems to be a lot of focus on history. I love history.

It's been asked since 1820 through 1950, the question about citizenship on the census. On the ACS since 1970. There's rocket science here.

But to be clear, even to the graduate of Mr. Jefferson's university, I don't think the question should be asked because the President, the former President, suggested in 1800 that it be added, and then in 1820, a question asking about foreigners not naturalized in the household was added 200 years ago.

Even if this question had never been asked, ever, I would want it to be asked. Even if through all of the questions there's some alleged nefarious purpose today, I want the question to be asked. I just want to know. As a Member of Congress, I'd like to know how many citizens we have in the United States of America. And I'd like to know who's here who is not a citizen.

Mrs. MALONEY. Will the gentleman yield, please?

Mr. ROY. No, ma'am. I've got to finish my questioning. Thank you, though.

Now, look, I admit it. You caught me. I do, I want to know. Unlike my Democratic colleagues, I'd like to know, and I think the people of Texas would like to know. My Democratic colleagues, in a recent Budget Committee hearing, fell all over themselves trying to find more debt and more of other people's money to spend on another Federal program. We heard it. There aren't enough billions of dollars to dole out. And to dole out all that free money from the magic money trees, we at least need to know how to dole it out and to whom we're going to dole it.

My colleague from West Virginia very appropriately outlined numerous reasons why we want to know this information. Medicaid, SNAP, Medicare part D, Highway funding, Pell grants. She detailed 132 programs and \$650 billion worth of spending tied to information based on census data.

Secretary Ross, this is true, right, that citizenship and the census data is used by Federal agencies and Congress in myriad ways? Is that right, Mr. Secretary?

Secretary ROSS. Yes, sir.

Mr. ROY. In addition, states require citizenship information to know where to place ballot boxes. I mean, surely my colleagues on

the other side of the aisle would not suggest that noncitizens should vote.

Mr. Secretary, it is true, right, that states need to have good citizenship information to make good decisions about administering the basic right of citizenship to vote? Is that right, Mr. Secretary?

Secretary ROSS. Yes, sir.

Mr. ROY. This is the basic stuff of a sovereign Nation. It really is. It's just basic. The American people are watching dumbfounded. We're sitting under a sign, e pluribus unum; out of many, one, right here in this room.

Many make this about immigration. But in understanding of our history, we know it is about 13 colonies coming together. One Nation, a Nation that builds around a Nation of shared ideals. A Nation built around the notion of our commitment to life, liberty, and the pursuit of happiness; around the notion of our commitment to inalienable rights. Not a Nation built on race, color, national origin, or creed, but about being an American.

I cannot understand at what universe our leaders would not want to know who's a citizen and who's not.

In an article in CNN, a young man, Stephen Park, an immigrant with a green card, he said: That wasn't enough for me. He decided, I believe strongly in the Constitution of this country, and just having the right to work here wasn't enough. I wanted the right to vote. And I wanted the right to call myself an American. No other country gives you the right to pursue happiness, and that is the right that I have grabbed firmly with both hands. A lot of people complain about this country, but try living elsewhere without all the rights that you take for granted. In some ways, we immigrants are the lucky ones. We see more clearly the opportunities that this great Nation affords all of its people. Amen.

In 1994, President Clinton appointed retired Representative Barbara Jordan as the chairman of the Commission on Immigration Reform. When I hop on a plane in a little bit—thank goodness it's not a Max 8, this afternoon, I'll just say that. I'm heading to Austin, Texas, and I'm going to go to the Barbara Jordan terminal in Austin.

In the interim report of the U.S. immigration policy: restoring credibility, the goal of immigration policy was summarized in these words: The credibility of immigration policy can be measured by a simple yardstick. People who should get in do get in. People who should not get in are kept out. And people who are judged deportable are required to leave.

She then went through and the Commission went through and outlined a lot of policies, all of which would be seen like a three-headed monster today by my colleagues on the other side of the aisle.

We are here for one simple reason: The commonsense question of asking citizenship on the census. The American people are watching.

Thank you, Mr. Secretary.

Chairman CUMMINGS. Let me say this, I've listened very carefully. I've listened. And I want us to be very careful, all of us. I think every single person in this House and on both sides want an

accurate count. If you don't want an accurate count, raise your hands.

Everybody wants an accurate account. So we may differ on how we look at things, but I don't want for one second, and I will defend this side and your side about an accurate count. It is to all of our advantage to have our folks counted because it affects every single one of us.

Mr. Khanna.

Mr. KHANNA. Thank you, Mr. Chairman.

Thank you Mr. Secretary, for being here and your service. I was a deputy assistant secretary at Commerce far lower in the totem pole, so I know how hard your job is.

At its core, it seems to me the American people have hired you to increase our exports and reduce our imports. Last week, your Commerce Department said that the United States posted an \$891 billion trade deficit for 2018, the largest in our 243-year history.

Now, I don't want to score political points, and I hope you'll answer this honestly. You had a very successful career in the private sector. Harvard MBA, success with Rothschild and Sons. I don't question your patriotism. I don't question that you're working really hard and trying. But if you were to use the same standard that you judge people in the private sector, would you say that your record so far has been a success?

Secretary ROSS. I believe I have done the best that I possibly can do. I will continue to do the best that I possibly can do to benefit the American people. I have never done anything to advantage me at the expense of the American people, and I don't intend to do so.

Mr. KHANNA. I don't question your sincerity or your patriotism, sir. I do question—you know Gary Cohn said, and I don't agree with all of Gary Cohn's policies, but I have respect for him. He was one of the loudest voices against anti-Semitism. And he said one of the reasons things don't seem to be working is the process. And without divulging any confidential information, Gary Cohn says he respects you. But he says that what was happening is the steel aluminum executives were being taken into the Oval Office. The chief of staff wasn't being consulted, the legal advisors weren't being consulted, and tariffs were being announced.

Do you agree with his characterization? Don't tell me any of the conversations, just about the process.

Secretary ROSS. Well, I'm not familiar with his remarks. But in any event, conversations that I had with him while he was in the White House, conversations I've had with the President, conversations with staff like that are confidential and I'm not authorized to disclose.

Mr. KHANNA. And I wouldn't ask you to disclose that. But do you think that the process could have been better, that there were cases of people being taken into the Oval Office for industry CEOs, having calls with them, without any process and without consultation of the appropriate people?

Secretary ROSS. I believe that any meetings that I've helped organize had proper consultation. I'm not familiar with the theory that Mr. Cohn has, so—

Mr. KHANNA. If I could just read it to you. He says—it was just today, actually. They were going to use a direct connection to the

President to set up a meeting and call in CEOs of aluminum companies and steel companies to announce steel tariffs and aluminum tariffs without there being a process and a procedure to set up the meeting, without the chief of staff knowing there was a meeting, without the Office of Legal Counsel having a written executive order or a memo or anything to sign, and they created the meeting without anyone knowing it.

Secretary ROSS. I would suggest that if Mr. Cohn has those views, he has those views. I'm not familiar with them. But anybody who thinks he could have a secret meeting with the whole steel industry, the whole aluminum industry in the White House and nobody know about it is a little silly.

Mr. KHANNA. The only reason I bring the process, because it comes back to some of the census issues.

Are you familiar with Dr. Jarmin, the acting director of the Census Bureau?

Secretary ROSS. I'm sorry?

Mr. KHANNA. Dr. Jarmin? He's the acting—

Secretary ROSS. Oh, yes. Ron Jarmin.

Mr. KHANNA. And apparently, he wanted to meet with people at the Justice Department, career officials, and that meeting never took place. John Gore told us the reason it didn't take place is the Attorney General didn't want it to place. Is that true?

Secretary ROSS. That's what I have been told. I have no direct knowledge that that is true.

Mr. KHANNA. So putting aside the issue of whether they should ask the question of citizenship—obviously, I think that's ridiculous and they shouldn't. But putting that aside and the deeply divisions we have on this committee, do you have some regrets at least that the process wasn't properly followed in how the decisions were made, that perhaps the career staff should have been allowed to consult with career staff at Justice? And are they—I mean, you're not admitting to any crime here. You just have—in an introspective moment think that maybe the process could have been better.

Secretary ROSS. I did not raise any objection to the career staff meeting with anyone. If Justice refused to do so, which I gather from you they did, you ought to ask Justice what was their reasoning, not me.

Mr. KHANNA. Thank you for your testimony.

Chairman CUMMINGS. Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman, Ranking Member Jordan.

Mr. Chairman, before I start my comments, I'd like to propose a question to the ranking member or yourself. This morning, Congressman Higgins made a motion to adjourn because members of the Supreme Court have said that further testimony on this issue could bias pending cases. That motion failed and was followed by a question from a Democrat member asking if Republican leadership—during the Republican leadership, their party, your party, ever asked to adjourn to keep a witness from testifying, to which, of course, the answer was no.

My question is to the ranking member. Did Republicans ever call a witness whom the Supreme Court had asked that testimony not be given because it would interfere with a pending case?

Chairman CUMMINGS. Go ahead.

Mr. JORDAN. No.

Mr. GREEN. No. Of course not.

Here we are spending this committee's time looking into the question of whether or not citizenship should be added to the census; something we have done many times before, something the United Nations suggests. Something nearly all nations do, and something that exists on multiple different U.S. forms and state forms.

Meanwhile, real issues are left unaddressed. For example, last year, the United States Army and the United States Marine Corps saw a significant increase in the suicide rate of Active Duty soldiers and Marines. Let that sink in. We could be looking into why there's a significant increase in the suicide rate of Active Duty Army and Marine forces. And instead, we're looking into whether or not to include citizenship on the census form.

This is an egregious waste of the committee's time. And more importantly, we will never get this oversight time back. They call that opportunity cost, I believe, in the business world. And we wait to uncover the truth about Active Duty soldier deaths to suicide.

There are numerous problems throughout our government. And it certainly seems to me there are far more important questions the Oversight and Reform Committee could be asking. And it begs the question, if the committee is willing to focus on the citizenship question on a census form, Mr. Chairman, would you be willing to commit to holding a hearing on the alarming increase in the suicide rate of our Active Duty soldiers?

Chairman CUMMINGS. We are dealing with that in the subcommittee.

Mr. GREEN. Wonderful. Thank you.

Chairman CUMMINGS. And I'm going to give you some extra time. Let me be abundantly clear. We got a lot of issues. A lot.

Mr. GREEN. Yes, sir.

Chairman CUMMINGS. And I don't waste time. You will—let me finish.

Mr. GREEN. Yes, sir.

Chairman CUMMINGS. I refuse to waste the time of you or this committee. All right? I spent six months laying in a hospital bed thinking about my death and my life. So I get it. We have a limited amount of time on this Earth. I got that. Okay? So I'm not going to waste your time. I promise you. You don't have to go there with me. All right?

Mr. GREEN. Thank you, Mr. Chairman.

Chairman CUMMINGS. By the way, as far as the census is concerned, we will do all those other things you talked about, making sure that the money is right, all that other stuff. But right now, I'm just trying to make sure that a critical issue, the citizenship question is addressed. That's all. All right?

Mr. GREEN. Thank you, Mr. Chairman. I too had cancer and have been where you were. And I appreciate you making that statement.

I do want to mention too, though, that in previous committees, we had Michael Cohen come here before. Mr. Secretary, let me ask this question of you. Were you coached by anybody on our side be-



fore you came to the committee today? Did anybody coach you on how to answer anything?

Secretary ROSS. What do you mean by our side, sir?

Mr. GREEN. The Republicans, sir.

Secretary ROSS. Oh, Republicans on the committee? No.

Mr. GREEN. No. I wouldn't think so. But, of course, Michael Cohen was coached for 10 hours by Democrats to prepare for his Intelligence Committee hearing. But you didn't get that kind of preparation.

Mr. Secretary, have you ever lied before Congress?

Secretary ROSS. No, sir.

Mr. GREEN. You haven't. But apparently, Mr. Cohen has, and he was made a priority here with our Oversight Committee time.

Let me ask some questions that I think are really important to ask you, particularly as it relates to cybersecurity and the census. I know we're doing some stuff online. And I'm intrigued—I know the American people would love to know the steps and measures that have been taken to ensure the protectedness of that online system.

Secretary ROSS. Yes, sir. First of all, the use of internet as a response format is voluntary. Nobody has to respond by the internet. We added the internet as a response mode as a convenience to those people who find that an attractive way to do it and also as a means of holding down the cost. Every internet response we get is a less expensive response than one on paper.

As to what we're doing, census department has visited and consulted extensively with other parts of the government that are expert in cybersecurity. They have also consulted with private sector experts and, indeed, had a session with some private sector experts, I think there might even have been a public session, listening to their comments on what was being done.

I'm not a cyber expert, but fundamentally, what they're doing, the data received are encrypted from the moment they come in, while they're in transit, and while they're at rest. We believe it is the most thoroughgoing cybersecurity practice that we have been informed about. We are trying very, very hard to make this very, very difficult to break into.

We've gone to another step called differential privacy. And what that consists of is the following: In today's world with so much information on individual citizens being available through the social media, through the various organizations, we were worried that people might be able to reverse engineer the data, the aggregated data that we provided. So they have developed a system which they presented to I believe it was the American Statistical Association explaining how they were going to add what they call noise so that it would not contradict the accuracy of the ultimate material but would make it essentially impossible for people to reverse engineer and get at individual data.

Those are some of the extents to which we have gone to try to protect the data of each individual. Every census employee who has access to the data has taken a lifetime oath not to reveal individual data. And to do so would expose a person to a jail sentence and a substantial fine.

So we are doing the very best that we can. And I'm very proud of the extreme efforts that we have taken to try to make the—not just the internet responses, but the phone responses, the paper responses, and the nonresponse followup responses, we are doing the very best we can to make those as confidential as is humanly possible.

Mr. GREEN. Mr. Chairman, could I submit—I know my time is up. Could I submit some written questions on the cybersecurity issue and have them entered into the record later?

Chairman CUMMINGS. Of course.

Mr. GREEN. Thank you, Mr. Chairman.

Chairman CUMMINGS. Very well. And to Mr. Green, let me say this, the issue of military suicides is something that I am very sensitive to. Early on in my career, one of my first early fellows' husband killed himself. I mean, he committed suicide. He was in the military. She was in the military, too.

And, Mr. Lynch, we got a request from you and Mr. Hice I think it is, and Mr. Lynch has assured me that this is something that he's very interested in. I promise you, we'll work with you. Because I agree with you, it is a very important issue. And thank you for bringing it to our attention.

Mr. GOMEZ.

Secretary ROSS. Mr. Chairman, before Mr. Gomez, may I request a short break? We've been at this for another hour, and I could really use—

Chairman CUMMINGS. Yes, of course. And we'll take a break, and then we're not going to be that long. We only have about four more people, but go ahead. Of course.

Secretary ROSS. Thank you very much, Mr. Chairman. Thank you.

[Recess.]

Chairman CUMMINGS. We are back.

Ms. TLAIB.

Ms. TLAIB. Thank you, Mr. Chairman.

Secretary ROSS, good afternoon. I wanted to ask you about your conversation with Mark Neuman. He is a former Department of Commerce employee who was a member of the Trump transition team. You and your staff consulted with Mr. Neuman about the addition of the citizenship question. Isn't that right?

Secretary ROSS. We used Mark Neuman as a consultant.

Chairman CUMMINGS. Keep your voice up, sir.

Secretary ROSS. We used Mark Neuman as an outside consultant to the Department on various matters relating to census, because at an earlier point in his career, he was very involved with census. I think at one point he actually worked there and at another point I believe he was a member of one of the advisory committees.

Ms. TLAIB. Thank you. When was the first time you met with Mr. Neuman? And it sounds like you discussed the citizenship question. Is that correct?

Secretary ROSS. The first time I met with Mr. Neuman was during the murder board presentations preparatory to my confirmation hearing as Secretary.

Ms. TLAIB. Where did you meet him, and was it just the two of you in the meeting?

Secretary ROSS. I don't remember the exact details of it, but, in general, at the murder board preparations there was a whole lot of people.

Ms. TLAIB. So how did you connect with Mr. Neuman? Did someone on the transition team recommend that you talk to him or someone else?

Secretary ROSS. I don't know how he came to be introduced to me. He showed up at one of the prep sessions for the confirmation hearing, and that's all I knew about him. I had never met Mr. Neuman prior to the time of the confirmation preparation process.

Ms. TLAIB. Did you discuss with Mr. Neuman the idea of having the Department of Justice make a request for the citizenship question?

Secretary ROSS. Did I ask him to ask the Department of Justice to ask the question?

Ms. TLAIB. Did you discuss with him the idea of having the Department of Justice make a request to you for the citizenship question?

Secretary ROSS. I don't know that it happened in that context. Everybody knew that I was interested in finding out from Department of Justice whether or not they would send a letter.

Ms. TLAIB. So last week, the committee staff interviewed John Gore, the Department of Justice official responsible for drafting the December 2017 letter requesting the citizenship question. Mr. Gore told us that your staff asked him to talk to Mr. Neuman about the citizenship question. He said he spoke to Mr. Neuman in early October 2017, and according to Mr. Gore, when they spoke, Mr. Neuman gave him, quote, a draft letter that would request reinstatement of the citizenship question on the census questionnaire. Two months later, the Department of Justice issued the final letter requesting the citizenship question. We don't know how much it was influenced by Mr. Neuman's draft.

Were you aware that Mr. Neuman provided a draft letter to Department of Justice? If so, can you provide that draft to this committee?

Secretary ROSS. First of all, I didn't even know that he was going over to the Department of Justice, let alone that he might have brought a letter. I believe from what I've been told, that your characterization of Mr. Gore's testimony is not exactly correct. I believe that what Mr. Gore testified was that he wasn't sure who brought him a letter—a draft letter. He thought it might have been Mark Neuman. But I'm also told that—I'm sorry, I'm not finished with my answer.

Ms. TLAIB. Well, Secretary, I just want to make sure, you didn't ask Mr. Neuman for the draft letter.

Secretary ROSS. But I am told that in Mark Neuman's deposition he denied any such event.

Ms. TLAIB. Okay. Well, there are a lot of lawyers at Department of Justice, Secretary, with expertise on voting rights, and lots of experts within the Commerce Department with expertise on the census. There is no legitimate reason for this former Trump transition team member to be drafting letters for them, unless there is some kind of political scheme happening behind closed doors, Mr. Secretary. You have tried to make it look like this request came from

the Department of Justice. Why? But the involvement of Mr. Neuman is yet one more indication that the Department of Justice was not in the driver's seat; it was political operatives behind the scenes. Do you agree?

Secretary ROSS. Anyone who thinks that Mark Neuman or I or anyone else could push Attorney General Sessions around hasn't been paying very good attention to his career. I'm sorry, I'm not quite finished.

Ms. TLAIB. That's okay. So I'm of Middle Eastern descent. I am Arab American, and just really quick, I would like to submit to the chairman a question for you to be able to respond later in regards to the Middle Eastern Northern African, or MENA, category where it helps MENA respondents to more accurately report their MENA identities on the census. And according to various information I have received from committee staff is that, right now, the Bureau said it felt that more research and testing is needed, although multiple, multiple times, I believe, it has been agreed to move forward on that. But I would like to request it be put in record for the Secretary to respond on a later date.

Chairman CUMMINGS. Did you understand that request?

Secretary ROSS. I do understand the request. Thank you, Mr. Chairman.

Chairman CUMMINGS. Can you get us that information?

Secretary ROSS. I will consult with my staff and we will see what we can do about it.

Chairman CUMMINGS. Okay. Can you let me know by, say, Tuesday?

Secretary ROSS. I'll let you know as soon as we can get together, sir.

Chairman CUMMINGS. Well, that could be next year, Mr. Secretary.

Secretary ROSS. I will do my best, sir.

Chairman CUMMINGS. All right. Thank you very much.

Mr. GOMEZ.

Mr. GOMEZ. Mr. Secretary, I'm going to move quickly. I'm going to ask for yes or no answers. Stay with me.

We know that you asked about regarding the issue of apportionment and population because we have an email about that. You asked about it. And we have an email from March 10, 2017. Earl Comstock, a senior Commerce Department official wrote you an email entitled, quote, your question on the census. Mr. Comstock included a link to the Census Bureau website about apportionment where the Bureau answered the question, and I quote, are undocumented resident aliens in the 50 states included in the apportionment population counts? He also included an article from The Wall Street Journal about the pitfalls of counting illegal immigrants, unquote.

Mr. Secretary, did you ever talk with anybody at the Department of Commerce about how congressional apportionment is affected by counting all persons in the census, yes or no?

Secretary ROSS. Early on in my term as Commerce Secretary, I had lots of questions about a lot of aspects of the Department.

Mr. GOMEZ. Great. That's a yes. Next question. I don't have that much time.

John Gore, who served as acting attorney general of the Civil Rights Division at the Department of Justice, and he wrote the letter requesting the citizenship question, was deposed as part of the New York lawsuit. He testified under oath. He said, quote, I believe I may have discussed the topic about apportionment with the Attorney General at some point.

He then refused to answer more questions because that discussion of apportionment was part of the discussions leading up to his decisions on requesting the citizenship question.

Mr. Secretary, did you ever talk with Attorney General Jeff Sessions about how congressional apportionment is affected by counting all persons in the census, yes or no?

Secretary ROSS. I listed Jeff Sessions on my supplemental memo.

Mr. GOMEZ. So I'll take that—I'll take that as a yes.

Secretary ROSS. I'm sorry, sir, I'd like to answer the question. I listed—

Mr. GOMEZ. This is my time. I'm reclaiming my time. You're not here to ask the questions. I'm here to ask and you respond. It was a yes-or-no question.

On July 14, 2017, Kris Kobach, secretary of State of Kansas, emailed you. He said, quote, as you may recall, as you may recall, we talked about the fact that the U.S. Census does not currently ask respondents their citizenship.

Mr. Kobach also said that not asking a 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.

Mr. Secretary, did you ever talk with Mr. Kobach about how congressional apportionment is affected by counting all persons in the census, yes or no?

Secretary ROSS. My conversation with Kobach was fundamentally about the question that he wanted asked.

Mr. GOMEZ. Correct. I reclaim my time. Reclaim my time. I'll take that as—I'll reclaim my time. He's not going to save you this time. I reclaim my time.

The citizenship question—

Secretary ROSS. Mr. Chairman, he keeps interrupting my answer.

Mr. GOMEZ. Mr. Secretary, did you ever talk with anybody at the White House about how congressional apportionment is affected by counting all persons in the census, yes or no?

Secretary ROSS. Mr. Chairman, he keeps interrupting my answer.

Mr. GOMEZ. Yes or no. Were you trained—were you trained by your attorneys to dodge these questions?

Secretary ROSS. I'm sorry, sir? What was that question?

Mr. GOMEZ. Were you trained by your attorneys on how to answer questions?

Chairman CUMMINGS. If you have an answer to the question, I will let you answer them. Is that all right, sir?

Secretary ROSS. Thank you, Mr. Chairman. He asked so many questions, I don't even remember all of them, so I need to have them repeated.

Mr. GOMEZ. I like how the Secretary has crisp yes-no answers when the Republicans are asking, but when the Democrats are asking, that's not the kind of answers he gives.

Hold on, that wasn't a question. Let's move on.

Mr. MEADOWS. I was going to say—

Mr. GOMEZ. Secretary Ross, you have portrayed your decision to add the citizenship question as a response to DOJ's request in December 2017. But the evidence shows that you and your staff had been trying to, for months, to find an agency, any agency willing to make this request.

On September 8, 2017, a senior official at the Department of Commerce named Earl, again, Earl Comstock, wrote you a memo in his efforts to find a Federal agency to request the citizenship question. He wrote that he first reached out to DOJ in early May, but after several conversations, he was told Justice staff did not want to raise the question, given the difficulties that Justice was encountering in the press at that time.

So here's the problem. Here is the problem with everything you said, because you're trying to say—tell us—you're trying to tell us that it was a DOJ request, it was DOJ that initiated the process, right? But then we find out that you were shopping around the fact that you wanted somebody to ask that question or at least propose it.

You went to the Department of Homeland Security. I don't know what the Department of Homeland Security has to do with the census, but you went there. But they also said no. So you went back to the DOJ.

A few days later, September 13, you get an email that also says Gore asked to speak about the DOJ doc issue with Teramoto. He later connects her with the Justice Department official Danielle Cutrona, who writes in an email: From what John told me, it sounds like we can do whatever you all need us to do, and the delay was due to miscommunication. The AG is eager to assist.

Why is he assisting you? Is it like, why is he assisting you and not the other way around, right? That is why this whole, this whole charade, right, doesn't make sense. It doesn't pass the smell test. It doesn't even make sense. You know, if you're explaining this to a little kid, you know, you really start thinking about it, it doesn't make sense.

Chairman CUMMINGS. The gentleman's time has expired.

Mr. GOMEZ. And, no, that wasn't a question, right. So I don't know if you were trained, but one of the things I want to know—one of the things I know, that Mnuchin later testified today in Ways and Means, and he said he was not there to answer questions. So I think you're playing by the same playbook as Mr. Mnuchin. So I know you're not here to answer questions; you're just here to dodge and delay and to, you know, hide the truth.

Chairman CUMMINGS. Now, would you like to respond?

Secretary ROSS. I don't think there's any need to respond, sir.

Chairman CUMMINGS. Very well.

Ms. Ocasio Cortez.

Ms. OCASIO CORTEZ. Thank you, Chairman.

Secretary Ross, thank you for coming in and offering your testimony today. Kansas Secretary of State Kris Kobach, mentioned by

my colleague, was noted by The New York Times as laboring long and hard in his career, notably in the areas of voter suppression and nativism. He stated last year that he encouraged President Trump to add a question about citizenship to the census during the early weeks of Trump's Presidency. Kobach said, quote, I raised the issue with the President shortly after he was inaugurated and, quote, he was absolutely interested in this. Shortly thereafter, in April 2017, Steve Bannon asked you to speak to Mr. Kobach about his, quote, ideas about including a citizenship question on the 2020 Decennial Census.

Did you speak to Mr. Kobach about his ideas on the citizenship question?

Secretary ROSS. As I described earlier in my testimony, Kris Kobach did have a conversation with me early on in my—I'm sorry, I'm not finished. Kris Kobach did have a conversation with me. He said he had a question he would like us to ask.

Ms. OCASIO CORTEZ. Thank you. And I saw here—I'm sorry, I must reclaim my time. Mr. Kobach later sent an email to you on July 14 writing that the lack of the citizenship question, quote, leads to the problem that aliens who do not actually reside in the United States are still counted for congressional apportionment services. Of course, they do reside in the United States, they reside in my district, they're my constituents. But he then wrote, quote, it is essential that one simple question be added to the upcoming 2020 Census.

It's all there in black and white. Kobach is clear about his reason for adding the citizenship question in his correspondence to you. And it has nothing to do with the DOJ. It has nothing to do with the Voting Rights Act. It is about congressional apportionment to immigrants.

But following that email and its concerning contents, did you cut-off all contact with Mr. Kobach or did you speak with him again?

Secretary ROSS. I have no recollection of speaking with him again after that.

Ms. OCASIO CORTEZ. Well, we do have—you know, the Southern District of New York has identified a July 25 call between you and Mr. Kobach after that email. Did you bring up Mr. Kobach or his ideas about the citizenship question with anyone in the Commerce Department after Kobach's email?

Secretary ROSS. I ultimately rejected the question that Kobach wanted to ask.

Ms. OCASIO CORTEZ. So it does say here, Judge Furman in the Southern District of New York wrote that you, in fact, mentioned Kobach again in a September 6 meeting—in a September 6—in a September 6, 2017, meeting on the citizenship question. In fact, it was so concerning to your own staff that the general counsel expressed, quote, concern about your contact with Kobach and recommended talking to others first.

Do you recall anything about that meeting?

Secretary ROSS. No, I don't. If you have a document—if you have a document, I'll be glad to look at it.

Ms. OCASIO CORTEZ. I'd be happy to share that. And additionally, do you think it would be helpful for us to speak with Mr. Kobach about this matter?

Secretary ROSS. I have no idea. The committee has to make its own decisions.

Ms. OCASIO CORTEZ. All right. One other thing. It's been stated multiple times in this hearing that the question is a reinstatement of a previous question, but the last time a citizenship question specifically around citizenship was discussed on the census was in 1950. And I pulled up the old question here, and I know it's tough to see from far away, but I pulled up the old question that was originally on the census in 1950, and I see here that the question that is being proposed for 2020 is quite materially different. So it is not a reinstatement. It is not to placing again or a restoration of the original question. It is a materially different question.

Now, the U.S. Census Act of 1974 requires that if the Secretary finds such a change necessary, they must send a report to Congress on the proposed change when the question is proposed, not when it is decided upon.

Was that legally required report to Congress submitted to us?

Secretary ROSS. I can't respond to your question about the two documents you held up unless you show them to me. I don't have them in front of me.

Ms. OCASIO CORTEZ. I did not ask a question about the documents. I asked if the report that is required of you was submitted to Congress.

Secretary ROSS. We filed the required report on March 31, 2017. We filed another required report on March 31, 2018.

Ms. OCASIO CORTEZ. One last thing. So what we don't have is the required report to Congress. And while there's all of this debate about whether a citizenship question should be included or not included, the question I have is why are we violating the law to include any question whatsoever in the 2020 Census?

Chairman CUMMINGS. The gentlelady's time has expired.

Secretary ROSS. I believe she's out of time, Chairman.

Chairman CUMMINGS. But you please do answer the question.

Secretary ROSS. I don't have any need to respond, sir.

Chairman CUMMINGS. You don't have a need to respond?

Secretary ROSS. I have no need to respond.

Chairman CUMMINGS. Okay. Well, I'm asking. Could you answer that question, please?

Secretary ROSS. Would you repeat the question, please?

Ms. OCASIO CORTEZ. We are now in violation of the U.S. Census Act of 1974, which requires you to submit a specific report to Congress ahead of any changes that you find necessary. This question is not a reinstatement of the 1950 question. It's a change, which means that change requires you to send a report to us while the question is proposed, not before it is decided or settled.

So my question is, why are we violating the law to include this question in the 2020 Census?

Mr. MEADOWS. Point of order. We need—at this particular point, the gentlewoman is talking about a statute that's been violated. There's been no enunciation of what that statute is. I don't even know what she's talking about.

Ms. OCASIO CORTEZ. I'd be happy to provide it.

Chairman CUMMINGS. Yes. I think she laid it out pretty nicely. She said it twice. I'm serious. Give him—



Mr. MEADOWS. But in previous testimony, Mr. Chairman, he said that they've submitted reports, and—

Ms. OCASIO CORTEZ. And there are three reports required. They submitted the first one and the second one, but not the third one that is required to Congress. And it is in—this is here in U.S. Code—13 U.S. Code, section 141, population other census information, subsection (f)(3), and I'd be happy to provide that to you.

Chairman CUMMINGS. Now, I notice that all your—I guess those are attorneys back there squirming around telling you stuff. Maybe they can help us with this answer. Did they tell you what the answer is to that? You have a lot of people back there.

Secretary ROSS. I've been told by counsel that we have complied with all the regulations. I will take up with counsel the suggestions that have been made by the Congressperson, and we will get back in due course on the record.

Chairman CUMMINGS. As a followup on that question, can you give me that in writing, the fact that you complied with the law?

Ms. OCASIO CORTEZ. And, Mr. Chair, I'd also like to note that, according to our committee staff, there is not compliance with (f)(3).

Chairman CUMMINGS. Well, he's going to give me—he said he did. So he's going to give me a statement. He's still sworn. He's going to give me a statement saying he did. So I'm looking forward to that statement, counsel.

Ms. OCASIO CORTEZ. Thank you.

Chairman CUMMINGS. All right? All right? All right.

Mr. RASKIN. Mr. Chair?

Chairman CUMMINGS. Yes. Yes.

Mr. RASKIN. I've got a point of order. I've noted today that several members have spoken of and the witness invoked confidentiality, and I understand this is happening in some other committees as well. And of course, we understand that there's something called an executive privilege, like there's a priest penitent privilege, there's a spousal privilege that Congress may or may not recognize as a common-law privilege, but when people invoke confidentiality, there's no confidentiality privilege, unless some of the lawyers here could cite a case. I don't really understand the new trend of people—

Mr. MEADOWS. Mr. Chairman, that's not a point of order.

Mr. RASKIN. But I want to know—

Mr. MEADOWS. What's the rule that's being violated? It's not a point of order.

Mr. RASKIN. But the point of order is how are we to respond when—

Mr. MEADOWS. What rule is being violated?

Mr. RASKIN. The rule that's being violated is that every witness owes truthful testimony to Congress. So I want to know—

Mr. JORDAN. You want to talk about that?

Mr. RASKIN [continuing]. when someone invokes confidentiality, is that a rule?

Chairman CUMMINGS. Let me—I can—whoa, whoa, whoa, whoa. Hold up. Can you get—you've said here—you said, in response to several questions, certain things were confidential. Is that right?

Secretary ROSS. Yes, and that I'm not authorized to disclose.

Chairman CUMMINGS. And you're not authorized. And if there is some special privilege that we don't know about, I'd appreciate it if your counsel would let us know what that is.

Secretary ROSS. I'm not a lawyer, sir.

Chairman CUMMINGS. That's why I'm saying. Are there any lawyers back there, of all those people behind you? You've got a whole baseball team back there.

Mr. RASKIN. One of them, Mr. Chair, is a very fine former student of mine.

Chairman CUMMINGS. I'm not trying to be funny. No, no, no, no, no, no. Wait a minute.

Ms. OCASIO CORTEZ. Mr. Chair, I'm sorry, before we move on, could I seek unanimous consent to submit these documents?

Chairman CUMMINGS. Tell me what they are. Tell me what they are.

Ms. OCASIO CORTEZ. The first is the U.S. Code that I referenced, and the other two documents are the two original questions.

Chairman CUMMINGS. Without objection, so ordered.

Ms. OCASIO CORTEZ. Thank you very much.

Chairman CUMMINGS. Now, Mr. Raskin—

Mr. RASKIN. So all I'm asking for is some clarification from the chair or perhaps from some of the legal counsel present as to how they transmit a private statement of confidentiality from one private person or public person to another into a privilege against testimony before the U.S. Congress. Because I'm not aware of any case that stands for that principle, and I'm afraid we're going to go down a very dark road if anyone could say I would love to tell you, but I said it would be confidential.

Chairman CUMMINGS. Well, hopefully, the counsel will get us—it's my understanding there's not a privilege, but maybe you all have some new law that was just established in the last three minutes. And I'd like to see it, all right?

So you got enough lawyers back there. How many of you all are lawyers? Anybody? None of them are lawyers?

Secretary ROSS. Thank you, sir. I will consult with my counsel.

Chairman CUMMINGS. Very well. Well, they're with you, though, right?

Secretary ROSS. I'm sorry?

Chairman CUMMINGS. All those people behind you, the ones that keep coming up and whispering in your ear.

Mr. MEADOWS. I hope they're with him.

Chairman CUMMINGS. Anyway, finally but not least, the distinguished lady from Massachusetts, Ms. Pressley.

Ms. PRESSLEY. Thank you to our distinguished chairman, who has given us each the challenge and the charge as members of this committee to be efficient and effective in pursuit of the truth. And so bearing that in mind, I'm going to try to do that in my line of questioning and move quickly here.

Picking up on the line of questioning from several of my colleagues earlier regarding your interaction with Attorney General John Gore. We have an email documenting what appears to be a second call that you had with the Attorney General in September 2017. On September 17, 2017, your chief of staff emailed two DOJ officials to arrange a call with the Attorney General. One staffer

wrote back on September 18, quote, from what John Gore 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, unquote.

The email shows you then spoke to the Attorney General that day on September 18. What did you discuss with the Attorney General in September?

Secretary ROSS. I listed the Attorney General as one of the parties with whom I had conversations prior to the March 26 decision memo and prior to the December 12, 2017, letter. The content of those conversations is confidential. I'm not authorized to disclose them, and I cannot discuss it further.

Ms. PRESSLEY. So I'm reclaiming my time. I do not believe it is confidential.

On any of your calls with the Attorney General, did you ask the Attorney General to send you a letter requesting the addition of a citizenship question, yes or no?

Secretary ROSS. As I have said before, the content of my conversations with the Attorney General are confidential. I'm not authorized to disclose them, and I have nothing further to say on that question.

Ms. PRESSLEY. All right. Well, in the pursuit of being efficient and effective, I will move on.

We can all agree on both sides of the aisle that—and I'm sure you agree as well—that it's critical that we have an accurate census count. Do you agree, yes or no?

Secretary ROSS. We are trying our best to get—

Ms. PRESSLEY. Yes or no, reclaiming my time, do you agree that it's critically important that we have an accurate census count?

Secretary ROSS. I have to answer the question as best I can.

Ms. PRESSLEY. Okay. Reclaiming my time, moving on. In order for us to have an accurate census count, we need to have the appropriate funding and staffing levels in order to administer the census, yes or no?

Secretary ROSS. I have increased the budget by 3.2 or so billion dollars in order to make sure that we are not underfunded in the context of the 2020 Census. That's roughly a 25 percent increase over the Obama Administration—

Ms. PRESSLEY. I'm sorry. Reclaiming my time. Was it your testimony earlier that Mr. Trump prepared a budget that did not include your input for what would be required? Was that your testimony earlier, that the budget was prepared without your input and that you had also not read it? Was that your statement on the record earlier?

Secretary ROSS. I'm sorry, there's a whole lot of questions. Which one would you like me to answer?

Ms. PRESSLEY. Okay. I'm going to move on. Actually, just going back on Attorney General Gore, it may be confidential, but it's not privileged. So, again, one more time, could you disclose what was the nature of your phone call with the Attorney General if at any point you asked him to include the immigration question in the census, the citizenship question?

Secretary ROSS. My answer is the same as what I gave you before.

Ms. PRESSLEY. Okay. All right. Let me get back to staffing levels. The GAO's high risk report says the Census Bureau office responsible for managing the IT integration contract is severely understaffed. The report states, quote, as of November 2018, 21 of 44 positions in this office were vacant. That means practically half of these positions meant to oversee IT government contractors were vacant as of a few months ago.

Does the Census Bureau have a plan to fill these vacancies?

Secretary ROSS. Does the Census Bureau have a plan to what?

Ms. PRESSLEY. To fill these vacancies. As you well know, the census is moving online, and this IT integration is critical to ensure that there is an accurate count. I already have great concerns about a digital divide since roughly 3 in 10 adults with household incomes below \$30,000 a year don't even own a smartphone. So how does the Census Bureau have a plan to fill these vacancies within the IT integration contract?

Secretary ROSS. Well, we just recently filled by finally having the Senate confirm, after a very long wait, our new permanent director of the Census Bureau.

Ms. PRESSLEY. I'm sorry, reclaiming my time. 21 of 44 positions were still vacant. Is that still true? You just named one, so—

Secretary ROSS. I don't recall the exact number.

Ms. PRESSLEY. Okay. Reclaiming my time. What are the biggest risks to the census if this contract does not have adequate oversight?

Secretary ROSS. I believe you're out of time, ma'am.

Ms. PRESSLEY. Well, that's at the discretion of the chair.

Chairman CUMMINGS. You can answer the question.

Ms. PRESSLEY. Yes. Secretary Ross, what are the biggest risks to the census if these contracts do not have adequate oversight?

Secretary ROSS. I believe the contracts do have adequate oversight. We have instituted weekly reporting on the status of every single contract. I meet weekly with the deputy secretary. I meet monthly with a larger group of the census. And as to the matters you're referring to, they tell me we are on time and on budget.

Chairman CUMMINGS. Very well.

Ms. PRESSLEY. Thank you.

Chairman CUMMINGS. I want to thank you very much.

I will now recognize Mr. Meadows for unanimous consent request.

Mr. MEADOWS. Thank you, Mr. Chairman.

I ask unanimous consent that the—from 2005 until the current time, that the American Communities Survey be entered into the record, where it shows that the exact citizenship question on the vast majority of these is precisely the same question that's being proposed here. I ask unanimous consent.

Chairman CUMMINGS. Without objection.

Mr. MEADOWS. Thank you, Mr. Chairman.

I ask unanimous consent that the application for personal firearms eligibility check application from California, which actually has a citizenship question on it be entered into the record as well.

Chairman CUMMINGS. Without objection, so ordered.

Mr. MEADOWS. And last one, I ask unanimous consent that the newest proposal—or the newest letter from the GAO showing the

substantial improvement of the Department of Commerce in terms of the high risk nature of the census be entered into the record.

Chairman CUMMINGS. Without objection, so ordered.

Mr. MEADOWS. Thank you, Mr. Chairman. I yield back.

Chairman CUMMINGS. I now recognize the ranking member, Mr. Jordan, for a unanimous consent request and his closing statement.

Mr. JORDAN. Thank you, Mr. Chairman.

I ask unanimous consent, a study from the Heritage Foundation, which finds that strict ID laws have no significant negative effect on registration or voter turnout.

Chairman CUMMINGS. Without objection, so ordered.

Mr. JORDAN. I thank you.

Look, I'll be brief. I want to thank you, Secretary Ross. Six hours and 20 minutes you've come here, answered all kinds of questions. Appreciate your service to our country and your leadership at the Commerce Department. But six hours and 20 minutes for basically one question, which is, why don't the Democrats want to know. Why don't they want to know how many people in this country are citizens of the United States? I mean, I find that almost astounding. But thank you for doing it. Thank you for your service.

And with that, Mr. Chairman, I yield back.

Chairman CUMMINGS. Thank you very much.

First of all, I want to thank all of our members for sticking around, the ones that have. I really appreciate it. It's so very important to our democracy that we do this.

To you, Secretary Ross, I want to thank you. I know we had to postpone this, and we worked with you as best we could, but you got here and you've answered our questions.

I wrote you a letter last week, and I was very reasonable. I accommodated your request to limit the scope of today's hearing. But in return, I made it clear that we expected you to answer all our questions.

I explicitly wrote in my letter that the Supreme Court does not recognize or claim that you can withhold documents from Congress based on the argument that there is separate ongoing litigation. You wrote a letter back to me, and you agreed to coming here and answer our questions.

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.

You refused to answer questions about conversations with Attorney General Sessions and others about the citizenship question. And I must tell you that I was not convinced. The Jeff Sessions that I know, I don't recall him being that concerned about voting rights. I'll be honest with you. And I'd be lying to you if I said anything different.

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.

Representative Raskin provided you with the legal citations today. He is a distinguished law professor and particularly in the

area of constitutional law. He also provided extensive precedence from both Republican and Democratic chairmen of this committee who conducted numerous investigations for decades during ongoing outside litigation.

So here's what I'm going to do. I'm going to give you till Tuesday, and that should give you enough time to consult with your lawyers. Then I would like for you to produce all of the priority documents this committee has requested.

You keep telling me you're going to meet with your staff, and then I asked you when it's going to be, and basically you are saying that could be forever. Well, guess what? I don't have forever, nor do you, nor do the American people. So we will not accept any argument that you are withholding documents due to ongoing litigation.

Now, if you don't agree with this, you will basically be forcing us to consider a subpoena. I don't want to do that. I've been very careful with subpoenas. And I do not want to get into that. I just want the committee to have the documents so that we can do our job pursuant to the Constitution of the United States.

But if you refuse, you will leave me with no choice. We may have to start conducting transcribed interviews with staff from the Department of Commerce and the Department of Justice who are involved in adding the citizenship question.

And it does alarm me—and I've got to tell you, I've listened to you very carefully. And for the life of me, you know, I've been thinking about how are you going to get around some of the issues that have been raised with regard to whether your testimony was consistent and whether this came from DOJ or this came—originated with you.

I've listened to you, Mr. Secretary, and I tell you, I'm not totally convinced that this did not come directly from Mr. Bannon, and it did not come from the very beginning—I mean, you may have had it in mind from the very beginning. But you've testified under oath. I accept that. And if we do not—by the way, if we don't get the documents and the answers to our questions, we may need to bring you back.

Now, a number of members have said a lot of things about wanting to make sure that the census is done properly, wanting to make sure that the funding's there, make sure the personnel is there, IT, all that. We will continue to bring you back.

I will never forget, when I first became chairman, the first thing that The New York Times asked me was, what is your No. 1 priority. I told them the census, because it affects so much. And so, again, I hope that we don't have to bring you back, but we will.

Mr. JORDAN. Mr. Chairman, could I ask a question?

Chairman CUMMINGS. Yes.

Mr. JORDAN. Yes. Just a question. You gave the Commerce Secretary five days for certain documents that have been brought up in the course of this hearing, and two weeks ago, we had a witness who indicated he had all kinds of audio recordings of his clients and folks that he had conversations with. And you said, sitting right there, you want those audiotapes. You said, we definitely want those audiotapes. So—but you didn't give any timeframe. I want to know, do you have those, and if not, are you going to set

a deadline for Mr. Cohen to turn over what you said you wanted two weeks ago in that hearing?

Chairman CUMMINGS. Let me be abundantly clear, I run this committee.

Mr. JORDAN. I know, and that's why I'm asking. That's why I'm asking.

Chairman CUMMINGS. Sir, I have the floor.

Mr. JORDAN. I understand you do, and I asked a question. You just gave the Commerce Secretary five days to comply.

Chairman CUMMINGS. I have the floor.

Mr. JORDAN. Okay. Will you answer the question?

Chairman CUMMINGS. I will decide. I've, again—I want to thank you very much for being here.

With regard to any tapes and things of that nature, believe me, I'm on top of it. I am a man of my word. And you get—

Mr. JORDAN. I'm just asking when—

Chairman CUMMINGS. No. No, no, no, no. I will let you know.

Mr. JORDAN. Well, I look forward to that.

Chairman CUMMINGS. Yes, I will. I'm a man of my word, and I will continue to be that.

Again, I want to thank members of this committee and this—and again, Mr. Secretary, thank you so much. Thank you for working with us. I really appreciate it.

Secretary ROSS. Thank you for your courtesy, Mr. Chairman.

Chairman CUMMINGS. All right. The hearing is adjourned.

[Whereupon, at 4:32 p.m., the committee was adjourned.]

