

August 3, 2018

Jennifer Jessup
Departmental Paperwork Clearance Officer
Department of Commerce, Room 6616
14th and Constitution Avenue NW
Washington, DC 20230

Via <http://www.regulations.gov> re: Docket number USBC-2018-0005

Dear Ms. Jessup:

The Southern Poverty Law Center strongly opposes inclusion of a citizenship question in the 2020 Census and urges the Department to remove it from the data collection forms. The Administration has already created an atmosphere of fear in immigrant communities with aggressive anti-immigrant rhetoric and enforcement. Asking the citizenship question in this fearful context will trigger mistrust; depress response rates; debase the quality of the data; increase the cost to taxpayers; and have no credible, practical utility. We are concerned, in fact, that these are the intended results of the proposal. We respond specifically to the Department's Request for Comment on three questions:

- 1. Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility.**

The Constitution requires the government to apportion Representatives among states “according to their respective numbers, counting the whole number of persons in each State.”¹ To determine that the citizenship question is neither necessary nor useful to determining the number of residents per state—but rather that its inclusion will depress response rates—the Department need look no further than Alabama's experience.

In 2011, Alabama passed the Alabama Taxpayer and Citizen Protection Act, a law designed to make life so difficult for immigrants and family members, documented or not,

¹ U.S. Const. Amend. XIV § 2; *see also id.* Art. 1, § 2, cl. 3.

that they would “deport themselves.” It required schools to ask parents or guardians to submit birth certificates or to notify schools of a child’s “actual citizenship or immigration status” when enrolling. In short, the law instructed schools to ask a citizenship question.

The impact was immediate and devastating. On the Monday after the law went into effect, 2,285 Latino students were absent from schools. With nearly 17 million people in the U.S. living in families with at least one undocumented family member,² we should not be surprised that fear of answering a citizenship question will affect millions of people, including U.S. citizens.

Many families in immigrant communities fear being targeted by a government willing to tear apart families and cage the children of asylum seekers. In this context, a citizenship question will chill response rates, particularly among communities—such as low-income rural and urban families, people of color, and immigrant families—that are already at greater risk of being undercounted.

2. The accuracy of the agency’s estimate of the burden (including hours and cost) of the proposed collection of information.

The Department provides neither a cost estimate nor a breakout of the hours estimated to be spent seeking responses the citizenship question. Chief Scientist and Associate Director for Research and Methodology John Abowd advised Secretary Ross in a January 19, 2018, memorandum that adding the question would increase the cost “by at least \$27.5 million.” Dr. Abowd cautioned that his estimate was “conservative” and “a lower bound” due to the likelihood that “the decrease in self-response . . . could be much greater than . . . [that] observed in the 2010 Census.”

3. Ways to enhance the quality, utility, and clarity of the information to be collected.

To enhance the quality and utility of Census information, the Department should not add a citizenship question to the 2020 Census. Dr. Abowd concluded that maintaining the status quo in this way would maintain the quality of the information gathered in the 2020 Census. Dr. Abowd found that inclusion of the citizenship question “results in lower quality data” compared to Census questionnaires without a citizenship question, due to the chilling impact on people afraid of the consequences of filling out the Census form.

² Keeping Families Together, University of Southern California’s Center for the Study of Immigrant Integration & Center for American Progress, Mar. 16, 2017, available at <https://dornsife.usc.edu/assets/sites/731/docs/KeepFamiliesTogether-brief.pdf>.

Conclusion

The accuracy of the Census is a matter of great constitutional significance because it determines the distribution of the 435 members of the U.S. House of Representatives across the states for the next decade. It also is a matter of tremendous practical significance because it determines the annual distribution of approximately \$700 billion in federal funds. There is no place for the proposed citizenship question, which will deter participation in the Census; reduce the accuracy of Census data; drive up costs; and impair a full, fair, and inclusive Census count.

Sincerely,

Naomi Tsu
Southern Poverty Law Center