The Leadership Conference Education Fund

Factsheet: Adding A New Citizenship Question to the 2020 Census

Both Republican and Democratic administrations, as well as Secretary of Commerce Wilbur Ross,[1] have confirmed unequivocally that the Constitution requires a count of *all* persons living in the United States, *regardless of citizenship or legal status*, for the purpose of apportioning seats in the U.S. House of Representatives. Nonetheless, lawmakers over the years have sought to add questions on citizenship and legal status to the decennial census. Most recently, the Department of Justice (DOJ) intervened by sending a letter to the Census Bureau, requesting a new citizenship question on the 2020 Census.[2] Proponents of adding these questions offer several reasons to justify collection of these data from all households, none of which relate to the core purpose of conducting a census of all persons residing in the country. On March 26, Secretary Ross announced his decision to add a citizenship question to the 2020 Census.

A fair and accurate census, and the collection of useful, objective data about our nation's people, housing, economy, and communities, are among the most significant civil rights issues facing the country today. Every census since the first enumeration in 1790 has included citizens and non-citizens alike. Adding a new question on citizenship to the 2020 Census will disrupt preparations at a pivotal point in the decade, undermine years of research and testing, jeopardize the accuracy of the 2020 Census by deterring many people from responding, and increase census costs significantly.

Over the last 50 years, the Census Bureau has collected citizenship and immigration-related information from a representative sample of the population, most recently through the American Community Survey (ACS). DOJ and advocates have used these data to help implement and enforce the Voting Rights Act (VRA).

- The 1950 Census was the last to collect citizenship data from the whole population.[3]
- Since 1960, the Census Bureau has collected citizenship data from a representative sample of households and produced scientifically robust estimates of citizen voting age population to help guide implementation and enforcement of the VRA.[4]
- Over the last 50 years, DOJ has never asserted a need for 'block-level' citizenship data collected from every household for the purpose of enforcing the Voting Rights Act of 1965, until its request in December 2017. It successfully used citizenship data collected as part of the decennial census from a sample of U.S. households.
- DOJ did not indicate a need for citizenship data collected from every household before the Secretary of Commerce submitted to Congress, in late March 2017, the topics to be included in the 2020 Census, as required by law.
- After the 2010 Census, DOJ and civil rights groups were able to enforce and monitor compliance with the VRA successfully using citizenship data from the American Community Survey, the part of the decennial census that collects a broader range of updated social and economic characteristics data.

The Census Bureau is statutorily required to submit the topics and questions it plans to include in the 2020 Census to Congress, three and two years, respectively, before Census Day. Although congressional approval is not required, lawmakers who disagree with the questions can request that the bureau make appropriate changes or can pass legislation mandating the desired changes.

The Leadership Conference Education Fund builds public will for federal policies that promote and protect the civil and human rights of all persons in the United States. The Education Fund's campaigns empower and mobilize advocates around the country to push for progressive change in the United States.

- U.S. law requires the Secretary of Commerce to submit the topics to be included in the 2020 Census and ACS by April 1, 2017.[5] On March 28, 2017, the Census Bureau submission included citizenship as a subject for the ACS, but not for the 2020 Census.[6]
- U.S. law requires the Secretary of Commerce to submit the questions to be included in the 2020 Census to the House Committee on Oversight and Government Reform and the Senate Committee on Homeland Security and Governmental Affairs by April 1, 2018.[7]
- The Secretary of Commerce *is* authorized to propose the addition of topics or modification to question wording after the respective April 1 deadlines, if the secretary "finds new circumstances exist which necessitate" the proposed new subjects or modifications. The secretary must submit a report to the committees explaining the late changes.[8] Congress does not approve or disapprove the questions. According to the Congressional Research Service, committee approval of the questions and subjects is implied if lawmakers do not recommend changes.[9]
- However, Congress can exercise its legislative authority in several ways, including holding hearings, introducing legislation, and expressing concerns or requesting revisions from the Commerce Department or Census Bureau.
- While rare, Congress has taken steps to modify topics and question wording after the statutory submissions to Congress, most recently by passing legislation to modify the proposed wording of the race question and the content of the census long form in the 1990 Census. Congress passed legislation in 1988 to restore questions on home heating fuel and other housing characteristics that OMB had proposed to eliminate, and to require the collection of Asian and Pacific Islander subgroup data using 'check-boxes' similar to those used in the 1980 race question. Even though President Reagan pocket-vetoed the legislation, the Census Bureau bowed to the wishes of Congress by modifying the race question and restoring the questions to the long form before finalizing the questionnaires, in line with clear congressional intent.[10]

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[1] *See* "FY19 Budget Hearing - Department of Commerce." *U.S House of Representatives Commerce, Justice, Science Subcommittee*. Mar. 20, 2018. https://appropriations.house.gov/calendar/eventsingle.aspx?EventID=395131.
[2] *See* "Re: Request to Reinstate Citizenship Question on 2020 Census Questionnaire." *U.S. Department of Justice*. Dec. 12, 2017. https://www.documentcloud.org/documents/4340651-Text-of-Dec-2017-DOJ-letter-to-Census.html.
[3] *See* "History." *U.S. Census Bureau*. https://www.census.gov/history/www/through_the_decades/index_of_questions/.
[4] *Ibid*.
[5] *See* 13 U.S.C. §141(f)(1) ("With respect to each decennial and mid-decade census conducted under subsection (a) or (d) of this section, the Secretary shall submit to the committees of Congress having legislative jurisdiction over the census…not later than 3 years before the appropriate census date, a report containing the Secretary's determination of the subjects proposed to be included, and the types of information to be compiled, in such census.")
[6] *See* "Subjects Planned for the 2020 Census and American Community Survey." *U.S. Census Bureau*. Mar. 2017. https://www2.census.gov/library/publications/decennial/2020/operations/planned-subjects-2020-acs.pdf.
[7] *See* 13 U.S.C. §141(f)(2) ("With respect to each decennial and mid-decade census conducted under subsection (a) or (d) of this section, the Secretary shall submit to the committees of Congress having legislative jurisdiction over the census…not later than 2 years before the appropriate census date, a report containing the Secretary's determination of the questions proposed to be included in such census.")
[8] *See* 13 U.S.C. §141(f)(3) ("With respect to each decennial and mid-decade census conducted under subsection (a) or (d) of this section, the Secretary shall submit to the committees of Congress having legislative jurisdiction over the census…after submission of a report under paragraph (1) or (2) of this subsection and before the appropriate census date, if the Secretary finds new circumstances exist which necessitate that the subjects, types of information, or questions contained in reports so submitted

be modified, a report containing the Secretary's determination of the subjects, types of information, or questions as proposed to be modified.")

[9] *See* "Census Citizenship Questions and Other Questionnaire Items." *Congressional Research Service*. Mar. 7, 2018.

[10] Anderson, Margo J., Editor in Chief., *Encyclopedia of the U.S. Census*, "Congress and the census," by Terri Ann Lowenthal, pgs. 88-89 (CQ Press, Washington, DC, 2000).