



## **Adding Immigration and Citizenship Status Questions to the Census**

In December 2017, the Department of Justice formally asked for a citizenship question to be added to the 2020 Census.

### **Background**

This issue is not new. Rep. Steve King (R-IA-04) introduced the Census Accuracy Act of 2016 (H.R. 3600), which would add questions about citizenship and immigration status to the decennial Census, but make response to them voluntary. Rep. Clay Higgins (R-LA-03) also proposed an FY18 appropriations amendment to require such (mandatory) questions on the 2020 Census. Former Senator David Vitter (R-LA) used to regularly propose legislation and amendments to require the decennial Census to include questions about immigration status. The 2016 Republican Presidential Platform called for the same. Also, a leaked memo early this year indicated that the Trump Administration may have been considering an executive order with the same requirements.

Such measures can be motivated by opposition to counting non-citizens and/or illegal aliens for purposes of apportioning districts, or by a desire for more accurate data on the U.S. illegal alien population.

### **Hurting 2020 Census response rates**

Asking questions about citizenship and immigration could adversely impact the response rate (and thus, accuracy) of the 2020 Census and America's ability to know our true population numbers, by deterring many immigrants (legal or illegal) from responding. In the American Community Survey (ACS), the Census Bureau asks about citizenship, but the Bureau has never asked respondents about their legal status beyond citizenship.

Decennial Census questions about immigration status might unnecessarily raise concerns among all respondents (whether immigrant or native) about the privacy and safety of the personal information they are providing to the Census Bureau. At a time when some Members of Congress are raising concerns about the intrusiveness of questions in the ACS, why would Congress or the Administration seek to potentially deter respondents from participating and jeopardize the accuracy of the 2020 Census (which is already under threat from insufficient funding)?

### **Disrupting preparations for the decennial count**

Adding additional questions to the 2020 Census would disrupt preparations at a pivotal point in the decennial cycle, with the "dress rehearsal" about to start. It would undermine years of research and testing and dramatically increase the cost of the Census, as the Bureau would have to go to great lengths to counteract the response rate drop. This would happen at a time when the Commerce Department has already indicated that the 2020 Census will cost more than \$3 billion more than expected.

### **Legal/Constitutional complications**

Section 2 of the 14th Amendment states, in reference to the apportionment of House seats, that the decennial Census should count "the whole number of persons in each state" – it makes no reference to citizenship or immigration status, and clearly included people who at the time had no voting rights, such as African and Native Americans. Apportionment is based on population, which is why the federal government includes even children and prisoners in the count. In a September 1989 letter to Congress, President George H. W. Bush's Justice Department agreed with prior Administrations that the 14th Amendment and the apportionment clause (Article I, section 2) require a decennial census of all U.S. residents, including noncitizens and illegal immigrants.

Additionally, any attempt to add such questions to the Census could face a quick legal challenge for violating a respondent's Fifth Amendment rights against self-incrimination.

### **Position: The Insights Association opposes any attempt to impair the 2020 Census**

Accurate data from the 2020 Census is essential to the production of statistically representative studies in the United States. The Insights Association, on behalf of the marketing research and analytics industry, opposes adding citizenship and immigration status questions to the decennial Census, and any other measures that could inhibit the ability of the Census Bureau to execute its Constitutional responsibilities.