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Ahead of court ruling, Census Bureau seeks citizenship data

By GARANCE BURKE and FRANK BAJAK March 7, 2019



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As the U.S. Supreme Court weighs whether the Trump administration can ask people if they are citizens on the 2020 Census, the Census Bureau is quietly seeking comprehensive information about the legal status of millions of immigrants.

Under a proposed plan, the Department of Homeland Security would provide the Census Bureau with a broad swath of personal data about noncitizens, including their immigration status, The Associated Press has learned. A pending agreement between the agencies has been in the works since at least January, the same month a federal judge in New York blocked the administration from adding the citizenship question to the 10-year survey.



On Wednesday, a federal judge in California also declared that adding the citizenship question to the Census was unconstitutional, saying the move “threatens the very foundation of our democratic system.”

The data that Homeland Security would share with Census officials would include noncitizens’ full names and addresses, birth dates and places, as well as Social Security numbers and highly sensitive alien registration numbers, according to a document signed by the Census Bureau and obtained by AP.

Such a data dump would be apparently unprecedented and give the Census Bureau a view of immigrants’ citizenship status that is even more precise than what can be gathered in door-to-door canvassing, according to bureau research.

Six former Census and DHS officials said they were not aware that individuals’ citizenship status had ever before been shared with the Census. “Generally, the information kept in a system of records is presumed to be private and can’t be released unless it fits with a certain set of defined exceptions,” said Leon Rodriguez, who led the DHS agency responsible for citizenship under the Obama administration.

The move raises questions as to what the Trump administration seeks to do with the data and concerns among privacy and civil rights activists that it could be misused.

Census spokesman Michael Cook said the agreement was awaiting signatures at DHS, but that Census expected it would be finalized “as soon as possible.”

“The U.S. Census Bureau routinely enters into agreements to receive administrative records from many agencies, including our pending agreement with U.S. Citizenship and Immigration Services, to assist us in our mission to provide quality statistics to the American public,” Cook said in a statement. “By law, the Census Bureau does not return any records to the Department of Homeland Security or any of its components, including Immigration and Customs Enforcement.”

Jessica Collins, a spokeswoman for Citizenship and Immigration Services, said no agreement has been finalized. She said the purpose of such agreements is to help improve the reliability of population estimates for the next Census.

“The information is protected and safeguarded under applicable laws and will not be used for adjudicative or law enforcement purposes,” Collins said.

Civil rights groups accuse the White House of pursuing a citizenship question because it would discourage noncitizens from participating in the Census and lead to less federal money and representation in Congress for states with large immigrant populations. Census researchers say including the question could yield significant underreporting for immigrants and communities of color.

Under the pending three-year information-sharing agreement, the Census Bureau would use the DHS data to better determine who is a citizen and eligible to vote by “linking citizenship information from administrative records to Census microdata.”

“All uses of the data are solely for statistical purposes, which by definition means that uses will not directly affect benefits or enforcement actions for any individual,” according to the 13-page document signed by a Census official.

Amy O’Hara, who until 2017 directed Census Bureau efforts to expand data-sharing with other agencies, said she was surprised a plan was in the works for sharing alien numbers, which are assigned to immigrants seeking citizenship or involved in law enforcement action.

“I wish that we were not on this path,” she said. “If the citizenship question hadn’t been added to the Census, this agreement never would have been sought.”

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amount of identifying data to get their jobs done, said O'Hara, now co-director of Georgetown University's census research center. During her tenure, the bureau never obtained anything as sensitive as alien numbers, which O'Hara called "more radioactive than fingerprints."

Some privacy groups worry the pending agreement is an end-run around the courts.

"What's going on here is they are trying to circumvent the need for a citizenship question by using data collected by another agency for a different purpose," Jeramie Scott, an attorney at the Electronic Privacy Information Center. "It's a violation of people's privacy."

The agreement would bar the bureau from sharing the data with outside agencies. But confidentiality provisions have been circumvented in the past.

During World War II Congress suspended those protections, and the bureau shared data about Japanese-Americans that was used to help send 120,000 people to internment camps. Most were U.S. citizens. From 2002-2003, the Census Bureau provided DHS with population statistics on Arab-Americans that activists complained was a breach of public trust, even if the sharing was legal.

The quiet manner in which the agencies pursued sharing records could stoke concerns that the Trump administration may be seeking to create a registry of noncitizens, said Kenneth Prewitt, who was Census director from 1998-2001 and is now a Columbia University professor.

Census scholars say that could not happen without new legislation, which is not likely under the Democratic majority in the House of Representatives.

In mid-April, the Supreme Court will hear arguments as to whether the 2020 Census can include a citizenship question, with a decision expected weeks later.

Next week, Commerce Secretary Wilbur Ross, whose department oversees the census, is set to testify before Congress on his role in the controversy.

California Democratic Rep. Jimmy Gomez, who sits on the House Committee on Oversight and Reform, said he was concerned to learn of the data-sharing proposal and that Ross would face related questions.

"The news of this proposed plan will surely send shockwaves through immigrant communities across the country," Gomez said Wednesday. "This new development raises even more questions about the motivations behind this untested citizenship question and Secretary Ross better be ready to answer them."

About 44 million immigrants live in the United States — nearly 11 million of them illegally. The 10-year headcount is based on the total resident population, both citizens and noncitizens.

The Census figures hugely in how political power and money are distributed in the U.S., and underreporting by noncitizens would have an outsized impact in states with larger immigrant populations. Political clout and federal dollars are both at stake because 10-year survey results are used to distribute electoral college votes and congressional district seats, and allocate more than \$880 billion a year for services including roads, schools and Medicare.

The push to get a clearer picture of the number of noncitizens in the U.S. comes from an administration that has implemented hard-line policies to restrict immigration in numerous agencies.

Against advice of career officials at the Census Bureau, Ross decided last year to add the citizenship question to the 10-year headcount, saying the Justice Department requested the question to improve enforcement of the federal Voting Rights Act.

Some prominent GOP lawmakers endorsed the citizenship question, saying it would lead to more accurate data, and a joint fundraising committee for Trump's re-election campaign and the Republican National Committee used it as a fundraising tool. Immigrants' rights groups and multiple Democratic-led states, cities and counties filed suit, arguing that the question sought to discourage the Census participation of minorities.



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million households.

Documents and testimony in a New York trial showed that Ross began pressing for a citizenship question soon after he became secretary in 2017, and that he consulted Steve Bannon, President Donald Trump’s former chief strategist, and then-Kansas Secretary of State Kris Kobach, a vocal advocate of tough immigration laws who also has advised the president. Emails showed that Ross himself had invited the Justice Department request to add the citizenship question.

A March 2018 memo to Ross from the Census Bureau’s chief scientist says the DHS data on noncitizens could be used to help create a “comprehensive statistical reference list of current U.S. citizens.” The memo discusses how to create ‘baseline citizenship statistics’ by drawing on administrative records from DHS, the Social Security Administration, State Department and the Internal Revenue Service, in addition to including the citizenship question in the census.

In January, New York federal judge Jesse Furman ruled that Ross was “arbitrary and capricious” in proposing the question.

The new data comes from Citizenship and Immigration Services, a DHS agency that has taken on a larger role in enforcing immigration restrictions under Trump.

After Francis Cissna took over as director in October 2017, the agency initiated a “denaturalization task force” aimed at investigating whether immigrants obtaining their citizenship fraudulently. The agency also has slashed the refugee program to historic lows and proposed reinterpreting immigration law to screen whether legal immigrants are likely to draw on the public welfare system.

Cissna also rewrote the agency’s mission statement: “Securing America’s promise as a nation of immigrants” became “Securing the homeland and honoring our values.”

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