

Questionable?

Why an Untested Citizenship
Question Threatens the 2020 Census

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Constitutional, Statutory, and Regulatory Foundations

Constitutional Mandate

- “Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State....”
- “The actual Enumeration shall be made...within every subsequent Term of ten Years, in such Manner as [Congress] shall by Law direct.”
- Thus **core constitutional purpose** of the Decennial Census is to conduct an accurate enumeration of the U.S. population



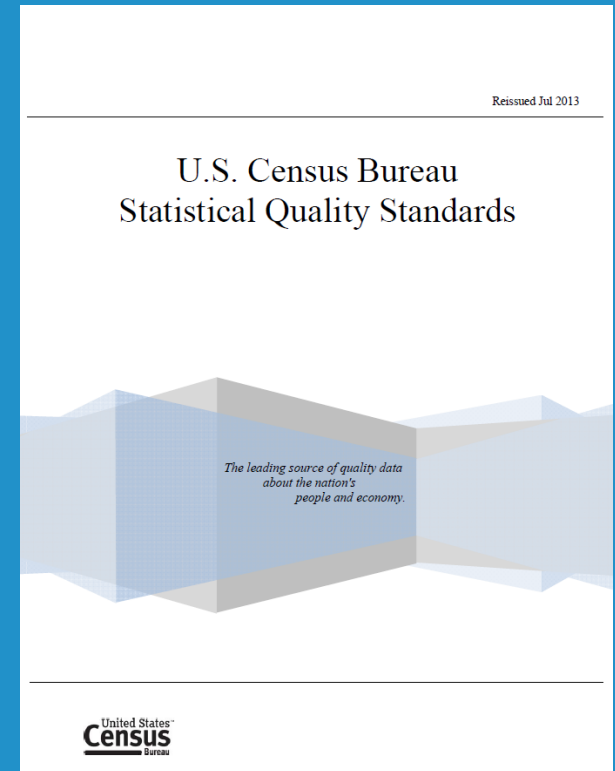


- **Legal Foundations**

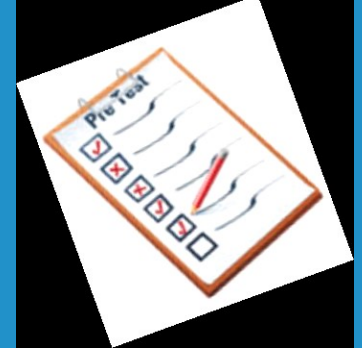
- **Census Act** places the **Census Bureau** in the **Department of Commerce** and assigns the responsibility of enumeration to the Commerce Secretary
- Census Act of 1790 established the “**place of usual residence**” as the principle in determining where people should be counted
- The **census has always included non-citizens** when their place of usual residence is the United States
- **Court Oversight**
 - In *Wisconsin v. City of New York* the court held that the Secretary’s decisions must be consistent with the “**constitutional goal of equal representation**” and bear a “**reasonable relationship to the accomplishment of any actual enumeration of the population.**”

U.S. Census Bureau Statistical Quality Standards

“These standards provide a means to ensure consistency in the processes of all the Census Bureau’s program areas, from planning through dissemination... will ensure the utility, objectivity, and integrity of the statistical information...to Congress, to federal policy makers, to sponsors, and to the public.”



“Data collection instruments and supporting materials must be pretested with respondents to identify problems...”



- **Pretesting**

that “data collection instruments and supporting materials must be pretested with respondents to identify problems...and then refined, prior to implementation...”

- **One or more of the following pretesting methods must be used:**

- **Cognitive interviews**
- **Focus groups**
- **Usability Testing**
- **Behavior Coding.**
- **Respondent Debriefings**
- **Split Panel Tests**



Evolution of the Census Questionnaire

Early Census forms were simple

- Name
- Age
- Sex
- Color and Slave Status

Schedule of the whole number of Persons in the Territory of the United States North West of the Ohio

Names of Counties	Free white Males					Free white Females					Slaves
	Under ten years of Age	From ten to 16	From 16 to 21	From 21 to 45	45 and over	Under ten years of Age	From ten to 16	From 16 to 21	From 21 to 45	45 and over	
Jefferson	1937	754	749	751	217	1768	717	718	686	258	35
Washington	1025	379	508	642	292	991	558	472	107	193	18
Adams	737	273	319	341	177	664	261	267	273	115	15
Hamilton	2275	1235	1525	1261	480	3098	1105	1297	954	344	0
Waynes	540	201	323	584	198	467	193	252	198	100	139
Boyle	1648	650	928	1061	326	1618	604	760	691	292	125
Summit	202	71	228	323	55	206	83	93	186	71	5
The aggregate amount of each description	9362	3627	4036	4133	1415	8644	3333	3861	3342	1347	337

The whole number of Inhabitants in the Territory 45,365.

1800

Market Street
130

And his own land	230	a	219	9	3	5	149
James Colton	232	a	3	3	3	3	149
Balthus Emrick	231	a	1	2	6		
Charles Schultz	236	a	4		3		
Elizabeth White	238	a			1		
John Hinckle	240	a	1	2	3		
Thomas Mungler	246	a	1	3	1	2	
David Russell	246	a	2	1	3		
Thomas Miffle	248	a	2		3	2	
Ann York	250	a		1	2		
John T. DeGraham	254	a	1		3		
Benjamin Hamaker	256	a	1	3	1	1	
Henry Klue	260	a	1	1	1		
Henry Kream	268	a	2		1		
Joseph Ogden	270	a	6		5		
William Loveman	274	a	1	1	2		
James New Houses	276	a					
William Hamilton	280	a	1		2		
Annancee Rowan	284	a					
Van Berkel	286	a	2226	1519	3966	307	149
Edmond Randolph	290	a					

1790

Over time forms became more complex

- Name
- Age
- Sex
- Color and Slave Status
- Occupation
- Value of Real Estate
- Value of Personal Estate
- Birthplace
- Marital Status
- School Attendance
- Literacy
- Whether deaf, dumb, blind, insane, idiotic, pauper, or convict

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SCHEDULE 1.—Free Inhabitants in 12th Ward, Rochester City in the County of Morristown State of New York enumerated by me, on the 22d day of July 1860. Edward H. [unclear] Ass't Marshal

Post Office Rochester

Dwelling-house, or place where the person is usually on the first day of June, 1860, was in this family.	Dwelling-house, or place where the person is usually on the first day of June, 1860, was in this family.	Description.	Sex			Profession, Occupation, or Trade, of each person, male and female, over 15 years of age.	Value of Estate Owned.		Place of Birth, Naming the State, Territory, or Country.	Whether deaf and dumb, blind, insane, idiotic, pauper, or convict.			
			Male	Female	Color		Real Estate	Personal Estate					
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1032	1032	Henry P. Alden	54	M	-	Carriage	25000	10000	Mass				
		Laura "	44	F					N. Y.				
		Julia "	24	F									
		Laura "	22	F									
		Mary "	20	F									
		George "	12	M								15	
		Arthur "	9	M								14	
		Samuel "	1	M									
		Ally Chaublin	53	F	-	Domestic			England				
		Harsh Frost	19	F	-	"			"				
		Elizabeth Hanson	17	F	-	"			"				
		Female 1032	24	M		Hired Man			N. Y.				
1033	1033	Fredrick Douglas	43	M	B	Editor	4000	5000	Mass				
		Anna "	43	F	B				"				
		Corina "	21	F	B				Mass				
		Louis "	20	M	B	Printer			"				
		Fredrick "	19	M	B	"			"				
		Charles "	16	M	B	"			"				
1034	1034	Christophia Short	56	M	-	Hair Dresser		200	Whitney Co				
		Octavia "	33	F	-				"				
		William "	5	M	-				Conn				
		Natasha "	1	F					N. Y.				
1035	1035	Phillip Wilkoff	31	M	-	Clerk		300	England				
		Harriet "	27	F	-				"				
		Houstan "	2	F					N. Y.				
		Fanny "	2	F					"				
1036	1036	Fredrick Miller	24	M	-	Saloon	750	100	Mass				
		Lydia "	23	F	-				"				

By mid-20th century the forms had become **very complicated** and **burdensome**

- Name
- Relation to head
- Age
- Sex
- Race
- Marital Status
- Birthplace
- Citizenship
- Employment status
- Occupation
- Industry
- Hours worked
- Industry
- Residence Last Year
- Parental Birthplace
- Education
- Income & Earnings
- Veteran Status

The image shows a highly detailed and complex 1950 Census form, Form P-1, titled "1950 CENSUS OF POPULATION AND HOUSING". The form is divided into several sections: "FOR HEAD OF HOUSEHOLD", "FOR ALL PERSONS", and "FOR PERSONS 14 YEARS OF AGE AND OVER". It contains numerous tables, checkboxes, and fields for recording demographic and socioeconomic data. The form is marked "CONFIDENTIAL" and "U.S. DEPARTMENT OF COMMERCE BUREAU OF THE CENSUS". The year "1950" is printed at the bottom right.

1950

In 1970 the "census" was divided into two separate forms:

- **Short Form:** All Households (age, relation to head, sex, age, race, marital status, Hispanic origin, education)
- **Long Form:** 20% Sample of Households

Page 2

ALSO ANSWER THE HOUSING QUESTIONS ON PAGE 3

ALSO ANSWER THE HOUSING QUESTIONS ON PAGE 3

Here are the QUESTIONS	PERSON in column 1		PERSON in column 2		PERSON in column 3		PERSON in column 4		PERSON in column 5		PERSON in column 6	
These are the columns for ANSWERS	Last name	First name	Last name	First name	Last name	First name	Last name	First name	Last name	First name	Last name	First name
2. How is this person related to the person in column 1? <i>Fill one circle.</i> <i>If "Other relative" of person in column 1, give exact relationship, such as mother-in-law, niece, grandson, etc.</i>	START in this column with the household member (or one of the members) in whose name the home is owned or rented. If there is no such person, start in this column with any adult household member.		If relative of person in column 1: <input type="radio"/> Husband/wife <input type="radio"/> Son/daughter <input type="radio"/> Brother/sister <input type="radio"/> Father/mother <input type="radio"/> Other relative		If relative of person in column 1: <input type="radio"/> Husband/wife <input type="radio"/> Son/daughter <input type="radio"/> Brother/sister <input type="radio"/> Father/mother <input type="radio"/> Other relative		If relative of person in column 1: <input type="radio"/> Husband/wife <input type="radio"/> Son/daughter <input type="radio"/> Brother/sister <input type="radio"/> Father/mother <input type="radio"/> Other relative		If relative of person in column 1: <input type="radio"/> Husband/wife <input type="radio"/> Son/daughter <input type="radio"/> Brother/sister <input type="radio"/> Father/mother <input type="radio"/> Other relative		If relative of person in column 1: <input type="radio"/> Husband/wife <input type="radio"/> Son/daughter <input type="radio"/> Brother/sister <input type="radio"/> Father/mother <input type="radio"/> Other relative	
3. Sex <i>Fill one circle.</i>	<input type="radio"/> Male <input type="radio"/> Female		<input type="radio"/> Male <input type="radio"/> Female		<input type="radio"/> Male <input type="radio"/> Female		<input type="radio"/> Male <input type="radio"/> Female		<input type="radio"/> Male <input type="radio"/> Female		<input type="radio"/> Male <input type="radio"/> Female	
4. Is this person — <i>Fill one circle.</i>	<input type="radio"/> White <input type="radio"/> Black or Negro <input type="radio"/> Japanese <input type="radio"/> Chinese <input type="radio"/> Filipino <input type="radio"/> Korean <input type="radio"/> Vietnamese <input type="radio"/> Indian (Amer.) <input type="radio"/> Other — Specify		<input type="radio"/> White <input type="radio"/> Black or Negro <input type="radio"/> Japanese <input type="radio"/> Chinese <input type="radio"/> Filipino <input type="radio"/> Korean <input type="radio"/> Vietnamese <input type="radio"/> Indian (Amer.) <input type="radio"/> Other — Specify		<input type="radio"/> White <input type="radio"/> Black or Negro <input type="radio"/> Japanese <input type="radio"/> Chinese <input type="radio"/> Filipino <input type="radio"/> Korean <input type="radio"/> Vietnamese <input type="radio"/> Indian (Amer.) <input type="radio"/> Other — Specify		<input type="radio"/> White <input type="radio"/> Black or Negro <input type="radio"/> Japanese <input type="radio"/> Chinese <input type="radio"/> Filipino <input type="radio"/> Korean <input type="radio"/> Vietnamese <input type="radio"/> Indian (Amer.) <input type="radio"/> Other — Specify		<input type="radio"/> White <input type="radio"/> Black or Negro <input type="radio"/> Japanese <input type="radio"/> Chinese <input type="radio"/> Filipino <input type="radio"/> Korean <input type="radio"/> Vietnamese <input type="radio"/> Indian (Amer.) <input type="radio"/> Other — Specify		<input type="radio"/> White <input type="radio"/> Black or Negro <input type="radio"/> Japanese <input type="radio"/> Chinese <input type="radio"/> Filipino <input type="radio"/> Korean <input type="radio"/> Vietnamese <input type="radio"/> Indian (Amer.) <input type="radio"/> Other — Specify	
5. Age, and month and year of birth <i>Print age at last birthday.</i> <i>Print month and fill one circle.</i> <i>Print year in the spaces, and fill one circle below each number.</i>	a. Age at last birthday 1 8 0 0 0 0 9 0 1 0 2 0		a. Age at last birthday 1 8 0 0 0 0 9 0 1 0 2 0		a. Age at last birthday 1 8 0 0 0 0 9 0 1 0 2 0		a. Age at last birthday 1 8 0 0 0 0 9 0 1 0 2 0		a. Age at last birthday 1 8 0 0 0 0 9 0 1 0 2 0		a. Age at last birthday 1 8 0 0 0 0 9 0 1 0 2 0	
6. Marital status <i>Fill one circle.</i>	<input type="radio"/> Now married <input type="radio"/> Widowed <input type="radio"/> Divorced <input type="radio"/> Separated <input type="radio"/> Never married		<input type="radio"/> Now married <input type="radio"/> Widowed <input type="radio"/> Divorced <input type="radio"/> Separated <input type="radio"/> Never married		<input type="radio"/> Now married <input type="radio"/> Widowed <input type="radio"/> Divorced <input type="radio"/> Separated <input type="radio"/> Never married		<input type="radio"/> Now married <input type="radio"/> Widowed <input type="radio"/> Divorced <input type="radio"/> Separated <input type="radio"/> Never married		<input type="radio"/> Now married <input type="radio"/> Widowed <input type="radio"/> Divorced <input type="radio"/> Separated <input type="radio"/> Never married		<input type="radio"/> Now married <input type="radio"/> Widowed <input type="radio"/> Divorced <input type="radio"/> Separated <input type="radio"/> Never married	
7. Is this person of Spanish/Hispanic origin or descent? <i>Fill one circle.</i>	<input type="radio"/> No (not Spanish/Hispanic) <input type="radio"/> Yes, Mexican, Mexican-Amer., Chicano <input type="radio"/> Yes, Puerto Rican <input type="radio"/> Yes, Cuban <input type="radio"/> Yes, other Spanish/Hispanic		<input type="radio"/> No (not Spanish/Hispanic) <input type="radio"/> Yes, Mexican, Mexican-Amer., Chicano <input type="radio"/> Yes, Puerto Rican <input type="radio"/> Yes, Cuban <input type="radio"/> Yes, other Spanish/Hispanic		<input type="radio"/> No (not Spanish/Hispanic) <input type="radio"/> Yes, Mexican, Mexican-Amer., Chicano <input type="radio"/> Yes, Puerto Rican <input type="radio"/> Yes, Cuban <input type="radio"/> Yes, other Spanish/Hispanic		<input type="radio"/> No (not Spanish/Hispanic) <input type="radio"/> Yes, Mexican, Mexican-Amer., Chicano <input type="radio"/> Yes, Puerto Rican <input type="radio"/> Yes, Cuban <input type="radio"/> Yes, other Spanish/Hispanic		<input type="radio"/> No (not Spanish/Hispanic) <input type="radio"/> Yes, Mexican, Mexican-Amer., Chicano <input type="radio"/> Yes, Puerto Rican <input type="radio"/> Yes, Cuban <input type="radio"/> Yes, other Spanish/Hispanic		<input type="radio"/> No (not Spanish/Hispanic) <input type="radio"/> Yes, Mexican, Mexican-Amer., Chicano <input type="radio"/> Yes, Puerto Rican <input type="radio"/> Yes, Cuban <input type="radio"/> Yes, other Spanish/Hispanic	
8. Since February 1, 1980, has this person attended regular school or college at any time? <i>Fill one circle. Count nursery school, kindergarten, elementary school, and schooling which leads to a high school diploma or college degree.</i>	<input type="radio"/> No, has not attended since February 1 <input type="radio"/> Yes, public school, public college <input type="radio"/> Yes, private, church-related <input type="radio"/> Yes, private, not church-related		<input type="radio"/> No, has not attended since February 1 <input type="radio"/> Yes, public school, public college <input type="radio"/> Yes, private, church-related <input type="radio"/> Yes, private, not church-related		<input type="radio"/> No, has not attended since February 1 <input type="radio"/> Yes, public school, public college <input type="radio"/> Yes, private, church-related <input type="radio"/> Yes, private, not church-related		<input type="radio"/> No, has not attended since February 1 <input type="radio"/> Yes, public school, public college <input type="radio"/> Yes, private, church-related <input type="radio"/> Yes, private, not church-related		<input type="radio"/> No, has not attended since February 1 <input type="radio"/> Yes, public school, public college <input type="radio"/> Yes, private, church-related <input type="radio"/> Yes, private, not church-related		<input type="radio"/> No, has not attended since February 1 <input type="radio"/> Yes, public school, public college <input type="radio"/> Yes, private, church-related <input type="radio"/> Yes, private, not church-related	
9. What is the highest grade (or year) of regular school this person has ever attended? <i>Fill one circle.</i> <i>If now attending school, mark grade person is in. If high school was finished by equivalency test (GED), mark "12."</i>	Highest grade attended: <input type="radio"/> Nursery school <input type="radio"/> Kindergarten <input type="radio"/> Elementary through high school (grade or year) 1 2 3 4 5 6 7 8 9 10 11 12 <input type="radio"/> College (academic year) 1 2 3 4 5 6 7 8 or more <input type="radio"/> Never attended school — Skip question 10		Highest grade attended: <input type="radio"/> Nursery school <input type="radio"/> Kindergarten <input type="radio"/> Elementary through high school (grade or year) 1 2 3 4 5 6 7 8 9 10 11 12 <input type="radio"/> College (academic year) 1 2 3 4 5 6 7 8 or more <input type="radio"/> Never attended school — Skip question 10		Highest grade attended: <input type="radio"/> Nursery school <input type="radio"/> Kindergarten <input type="radio"/> Elementary through high school (grade or year) 1 2 3 4 5 6 7 8 9 10 11 12 <input type="radio"/> College (academic year) 1 2 3 4 5 6 7 8 or more <input type="radio"/> Never attended school — Skip question 10		Highest grade attended: <input type="radio"/> Nursery school <input type="radio"/> Kindergarten <input type="radio"/> Elementary through high school (grade or year) 1 2 3 4 5 6 7 8 9 10 11 12 <input type="radio"/> College (academic year) 1 2 3 4 5 6 7 8 or more <input type="radio"/> Never attended school — Skip question 10		Highest grade attended: <input type="radio"/> Nursery school <input type="radio"/> Kindergarten <input type="radio"/> Elementary through high school (grade or year) 1 2 3 4 5 6 7 8 9 10 11 12 <input type="radio"/> College (academic year) 1 2 3 4 5 6 7 8 or more <input type="radio"/> Never attended school — Skip question 10		Highest grade attended: <input type="radio"/> Nursery school <input type="radio"/> Kindergarten <input type="radio"/> Elementary through high school (grade or year) 1 2 3 4 5 6 7 8 9 10 11 12 <input type="radio"/> College (academic year) 1 2 3 4 5 6 7 8 or more <input type="radio"/> Never attended school — Skip question 10	
10. Did this person finish the highest grade (or year) attended? <i>Fill one circle.</i>	<input type="radio"/> Now attending this grade (or year) <input type="radio"/> Finished this grade (or year) <input type="radio"/> Did not finish this grade (or year)		<input type="radio"/> Now attending this grade (or year) <input type="radio"/> Finished this grade (or year) <input type="radio"/> Did not finish this grade (or year)		<input type="radio"/> Now attending this grade (or year) <input type="radio"/> Finished this grade (or year) <input type="radio"/> Did not finish this grade (or year)		<input type="radio"/> Now attending this grade (or year) <input type="radio"/> Finished this grade (or year) <input type="radio"/> Did not finish this grade (or year)		<input type="radio"/> Now attending this grade (or year) <input type="radio"/> Finished this grade (or year) <input type="radio"/> Did not finish this grade (or year)		<input type="radio"/> Now attending this grade (or year) <input type="radio"/> Finished this grade (or year) <input type="radio"/> Did not finish this grade (or year)	
CENSUS USE ONLY	A.	O	I	N	O	CENSUS USE ONLY	A.	O	I	N	O	CENSUS USE ONLY

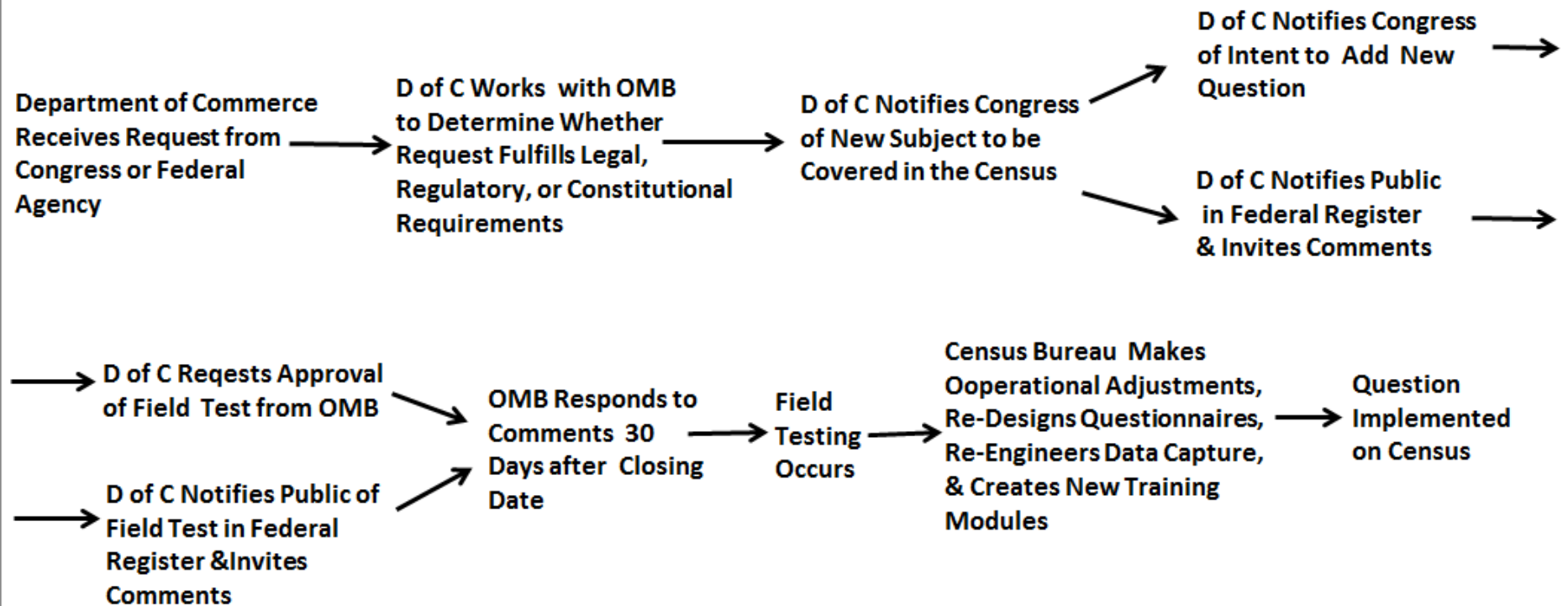
Short Form (10 Questions)

In 2010 the **Long Form** was replaced by the **American Community Survey**

- 28 Pages
- 23 Housing Questions
- 48 Person Questions (including citizenship)
- Annually administered to a 2% sample of households (around 3.5 million households)
- Used to produce annual estimates for states, counties, tracts, and block groups
- **Since 1970 Long Form/ACS data have always been deemed suitable and appropriate for all legislative and regulatory mandates**



Procedure for Adding Question to the Census



- Historically it has been **exceedingly difficult to get a new question included on the long form** or more recently the ACS, **much less the census short form**
 - The **last question added to the short form was Hispanic origin and that was in 1980**
 - A **recent proposal to combine the race and Hispanic origin questions was rejected** after years of research and comment
 - OMB Statistical Directive Number 1 requires that “**a federal statistical agency must be independent from political and other undue external influence in developing, producing, and disseminating statistics**”



How the Proposed Addition of Citizenship to the Census Happened

U.S. Department of Commerce Announces Reinstatement of Citizenship Question to the 2020 Decennial Census

 2020 Census

Today, the U.S. Department of Commerce announced that a question on citizenship status will be reinstated to the 2020 decennial census questionnaire to help enforce the Voting Rights Act (VRA). Secretary Ross's decision follows a request by the Department of Justice (DOJ) to add a question on citizenship status to the 2020 decennial census.

Please click [HERE](#) to view the memorandum directing the Census Bureau to reinstate a question on citizenship to the 2020 decennial census.

FOR IMMEDIATE RELEASE
Monday, March 26, 2018

Office of Public Affairs

(202) 482-4883

publicaffairs@doc.gov 

The Memorandum



UNITED STATES DEPARTMENT OF COMMERCE
The Secretary of Commerce
Washington, D.C. 20230

To: Karen Dunn Kelley, Under Secretary for Economic Affairs

From: Secretary Wilbur Ross *Wilbur Ross*

Date: March 26, 2018

Re: Reinstatement of a Citizenship Question on the 2020 Decennial Census Questionnaire

Dear Under Secretary Kelley:

As you know, on December 12, 2017, the Department of Justice (“DOJ”) requested that the Census Bureau reinstate a citizenship question on the decennial census to provide census block level citizenship voting age population (“CVAP”) data that are not currently available from government survey data (“DOJ request”). DOJ and the courts use CVAP data for determining violations of Section 2 of the Voting Rights Act (“VRA”), and having these data at the census block level will permit more effective enforcement of the Act. Section 2 protects minority population voting rights.

What We Now Know

The Department of Commerce has since admitted that:

- A White House staff member called Secretary Ross in **April of 2017** to ask the Secretary if he would be willing to speak to a prominent Republican state official about the **possibility of adding a citizenship question** to the Decennial Census.
- The Secretary's conversation with the state official **came before any request from DOJ** to add a citizenship question to the Decennial Census.
- In **May of 2017** the Secretary Ross emailed his Deputy Chief of Staff stating that he was “**mystified why nothing have [sic] been done in response to my months old request that we include a citizenship question [on the 2020 Decennial Census].**”

- In a sworn deposition, Secretary Ross's Deputy Chief of Staff and Director of Policy testified that:
 - **His job was to “help [the Secretary] find the best rationale” for adding the question, because “[t]hat’s what a policy person does” and that he did not “need to know what [the Secretary’s] rationale might be, because it may or may not be one that is ... legally-valid.”**
 - **On May 2, 2017 he advised the Secretary that it would be necessary to “work with Justice to get them to request that citizenship be added back to a census question ...”**
 - **When he contacted DOJ on May 4, 2017 for the purpose of adding a citizenship question he was not seeking to promote more effective enforcement of the Voting Rights Act.**
- In a sworn deposition, the Acting Assistant Attorney General for Civil Rights admitted
 - **He did not know whether citizenship data produced from the census questionnaire would in fact be better for purposes of Voting Rights Act enforcement than the citizenship data that DOJ already had at its disposal.**

Conclusions

The proposed inclusion of the citizenship question on the Decennial Census:

1. **Did not originate in the Department of Justice**
2. **Has no legislative or constitutional justification**
3. **Violates well-established Census procedures for adding a question to the census and violates the Census Bureau's published Statistical Quality Standards**



Conclusions, continued

4. The possible inclusion of the citizenship question on the 2020 Census **violates the OMB directive that “a federal statistical agency must be independent from political and other undue external influence in developing, producing, and disseminating statistics”**
5. The addition of the citizenship question to the census short form **carries serious risks for the success of the 2020 enumeration.**

