

Executive Summary:

The Fourteenth Amendment to the United States Constitution is one of the most consequential amendments to this day because it provides for civil rights for all persons born or naturalized in the United States and it changed the United States Constitution's Enumeration Clause which requires a decennial census. The Fourteenth Amendment provides that "*Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State.*" To this end, the Constitution mandates that every ten years, the federal government must strive to count every single person residing in the United States, whether citizen or noncitizen, whether living here with legal status or without (i.e., 'head count').

The amended Enumeration Clause serves to collect the data for apportionment of Representatives among the states, draw political districts whether federal, state, or local, and allocate power among them. In addition, this head count is also used to allocate hundreds of billions of dollars in federal, state, and local funds. Given the important objectives, the interest in an accurate "head count" is paramount. A slight deviation from an accurate "head count" could have major implications for the residents of Harris County.

Since its inception in 1790, the census also has been used to collect demographic data about the population of the United States, including information about respondents' race, sex, and age, and whether they own or rent their homes. From 1820 to 1950, the federal government collected data about people's citizenship status from all households in the country in every census. However, in 1960, the federal government eliminated the citizenship question in its census survey, and for the last 60 years, the official position of the Census Bureau was that reintroducing such a question would frustrate the intent of the Framers of the Constitution because it would depress the head count for already difficult-to-count groups — largely foreign born residents (documented or undocumented) and Hispanics communities — for fear that the information could be used against them or their loved ones.

Unfortunately, on March 26, 2018, Secretary of Commerce Wilbur L. Ross, Jr. announced that he was reinstating the citizenship question on the 2020 census questionnaire, purportedly to assist the enforcement of the Voting Rights Act. He did so over the objections of the Census Bureau itself and its data scientists. The reinstating of a citizenship question would create a chilling effect on the foreign

born communities' willingness to participate and certainly harm the quality of census data. This is particularly so because the current political atmosphere of attacking immigrants and their communities raises fears of retaliation so that the people are less likely to respond to census questionnaires and be counted.

The citizenship question would not only serve no good reason, but it would also defeat the objective of census survey. There are other alternative ways to achieve the collection of citizenship data and the enforcement of the Voting Rights Act and that would cause no harm to the census survey.

Harris County, the third most populous county in the country, with a diverse population of 4,652,980 (as of 2017), has roughly 26% foreign-born residents.

The high probability of an undercount, resulting from adding the citizenship question, will cause Harris County to lose not only millions of dollars of federal and state funding, but also cause the unfair-undercount apportionment of congressional districts and state and local apportionment of districts, with the area losing at least one entire congressional district. In other words, Harris County would have less representation at all levels of government.

Secretary Ross's decision to reinstate the citizenship question, and the process leading to that decision, violate provisions of statutory and constitutional law. His decision used the pretext of protecting voting rights because the evidence showed he wanted to add the citizenship question shortly after he took office after being contacted by anti-immigration officials. In addition, his office spent months trying to get another agency to ask for the question to give him the excuse to add it.

With the reasons articulated above, Harris County submitted this Friend of the Court's Brief to the US Supreme Court for consideration.

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