



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Walesh

SUBJECT: 2020 CENSUS CITIZENSHIP
QUESTION DECISION

DATE: July 15, 2019

Approved

Date

7-15-19

INFORMATION

The purpose of this memorandum is to provide an update on the recent developments around the 2020 Census citizenship question, the recent and related Supreme Court decision and the July 11 announcement by the President that he would not pursue inclusion of this question in the census.

As background, the proposed citizenship question, mirrored after the question in the American Community Survey, would ask individuals if they are U.S. citizens and to describe their citizenship status. It would not ask whether noncitizens are in the country legally. A citizenship question has not been included in the decennial survey since 1950.

- **June 27, 2019** – On June 27, the U.S. Supreme Court upheld the lower court of New York’s decision (*United States Department of Commerce v New York*), and rejected the Department of Commerce’s reasons for adding a citizenship question to the 2020 Census. In the 5-4 ruling authored by Chief Justice John Roberts, the court said that the government has the right to ask a citizenship question; however, the Department did not provide an adequate reason for its decision to add the question. The Department claimed that the inclusion of a citizenship question was to enforce the Voting Rights Act, but evidence did not support this reason. The Commerce Department has the option of putting forward a revised explanation in a lower court. Prior to the case going to the U.S. Supreme Court, federal district court judges in New York, California and Maryland struck down the citizenship question.
- **July 2, 2019** – Less than a week after the U.S. Supreme Court’s decision, the Justice Department announced that it had decided to print the 2020 census forms without the citizenship question, and that direction had been given to the printer to begin printing. However, a day later, President Trump reversed the Justice Department’s decision, and directed staff to find a legal pathway for the question to be included.
- **July 5, 2019** – U.S. District Court Judge George Hazel in Maryland ordered proceedings to continue after Justice Department lawyers confirmed in a court filing that they are still exploring various legal options to allow for the question to be included. Judge Hazel’s

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order means that as the legal fight is prolonged, more evidence may be introduced in court about how and why the Trump Administration wanted the question included.

On this day, the President also announced that he was considering issuing an executive order to add the citizenship question.

July 11, 2019 – On this day the President reversed his position of July 5 and announced that he was *not* going to pursue including the citizenship question in the 2020 census. Rather, he issued an executive order requiring all agencies and departments in the federal government to immediately provide the Department of Commerce with all legally permissible information regarding the number of citizens and non-citizens in the country in order to provide an accurate picture of U.S. citizenship.

Had the President decided to pursue inclusion of the citizenship question, this would have likely triggered a new round of lawsuits from government agencies and civil rights groups who have argued that the inclusion of a citizenship question would suppress participation and consequently the accuracy of the census count. Census data helps determine political representation and the annual allocation of more than \$675 billion in federal funds.

It is important to note that as of now, the U.S. Supreme Court decision stands and the citizenship question is not included in the 2020 Census. The U.S. Census Bureau has confirmed that it is printing the forms without the question.

This memorandum has been coordinated with the City Attorney's Office. Staff will continue to monitor the case and provide updates as warranted.

/s/
KIM WALES
Deputy City Manager

For questions, please contact Jeff Ruster, Assistant Director of Economic Development, at (408) 535-8183.