

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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WASHINGTON, DC 20515-6143

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<http://oversight.house.gov>

May 7, 2019

Mr. Peter Davidson  
General Counsel  
U.S. Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230

Dear Mr. Davidson:

The Committee requests your appearance for a transcribed interview on Tuesday, May 28, 2019, at 9:30 a.m., in room 6400 of the O'Neill House Office Building.

The interview will address the decision by Secretary of Commerce Wilbur Ross to add a citizenship question to the 2020 Decennial Census and other topics. Documents obtained by the Committee show that you played a key role in communications leading up to this decision within the Department of Commerce and with the Department of Justice.

On March 14, 2019, Secretary Ross testified before the Committee, but he refused to answer key questions or commit to providing requested documents regarding the addition of the citizenship question. I explained at the hearing that if he continued to withhold this information, the Committee would, among other steps, seek transcribed interviews with Department of Commerce and Department of Justice staff to obtain the information.

On March 20, 2019, Committee staff emailed Department of Commerce staff to request your attendance at a transcribed interview. The Department refused to arrange the interview, instead demanding that the Committee identify "further justification" for the request.<sup>1</sup>

On March 29, 2019, I wrote to Secretary Ross and provided a detailed explanation of the purpose of the Committee's investigation and the need for this interview, including specific examples of information the Committee seeks.<sup>2</sup>

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<sup>1</sup> Letter from Ross Branson, Deputy Assistant Secretary, Legislative and Intergovernmental Affairs, Department of Commerce, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (Mar. 26, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/DOC.032619.%20Response%20to.pdf>).

<sup>2</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Mar. 29, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-03-29.EEC%20to%20Ross-DOC.pdf>).

On April 1, 2019, the Department of Commerce responded by demanding further information on the Committee's "particularized needs."<sup>3</sup>

The Department does not appear to recognize that Congress is an independent and co-equal branch of government that will determine its own investigative steps without undue interference or delay by the Department.

On April 2, 2019, the Committee voted on a bipartisan basis to authorize a subpoena to Secretary Ross for the key documents sought by the Committee.<sup>4</sup>

On April 11, 2019, Committee staff emailed the Department of Commerce regarding the subpoena and again asked the Department to arrange an interview with you.<sup>5</sup> The Department did not respond to the interview request, further delaying the Committee's investigation.

For all of these reasons, the Committee is now writing to you directly to request your voluntary participation in this interview.

Please be advised that any official at the Department who "prohibits or prevents" or "attempts or threatens to prohibit or prevent" you from speaking with the Committee could have his or her salary withheld pursuant to section 713 of the Financial Services and General Government Appropriations Act.<sup>6</sup> The Government Accountability Office (GAO) has reported to the Committee in the past when an agency official has violated this provision by preventing agency staff from being interviewed by Congress,<sup>7</sup> and a portion of that official's salary was

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<sup>3</sup> Letter from Michael Platt, Jr., Assistant Secretary, Legislative and Intergovernmental Affairs, Department of Commerce, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (Apr. 1, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019.04.01%20LTR%20to%20Cummings.pdf>).

<sup>4</sup> Committee on Oversight and Reform, *Committee Approves Subpoenas in Security Clearance and Census Investigations* (Apr. 2, 2019) (online at <https://oversight.house.gov/news/press-releases/committee-approves-subpoenas-in-security-clearance-and-census-investigations>).

<sup>5</sup> Email from Staff, Committee on Oversight and Reform, to Staff, Department of Commerce (Apr. 11, 2019).

<sup>6</sup> Pub. L. No. 116-6, § 713 ("No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who ... prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the department or agency of such other officer or employee in any way, irrespective of whether such communication or contact is at the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee.").

<sup>7</sup> Letter from Government Accountability Office, to Chairman Jason Chaffetz, Committee on Oversight and Government Reform, et al. (Apr. 5, 2016) (online at [www.gao.gov/assets/680/676341.pdf](http://www.gao.gov/assets/680/676341.pdf)); Letter from Aaron Santa Anna, Acting General Deputy Assistant Secretary for Congressional and Intergovernmental Relations, Department of Housing and Urban Development, to Chairman Charles E. Grassley, Senate Committee on the Judiciary (June 19, 2017) (online at [www.judiciary.senate.gov/imo/media/doc/06-19-17%20Santa%20Anna,%20Aaron%20to%20CEG%20re%20GAO%20Legal%20Opinion%20Financial%20Services%20and%20General%20Government%20Appropriations%20Act\\_Redacted.pdf](http://www.judiciary.senate.gov/imo/media/doc/06-19-17%20Santa%20Anna,%20Aaron%20to%20CEG%20re%20GAO%20Legal%20Opinion%20Financial%20Services%20and%20General%20Government%20Appropriations%20Act_Redacted.pdf)).

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ordered to be returned to the federal government.<sup>8</sup> If at any time you believe any Department official has violated this provision, I encourage you to notify the Committee and/or GAO.

Please contact the Committee by May 13, 2019, to confirm your attendance.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. If you have any questions, please contact Committee staff at (202) 225-5051.

Sincerely,



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Elijah E. Cummings  
Chairman



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Jamie Raskin  
Chairman  
Subcommittee on Civil Rights and  
Civil Liberties

cc: The Honorable Jim Jordan, Ranking Member

The Honorable Chip Roy, Ranking Member  
Subcommittee on Civil Rights and Civil Liberties

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<sup>8</sup> Letter from Craig T. Clemmensen, Senior Advisor to Acting Deputy Secretary, Department of Housing and Urban Development, to former General Deputy Assistant Secretary (June 15, 2017) (online at [www.judiciary.senate.gov/imo/media/doc/06-19-17%20Santa%20Anna,%20Aaron%20to%20CEG%20re%20GAO%20Legal%20Opinion%20Financial%20Services%20and%20General%20Government%20Appropriations%20Act\\_Redacted.pdf](http://www.judiciary.senate.gov/imo/media/doc/06-19-17%20Santa%20Anna,%20Aaron%20to%20CEG%20re%20GAO%20Legal%20Opinion%20Financial%20Services%20and%20General%20Government%20Appropriations%20Act_Redacted.pdf)) (directing the former General Deputy Assistant Secretary to repay a portion of his salary for violating this provision).