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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x
STATE OF NEW YORK, et al., :
Plaintiffs, :
vs. : Civil Action No.
UNITED STATES DEPARTMENT OF : 1:18-cv-2921-JMF
COMMERCE, et al., :
Defendants. : Volume II
- - - - - x

CONTINUED VIDEOTAPED 30(b)(6) DEPOSITION OF:
UNITED STATES CENSUS BUREAU GIVEN BY JOHN M. ABOWD
DATE: Friday, October 5, 2018
TIME: 9:05 a.m.
LOCATION: Arnold & Porter Kaye Scholer
601 Massachusetts Avenue, N.W.
Washington, D.C.
REPORTED BY: Denise M. Brunet, RPR
Reporter/Notary
Veritext Legal Solutions

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A P P E A R A N C E S

On behalf of the New York Immigration Coalition:

DALE HO, ESQUIRE

American Civil Liberties Union
Foundation

REDACTED

SARAH BRANNON, ESQUIRE

American Civil Liberties Union
Foundation

REDACTED

(Appearances continued on the next page.)

1 APPEARANCES (continued):

2

3 On behalf of the New York Immigration Coalition
4 (continued):

5

JOHN A. FREEDMAN, ESQUIRE

6

DAVID GERSCH, ESQUIRE

7

Arnold & Porter Kaye Scholer, LLP

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13 On behalf of the State of New York:

14

DANIELLE FIDLER, ESQUIRE

15

Assistant Attorney General

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REDACTED

Environmental Protection Bureau

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REDACTED

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22 (Appearances continued on the next page.)

REDACTED

REDACTED

1 APPEARANCES (continued):

2

3 On behalf of the Kravitz Plaintiffs:

4 KARUN TILAK, ESQUIRE

5 Covington & Burling

6

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11 On behalf of the Lupe Plaintiffs:

12 NIYATI SHAH, ESQUIRE

13 ERI ANDRIOLA, ESQUIRE

14 Asian Americans Advancing Justice

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22 (Appearances continued on the next page.)

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REDACTED

1 APPEARANCES (continued):

2

3 On behalf of the City of San Jose & Black Alliance
4 for Just Immigration:

5

DORIAN L. SPENCE, ESQUIRE

6

Lawyers Committee for Civil Rights

7

Under Law

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14 On behalf of the State of California:

15

ANNA FERRARI, ESQUIRE

16

Department of Justice

17

Office of the Attorney General

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Government Law Section

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22 (Appearances continued on the next page.)

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REDACTED

1 APPEARANCES (continued):

2

3 On behalf of the State of California (continued):

4 R. MATTHEW WISE, ESQUIRE

5 (via telephone)

6 Department of Justice

7 Office of the Attorney General

8

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9

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13

14 On behalf of Los Angeles Unified School District:

15 KEITH YEOMANS, ESQUIRE

16 (via telephone)

17 Dannis Woliver Kelley

18

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19

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22 (Appearances continued on the next page.)

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1 APPEARANCES (continued):

2

3 On behalf of the County of Los Angeles:

4 DAVID I. HOLTZMAN, ESQUIRE

5 (via telephone)

6 Holland & Knight

7 50 California Street

8

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9

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13 On behalf of Defendants:

14 STEPHEN EHRLICH, ESQUIRE

15 U.S. Department Of Justice

16 Civil Division

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22 (Appearances continued on the next page.)

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1 APPEARANCES (continued):

2

3 On behalf of Defendants (continued):

4

MILES RYAN, ESQUIRE

5

Office of the Chief Counsel for

6

Economic Affairs

7

Office of the General Counsel

8

U.S. Department of Commerce

9

U.S. Census Bureau

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15 ALSO PRESENT: Nhat Pham, Videographer

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C O N T E N T S

EXAMINATION BY:	PAGE:
Mr. Ho	349
Ms. Fidler	436
ABOWD DEPOSITION EXHIBITS:	PAGE:
24 - Bates COM_DIS00009833 - 9909	349
25 - Bates COM_DIS0012757 - 762	349
26 - DSSD 2010 Census Coverage Measurement Memorandum Series #2010-G-01	399
27 - Proposed Content Test on Citizenship Question	425
28 - Bates COM_DIS00010669 - 684	436
29 - Bates COM_DIS0013025 - 55	436

(*Exhibits attached to the transcript.)

1 P R O C E E D I N G S

2 (Abowd Deposition Exhibit Numbers 24 and
3 25 were marked for identification.)

4 THE VIDEOGRAPHER: We're now on the
5 record at 9:05 on October 5th, 2018. This is the
6 continuation of the 30(b)(6) deposition of the
7 Census Bureau, given by John Abowd, taken in the
8 matter of the New York Immigration Coalition, et
9 al., v. United States Department of Commerce, et
10 al.

11 Our court reporter is Denise Brunet,
12 camera operator is Nhat Pham, both on behalf of
13 Veritext.

14 Attorneys present and attending remotely
15 will be noted on the stenographic record. Will
16 the court reporter please swear in the witness.
17 WHEREUPON,

18 JOHN M. ABOWD,
19 called as a witness, and having been sworn by the
20 notary public, was examined and testified as
21 follows:

22 EXAMINATION BY COUNSEL FOR

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NEW YORK IMMIGRATION COALITION

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Q Okay. Picking up from last time, I've given you an exhibit that's been marked as Exhibit 24. Do you see that?

A Yes, sir.

Q Now, this is a white paper titled, Understanding the quality of alternative citizenship data sources for the 2020 census, dated August 6th, 2018, the first page of which has the Bates number COM_DIS09833. Is that correct?

A Yes, sir.

Q Now, this document was created by the Census Bureau in the ordinary course of its business and not for litigation purposes, correct?

A That is correct.

Q I'm going to refer to this as the white paper. Okay?

A That's fine.

1 Q Now, the analysis in this white paper was
2 begun in response to the Department of Justice's
3 request for citizen voting age population data at
4 the census block level, correct?

401;
403

5 A Yes.

6 Q Now, the analysis in this paper attempts,
7 among other things, to assess the quality of
8 citizenship data available to the Census Bureau
9 from different sources, like surveys and
10 administrative records, correct?

11 A Yes.

12 Q The analysis in this paper also
13 represents, among other things, the Census
14 Bureau's efforts to assess the effect that the
15 inclusion of a citizenship question would have on
16 self-response rates the 2020 census; is that
17 correct?

18 A May I make one clarification?

19 Q Sure.

20 A A white paper is produced as a research
21 product by the authors and does not necessarily
22 represent the views of the Census Bureau, but I do

REDACTED

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1 today.

2 Q And the paper includes an assessment of
3 the possible effect of the inclusion of the
4 citizenship question on self-response rates to the
5 2020 census, correct?

6 A Yes.

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19 Q Is this the most recent version of the
20 paper currently available?

21 A Yes, sir.

22 Q The authors of the white paper, they are

REDACTED

REDACTED

1 the members of the SWOT team that you assembled at
2 the direction of Acting Census Bureau Director Ron
3 Jarmin to respond to the DOJ request, correct?

4 A A subset, yes.

5 Q Is there anyone better at the Census
6 Bureau for conducting the analysis that --
7 contained in the white paper other than the
8 authors of the white paper?

9 A I honestly don't know.

10 Q You wouldn't have chosen people who
11 weren't the best people for this job, would you,
12 Dr. Abowd?

13 A I attempted to choose the best people
14 known to me for this job, yes.

15 Q Do you think you succeeded in choosing
16 the best people known to you for conducting this
17 analysis?

18 A Yes, sir.

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Q Now, this memo of yours, Exhibit 7,

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relies on a preliminary version of the analysis

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that's contained in the white paper; is that

6

right?

7

A Yes.

8

Q Is it fair to say that the white paper

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that's Exhibit 24 represents an extended and more

10

up-to-date version of the analysis that you relied

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on in preparing your memo, Exhibit 7?

12

A Yes.

13

Q Now, in the -- we don't have to talk

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about your memo anymore. Just back to the white

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paper. In the Census Bureau's view, the various

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analyses contained in the white paper, Exhibit 24,

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were methodologically appropriate for the

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questions that the white paper attempted to

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answer, correct?

20

A Yes.

21

Q Now, does this white paper represent the

22

Census Bureau's best possible analysis based on

REDACTED

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1 existing data regarding the impact of the
2 citizenship question on self-response rates to the
3 2020 census?

4 A I would say it represents the primary
5 research effort, but not all of the research
6 effort.

7 Q And when you say it represents the
8 primary research effort, would you say that it
9 represents the best analysis that the Census
10 Bureau has of the possible effect of adding the
11 citizenship question on self-response rates for
12 the 2020 census?

13 A I think it provides the inputs for doing
14 the best analysis that we can of the consequences
15 of the question on the 2020 census.

16 Q Is there any better analysis that the
17 Census Bureau has of the effect of adding the
18 citizenship question on self-response rates to the
19 2020 census that's not contained in the white
20 paper?

21 A There's one additional analysis in my
22 expert report that's already been disclosed that

1 is not in the white paper.

2 Q Okay. Which analysis is that
3 specifically?

4 A The one of the short-form test that
5 followed the 1990 census.

6 Q Does the white paper represent the Census
7 Bureau's best possible analysis of existing data
8 regarding the quality of citizenship data that's
9 available from different sources, such as surveys
10 and administrative records?

11 A Yes.

12 Q Does the Census Bureau agree with the
13 conclusions expressed in the white paper?

14 A I'll deal with that on a specific
15 conclusion-by-conclusion basis.

16 Q As a general matter, are there
17 conclusions in the white paper -- I'm sorry.

18 Are there conclusions in the white paper
19 that the Census Bureau disagrees with?

20 A There are no conclusions in the white
21 paper that the Census Bureau disagrees with.

22 There are some of the author's interpretations

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1 that I might not agree with.

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4 **REDACTED**

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12 Q Does the Census Bureau agree that the
13 balance of evidence available suggests that adding
14 a citizenship question to the 2020 census would
15 lead to lower self-response rates in households
16 potentially containing non-citizens?

17 A Yes.

18 Q Does the Census Bureau agree that the
19 balance of evidence available suggests that adding
20 a citizenship question to the 2020 census would
21 lead to a lower quality population count?

22 A I have to define lower quality population

REDACTED

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1 count to answer that question. May I?

2 Q Yes, please.

3 A So the usual accuracy measures are two:

4 Net undercount and then its components, gross

5 omissions and erroneous enumerations and

6 whole-person census imputations. We have no

7 evidence that it would affect the quality as

8 regards net undercount. We have evidence that it

9 would affect the count -- the quality as regards

10 components of the errors in the enumeration.

11
12 **REDACTED**

13 Could you turn to page 8 in the white

14 paper, Bates number COM_DIS09840? And I want to

15 look at figure 1, panel A. This graph shows item

16 non-response, which is the failure to answer

17 certain questions, on the American Community

18 Survey, or ACS, in the year 2016, broken down by

19 various racial and ethnic subgroups; is that

20 correct?

21 A Racial, ethnic and demographic subgroups,

22 yes.

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1 Q And the data here does not distinguish
2 between citizens and non-citizens, correct? I'm
3 referring to panel A only.

4 A Oh. That's correct.

5 Q So in panel A, when we look at data for a
6 group like Hispanics on this chart, we're talking
7 about a group that includes both Hispanic citizens
8 and Hispanic non-citizens, correct?

9 A Correct.

10 Q Is it fair to say that on the ACS in 2016
11 the item non-response rate for Hispanics on the
12 citizenship question was more than twice as high
13 as it was for non-Hispanic whites?

14 A Yes.

15 Q And let's look at figure 1, panel B on
16 the same page. Now, this graph shows item
17 non-response rates on the ACS in 2016 for
18 respondents who were identified in the NUMIDENT
19 data as non-citizens broken down by racial, ethnic
20 and demographic subgroups, correct?

21 A Correct.

22 Q And is it fair to say that on the 2016

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1 ACS, the item non-response rate for Hispanic
2 non-citizens on the citizenship question was more
3 than twice as high as it was for non-Hispanic
4 white non-citizens?

5 A Yes.

6 Q Let's look at page 11, Bates number
7 COM_DIS9843, table 1. This table lists the
8 breakoff rates for various questions on the ACS
9 broken down by race and ethnicity, correct?

10 A Correct.

11 Q And the breakoff rate is the rate at
12 which, when people are responding to the ACS
13 questionnaire online, that they stop answering the
14 survey upon encountering a screen with a
15 particular question, correct?

16 A Correct.

17 Q If we look at the breakoff rates to the
18 citizenship question and compare Hispanics to
19 non-Hispanic whites, the breakoff rate on the 2016
20 ACS for Hispanics on the citizenship question is
21 more than ten times what it is for non-Hispanic
22 whites, correct?

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1 A Yes.

2 Q Can we look back at page 10, Bates number
3 COM_DIS9842? In the last paragraph, about a
4 little more than halfway down, the third to last
5 sentence starts with "Citizenship-related
6 questions." It reads, "Citizenship-related
7 questions have the most heterogenous rates across
8 race/ethnicity groups; the ratio of breakoff rates
9 for Hispanics versus non-Hispanic whites is much
10 higher for year of entry and citizenship than any
11 of the other question screens in the ACS, except
12 for English proficiency, included in table 1 for
13 reference purposes."

14 Now, in the view of the Census Bureau,
15 what is the significance of the observation that
16 breakoff rates for Hispanics versus non-Hispanic
17 whites are much higher for year of entry and
18 citizenship than any other question screen on the
19 ACS, except for English proficiency?

20 A That the question is sensitive to that
21 subpopulation.

22 Q When you say the question is sensitive to

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1 that subpopulation, you mean it is -- the
2 citizenship question is sensitive for Hispanics
3 relative to non-Hispanic whites?

4 A Yes.

5 Q I want to ask you about what's been
6 premarked as Exhibit 25, just to your right. It's
7 a chart, the footer of which reads, 2017 breakoff
8 rates by race group augmented 20180915.pdf, and
9 the first page is Bates number 126757. Do I have
10 that right?

11 A Mine says 20180917.pdf.

12 Q Sorry.

13 A Okay.

14 Q Other than that?

15 A Yes.

16 Q Okay. Now, let's look at the citizenship
17 question breakoff rate on the 2017 ACS for
18 non-Hispanic whites. That rate is .03489 percent,
19 correct?

20 A Correct.

21 Q And the citizenship question breakoff
22 rate on the 2017 ACS for Hispanics is

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1 .4343 percent, correct?

2 A Yes.

3 Q So on the 2017 ACS, is it correct to say
4 that the citizenship question breakoff rate for
5 Hispanics is more than 12 times what it is for
6 non-Hispanic whites?

7 A I didn't calculate the ratio myself, but
8 that looks about right.

9 Q Okay. And if you look back to the 2016
10 ACS breakoff rates on page 11 of the white paper
11 and compare them to the 2017 breakoff rates, is it
12 correct that the citizenship question breakoff
13 rate for non-Hispanic whites stayed about the same
14 in 2016 and 2017?

15 A Yes.

16 Q And is it correct that the citizenship
17 question breakoff rate for Hispanics increased
18 between 2016 and 2017?

19 A The point estimate increased. I didn't
20 calculate a margin of error of the difference.

21 Q Okay. Now, is it correct to say, given
22 the analysis of item non-response rates and

1 breakoff rates that we've talked about, that the
2 Census Bureau believes that it is more likely than
3 not that Hispanics will respond to the citizenship
4 question on the 2020 census at a lower rate than
5 non-Hispanic whites?

6 A Yes.

7 Q Is it also correct to say that the Census
8 Bureau believes, based on the item non-response
9 and breakoff rate analyses that we've discussed,
10 that it is more likely than not that there will be
11 a greater decline in unit self-response rates to
12 the 2020 census due to the citizenship question
13 among Hispanics than there will be among
14 non-Hispanic whites?

15 A I'm not prepared to draw that conclusion
16 from the analysis that you just showed me. Do you
17 have other analyses you want me to look at?

18 Q Well, let's stay here. Is it fair to say
19 that none of the analyses of ACS data that the
20 Census Bureau has conducted suggests that
21 self-response rates to the 2020 census among
22 Hispanics and non-Hispanic whites will decline at

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1 the same rate as a result of the citizenship

2 question?

3 THE WITNESS: Could you read the question

4 back, please?

5 (The reporter read the record as

6 requested.)

7 THE WITNESS: Yes.

8 BY MR. HO:

9 Q Is it fair to say that the Census Bureau
10 believes that unit self-response rates to the 2020
11 census will decline more among Hispanics than
12 non-Hispanic whites as a result of the citizenship
13 question?

14 A To the extent that Hispanic is correlated
15 with households containing non-citizens or persons
16 of unknown citizenship status, yes.

17 Q Let's go back to the white paper and
18 let's look at page 9, Bates number COM_DIS09841.
19 And I'm looking at figure 2, panel A. This graph
20 shows the difference in item non-response on
21 various questions comparing the 2013 and 2016 ACS
22 broken down by various racial, ethnic and

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1 demographic subgroups, correct?

2 A Yes.

3 Q And according to the Census Bureau's
4 analysis, for non-Hispanic whites, non-response to
5 the citizenship on the ACS did not change between
6 2013 and 2006 [sic], correct?

7 A Yes.

8 Q And according to the Census Bureau's
9 analysis for Hispanics, non-response to the
10 citizenship question on the ACS increased between
11 2013 and 2016, correct?

12 A Yes.

13 Q And during this same period for
14 Hispanics, non-response to the sex question on the
15 ACS actually decreased between 2013 and '16,
16 correct?

17 A Hispanics, right?

18 Q Yes.

19 A Yes.

20 Q Let's go to the next page, page 10, and
21 I'm looking at figure 2, panel B. This is the
22 same analysis comparing 2013 and 2016 item

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1 non-response rates but among individuals
2 identified as non-citizens in the NUMIDENT data,
3 correct?

4 A Yes.

5 Q And according to the Census Bureau's
6 analysis, for non-Hispanic white non-citizens,
7 non-response to the citizenship question on the
8 ACS increased by less than 0.5 percentage points
9 between 2013 and '16, correct?

10 A Yes.

11 Q And during the same period, for Hispanic
12 non-citizens, non-response to the citizenship
13 question on the ACS increased by more than 1.5
14 percentage points, correct?

15 A Yes.

16 Q So is it fair to say that among
17 non-citizens, the non-response rate to the
18 citizenship question on the ACS between 2013 and
19 2016 increased for Hispanics at more than three
20 times the rate that it did for non-Hispanic
21 whites?

22 A Yes.

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1 Q Is it fair to say that, based on the
2 Census Bureau's analysis of item non-response
3 rates and breakoff rates, that the Census Bureau
4 believes that Hispanics are more sensitive to
5 survey questions about citizenship than they were
6 a few years ago?

7 A Yes.

8 Q Is it fair to say that based on its
9 analysis of item non-response rates and breakoff
10 rates, the Census Bureau believes that whites are
11 not more sensitive to citizenship questions than
12 they were a few years ago?

13 A Yes.

14 Q Is it fair to say that the Census Bureau
15 believes that, among non-citizens in particular,
16 the sensitivity of Hispanics to survey questions
17 about citizenship has grown more than it has for
18 non-Hispanic whites?

19 A Yes.

20 Q Now, you testified during one of your
21 depositions that the Census Bureau's best estimate
22 as to the differential effect of the citizenship

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1 question on self-response rates for non-citizens
2 is that the addition of the citizenship question
3 will cause non-citizen self-response rates to
4 decline by 5.8 percentage points relative to
5 citizens, correct?

6 A Households containing a non-citizen or a
7 person of unknown citizenship status relative to
8 households containing all persons with known
9 citizenship status -- known citizens. And then --
10 yes.

11 Q Yes, that's correct?

12 A With my correction of your definitions,
13 yes.

14 Q Okay. Now, given that opinion, if
15 someone said to you that the Census Bureau could
16 not articulate a rationale to support its belief
17 that there would be a decline in the response rate
18 as a result of adding the citizenship question to
19 the 2020 census and that the Census Bureau simply
20 made an assumption that the self-response rate
21 would decline, would you agree with that person?

22 A No.

Vague;
Compound;
Calls for
speculation

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1 MR. EHRLICH: Objection. Form.

2 THE WITNESS: Sorry.

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5 **REDACTED**

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11 Q Did you ever tell Earl Comstock from the
12 Department of Commerce or give him the impression
13 that the Census Bureau could not articulate a
14 rationale to support its belief that there would
15 be a decline in the self-response rate to the 2020
16 census as a result of the citizenship question?

17 A No.

18 Q Did you, in fact, ever explain to
19 Mr. Comstock the basis for the Census Bureau's
20 belief that the addition of the citizenship
21 question would reduce self-response rates to the
22 2020 census?

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1 A Yes.

2 Q Now, the Census Bureau's estimate of a
3 5.8 percentage point reduction of households
4 containing a non-citizen or someone of unknown
5 citizenship status relative to households
6 containing all citizens, that's an upward revision
7 of an earlier estimate of a 5.1 percentage point
8 reduction, right, Dr. Abowd?

9 A The two numbers aren't directly
10 comparable because the reference populations
11 aren't the same. It is a bigger number, but it
12 applies also to a larger reference population.

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9 Q Got it. Okay. So let me try this again.

10 The 5.8 percentage point number, that's a
11 comparison of households where the response to the
12 ACS and the administrative records indicate that
13 every member of the household is a citizen and all
14 other households, right, Dr. Abowd?

15 A Yes.

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Q Could you show me the right table?

A 9, second panel.

Q Got it. Okay. So this analysis, the 5.8 percentage point -- that produces the 5.8 percentage point differential, that's based on a comparison of 2016 ACS data to -- response rates, I'm sorry, to 2010 decennial response rates, correct?

A Yes.

Q Okay. So in the Census Bureau's estimation, it's more accurate -- if you're trying to assess the impact of the addition of the citizenship question on self-response rates, it's more reliable to use more recent ACS non-response data in calculating your estimate; is that

Vague;
Calls for
speculation

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1 correct?

2 MR. EHRLICH: Objection. Form.

3 THE WITNESS: Generally, yes!

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Q Okay. Let me try this again. Does the Census Bureau believe that 5.8 percentage points -- that that estimate is conservative? Let me stop there.

A Yes.

Q Okay. And one of the reasons why the Census Bureau believes that that estimate is conservative is that it's based on ACS non-response rates, whereas, here, if you add the citizenship question to the census questionnaire,

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1 the citizenship question could have more
2 prominence and a greater effect in terms of
3 reducing self-response rates; is that right,
4 Dr. Abowd?

5 A Yes.

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7 **REDACTED**
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15 Q Now, one of the ways that you have of
16 enumerating people when their household does not
17 self-respond to the census questionnaire is by
18 sending census enumerators in person to that
19 household, correct?

20 A That's correct.

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Q Let's turn forward two pages to page 43,
Bates number COM_DIS09875. And let's look at
footnote 60, which reads, "These enumeration
errors may not be avoidable simply by spending
more money on field work. Once a household
decides not to cooperate, it may not be possible
to obtain an accurate enumeration no matter how

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1 many times an enumerator knocks on their door."

2 In this footnote, the term "these
3 enumeration errors" refers to enumeration errors
4 that arise as a result of increased non-response
5 to the census questionnaire due to the addition of
6 a citizenship question, correct?

7 A Yes.

8 Q And the view of the Census Bureau is that
9 enumeration errors arising from the decline in
10 self-response caused by the citizenship question
11 may not be avoidable simply by spending more money
12 on field work, correct?

13 A Yes.

14 Q And it is the view of the Census Bureau
15 that once a household decides not to cooperate
16 with the census because of the citizenship
17 question, it may not be possible to obtain an
18 accurate enumeration of that household no matter
19 how many times an enumerator knocks on their door,
20 correct?

21 A Accurate in this sentence means erroneous
22 enumerations and whole-person census imputations.

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1 It does not mean net undercount.

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9 Q Now, if you send an in-person enumerator
10 to a household that doesn't self-respond and that
11 doesn't result in a response, one way that you
12 could -- another way you could have of enumerating
13 that household is through a proxy response, which
14 means trying to obtain a response from someone who
15 is not a member of that household about that
16 household, correct?

17 A Yes.

18 Q And the Census Bureau agrees that proxy
19 enumeration generally results in lower quality
20 enumeration data than self-responses, correct?

21 A Yes.

22 Q And the Census Bureau agrees that a proxy

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1 response is more likely to result in the omission
2 of a household member than a self-response,
3 correct?

4 A I haven't looked at the table recently,
5 but I believe that's correct, yes.

6 Q Let's go to the white paper again. And I
7 want to look at page 12, Bates number
8 COM_DIS09844, figure 3.

9 A Figure 3, did you say?

10 Q I believe so. On page 12?

11 A Okay. I thought I heard 4.

12 Q Okay. Figure 3 depicts unit non-response
13 to the ACS from 2010 through 2016 comparing census
14 tracts with the lowest decile of housing units
15 containing a non-citizen to the census tracts in
16 the highest decile of housing units containing a
17 non-citizen, correct?

18 A Correct.

19 Q And for each year of ACS depicted here,
20 census tracts in the highest decile of housing
21 units containing a non-citizen have a lower
22 response rate to the ACS than do census tracts in

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1 the lowest decile of housing units with a

2 non-citizen, correct?

3 A Yes.

4 Q And for both groups, unit non-response to

5 the ACS declined between 2010 and 2016, correct?

6 A No. It increased between 2010 and 2011

7 and then declined from 2011 forward.

8 Q But if we just compare 2016 to 2010 --

9 A Yes.

10 Q -- the unit non-response rate for both

11 groups in 2016 was lower than it was in 2010,

12 correct?

13 A That's correct, yes.

14 **REDACTED**

16 The decline in census tracts in the

17 highest decile of housing units including a

18 non-citizen -- the decline in unit self-response

19 rates for that group was sharper than the decline

20 in unit self-response rates by households in

21 census tracts with the -- in the lowest decile of

22 housing units with a non-citizen, correct?

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1 A I think the answer to your question is
2 yes. Does the record reflect colors?

3 Q We'll put it in in color. That's the
4 orange line, right?

5 A The orange line declines more sharply
6 than the blue line.

7 Q Now, last time in your deposition, we
8 talked about a similar census tract stratification
9 analysis for ACS NRFU efforts. Does that ring a
10 bell?

11 A Yes.

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Q Okay. Well, given what we've talked

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about, that unit non-response is lower in census

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tracts that have higher percentages of

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non-citizens and that ACS NRFU is less successful

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in census tracts that have higher percentages of

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households including a non-citizen, does the

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Census Bureau expect that people who live in

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census tracts with higher percentages of

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households with a non-citizen would also be less

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likely to provide proxy responses to the census

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than people who live in other areas?

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A Accepting your premise about my testimony

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from before, the Census Bureau believes that that

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is likely, yes.

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Q Let's look at page 43 of the white paper,

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Bates number COM_DIS09875. Let's look at the last

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full paragraph on this page. About halfway down,

19

the second to last sentence starts -- it's about

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halfway down in that paragraph. The second to

21

last sentence starts with, "As shown above."

22

A Yes.

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1 Q "As shown above, reference persons are
2 much less likely to answer the citizenship
3 question for non-relatives in the household than
4 for themselves, so may be even less likely to
5 answer it for neighbors."

6 Does the Census Bureau agree with the
7 statement that people are less likely to answer
8 the citizenship question for their neighbors than
9 for themselves?

10 A Yes.

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17 Q Okay. Forget the tax returns. One way
18 that -- if you don't get a self-respond to the
19 census questionnaire, one way that you might try
20 to enumerate that household is with administrative
21 records, correct?

22 A Yes.

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Q And if we look back at the graph, figure 4, among 2016 ACS respondents, Hispanics could not be linked to an administrative record at a higher rate than non-Hispanic whites, correct?

A Correct.

Q Now, based on this data, would you agree that the available evidence indicates that the Census Bureau, generally speaking, cannot link Hispanic survey respondents to administrative records at as high a rate as it can for non-Hispanic whites?

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1 A Yes.

2 Q The administrative records referenced
3 here are the SSA and tax records, correct?

4 A The individual tax identification number
5 records.

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Q Would you agree that undocumented individuals are less likely to be found in the administrative records -- and when I say undocumented individuals, I mean undocumented immigrants -- are less likely to be found in the administrative records that the Census Bureau uses to enumerate people than persons who have legal status in this country?

A Yes.

Q And would you agree that the Census Bureau would have a more difficult time enumerating undocumented immigrants through the use of administrative records than it will for persons with legal status?

Vague;
Calls for speculation

MR. EHRLICH: Objection. Form.

THE WITNESS: Yes.

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Q Overall, would you agree that the Census Bureau does not expect enumeration by

1 administrative records to be as successful for

2 non-citizens as it is for citizens?

3 MR. EHRLICH: Objection. Form.

Vague;
Calls for
speculation

4 THE WITNESS: Yes.

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7 Q I'm not. I'm just -- my understanding
8 is -- and I just want you to correct me if my
9 understanding is mistaken -- that the Census
10 Bureau has looked at the historical undercount of
11 Hispanics in previous censuses. That's correct,
12 right?

13 A Yes.

14 Q Okay. And one of the reasons that the
15 Census Bureau has attributed the undercount of
16 Hispanics to in previous censuses has been the
17 failure of Hispanic households to provide a
18 response for every member of their household,
19 correct?

20 A Yes.

21 Q Okay. Now, the Census Bureau agrees that
22 if the citizenship question is included in the

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1 census, that would likely cause some households,
2 such as those including a non-citizen or those
3 including an undocumented immigrant, to fail to
4 provide a response for every member of the
5 household when they respond to the census,
6 correct?

7 THE WITNESS: Could you read the question
8 back?

9 (The reporter read the record as
10 requested.)

11 THE WITNESS: The Census Bureau believes
12 that the households in your question might be
13 unlikely to provide a full enumeration whether or
14 not there's a citizenship question on the census
15 and does not have evidence of an incremental
16 effect from the citizenship question.

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Q Is the evidence that we've seen and discussed about item non-response, unit non-response, breakoff rates with a citizenship question, is that evidence consistent with the notion that adding a citizenship question to the census would cause an incremental increase in the number of households that respond to the census but don't provide a response for every member of their household?

A Yes.

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Q Generally speaking, if you answer the questions on the census questionnaire, the 10 questions, or 11, but you don't list every member of the household, the Census Bureau is not going

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1 to send an in-person enumerator to your door,

2 correct?

3 A Correct.

4 Q Okay. And if you fill out the census

5 response, answer the 10 or 11 questions, but don't

6 list every member of your household, the Census

7 Bureau is not going to try to get a proxy response

8 for your household, right?

9 A Correct.

10 Q And if you answer the census

11 questionnaire, but you don't list every member of

12 your household, the Census Bureau is not going to

13 start imputing -- sorry -- the Census Bureau is

14 not going to start using administrative records to

15 enumerate additional members of your household,

16 correct?

17 A That actually hasn't been determined, but

18 it's probably correct.

19 Q Okay. And if you answer the census

20 questionnaire, but you don't list every member of

21 your household, the Census Bureau isn't going to

22 start imputing additional members of your

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1 household, correct?

2 A Correct.

3 Q I want to show a document that's been
4 marked as Exhibit 26.

5 (Abowd Deposition Exhibit Number 26 was
6 marked for identification.)

7 BY MR. HO:

8 Q This is an official memo published by the
9 Census Bureau, correct?

10 A It's part of the public memorandum series
11 following the 2010 census that documents the
12 coverage measurement studies, yes.

13 Q And this memo, Exhibit 26, it was
14 produced by the Census Bureau in the ordinary
15 course of its business, not for the purposes of
16 litigation, correct?

17 A Correct.

18 Q Okay. And the subject line of this
19 Census Bureau memo is, "2010 census coverage
20 measurement estimation report, summary of
21 estimates of coverage for persons in the United
22 States," correct?

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1 A Correct.

2 Q The lead author or the person that's
3 prepared by is Thomas Mule, correct?

4 A Mule.

5 Q Mule. Thank you. He is in the decennial
6 statistical studies division where he's an
7 economist in the Census Bureau, correct?

8 A He's a mathematical statistician,
9 otherwise correct.

10 Q Okay. And this memo is cited in the
11 white paper, Exhibit 24, correct?

12 A Yes.

13 Q Okay. Now, it's fair to say that
14 Exhibit 26, the Mule memo, that a purpose of it is
15 to estimate how well the 2010 census covered the
16 total population of the United States?

17 A Its purpose is to summarize a series of
18 studies that had that goal, among others.

19 Q And the 2010 census, that included NRFU
20 efforts for households that did not self-respond
21 to the census questionnaire, correct?

22 A Yes.

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1 Q The 2010 census NRFU efforts included
2 sending in-person enumerators to households that
3 didn't self-respond, correct?

4 A Correct.

5 Q And the 2010 census included the use of
6 proxy enumeration for households that didn't
7 self-respond, correct?

8 A Correct.

9 Q And the 2010 census also included efforts
10 to enumerate using administrative records
11 households that didn't self-respond, correct?

12 A I believe only on a experimental basis.

13 Q But it did include the use of enumeration
14 via administrative records in the 2010 census,
15 correct?

16 A I'm actually not sure that's correct. I
17 believe it was only experimental.

18 Q The 2010 census NRFU efforts included
19 whole-person imputation for households that did
20 not self-respond, correct?

21 A Correct.

22 Q Let's turn to page 17 of the Mule memo,

1 table 9, titled, "Components of census coverage by
2 race and Hispanic origin."

3 The far right column in this table is
4 labeled, "Omissions," correct?

5 A Yes, although I prefer the term "gross
6 omissions."

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11 Q Okay. Omissions in this column, or gross
12 omissions as you would have it, refers to
13 percentage of people whom the Census Bureau
14 estimated were not counted in the 2010 census,
15 correct?

16 A It refers to the difference between the
17 dual-system estimator and the number of persons
18 that the coverage evaluation survey determined the
19 estimate were correct enumerations.

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Q All right. Try to explain it to me again. I'm sorry.

A So net undercount is the difference between the dual-system estimator and the census count.

Q Yes.

A Okay? Gross omissions is the difference between the dual-system estimator and correct enumerations, which is not the same thing as the census count. Okay?

Q Okay.

A Is that what you think you said? Because that's not what I heard. I'm sorry. I'm not supposed to ask the questions. I'm sorry.

Q I'll ask the questions here. The Census Bureau estimates that it omitted 5.3 percent of

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1 the population in the 2010 census, correct?

2 A Gross omissions, correct.

3 Q Okay. Now, the second to right-hand

4 column is the percent undercount, which is a

5 different number, right?

6 A Correct.

7 Q And if we look at percent undercount, the

8 Census Bureau estimates that the 2010 census

9 actually overcounted the total population of the

10 United States by 0.01 percent, correct?

11 A That overcount is not statistically

12 significant, but that's the correct point

13 estimate.

14 Q Okay. Now, the omissions are not evenly

15 distributed across racial and ethnic groups,

16 correct?

17 A The gross omissions are not, correct.

18 Q And the undercount is not distributed

19 evenly among racial and ethnic groups, correct?

20 A That's correct. And undercount here is

21 net undercount.

22 Q So let's start with non-Hispanic whites.

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1 The Census Bureau estimates that 3.8 percent of
2 non-Hispanic whites were omitted in the 2010
3 census, correct?

4 A You're using non-Hispanic white alone
5 row, correct?

6 Q And the Census Bureau estimates that
7 people who are non-Hispanic white alone were
8 overcounted in the 2010 census by 0.83 percent,
9 correct?

10 A Correct. And that one is statistically
11 significant.

12 Q If we look at people who are identified
13 as black in the census, the Census Bureau
14 estimates that 9.3 percent of blacks were omitted
15 in the 2010 census, correct?

16 A Correct.

17 Q And the Census Bureau estimates that
18 blacks were undercounted in the 2010 census by
19 2.06 percent, correct?

20 A Correct. And that one is also
21 statistically significant.

22 Q Let's look at Hispanics. The Census

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1 Bureau estimates that 7.7 percent of Hispanics
2 were omitted in the 2010 census, correct?

3 A That's the last row, and correct.

4 Q And the Census Bureau estimates that
5 Hispanics were undercounted in the 2010 census by
6 1.54 percent, correct?

7 A Yes, and it's statistically significant.

8 Q So if we summarize the data that we just
9 discussed, the racial or ethnic group with the
10 highest percentage of omissions, blacks, also had
11 the highest percentage undercount, correct? Just
12 of the three groups that we discussed.

13 A Oh. Of the three groups we discussed,
14 that is correct.

15 Q And Hispanics had a higher omission rate
16 than people who are non-Hispanic white alone and
17 also had a higher undercount rate as compared to
18 people who were non-Hispanic white alone, correct?

19 A Correct.

20 Q Overall, there was no net undercount in
21 2010, but there were undercounts of particular
22 racial and ethnic subgroups, correct?

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1 A Those are called differential net
2 undercounts, and that is correct.

3 Q And while there was overall across the
4 nation no net undercount, there were also in
5 certain states and localities net undercounts,
6 correct?

7 A We did produce estimates that suggest
8 that, yes.

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16 Q Now, one limitation of alternative C is
17 that, if you use alternative C, you won't be able
18 to match every person enumerated in the census to
19 an administrative record containing citizenship
20 data, correct?

21 A Correct.

22 Q So let's flip to page 49, figure 11,

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1 alternative C. This is Bates COM_DIS09881. Now,
2 there are two figures here that present two
3 different scenarios for alternative C and how many
4 people for whom the Census Bureau estimates you'd
5 be able to obtain citizenship data using
6 administrative records, correct?

7 A Correct.

8 Q Let's look at panel B, which is the
9 revised assumptions for alternative C. Among the
10 two scenarios, panel B, with the revised
11 assumptions, is the worse scenario in terms of the
12 accuracy of alternative C, correct?

13 A It is worse than panel A.

14 Q Okay. So let's use the worse scenario.
15 Under the worse scenario, the revised assumptions,
16 the Census Bureau expects that, under
17 alternative C, you'd be able to link 289.6 million
18 people, out of the 330 million people you expect
19 to enumerate in the census, to administrative
20 records, correct?

21 A Correct.

22 Q That's about 88 percent of the

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1 population. Sound right?

2 A I didn't do the calculation, but I'll
3 accept that.

4 Q Thanks. And the Census Bureau expects
5 under this scenario that, under alternative C, you
6 would not be able to link about 40.4 million
7 people to administrative records on citizenship,
8 correct?

9 A Correct.

10 Q So under this scenario, if you use
11 alternative C, the Census Bureau would have to
12 model or impute the citizenship status of about
13 12 percent of the population to produce the CVAP
14 data that DOJ has requested, correct?

15 A Correct.

16 Q Now, let's talk about alternative D,
17 which is to both include a citizenship question on
18 the census and to rely on administrative records.
19 Now, the Census Bureau did not recommend
20 alternative D, correct?

21 A Correct.

22 Q And the Census Bureau still does not

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1 recommend alternative D, correct?

2 A Correct.

3 Q Let's look at page 51, figure 12,

4 panel B, alternative D. Now, this has -- this

5 figure has estimates for, if you use

6 alternative D, how many people you would determine

7 the citizenship status of using various methods,

8 correct? At a high level, that's a correct

9 description, right?

10 A Yes.

11 Q And this uses the same revised

12 assumptions that we -- that were employed

13 regarding alternative C that you and I discussed a

14 moment ago in panel B of figure 11, correct?

15 A That's correct.

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8 Q My fault. It's probably an unrealistic
9 rosy assumption, Dr. Abowd, wouldn't you agree,
10 that proxies in the 2020 census are, as a general
11 matter, going to report the citizenship status of
12 their neighbors or for whomever else they're
13 giving a proxy response?

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Vague;
Compound;
Calls for
speculation

14 MR. EHRLICH: Objection. Form.

15 THE WITNESS: Yes, it's optimistic.

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17 Q Okay. So let's take this optimistic
18 scenario for alternative D. On the right side of
19 the chart, under alternative D, in this scenario,
20 there are 20.9 million people for whom you
21 estimate there will be no census response as to
22 that person -- those people's citizenship status,

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1 correct?

2 A Correct.

3 Q And if we look at the far left side of
4 the chart, under alternative D, this optimistic
5 scenario, there are 260.9 million people who can
6 be linked to an administrative record and whom you
7 estimate their response to the citizenship
8 question is going to be consistent with the
9 administrative record on citizenship, correct?

10 A Yes.

11 Q And for both these groups that we just
12 discussed, the 20.9 million people that don't give
13 a census response as to citizenship, and the 260.9
14 million people for whom the census response is the
15 same as the administrative record, adding the
16 citizenship question doesn't in any way improve
17 our ability to get citizenship data about these
18 two groups of people, correct?

19 A Yes.

20 Q So that's a total of 281.8 million
21 people, out of the 330 million the Census Bureau
22 expects to enumerate, for whom the addition of the

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1 citizenship question does not improve our ability
2 to get citizenship data on, correct?

3 A Correct.

4 Q And that's about 85.4 percent of the
5 population for whom the addition of the
6 citizenship question makes no improvement in terms
7 of the availability of citizenship data, correct?

8 A Again, I didn't calculate the proportion,
9 but that sounds right, yes.

10 Q Okay. Now, the Census Bureau under
11 alternative D expects that the effect on a
12 reduction of self-response rates would be the same
13 as under alternative B, which is just adding the
14 citizenship question without using administrative
15 records, correct?

16 A Correct.

17 Q And that means that the Census Bureau
18 expects that, under alternative D, there are more
19 people who would end up getting enumerated by
20 proxy than if you used alternative C, which is
21 administrative records only, no citizenship
22 question, correct?

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1 A Correct.

2 Q And so that means that, under
3 alternative D, as compared to alternative C, the
4 Census Bureau believes that it's going to be able
5 to link fewer people to administrative records
6 because there will be more people enumerated by
7 proxy and proxies generally have lower quality
8 data than self-responses, correct?

9 A Yes.

10 Q Now, let's go back to this chart. In
11 this scenario, there are 39.5 million people under
12 alternative D who would provide a census response
13 to citizenship, but who could not be linked to an
14 administrative record, right?

15 A Yes.

16 Q And you also have a total of 4.9 million
17 people who have no census response on citizenship
18 and have no administrative record on citizenship,
19 correct?

20 A Correct.

21 Q So that means, under the scenario in
22 alternative B -- D, I'm sorry, if you add those

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1 two numbers together, it's a total of 44.4 million
2 people who can't be linked to administrative
3 records, correct?

4 A Correct.

5 Q So that means, if you'll accept my math,
6 that under alternative D, about 13.5 percent of
7 the population you won't be able to link to
8 administrative records, right?

9 A Correct.

10 Q And that's more people that you would not
11 be able to link to administrative records than if
12 you used alternative C, just using the
13 administrative records with no citizenship
14 question, correct?

15 A Correct.

16 Q Back to the chart, if we look at the left
17 branch of the chart, but the middle sub-branch,
18 under alternative D in this optimistic scenario,
19 you expect that there are about 8.7 million people
20 for whom the survey response about citizenship and
21 the administrative data on citizenship will not
22 agree, correct?

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1 A Yes.

2 Q That means that currently under
3 alternative D, under this scenario, the Census
4 Bureau at present estimates that there are
5 8.7 million people for whom it doesn't know how
6 it's going to determine their citizenship status
7 for purposes of assembling DOJ's CVAP data,
8 correct?

9 A At the moment, that's correct.

10 Q Okay. That problem of not knowing how to
11 assign citizenship status for millions of people,
12 that problem does not exist under alternative C,
13 correct?

14 A Correct.

15 Q Now, the traditional Census Bureau
16 practice, in general, is that if you have a survey
17 response that conflicts with an administrative
18 record, you generally rely on the survey response,
19 correct?

20 A Correct.

21 Q But here, you would agree that, under
22 alternative D, if you use the survey response for

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1 these 8.7 million people for whom you estimate the
2 survey response and the administrative record
3 conflict, that that would be more inaccurate on
4 average than just relying on the administrative
5 record, correct?

6 A We have said there's a disagreement and
7 that is probably an inaccuracy, correct.

8 Q Conversely, you would expect, under
9 alternative D, when you have this conflict between
10 the survey response and the administrative record
11 for this 8.7 million people, if you were to rely
12 by default on the administrative record rather
13 than the survey response, then for that population
14 of 8.7 million people, there was no reason to ask
15 them the citizenship question, correct?

16 A Correct.

17 Q Let me ask about a different issue.
18 Under alternative D, with some of the people for
19 whom you lack citizenship data through
20 administrative records, you at least now have a
21 survey self-response about citizenship, right?

22 A Are you talking about the one that comes

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1 down to 39.5 million?

2 Q Yeah.

3 A Okay. Yes.

4 Q So you would expect that, under

5 alternative C, some of these 39.5 million people

6 you actually would have been able to have linked

7 to administrative records because your survey

8 responses to the census, if you did include the

9 citizenship question, would be higher quality,

10 correct?

11 A Yes.

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22 Q Alternative C. Under alternative C, for

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1 that subset of people who are not matchable to
2 administrative records, the Census Bureau's plan
3 would be to model or impute the citizenship status
4 of those people, correct?

5 A Correct.

6 Q Under alternative D, however, if you
7 can't match someone to the administrative record,
8 but you have a survey response, there's no
9 scientifically defensible method for rejecting
10 that survey response, correct?

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11 A Correct.

12 Q So under alternative D, just so we're
13 clear, you get a survey response on citizenship
14 and no administrative record; you're stuck using
15 the survey response, correct?

16 A We would use the survey response.

17 Q So key difference between C and D for
18 these people who are not matchable to
19 administrative records and don't give you a survey
20 response under D, under C, you impute their
21 citizenship status; under D, you use the survey
22 response, correct?

1 A Yes.

2 Q There is no reason to think, Dr. Abowd,
3 that for this group of unmatched people, that on
4 average the survey response about citizenship is
5 going to be more accurate than the imputation
6 method that you would use under alternative C,
7 correct?

8 A Correct.

9 Q Dr. Abowd, if someone argued that
10 alternative D was justified because alternative C
11 requires the imputation of citizenship status of
12 people who lack administrative records, would the
13 Census Bureau agree with or disagree with that
14 argument?

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15 MR. EHRLICH: Objection. Form.

Calls for
speculation

16 THE WITNESS: Disagree.

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Q -- Dr. Abowd. Has the Census Bureau specifically communicated its rejection of the argument that alternative D is better than alternative C because alternative C requires imputation of citizenship status of people for whom there is no linked administrative record?

A So I'm not sure how to answer that question because I don't know that the advice ever took that specific form. We have consistently communicated that the modeled response was better than the survey responses in the unlinked data.

Q Okay. So the modeled responses under alternative C for the group of people who can't be matched to citizenship records, in the Census Bureau's view, that's more accurate than the self-responses about citizenship that you would get from adding the citizenship question to the

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1 survey?

2 A Yes.

3 Q Okay. Have you heard Commerce Department
4 officials opine that alternative D is better than
5 alternative C because alternative C requires the
6 imputation of citizenship status of people who
7 can't be linked to administrative records?

8 A Yes.

9 Q Have you heard Earl Comstock offer that
10 opinion?

11 A Yes.

12 Q Do you disagree with that opinion? Does
13 the Census Bureau disagree with that opinion?

14 A Yes.

15 Q Has the Census Bureau communicated its
16 disagreement of that opinion to Mr. Comstock?

17 A Yes.

18 Q If Mr. Comstock said that the Census
19 Bureau never communicated its disagreement with
20 that opinion, would Mr. Comstock be wrong?

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Calls for speculation

21 MR. EHRLICH: Objection. Form.

22 THE WITNESS: As far as I know, yes.

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Q But to be clear, the Census Bureau
communicated its disagreement with alternative D
before the Secretary issued his decision
memorandum to include the citizenship question in
late March 2018, correct?

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A Yes.

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3 Q 41, last paragraph.

4 A Yes.

5 Q "Households deciding not to self-respond
6 because of the citizenship question are likely to
7 refuse to cooperate with enumerators coming to
8 their door in NRFU, resulting in the use of
9 neighbors as proxy respondents on their behalf."

10 I believe you testified that the Census
11 Bureau agrees with part of that statement. What's
12 the part that the Census Bureau disagrees with?

13 A So the Census Bureau would say that
14 qualitative evidence suggests that this sentence
15 is correct, and the problem is that the
16 qualitative evidence is difficult to generalize,
17 but we wouldn't ignore it. And so we would say
18 the best evidence we have suggests that this
19 sentence is correct, but it's not as strong as the
20 evidence that we have when we're able to do both
21 qualitative and quantitative analyses.

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3 Q I want to ask you about a document,
4 Exhibit -- that has been marked as Exhibit 27, the
5 title of which is, Proposed content test on
6 citizenship question. This document sets forth a
7 proposal for two different RCTs for the
8 citizenship question on the census, correct?

9 A It's one RCT with two different
10 precisions of estimation.

11 Q And the RCT, as proposed here, would have
12 taken six weeks to collect the data, correct?

13 A Correct.

14 Q And the proposal was to initiate the RCT
15 in either November of 2018 or February of 2019,
16 correct?

17 A Correct.

18 Q In either case, the RCT could have been
19 completed before census forms are due to be
20 printed, correct?

21 A Correct.

22 Q The cost of this proposal, there are two

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1 variations on it, but it ranges from 2 million for
2 one option to 4.1 million for the other option,
3 correct?

4 A Correct.

5 Q Does the Census Bureau have the money to
6 conduct either option?

7 A Yes.

8 Q This proposal was rejected by a group of
9 decision-makers, including Dr. Lamas, Dr. Jarmin
10 and Under Secretary Karen Dunn Kelley, correct?

11 A That is what I testified, yes.

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Q If you had conducted the RCT, you would have had quantitative data on how the citizenship question would perform in the context of the decennial enumeration questionnaire in terms of response rates, correct?

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MR. EHRLICH: Objection. Form.

Vague; Calls for speculation

THE WITNESS: Yes.

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21 Q In the view of the Census Bureau, does it
22 make sense from a cost-benefit perspective to add

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1 the citizenship question to the census?

2 A It has been our consistent recommendation

3 not to do so.

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13 **Q We just wanted to -- we had asked you,**
14 **before we took a break, about trying to get a**
15 **sense -- because a court will certainly need to**
16 **know the answer -- of how long it has to decide**
17 **this matter. And so does the Census Bureau --**
18 **given existing resources, what's the drop-dead**
19 **date by which the Census Bureau could guarantee**
20 **implementation of the 2020 census without a**
21 **citizenship question?**

22 **A So I did check. I actually asked the**

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1 acting director to give me an answer that is the
2 agency's answer. With existing resources,
3 June 30th of 2019 is the content lock-down date.
4 With exceptional effort and additional resources,
5 October 31st, 2019 is the final date. Any date
6 after that would require major redesigns in the
7 2020 census, and some might require congressional
8 authorization to change the census date.

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17 Q Can you please describe what the census
18 barriers, attitudes and motivators surveys are?

19 A We expand that acronym differently in
20 some places. So there's the census barrier,
21 attitudes and motivators studies. One component
22 was survey and one component was focus group.

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1 So the survey component was a probability
2 sample of 50,000 households, of which 17,000
3 responded. And the focus group component was a
4 series of 42 focus groups that were conducted.
5 And they have both been entitled CBAMS. So --
6 this is about the survey.

7 Q Okay. How is the information from the
8 CBAMS used by the Census Bureau?

9 A The primary reason for conducting the
10 CBAMS is to inform the communication -- integrated
11 partnership and communication program in the
12 development of the partnership materials and the
13 communication materials. It is a part -- CBAMS,
14 both the survey and the focus groups, are a part
15 of the integrated communication contract. And
16 Young & Rubicam is the prime contractor on that.

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Q And does the bureau find the findings from the CBAM, both -- well, we'll start with the quantitative data -- to be generalizable in its conclusions about the questions that it's seeking to answer?

A We found, in advance of the 2010 census, that the much more limited CBAMS survey that we ran at that time provided actionable information that informed and improved the communication and partnership campaign during that census. And that's what we expect from the survey and the focus group components this time.

Q Okay. And I'd like to have you take a look at what's been marked as Exhibit 29. This is -- it starts with administrative record 13025 at the bottom. And the first page says, 2020 CBAMS focus groups - audience summary report.

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1 Have you seen this document before?

2 A Yes.

3 Q Okay. Is it -- these are summary reports
4 of the focus groups; is that correct?

5 A That's correct.

6 Q And is this -- is information from these
7 focus groups summarized in Exhibit 28, the
8 PowerPoint?

9 A I'm going to have to look. I didn't
10 think so, but I might be wrong.

11 Yes, it is.

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15 Q Thank you. I'd like to turn to -- let's
16 see. There's a slide -- it's slide 5. The Bates
17 number is COM_DIS00010674. And the title is,
18 "Distrust in census and government may complicate
19 outreach to some communities."

20 Have you found that page?

21 A Yes.

22 Q Okay. Just as a background question, are

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1 there any revised or more recent versions of this
2 PowerPoint that you know of?

3 A Not that I'm aware of.

4 Q Okay. The last bullet states that a
5 number of focus group participants -- or the
6 second to the last bullet -- "A number of focus
7 group participants responded negatively to adding
8 the citizenship question, most notably Spanish
9 (U.S. mainland) as well as Vietnamese, Chinese,
10 NHPI, and members of the female MENA group."

11 What does that mean?

12 A So the way that we draw conclusions from
13 focus groups is that we follow a similar protocol
14 in stimulating conversation in each focus group,
15 take the transcripts from those focus groups and
16 double-code the responses, and then look for
17 common answers across the focus groups, and then
18 see what was the target recruitment group for that
19 set of focus groups that had common responses.
20 And that's what's being characterized here.

21 So that people recruited in the focus
22 groups who mentioned citizenship as a barrier came

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1 from focus groups that were recruited to have
2 Chinese, Vietnamese, Spanish, Native Hawaiian and
3 Pacific Islander, and MENA, Middle Eastern and
4 North Africa.

5 Q And why was this bullet included in the
6 PowerPoint?

7 A I believe to draw the attention of people
8 who are using this to -- that finding of the focus
9 groups.

10 Q And what significance, if any, does the
11 Census Bureau accord to these focus groups with
12 respect to self-response rates on the 2020 census?

13 A I think I've been asked this before, so
14 I'm trying to give a consistent answer. The
15 quantitative evidence from the survey comes from
16 probability samples. And the recruitment targets
17 in the focus groups are from groups that we have
18 trouble getting responses to the probability
19 samples. So they're complementary in that sense.

20 We learn from the focus groups because we
21 try to be successful in recruiting into the focus
22 groups people who are hard to count, and in fact,

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1 you actually had to score high on a hard-to-count
2 index in order to be recruited into these focus
3 groups. That basically means that they're the
4 groups that are most difficult to get responses in
5 the survey, not necessarily for the same reasons,
6 but as a general category.

7 And so we view this as being able to
8 interview the people that either didn't respond or
9 were very reluctant to respond to a survey
10 component and attempt to discover what it is about
11 the process or about any other aspect of the data
12 collection activity that makes them reluctant to
13 respond.

14 And then we try to design a partnership
15 and communication campaign that addresses those
16 issues, run additional tests, qualitative tests,
17 to see if the messaging is successful in
18 overcoming the barriers.

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Q Was this PowerPoint presented to the Under Secretary, Ms. Dunn Kelley?

A I believe so, yes.

Q Okay. Anyone else that you know of?

A I don't have personal knowledge other than the -- it was presented to the Secretary as well.

Q Okay. And do you know when it was presented to them?

A I don't.

Q Roughly?

A Sorry?

Q Roughly, even?

A Within the last month.

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1 Q And is there -- was there a response that
2 was noted?

3 A I think that that's a more appropriate
4 question for the regular attendees of this
5 meeting. There was a discussion. I was in the
6 room. I did hear the discussion. I don't know
7 what constitutes a response in that context
8 because I -- that's the only one I've ever been in
9 and I wasn't there as a part of this discussion.

10 So I know it was presented to him. And
11 if you would like me to clarify, I will clarify.

12 The Secretary was looking for indications
13 from the team that they were responding in the
14 development of the communication and partnership
15 campaign -- there was -- there were people from
16 the partnership campaign there, too -- responsive
17 to this information. And the questions indicated
18 that he thought that we should be responsive to
19 this information. And the partnership and
20 communication people both communicated that they
21 intended to be responsive to it.

22 But this was the first presentation of

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1 what we learned, and now the intensive effort to
2 design both the partnership materials and the
3 communication campaign was going to kick off and
4 would be informed by this.

5 Q And since you were in the room, was there
6 concern expressed about this particular -- the
7 response to the citizenship question to these
8 groups? Was that highlighted -- did the Secretary
9 or Under Secretary have a concern about this?

10 A I'm very reluctant to characterize either
11 the Under Secretary or the Secretary's actions as
12 a concern or not a concern. Attention was paid.
13 It was acknowledged to be a challenge in
14 conducting the census. And much more of the
15 attention was focused on how this information
16 would be used to inform the partnership and
17 communication campaign.

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Q Okay. Turning to Exhibit 28, which is

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the summary -- I'm sorry, Exhibit 29, my

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apologies -- the summary of the CBAM focus groups.

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Could you please go to what's -- and that starts

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with the -- 13025. If you could please go to

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13045. This is titled at the top the 2020 CBAMS

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focus groups - audience summary report for

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Spanish, U.S. mainland. Do you see that?

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A Yes.

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Q Okay. If you go down to the third

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emboldened sentence, it says, "The citizenship

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1 question is a determining factor for
2 participation." Then it says, "All four Spanish,
3 U.S. mainland, focus groups took place after the
4 March 27, 2018 announcement that the 2020 census
5 will include a question on citizenship.
6 Participants in all locations mentioned the
7 citizenship question before the moderator asked
8 about, except for Houston Group 1 participants.
9 Most participants said that though they personally
10 are citizens or legal residents and are not afraid
11 to answer the citizenship question, they know many
12 others who will not fill out the question or the
13 form altogether out of fear. While all
14 participants expressed the desire to be counted,
15 fear of deportation outweighs any benefits."

16 Isn't this a strong indication that the
17 citizenship question will drive down participation
18 significantly among this community?

Vague;
Mischaracterizes
the document

19 MR. EHRLICH: Objection. Form.

20 THE WITNESS: This is a focus group
21 indication from a hard-to-count population that
22 the citizenship question is viewed as extremely

1 problematic in that population.

2 BY MS. FIDLER:

3 Q And aren't people afraid of deportation
4 the least likely to participate at all in the
5 census or to be swayed by NRFU efforts?

6 A I'm not prepared to say the least likely
7 to participate at all. I'm prepared to
8 acknowledge that they're an extremely difficult
9 group to count.

10 Q Isn't it reasonable to conclude that if
11 there's a fear of deportation, that NRFU efforts
12 are unlikely to be successful?

13 MR. EHRLICH: Objection. Form.

14 THE WITNESS: No.

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21 Q In light of the concerns raised by this

22 community, doesn't this indicate that if there's a

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1 citizenship question on the census, trusted
2 partners will have additional challenges in
3 convincing this community to participate?

4 A Yes.

5 Q Wasn't it also indicated from this focus
6 group that this community does care about
7 participation in the census?

8 A Yes.

9 Q That they would like to participate in
10 the census, in fact?

11 A That's a reasonable conclusion.

12 Q They expressed that they understand the
13 benefits to their community of participating in
14 the census; isn't that correct?

15 A Yes.

16 Q And so it indicates that the community
17 would participate -- would be more likely to
18 participate in the census if there was not a
19 citizenship question, correct?

20 A Should I interpret "participate" to mean
21 self-respond?

22 Q Yes, self-response.

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1 A Yes.

2 Q It mentions that, in this focus group, on
3 the fear of -- the paragraph above the one we read
4 states, in the middle of that paragraph,
5 "Additionally, while there were suggestions of
6 trusted voices, there does not seem to be a single
7 trusted voice that could mitigate their distrust
8 of the government to uphold the promise of
9 confidentiality."

10 So doesn't that indicate that trusted
11 partners will have a difficult time convincing
12 this community to participate in the census with a
13 citizenship question?

14 A Again, if participate means
15 self-response --

16 Q Self-response.)

17 A -- yes.

18 Q Just generally speaking, this information
19 is noted in all of these -- all of the summaries,
20 that -- by way of background, that the information
21 will be used to inform the 2020 census
22 communications campaign. Has that already -- has

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1 this information already been incorporated into
2 the integrated communication plan?

3 A The -- team Y&R, in collaboration with
4 its census staff, with census staff who are
5 working with them, were taking this information
6 immediately into the design of the media and
7 partnership materials which are -- they're in
8 content design phase now.

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19 Q Community benefits. The last sentence of
20 that paragraph says, "In addition, since many
21 participants had varying grasps about census
22 outcomes, the more they understood how the census

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1 drove resources and services to any given
2 community, the greater they felt compelled to
3 participate."

4 This is an indication that the moderators
5 indicate that local counts, local census counts,
6 are critical to ensuring representative levels of
7 funding for particular communities, and they
8 convey this information to the participants,
9 correct?

10 A Yes.

11 Q And part of the reason the Census Bureau
12 is trying to inform people of this connection
13 between the census and the funding is because in
14 order to ensure adequate funding, communities need
15 accurate enumeration, correct?

16 MR. EHRLICH: Objection. Form.

17 THE WITNESS: Correct.

18 BY MS. FIDLER:

19 Q And many of the respondents in the CBAM
20 summaries indicate they already know about this
21 connection, correct?

22 A Your characterization. I haven't read

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1 through all the data, but I won't dispute it.

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13 Q And those -- at the national level and
14 there can -- and there are -- there's data to show
15 that there have been persistent undercounts of the
16 Latin -- of the Hispanic community in particular,
17 correct?

Vague;
Compound;
Confusing

18 MR. EHRLICH: Objection. Form.

19 THE WITNESS: At the national level,
20 correct.

21 BY MS. FIDLER:

22 Q With regard to local population, if there

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1 are undercounts, funding for things like schools
2 and Medicare that rely on census population
3 numbers can be decreased, correct?

Vague;
Compound;
Confusing

4 MR. EHRLICH: Objection. Form.

5 THE WITNESS: The relation between
6 population measures for local communities and
7 funding is sometimes direct and sometimes
8 indirect. In most cases, having a larger
9 population implies a larger share of the total
10 resource being allocated.

11 REDACTED

12 Q Many respondents throughout the study
13 indicated an understanding that information is
14 required to be kept confidential, but also
15 indicated a fear that this could change and be
16 used against them in the future. Are you familiar
17 with that?

18 A Yes.

19 Q Is that a concern of the Census Bureau?

20 A The Census Bureau is not concerned about
21 the current confidentiality protections embodied
22 in title 13. Like any law, a law can be modified,

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1 amended. Statistical agencies in general, and the
2 Census Bureau among them, would be extremely
3 concerned if the respondent confidentiality
4 clauses were removed from title 13.

5 Q For those who have this fear about the
6 potential for change, aren't those who have this
7 belief less likely to self-respond to the census
8 or to respond to an enumerator?

Vague;
Compound; Calls
for Speculation

9 MR. EHRLICH: Objection. Form.

10 THE WITNESS: I'm willing to summarize
11 both the quantitative and the qualitative evidence
12 suggesting that the groups that you have isolated
13 in your question are less likely to self-respond.

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15 Q On page 13040 in this summary, one of the
16 emerging themes identified -- and this is a native
17 Hawaiian and Pacific Islander, but it comes up
18 elsewhere as well -- is multigenerational housing
19 as a potential barrier. "Participants expressed
20 concerns about sharing information about the
21 number of people who live in their households. It
22 is a common practice on the islands to live with

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1 extended family or to have more people living in
2 their house than are listed on the lease or
3 official documents. These concerns present a
4 potential barrier for the NHPI audience, as some
5 participants were worried about landlords finding
6 out the number of people living in their
7 residence."

8 This is another area where you could
9 potentially have either a complete non-response,
10 non-self-response or, as was described earlier,
11 you could have a census response that did not
12 include all of the members of the household,
13 correct?

14 A Yes.

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21 Q Sure. For the -- for the households that
22 have multigenerational housing, as described here,

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1 who do not want to disclose all of the members of
2 their household, to the extent that they do not do
3 so, that is where you are likely to have
4 omissions, correct?

5 A That is where nothing in the current
6 census protocol would correct that particular
7 omission.

8 Q And these types of omissions can lead to
9 localized or -- undercounts, correct?

Vague;
Confusing

10 MR. EHRLICH: Objection. Form.

11 THE WITNESS: So net undercount is the
12 difference between omissions and erroneous
13 enumerations and whole-person census imputations.
14 And these kinds of errors can affect both sides of
15 that equation.

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2 Q Let me back up. This is a focus group
3 that's describing that they do not want to provide
4 information because it is their understanding that
5 their landlords do not know that these numbers are
6 living in their household, correct?

7 A Understood, yes.

8 Q And in those cases when the census is
9 relying on proxy information, in part -- one of
10 the sources for proxy information are landlords,
11 correct, and landlord records, correct?

12 A Yes.

13 Q But in those cases where the landlords do
14 not know about the multigenerational housing, that
15 information would not be there, correct?

16 A That's a reasonable presumption, yes.

17 Q And so for subpopulations where
18 multigenerational housing is common, this could
19 present a problem for an accurate count of that
20 subpopulation, correct?

Calls for
speculation

21 A Yes.

22 MR. EHRLICH: Objection. Form.

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Q The -- the types of housing where there's multigenerational housing or people living in basements is an area where trusted partners are actually critical to helping the census get accurate information, correct?

A They're very important, yes.

Q And as we've discussed, trusted partners may have a difficult time convincing these communities to provide that information if there's a citizenship question on the census, correct?

MR. EHRLICH: Objection. Form. Mischaracterizes prior testimony

THE WITNESS: Yes.

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11 Q How do omissions affect both sides of net
12 undercount calculations?

13 A No, what I said is that net undercount is
14 the difference between omissions and erroneous
15 enumerations, plus whole census [sic] imputations.
16 And the enumeration difficulties that you were
17 asking me about can both affect gross omissions
18 and erroneous enumerations and whole-person
19 imputations; since there's a difference, they can
20 cancel.

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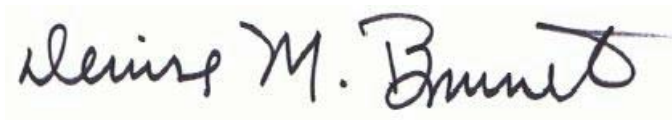
4 (Whereupon, at 11:55 a.m., the deposition
5 of JOHN M. ABOWD was concluded.)
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CERTIFICATE OF NOTARY PUBLIC

I, Denise M. Brunet, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was sworn by me; that the testimony of said witness was taken by me stenographically and thereafter reduced to print by means of computer-assisted transcription by me to the best of my ability; that I am neither counsel for, related to, nor employed by any of the parties to this litigation and have no interest, financial or otherwise, in the outcome of this matter.



Denise M. Brunet
Notary Public in and for
The District of Columbia

My commission expires:
December 14, 2022

1 New York Immigration Coalition v. US Dept. of Commerce
2 John Abowd 30(b)(6)

3 INSTRUCTIONS TO THE WITNESS

4 Please read your deposition over
5 carefully and make any necessary corrections.
6 You should state the reason in the
7 appropriate space on the errata sheet for any
8 corrections that are made.

9 After doing so, please sign the errata
10 sheet and date it.

11 You are signing same subject to the
12 changes you have noted on the errata sheet,
13 which will be attached to your deposition.

14 It is imperative that you return the
15 original errata sheet to the deposing
16 attorney within thirty (30) days of receipt
17 of the deposition transcript by you. If you
18 fail to do so, the deposition transcript may
19 be deemed to be accurate and may be used in
20 court.

21

22 3028797

1 New York Immigration Coalition v. US Dept. of Commerce

2 John Abowd 30(b)(6)

3 E R R A T A

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5 PAGE LINE CHANGE

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7 Reason: _____

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22 3028797

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1 New York Immigration Coalition v. US Dept.of Commerce
2 John Abowd, 30(b)(6)

3 ACKNOWLEDGMENT OF DEPONENT

4 I, _____, do
5 hereby certify that I have read the foregoing
6 pages and that the same is a correct
7 transcription of the answers given by
8 me to the questions therein propounded,
9 except for the corrections or changes in form
10 or substance, if any, noted in the attached
11 Errata Sheet.

12 _____
13

14 DATE

SIGNATURE

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22 3028797

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2016. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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