

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
MINORITY (202) 225-5074

<http://oversight.house.gov>

MEMORANDUM

March 14, 2019

To: Committee Members

Fr: Majority Staff

**Re: Supplemental Memo on Transcribed Interview with John Gore
Regarding Addition of Citizenship Question to Census**

On March 7, 2019, staff of the Committee on Oversight and Reform conducted a transcribed interview with John Gore, the Principal Deputy Assistant Attorney General in the Civil Rights Division of the Department of Justice (DOJ). This memorandum provides a brief summary of that interview.

I. DEPARTMENT OF JUSTICE WITHHOLDING INFORMATION

During the transcribed interview, DOJ counsel instructed Mr. Gore more than 150 times not to answer specific questions from the Democratic and Republican Committee staff that are central to the Committee's investigation.

Neither Mr. Gore nor DOJ counsel asserted any privilege to explain his refusal to answer the Committee's questions. Instead, they stated Mr. Gore would answer questions "that can be answered without compromising the ongoing litigation or other executive branch confidentiality interests."

As the Committee has explained repeatedly, ongoing civil litigation is not a valid basis to withhold information from Congress. The Committee may take additional steps to secure the information and documents needed to complete its investigation.

II. NEW INFORMATION FROM INTERVIEW

Despite Mr. Gore's refusal to answer many questions, his interview produced troubling new information about the Trump Administration's decision to add a citizenship question to the 2020 Census.

A. Department of Commerce Hand-Delivered Secret Memo to Gore

Mr. Gore stated that in the fall of 2017, he spoke to James Uthmeier in the Office of General Counsel at the Department of Commerce about the citizenship question. Following that conversation, Mr. Uthmeier had a memorandum on the citizenship question hand-delivered to Mr. Gore's office, along with a hand-written note that also discussed the citizenship question.

During his interview, DOJ counsel directed Mr. Gore not to reveal to the Committee the subject matter of his conversation with Mr. Uthmeier or the content of the memo and handwritten note that were hand-delivered to his office.

Mr. Gore told the Committee that Mr. Uthmeier explained to him why he planned to hand-deliver the memo and note, but DOJ counsel instructed Mr. Gore not to reveal the reason to the Committee. Both DOJ and the Department of Commerce have also refused to provide copies of this memo and note to the Committee.

B. Trump Transition Official Sent DOJ Draft Request for Citizenship Question

Mr. Gore stated during his interview that in October 2017, he spoke to Peter Davidson, the General Counsel of the Department of Commerce, about the citizenship question. Mr. Davidson mentioned a former member of the Trump Transition Team, Mark Neuman, who then contacted Mr. Gore.

According to Mr. Gore, Mr. Neuman provided him with "a draft letter that would request reinstatement of the citizenship question on the census questionnaire." Mr. Gore was the principal drafter of DOJ's December 12, 2017, request to the Department of Commerce to add the citizenship question, and he received the draft from Mr. Neuman around the same time he was preparing DOJ's December 12 letter.

During the interview, DOJ counsel instructed Mr. Gore not to discuss the substance of his discussions with Mr. Neuman or Mr. Davidson. DOJ counsel also instructed Mr. Gore not to reveal the contents of the draft letter from Mr. Neuman or the extent to which he relied on that letter when drafting the request to the Department of Commerce to add the citizenship question.

C. Gore Discussed Citizenship Question with Department of Homeland Security

During his interview with Committee staff, Mr. Gore stated that in October 2017, Attorney General Sessions' staffers set up a call with employees of the Department of Homeland Security related to the citizenship question. Mr. Gore was directed not to disclose what they discussed, including whether they discussed immigration or apportionment.

D. Gore Discussed Apportionment with Sessions and Commerce Lawyers

Mr. Gore informed Committee staff that in the fall of 2017, he had discussions about apportionment with Attorney General Jeff Sessions and separately, with two lawyers from the Department of Commerce, Peter Davidson and James Uthmeier. These conversations occurred

during the same period that Mr. Gore was discussing the citizenship question with the Attorney General and the lawyers.

DOJ counsel refused to allow Mr. Gore to discuss the substance of any of these conversations, including whether the issue of apportionment came up in discussions about the citizenship question.

III. EXCERPTS FROM TRANSCRIBED INTERVIEW WITH GORE

Excerpts on Mark Neuman Providing Draft Letter Page 24-27

Q: Did you do anything in response to your conversation with Mark Neuman?

A: I reviewed—yes, I did.

Q: What did you do?

DOJ Counsel: You can answer that question to the extent you can do so without divulging confidential or litigation-based interests the Department has.

A: I reviewed some documents and information regarding the census.

Q: I'm sorry, I just missed the first part.

A: I reviewed some documents and information regarding the census.

Q: Were those documents and information provided to you or pointed to?

A: Yes.

Q: Which one? Sorry.

DOJ Counsel: I instruct the witness not to answer. I'm sorry, I misunderstood your question. Can you rephrase your question? I apologize.

Committee Staff: Sure. Did he provide the documentation to you or did he point you to the documentation?

A: He provided it.

Q: Was that information public information or internal private information?

A: Public information.

Q: What was it?

A: He provided some information regarding the census, historical documents about the census. He handed me a pamphlet that was—had a chart in it that documented which questions had been on the census in various years.

Q: Was that all he provided you?

A: No, he also provided me a draft letter.

Q: A draft letter of what?

A: It was a draft letter that would request reinstatement of the citizenship question on the census questionnaire.

Q: Did he tell you where he got that draft letter?

DOJ Counsel: I instruct you—

A: No.

Q: Did any language in that letter appear in the letter that the Department of Justice sent to the Department of Commerce on December 12th, 2017?

DOJ Counsel: I instruct the witness not to answer.

Committee Staff: On what basis?

DOJ Counsel: The same basis.

Committee Staff: Can I ask you a question. Was the draft letter that he handed you, was it addressed from the Department of Justice to the Department of Commerce?

DOJ Counsel: Same instruction.

Committee Staff: So just to be clear, you've told us that he gave you a draft letter, but you're being instructed not to tell us to whom the draft letter was addressed. Is that the instruction?

DOJ Counsel: You're asking about the contents of the letter. I'm instructing him not to answer those questions, correct.

Excerpts on Discussions with James Uthmeier on Hand Delivery of Memo Pages 105-109

Q: Okay. But just to be really clear, he did not just tell you I'm going to send you a memo. You discussed other—did you discuss other things about the memo?

DOJ Counsel: Once again, you can answer that with a yes or no.

A: Yes.

Q: When did you receive the memo?

A: I don't recall exactly when I received the memo. It was hand delivered to my office with a handwritten cover note, and I don't recall how long it took—how much time elapsed between that phone call and when I received the memo.

Q: In that phone call when you were talking—when he informs you he's going to send you a memo, what did you specifically discuss?

DOJ Counsel: I'll instruct the witness not to answer.

Q: You said that he—it came—it was delivered to you. How was it delivered, that you're aware of?

A: All I know is that my assistant brought it to me and said it had been hand delivered. I don't know who delivered it or whether Mr. Uthmeier did it himself or whether somebody else did it. Is that your question?

Q: Can I ask a follow-up on that?

A: Sure.

Q: I don't mean to sound facetious, but you obviously have access to email, correct?

A: I do.

Q: And Mr. Uthmeier, obviously, has access to email.

A: I imagine he does, yes.

Q: So, is it fair to say that he could have emailed the memorandum to you if he had wanted to?

- A: I don't know. You would have to ask him that. I don't know what format he had the memorandum in and whether that would have been possible.
- Q: Do you know why it was hand delivered to you?
- A: I don't.
- Q: Do you know whether he was instructed to hand deliver it to you, Mr. Uthmeier?
- A: I don't.
- Q: How often do you receive memorandum—paper memos from other agencies rather than receiving memorandums in electronic form?
- A: I don't know.
- Q: Would you say this was unusual?
- A: No, not necessarily. I sometimes receive memos in paper rather than through email certainly within the Department, too.
- Q: My question is from other agencies. Is a memorandum coming from the Department of Commerce—let's say have you received other hand—other hand-delivered memoranda from the Department of Commerce?
- A: Not that I recall.
- Q: Have you received other hand-delivered memoranda from other agencies, outside?
- A: I don't believe I received memoranda from any other agencies. This would be the only memorandum I received from another department or agency, and it was delivered by hand. So I guess, to follow your line of questioning, that makes it usual.
- Q: I guess that's a definitional question we could quibble with a little bit.
- A: You were trying to compare it to some other practice, and this is the only other practice I've ever experienced—
- Q: It sounds like you're saying it's the only time you've ever received a memo from another agency and the only time you've ever received one—a handwritten memo hand delivered to you, so I would describe

it as unusual.

A: No, that was not my testimony. What I said was, it's the only time I've received a memorandum from another department, and I have on several occasions received hand-delivered memoranda within the Department of Justice.

Q: When you were on the phone and he informed you that he was going to send you a memo, did you discuss the form of delivery?

A: Yes.

Q: Did you discuss why he wanted to send it to you?

DOJ Counsel: I'll instruct the witness—you can answer that with a yes or no.

A: Why he wanted to send it to me at all?

Q: Sorry. When you discussed the form of delivery, did he tell you at that point in time that it was going to be hand delivered?

A: Yes, he did.

Q: Did he tell you why it was going to be hand delivered?

DOJ Counsel: You can answer that yes or no.

A: Yes, he did.

Committee Staff: I thought you just said you didn't know why he hand delivered it to you. Do you know why he hand delivered it to you?

A: I know—I know why he told me he wanted to hand deliver it to me. I don't know why he did it.

Q: What did he tell you?

DOJ Counsel: I instruct the witness not to answer.