

COMMITTEE ON OVERSIGHT AND REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: JAMES UTHMEIER

Tuesday, June 11, 2019

Washington, D.C.

The interview in the above matter was held in Room 6200, O'Neill House Office Building, commencing at 9:35 a.m.

Appearances:

For the COMMITTEE ON OVERSIGHT AND REFORM:

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For DEPARTMENT OF COMMERCE:

DAVID DEWHIRST, ESQ. [VIA TELEPHONE]

CORDELL HULL, ESQ. [VIA TELEPHONE]

Ms. Anderson. This is transcribed interview of James Uthmeier conducted by the House Committee on Oversight and Reform. This interview was requested by Chairman Elijah Cummings as part of the committee's Oversight investigation into the addition of the citizenship question to the 2020 Census.

Mr. Uthmeier, can you please state your full name and spell your last name for the record?

Mr. Uthmeier. Yes. My name is James William Uthmeier and the last name is spelled U, T as in Tom, H, M as in Mary, E, as in Edward, I, E as in Edward, R.

Ms. Anderson. My name is Tori Anderson, I work as majority counsel for the Committee on Oversight and Reform. I want to thank you for being present on the phone today. We appreciate your willingness to speak with us voluntarily.

Right now I am going to go around the room and ask everyone to introduce themselves, so you can at least for now hear our voices and try to identify us. And then we will go over some ground rules before we get started today.

Mr. Anello. Russ Anello, majority staff.

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Ms. Teleky. Katie Teleky, majority

Ms. Sachsman Grooms. Susanne Sachsman Grooms, majority,

Ms. Johnson. Ellen Johnson, Republican staff.

Mr. Castor. Steve Castor with the Republican staff.

Ms. Nabity. Caroline Nabity, Republican staff.

Mr. Sanderson. Tyler Sanderson, Republican staff.

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Ms. Anderson. And we have some stenographers here as well.

The way this interview will proceed is as follows: The majority and minority

staffs will alternate asking you questions 1 hour per side per round. The majority staff will begin and proceed for an hour, and the minority staff will then have an hour to ask questions.

Thereafter, the majority staff may ask additional questions and so on. We will alternate back and forth in this manner until there are no more questions from either side and the interview will be over.

During the interview, we will do our best to limit the number of people who are directing questions at you during any given hour. With that said, from time to time, follow-up or clarifying questions may be useful. And if that is the case, you might hear an additional person around the table.

Under the committee rules, you are allowed to have an attorney present to advise you. Do you have an attorney representing you in a personal capacity with you today?

Mr. Uthmeier. I do not.

Ms. Anderson. I understand you do not have a personal attorney with you today, but instead have agency counsel with you. Would agency counsel please identify themselves for the record?

Mr. Dewhirst. David Dewhirst, D-e-w-h-i-r-s-t, deputy general counsel for litigation at the Department of Commerce.

Mr. Hull. Cordell Hull, H-u-l-l, also deputy general counsel, Department of Commerce.

Ms. Anderson. Mr. Uthmeier, do you understand that agency represents the agency and not you personally?

Mr. Uthmeier. I do.

Ms. Anderson. Are you choosing to have agency counsel with you today?

Mr. Uthmeier. Yes, I am.

Ms. Anderson. There is a stenographer taking down everything I say and everything you say for the written record for the interview. For the record to be clear, please wait until I finish each question before you begin your answer, and I will endeavor to wait until you finish your response before asking you the next question. The stenographer cannot record nonverbal answers, such as shaking your head so it is important that you answer each question with an audible verbal answer. Do you understand?

Mr. Uthmeier. I do.

Ms. Anderson. We want you to answer our questions in the most complete and truthful manner possible so we are going to take our time. If you have any questions or do not understand any of our questions, please let us know and we will be happy to clarify or rephrase our questions. Do you understand?

Mr. Uthmeier. Yes.

Ms. Anderson. If I ask you a question about conversations or events in the past and you are unable to recall the exact words or details, you should testify to the substance of those conversations or events to the best of your recollection.

If you recall only a part of the conversation or event, you should give us your best recollection to those events, or parts of conversations that you do recall. Do you understand?

Mr. Uthmeier. Yes.

Ms. Anderson. If you need to take a break, please let us know and we will accommodate you. Ordinarily, we take a 5-minute break at the end of each hour of questioning. But if you need a break before then, just let us know. However, to the extent there is a pending question, I would ask that you finish answering the question before you take a break. Do you understand?

Mr. Uthmeier. Yes.

Ms. Anderson. Although you are here voluntarily and we are not swearing you in, you are required by law to answer questions by Congress truthfully. This also applies to questions posed by congressional staff in an interview. Do you understand?

Mr. Uthmeier. Yes.

Ms. Anderson. If, at any time, you knowingly make false statements, you would be subject to criminal prosecution. Do you understand?

Mr. Uthmeier. Yes.

Ms. Anderson. Is there any reason you would be unable to provide truthful answers in today's interview?

Mr. Uthmeier. No.

Ms. Anderson. Please note that if you wish to assert a privilege over any statement today, that assertion must comply with the committee rules. Committee rule 6(c)(1) states, quote, "For the chair to consider assertions of privilege over testimony or statements, witnesses or entities must clearly state the specific privilege being asserted and the reason for the assertion on or before the scheduled date of testimony or appearance," end quote.

In addition, committee rule 16(c)(3) states, quote, "The only assertion of executive privilege that the chair of the committee will consider are those made in writing by an executive branch official authorized to assert the privilege," end quote. Do you understand?

Mr. Uthmeier. I do not have the rules in front of me, but I will take your word for it. Yes.

Ms. Anderson. Do you have any questions before we begin?

Mr. Uthmeier. No.

Ms. Anderson. I will note for the record that we will start our hour at 9:41 a.m.

EXAMINATION

BY MS. ANDERSON:

Q Mr. Uthmeier, did you serve informally on President Trump's 2016 presidential campaign?

A I worked at a law firm and provided legal counsel to the campaign, the campaign was a client.

Q And so what was your role in that position?

A I was in the business and tort litigation practice group at the law firm, primarily. So most of my responsibilities involved several litigation matters. I also --

Ms. Anderson. Have we lost him?

Mr. Dewhirst. Can you hear us?

Mr. Anello. Now we can, but we cut out.

Ms. Anderson. Is everyone on the line?

Mr. Dewhirst. We are still here. We can hear you just fine.

Mr. Anello. I think the last thing we heard you say was you worked on several litigation matters, and then you cut out.

Mr. Dewhirst. Just start, you did business in tort litigation?

Mr. Uthmeier. I am.

I worked on several litigation matters primarily. However, I spent, I would say, a quarter of my time providing legal counsel to our political law practice group and other than that quarter, I would say a third or less of my time, I provided counsel to the campaign on a range of various activities.

BY MS. ANDERSON:

Q Did you ever discuss, during that campaign, anything regarding adding a

citizenship question to the Census?

A No.

Q Did you serve formally or informally on President Trump's transition team?

A Yes.

Q What was your role on the transition team?

A While still working at Jones Day after the election, I provided some volunteer services to the transition team. To the best of my recollection, I was vetting candidates for certain government positions in the new administration. In addition, I believe I also conducted some research and fact-finding to understand current ongoings in executive branch agencies. So when new officials began working in 2017, I could help to brief them on, you know, the work that was ongoing in the executive branch.

Q How did you become involved on the transition team?

A At Jones Day, having served as counsel to the campaign in various capacities, I was working with attorneys that were also providing services to the campaign. And I do not remember who specifically would have asked me, or invited me to continue helping the campaign in a voluntary capacity, but I was working with several other attorneys at the firm that were helping the transition.

Q How long did you serve on the transition team?

A I would have served on the transition team off and on in both an informal and formal capacity up until I left the law firm the week before inauguration, and then there was 2- to 3-week period, while HR was preparing my onboarding material to begin working at the Department of Commerce. So I don't know exactly what the timeframe looks like, but I would have began shortly after the election and I supposed officially concluded with the beginning of the new administration.

Q Did you ever have any discussions with anyone during the transition period

about adding a citizenship question to the Census?

A No.

Q Did you communicate with now-Secretary Ross during the transition?

A I -- I believe I did, once or twice, but I did not have significant contact with him with directly at that time, no?

Q Did you discuss the citizenship question with him during that time.

A No.

Q Did you ever have any discussions with Mark Neuman during the transition period?

A I did not.

Q Did you ever have any talks or discussions with Kris Kobach about adding a citizenship question during the transition or any other time?

A No.

Q Did you ever have any talks or discussions with Gene Hamilton during the transition or any other time about adding a citizenship question to the Census?

A I do not believe so, no. The name now rings a bell, and I certainly would have heard his name come up in conversation, but I do not believe we had direct communication.

Q Do you recall indirect communication?

A I remember hearing his name.

Q Do you remember in what context?

A The context that I am thinking of I would have heard his name in discussions about scheduling a meeting between the Secretary and the Attorney General.

Q In what timeframe was that? Do you recall?

A I believe it would have been in the fall of 2017. But I do not remember the

specific timeframe, no.

Q Do you recall learning anything else about that scheduling or the reason for the, I guess, the meeting or the conversation that was being scheduled?

Mr. Hull. This is Cordell Hull. I mean, to the extent you are asking about the content, I think we are going to ask -- direct him not to answer.

Ms. Anderson. I believe the first question was, does he remember anything about the content.

Mr. Uthmeier. I remember that it has to do with the Census. But specifically other than that, I don't remember.

Ms. Anderson. Was it about the citizenship question?

Mr. Hull. To the extent that that calls for discussion about the content of the meeting, we are going to instruct the witness not to answer.

Mr. Anello. Are you instructing -- this is Russ Anello. Are you instructing the witness not to answer whether the meeting with about the citizenship question?

Mr. Hull. You are asking him in his context as attorney for the Department whether he was privy to a discussion that I can only imagine would come to him in his role as a lawyer. And so, to get out what --

Mr. Anello. He didn't say that.

Mr. Hull. -- about it would necessarily entail conversations he had at the Department.

Mr. Anello. Okay. Just to back up, we didn't ask for -- the question didn't call -- I am sorry?

Mr. Dewhirst. Counsel, you were breaking up, go ahead.

Mr. Anello. The question was whether the subject of the meeting with the citizenship question. So that doesn't call for any kind of legal analysis. It doesn't call

for anything that I could possibly imagine would be objectionable. But I just want to make sure we are understanding what the question is. Is this meeting between the Attorney General and the Secretary, was it about the citizenship question, just a yes or no.

Mr. Dewhirst. To the extent the witness can answer without discussing any conversations, if there's a way you could answer it, Mr. Uthmeier?

Mr. Uthmeier. I do not know what the meeting was about, and I was not in the meeting.

BY MS. ANDERSON:

Q Mr. Uthmeier, what was your involvement with the scheduling of that meeting?

A I did not have a primary role in scheduling, but the senior official with the Commerce Department, at that time, worked in a very unique workstation format. It was basically a bullpen setup, so I would have been present for other conversations about this, and it would have been in that capacity that I would have heard discussion of the schedule.

Q What did you hear in those discussions?

Mr. Hull. I am going to instruct the witness not to answer about internal executive branch deliberations.

Mr. Anello. Mr. Uthmeier, who did you hear discussing setting up scheduling this meeting?

Mr. Uthmeier. I do not recall.

Mr. Anello. Was somebody else in the bullpen with you?

Mr. Uthmeier. It would have been somebody else in the secretary suite, but I do not remember who.

Mr. Anello. Okay. And did you hear from somebody else in the Secretary's suite that the meeting related the to the citizenship question?

Mr. Uthmeier. I do not recall hearing specifics of the meeting, but I do know that it involves the Census.

Mr. Anello. But you do not know if it involved a citizenship question? I just want to make sure I understand that.

Mr. Uthmeier. I do not remember what specifically it involved, other than the Census.

BY MS. ANDERSON:

Q Mr. Uthmeier, do you know who Thomas Hofeller is? Or Hoffler?

A I am familiar with the name. But I do not know this individual, no.

Q Did you ever speak or communicate with him during the transition, or any other time?

A I did not.

Q Have you ever read anything or seen anything written by him?

A No. To my knowledge, no, I have never seen anything written by him.

Q Have you ever discussed him with anyone?

A I discussed him with counsel in preparation for this interview. However, I had no other discussions. I was present for the deposition of Mark Newman, where I also would have heard the name mentioned.

Q Are you familiar with his 2015 study or report?

A I am not.

Q During the transition team, did the transition team create a written report or plan for the Commerce Department?

A There were written materials that involved the Commerce Department, and

I believe there was a plan, but I do not recall the contents of the plan.

Q Do you recall if the plan, or any of the written materials discussed the citizenship question?

A I do not remember specifically, no.

Q Do you recall remember whether generally it discussed that issue?

A I do not remember, no.

Q You mentioned earlier that you also had a formal role on the transition team. What was that role?

A I served on the landing team. That was the group of individuals that were assigned to agencies to begin doing some research and understanding the ins and outs of the agency, and what that agency's specific roles were, statutory function and so forth.

From there, I was then assigned to the Commerce beach head team, and that was the team was sent in as the initial batch of political appointees after the beginning of the new administration. It is kind of a gray area as to when the transition responsibilities began and ended. I guess even as a new political appointee, I would have been part of the transition of the new administration assuming its leadership role.

Q In either your formal or informal role, did you work on issues related to the Census?

A I did, yes.

Could you repeat that question one more time?

Q Sure. In either your formal or informal role on the transition team, did you work on Census issues?

A Yes. I would have worked on Census issues.

Q In what capacity?

A I would have been researching what the Census is, how it works. I was

quickly made aware that the 2020 Census was going to be coming up soon, and this was one of the Department's most significant undertakings, requiring many personnel, significant resources, and budget, and numerous related issues. So it would have been a big topic facing the new political appointee.

Q Who did you discuss this issue with during the transition team?

A Are you referring to my work prior to beginning at the Department of Commerce or after beginning?

Q Prior.

A To the best of my recollection, I remember speaking with Eric Branstad. There may have been another individual, but I cannot remember specifically.

Q Did you have discussions with Mark Newman at the time?

A I did not speak with Mark Newman, to my recollection, during my transition period. The first time I would have communicated with him, either in person or over the phone, would have been after I was already a Department of Commerce employee.

Q Did you create any written materials about your research into the Census?

A No.

Q During that time, did you -- what email address did you use?

A During which time?

Q The transition when you were working informally and formally on the transition team?

A I would have used my Jones Day law firm email for some matters. At some point, I would have likely used my Gmail address as well.

Q Did you have a transition team email address?

A I did not.

Q So, I believe you mentioned earlier that you first joined the Department of

Commerce a few weeks after the inauguration. Is that accurate?

A Yes. It would have been mid February.

Q What was your role when you joined the Department of Commerce?

A I joined as a special adviser to the Secretary as part of the beach head team.

There I was supposed to conduct fact-finding missions throughout the Department to learn all of the Department's inner workings. And then immediately upon beginning at the Department, I was assigned to serve in the Office of General Counsel as the sole political appointee there, coordinating the Office of General Counsel's efforts to support the Secretary.

Q What were your responsibilities in that role as special adviser?

A I served as a -- I served as counsel to the Secretary. I was his point person in that office overseeing, you know, the Department's legal work, as well as all of the specific Bureau counsel. So it was to provide legal advice.

Q Was what was your role at that time regarding the Census?

A It would have been to oversee legal issues surrounding the Census.

Mr. Anello. Sorry, this is Russ. I want it to make sure I understand the timeframe. You said you joined in February as a special adviser to the Secretary. But then, you said you were immediately moved to the general counsel's office. Is that right?

Mr. Uthmeier. On my first day of work, I was sent to the Office of General Counsel, and I was asked to focus on the legal services provided by the office.

Mr. Anello. Okay. And how long did you have -- were you in that role?

Mr. Uthmeier. I worked in the Office of General Counsel until the general counsel was finally confirmed by the Senate, I believe, in mid to late August 2017. I then continued working in that office under his direction for several months, I believe,

probably 5, 6 months. Following that time, I was relocated to provide legal services in the Secretary's immediate office.

BY MS. ANDERSON:

Q During the time you first joined the Department of Commerce, what was your role regarding the citizenship question?

A The citizenship question first came up as I was conducting my fact-finding, briefings and obtaining information from the career staff at the Bureau. I believe I also would have heard about it in conversations with counsel in the Office of General Counsel. I did not have a specific role that dealt with the citizenship question. It was just one of many issues that would have been presented to me. It was certainly not an issue that was being discussed a lot. The Census had several important projects and issues that were being worked on. And the citizenship was just something that was on the radar of the staff.

Q And who was it -- could you explain a little more, who was it on the radar for, who are you referring to?

A I met with many people immediately after beginning at the Department. I would have met with Census career officials, acting leadership of the Bureau, as well as career officials that were heading up the Department's Office of General Counsel. I do not recall specifically who would have been the one that brought up the Census citizenship question, but it was presented to me as something that they were aware of. It was on the radar as something that could become an issue for the Bureau.

Q And who were those people?

A Who were what people?

Q You said it may have come up with some of the Census career staff and some the general counsel staff. Who were those people specifically?

A I do not recall who specifically would have mentioned the citizenship question. I recall meeting with multiple people in the agency, but I do not recall who would have brought this up for the first time.

Q Who were the people you met with at the agency?

A At the Census Bureau, the director of operations, I believe his name was Allen -- I cannot remember his last name, Lisa Blumerman. Again, I am probably mispronouncing her last name. At some point, I would have met with Ron Jarmin, Enrique Lamas, I do not remember exactly what timing.

Within the Office of General Counsel, the individual performing the duties of general counsel when I arrived was Michelle McClellan, I would have spoken with her. I would have spoken with Barry Robinson, who was the lead counsel on Census matters. I would have spoken with the head contract lawyers that the Census was going through, many different contract issues. I would have spoken to the Office of General Counsel, budget, specialists who were also deeply involved in ongoing Census issues. I probably would have spoken to the employment counsel. I -- John is his name. He would oversee employment issues. John Gunther. I would have spoken to litigation counsel about the Census, because I was aware that every Census leads some sort of litigation. I would have spoken to dozens of people being the sole political appointee attorney at such a large agency.

Q Why was this issue on the radar?

A I don't know.

Q Had you heard that there was any particular interest in the question?

A I do not remember specifically why, why it was on the radar. But it was made clear to me that the career staff knew that it was something that might need to be researched.

Mr. Anello. This is Russ. Just to be clear, why did they know it was something that needed to be researched? Did they express to you why they thought it would have to be researched?

Mr. Dewhirst. To the extent it calls for conversations he had with folks in the Department and his attorney, I am going to instruct him not answer. If there is a way that you can answer it in a way that doesn't invoke privilege, go ahead.

Mr. Uthmeier. I don't know why they thought it might need to be researched.

BY MS. ANDERSON:

Q And you said that you worked in that capacity until around August, or midsummer. Is that correct?

A I served as a legal adviser to the Secretary throughout my entire at the Department. I was housed in the Office of General Counsel up until, perhaps, the middle of 2018. I do not remember the specific date. But I certainly worked under the general counsel after he arrived for at least a few months.

Q Did your responsibilities change with that sort of, I guess, reorganization in your role?

A I -- yes, they did. I assumed more responsibility. During my time at the Department of Commerce I served as the regulatory reform officer where I oversaw all of the Department's regulatory issues. That role expanded as I moved into the Secretary's suite, and became more of a priority for the Department. The Secretary also wanted to work hard to advance the commercial space industry, and I was put in charge of that project, and was working to help him create a new space team that would draw experts from all of the various Bureaus at the Department that touch on space from Patent and Trademark to the Bureau of Industry and Security, to NTIA spectrum issues. There's an Office of Space Commerce within NOAA, N-O-A-A, is the abbreviation. They deal with

space weather, satellite issues, GPS.

So, I began diving into that realm in a big way, and I believe the reason I was asked to transition into that is the President had directed the Department -- the Vice President, specifically, who heads up National Space Council, he directed the Department to take on a leadership role in space commerce, and specifically, to identify ways to streamline the regulatory process that somebody would have to go through to conduct commercial activities in space.

Q When did you next hear about the citizenship question?

A I am not sure what you mean by that question. When did I next hear about it in relation to what?

Q So you mentioned earlier that this was an issue that was on the radar.

What happened next with regards to the citizenship question? Did you hear about it? When did you next hear about it again? Did it change on the radar?

A I would have -- I began, you know, conducting my due diligence on this topic, in addition to the many other topics that we were working on at Census, and immediately would have been conducting research into the types of questions that were asked on the Census on all of the various surveys, the processes for determining what questions are going to be asked; the preparations that are required for making decisions on how preparations are asked. How data is used, or at least what the proper uses of data are from various departments within the executive branch. So I would have continuously worked on the citizenship question issue to just be prepared for whatever might come, and then, I would have had discussions with other officials at the Department going on into 2017 on the topic.

Q Who did you have discussions with?

A Well, in my position, I had discussions with the Secretary; I had discussions

with policy staff; I had discussions with legislative affairs personnel, since there is a congressional Hill element, and there are statutory requirements involving the Census, and when the Department needs to provide information to Congress relating to the Census. I would have spoken with attorneys to gather more information about all of the questions on the Census, or at least many of the questions, including the citizenship question and how it was currently being used, and how it had been historically used.

I would have also spoken with budget personnel, but -- part of my role at the Department was ensuring that people are getting briefed up on my research and everything that I was doing.

BY MR. ANELLO:

Q This is Russ Anello again. It sounds like you did a lot of work. I think you have described some pretty detailed research that you did. You described a list of maybe 6, 7, 8 categories of people that you talked to. Is it fair to say that you didn't do this amount of research for every single issue that came in front of you as the only political appointee doing legal work in the entire Department, right?

A I'm sorry, I don't I don't think I understand the question.

Q Is it --

A I did not do this level of research on all the projects I was working on?

Q Right.

A I did a lot of legal research and advice on many topics. The Census issues were just one that we were working on. The Department had a leading role in trade. Regulatory reform, probably took up the largest amount of my time. Space commerce issues, I would say, took up a large amount of time. I was also involved in congressional requests for documents, and have an oversight role to play.

Q I understand. Mr. Uthmeier, I don't want to cut you off. But I am asking

specifically about this issue, not about space commerce, not about regulatory reform. I am just asking about this issue. And my point is only that it sounded like you were spending a lot of time on it. And my question for you is why you are spending -- why did you do this much due diligence on this issue, and why did you talk to so many people about it?

A I exercised significant due diligence on all topics. That's just the way I am.

Q But why did you exercise that on this topic?

Mr. Dewhirst. Sorry. Could you repeat that? You broke up.

BY MR. ANELLO:

Q The question is, why, Mr. Uthmeier, did you conduct such an intense level of due diligence on this particular topic. You said that it was on the radar screen, but you haven't explained anything more than that, so it doesn't make sense to me. I am trying to understand why did you conduct such an intensive due diligence on adding a citizenship question on the topic of a citizenship question?

Mr. Dewhirst. Counsel, I think counsel he is trying to answer in a way that doesn't implicate any privilege while, at the same time, giving the committee position information to show that this was a part of the bigger picture of what he was doing at the end of the day. But I will let the witness answer. He's trying to be helpful on this, and I just want that context out there.

Mr. Uthmeier. What I am saying is, you know, I dedicated time to this like I would have any other issue that was put on my plate. I like to be well-informed and I like to be able to offer thought-out advice.

BY MR. ANELLO:

Q So are you saying that you just, on your own accord, you talked to some career folks, and then on your own accord, you put in all of this due diligence without

being instructed to do so by anyone. Is that your testimony?

A No. I think one thing being misconstrued here is the timeframe. In the beginning the citizenship question came up as one item that the Census was aware of. And there all the work that I just laid out that I conducted, I am talking about throughout the duration of my time at the Department. I didn't realize you are focusing on the first month or 2. This became a more significant research topic for me as 2017 progressed, and I realized it may be reinstating the question, may be something that the Secretary ultimately decided to do.

Q So when did you become aware that reinstating the question was something the Secretary might ultimately decide to do?

A The Secretary asked me to look into the issue. I would say at some point in the spring of 2017, likely March or April.

BY MS. ANDERSON:

Q How did he let you know that?

A And to be clear, are you asking written or orally, is that still the question?

Q For now, yes, let's start there.

A To the best of my recollection, it would have come up in one of our in-person briefings, likely while we were talking about multiple topics, where he was trying to get more information to help him make decisions. I know that I was also asked by Earl Comstock, the policy director, to begin looking into the issue as well.

Q What did the Secretary ask you to look into?

Mr. Dewhirst. I am going to direct the witness not to answer, that implicates executive branch confidentiality and litigation concerns.

Mr. Anello. Are you asserting a privilege?

Mr. Dewhirst. I am sorry, if you didn't hear me.

Mr. Anello. I did hear you. But I am asking if you are asserting a privilege?

Mr. Dewhirst. The question implicates executive branch and confidentiality and litigation concerns.

Mr. Anello. Right. But are you asserting a privilege?

Mr. Dewhirst. I'm sorry, Russ. Are you having some trouble hearing me?

Mr. Anello. No, I appreciate your concern about my ability to hear you. That's not the issue.

You said something about executive branch confidentiality interests, but as far as I am I aware, that's not a privilege. And I am asking whether you are asserting a particular privilege. Are you asserting that this is privileged information that he can with not ask the witness about?

Mr. Dewhirst. To the extent you are asking about the substance of the communications between a client and an attorney, I am going to instruct the witness not to answer because that implicates executive branch confidentiality and litigation concerns.

Mr. Anello. Sorry. Again, I am not sure I am following. Are you saying that you are asserting attorney-client privilege, or are you saying you are asserting some other privilege, or you are not asserting privilege? I understand you believe it is confidential, but confidentiality is not a privilege. I don't --

Mr. Dewhirst. -- voluntary interview, we are going to assert executive branch confidentiality and litigation interests. We will endeavor to let the witness answer as much as he can without implicating those interests. Now, as we go through this and understand the committee's questions, we will do our best to try to get the committee information we can, either through the accommodation process or through alternative nonprivilege means, but for the scope of today's interview, we are going to instruct the

witness to answer -- we are going to instruct the witness not to answer based on executive branch confidentiality of litigation.

Mr. Anello. To be clear, I think you are saying you are not asserting a privilege, you are simply saying that there are confidentiality interests, and on that basis, you are instructing the witness not to answer, correct?

Mr. Dewhirst. We are saying the question implicates privileges covered by executive branch confidentiality interests. And on that basis, we are instructing the witness not to answer.

Mr. Anello. But which privilege?

Mr. Dewhirst. We will continue to work with the committee to get it the information it needs, but today, in the scope of this voluntary interview, we are going to let the witness discuss nonprivileged information, and we can try to work with the committee through the accommodation process to get the committee the information it needs.

Mr. Anello. I understand. But you're saying you are going to let the witness answer nonprivilege information, which would imply you think this is privileged, but then you haven't asserted what privilege it is. So I understand you keep saying confidentiality interest. That's not a privilege.

Mr. Dewhirst. I have asserted what I am going to assert and we will let the witness answer or we can let the witness answer, or we can hash it out later, and try to get the committee if there are privileges, the Department can wait. We can consider that, but for purposes of today's interview, we are trying let the witness answer as much information as he can. You are asking questions of a former senior lawyer at the Department about predecisional matters. As you know, that implicates a number of confidentiality concerns, including, but not limited to, the deliberative process privilege,

the attorney-client privilege, the attorney work product privilege, and we are simply saying, we are not going to let him answer those today. Once we have the questions, we may be in a better position to establish ways to get you information, or perhaps, permit the witness to give that information in another way.

Ms. Sachsman Grooms. Okay, in this context -- this is Susanne -- you permitted the witness to tell us that the Secretary instructed him to look into the issue of citizenship of putting the citizenship question on to the Census. And then when asked more detail about what that instruction was, you have prohibited from giving any more detail. So it's unclear as to why the fact of the instruction is something that you are willing to share, but any more detail about what specifically the instruction was would be covered by some additional concern.

Mr. Hull. I am not sure that that was a comment.

Ms. Sachsman Grooms. I mean, can he give us a little more detail about what he was instructed to research on behalf of the Secretary? So the Secretary instructed him to do something. He's already told us that. Can you please --

Mr. Uthmeier. Correct.

Ms. Sachsman Grooms. -- provide us more detail about what you were instructed to do?

Mr. Hull. And what I am saying, counsel, is to the extent the Secretary or anybody in the Department of Commerce directed the witness in his capacity as a lawyer for the Department of Commerce, the Department is going to assert executive branch confidentiality and litigation interests to instruct the witness not to answer that question today.

Once we have gone through this process and seen the questions the committee has asked, we may be able to provide that information in a different way. And we plan

to do that. But sitting here today, if you are asking him to talk about conversations he had with Department personnel about a predecisional matter, the Department is not prepared to permit the witness to answer that question today.

Mr. Anello. Are you saying that you will provide us the information about what the Secretary said in a different format?

Mr. Dewhirst. I'm saying once we have the scope of the committee's questions we are willing to consider a position and see what we can give the give the committee through the accommodation process.

BY MS. ANDERSON:

Q What did Earl Comstock tell you to do regarding the citizenship question in the spring of 2017?

Mr. Dewhirst. Again, I am going to instruct the witness not to answer, because that implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q Did Secretary Ross express a particular view about whether he thought the question should be added in the spring of 2017?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q Did Earl Comstock express of you about whether he thought the question should be added in the spring of 2017?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q Did Secretary Ross state or tell you why he was interested in a citizenship question?

Mr. Dewhirst. Same instruction.

BY MS. ANDERSON:

Q Did Earl Comstock say or tell you why he thought he was interested, or why the Secretary was interested in the citizenship question?

Mr. Dewhirst. Could you ask that question again, please?

BY MS. ANDERSON:

Q Sure. Did Earl Comstock tell you or indicate to you why he might be interested in adding a citizenship question, or discussing a citizenship question.

Mr. Dewhirst. I am going to instruct the witness not to answer?

Mr. Anello. Yes or no, basis?

Mr. Dewhirst. You have a couple of questions wrapped in there.

Ms. Sachsman Grooms. Break them out.

Ms. Anderson. Sure.

Mr. Dewhirst. Go ahead. Sorry to interrupt.

BY MS. ANDERSON:

Q Did Earl Comstock tell you why the Secretary was interested in a citizenship question? That's a yes or no.

Mr. Dewhirst. I am going to instruct the witness not to answer.

Mr. Anello. I am sorry, if I could pause there. Are you asserting a confidentiality interest over the yes-or-no question about whether this witness was told why the Secretary was interested?

Mr. Dewhirst. Well, you sort of built the deliberative material right into the question, haven't you? So yes, I am instructing the witness not to answer.

BY MS. ANDERSON:

Q Did Earl Comstock indicate to you or tell you why he was interested in learning more about the citizenship question?

Mr. Dewhirst. Same instruction to the witness.

Mr. Anello. Did Secretary Ross tell you that he was interested in adding a citizenship question because the White House instructed him that this was a priority?

Mr. Dewhirst. Same instruction to the witness.

Mr. Anello. Did the Secretary tell you that he was interested in adding a citizenship question because Steve Bannon had told him that this was a priority?

Mr. Dewhirst. Same instruction to the witness.

Mr. Anello. Did Secretary Ross tell you that he was interested in adding a citizenship question in order to influence congressional apportionment or redistricting?

Mr. Dewhirst. Could you repeat that, please?

Mr. Anello. Did Secretary Ross tell you that had he was interested in adding the citizenship question in order to influence congressional apportionment --

Mr. Dewhirst. Before you get to the end, start over again. I am missing a word or two in the middle of that.

Mr. Anello. Did Secretary Ross tell you that he was interested in adding a citizenship question in order to influence congressional apportionment or redistricting?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q Were you ever told explicitly or implicitly not to ask why the Secretary was interested in the citizenship question?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q In the spring of 2017 what was the rationale offered at a basis for considering adding a citizenship question?

Mr. Dewhirst. Yeah, I am going to instruct the witness not to answer.

BY MS. ANDERSON:

Q Were you ever involved in any discussions about the congressional notification process for topics that would appear on the 2020 Census?

Mr. Dewhirst. Same instruction -- actually, ask the question one more time, Tori?

BY MS. ANDERSON:

Q Sure. Were you ever involved in discussions about the congressional notification process for topics that would appear on the 2020 Census?

A Yes, I was.

Q Who was present during those discussions?

A The Census career officials would have been present for some of these discussions. Counsel that worked on Census issues would have been present, various policy officials would have been present. The deputy chief of staff at the time is Israel Hernandez, was spearheading much of the Census preparations. He would have likely been present for some of these conversations as well.

Q Did you ever discuss the issue with Secretary Ross?

Mr. Dewhirst. I am going to instruct the witness not to answer because that implicates executive branch confidentiality and litigation concerns?

BY MS. ANDERSON:

Q Did you ever discuss the congressional notification process for topics with Earl Comstock?

Mr. Dewhirst. Same instruction.

Mr. Anello. So I'm sorry, I just want to make sure I am understanding this. So it was okay to say whether he had a conversation about the citizenship question, and the issue of congressional notification, just the topic itself is something that he cannot

confirm or deny he had a conversation about?

Mr. Dewhirst. The witness testified that he had conversations about the congressional notification issue.

Mr. Anello. I am asking about whether he had conversations.

Mr. Dewhirst. -- between the Department's director of policy, and its senior attorney at the time.

Mr. Anello. Correct. I mean even if you did think this was privileged, this would be information in a privileged slot. So I am not sure I understand the basis for your objection.

Mr. Dewhirst. Maybe you can restate the question then.

BY MS. ANDERSON:

Q Did you ever discuss the issue of congressional notification for topics that would appear on the 2020 Census with Secretary Ross?

Mr. Dewhirst. And just to be clear -- sorry, this is David, when you say topics --

Ms. Anderson. Subjects that would appear.

Mr. Dewhirst. You are referring to something specific?

Mr. Anello. It is a statute, it is a law.

Ms. Anderson. Yes.

Mr. Dewhirst. Okay. And one more time with the question.

BY MS. ANDERSON:

Q Did you ever discuss with Secretary Ross the congressional notification process for topics that would appear on the 2020 Census?

A Yes, I did.

Q Did you discuss topics that would appear on the 2020 Census in the connection with the citizenship question?

A Can you be more specific?

Q Did you discuss with Secretary Ross a congressional notification process for topics that would appear on the 2020 Census in relation to, or with regards to the citizenship question?

A I do not recall.

Q Did you ever have discussions with Secretary Ross about the process for adding questions or having questions appear on the 2020 Census?

Mr. Dewhirst. I am going to instruct the witness not to the answer that question in that it implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q Did you ever discuss with Secretary Ross having missed any deadlines to notify Congress about topics that would appear on the 2020 Census?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q Did you ever have any discussions about approaching other agencies to request the addition of a citizenship question to the 2020 Census?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q You indicated the Secretary had instructed you to look into the issue. Did you ever learn why the -- whether the Secretary wanted to add a question -- citizenship question to the 2020 Census?

Mr. Dewhirst. Same instruction to the witness.

Just to be clear for the record, the instruction is I am instructing the witness not to because it implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q And just to be clear, the question is whether he learned if Secretary Ross wanted to add a question, not what he learned about that, but whether he learned the answer to that kind of thing?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q So realizing that you received the email this morning, I would like to direct your attention to the email that, I believe the first part of it is exhibit 1, it is a calendar invitation from June 28, 2017.

Mr. Dewhirst. This is exhibit 1, Tori?

[Uthmeier Exhibit No. 1

Was marked for identification.]

BY MS. ANDERSON:

Q And I am going to mark it as exhibit 1. Mr. Uthmeier, do you have that in front of you, or have you had a chance to review that?

A I am looking at it right now, yes.

Q It is a calendar invite from, was set on June 2017 for a meeting on June 28, 2017, and the meeting title is "hold: Meet with James re: Census and citizenship." It is with Earl Comstock and it was sent to you. Do you recall this meeting?

A I recall meeting with Earl on multiple occasions, on many topics. This specific meeting, I do not recall.

Q When did you first speak with Earl Comstock about the addition of a citizenship question to the 2020 Census?

A At some point in the spring or summer of 2017. I do not remember specifically when.

Q Who initiated the conversations between you and Earl Comstock?

A I do not recall.

Q Did you and Earl Comstock discuss the purpose of why he wanted to discuss with you the citizenship question?

Voice. Someone has left the conference.

Ms. Anderson. Off the record.

[Discussion off the record.]

BY MS. ANDERSON:

Q Did you and Earl Comstock discuss why you were meeting or speaking about the citizenship question in the spring of 2017?

Mr. Dewhirst. I am going to instruct the witness not to answer because that implicates the executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q Was anyone else ever present for your discussions or conversations with Earl Comstock about the addition of a citizenship question?

A Are you talking about this specific meeting or any meeting?

Q Do you now recall this specific meeting?

A I only recall what I see on the exhibit in front of me that it appears to have been scheduled for June 28.

Q Do you recall anyone else being present for discussions you do remember in the spring of 2017 about the citizenship question with Earl Comstock?

A I -- people would have -- other people would have been present for meetings with Earl on the Census citizenship topic, yes.

Q Who were those people?

A Well, it depends on the time period, Peter Davidson the general counsel, would have been present for meetings, Carrie Ann Kelly, after she arrived at the

Department would have been present, Peter Langdon worked for Earl at the policy office. He would have been present. Let's see who else. Sahra Park-Su, he was an individual that worked for Earl in his policy office. She would have been present. Wendy Teramoto was the chief of staff at the time. I believe she would have been present for, you know, at least a meeting or two.

At some point, someone from legislative affairs probably would have been involved in a meeting, certainly would have. I cannot remember which individual for which meeting, but they would have been around -- all internal DOC people.

Q Did you do anything as a result of Earl Comstock directing you to research the citizenship question in the spring of 2017?

Mr. Dewhirst. I am going to in the witness to the to answer. What was the full question? I may have cut you off.

BY MS. ANDERSON:

Q I said, Mr. Uthmeier, did you do anything as a result of the direction of Earl Comstock to look into the citizenship question in the spring of 2017.

Mr. Dewhirst. I'm going to instruct the witness not to answer.

BY MS. ANDERSON:

Q Did Earl Comstock every provide to you or discuss with you rationales for adding a citizenship question to the 2020 Census?

Mr. Hull. Same instruction.

[10:36 a.m.]

Ms. Anderson. We're going to speak with you a little bit about what was emailed as exhibit No. 5. I'm marking it as exhibit 2 for the record. Please let me know --

Mr. Dewhirst. Really? Do we have to do that? We've got these things in email. Is there any way we can just call it exhibit 5? Is that possible? It's just going to get confusing on our end.

Ms. Anderson. Sure. Okay.

Mr. Anello. We'll mark it as 5.

Mr. Dewhirst. That'll take you a little bit out of order, but if that's okay, that would be really helpful. Thank you.

Ms. Anderson. That's fine.

[Uthmeier Exhibit No. 5

Was marked for identification.]

BY MS. ANDERSON:

Q It's an email, just so we all know we're talking about the same thing and you can review the same thing, from Earl Comstock to Wendy Teramoto on September 16, 2017. And it includes an email and then a memo that's marked as dated September 8, 2017.

Have you had a chance to read it?

A Yes.

Q Okay. The memo that appears at the bottom of the email, Mr. Comstock writes that he made phone calls or had meetings with the Department of Justice and the Department of Homeland Security regarding the addition of a citizenship question.

Were you aware of those calls or meetings?

A I was not.

Q Okay. Were you involved in any way in those calls or meetings?

A I was not.

Q He writes at the end, the last paragraph, quote: At that point, the conversation ceased, and I asked James Uthmeier, who had by then joined the Department of Commerce Office of General Counsel, to look into the legal issues and how Commerce would add the question to the Census itself.

Do you recall having that conversation with Earl Comstock?

A I remember speaking with Earl Comstock about legal issues and how Commerce could add the question to the Census itself, yes.

Q What legal issues did he ask you to look into?

Mr. Dewhirst. I'm going to direct the witness not to answer, because it implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Sorry. Could you just identify yourself for the record for the stenographer?

Mr. Dewhirst. Sorry. David Dewhirst.

Ms. Anderson. What did you do in response to his request for you to, quote, look into the legal issues and how Commerce could add the question to the Census itself?

Mr. Dewhirst. Same instruction to the witness.

Ms. Anderson. Did you look into the legal issues and, quote, how Commerce could add the question to the Census itself?

Mr. Dewhirst. Same instruction to the witness.

Ms. Anderson. Did you conclude whether the Department of Commerce could, quote, add the question to the Census itself?

Mr. Dewhirst. Same instruction to the witness.

Ms. Anderson. Did you conclude whether it would be likely or unlikely that the Commerce Department would be able to add the question itself?

Mr. Dewhirst. Same instruction to the witness.

Mr. Anello. This is Russ Anello. I just want to make sure I'm understanding even what this email means. It says that Mr. Comstock asked you to look into the legal issues and how Commerce could add the question to the Census itself.

What does it mean to add the question to the Census itself?

Mr. Dewhirst. I'm going to instruct the witness not to answer that.

Mr. Anello. Your department produced this document to us. I don't understand. You produced this document to us. I'm simply asking what the document means.

Mr. Dewhirst. Russ, I think we're talking over each other a little bit.

Mr. Anello. Okay.

Mr. Dewhirst. Let me finish. I'm instructing the witness not to answer because it implicates the executive branch confidentiality and litigation concerns.

Mr. Anello. Okay. Is this document confidential, in your view?

Mr. Dewhirst. We're talking over each other again. Sorry. I was just going to say, proceed. Sorry. Go ahead.

Mr. Anello. Okay. This is for the attorneys. I'm trying to understand. This document was produced without redaction, correct? So I'm just asking for interpretation of what the document means. I'm not asking for anything beyond an understanding of the document that has already been produced. So I don't understand how that implicates confidentiality concerns.

Mr. Dewhirst. -- lawyer to provide an interpretation of a conversation and work that he may have done in relation to a client? I mean --

Mr. Anello. No. Well, this was a determination your department made.

Mr. Dewhirst. Yeah, I'm giving instruction to the witness.

Mr. Anello. Okay.

To be really clear, the Department of Commerce provided an email that says that Mr. Uthmeier was asked to look into how Commerce could add the question to the Census itself. I'm simply asking, what does it mean to look into how Commerce could add the question to the Census itself? I don't see how that implicates any privilege. I'm asking for an understanding of the document you produced.

If you're not going to let the witness testify about this small number of documents that have been produced, I'm not sure I understand what's going on.

Mr. Dewhirst. Well, do you want to ask the question again --

Mr. Anello. Sure.

Mr. Dewhirst. -- or do you want to just move on? What do you want to do?

Mr. Anello. I'm happy to ask the question again.

What did you understand Mr. Comstock to mean when he says that he asked you to look into how Commerce could add the question to the Census itself?

Mr. Dewhirst. But, again, you're asking him about a document he didn't write.

Mr. Anello. He said he remembered it.

Mr. Dewhirst. You're asking him to interpret -- let me finish. You're asking him about a document he didn't write and saying, "What did it mean? Tell me about a conversation you had with a senior official at Department of Commerce in your role as a lawyer."

Mr. Anello. Okay.

Mr. Uthmeier, is it correct, is it accurate, that Mr. Comstock asked you to look into the legal issues and how Commerce could add the question to the Census itself? Is that

accurate?

Mr. Uthmeier. Yes.

Mr. Anello. Okay. What did he mean by "how Commerce could add the question to the Census itself"? How did you understand that question? What did you understand that question to mean?

Mr. Dewhirst. I'm going to instruct the witness not to answer that. That question implicates executive branch confidentiality and litigation concerns.

Ms. Sachsman Grooms. Are you going to instruct the witness -- this is Susanne Grooms. Are you going to instruct the witness not to answer any questions about any of the work that he did surrounding the addition of the citizenship question to the Census?

Mr. Dewhirst. Well, it's hard to answer a question like that, Susanne, without actually hearing the questions posed. So --

Ms. Sachsman Grooms. Sure.

Mr. Dewhirst. -- I don't think we're prepared to make any representation about your specific question right now. I mean, I think we'll just have to take these as the questions come along. But that's why we're here voluntarily.

Ms. Anderson. Did Earl Comstock direct you or ask you to do anything regarding the citizenship question?

Mr. Dewhirst. Sorry. Who is speaking now?

Ms. Anderson. Sorry. It's Tori. Back to me.

Mr. Dewhirst. Tori. Sorry. Go ahead.

Ms. Anderson. Did Earl Comstock direct you or ask you to do anything else regarding the addition of the citizenship question?

Mr. Dewhirst. I'm going to instruct the witness not to answer because it implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Did Earl Comstock direct you or ask you to speak with anyone else regarding the addition of a citizenship question?

Mr. Dewhirst. Same instruction to the witness.

Mr. Anello. Mr. Uthmeier, did you take any action with regard to the addition of the citizenship question that you're willing to share with us today?

Mr. Uthmeier. Could you be more specific? I've been sharing quite a bit of information today.

Mr. Anello. Well, not about the questions we're asking you, unfortunately.

Did you take any action at the Department of Commerce while the issue of the citizenship question was under consideration that you can describe to us today?

Mr. Uthmeier. I'm sorry. I'm going to need you to be more specific. I don't know what you're asking me.

Mr. Anello. Okay. We'll keep going.

Mr. Castor. I think the hour is up, right?

Mr. Anello. Is it?

Ms. Anderson. Yeah.

Mr. Anello. Okay.

So we normally take about a 5-minute break.

Ms. Anderson. Our hour has been up. We usually do take a 5-minute break. Would you like to take a 5-minute break?

Mr. Dewhirst. Yes, 5 minutes would be great.

Ms. Anderson. Okay. So we'll return at -- sorry?

Mr. Dewhirst. Sorry, Tori. I was just going to ask what the normal protocol is. Do we just leave the line open?

Ms. Anderson. You can. You can also dial back in.

Mr. Dewhirst. Okay. Why don't we do that. We'll dial back in -- it's 10:45.

We'll dial back in at 11:00.

Ms. Anderson. 10:50 for a 5-minute break.

Mr. Dewhirst. Oh, sorry. 10:50, yeah, that's correct. Sorry.

Ms. Anderson. Okay. All right. Thank you.

Mr. Dewhirst. Thank you.

[Recess.]

Mr. Castor. This is Steve Castor with the Republican staff. Can you guys hear us okay?

Mr. Dewhirst. We can hear you, Steve. Cordell is working on downloading the attachments.

Mr. Castor. Okay.

Mr. Dewhirst. Can you just give us just a second on that?

Mr. Castor. Sure.

Mr. Dewhirst. Thank you very much.

Mr. Castor. You've indicated a couple times you're having trouble hearing or the line's not clear. So if that's the case, definitely we'll stop talking and try to start over.

Mr. Dewhirst. Sounds great. Are you hearing us clearly?

Mr. Castor. We're hearing you great. And so, in fact, because the line on our end is so clear, if you're having trouble hearing us, at least on our end, it sounds confusing, but evidently you guys aren't hearing us as clearly.

Mr. Dewhirst. Yeah. We get some clicks and pops occasionally, and then we dropped off that one time. So that seems to be the issue. But most --

Mr. Uthmeier. And we're on a land line, which is odd.

Mr. Dewhirst. But most of the time, we can hear you just fine.

Mr. Castor. Okay. So feel free to ask us to repeat a question. We'll do our best here, given the circumstances aren't ideal.

If, during the course of the day, after you've heard the -- and this is more for the lawyers, for David and Cordell. You know, after you've heard sort of the balance of the questions, you know, if there is an opportunity, especially during the 90-minute break, to revisit any of your instructions not to answer, you know, we would certainly appreciate that, you know, understanding that you make these assertions or objections when the question's asked, and then sort of at the end of the day, after you've heard a body of questions, you might be able to revisit it, and that's sort of how the accommodation process works.

And so maybe the 90-minute break will -- you know, maybe that will loosen up some things. Maybe it won't. But we just wanted to invite you to do that.

Ellen Johnson from our staff, she's going to ask the questions when we're ready to go.

Mr. Dewhirst. Okay.

Mr. Castor. And we're all here back in the room.

Mr. Dewhirst. Great. We're ready on our end.

Mr. Castor. And just so you know, the court reporters, they do an incredible job for us. And so they come in and out on 1-hour increments, roughly. And so it is helpful for them if, Cordell, David, James, if you identify yourself when you start talking. I know that sounds clunky or cumbersome, but to the extent you can just chime in with your name, that's really helpful for our court reporters. And thank you.

Mr. Dewhirst. Definitely. We'll try to do that.

The Court Reporter. And who was that?

Ms. Johnson. That was David.

The Court Reporter. That was David?

Mr. Castor. That was David, yeah.

Mr. Dewhirst. Just so you were wondering, David Dewhirst is being amazingly cooperative.

Mr. Castor. Okay.

The Court Reporter. Got it.

Mr. Castor. And just -- David's been doing most of the talking, and Cordell is sort of the second lawyer there in the room, and James is the witness.

So is everybody ready to go, or are you still trying to download something? Our first couple questions won't implicate the documents, so maybe it's okay to get going.

Mr. Dewhirst. That's fine. We got them.

Mr. Castor. Okay, great. Okay. I'll turn it over to Ellen. Thank you.

Mr. Dewhirst. Thank you.

Ms. Johnson. Thank you, Mr. Uthmeier. This is Ellen Johnson. It's nice to meet you on the phone.

EXAMINATION

BY MS. JOHNSON:

Q Can you tell me, how long were you employed at the Department of Commerce?

A I was there a little over 2 years. I began in February of 2017. I believe it was February 11th. And I continued working there until late March.

Q Is that 2019?

A 2019, yes.

Q Okay.

And in your previous statements, you said you were in the Office of General

Counsel and later in the Secretary's Office directly. Was your title the same the whole time?

A My title was changed a few times. It was kind of a fluid process that I always would lose track where the paperwork was. But I certainly went from a special advisor to counsel to senior counsel. I believe at one point I was senior advisor and counsel. I was counsel and, at the Secretary's request, special advisor for space.

I also received a promotion at some point in 2019 to become a deputy chief of staff for strategic initiatives, but I'm not sure where that paperwork ended up in the process. I left shortly after to move home to Florida.

Q Okay.

Did you know anyone, either political or career, at the Department of Commerce before you joined on February 11, 2017?

A I had been in contact with some individuals who were, I believe, part of the transition team that subsequently became employees at Commerce. But I did not have, you know, personal relationships with anyone at that time, no.

Q Okay.

And did you work with Secretary Ross before he was confirmed by the Senate at all -- after he was nominated but before he was confirmed?

A I definitely had an interaction or possibly two with him. I know he was working to help the transition as well. So we saw each other, but we were not working together, you know, in any significant depth.

Q So is it fair to say that your working relationship really with Secretary Ross began after his confirmation on February 28, 2017?

A Yes.

Q So, after you joined the Department, previously you said you worked on a

number of issues at the Department of Commerce. Can you tell me again what other issues you worked on not related to the 2020 Census?

A Sure. Regulatory reform was one of my primary responsibilities. I ensured the Department satisfied the requirements of various Executive orders. I also reviewed agency proposed rulemakings and final rules for, you know, legal analysis.

I was the Department's lead on infrastructure issues, infrastructure permitting reform. I oversaw responses to congressional investigations, document productions. I helped with National Oceanic and Atmospheric Administration satellite licenses.

I traveled on multiple occasions with the Commercial Law Development Program, an office at the Department that works to help foreign officials and countries to develop new laws to better facilitate business activity. As a result, I traveled to Morocco, I traveled to Georgia -- the country Georgia, and, you know, was involved in various conferences and educational training seminars in that capacity.

I also was involved in the, you know, day-to-day workings of the Office of General Counsel that, you know, basically is advising, you know, almost a large business in a way, dealing with employment law issues, contract issues, procurement issues, various litigation issues, trade-related issues. Trade was a very big topic for us at the beginning of the new administration and took up quite a bit of time. As a result of that, I traveled to China with the Secretary on an occasion.

I traveled with the Secretary on many domestic trips to promote economic development, minority business growth, regulatory reform.

It was a very busy couple years. I lost a lot of sleep.

Q Okay.

And after you joined the Department, can you tell me, notwithstanding the citizenship question, did you work on any other issues related to the 2020 Census?

A Yes. I worked on several issues related to the Census. The citizenship question was certainly not one of the priorities or, you know, early big-picture projects that was put in front of me.

I worked on analyzing the budget. We had some very serious concerns that perhaps, you know, the Census was not being managed effectively.

I worked on some contract issues involving contractors and subsidiaries that would be executing Census activity, looking at some of the tests that were going to be coming up, reviewing some agency request-for-information questions.

Immediately, on day one at the Department, as I'm working my way around to various offices to get briefed and understand the lay of the land, it was made very clear to me that 2017, the Census is already in the 11th hour at that point. It's one of the largest undertakings that the Department has. It only comes around 10 years. It involves many personnel resources and millions and millions of dollars to get it done. And the Secretary, having been an enumerator when he was a student and a younger guy, you know, he took it very serious and wanted to ensure that we conducted as complete and as accurate of a Census as possible.

So I was dealing with many other issues in addition to possible new questions or reinstatement of questions like citizenship.

Q Okay.

And when you first started with the Department and you were being briefed on the budget, contract issues, the question topics, what was your impression about the state of the 2020 Census when you joined the Department in February of 2017?

A As I said, looking at it, I believed that the Census had some oversight and management issues and perhaps was well above budget in the way it was being run, which we, as senior officials, worked very hard to address.

Q So I want to ask you about the budget issues. We heard testimony from Secretary Ross in October of 2017 that he presented an updated lifecycle cost estimate to us that requested an additional, I think, \$3.5 billion for the Census.

Could you tell me, where was the budget when you started? And how did you get to a place where the Census was now going to -- the updated lifecycle cost was going to be \$3-plus-billion more?

A You know, I don't remember the specifics from, you know, back in 2017 on the budget. All I know is that, ultimately, we determined, I believe, that the budget needed to be increased by about 25 percent to adequately reach hard-to-reach populations.

We were very focused on the race-based undercount. We were trying to make sure that we could incorporate new technology, that we could incorporate new languages on surveys.

Again, we just did not believe the Census was in the best position it should have been.

Ms. Johnson. Hello? Are you still there?

Off the record.

[Discussion off the record.]

Ms. Johnson. We'll go back on the record.

BY MS. JOHNSON:

Q So, Mr. Uthmeier, did you want to finish what you were saying, or were you done with the question?

A I believe the last thing you were asking me about is, you know, my opinion of the budget. You know, without going into the perceptions or beliefs of others at the Department, I can tell you I was concerned that it was being mismanaged and that it was

being operated over budget and that it did not adequately account for, you know, contingencies, new technologies, and a significantly growing and more diverse population.

Q Okay.

Would it be fair to say that the previous administration had mismanaged the Census, leading up to the 2020 Census?

A Yes.

Q When you consider the state of the 2020 Census in 2017, do you think Secretary Ross was more concerned about fixing the problems facing the 2020 Census or adding a citizenship question to the Census?

Mr. Hull. I'm going to instruct him not to answer what his belief of what Secretary Ross's belief was.

Mr. Castor. That was Cordell?

Mr. Hull. Yes, sir. I'm sorry. It's Cordell.

BY MS. JOHNSON:

Q When you first starting working on Census issues, were you aware that Secretary Ross had monthly meetings with top Census Bureau leadership to discuss the status of the 2020 Census?

A Yes.

Q Did you participate in any of these meetings?

A Yes.

Q Do you know the topics of conversation at these meetings?

A Yes.

Q Were they focused on budget issues?

Mr. Hull. You can answer without revealing anything privileged.

This is Cordell. Sorry.

Mr. Uthmeier. Yes. Many, if not most, dealt with budget issues.

BY MS. JOHNSON:

Q Did you discuss the IT system issues at this meeting?

A Yes.

Q Did you discuss any other management-related topics not related to the citizenship question at these meetings?

A Yes, absolutely, I would have.

Q What were some of the other non-citizenship-related topics you discussed?

Mr. Hull. This is Cordell Hull.

I want to be clear. He's in a room in his capacity as a lawyer with folks internal to Department of Commerce. I think anything he's going to answer on that topic is necessarily going to reveal his mental processes as a lawyer.

Ms. Johnson. Okay.

Mr. Hull. So I would instruct him not to answer that question.

Ms. Johnson. So, other than IT systems and budget, you said you discussed contract issues as well?

Mr. Uthmeier. Yes.

Ms. Johnson. What were the major contracts at the time that the Census Bureau was working on?

Mr. Hull. I'm going to instruct the witness not to answer based on executive branch confidentiality and litigation interests.

Ms. Johnson. Okay.

Regarding the decennial Census program, where do you believe the citizenship question ranked in order of importance? For example, do you believe the citizenship

question was more important --

Mr. Dewhirst. Excuse me. Excuse me, Ellen. You cut out for a couple seconds there at the beginning. I'm sorry. Can you start over?

Mr. Castor. Is this David Dewhirst?

Mr. Dewhirst. This was David. I'm sorry, yeah. I'm sorry. This is David.

Ms. Johnson. Okay.

Regarding 2020 Census program, where do you believe the citizenship question ranked in order of importance? For example, was the citizenship question more or less important than cost overruns in the 2020 program or the IT system development?

Mr. Hull. This is Cordell. Ellen, the line broke up again about a third of the way through there. I'm sorry. Could you repeat the question?

Ms. Johnson. Sure.

Where do you believe the citizenship question ranked in order of importance based on all of the other issues of the 2020 Census? Was it more or less important than cost overruns or IT system development?

Mr. Uthmeier. This is James. Are you asking my personal ranking of issues, or are you talking about others at the Department generally?

Ms. Johnson. I'm asking your belief.

Mr. Uthmeier. I mean, my recollection is that citizenship --

Mr. Dewhirst. I just want to be clear, before James proceeds -- this is David Dewhirst -- that we do have an instruction that I think still applies. But I think, you know, in an effort towards accommodation, we're willing to, you know, allow James to move forward with answering this.

Sorry to interrupt, James. Go ahead.

Mr. Uthmeier. Based on my recollection, the citizenship question topic was not

one of the, you know, priority items on the Census that was leading to meetings and discussions. It was one of several topics that were being discussed. And in early 2017, you know, into the summer, it certainly was not discussed as much as other items.

BY MS. JOHNSON:

Q Okay. Thank you.

In a given week for you at the Department of Commerce, how much time did you spend working on matters not related to either the citizenship question or the 2020 Census?

A That breakdown, you know, would have fluctuated throughout the duration of my time at the Department. But I would say, on average, Census work made up certainly less than a quarter of what I was doing, at times certainly less than 10 percent.

Q And you listed several things -- I think you said reg reform and trade were big items for the Secretary and for the Department generally. How much time did you spend in 2017 working on reg reform matters and trade matters?

A I'll have to give you rough estimates. Combined, regulatory reform and trade matters probably took on 15 percent of what I was doing during 2017. After November of 2017, I was deeply involved in commercial space activities, and that would have quickly escalated as far as, you know, a breakdown of my portfolio.

Q In terms of all of the priorities you previously listed that you worked on, do you believe the citizenship question was more important than those items or less important than those items?

A Well, you know, I think the Census work generally was probably on an equal footing. And it certainly -- you know, it's listed high up in the Department's, you know, strategic initiatives that are submitted to Congress every year. So the Census was very, very important.

The citizenship topic was just one aspect of my Census work towards furthering that the Department can conduct as complete and as accurate a Census as possible.

Q Okay.

In your professional background, did you work on Census matters previously?

A Could you be more specific?

Q Prior to joining the Department of Commerce, while you were at Jones Day or other previous employment, did you ever deal with any of the Census products, be it the 2010 Census or the American Community Survey or the Current Population Survey or the economic surveys that they do? Did you have any previous knowledge about the Census or any Census products?

A No, not to my recollection. No.

Q So it'd be fair to say that when you joined the Department the 2020 Census and Census generally was a new topic area for you?

A Yes. And in the new administration, everyone is trying to get their bearings.

Q Okay.

So I'm going to provide -- I think we sent you a couple of exhibits. I'm going to pull in two for you, the first one titled "Questions on the January 19 Draft Census Memo to Department of Justice." Do you have that?

Mr. Hull. I'm sorry. This is Cordell Hull. The document, January 2018, internal question responses from Census?

Ms. Johnson. Yeah. "Questions on the Jan 2019 Draft Census Memo on the DOJ Citizenship Question Reinstatement Request." Do you have that?

Mr. Hull. Yes.

Ms. Johnson. Okay.

What do you want me to mark this as?

Ms. Sachsman Grooms. So we have -- 2 is open, if you'd like.

Ms. Johnson. Two? Okay.

Mr. Anello. Well, it's open for now. We have documents up to, like, 20-something.

Mr. Castor. Should we use the letter A?

Ms. Johnson. Yeah. We're going to mark this as A.

[Uthmeier Exhibit No. A

Was marked for identification.]

Ms. Johnson. Okay. And then the second exhibit I'm going to mark as B, and that is Secretary Ross's March 26, 2018, decision memo.

[Uthmeier Exhibit No. B

Was marked for identification.]

Ms. Johnson. Do you have that?

Mr. Hull. Yes.

Ms. Johnson. Okay.

Okay, I want to first start with exhibit A.

Well, first of all, let me back up. Secretary Ross has said that the Department of Justice letter triggered a formal interagency process for reviewing the citizenship request. Would you describe that process?

Mr. Hull. This is Cordell. To the extent he can do so without revealing executive branch confidentiality interests, we'll let him answer.

Mr. Uthmeier. Yes, we were made aware by the Census Bureau career officials that there is a process that must be followed after an agency receives a request -- or after the Census Bureau receives a request from another agency to add a question asked on a

Census survey. They informed us, and a process was initiated to look at the --

Ms. Johnson. Hello?

[Discussion off the record.]

Mr. Dewhirst. Hello?

Ms. Johnson. Oh, yeah. Okay.

Mr. Dewhirst. We're here.

Ms. Johnson. Okay.

Mr. Dewhirst. Where did James drop off? This is Dewhirst.

Ms. Johnson. He said "a process was initiated to look at the" --

Mr. Uthmeier. -- the legal program and policy considerations. The Census Bureau career officials, they led this process and began to conduct an analysis.

Ms. Johnson. And is exhibit A, the memo titled "Questions on the Jan 2019 Draft Census Memo on the DOJ Citizenship Question Reinstatement Request," part of that formal process?

Mr. Uthmeier. Yes.

Ms. Johnson. Have you seen this memo before?

Mr. Uthmeier. Yes, I have.

Ms. Johnson. And what was the purpose of this document?

Mr. Hull. This is Cordell. To the extent he knows.

Mr. Uthmeier. This document was to collect additional information and provide some answers to questions by getting more information from the Census Bureau officials that were leading the review process.

Ms. Johnson. Who were providing the questions? Who wrote these questions? Did you write these questions?

Mr. Hull. This is Cordell. To the extent that calls for revelation of his role as

attorney, I'm going to instruct the witness not to answer.

Ms. Johnson. Okay.

So do you know who drafted this document?

Mr. Uthmeier. Yes.

Ms. Johnson. Was it multiple people in the Department working on the document?

Mr. Hull. Again, I'm going to instruct the witness not to answer that question.

Mr. Castor. That was Cordell.

Mr. Hull. Yes, I'm sorry. That's Cordell.

Ms. Johnson. Are you able to reveal who drafted the document?

Mr. Hull. I'm going to instruct the witness not to answer that question. Cordell Hull.

Ms. Johnson. Okay.

Can you tell me when the first draft of this document was first -- you were first made aware of the first draft of this document?

Mr. Hull. This is Cordell Hull. I'm going to give the witness the same instruction.

Ms. Johnson. Okay.

Does the title, "January 19 Draft Census Memo," does that specifically refer to an early draft of the Wilbur Ross reinstatement of the citizenship question on the 2020 decennial questionnaire memo marked as exhibit B?

Mr. Hull. To the extent the witness can answer -- this is Cordell. To the extent the witness can answer that without revealing executive branch confidentiality interests, we'll permit him to answer.

Mr. Uthmeier. No. The reference to the January 19th draft Census memo, I

believe, is referring to a memo that was put together by the Census career officials that were leading the process, not the Secretary's decision memo that ultimately was released in March.

Ms. Johnson. Okay.

I want to turn to exhibit B. Have you seen this memo before?

Mr. Uthmeier. Yes, I have.

Ms. Johnson. Did you write the first draft of Secretary Ross's decision memo?

Mr. Dewhirst. I'm going to note that this question calls for information that implicates executive branch confidentiality and litigation concerns, but as an accommodation, we're going to allow the witness to answer.

Ms. Johnson. Was that Cordell or David?

Mr. Dewhirst. I'm sorry. It's David.

Mr. Uthmeier. Yes, I was the author of the initial drafting stage of this memo.

Yes.

Ms. Johnson. Okay. And, to your knowledge, who else worked on the first draft with you?

Mr. Uthmeier. The Secretary, Wilbur Ross.

Mr. Dewhirst. And I'll interject, even though he's already answered the question, that the same notation and caveat should apply to that answer.

Ms. Johnson. Okay.

BY MS. JOHNSON:

Q Did any other staff, to your knowledge, at the Department of Commerce work on this memo?

A Other staff would have provided input, yes.

Q Can you name those staff?

A I know that Earl Comstock provided some input.

At this point, a new deputy general counsel had come on board, Mike Walsh. He provided some input as well.

I believe that Karen Kelley, who was the -- I believe she was performing the duties of Deputy Secretary at that time. She certainly was the Under Secretary for Economic Affairs. I believe that she had provided some information that was used for this memo.

Certainly, you know, other data and information was provided to us by the Census Bureau and, thus, you know, led to the basis of the decision.

Q Okay.

The memo has listed four options, Options A, B, C, and D. Can you please walk us through, to the best of your recollection, what Option A called for in the Secretary's memo?

A Yeah, as I think the memo lays out, Option A was the status quo baseline of basically the Department's decision to not do anything different and to not reinstate the citizenship question.

Option B, I believe, was consideration of reinstatement of a citizenship question.

Option C was a proposal made by the Census career officials to utilize administrative records to collect more accurate citizenship data in lieu of reinstating a question on the short-form decennial census.

And then Option D was a combination of B and C, asking the citizenship question of everyone on the decennial Census, but also using supplemental records, data to ensure, you know, accurate information -- or more accurate information, I should say.

Q What official at the Census Bureau brought Option C to either your attention or the Secretary's attention?

A I'm sorry. Did you say Option B or C?

Q Option C.

A Option C. I do not recall which specific official would have made that recommendation.

Q And do you recall who recommended Option D?

A I do not. But I know that Option D came after some back-and-forth followup analysis, and it was, you know, information provided to the Secretary, you know, as a result of his questions and analysis.

Q Okay. When did Option D emerge as an option?

A You know, it was certainly after January, so it would've been February or March. I don't remember the specifics, but I do know that it came about as a result of the Secretary's request for, you know, another alternative, more information.

Q How long had you and the Department been considering these three options, A, B, and C? Did you start considering them immediately after the DOJ December 12th letter?

A Immediately after receiving the DOJ letter, the Census Bureau officials began, you know, what was described to us as a typical Census-led process that would have to be conducted to consider an agency request for a Census question.

It was at that time that the officials conducted an analysis and recommended various options to the Secretary for consideration. We certainly were not looking at various options prior to receiving the letter from the Department of Justice, because, you know, we didn't know whether or not there was going to be an agency request for this information.

Q Okay. So you were not looking at any options before DOJ sent their letter on December 12th. Is that correct?

A To the extent you're referring to the options that are laid out in the decision

memo specifically, no, we were not considering the analysis of these options prior to receiving the Department of Justice letter.

Q Previously, you said that, with respect to exhibit letter A, that the January 19 draft Census memo was a document drafted together by Census Bureau career staff, correct?

Mr. Hull. This is Cordell. I don't think he actually said that.

Ms. Johnson. I asked him in exhibit A, January 19 Draft Census Memo, what did that -- did that refer to Secretary Ross's March 26th decision memo, and he said, no, it refers to a memo put together by the Census Bureau.

Mr. Uthmeier. The question -- this is James. The questions are in response to a memo that was put together by the Census Bureau.

Ms. Johnson. Okay.

BY MS. JOHNSON:

Q The memo that was put together by the Census Bureau referenced in exhibit A, was that the first, I guess, time the Census Bureau laid out the various options to the Secretary and the Department of Commerce for responding to the DOJ letter?

A I do not recall.

Q Okay.

So it is still fair -- is it correct to say that the Census Bureau were the ones who put together Options A, B, and C for the Secretary and for the Department of Commerce?

A Yes. And then, at his request, Option D as well.

Q Okay. So, between December 12, 2017, and March 26, 2018, when did Option D emerge as an option?

A I do not remember the specific date, but it would have been subsequent to, you know, the -- subsequent to the submission of questions that you referenced in exhibit

A, so at some point in late January or February.

Q Okay.

And Option D was the option ultimately selected by Secretary Ross in response to the DOJ letter, correct?

A Yeah, as was laid out quite extensively in the decision memo.

Q Okay.

On page 4 of the decision memo, at the bottom, the bottom paragraph, under -- so as the Secretary is laying out Option D, it says, quote: This approach would maximize the Census Bureau's ability to match the decennial Census responses with administrative records.

How did you come to the determination that administrative records were needed in coordination with decennial Census responses?

A I'm not sure I understand your question.

Q So the Secretary says that both administrative records and a question on the decennial Census are both needed. Can you tell me, in your opinion, where the nexus is between those two? How do they work together to get the best, most accurate information for the 2020 Census?

A Sure. So, after the DOJ request came in, the initial analysis that the Census Bureau conducted revealed that where the Census Bureau does collect citizenship information, on the American Community Survey, that that data suffers from significant inaccuracies.

In working to figure out how they came to that conclusion, it was brought to my attention, and others' as well -- it was brought to our attention that the Census Bureau already has access to administrative records in the possession of multiple Federal agencies and that those records are used by the Census for statistical collection and

analysis purposes.

That's where Option C came to play. The Census Bureau recommended that as a possible alternative to reinstatement of the citizenship question on the decennial Census, and the Secretary found it to be a very attractive alternative.

However, upon further review and analysis, Census Bureau officials made clear that that alternative would not be able to reach the entire population, and, I believe, you know, 90 percent or almost 90 percent of the population would be covered by the administrative records, but there would still be millions of people that were not going to be able to be considered under that option.

And that's when the Secretary directed Census staff to come back with Option D, which was utilizing administrative records, which I, at that time, was made aware was a growing trend and movement that the Census Bureau had been working on for several years. It just was not quite ready to be used. But we could utilize administrative records and reinstate the citizenship question to ensure the most complete and accurate data possible.

Q So is it correct to say that the career staff at the Census Bureau were looking into acquiring additional administrative records on citizenship for several years?

A That's my impression and understanding, yes.

Q So, even in the previous administration, career Census Bureau staff were considering requesting additional administrative records to respond to a citizenship -- to enumerate citizenship.

A It's my impression -- and I did not know this when I first began working on all Census issues, but it came to light as part of this process. It is my impression and understanding that the Census Bureau has for some time now been working to utilize administrative records on all Census questions, not just citizenship specifically.

The Census career officials made clear that using administrative records is the way of the future for Census in an effort to reduce costs and better count a growing and changing population where people are moving and living in, you know, new, alternative lifestyles, utilizing Airbnb for more permanent residences, you know, student housing, things like that, that the administrative records will make it easier on everyone to conduct a Census.

Q So is it fair to say that Option D, which incorporates what the career staff at the Census Bureau wanted, for additional administrative records, with the addition of a citizenship question on the 2020 Census questionnaire would provide a greater level of accuracy than just self-response alone?

[11:40 a.m.]

Mr. Uthmeier. I certainly believe option D is the best option. I stand by the decision memorandum. And Secretary Ross certainly agrees with that as well because he, you know, signed and delivered the decision memorandum to Karen Dunn Kelley, who was overseeing the Census in the, you know, Economic Affairs Department.

Ms. Johnson. Okay. On page 5 of Secretary Ross' decision memo, in the paragraph starting with the bolded Consideration of Impacts, it says, quote: I find that the need for accurate citizenship data and the limited burden that the reinstatement of the question would impose outweigh fears about a potential lower response rate, end quote.

Can you tell me what you -- what discussions were about the potential lower response rate?

Mr. Dewhirst. Ellen, this is David Dewhirst. Could you be maybe more specific with what types of discussions you are asking about?

Ms. Johnson. Sure. Were there policy discussions about how a lower response rate could impact how the 2020 Census is budgeted for or how it is perceived by the population as a whole?

Mr. Uthmeier. Yeah. As I mentioned, part of the Census Bureau analysis and review after receiving the Department of Justice letter involving programming analysis and central to programming is budget and cost to execute a Census. So there would have been discussions on -- on budget and response rate, yes.

Ms. Johnson. The -- in the next sentence of the memo, the Secretary said, quote: The Department's review found that limited empirical evidence exists about whether adding a citizenship question would decrease response rates materially.

Do you have any sense of what evidence you all looked at to come to that

conclusion?

Mr. Dewhirst. Ellen, this is David Dewhirst again. Could you point to the sentence that you are referring to?

BY MS. JOHNSON:

Q Sure. It is on page 5, the second -- start of the second paragraph under Considerations of Impact. It says: Importantly, the Department's review found that limited empirical evidence exists about whether adding a citizenship question would decrease response rates materially.

Do you see it?

A Yes. I see it. Thank you.

Q Could you tell me --

A What was the question? Sorry.

Q Could you tell me what evidence did you review that led the Secretary to reach that conclusion?

A Specifically, I cannot recall, but I do remember that I was able to review limited empirical evidence that we analyzed whether the citizenship question would, you know, drive down response rates in a material or significant way. And I also looked at the planned budget for the Census, including contingency fees and -- you know, contingency that was prepared in the event of any nonresponse rates. And, again, ultimately, we concluded that, you know, the need for accurate citizenship data was -- you know, it exceeded the burden that we perceived reinstatement of a citizenship question might have on response rates.

Q And the information that was provided to come to that conclusion was provided or looked into by career officials at the Census Bureau, correct?

A Correct. Generally all information was provided to us through Ron Jarmin

or Enrique Lamas.

Q Okay.

A Stakeholders also were consulted by the Secretary and provided information as well. I was involved in some of those meetings, but not many.

Q Okay. I want to dive deeper into option D, calling for the use of additional administrative records in conjunction with adding a citizenship question to the 2020 questionnaire.

Do you know what agencies the Department contacted to implement alternative D with respect to administrative records?

A I do not know the full extent. I am aware that there were communications with the Department of Treasury, Social Security, the State Department, possibly others as well.

Q Were you the point of contact for the Department on setting up those -- that administrative records transfers?

A No, I was not. And, in fact, you know, as it was presented to us by the Census staff, these conversations had already been ongoing prior to any review of DOJ's request that citizenship be reinstated on the Decennial list. This was something that the Census Bureau team was already doing to pursue a more complete and accurate Census.

Q Okay. So it was career Census Bureau staff that worked to execute option D's administrative records request?

A Yes.

Q Okay. To your knowledge --

A To my knowledge, yes.

Q Okay. To your knowledge, does the Department have signed memorandums of understanding to execute alternative option D?

A It was my understanding that there were meetings with Census officials that focused on the topic of the MOUs and the fact that we did not have all of the MOUs executed, which was a concern with option C on its own.

Q Were those MOUs executed between the Department of Commerce and the other agency, or were they executed between the Census Bureau and the other agency?

A I do not know. I have not seen them.

Q Okay. Do you -- when you left the Department in March of 2019, were you aware of the status of the MOUs relating to option D?

A No.

Q Okay. To your knowledge, did any agency decline to provide records to the Census Bureau pursuant to option D?

A Not to my knowledge.

Q Okay. Do you remember when news about the Department of Justice December 12th letter requesting reinstatement of the citizenship question broke?

A I am sorry. Can you repeat that? I want to make sure I am getting the right timeline down.

Q Yeah. When the news broke of the DOJ letter, do you remember when that was?

A I do remember. I remember it was during the holiday time because I was notified in the middle of some sort of holiday gathering.

Q So late December 2017?

A Yes, that sounds right.

Q What was your reaction when you were told that the news about the DOJ letter was going to break?

A You know, I don't know. I was prepared to answer questions as needed. I

was not sure how the letter was leaked. I am not sure how to answer that question. I am sorry.

Q That is okay.

After it came to light that the Department of Justice had sent a letter to the Census Bureau on December 12th asking for reinstatement of the citizenship question, do you know approximately how many letters you received from advocacy groups on the subject?

A I know we received letters. I do not know how many.

Q Were you involved in responding to any of the letters?

A I may have been consulted for some responses, but I do not remember specifically. I was working on -- I was advising and providing legal counsel pertaining to many letters regarding the Census and other issues at the Department.

Q Okay. But it is fair to say that you, the Department, received letters both in support of reinstatement of the citizenship question and in opposition to reinstatement of the citizenship question, correct?

A That is correct.

Q Did you review any comment letters that proposed modifications to the language of the citizenship question that is found in the American Community Survey?

A Not to my recollection. I don't recall.

Q Okay. But Secretary Ross ultimately decided to use the American Community Survey question and just put the question on the 2020 Census questionnaire. Is that correct?

A Yes, the question being reinstated on the Decennial Census form, the short form, is the same question as that which is on the American Community Survey.

Q Do you know why it was decided to use the question as is and not make any

modifications to it?

A To my recollection, the Census Bureau advised that that question had already undergone testing; it had been used in, you know, various samples; it was distributed on surveys to millions of people in the United States every year through the American Community Survey; and that it was the best structure or format for collecting the data.

Q So, to your knowledge, was there any additional testing that could be done that would be more robust than asking the question on the American Community Survey?

A Not in that timeframe. This is what was presented to us by the Census Bureau as, you know, the best way to format the question, and they said it had already gone through testing. I am not an expert on statistical sampling and things like that, but that is what was made known to us by the Census Bureau officials.

Q Okay. So, when you were working with the Secretary and the other folks at the Department of Commerce, did you have a sense that your decision or the Secretary's decision would cause the level of backlash that it has caused?

Mr. Dewhirst. So I am going to again note that I think this question likely calls for information that would implicate executive branch confidentiality and litigation concerns. And, actually, on that basis, I am going to instruct the witness not to answer.

Ms. Johnson. Okay.

Mr. Castor. All right. I was just about to --

Ms. Johnson. We will close with that.

Mr. Castor. -- stop here.

Ms. Anderson. Would you guys like to take another 5-minute break?

Mr. Dewhirst. Can we take a quick break before we jump back in? We will have a hard stop at 12:30. But can we dial back in at 12:00, and we will get a good half

hour in?

Ms. Anderson. Yeah, we will do that.

[Recess.]

Ms. Anderson. All right. We will go ahead and get back --

Mr. Hull. James, you wanted to --

Mr. Dewhirst. Yeah, go ahead and get back on the record.

Mr. Uthmeier. Yeah, this is James. I just want to remind everybody, I do have to leave at 12:30 and can start back again at 2. I appreciate your understanding on that. I did my best to clear the whole day's schedule but had one unavoidable conflict in the calendar. So I will do my best to be back promptly at 2.

Ms. Anderson. Okay. And if you just -- if one of the lawyers just want to -- if you want to just do a 5-minute heads-up, that is always good so I don't get on a roll here.

Mr. Hull. This is Cordell. We will do.

Ms. Anderson. Okay. Great.

BY MS. ANDERSON:

Q So I want to go back to talking about kind of in that spring 2017 time, you indicated that both Secretary Ross and Earl Comstock had asked you to look into the citizenship question.

After those two conversations, what did you do next regarding the citizenship question?

A I conducted research and looked into the issue, as I was directed.

Q And what timeframe was that?

A When I specific -- when I first began doing research, I am not totally certain. It would have been spring of 2017, and I would have continued doing research and analysis throughout the summer. And, you know -- it would have been ongoing really

until we -- you know, we made the decision in March of 2018, till the Secretary released his decision memo.

Q During the summer period from the spring of 2017, let's say, until the end of the summer months, did you discuss or speak with anyone about your research?

A Yes.

Q Who did you speak with?

Mr. Dewhirst. I am going to allow him to answer to the extent that -- I am going to give him some -- some rope here to answer.

Mr. Uthmeier. I spoke with the Secretary about my research. I spoke with other senior Department officials. That would have been, again, the same people that I listed previously that would have been involved in meetings on the topic: Earl Comstock; people working in his policy office; other counsel at the Department; certainly Barry Robinson, who was, you know, the chief counsel for the Census; Peter Davidson at the time he arrived in August; Karen Dunn Kelley.

BY MS. ANDERSON:

Q How many times did you talk to the Secretary about your research?

A Multiple times. I met with the Secretary on this and several other issues, you know, if not daily, when he was in the office, certainly multiple times a week. I would give him updates from time-to-time.

Q Did he ask for updates, or did you just provide updates?

A Sometimes I provided; sometimes he asked.

Q Did you create any documentation about your research?

A Yes.

Q What did you create?

A I put together a legal memo on the topic. I pulled documents from the

Census website. I collected surveys dating back to, you know, the earliest Census forms that are in the Department's possession. I compiled, you know, many public documents, the historical analysis, and timeline, looking at how questions have been asked on the Census dating back to the 1800.

Q Did anyone else ever provide you documentation during your research period?

A Yes.

Q Who was that?

A Census career officials would have provided me documents. Counsel working in the Office of General Counsel would have provided me documents, and --

Q Did it anyone -- I apologize.

A Sorry? Can you all hear us?

Q I apologize for interrupting. Go ahead.

A Occasionally, I asked a law clerk that worked there over the summer to provide some documentation. Usually, those were, you know, items that were available publicly on the Census website. And then I also consulted Mark Neuman, who was someone that was referred to me as an expert on all things Census. He had been involved in the transition team briefings and also provided documents to me.

Q When -- or who referred you to Mark Neuman?

A I do not remember.

Q When did you first talk with him?

A I believe it would have been March or sometime in the spring of 2017.

Q How many times did you consult with him or speak with him?

A I met with Mark on multiple occasions, again, because we had so many issues at Census that were important to us. So I would have talked with Mark about

budget. Mark was working on, you know, providing us with information on past practices at Census that had been unsuccessful and was trying to help advise us on ways we might be able to conduct a more accurate count and, you know, count people in hard-to-reach communities and populations --

Q So let me -- I can?

A -- in --

Q -- it for you a little bit.

So how many times did you speak with Mark Neuman about the citizenship question?

A I can't give you a good number, only because Mark would come in to meet with us on multiple topics. The biggest thing or the thing that Mark discussed most prevalently was the black/white differential undercount and how to address it. The citizenship topic would usually be one of numerous items on a list. So I would have met with him several times in meetings where citizenship would have come up.

Q Okay. And you said that he provided you documents. When was that?

A He provided me documents in the summer of 2017, and these would have been, you know, Census -- publicly available Census documents.

Q Did he provide you anything that was related to the citizenship question?

A Well, he provided me Census documents that had information about citizenship. He had, you know, worked on the transition to provide briefings to get new officials up to speed. And, you know, one topic -- one topic within the document that he provided was citizenship. It would have been, you know, Census information about why citizenship data is collected, how long it has been collected, what years it was collected, and what the data is used for. And he would have provided this information in addition to information on other topics, how they were collected and how that data was used.

Q So I want to talk a little bit about the legal memo that you said that you created. Was that memo related to the citizenship question?

A Yes.

Q Who asked you to create the legal memo?

Mr. Dewhirst. I am going to direct the witness not to answer as that implicates executive branch confidentiality and litigation concerns. This is Dewhirst.

Ms. Anderson. Did someone direct you to write the memo?

Mr. Uthmeier. I do not recall if -- I mean, at some point, someone asked me for a memo. I do not recall whether I began working on it as part of the, you know, research and analysis I was already doing or as part of, you know, a senior official request. I do not recall how it began. But at some point, I was asked to provide a memo for consideration, yes.

Ms. Anderson. Who was the memo supposed to be for?

Mr. Dewhirst. I am going to direct the witness not to answer. That implicates executive branch confidentiality and litigation concerns. Dewhirst again.

Ms. Anderson. I am going to direct you to look at what we emailed that is marked as exhibit 6, and I will mark it as exhibit 6.

[Uthmeier Exhibit No. 6

Was marked for identification.]

Mr. Uthmeier. Okay.

BY MS. ANDERSON:

Q Please let me know when you have had a chance to look at it.

A Okay. Okay. We have it up.

Q Okay.

A Would you like to describe it to make sure we are looking at the same thing?

Q Absolutely. So it is an email -- the top email is from Secretary Ross to Earl Comstock on August 8th. The subject is redacted. And the bottom email -- I am sorry -- to Secretary Ross from Earl Comstock, and the bottom email is from Secretary Ross to Earl Comstock.

The bottom email reads, in the unredacted parts, quote: Were you on the call this morning about Census? Where is the DOJ in their analysis? If they still have not come to a conclusion, please let me know your contact person, and I will call the AG. Wilbur Ross.

Is that the email that you are looking at?

A I see the email, yes.

Q Okay. Do you know what this call refers to that Secretary Ross mentioned?

A I do not.

Q The email reply from Mr. Comstock in the unredacted parts says, quote: Will be back shortly with an update on Census question. I have two attorneys in the DOC General Counsel's Office working on it.

Was he referring to you as one of those two attorneys?

A I believe he was referring to me, yes.

Q Who else was he referring to, the second attorney?

A I am not sure specifically. I had other attorneys that were providing historical information to me, but I do not know.

Q Do you know -- what was Earl Comstock referring to when he said, quote, "Will be back shortly with an update on the Census question"?

A I don't know.

Ms. Anderson. So I would like you to now look at the email that we sent to you that starts with exhibit 7. And I will mark it here as exhibit 7.

[Uthmeier Exhibit No. 7

Was marked for identification.]

BY MS. ANDERSON:

Q It is an email -- the top email is from Earl Comstock to Wendy Teramoto, and it cc's Secretary Ross from August 16th, 2017. And the bottom email is dated August 11th, 2017, sent from Earl Comstock to the Secretary.

A Yes.

Q Okay. So, in that bottom email on August 11th, Earl Comstock wrote, quote: Mr. Secretary, per your request, here is a draft memo on the citizenship question that James Uthmeier in the Office of General Counsel prepared and I reviewed.

Is that the memo -- the legal memo that you wrote?

A Looks like it, yes.

Q What did the email say? Or what did the memo say?

Mr. Dewhirst. I am going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. The email then says, quote, once you have a chance to review, we should discuss so we can refine the memo to better address any issues.

Did you ever receive feedback or comments from Secretary Ross or Earl Comstock about your legal memo?

Mr. Uthmeier. Yes, I did.

Ms. Anderson. What were those comments?

Mr. Dewhirst. I am going to instruct the witness not to answer as the question implicates executive branch confidentiality and litigation concerns. This is Dewhirst.

Ms. Anderson. Thanks.

Mr. Uthmeier, did your legal memo come to any conclusion about whether the

Department of Commerce could add the citizenship question itself to the 2020 Census?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q The last part of the email said -- says, quote: Before making any decisions about proceeding, I would also like to bring in Peter Davidson and Census counsel to ensure that we have a comprehensive analysis of all angles.

What does Mr. -- what did Mr. Comstock mean by "proceeding"?

A I don't know. Based on this email, it appears that he is talking about a meeting or discussion. I don't know.

Q Wendy Teramoto responded to that email and said, quote: Peter Davidson and Karen Dunn Kelley -- I believe it is a typo -- wi both be here Monday. Let's spend 15 minutes together and sort this out.

Do you know if that meeting occurred?

A Sorry. Did you ask -- would you repeat that?

Q Sure. The email above that was sent on August 16th from Wendy Teramoto to Mr. Comstock and Secretary Ross said, quote: Let's spend 15 minutes together and sort this out.

Do you know if a meeting occurred with those people?

A I certainly met with those people on the topic. I do not know if this happened as referenced here on this specific Monday.

Q Okay. After you provided Mr. Comstock your -- did you provide your -- you provided your legal memo to Mr. Comstock. Is that correct? I believe you said that.

A Yes.

Q Okay. Who else did you provide it to?

Mr. Dewhirst. I am going to -- well, you can answer it.

Mr. Uthmeier. I cannot remember if I gave it directly to the Secretary or if it was given to him by somebody else, but I know he received it. I provided it to Peter Davidson, the general counsel, to Karen Kelley, and -- sorry. I am just thinking if there was anyone else. I believe Wendy Teramoto received it. And then I would have given it to other attorneys that were providing information and counsel on the topic to assist me.

BY MS. ANDERSON:

Q Did you provide it to anyone outside the Department of Commerce?

A I did. I provided it to the Department of Justice.

Q Who did you provide it to at the Department of Justice?

A I believe the only individual that I directly gave the memo to was John Gore.

I was directed to him as the legal expert on Voting Rights Act issues.

Q Do you remember when that was?

A I am sorry. When what was?

Q When you gave Mr. Gore at the Department of Justice the memo.

A I do not remember specifically. I believe it was the summer -- sometime in the summer of 2017.

Q Okay. After you gave the memo to the people you discussed at the Department of Commerce, what did you do next regarding the citizenship question?

A Could you be more specific?

Q Did you take any actions or do anything else regarding the citizenship question after you provided the memo?

A Well, we, you know, continued to consider the question. So, yes, I did take other action.

Q Okay.

Ms. Anderson. I would like you to look at the email that is marked exhibit No. 2.

[Uthmeier Exhibit No. 2

Was marked for identification.]

BY MS. ANDERSON:

Q And the bottom email is an email sent from Peter Davidson to Israel Hernandez, Earl Comstock, you, and cc's Wendy Teramoto from August 29, 2017.

The email says, quote, the Secretary asked to set up a briefing on some of the key legal issues he is concerned about.

A Can you give me -- I am still pulling it up here.

Q Sorry. Sure.

A The last -- just one minute.

Okay. I got it. You are reading at the bottom?

Q Yes. It says, quote: The Secretary asked to set up a briefing on some of the key legal issues he is concerned about. Can we get something on the books for next week when Izzy returns?

And then proceeds. And then in response -- oh, why did Secretary Ross ask to set up a briefing?

A I do not remember specifically. The Secretary likes to be kept well informed on all Department matters.

Q Do you know what, quote, key legal issues Mr. Davidson was referring to?

Mr. Hull. To the extent you can answer without revealing anything privileged. This is Cordell.

Mr. Uthmeier. In the context of this email, no, I do not know.

BY MS. ANDERSON:

Q Mr. Davidson also wrote in that email at the last line, quote: Izzy, I know

you and James have been working on this for a while, and so I will hand off to you to coordinate.

What was Israel Hernandez' role in this -- in the citizenship question?

A Izzy was serving as the deputy chief of staff. And because the senior officials that were at the Department quickly realized that the Census was not being adequately managed upon our arrival, he was directed to immediately take Census under his wing as one of his primary portfolio items and, you know, monitor all of the various workings of the Census. So anything I would have done, I would have communicated with him to make sure he was in coordination.

Q Did you brief the Secretary on the, quote, key legal issues regarding Census around this timeframe?

A I briefed the Secretary multiple times. I am not sure if a briefing took place in the context of this specific email.

Ms. Anderson. I would like to have you look at exhibit -- labeled exhibit 20 in your email.

[Uthmeier Exhibit No. 20

Was marked for identification.]

Mr. Uthmeier. Okay. I believe I have it.

BY MS. ANDERSON:

Q Okay. In the second email on the page written by Chelsea Newhaus, on August 29th, 2017, sent to a variety of people at the Department of Commerce. And there is a list, and it says, quote: Hi all. Would one of you be able to confirm that these are the only attendees that should be included in the next Wednesday Census briefing re: legal questions.

Lists Wendy Teramoto, Israel Hernandez, Earl Comstock, you, Peter Davidson, and

Karen Kelley.

Do you recall what happened at this briefing at all?

A I do not remember what happened at this specific briefing, no.

Mr. Hull. And this is Cordell, counsel. Sorry to interrupt your line of questioning. I just wanted to give you the 5-minute heads-up.

Ms. Anderson. Thank you.

Mr. Uthmeier. And I should add to that -- sorry. I am not even sure that there was a meeting at all. I can't be certain.

Ms. Anderson. I actually think it may be -- before I start on a new area, it may be a good time to break, if that is okay with you guys, and then we can reserve the 35 minutes on the 2 o'clock timeframe.

Mr. Uthmeier. Okay. That is fine with me. This is James. Thanks again.

Mr. Dewhirst. Yeah, whatever -- whatever works best for you all.

Ms. Anderson. If you guys -- I can give you my email address in case there is any timing issue that you need to communicate with us about or you can use the one -- I think my email should be on the email -- we can also go off the record.

[Recess.]

[2:04 p.m.]

Ms. Anderson. It is now 2:04. Mr. Uthmeier, can you please look at the -- the document we emailed you, which is exhibit no. 3.

[Uthmeier Exhibit No. 3

Was marked for identification.]

Mr. Dewhirst. You are referring to exhibit 3?

BY MS. ANDERSON:

Q Yes, exhibit 3. It is an email that was sent. So the top email is from you to Mr. Comstock, ccing Mr. Davidson on September 7, 2017.

A Okay. I am reviewing it.

Q Okay. So the bottom email was sent on September 7, from Earl Comstock to you and Mr. Davidson. It reads, quote, "Hi, Peter and James as I discussed with James a little while ago the Secretary would like an update on progress since the discussion yesterday regarding the citizenship question. If we could get a short email or memo today, that would be great. Thanks, Earl."

Do you recall what discussion he was referring to in that email?

A No. I just recall that the Secretary had some follow-up questions to the August memo that we were discussing prior to the lunch break we just had.

Q What were the Secretary's follow-up questions?

Mr. Dewhirst. I direct the witness not to answer that question, as it implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q Thank you.

Did anyone else have any follow-up questions or comments on your legal memo

from August?

A Yes.

Q Who was that?

A I recall that Karen Dunn Kelley had some comments or questions on the memo and that's all I recall right now.

Q What were her comments or questions?

Mr. Dewhirst. I am going to instruct the witness not to answer because the question implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q What did you understand Mr. Comstock to mean when he said, quote, "the Secretary would like an update on progress since the discussion yesterday."

A The that the Secretary would like an update on the progress.

Q Was there something specific that you were meant to do?

A I don't recall outside the context of this email. But the Secretary was -- if you are working for him, you know he's a demanding guy. When he asks you for additional information and follow-up questions, he expects to get information returned very quickly on all topics.

Q What was Mr. Comstock asking for progress -- what was the Secretary asking for progress on?

A The Census research.

Q Did you prepare an update memo or email for the Secretary?

A I believe I provided some additional information by email and also provided some information by way of an in-person briefing.

Q What was the topic that the Secretary asked for research on or additional?

Mr. Dewhirst. Sorry.

Ms. Anderson. Go ahead.

Mr. Dewhirst. I am going to instruct the witness not to answer that, because of executive branch confidentiality and litigation concerns.

Ms. Anderson. The email has a redacted response by you. Do you remember what you wrote back to Mr. Comstock?

Mr. Dewhirst. I am going to instruct the witness not to answer, if he has any recollection on the same basis as I stated previously.

Ms. Anderson. Just to be clear, we are just asking whether he remembers what he wrote back. This question was not about the content.

Mr. Dewhirst. That is right. And on that basis, Tori, I will withdraw my objection to the question.

BY MS. ANDERSON:

Q Mr. Uthmeier, do you recall what you wrote back to Mr. Comstock?

A I do not recall what information is redacted here, what my response was to that email, no.

Q When you -- you said that you may have written an email in response to this request from Mr. Comstock. Would you have sent that back to Mr. Comstock or directly to the Secretary?

A If the request is coming from Earl, I probably would be sending it directly to Earl.

Q Now I would like to look at the email we sent you marked as exhibit no. 4.

[Uthmeier Exhibit No. 4

Was marked for identification.]

Mr. Hull. Let me take a quick look at it.

BY MS. ANDERSON:

Q We are just going to start with the top most email.

A Exhibit 4, correct?

Q Yes. Yes exhibit 4.

The email chain is also from September 7, it's an extended version of exhibit no. 3. The top email was sent from Mr. Comstock to you, Mr. Davidson and cc's Ms. Teramoto as well. And Mr. Comstock wrote, quote, "I suggest setting up a call for tomorrow. The Secretary is asking for progress on this."

What did Mr. Comstock mean by the Secretary is asking for progress on this?

A I don't know, other than looking at the document here as it appears, the text speaks pretty much for itself, the Secretary wanted an update on progress.

Mr. Anello. Actually this document is very heavily redacted which is why we are asking -- this is Russ, sorry. But it doesn't speak for itself. So do you remember what he was asking for progress on?

Mr. Dewhirst. I think he has answered that question.

Mr. Anello. This is a different email.

Mr. Dewhirst. Which email are you referring to right now? The very top of the chain?

Mr. Anello. Correct.

Ms. Anderson. Yes.

Mr. Hull. This is Cordell. So if you are asking him to opine on something that's been redacted. We are going to instruct the witness not to answer. He may answer the follow on question, but if follow on question is what did the email below that, we will instruct our witness not to answer on the grounds of executive branch confidentiality and litigation concerns.

Mr. Anello. So what was he asking for progress on?

Mr. Uthmeier. Looking at this email and based on my recollection, I can tell you he was looking for progress on the Census citizenship research that I was working on. More specific than that, I just don't remember looking back at this email today.

Mr. Anello. Was he looking for an update on -- excuse me, was he looking for progress on outreach to other agencies?

Mr. Dewhirst. I am going to instruct the witness not to answer. It implicates executive branch confidentiality and litigation concerns.

Mr. Anello. I'm sorry. He said, the witness Mr. Uthmeier just said that he felt the progress related to research that he was doing. But did it also relate it outreach to other agencies?

Mr. Dewhirst. I think that objection covers it. It is predecisional.

Mr. Anello. He answered one thing --

Mr. Dewhirst. May I finish, please. It is a predecisional document that a senior official at the Department asking the lawyer about something. And you are asking the lawyer what the content of the communication was or what he was asking about. So I think the objection and the instruction stand.

Mr. Anello. But Mr. Uthmeier just told us he thought one of the things he was asking -- the Secretary was asking for was progress on research. And I am asking whether there was also progress on other things.

So why don't we start by saying that, was he asking for progress on other things other than just research potentially?

Mr. Dewhirst. Same objection as before and same instruction to the witness.

Mr. Anello. Had the Secretary already decided at this point that he wanted to add the citizenship question?

Mr. Dewhirst. I am going to instruct the witness not to answer on the basis that

that question implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q At this point, had you spoken to anyone at any other agency about the citizenship question?

A This would have been -- are you talking about at the time that the email was sent?

Q Yes.

A I believe I had already spoken to John Gore at the Department of Justice at this time.

Q When did the Department of Commerce conclude that it may need or wanted another agency to make the request to add a citizenship question?

A Can you repeat that question one more time?

Q Sure. When did the Department of Commerce conclude, or decide that it may need or want another agency to make a request to add a citizenship question?

A I don't think I can answer that on behalf of the Department of Commerce.

Q Okay. When did you -- did you decide that another agency should or could ask for a citizenship question to be added to the 2020 Census?

Mr. Dewhirst. I am going to --

Mr. Hull. This is Cordell Hull, is there a way, Mr. Uthmeier, you can answer that question without revealing privileged information?

Mr. Uthmeier. I want to make sure I know the question. When did I determine that another agency should or could request information on the Census. Is that what you are asking me?

BY MS. ANDERSON:

Q Let's try it this way. When did you first learn that there had been a

determination that another agency could ask the Department of Commerce or the Census Bureau to add a citizen question?

A Okay. That -- I would have come to that understanding in the spring, likely in March, possibly in February, February or March of 2017, as I began to do a deep dive and get up to speed on all the various workings of the Department, Census included, I quickly would have been briefed on the fact that agencies do ask routinely for information from Census and do ask for questions to be included on Census surveys.

I certainly would have reviewed and would have seen requests from other agencies on topics like this in the spring of 2017.

Q When did you become aware that the Department of Commerce concluded that another agency needed to add a citizenship question to the 2020 Census?

Mr. Hull. I am going to object to that. Based on the formulation of the question, you are implicating executive branch confidentiality and litigation concerns.

Mr. Anello. Sorry, just to back up, I think Mr. Uthmeier was able to tell us when he first learned that another agency could make the request. So the question now is when did you first learn that another agency needed to make that request, if you were going to add the question.

Mr. Hull. And there's a lot built into that question, including sort of the internal deliberative process of the Department. And so on that basis, my instruction is going to stand.

Mr. Anello. Did you ever make a -- did you ever learn that the Department of Commerce had made a determination that another agency had to make that request in order to add the question to the 2020 Census?

Mr. Hull. You are addressing that to Mr. Uthmeier?

Mr. Anello. Yes, correct.

Mr. Hull. Will you ask the question again?

BY MR. ANELLO:

Q Yes. Did you ever learn that the Department of Commerce made a determination that another agency would have to request the citizenship question in order to add that question to the 2020 Census?

A When you say the Department of Commerce generally I am not sure how to answer the question. Certain people at the Department have certain opinions on how questions should be added or were added in the past, certain people at the Department had other opinions.

So when you are saying the Department of Commerce made the conclusion, are you referring to me, are you referring to the Secretary, are you referring to Earl Comstock?

Q Well who do you know who had an opinion on that topic?

A Who had an opinion on the topic?

Q Yes.

A I believe that Earl Comstock had an opinion on the topic.

Q And what was his opinion?

Mr. Hull. I am going to instruct the witness not to answer. That question implicates executive branch confidentiality and legislation concerns.

Mr. Anello. Okay. Who else had an opinion?

Mr. Uthmeier. Several of the census career officials also had an opinion?

Mr. Anello. And what was their opinion?

Mr. Hull. Same instruction.

Mr. Anello. Okay. Anybody else?

Mr. Uthmeier. I had an opinion of my own.

Mr. Anello. Okay, what was your opinion?

Mr. Dewhirst. Same instruction.

Mr. Anello. Okay. Anybody else? Did Secretary Ross have an opinion?

Mr. Uthmeier. I do not recall if Secretary Ross had an opinion there.

Ms. Anderson. Was your opinion the same as Earl Comstock's opinion?

Mr. Hull. I am going to object on the same basis and deliver the same instruction to the witness.

BY MS. ANDERSON:

Q Did you share your opinion with Secretary Ross?

A Yes, I did.

Q Were you aware that Earl Comstock shared his opinion with Secretary Ross?

A Yes, I believe he did.

Q Did you share that opinion before or after you provided your legal memo to the Department of Justice?

A I do not recall.

Q Did you share your opinion before or after Secretary Ross spoke with the Attorney General about this issue?

Mr. Dewhirst. Sorry, to clarify, did he share his opinion with who or at all?

Ms. Anderson. With the secretary.

Mr. Uthmeier. I do not recall specifically when the Secretary met or spoke with the Attorney General. And I also do not recall specifically when I would have expressed my opinion.

BY MS. ANDERSON:

Q Okay I just want to go back to a little bit of the timeline. So you said that you provided your legal memo to Earl Comstock, eventually it got to the Secretary.

Were you instructed or did you do anything else regarding the citizenship question after you provided the memo, and after you received this email asking for progress and provided a progress update email?

A Did I do anything about --

Q The citizenship question?

A With regard to the citizenship question?

Q Yes.

A Can you repeat that question? I'm sorry.

Q Sure.

You said earlier that you provided a legal memo to Earl Comstock and the Secretary. And then after that we talked about the emails that were sent in early September. And you said you remember providing an update email to the Secretary or a response to him asking for progress.

Did you do anything after that time period with regard to the citizenship question?

A Yes.

Q What did you do?

A I continued to collect information and receive counsel from Census officials as well as attorneys that worked on Census issues. And I would have had other conversations within the administration on the topic.

Q Who did you have conversations with within the administration?

A I consulted John Gore at the Department of Justice. Again, as I said earlier, I was referred to him as the Department's, you know, Voting Rights Act expert. I believe at the time he was heading up the Office of Civil Rights at Justice. And I would have provided updates to individuals at the White House.

Q Who at the White House would you provide updates to?

Mr. Hull. I am going to instruct the witness not to answer.

Mr. Anello. The names of the officials? Is it a secret who works at the White House? I mean what's the basis for that?

I think the question was he said he provided updates to people at the White House. The question is to whom did he provide the updates, it is not a substantive question about the updates themselves.

Mr. Dewhirst. The instruction remains.

Mr. Anello. On what basis? These are public servants, right? Taxpayers are paying their salaries. So if they work at the White House I think we can know that they were there. And if he can tell us that he talked to someone at the White House, I think he can tell us who. I am not aware of any basis for withholding the name of somebody that he spoke to.

You haven't held that line anywhere else during this many-hour conversation.

Mr. Dewhirst. The instruction remains in effect.

Mr. Anello. Did you talk to the President of the United States about this?

Mr. Dewhirst. Yeah, same instruction.

Mr. Anello. On what basis? Is it a confidentiality interest to talk to -- the fact that he had a conversation? I am is serious, what is the basis for this objection?

Mr. Dewhirst. Look, Russ or Ross, what --

Mr. Anello. It's Russ. Thank you.

Mr. Dewhirst. The instruction remains in effect.

Mr. Anello. But I haven't heard what the basis for the objection is.

Mr. Dewhirst. Okay.

Mr. Anello. Our rules require us to have the basis for the objection. Is there a basis for the objection? Maybe I missed it. I don't know. Does anybody know what

the basis is?

So you are just sort of refusing to tell us who you talked to at the White House, is that what we have, but without a reason?

Mr. Dewhirst. Yeah, I don't know how much clearer I can be on this, Ross. But he's --yeah, he's instructed not to answer.

Mr. Anello. Without a basis, it is just a clean instruction not to answer?

Mr. Dewhirst. No, it is on the same basis.

Mr. Anello. What is the basis for the instruction?

Mr. Dewhirst. Executive branch confidentiality concerns.

Mr. Anello. So the identity of the White House officials with whom Mr. Uthmeier spoke is something that you cannot tell Congress?

Mr. Uthmeier, did you speak with Steve Bannon about this issue?

Mr. Dewhirst. Same instruction to the witness.

Mr. Anello. Did you speak with the chief of staff at the White House this time?

Mr. Dewhirst. Same instruction.

Mr. Anello. Did you speak to anybody at Domestic Policy Council?

Mr. Dewhirst. Same instruction.

Mr. Anello. Did you to Stephen Miller about it?

Mr. Dewhirst. Same instruction.

Mr. Anello. Did anybody at the White House tell you to pursue this issue?

I haven't heard an answer or an instruction to that question. Did anybody at the White House tell you to pursue the issue of citizenship question?

Mr. Uthmeier. No.

BY MR. ANELLO:

Q Okay. Did anybody at the White House express interest in the citizenship

question?

A No different than interest in other ongoings at the Department.

Communications made to the White House on this topic were in briefing nature, in update nature, coordination in keeping the White House apprised as I would do on any other topic.

Q Did anybody at the White House express interest in the citizenship question issue question?

Mr. Dewhirst. Beyond what Mr. Uthmeier has just answered, I am going to instruct him not to answer this question, same basis as before.

BY MR. ANELLO:

Q Well he already told us they did not tell him to do anything, but now, what is the difference between that question is something he can't answer, but expressing interest is something that he cannot answer? I am not sure I understand the basis there.

A I did not receive any directives or direction from the White House on the topic of the Census citizenship question. Communications I made to the White House were of the nature that they were briefings and updates.

Q Great. So it sounds like there should not be confidentiality issues then. So who did you brief?

Mr. Dewhirst. Same instruction as before.

BY MR. ANELLO:

Q Was the White House involved in the decision to add a citizenship question? Did they play a role in that decision?

A No, they did not.

Q Okay. If they didn't play a role in the decision, then there is provided your

legal no basis for the objection. So can you tell us who you spoke to at the White House about this in the briefing that you gave?

Mr. Dewhirst. Ross, I appreciate your opinion on this, but my previous instruction still applies.

Mr. Anello. So what is the confidentiality interest that you are protecting?

Mr. Dewhirst. This is what is -- the confidentiality interest, Russ, is the free willed advice between the folks in the Department and the White House and he's trying to answer the question, give the committee information it needs but you guys are asking that beyond that and you are asking specifics and you are asking.

And at this point the Department is not prepared to have Mr. Uthmeier to answer it that question. It is something that we can certainly try to get the committee the information it needs through the accommodation process. As we said earlier, we are committed to working through that with you guys, but sitting here today we are not going to permit Mr. Uthmeier to answer that question.

Mr. Anello. Did you talk to John Zadrozny at the White House about the issue?

Mr. Hull. I am going to instruct the witness not to answer, on the same basis previously stated.

Mr. Castor. This is Steve Castor from the Republicans. Can you guys off-line and think about this some more because we have had plenty of witnesses come in and tell us that they had meetings with Mr. Zadrozny. And Zadrozny called them up on the phone and they had meetings, you know all sorts of things with John Zadrozny.

Even the Justice Department hasn't asserted a litigation interest in John Zadrozny. Does it make sense to think this through or what is the best way to maybe unlock an answer like that?

Mr. Dewhirst. Do you want to pause for a few minutes while we think it over

and see if we can --

Mr. Castor. This is the Democrat time, so would you like to pause or would you just like to have them take it up on the next 5 minute break?

Ms. Anderson. So we are going to have a 5 minute break in about 10 minutes so maybe we can allow you to think about it during that time.

Mr. Dewhirst. Sure.

BY MS. ANDERSON:

Q Okay. You mentioned that Peter Davidson came to work at the Department in the summer of 2017. Is that correct?

A Yes.

Q And he started working on this issue as well. Is that accurate?

A Yes.

Q Did he review your legal memo?

A Yes.

Q Did he ever provide feedback, an opinion or comments about the legal issues that were analyzed in that memo?

A We certainly discussed the memo after he reviewed it. I cannot recall any specific feedback or questions he may have had.

Q And what did you guys discuss?

Mr. Dewhirst. I going to instruct the witness not to answer. That question implicates the executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q Did he direct you to do anything in response to the update that was requested by the Secretary?

A Which update?

Q The update that was referenced in early September of 2017.

A Can you repeat the question?

BY MS. ANDERSON:

Q Sure. So in exhibit 3 and 4 there was a request by the Secretary for progress update on the citizenship question issue. Did Mr. Davidson direct you or ask you to do anything with regards to that request?

A I do not recall. The Secretary, you know, asked for updates and more information on multiple things and Peter was the general counsel. So any legal research issues would have been coordinated with him absolutely.

Q I would like you to look at exhibit no. 8 that we emailed to you.

[Uthmeier Exhibit No. 8

Was marked for identification.]

Mr. Uthmeier. Okay.

BY MS. ANDERSON:

Q All right. It's an email from you to Mark on September 8, 2017, the subject is questions Re: Census. And it reads, hi, Mark, I am working on some Census legal questions for the Secretary and Peter Davidson, our new GC, and they asked me to reach out to you about some research that I have been doing. Any chance you might have a few minutes this morning to discuss? I am available all morning at the number below or happy to give you a call whenever convenient.

Did you write that email to Mark Neuman?

A It appears that I did.

Q What role did -- what questions did you want to ask Mark Neuman.

Mr. Dewhirst. Instruct the witness not to answer on the basis that the question implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Why did the -- sorry. Are you finished?

Mr. Dewhirst. No, I was just saying my name. Let you know who's talking.

BY MS. ANDERSON:

Q Was Mark Neuman a member of the executive branch at this time?

A No.

Q Okay. Why did the Secretary and Peter Davidson ask you to reach out to Mark Neuman.

Mr. Dewhirst. I am going to instruct the witness no the to answer, same instruction as before.

Ms. Anderson. What questions did you ask Mark Neuman?

Mr. Dewhirst. Same instruction as before.

BY MR. ANELLO:

Q Did you know who -- sorry this is Russ.

Did you know who Mark Neuman was at the time?

A I believe so, yes.

Q Okay. What did you know about him?

A I knew that he was a brilliant man on all things Census. He had just an unbelievable amount of knowledge on the inner workings of Census, especially historical information from prior years, prior administrations. And I believe I had already spoken with him on such topics.

Q Who introduced you to him?

A I do not recall.

Q Okay. When did you first talk to him?

A I believe it was at some point in the spring or summer of 2017, but I do not remember the specific date.

Q And what did you talk about when you first spoke to him?

A I talked to him about multiple subjects. I talked to him about hard to reach

populations for the Census I think we probably spoke about the rate base undercount in every meeting or discussion we ever had. I talked to him about advertising and ways to develop new community groups through partnerships, and agreements to better get the word out about Census. And then I also asked him for background information on citizenship and other topics that are asked about on the Census.

Q Did you have a particular reason for asking him -- is there a particular a reason that you went to him for information on citizenship?

Mr. Dewhirst. Instruct the witness not to answer on the same basis articulated before.

Mr. Anello. The question is did you have a reason to think he -- is there a reason you picked him as your source?

I am not asking why you were motivated to ask about the citizenship question generally, I am asking why did you pick Mr. Neuman as somebody to ask?

Mr. Dewhirst. Well, I can tell you this, I am going to assert -- I am going to provide the same instruction. I mean, even though you are trying to parse the question a certain way Ross, I think it still implicates the same interest. And so I am going to instruct the witness not to answer.

BY MS. ANDERSON:

Q You talked earlier before we took our break that -- and you said Mr. Neuman provided you documentation, some documents. Was one of those a draft letter from the Department of Justice to the Census Bureau requesting a citizen question?

A No.

Q Did he ever provide you with any draft language that would go into a letter from the Department of Justice to the Census Bureau asking for addition of citizenship question?

A No, not to my recollection, he never provided me anything like that.

Q Did he ever provide you with legal research about adding a citizenship question to the 2020 Census?

A No. He may have provided me some cases, case names or information on prior legal issues that face the Census Bureau during previous administrations, knowing that I was a new political counsel and would be working on Census issues.

Other than cases and a brief overview of some of those litigation matters, no, no legal research.

Q Did he ever provide you with any information about citizen voting age population data?

A Yes.

Q What did he provide you?

A I do not recall specifically, but it would have been Census data, most likely public information.

Q Did he ever provide any analysis or comments on that citizen voting age population data?

Mr. Dewhirst. I am going to jump in and instruct the witness not to answer, that implicates the executive branch confidentiality and litigation interests.

Ms. Anderson. Just to be clear, I was asking whether he provided that, not specifically what his analysis was at this point.

Mr. Dewhirst. Okay. On that basis I will withdraw the instruction. Can you please ask the question one more time?

BY MS. ANDERSON:

Q Sure. Did Mark Neuman provide any comments, thoughts, opinions or analysis of citizen voting age population data?

A He commented and did provide analysis. Yes, he was an expert on the Census and we relied on him for information and feedback.

Q Was that related to the citizenship question?

A I believe so, but it was in relation to many topics. I mean, I -- knowing that Mark had been a transition team -- I don't know if he was a volunteer or what he was, but I know he was pretty active in providing briefings and thus turned to him for consultation.

Q So what was the comment or comments that were related to the citizenship question?

Mr. Dewhirst. And on that I am going to reassert the instruction and instruct you not to answer.

Ms. Anderson. Okay. I believe we are at the end of our hour and you guys would like to take your hour?

Mr. Castor. Yes.

Ms. Anderson. Okay. So we will a 5 minute break and we will allow you to consult about the White House issue and we will returned at 2:45, 2:46.

Mr. Dewhirst. That sounds good, thank you.

[Recess.]

BY MS. JOHNSON:

Q This is Ellen Johnson and I will note that it is 2:56 and we will begin.

So Mr. Uthmeier, do you believe that a citizenship question is needed on the decennial Census questionnaire?

A I do, yes.

Q Why do you believe that?

A I believe that for all of the reasons that are laid out in the Secretary's March decision memorandum. As I have stated already, I was involved in working with him in

drafting that and stand by it entirely.

Q So it's fair to say that your opinion on the matter is the same or similar to Secretary Ross' decision memo?

A My opinion on the matter is reflected in the decision memo that Secretary Ross sent to Karen Dunn Kelley on March, 26, 2018, yes.

Q Do you believe it is important to know the number of citizens in the United States?

A I do, yes.

Q Why do you believe that?

A Well, I think the Census Bureau clearly publishes online the reasons for collecting citizenship data. Citizenship data is used for a host of reasons, knowing about the population in the country is important for a host of reasons ranging from education, to healthcare, to infrastructure. Is part of my review. And it quickly became apparent that the Department of Justice has requested citizenship data in the past and used it for the Voting Rights Act enforcement specifically. And we review that the Census Bureau officials conducted of the policy program and legal review revealed that there are sufficiency of data concerns with regard to Census citizenship data. That information is laid out in the March 26 memo.

And for all the reasons laid out in the memo, option D is what the Secretary and I believe to be the best course forward to ensuring a complete and accurate a Census as possible.

Q Okay. Do you believe in the principle of one person, one vote?

A I haven't really thought about it. Yes, I suppose so.

Q Okay. I am going to ask you some questions that may sound familiar. So on the citizenship question, did you have contact with Gene Hamilton?

A As I think I already stated I do not recall communicating directly with Gene Hamilton, but certainly overheard his name I believe in the context of scheduling a meeting between the Secretary and the Attorney General.

Q But you did not have any specific conversations with Mr. Hamilton directly on the citizenship question?

A Not to my recollection, no.

Q Did you have any contact with Kris Kobach on the citizenship question?

A No.

Q Did you have any contact with John Zadrozny on the citizenship question?

Mr. Dewhirst. So I think Mr. Uthmeier has already testified that, this is Dewhirst, that the White House in no way factored in the decision-making process at the Department. I think Mr. Zadrozny has demonstrated in documents that he was in contact with Mr. Uthmeier. And so on that basis I will allow him to answer that question.

Mr. Uthmeier. Yes, I did speak with John Zadrozny.

BY MS. JOHNSON:

Q When did you speak with Mr. Zadrozny?

A I do not recall specifically when. It would have been fall or late 2017.

Q How many times did you speak with Mr. Zadrozny on the citizenship question?

A Certainly more than once, but not many times. I would say two or three occasions roughly.

Q Were your conversations with him over email and over the phone?

A I do recall emailing with him on multiple occasions. I do recall speaking on the phone as well. And I believe I met with him in person on one occasion.

Q And all of those calls, emails, and meetings were in the fall or winter 2017, correct?

A It is possible that I may have had a conversation with him in January of 2018.

Q What did you discuss with Mr. Zadrozny related to the citizenship question?

Mr. Dewhirst. I am going to instruct the witness not to answer based on executive branch confidentiality and litigation concerns.

Ms. Johnson. All right. Have you had any contact with Stephen Miller on the citizenship question?

Mr. Dewhirst. So on these questions, you know, we did -- this is Dewhirst. We did spend some time sort of working through this issue. As you can see on Zadrozny we sort of resolved that piece of it, but we are still sort of working through this.

And so if you ask these questions again right now, you are probably going to get the same answer, but we are working through them. And hopefully we will have -- we may be in a different position on that.

Mr. Castor. Okay. Would it be okay if we then gave you the names that we are interested in and we'd be interested in a yeah, yes or no, I spoke with them. And then if he did speak with them, any clarity, was it on the phone, email, some of the questions Ellen just asked about Zadrozny.

There's not a lot of officials here, it's Miller, Bannon, the AG, personally, the AG, the President personally, and the chief of staff, Reince Preibus. And, you know, I understand that you have got some serious concerns over litigation, but, you know, a lot of these, I think you can probably -- if the answer is no you can probably answer no without impacting the litigation. If the answer on it's face seems like obviously it would be no. So anyway.

Mr. Dewhirst. So, no I appreciate that. So I have written the names down and

we will circle back to those. The one person on that list of five that you just gave me, the Attorney General I think is -- that's probably one you could ask about right now.

Ms. Johnson. Okay. Did you have any contact with Attorney General Sessions on the citizenship question?

Mr. Uthmeier. No.

Mr. Castor. And just one more name, that Hofeller guy, which I think you already testified this morning that you didn't have any communications with him, if I am remembering that correctly.

Mr. Uthmeier. I did not have any communications with him, no.

Mr. Castor. Okay, I will turn it back to Ellen. Thank you.

BY MS. JOHNSON:

Q Can you describe what an average day was like at the Department of Commerce?

A That varied from day to day. I can tell you they were very long days and very stressful days. I was usually running around and working on, you know, a dozen topics per day.

Certainly would have had some senior staff meetings in the morning, sometimes those may have been focused on the Secretary's immediate office staff. Sometimes those meetings would have been focused on agency heads, coordination. Sometimes those meetings would have been focused on the general counsels or chief counsels at the various Commerce agencies.

I certainly would have been reviewing congressional requests for information. I would have been reviewing many proposed rules, regulations, final rules. I would have been working with other agencies on executive order drafts, joint rules, reviewing proposed legislation.

I would have been reviewing general litigation matters, contract matters. I would have been reviewing trade related issues, antidumping investigation issues, numerous issues.

[3:08 p.m.]

BY MS. JOHNSON:

Q So you said that generally in the mornings, you would have a meeting with senior staff. Did those happen generally every morning, or how many times a week would those senior staff meetings occur?

A The schedule for those meetings would change from time to time. Usually there was a weekly bureau heads meeting that would take place, I often attended those. There would usually be one or two front office secretary suite meetings to focus more so on his schedule and immediate priorities of the week.

If there was any travel, we would walk through that as well. I would often attend the Office of General Counsel senior staff meeting, where every single bureau would report on ongoing legal activities. There are some bureaus at the Department that the general counsel, once he arrived. He would run those meetings, but I often would run them in several respects before he arrived. Even after I moved into the Secretary's suite, I still would attend those meetings on occasion.

Generally, the legislative affairs office would have staff meetings that incorporated individuals relevant to briefing candidates for confirmation processes, or discussing possible legislation, congressional hearings, oversight and productions, all of those sorts of things.

I also worked very closely with the Secretary and would review correspondence, would review speeches, would consult him on legal questions he may have on all these topics. I worked -- I worked as the regulatory reform officer, which I we already established, and in that capacity, was interacting with all the various bureaus, working with NTIA on legal issues pertaining to Federal spectrum allocation, the Patent and

Trademark Office, looking at some efforts they were doing to try to empower minorities and women and revitalize the workforce.

I did a lot of work with NOAA relating to infrastructure, permitting, and licensing timelines. I did a lot of work with the Bureau of Industry and Security on export control reform. I also served as the Department's chief environmental review protection officer, CERPO for short. I might be getting that --

Ms. Johnson. Hello, are you -- are you there? We can go off the record.

[Discussion off the record.]

Ms. Johnson. We can go back on the record.

Mr. Uthmeier. It dropped again.

BY MS. JOHNSON:

Q Last thing I heard was chief environmental review officer.

A Yeah, in that capacity, I served on various agency working groups for multiple agencies who are involved in --

Ms. Johnson. Hello.

Mr. Uthmeier. Hello. Is there someone else on the conference?

Ms. Johnson. Is there someone else there?

Mr. Uthmeier. Hello. Hello.

Ms. Johnson. Okay.

Mr. Uthmeier. That is unsettling.

BY MS. JOHNSON:

Q Mr. Uthmeier, do you want to finish your answer.

A Yeah, in my capacity as the chief environmental review permitting officer, CERPO for short, I would work with career teams at NOAA on environmental reviews as they pertain to certain infrastructure projects, and also ensure that we were complying

with our FAST-41 obligations.

Q Okay. And so, you have listed several senior staff meetings across the Department. Did Secretary Ross attend any of those meetings regularly?

A Not regularly. He would attend some of those meetings on occasion.

Q Do you know in what circumstance Secretary Ross would attend -- generally attend the meeting versus determining not to attend the meeting?

A I think if his schedule permitted him to come in and provide updates to staff on his priorities and administration-wide priorities, I mean, he would come in there. He would certainly come in, you know, after holidays, or if there was going to be some sort of social gathering, he always made strong efforts to come in and thank the staff for all the hard work that they were doing. He is a brilliant man, but a very tough man to work for, and he expects topnotch service all the time, but he was very grateful for those of us who traveled a lot with him and devoted a lot of time and energy and short hours of sleep.

Q Can you describe what you mean by "tough man to work for"?

A He is the most detail-oriented person I have ever met. He reads and reads and reads. In addition to, you know, staying apprised of current events, he is always reading publications all the time, and he expects if the material touches on an issue that you should be familiar with, that you have also read everything. He expects the senior staff to be very well-briefed, and to have answers. And if people do not have answers, then he expects you to go and find the answers if they are out there as quickly as possible. He is very meticulous, very demanding, and very much in the details on all matters that touch the Department of Commerce.

He is the kind of guy that will figure out who a specialist is on a matter. Bankruptcy, for example, and rather than speak to the general counsel on something, he

may just pick up the phone and get connected right to that expert and put him through the ringer trying to get information. He is borderline obsessed with expanding new commercial markets like space commerce, and that is why he asked me personally spearhead a new space team focus at the Department. In that capacity, I would speak with him, you know, almost daily, we spent hours and hours talking about new ways to stimulate growth and bring down the cost and access to entry into space to try to help entrepreneurs that are engaging in small satellite constellation enterprises, small launch telecommunications, 5G, you know, remote sensing, you name it. Secretary Ross wants to do anything possible to create more American jobs, and go from the depths of the seas all the way up to the stars, as he likes to joke with me.

Q So Secretary Ross is intimately involved with every step of the development of Department of Commerce positions from birth to final execution? Is that correct?

A Generally, yes. And, within reason, he is not speaking to all 50,000 or so, you know, Department employees, but he is the guy that wants to get into the weeds. He does not like the high level, and rather than getting a short summary on something, if he wants to be well-informed, he wants to have all the publications and data, you name it.

Q You said you interacted with Secretary Ross on a daily basis regarding space commerce issues. Were there any other issues on which you interacted with Secretary Ross on a daily basis?

A I would often interact with the Secretary on multiple issues at a time. If he was in the office, I would say I met with him almost daily, but occasionally, it was infrequent. We often discussed infrastructure. We often discussed regulatory reform. You know, all the big issues I talked about, I updated him as often as possible.

Q Would it be fair to characterize Secretary Ross as a micro manager?

A You know, I don't know that that is true. He certainly trusts people to do their jobs, but he has high expectations and certainly demands results. He trusts his staff to bring him information, but if people have trouble, he is going to go looking for it, he is not going to wait for the answers to come to him.

Q Okay.

A I cannot emphasize enough how detail driven he is. He reviews data and if he sees inconsistencies or the numbers don't add up, it is amazing how quickly he will realize it. And that goes from everything, trade, infrastructure, Census data, space, you know, economic development numbers, everything.

Q Do you have an example of the detail to which Secretary Ross -- that you can recall?

A One example is there was a report on the transition of the international space station that had come out, it was a pretty lengthy document that I believe NASA published. I had not reviewed it. I had no idea that he even knew it existed, and he called me in one day and it was sitting on his desk and he asked me a specific question about some data on, you know, how profitable or challenges to profitability of utilizing something like that for commercial purposes in space, as opposed to government purposes, and then he had a specific question about something on a page and assumed that I would have the answer. So I had to go read the document.

Q Okay. So referring back to the majority's exhibit No. 4, the top part of the email, unredacted. It says: The Secretary was asking for progress on this. The expectation would then be that the Secretary would need an answer quickly, within -- would it be fair to say within 24 hours? What do you -- when the Secretary gives a direction asking for progress, what is your expectation of turnaround for that?

A Are you referring to a specific exhibit or --

Q Yes.

A -- or are you asking me generally?

Q Well, I am referring to exhibit No. 4, but also generally is fine as well.

A That would vary. If there was some sort of deadline where we needed to make a decision by, you know, a certain timeframe, you know, he would charge me to meet deadlines. But if it was general research and information generally, he wanted it as soon as possible, yesterday. At times, he would ask me to find something and I would be in meetings with him for a couple hours, and he would see me at the end of the meeting and ask me what the answer was, and I would look at him, and say, Sir, I have been sitting in meeting with you for the last 2 hours, so I certainly have not had time to find the answer. But that is the way he operates.

Q Would he accept that answer and allow you to go and look up the information?

A The urgency that he placed on all questions would not dissipate, it would remain. He sometimes would not have a choice, because I needed to go spend some time on it.

Q Okay. Okay. I am going to shift gears a little bit. Are you familiar with Title 13 protections for Census data?

A I know a little bit about them, but it has been a while since I reviewed Title 13. I did in the context of my position at the Department.

Q As part of your background research into the Census generally, when you first joined the Department, did you research the requirements of Title 13 with respect to data protection?

A I do remember researching those topics, yes. I do not know if I read everything, but I certainly did include that in my research.

Q Do you recall the penalties under Title 13 for disclosing confidential responses to the citizenship question?

A I only recall that there are significant penalties, but I cannot remember specifics, no.

Q If I told you that the penalties were 5 years in prison and a \$250,000 fine, would that be consistent with your research into the topic?

A Yes, that sounds right.

Q Okay. To your knowledge, will the responses to the 2020 Census question on citizenship be used by either the Department of Justice, the Department of Commerce, or any other law enforcement agency in any judicial proceeding?

A To my knowledge the data is not allowed to be used for those purposes pursuant to Federal law.

Q And to your knowledge, would responses to the 2020 Census question be permitted to be used in any immigration or deportation proceeding?

A No.

Q If such information were to be used, either in a judicial proceeding, deportation proceeding, or other immigration-related proceeding, and the Department of Commerce found out about it, what do you believe the Department's response would be?

A Can you ask that question one more time?

Q Sure. If the Department of Commerce became aware that data from the Census was used in any sort of judicial deportation or immigration proceeding, what do you think the Department's response would be to that disclosure?

A I don't want to speculate for the Department, but I can tell you if I was still there in my capacity as a senior lawyer, I would ask the Department of Justice to take immediate action.

Q So when you were there, you believe that if the Census data was disclosed, you would recommend the Department immediately refer a criminal case to the Department of Justice?

A Yes. Yes, absolutely. The Title 13 protections are imperative to data collection to ensure that people across the country feel comfortable providing information to the government. The data and studies show that Americans are generally suspect of the government coming in to their homes and asking questions about anything. So Title 13, we certainly at Commerce, I know the Census Bureau had some advertising that they were working on, that tries to make it known to the public, that this data cannot be used for anything other than statistical collection purposes, and it cannot be used for law enforcement or immigration purposes.

I wish that attorneys general in all the States were also echoing that information rather than startling people through, you know, negative press and, you know, allegations.

Q When you were at the Department, did you do any research, or were you aware of the safeguards put in place by the Census Bureau to prevent unauthorized disclosures?

A I am aware that the Bureau has been involved in those efforts. I cannot speak specifically about it today. On that topic, though, one thing that does come to mind is the discussions I had with Census Bureau officials on administrative records ensuring data protections and privacy as administrative records are shared with the Bureau with other agencies. That was a major concern and something the Bureau was looking into. They wanted to make sure before the Census begins moving towards more administrative records uses as has been in the plan for, I believe, years, that data security and cyber security, data protection, that all of that is accounted for and in good shape.

Q Okay. In your research, when you were at the Department, how does the Census Bureau and the Department ensure that field staff, so enumerators who are out in the field, or address canvassers who are going around collecting and updating the address list, adhere to the confidentiality oath that they sign, acknowledging the requirements under Title 13?

A I could tell you that I know that there are procedures in place, and that the enumerators are trained and made aware of the Title 13 requirements. There is specific training and technology used. But sitting here today, I cannot speak with any more specificity. I think the people have to take an oath that they will adhere to Title 13 before they have given access to Title 13 data collected via the Census.

Q And do you think that if, in your experience in the general counsel's office, if a field enumerator, someone in the field staff at the Census Bureau were to break that confidentiality oath, that the Department's Office of General Counsel would also refer that person for criminal prosecution to the Department of Justice?

A Again, today, I don't want to speak for the Department, but if I am a senior lawyer and somebody is breaking Federal law, is breaking their confidentiality oath, then, yes, I am going to seek immediate criminal sanctions and solicit the Department of Justice to help.

Q And so, all of these Title 13 protections that we have discussed, they apply to every question the Census Bureau asks, and would also apply to the proposed reinstatement of the citizenship question, correct?

A Yes.

Q To your knowledge, has anyone been prosecuted for failing to complete a Census questionnaire?

A I don't know.

Q To your knowledge, has anyone been prosecuted for not returning a Census questionnaire at all?

A I'm not aware of anyone, but I don't know.

Q To your knowledge, what does the Census Bureau do if someone doesn't return a questionnaire in its entirety?

A I am not exactly sure, but I am not aware of any prosecutions having taken place, but it is a Federal crime to not complete the Census. And I do know that the Census Bureau has nonresponse follow-up questions if the people do not submit information, where they will conduct calls at certain defined hours of the day. And in last event circumstances, send people door-to-door in an attempt to get information if people -- if the Census Bureau enumerators are not successful at that point, there are occasions where they will solicit information from neighbors.

Q And so, after these multiple attempts at contacting a nonresponding household, and then trying to use a proxy or a neighbor to respond to the household, and the Census Bureau is still not able to obtain an answer to the decennial questionnaire, do you know what happens at that point?

A I am aware that there are instances where the Census Bureau will make best efforts to impute data.

Q Meaning, they will use administrative records to try to answer the questions for a nonresponding household?

A Yes, if the career officials believe that they have sufficiently accurate administrative records to be able to impute such data, then, yes, I have been made aware through this process that that occurs, yes.

Q So if a household does not respond to the citizenship question on the 2020 Census, then the Census Bureau would use administrative records to attempt to answer

that question for them, correct?

A I believe that is the correct, but only if the Census Bureau determines that it has sufficiently accurate records.

Q Right. And that is what Option D outlined in Secretary Ross's March 26 decision memorandum was attempting to obtain additional administrative records relating to citizenship to accurately enumerate nonresponding households. Is that correct?

A Option D does discuss use of administrative records in tandem with reinstatement of the question on the decennial to ensure that it goes to every person in the United States in an attempt to collect more complete and accurate data. To that extent, Option D does mention use of administrative records. But I do want to be clear, something I did not realize when I began working at the Department, but discovered through this review and other preparations for 2020, the Census Bureau has been working very diligently over the last few years to improve its access to administrative records generally.

Q Can you tell me, not relating to this citizenship question, to your knowledge, what other records has the Census Bureau attempted to obtain to better enumerate households on the 2020 Census?

A I probably could have told you this with more specificity, you know, a year ago. I know there are SNAP records, information on women and children, I forget the acronym, Social Security information, Department of State information, passport information, driver's license information, that the Federal Government seems to have a document for everything these days. And if the Census gets access to it, given that the protections that are in place, in an attempt to reduce the cost of administering the Census and achieve more accurate data, then I think it is a good idea for the Census to

continue pursuing more records.

The Census Bureau career officials, and I can tell you that the attorneys don't get angry at me here, the Secretary is very motivated to reach hard-to-count population. He is very serious about that, and Karen Dunn Kelley, who is overseeing the Census work, she is as well. I know the Department, on that note, has spent about a half a billion dollars in communications to try to reach more individuals in community groups, that they have set a record almost, everywhere possible, with regards to advertising efforts to target hard-to-count groups.

Q And when you are talking about hard-to-count groups, how do you define that term?

A I just know that that is a term that is used by career officials quite often. I don't know that I would be the best one to define it, but as the population evolves where we are in a situation where housing circumstances are very different today than they were in past generations, more young adults are having to live with their parents on occasion, even when they become adults. Several individuals often share housing. You know, I mentioned earlier, Airbnb and some of these new housing opportunities where people are taking advantage of housing share platforms, to lower their rent, and the new advertising technology -- everything is trying to make it less intrusive for the government to conduct the Census, and more accurate.

Q And, so, your belief is that Secretary Ross is highly motivated to ensure that all the hard-to-count populations are accurately enumerated?

A Yes.

Q Do you believe that that includes all races, all genders, all ages?

A Secretary Ross wants to count everyone. That I know for sure.

Q Okay. And regardless of their -- anything related to their situation, it is just

a blanket, everyone -- the Constitution says everyone should be counted, and so we should count everyone. Is that your understanding?

A Yes.

Q Okay. So when you talked to -- I believe you said you talked to a John Gore or other government officials, like Mr. Zadrozny about the citizenship question, did you do so believing that any citizenship data would be used for law enforcement or deportation proceedings?

A I think -- can you repeat that?

Q Sure. When you went into these conversations with DOJ or other government officials, did you enter those conversations thinking that data collected by asking the citizenship question would be used by the government or other agencies for law enforcement or deportation proceedings?

A I just --

Mr. Hull. Obviously, we had a discussion about that in the last round, so let me try to get at it this way. If the witness can answer that in a way that doesn't invoke any of the interests we have asserted, go ahead and answer that.

Mr. Uthmeier. I did not have communications with anyone that touched on the topic of using this data for law enforcement purposes, and I was never under the impression that any government actor was considering use of this data for law enforcement purposes.

Ms. Johnson. Okay. So we are -- we are done with our round two. So we will take a 5-minute break and come back.

Mr. Dewhirst. That sounds great. Maybe for your colleagues on the majority side, we are just trying to -- Cordell and I sort of need to plan for how long we are going to need to use the room that we are occupying tonight. Does anyone there have a

sense about the amount of time you have left?

Ms. Anderson. I think it is hard for us to put an exact number on it. It could be that we need another two rounds. It could be that we end in the next round. Sorry, it is a very lawyerly answer.

Mr. Dewhirst. I would say that answer myself. Okay. Thank you very much.
We will call back in 5 minutes.

Ms. Johnson. Okay.

Ms. Anderson. Thank you.

[Recess.]

Ms. Anderson. Okay. We can go back on the record, it is 3:54 p.m.

[Uthmeier Exhibit No. 25

Was marked for identification.]

BY MS. ANDERSON:

Q Before we took our break on the majority side, Mr. Uthmeier, we were talking about your interactions with Mark Neuman, I would like you to look at exhibit No. 25. We will mark it as such here. It is a copy of a Word document that came off of Thomas Hofeller's drive. It says in quotes: "We note that in these two cases, one in 2006 and one in 2009, courts reviewing compliance with requirement of the Voting Rights Act and its application in legislative redistricting, have required Latino voting districts to contain 50 percent plus one of 'Citizen Voting Age Population,' or CVAP. It is clear that full compliance with these Federal Court decisions will require block level data that can only be secured by a mandatory question in the 2020 enumeration. Our understanding is that data on citizenship is specifically required to ensure that the Latino community achieves full representation in redistricting."

Did you ever receive any documentation from Mark Neuman that contained this

wording or this information?

A I do not recall ever receiving this document at all. You know, this seems to be the first time I am looking at it, so information contained herein I would have even gleaned from my own -- from my own research.

Q And I would like you to also look at exhibit 24. And not to be confused, it is marked as exhibit 18, but we will mark it for our purposes as exhibit 24.

[Uthmeier Exhibit No. 24

Was marked for identification.]

Mr. Uthmeier. Okay. I have opened it up. I am looking at it now.

BY MS. ANDERSON:

Q Did Mr. Neuman ever provide you with this document or any part of this document?

A No.

Q Did you ever discuss with Mark Neuman why the Department of Commerce wanted -- or did you ever talk to Mark Neuman about whether he knew why Secretary Ross was interested in a citizenship question?

A No.

Q Did you ever discuss legislative apportionment or redistricting with Mark Neuman?

A Not to my recollection. To the extent it doesn't just deal with ensuring majority, minority populations obtained fair representation.

Q Did you ever discuss with Mark Neuman about how adding a citizenship question could affect participation of immigrants or noncitizens in the Census?

A Can you repeat that question?

Q Sure. Did you ever discuss with Mark Neuman about how adding a

citizenship question could impact Census participation by immigrants and noncitizens?

Mr. Dewhirst. I am going to note that I think this implicates executive branch confidentiality and litigation concerns, but as an accommodation, I am going to allow the witness to answer if he can.

Ms. Anderson. Who was that speaking?

Mr. Dewhirst. Sorry, this is Dewhirst.

Mr. Uthmeier. I want to make sure I heard the question correctly. I apologize.

Can you repeat it one more time?

BY MS. ANDERSON:

Q Sure. Did you discuss with Mark Neuman about how adding a citizenship question could impact Census participation by immigrants or noncitizens?

A I do not recall.

Q We talked a little bit earlier about a memo that you provided to John Gore at the Department of Justice. Do you recall?

A Yes.

Q Did someone direct you or instruct you to provide that to Mr. Gore?

Mr. Dewhirst. I am going to instruct the witness not to answer, that implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q Was Mr. Gore the first person you spoke with at the Department of Justice about the citizenship question?

A I do not recall, however, I do remember being pleasantly surprised when I was referred to John Gore, and I believe it was someone else at the Department of Justice that suggested I reach out to him because I was seeking advice, legal advice, on the Voting Rights Act from someone that was a specialist in the area. And I recognized the name because he had been a partner, and someone that I looked up to at Jones Day when I was in private practice.

Q Who was it at the Department of Justice that referred to you John Gore?

A I do not remember.

Q And so you reached out to him first. Is that correct?

A I believe so, but I am not totally sure. I wanted to get advice pertaining to the Voting Rights Act. It had come up in my research, and I am not well-versed on the law.

Q Had the Voting Rights Act come up from anyone else or just in your research?

Mr. Dewhirst. I am going to assert an objection and instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns. I am sorry, Tori, is there a way that you can answer the question without doing that?

Ms. Anderson. Had you come across the Voting Rights Act in any other context besides your research with regards to this citizenship question?

Mr. Uthmeier. Here is what I can say, and I believe I have already said, I was looking at why questions had been asked in the past and uses for questions on multiple topics, and I quickly found documentation at the Department that had been received from the Department of Justice. It was, you know, included in court documents that I received from the Census Bureau.

BY MS. ANDERSON:

Q I guess I can try to ask this in a slightly different way that might be helpful. Did anyone else bring up the Voting Rights Act to you prior to your conversation with John Gore, or the person that referred you to John Gore at the Department of Justice?

A I believe I did speak with other internal individuals about DOJ's use of citizenship data for Voting Rights Act enforcement and other issues, and then I also was involved -- or I also was aware of legal opinions that were out there talking about majority, minority voting populations and requirements that States not redistrict or gerrymander in a way that would be unfair to certain communities. And I was aware of

the fact that DOJ had requested citizenship data on Voting Rights Act issues in the past, and that led me to try to better understand what DOJ's uses for the citizenship data were, and if they needed more granular data.

Q Did you discuss with John Gore why the Department of Commerce was interested in a citizenship question?

Mr. Dewhirst. I am going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q When you asked John Gore whether the Department of Justice could use the data, did he give you a response on your initial conversation about whether they could use or wanted to use the data?

Mr. Dewhirst. Same instruction to the witness.

BY MS. ANDERSON:

Q Did you discuss with him at the time why Secretary Ross was interested in the citizenship question?

Mr. Dewhirst. Same instruction.

BY MS. ANDERSON:

Q Did you discuss any rationales that would support the citizenship question to the 2020 Census?

Mr. Dewhirst. Same instruction.

BY MS. ANDERSON:

Q Did you ask or discuss with Mr. Gore or anyone at the Department of Justice other efforts to talk to other agencies about whether they could use the data?

Mr. Dewhirst. Same instruction.

BY MS. ANDERSON:

Q Did you ask Mr. Gore or discuss with Mr. Gore -- well, let me start with this. Did you ask Mr. Gore whether the Department of Justice would make a request for the citizenship question at that time?

Mr. Dewhirst. Same instruction to the witness.

Ms. Anderson. Okay.

BY MS. ANDERSON:

Q And you said that you provided Mr. Gore with your legal memo. Is that correct?

A I did so that he could review it.

Q Did you provide him any other materials besides the legal memo?

A I remember -- I had hoped to give the memo to John and have a conversation with him about it. He was busy when I, you know, when I attempted to give him the memo, and I remember leaving it with his secretary, and I believe I pulled a note card out of my jacket pocket to leave him a note in addition to the memo.

Q What did the note say?

Mr. Dewhirst. I am going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q Why did you send him the legal memo?

A Again, I was -- in my research, the Voting Rights Act came up, and I am not very familiar with the Voting Rights Act and all of its nuances, and thus, I was hoping John would provide legal advice that dealt with the memo and the topics that I was investigating.

Q Did the memo discuss the Voting Rights Act?

Mr. Dewhirst. I instruct the witness not to answer as that implicates executive

branch confidentiality and litigation concerns. Dewhirst.

BY MS. ANDERSON:

Q Did you provide anything to John Gore that was not included in the legal memo version that you had sent to the Secretary, I guess, the month before?

A I don't remember.

Q Did the document contain any draft language or cases that you thought would be useful to the Department of Justice if they were to make a request to have the citizenship question?

Mr. Dewhirst. I am going to instruct the witness not to answer for the reasons previously stated. Dewhirst.

BY MS. ANDERSON:

Q Did any of the contents of either the memo or the note appear in the December 12, 2017, letter from the Department of Justice to the Census Bureau requesting the addition of the citizenship question for the 2020 Census?

Mr. Dewhirst. Can you ask that question again, please?

BY MS. ANDERSON:

Q Did any of the content of the note or the legal memo appear in the Department of Justice's December 12, 2017, letter to the Census Bureau requesting addition of a citizenship question to the Census?

Mr. Dewhirst. I am going to instruct the witness not to answer, that implicates executive branch confidentiality and litigation concerns. Dewhirst.

Ms. Anderson. Did the document -- sorry, did you get that -- who was talking. Mr. Dewhirst.

Mr. Dewhirst. Do you want me to keep doing that? I am happy to not say my name after --

Ms. Anderson. No, the stenographer would appreciate that. I will endeavor not to cut you off.

Mr. Dewhirst. Definitely -- definitely if it is helpful, I will keep doing it.

Ms. Anderson. Yes, please.

BY MS. ANDERSON:

Q Did the document or the memo discuss the effects -- of the possible effects of a citizenship question on the Census?

Mr. Dewhirst. The same instruction previously stated. Dewhirst.

BY MS. ANDERSON:

Q Mr. Uthmeier, how did you deliver or leave the memo and the note for Mr. Gore?

A I left -- I left it with his secretary, I believe, or someone, an administration official in his office. He was in a meeting and would be tied up for some time, I believe.

Q And you discussed with Mr. Gore before you left the memo that you intended to hand-deliver the memo. Is that correct?

Mr. Dewhirst. I am going to -- I think you are asking about substance of conversations between James and Gore, and James was communicating with Gore for the purpose of soliciting legal advice. I offer as an accommodation, I will -- I am going to not instruct Mr. Uthmeier to not answer this question. He can answer the question.

Ms. Anderson. Okay.

Mr. Dewhirst. Dewhirst.

Mr. Uthmeier. If I recall, I had been speaking to John on the phone and I did tell him that I was going to be in the area and would swing by with the document to discuss.

BY MS. ANDERSON:

Q Did you hand-deliver or drop off the memorandum and the note in order to

avoid it being part of the administrative record?

A No, absolutely not.

Q Did you hand-deliver or drop off the memorandum and the note in order to conceal the process by which the citizenship question was added to the Census?

A No.

Q Presumably, when you worked at that the Department of Commerce, you had a government email. Is that correct?

A Yes, I did.

Q Was your initial conversation with Mr. Gore on the phone or in person?

A I first communicated with John in his capacity as a Department of Justice official by phone. I may have run into him in person, you know, on occasion as well. But the first communication while we were both working in the administration, was over the phone.

Q And on that phone call you indicated to him that you were going to send him this memo. Is that correct? Or provide him the memo?

Mr. Dewhirst. Again, I think you are getting at the substance of communication between the two. I think it implicates the interest, but as an accommodation, I am going to allow Mr. Uthmeier to answer.

Mr. Uthmeier. Could you please repeat the question.

BY MS. ANDERSON:

Q Sure. And when you talked to him on the phone, you indicated to him that you were going to provide him with a legal memo. Is that correct?

A Yes, I told him that I put together a memo and that I was going to give it to him for review.

Q So I just -- I am trying to understand, why didn't you just email it to him?

A I was going to be in the neighborhood. Again, I knew John from my life in private practice before. I had not seen him in several months. I had not seen him since we were working at Jones Day, and I hoped to run into him in person and speak with him a little bit about the research I was doing, because he was unavailable and would be tied up for some time, I was not able to wait for him. So I -- that is the reason I left a note in addition to the memorandum.

Q Were you made aware of conversations that occurred between Secretary Ross and Attorney General Sessions about this citizenship question?

A Was I aware that there were conversations?

Q Yeah.

A Yes.

Q How did you become aware?

Mr. Dewhirst. I am just going to caution the witness that he can answer this if there is a way for him to do so without implicating executive branch confidentiality and litigation concerns.

Mr. Uthmeier. I believe I said before, most of these senior Department officials worked in a bullpen setting, a large room with multiple desks and a work station. And I remember overhearing the scheduling discussions about that issue, about the meeting taking place.

BY MS. ANDERSON:

Q When did you overhear those discussions? When did you become aware of those discussions between the Secretary and the Attorney General occurred?

A I do not recall a specific date, it was -- it would have likely been in the summer or fall of 2017.

Q Did you ever become aware of the contents of what Secretary Ross and the

Attorney General discussed?

A I do not recall specifically. I am aware that they spoke about the Census.

Q Did you become aware that they spoke about the citizenship question issue?

Mr. Dewhirst. And there I am going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns. Dewhirst. Sorry.

BY MS. ANDERSON:

Q Were you ever made aware of a specific conversation that happened between Secretary Ross and the Attorney General on September 17, 2017?

A Again, I am aware that there was at least one conversation between the individuals, but I do not -- you know, I can't state that I remember that date for certain. I also, you know, I continued to work as counsel at the Department, you know, up until 2019, and may have been made aware of that fact through litigation. But I recall overhearing some discussions about the scheduling, but I also recall having seen documents that discuss a meeting taking place between the Secretary and the Attorney General.

Q Are you aware of the Department of Justice's position changing regarding whether they would like to ask for the addition of a citizenship question around September of 2017?

[4:14 p.m.]

Mr. Uthmeier. I am not aware of --

Mr. Hull. This is Cordell. To the extent the witness can answer that without revealing privileged information, we will of course let him answer that, but I would caution him to keep in mind his role as a lawyer.

Mr. Uthmeier. I am not aware of any positions changing. I can tell you we received a request from the Department of Justice in December, on the 12th, I believe. I am not aware of any request or direction one way or the other from Justice prior to that time.

Ms. Anderson. Okay. I would now like you to look at exhibit no. 10.

[Uthmeier Exhibit No. 10

Was marked for identification.]

Mr. Dewhirst. Tori, do you know which email that was attached to, the first or the second?

Ms. Anderson. I believe it would have been the first.

Mr. Dewhirst. Okay. Yep. There it is. Okay.

Tori, you said exhibit 10?

Ms. Anderson. Yes.

Mr. Dewhirst. Thank you.

BY MS. ANDERSON:

Q And specifically the second email. I don't think at this point we need to have you read the entire chain.

Have you had a chance to look at it?

A Yes.

Q Okay. So on September 17th, 2017, Danielle Cutrona from the Department of Justice emailed Wendy Teramoto at the Department of Commerce. And part of the that email says, quote, from what John told me, it sounds like we can do whatever you-all need us to do and the delay was due to a miscommunication. The AG is eager to assist. And then proceeds to say thank you.

Do you know what she meant by that?

A No.

Q Do you know why the Attorney General was eager to assist the Department of Commerce?

A No.

Q Were you ever made aware of why later the Attorney General told Department of Justice officials to decline an offer to meet with Census Bureau officials about the Department's December 12, 2017, letter?

A No, I -- I am not made aware of that fact.

Q I want to return to some of the people that the minority staff asked you about before we took our break.

Did you ever speak with Steve Bannon about the addition of a citizenship question to the 2020 Census?

Mr. Dewhirst. So, Tori, Cordell and I have diligently been trying during the breaks to figure out a way to accommodate your interest in the list. I think -- I think Russ asked about them, and then Steve asked in the last round. And I think one way -- I can think of a way to address this, I believe, but I think that we probably -- we have to ask the questions in a particular way, and you can tell me if you don't think that is a good idea.

But if you -- if you will indulge me for a minute -- I don't want to take your

time -- but maybe I can put the questions to James in a way that would provide you with the information that you are interested in but also safeguard the interests that we are striving to protect on our end.

So I am going to put a couple of questions to James, and just let me know if you can't hear any of this.

James, have you -- have you ever had a conversation with Steven Miller?

Mr. Uthmeier. Not to my knowledge, no.

Mr. Dewhirst. Have you ever had a conversation with Stephen Bannon?

Mr. Uthmeier. Not to my knowledge, no.

Mr. Dewhirst. Have you ever had a conversation with former Chief of Staff Reince Priebus?

Mr. Uthmeier. Not to my knowledge, no.

Mr. Dewhirst. Do you recall ever having a conversation with President Trump?

Mr. Uthmeier. I did not ever speak with President Trump. Any interactions I may have had with him or senior staff prior to him becoming President would have been, you know, as part of my private practice and would not have involved the Census.

Mr. Dewhirst. And you never had a direct conversation with Donald Trump before he was President?

Mr. Uthmeier. Not to my knowledge.

Mr. Dewhirst. And you have already testified earlier today that before your time as a Commerce Department employee, you didn't discuss the issue of the citizenship question on the Census with anyone; isn't that right?

Mr. Uthmeier. Right.

Mr. Dewhirst. Okay.

So that is sort of -- maybe you find that helpful, maybe you didn't. But I believe

that is the way that we can provide that information in a way that safeguards our interests and provides you with -- with the information you are looking for.

BY MS. ANDERSON:

Q Did you ever become aware of conversations between anyone at the Department of Commerce and anyone at the White House about the citizenship question?

A Yes.

Q Okay. Who did those conversations occur between?

Mr. Dewhirst. And that is where I am going to instruct the witness not to -- not to answer on the bases previously stated.

Ms. Anderson. Were you aware --

Mr. Dewhirst. If I could -- I am sorry to cut you off. But the witness has previously testified a couple of times today that -- that he received -- no one at the Department received any direction on the issue of the citizenship question and that the White House is not involved in the ultimate decision the Secretary made on the citizenship question.

Ms. Anderson. I understand that. My question was --

Mr. Dewhirst. I am sorry. Go ahead.

Ms. Anderson. My question was a little bit different than that. So I will just repeat it just so the record is very clear about what my question was, which was --

Mr. Dewhirst. Sure.

Ms. Anderson. He answered yes to the question that he was aware of conversations that happened between the Department of Commerce and the White House. And then I asked about the citizenship question, and I asked him who did those conversations occur between.

And then I understand that is where you were not allowing him to answer that question. Is that correct?

Mr. Dewhirst. That is correct.

BY MS. ANDERSON:

Q Were you ever aware of Secretary Ross speaking with Kris Kobach about the citizenship question?

A I was made aware of that fact, but I believe -- I cannot remember when I learned of that fact. I was made aware of it. It may have been while I was conducting research and meeting with senior Department officials on the topic. But it may also have been as a result of litigation, having seen some emails.

I have also heard at least part of the Secretary's testimony before the committee, and I believe information on this topic came out at the time. So I do not recall when I learned that fact, but I did not ever participate in any of those discussions.

BY MR. ANELLO:

Q This is Russ Anello. Are you aware of any conversations involving the citizenship question that the President participated in?

A No.

Q Are you aware of any conversations that Mr. Bannon participated in relating to the citizenship question?

Mr. Hull. This is Cordell. And to the extent the witness can answer that without revealing privileged information, we will permit him to answer.

Mr. Uthmeier. I am aware of at least an email communication that took place involving Mr. Bannon only as a result of discovery for litigation purposes.

Mr. Anello. Okay. Are you aware of any other conversations with White House staff aside from Mr. Zadrozny, which I guess we addressed separately, related to the

citizenship question?

Mr. Hull. Again, this is Cordell. And reiterating the bases on which we have had the discussion about this. But I will allow him to answer to the extent that he can answer within the parameters we have set out.

Mr. Uthmeier. Yeah. As I have stated, I spoke with White House personnel. I am aware of at least, you know, a couple of other individuals that would have also spoken with the White House on this topic, always in a briefing capacity, providing updates, insuring that, you know, the executive branch is coordinated and that there are no surprises.

When the DOJ letter was leaked, immediately there were press stories, there were -- there were allegations, things were misconstrued. And myself and other Commerce personnel provided -- you know, answered questions and provided briefings to other administration officials to explain, you know, what we were working on and just provide updates generally.

Mr. Anello. Okay. Who at the White House did you brief about the citizenship question?

Mr. Hull. And again, this is Cordell. Again, we have laid out the parameters on this, so I would instruct the witness not to answer.

Mr. Anello. But I guess I don't understand. He is allowed to say who he didn't talk to, but he can't say who he did talk to? Is that what you're saying?

Should we, like, read a list of everybody at the White House, and he can say no and then just not answer the people he did talk to?

Mr. Hull. Mr. Anello, we are trying to provide accomodation to the committee. You asked about a certain number of people --

Mr. Anello. The minority staff had unlimited number of people. I would like to

know anybody that he talked to.

Mr. Hull. We have let you finish. I am trying to explain the basis. You continue to interrupt me. We have explained the basis for this. I understand that the committee doesn't agree with that, and that is fine, and we will continue to look for a way to try and get the committee the information it seeks.

We tried to make an accomodation earlier during this round to get you the information you are seeking. I understand you believe that to be unacceptable. But sitting here today, right now, this is where we are.

Mr. Anello. Okay. But just to be really clear, you will not tell us who you talked to at the White House? If we guess the name is wrong, you will tell us the name is wrong, but you will not --

Mr. Castor. That is not true. I mean, we --

Mr. Anello. I am serious. I want to know who he talked to.

Mr. Castor. I understand you want to know that.

Mr. Anello. If we give him a name he didn't talk to, he will tell us that, but he won't tell us who he did talk to. That doesn't any make sense.

Mr. Castor. Based on what we do know, we know that it is unlikely that he talked to the President, and so he was able to confirm that. I mean --

Mr. Anello. But that is why we are here for the interview, to learn something new from him, to learn who he talked to. And if he is only willing to tell us people that we know he didn't talk to, I am not sure what --

Mr. Castor. I mean, if you give him a list of names, I am sure he will --

Mr. Anello. The list is anybody who worked in the White House. Why would I have to give him the list of names? He knows who he talked to. He can tell us.

Mr. Castor. I don't think it is anybody other than Zadrozny, but --

Mr. Anello. Well, then, he can tell us that. I am not trying to be -- this is not a trick question.

Mr. Castor. I know, but I mean, it is not fair for them -- for us to ask him to go back and say, like, check the names Trump and Priebus and --

Mr. Anello. He doesn't have to check anything. I am asking from his recollection.

Mr. Castor. I know, but it is just -- I mean, it was like a good faith effort by them, and you kind of got -- you kind of quarreled a little bit there with them.

Mr. Anello. Well, I don't mean to quarrel. I just don't understand the basis here. I just would like to know, if you are able to start picking off individual people he didn't talk to, it seems a little unreasonable to tell us you are not going to tell us who he did talk to.

Mr. Castor. And I think they will go back --

Cordell, you can go back and figure out if there is a way to answer this?

Mr. Dewhirst. This is David, and we will absolutely continue to try to figure out ways to accommodate the committee's interest.

But I will note this. With the information the witness has provided, Russ, what I haven't heard from you, given the fact that we have established the White House wasn't involved in any way with the decision-making process that --

Mr. Anello. That is you -- you have stated that. I don't think we have established that.

Mr. Dewhirst. Let me finish, please. Let me finish. I don't appreciate that you are constantly talking over me.

So let me -- let me finish my thought, please.

And that is this. What is the legislative purpose for this inquiry in the first place if

we have already had the witness testify truthfully about the underlying issue, that they had no material involvement, that the nature of the conversations were mere briefings. I mean, he said that multiple times, Russ.

And if you -- if you can't articulate why you have a particularized need for this information, if you can't articulate what the legislative purpose is for that piece of information, then we have to refer you to the White House for that information, and we are happy to do that.

Mr. Anello. Okay. I take it that you are refusing to answer -- you are refusing to allow the witness allow --

Mr. Dewhirst. Please, Russ, please let me finish.

Mr. Anello. Go ahead.

Mr. Dewhirst. Please. We will be -- as I mentioned to Steve, just like we have already done today in the span of a couple of hours, we are going to put our heads together and try to figure out a way to provide the information, because we know you are interested in it.

But I will say, on the other hand, that this accommodation process is a two-way street. And this information seems highly immaterial to the investigation, to the fact-finding you are trying to conduct. And if you can't articulate a purpose for that specific piece of information, then we will just have to refer you to the White House.

Mr. Anello. Okay. If you are finished, we have articulated our purposes for asking these questions and all the questions in this investigation many times. The role of the White House is absolutely material. We have heard many instances in which the White House was involved in this decision-making process, contrary to what you just asserted, and the question is what Mr. Uthmeier knows about that.

Now, I understand his opinion is that they did not play a role in the

decision-making process. But it is also possible that he may have limited information about the role that they played. And the communications that he did have with the White House might be extremely material in helping us understand who at the White House was involved in these issues.

So I don't think there is any question -- I am sorry -- I am going to finish now.

I don't think there is any question that we have a legislative purpose. I am kind of surprised to hear you suggest otherwise. And I understand the instruction that you have made to the witness, which is not to answer the question. And I am happy for us to move on at this point.

Mr. Dewhirst. I think we can move on. I think that is fine.

[Uthmeier Exhibit No. 14

Was marked for identification.]

BY MS. ANDERSON:

Q If you could look at Exhibit 14.

A 14?

Q Yes. 14.

A I am sorry. Give me just a minute.

Q Okay. And it should be in the first email.

Have you had a chance to review?

A Yes, I have.

Q Okay. It is an email from John Zadrozny on February 16, 2018, to you, Gene Hamilton, and -- it is blacked out, but Brian.

And it says, quote, I want to connect with the three of you about having that conversation we discussed at some point this week.

Why was he connecting the three of you?

A I do not recall.

Q Was the conversation that he was referring to about the citizenship question?

A I am not sure. I do not recall ever meeting with Gene Hamilton. You know, if I may have had interaction with him and forgotten, I apologize. But I am not even sure if this meeting took place.

Q Do you remember speaking with John Zadrozny around this time?

A I remember speaking with John on multiple occasions around this time, yes. I don't know if it was specific to this day.

Q Okay. And you spoke with him about the citizenship question; is that correct?

Mr. Dewhirst. I am going to interpose an instruction of the witness not to answer. That implicates the executive branch and litigation concerns, confidentiality and litigation concerns.

Ms. Anderson. Was John Zadrozny --

Mr. Dewhirst. Dewhirst.

Ms. Anderson. I am sorry. That was Mr. Dewhirst.

Mr. Dewhirst. I am sorry, too. That is an awkward thing, but anyway.

BY MS. ANDERSON:

Q Was John Zadrozny one of the people at the White House that you did brief about the citizenship question issue?

A Yes, among several other individuals.

Q How many times did you brief him about the citizenship question?

A I provided updates on a couple of occasions. I know I provided updates following this leak of the DOJ letter and several press stories that broke thereafter. But

it is kind of hard for me to remember how many times I spoke to John on this topic, because I -- I did know him prior to his service in the White House, and I would have seen him at several social settings as well.

Q Did you discuss the rationale that the Department of Justice used to support their request on December 12, 2017, to add the citizenship question to the Census?

Mr. Dewhirst. I am going to instruct the witness not to answer as that question implicates executive branch confidentiality and litigation concerns.

BY MS. ANDERSON:

Q You mentioned when you were speaking with minority staff that you did a draft of Secretary Ross' March 2018 memo. Is that correct?

A I am not familiar with a March 18th memo.

Q I am sorry. March 2018.

A 2018. Oh, his decision memo?

Q Yes.

A Yes, I was involved in that.

Q Did the White House have any role in drafting that decision memo?

A No.

Q Did Mark Neuman have any role?

A No.

Q Did anyone else have any role in drafting that memo?

Mr. Hull. This is Cordell. And, again, this is getting into an area that does have confidentiality -- to the extent that the witness can answer in a way that doesn't implicate those interests, we will permit him to answer.

Mr. Uthmeier. You know, I -- I was the principal author, but I was working in close collaboration with the Secretary as he, you know, laid out his -- his decision. I

would have also consulted several other senior officials. I believe Census senior leadership reviewed and cleared the memorandum. Our policy director would have reviewed and cleared the memo, and I know he had some comments and edits.

Mike Walsh, our deputy general counsel; probably Peter Davidson, our general counsel. Karen Dunn Kelley certainly would have, you know, reviewed and provided updates.

Ms. Anderson. Did Secretary Ross direct you to include or exclude any information in the decision memo that you drafted?

Mr. Dewhirst. I am going to instruct the witness not to answer, because it implicates executive branch confidentially and litigation concerns.

And I will also note that his response to the last question did pull the curtain back a little bit, and we allowed that question to move forward as an accommodation to the committee.

Ms. Anderson. Did Earl Comstock direct you to exclude any particular information from the 2008 March decision memo?

Mr. Dewhirst. I am sorry, Tori. I didn't mean to cut you off. Same instruction, though, to the witness.

BY MS. ANDERSON:

Q Did you ever consider the issue of whether the Department of Commerce needed to request -- to receive a request of another agency in order to add a citizenship question to the 2020 Census?

A Could you please repeat that question?

Are you there?

Q Yeah. Just one second.

A Oh, yeah.

Q Mr. Uthmeier, did you ever discuss legislative apportionment, restricting, or election outcomes in connection with the citizenship question?

Mr. Hull. I am going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

Ms. Anderson. Did you have any discussions about legislative apportionment, redistricting, or election outcomes in connection with the citizenship question with anyone outside of the administration?

Mr. Hull. To the extent that you can answer in a way that doesn't implicate executive branch confidentiality and litigation concerns, you may.

Mr. Uthmeier. I consulted a law professor, a long-time mentor, to obtain information on how citizenship data was used historically, as I was just beginning to brief up on all topics census at the Department.

He would have provided some overview to me on the statutory authorities that dictate how censuses are conducted. In that context, he may have discussed the various reasons why certain questions are asked on certain forms, and he may have discussed apportionment in that context. But absent that, I am not aware of any conversations, no.

BY MS. ANDERSON:

Q And who was that?

A His name is John Baker.

Q And where does he currently work?

A I do not know. I believe he still teaches at Georgetown Law on occasion.

Q Mr. Uthmeier, you mentioned briefly that part of your role at the Department of Commerce was responding to congressional requests. Is that correct?

A That is correct, yes.

Q Did you have any role in responding to requests from the oversight -- the House Oversight Committee?

A Can you be more specific?

Q Sure. Did you have any role in responding to requests from the House Oversight Committee about the Census or the citizenship question?

Mr. Dewhirst. I am going to instruct him not to answer. That implicates executive branch confidentiality and litigation concerns. This is Dewhirst.

Ms. Anderson. And just to be clear, it was a yes-or-no question about whether or not he had a role in responding.

Mr. Dewhirst. That is right. And the instruction stands.

BY MS. ANDERSON:

Q Mr. Uthmeier, did you ever review a draft of the Department's December 12, 2017, letter?

A What letter are you talking about specifically?

Q Sure. The letter that the Department of Justice sent to the Census Bureau. Did you ever review or comment on a draft of that?

A No.

Q Okay. Did you ever discuss with anyone at the Department of Justice a letter -- the letter or draft of the letter that they ultimately sent on December 12?

Mr. Hull. This is Cordell. I mean, this also implicates executive branch confidentiality and litigation concerns. But to the extent that the witness can answer it without revealing privileged information, we will of course let him answer it.

Mr. Uthmeier. No, I have never discussed a draft of anything that became the letter in December. I certainly talked with John about my research in the context of getting his legal opinions, but nothing about the contents of the letter, no.

I did not review a draft or see any element of the letter until we received it at the Department. I believe a courtesy copy was sent to the Office of General Counsel, you know, sometime shortly after the December 11 date of the letter.

BY MR. ANELLO:

Q This is Russ. Mr. Uthmeier, I believe you mentioned, maybe an hour or two ago now, that there were discussions after -- after receiving the letter from the Department of Justice, the December 2017 letter, about how a citizenship question would impact response rates. Is that right?

A Could you repeat the question? I --

Q Yeah, I am sorry. I think you said in response to my Republican colleague's question that you had discussions after receiving the December 2017 letter from the Department of Justice that touched on the issue of response rates and how a citizenship question could impact response rates.

A That was certainly a topic of discussion as part of the Census Bureau's program review that they initiated following receipt of the Department of Justice's letter, yes, although I certainly was not leading any of those discussions.

Q Okay. And what did you learn about how a citizenship question would impact response rates?

Mr. Dewhirst. I am going to instruct the witness not to answer as that implicates executive branch confidentiality and litigation concerns.

I will note that a lot of the information you just asked about is available in the expansive public record that we have provided to the committee.

BY MR. ANELLO:

Q Okay. Seems like it either is or is not confidential. But okay.

Did you have discussions about the response rate and how -- oh, sorry -- how the

citizenship question could impact the response rate prior to receiving the letter from the Department of Justice in December of 2017?

A No.

Q Was that an issue that you researched?

Mr. Dewhirst. I am going to again interpose an instruction not to answer as that implicates the executive branch confidentiality and litigation concerns. Dewhirst.

BY MR. ANELLO:

Q Mr. Uthmeier, were you aware of a request, -- again, after the December 2017 letter, a request from the Census Bureau to meet with the Department of Justice and discuss the letter?

A I am not aware of any specific request, no.

Q Were you aware generally that a request was made?

A Could you repeat the question again?

Q Were you aware generally that a request was made? You said you weren't aware of a specific request.

A Again, here I am not sure if my recollection is from information I learned as part of the litigation or if -- if I made these factual discoveries prior to the beginning of the litigation.

But I am aware that Census Bureau officials were going to reach out to the Department of Justice to gather more information. I am aware of that, yes.

Q And are you aware of what happened when they made that request?

A I am not aware, no.

Q Okay. So do you know whether DOJ accepted the meeting or rejected it?

A I remember speaking with, you know, John Gore on multiple occasions, but, you know, I cannot speak for what other people did or did not do at the Department.

Q Okay.

Mr. Anello. If you can just give us just one minute. We are at the end of the hour, but we are checking to see whether we have anything else we wanted to cover.

Mr. Uthmeier. Okay. Take your time.

Mr. Anello. Thanks.

Ms. Anderson. I don't think we have any other questions for you at this time.

I don't believe the Republican staff has any further questions.

Mr. Castor. We have one more hour.

Just joking.

Ms. Anderson. Mr. Uthmeier, is there anything that we did not ask you that you would like to say on the record before we conclude?

Mr. Uthmeier. No.

Ms. Anderson. Okay. We can go off the record.

[Whereupon, at 4:50 p.m., the interview was concluded.]

ERRATA SHEET

INSTRUCTIONS: After reading the interview transcript, please note any change, addition, or deletion on this sheet. DO NOT make any marks or notations on the actual transcript. Use additional paper if needed.

Investigation Name	Census Investigation
Witness Name	James Uthmeier
Date of Interview	June 11, 2019

PAGE	LINE	CORRECTION	APPROVED*
6	14	Change “6(c)(1)” to “16(c)(1)”	Y
7	17	Change “in” to “and”	Y
9	11	Change “Chris” to “Kris”	Y
12	18	Change “Newhaus” to “Neuhaus”	Y
14	11-12	Change “Newhaus” to “Neuhaus”	Y
17	9	Change “McClellan” to “McClelland”	Y
17	16	Add “to” after “I was aware that every Census leads”	Y
21	15	Delete “position”	Y
24	14	Change “nonprivilege” to “nonprivileged”	Y
25	8	Add “him” after “And then when asked more detail about what that instruction was, you have prohibited”	Y
25	11	Change speaker to Mr. Dewhirst	Y
25	11	Change “comment” to “question”	Y
26	5	Change speaker to Mr. Hull	Y

* For COR Majority Staff use only.

ERRATA SHEET

PAGE	LINE	CORRECTION	APPROVED*
27	6, 8	Change “?” to “.”	Y
28	21	Change “at” to “as”	Y
29	17	Change “?” to “.”	Y
33	24	Change “Carrie Ann Kelly” to “Karen Dunn Kelley”	Y
34	2	Change “he” to “she”	Y
69	13	Add “that” after “We will do”	Y
76	10	Change “wi” to “we”	Y
79	19, 21	Add quotation marks	Y
79	19	Change “Newhaus” to “Neuhaus”	Y
82	7	Change “too” to “to”	Y
101	14	Add “take” after “Okay. So we will”	Y
101	15	Change “returned” to “return”	Y
102	15	Change “we” to “the”	Y
137	25	Change “unlimited” to “a limited”	Y

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