



March 3, 2023

VIA E-MAIL

Laura Iheanachor
CREW
1331 F Street NW
Suite 900
Washington, DC 20004
liheanachor@citizensforethics.org

RE: FOIA Request No. DOC-OIG-2023-001278, Referral from CRM-301664563 (*CREW v. DOJ*, No. 22-cv-00254 (D.D.C.))

Dear Ms. Iheanachor:

This letter is regarding your Freedom of Information Act (FOIA) request, CRM-301664563, received by the U.S. Department of Justice (DOJ) on July 23, 2021, and referred in part to the Department of Commerce, Office of Inspector General (OIG) on February 21, 2023, for direct response by our office. The tracking number for the portion of your request that was referred to the OIG is DOC-OIG-2023-001278. Please refer to this number in all correspondence with our office regarding your request. Your request sought the following from DOJ:

1. “All records relating to the U.S. Department of Commerce Office of Inspector General (“Commerce OIG”) referral to DOJ’s Public Integrity Section concerning its findings that former Secretary of Commerce Wilbur Ross ‘misrepresented the full rationale for the reinstatement of the citizenship question’ in the 2020 Decennial Census ‘during his March 20, 2018, testimony before the House Committee on Appropriations and again in his March 22, 2018, testimony before the House Committee on Ways and Means.’
2. All records relating to DOJ’s decision to decline prosecution of Wilbur Ross following the Commerce OIG’s referral, including but not limited to records reflecting the final decision not to prosecute Mr. Ross and the rationale for that decision.”

DOJ’s February 21, 2023 referral contained 521 pages of records for review and processing under FOIA and direct response to you.

In processing the 521 pages for direct response, we considered the foreseeable harm standard when reviewing the records and applying FOIA exemptions. After consultation with DOJ’s Criminal Division, it was determined that the 521 pages may be released to you as follows:

- Five hundred sixteen (516) pages may be released to you in full;
- Two (2) pages must be withheld in part under FOIA exemption (b)(6) and (b)(7)(C).
- Three (3) pages contained redactions in the original.

Although I am aware that your request is the subject of ongoing litigation (*CREW v. DOJ*, No. 22-cv-00254 (D.D.C.)) and that appeals are often not acted on in such situations, I am required by statute and regulation to inform you of your right to file an administrative appeal of this determination. If you wish to file an administrative appeal, it must be received within ninety (90) calendar days of the date of this response letter.

An appeal may be sent by e-mail to FOIA@oig.doc.gov or by FOIAonline, if you have an account in FOIAonline, at <https://www.foiaonline.gov/foiaonline/action/public/request>.

An appeal may also be sent to the following office:

Counsel to the Inspector General
U.S. Department of Commerce
Office of Inspector General, Office of Counsel
14th and Constitution Avenue, N.W.
Room 7898C
Washington, D.C. 20230

The DOC OIG FOIA staff is currently operating at a remote capacity only. Processing of paper copies of FOIA requests and or appeals sent via mail or other carrier will be subject to delays.

Any appeal should include a copy of the original request and this letter. In addition, it should include a statement of the reasons why you believe that the determination was in error. The appeal letter, the envelope, and the e-mail subject line should be clearly marked "Freedom of Information Act Appeal." The e-mail account and FOIAonline are monitored only on working days during normal business hours (8:30 a.m. to 5:00 p.m., Eastern Time, Monday through Friday). FOIA appeals posted to the e-mail account or FOIAonline after normal business hours will be deemed received on the next normal business day. If the 90th calendar day falls on a Saturday, Sunday, or legal public holiday, an appeal received by 5:00 p.m., Eastern Time, the next business day will be deemed timely. An appeal received after the 90-day limit will not be considered.

If you have any questions or concerns or would like to discuss any aspect of your request, you may contact me, the OIG FOIA Public Liaison, or Laura Main, Government Information Specialist, by phone at (202) 794-8066 or via e-mail at FOIA@oig.doc.gov.

In addition, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001

E-mail at ogis@nara.gov

Telephone at (202) 741-5770; toll free at 1 (877) 684-6448; facsimile at (202) 741-5769

Sincerely,
**JENNIFER
PIEL**

Jennifer Piel
FOIA Officer

Digitally signed by
JENNIFER PIEL
Date: 2023.03.03
14:39:52 -06'00'

Enclosures

Census mtg

From: "Gee, Todd (CRM)" (b) (6), (b) (7)(C)@crm.usdoj.gov>
To: "Keller, John (CRM)" (b) (6), (b) (7)(C)@crm.usdoj.gov>; "Jennifer Clarke (CRM) (b) (6), (b) (7)(C)@CRM.USDOJ.GOV)" (b) (6), (b) (7)(C)@crm.usdoj.gov>
Date: Wed, 29 Jan 2020 19:14:53 +0000
Attachments: DOC OIG 19-0728 Email 2 of 2.msg (11.08 MB); DOC OIG 19-0728 Email 1 of 2.msg (18.62 MB)

If ya'll are joining the census mtg Friday, attached are some primer docs they sent over.

-Todd

DOC OIG 19-0728 Email 2 of 2

From: (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)@oig.doc.gov>
To: "Gee, Todd (CRM)" (b) (6), (b) (7)(C)@crm.usdoj.gov>
Date: Tue, 28 Jan 2020 18:26:27 +0000
Attachments: 19-0728 Timeline IRF Attachs 26 - 43 (minus 27 28 34 37) .zip (10.93 MB)

Mr. Gee,

2nd portion of attachments.

Thanks,

(b) (6)

(b) (6), (b) (7)(C)
Special Agent

Office of the Inspector General
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230
Office: (b) (6), (b) (7)(C)

Cell: (b) (6), (b) (7)(C)
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GOVERNMENT & POLITICS

That citizenship question on the 2020 Census? Kobach says he pitched it to Trump

BY BRYAN LOWRY

MARCH 27, 2018 02:01 PM, UPDATED MARCH 27, 2018 08:38 PM



VIDEOS

U.S. District Judge Julie Robinson will rule whether to hold Kris Kobach in contempt of court and, separately, on a case that will determine whether thousands can cast ballots in November. BY

Kansas Secretary of State Kris Kobach encouraged President Donald Trump to add a question about citizenship status to the U.S. Census during the early weeks of Trump's presidency.

More than a year later, Trump's administration has moved to enact that exact policy for the 2020 census.

"I won't go into exact detail, but I raised the issue with the president shortly after he was inaugurated," Kobach said Tuesday.

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Kobach, a Republican candidate for Kansas governor who is [running on a platform focused on immigration](#), also published a [column in January on Breitbart](#) calling for Trump to reinstate the question to the Census.

"It'll allow our nation to know how many citizens we have. ... Every sovereign nation should know that," Kobach said, contending that after 1950 the country has had to rely on less accurate estimates about the number of citizens.

The Commerce Department, which administers the Census, noted Monday that the citizenship question was included on almost every census from 1820 to 1950.

Kobach said the question was then moved from the Census' short form to its long form, which is more detailed but has a lower response rate, until 2010, when it was moved to the annual American Community Survey.

Kobach, who advised Trump on immigration during the 2016 campaign and served on his transition team, said he

"He may have

Returning the said.

He contended counting illegal

Asked whether Kobach said

California immediately after the announcement of the question's addition to the next Census.

"We're prepared to do what we must to protect California from a deficient census," Bocerra said. "Including a citizenship question on the 2020 census is not just a bad idea — it is illegal."

Asked about the California lawsuit, Kobach replied that it "demonstrates you can get elected to attorney general without knowing anything about the law."



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Kobach said that adding the question would give the country more reliable data about the number of illegal immigrants in the U.S.

He also contended that adding the question would give states more accurate data about the number of eligible voters who are registered.

“With actual data, we will know here are the number of citizens over the age of 18,” he said. “...We’ll get a better estimate. We just want to know if a state is lagging behind.”

Kobach spent much of [this month in a federal courthouse](#) defending his office against a [lawsuit from the American Civil Liberties Union](#), which challenged a Kansas law that requires voters to provide proof of citizenship, such as a passport or birth certificate, to register to vote.

[Kobach argues the policy prevents non-citizens](#) from getting on the voter rolls, but the ACLU contends that the law actually blocks many rightful voters from registering. Kobach said the Census data would not be [relevant to the pending case](#).

“It’s not about me and Kansas. It’s about the nation. It just gives us better numbers,” he said.

Dale Ho, the lead attorney for the ACLU in the pending case, said on Twitter that the “change to the Census is born from the same toxic mix of xenophobia and voter suppression” as Kansas’ proof of citizenship law.

But he also voiced skepticism in Kobach’s role in steering the Trump administration to adopt it, contending that Kobach has a “history of self-aggrandizing puffery.”

White House press secretary Sarah Huckabee Sanders downplayed Trump’s direct role in adopting the policy during her Tuesday briefing.

“This is something that the Department of Commerce oversees, but it also takes into account suggestions and recommendations from the Department of Justice and others. The Department of Justice certainly played a role in this process,” Huckabee Sanders told reporters.

“The White House supports it, but the decision was made at the department level.”

Ho noted in an email that five former Census bureau directors, who served in both Democratic and Republican administrations, “have spoken out strongly against this last-minute, untested change to the Census, because it will drive down responses in immigrant communities.”

He said based on the recent trial, which featured numerous fights about voter data, he is not surprised the Kobach “is so ill-informed about how surveys work and what makes them reliable.”

Kobach appears to believe that a person’s response to the Census question will be accurate, but that same logic does not apply to his thinking on voter registration forms for which he demands additional documents before he accepts a person’s answer to the citizenship question.

His spokeswoman, Samantha Poetter, responded in an email to a follow-up question about the difference between the two forms.

“Because with voter registration you are seeking something and you have to answer one way in order to get it,” Poetter said. “So there is an incentive to give an answer for the outcome you seek. With a census form there is no right answer.”

The Star’s Lindsay Wise contributed to this report.

Bryan Lowry: 816-234-4077, [@BryanLowry3](#)

Comments





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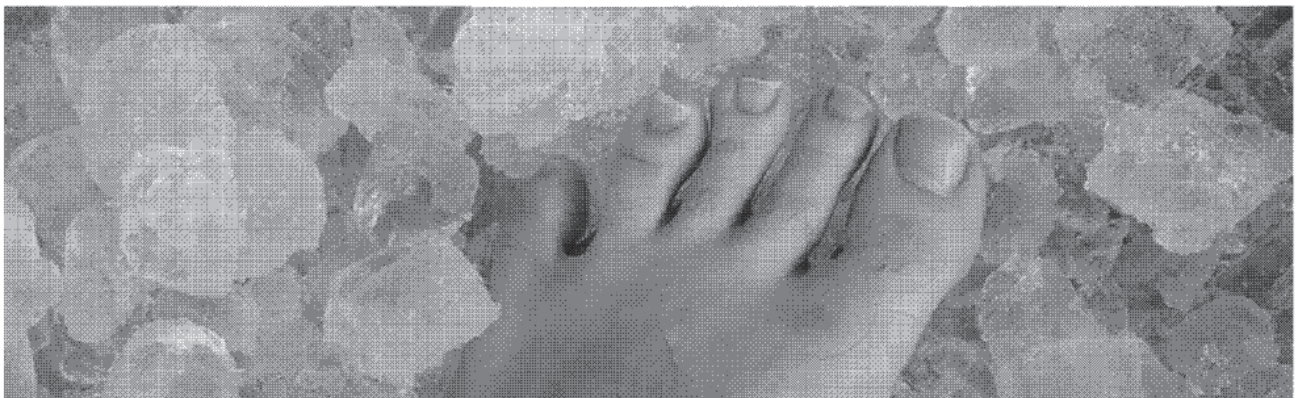
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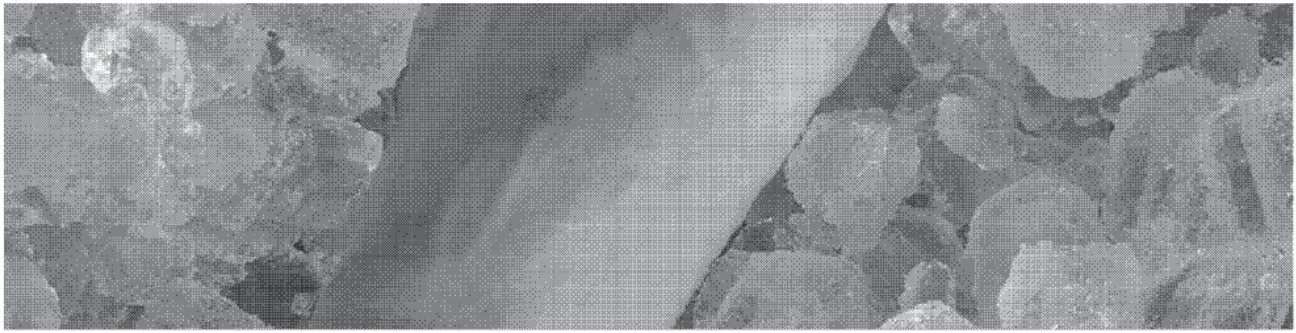


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**Supplemental Memorandum by Secretary of Commerce Wilbur Ross
Regarding the Administrative Record in Census Litigation**

This memorandum is intended to provide further background and context regarding my March 26, 2018, memorandum concerning the reinstatement of a citizenship question to the decennial census. Soon after my appointment as Secretary of Commerce, I began considering various fundamental issues regarding the upcoming 2020 Census, including funding and content. Part of these considerations included whether to reinstate a citizenship question, which other senior Administration officials had previously raised. My staff and I thought reinstating a citizenship question could be warranted, and we had various discussions with other governmental officials about reinstating a citizenship question to the Census. As part of that deliberative process, my staff and I consulted with Federal governmental components and inquired whether the Department of Justice (DOJ) would support, and if so would request, inclusion of a citizenship question as consistent with and useful for enforcement of the Voting Rights Act.

Ultimately, on December 12, 2017, DOJ sent a letter formally requesting that the Census Bureau reinstate on the 2020 Census questionnaire a question regarding citizenship. My March 26, 2018, memorandum described the thorough assessment process that the Department of Commerce conducted following receipt of the DOJ letter, the evidence and arguments I considered, and the factors I weighed in making my decision to include the citizenship question on the 2020 Census.

A handwritten signature in black ink that reads "Wilbur Ross".

Wilbur Ross
June 21, 2018

EXHIBIT 4

STATE OF NORTH CAROLINA GENERAL COURT OF JUSTICE
 COUNTY OF WAKE SUPERIOR COURT DIVISION
 18 CVS 014001

COMMON CAUSE, ET AL.,)
)
 Plaintiffs,)
)
 vs.)
)
 DAVID LEWIS, IN HIS OFFICIAL)
 CAPACITY AS SENIOR CHAIRMAN)
 OF THE HOUSE SELECT COMMITTEE)
 ON REDISTRICTING, ET AL.,)
)
 Defendants.)

VIDEOTAPED DEPOSITION OF
 STEPHANIE HOFELLER

9:38 A.M.
 FRIDAY, MAY 17, 2019

POYNER SPRUILL
 301 FAYETTEVILLE STREET, SUITE 1900
 RALEIGH, NORTH CAROLINA

BY: LISA A. WHEELER, RPR, CRR

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 8 Fiduciary Litigation Group
 9 BY: Tom Sparks
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 (919) 229-0845
 tom@fidlitlawgroup.com

12 Also Present: Trae Howerton, Videographer

13
 14
 15
 16 Reported By: Discovery Court Reporters and Legal
 17 Videographers
 18 BY: Lisa A. Wheeler, RPR, CRR
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--oOo--

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1 PROCEEDINGS
 2 THE VIDEOGRAPHER: Going on the record
 3 at 9:38 a.m. Today's date is May the 17th,
 4 2019. This begins the video deposition of
 5 Stephanie Hofeller taken in the matter of
 6 Common Cause, et al., versus David Lewis, in
 7 his Official Capacity As Senior Chairman of
 8 the House Select Committee on Redistrict --
 9 Redistricting, et al. This is filed in the
 10 General Court of Justice, Superior Court
 11 Division, in Wake County, North Carolina,
 12 Case Number 18 CVS 014001.
 13 If counsel will please identify
 14 yourselves for the record and whom you
 15 represent and then our court reporter will
 16 swear in our witness.
 17 MR. JONES: Stanton Jones from Arnold &
 18 Porter for the plaintiffs.
 19 MR. SPEAS: Eddie Speas with Poyner
 20 Spruill for the plaintiffs.
 21 MR. COX: Paul Cox with the North
 22 Carolina Attorney General's Office for the
 23 State Board of Elections.
 24 MR. BRANCH: John Branch with Shanahan
 25 Law Group for the intervenor defendants.

5

1 MR. FARR: Tom Farr with Ogletree
 2 Deakins for the def- -- legislative
 3 defendants.
 4 MS. SCULLY: Elizabeth Scully with
 5 BakerHostetler for the legislative
 6 defendants.
 7 MR. SPARKS: Tom Sparks representing
 8 the deponent, Stephanie Hofeller.
 9 * * * * *
 10 STEPHANIE HOFELLER,
 11 having been first sworn or affirmed by the court
 12 reporter and Notary Public to tell the truth, the
 13 whole truth, and nothing but the truth, testified
 14 as follows:
 15 EXAMINATION
 16 BY MR. JONES:
 17 Q. Good morning, Ms. Hofeller.
 18 A. Hello.
 19 Q. I'm Stanton Jones from Arnold & Porter and I
 20 represent the plaintiffs in this lawsuit.
 21 Would you please state your full name for the
 22 record.
 23 A. Stephanie Louise Hofeller.
 24 Q. Excellent. And am I right that you
 25 previously went by what I believe is a

6

1 married name of Stephanie Hofeller Lizon?
 2 A. It was actually Stephanie Louise Lizon.
 3 Q. Okay. And now you -- you've dropped the
 4 Lizon; you just go by Stephanie Hofeller?
 5 A. That's right.
 6 Q. And that's your maiden name?
 7 A. Correct.
 8 Q. Excellent. Okay. I'll go over some brief
 9 ground rules for the deposition today if
 10 that's okay.
 11 A. Yes.
 12 Q. So you understand that you've taken an oath
 13 to tell the truth today?
 14 A. I do.
 15 Q. Great. And the court reporter is taking down
 16 everything that we say so let's try not to
 17 talk over one another. If you let me finish
 18 my question, I will let you finish your
 19 answer. Does that make sense?
 20 A. Acknowledged, yes.
 21 Q. Your -- your counsel may object to some of my
 22 questions today and -- and that's fine.
 23 Un- -- you understand that unless he
 24 instructs you not to answer a question, you
 25 should let him state his objection for the

7

1 record and then you'll go ahead and answer?
 2 A. Yes, I understand that.
 3 Q. Great. Is there any reason that you couldn't
 4 give complete, accurate, and truthful
 5 testimony today?
 6 A. No.
 7 Q. And if you want a break, just let me know.
 8 We'll finish the question and answer that
 9 we're doing and -- and happy to take a break
 10 whenever you'd like, okay?
 11 A. All right. Thanks.
 12 Q. What state do you live in?
 13 A. Kentucky.
 14 Q. Great. So you don't live in North Carolina?
 15 A. That's correct.
 16 Q. Okay. And where you live in Kentucky, how
 17 far is it from where we are in Raleigh?
 18 A. It's about a ten- or 11-hour drive.
 19 Q. Okay. Do you know, roughly how many miles is
 20 it?
 21 A. Roughly 650, something like that, I think.
 22 Q. Okay. And can you tell me, who -- who are
 23 your parents?
 24 A. My father is Thomas Brooks Hofeller and my
 25 mother is Kathleen Hartsough Hofeller.

8

1 Q. Great. So I have some questions about the
 2 subpoena that you received in this case. Is
 3 that okay?
 4 A. Yes.
 5 Q. Great. So earlier this year you received a
 6 subpoena from the plaintiffs in this case; is
 7 that right?
 8 A. That's correct.
 9 Q. Okay.
 10 MR. JONES: Mark this.
 11 (HOFELLER EXHIBIT 1 was marked for
 12 identification.)
 13 BY MR. JONES:
 14 Q. I'm showing you what's been marked as Exhibit
 15 1. Do you recognize this document as the
 16 subpoena that you received from the
 17 plaintiffs in this case?
 18 A. Yes. Yes, I do.
 19 Q. Okay. And do you see on the first page under
 20 name and address of person subpoenaed on the
 21 left side toward the top it says, Stephanie
 22 Hofeller Lizon? That -- that's you, correct?
 23 A. That is me.
 24 Q. Okay. Great. And it says, care of Tom
 25 Sparks, Esquire. That's -- that's your

9

1 attorney, correct?
 2 A. That's my attorney.
 3 Q. Great. Okay. And if you look down in the
 4 handwritten portion where there's a date and
 5 a signature, do you see it's dated February
 6 13th, 2019?
 7 A. I do.
 8 Q. Okay. And is -- does -- is that around the
 9 time that you recall receiving this subpoena?
 10 A. Yes.
 11 Q. When you received the subpoena, did you take
 12 a look at it?
 13 A. Yeah.
 14 Q. Great.
 15 A. I got it in a electronic format initially
 16 from my attorney because I wasn't actually in
 17 the state at that moment, but I was shortly
 18 after that.
 19 Q. Great. And if you flip a couple of pages
 20 ahead to what's -- what's marked as Page 2 at
 21 the bottom of the page, do you see where it
 22 says, list of documents and things to be
 23 produced pursuant to this subpoena?
 24 A. Yes, I do.
 25 Q. Okay. And when you received this subpoena in

10

1 February, did you review this -- this list of
 2 documents and things that were -- were asked
 3 to be produced?
 4 A. Yes, I did.
 5 Q. Okay. And did -- did you understand that the
 6 subpoena was requesting any electronic
 7 storage devices that had any of your father's
 8 work drawing maps for the North Carolina
 9 legislature?
 10 A. Yes.
 11 Q. Okay. Did you have any materials that were
 12 responsive to these requests in the subpoena?
 13 A. I did.
 14 Q. Okay. And -- and were -- am I right that
 15 those were electronic storage devices?
 16 A. Yes.
 17 Q. Okay.
 18 A. External hard drives and ad -- I don't know
 19 what the proper -- or what people prefer to
 20 call them, ad-stick, thumb drive, external
 21 storage devices to be used as backup
 22 principally.
 23 Q. Okay. So -- so the materials that you had
 24 that were responsive to the requests in the
 25 subpoena were -- were external hard drives

11

1 and external what we'll call thumb drives?
 2 A. That's correct.
 3 Q. Okay. Great.
 4 A. Nothing that -- that appeared to have been
 5 pulled out from an already assembled
 6 computer. These were all, you know, backup
 7 devices.
 8 Q. Okay. These were all external devices that
 9 you would need to plug into a computer some
 10 way --
 11 A. Correct.
 12 Q. -- to look at them? Okay. Am I right that
 13 these storage devices had previously belonged
 14 to your father?
 15 A. Yes.
 16 Q. Okay.
 17 A. And mother.
 18 Q. And -- and you understood that the storage
 19 devices contained your father's work on North
 20 Carolina legislative maps?
 21 MS. SCULLY: Objection to form,
 22 leading. You can answer.
 23 A. It was -- at what point you -- I would have
 24 to -- to ask you to clarify at what point
 25 it -- it was or wasn't clear. I knew -- when

12

1 I first saw them I knew that they were all
 2 belonging to my father and mother. I wasn't
 3 really sure which of them, if any, would have
 4 anything involving his work in North Carolina
 5 or elsewhere.
 6 Q. Got it. Let -- let's focus on the time when
 7 you received the subpoena and you --
 8 A. Oh, at that point, yes, I did know that it
 9 contained -- that all of those devices had at
 10 least -- at least one or two -- at least one
 11 or two files that would -- that were labeled
 12 in a -- in a way that it was obvious that
 13 they pertained to my father's work
 14 redistricting in North Carolina.
 15 Q. And did you send the storage devices -- those
 16 storage devices that we've been discussing to
 17 the plaintiffs' lawyers in response to the
 18 subpoena?
 19 A. Yes, I did.
 20 Q. Okay. Do you recall roughly when you sent
 21 them?
 22 A. I remember it was about a month after I
 23 received the subpoena. Originally, I -- my
 24 intention was to -- to bring them physically
 25 to Raleigh, but I got delayed and it was then

13

1 decided that it would be best for preserving
 2 the integrity of -- of the evidence that it
 3 would be going straight to a third party.
 4 Q. Great. And I'll represent to you that I
 5 received the materials you sent on March
 6 13th. Does that sound about right in terms
 7 of --
 8 A. That does.
 9 Q. -- the time?
 10 A. That does, actually. Where -- where I was in
 11 Kentucky, I couldn't even find a FedEx
 12 office. I had to go -- I had to go down the
 13 highway. I was surprised.
 14 MR. JONES: Can we mark this?
 15 (HOFELLER EXHIBIT 2 was marked for
 16 identification.)
 17 BY MR. JONES:
 18 Q. I'm showing you what's been marked as Exhibit
 19 2. On the -- you can take a moment to -- to
 20 flip through. That's fine. Go ahead.
 21 A. That's...
 22 Q. So my first question is, if you look at the
 23 very first page, do you -- do you recognize
 24 the -- the photograph -- the photographs
 25 there as images of the package that you sent

14

1 containing the storage devices in --
 2 A. Yes.
 3 Q. -- response to the subpoena?
 4 A. Yes, that does appear to be the box that I
 5 sent them in, exactly.
 6 Q. Great. And -- and on the first page, if you
 7 look at that top picture, it's addressed to
 8 R. Stanton Jones at Arnold & Porter, LLP, at
 9 an address in Washington, D.C. Is that the
 10 address where you sent the package?
 11 A. Yes.
 12 Q. Great. And if you flip -- flip to the second
 13 page, do you recognize those as additional
 14 photographs of the outside of the package
 15 that you sent with the storage devices in
 16 response to the subpoena?
 17 A. Yes.
 18 Q. If you flip to the third page, if you'll
 19 focus on the bottom image, do you recognize
 20 that as a photograph of the -- the interior
 21 of the box that you sent to the plaintiffs'
 22 lawyers with the storage devices in response
 23 to the subpoena?
 24 A. Yes.
 25 Q. Okay. If you flip to Page 4, do you

15

1 recognize the image there as being one of the
 2 thumb drives that you put in the -- in the
 3 package and sent to the plaintiffs' lawyers
 4 in response to the subpoena?
 5 A. Yes.
 6 Q. Okay. Do you remember offhand how many
 7 external hard drives there were and how many
 8 thumb drives there were?
 9 A. I know there were four external hard drives.
 10 I honestly don't remember exactly how many --
 11 you know, there were -- I -- I -- there were
 12 a couple of empty thumb drives in my -- in
 13 my, you know, possession so I -- I was making
 14 sure that I wasn't, you know, sending
 15 anything wrong. These were all the ones
 16 that -- that I got from my father, but I
 17 don't remember exactly -- from his room, but
 18 I don't remember exactly how many there were.
 19 Like eight or nine, maybe, was it, or seven?
 20 Q. So if I -- I'll represent to you that inside
 21 the package that we received that we're
 22 looking at photographs of there were -- there
 23 were four external hard drives, as you said,
 24 and also 18 thumb drives.
 25 A. 18, yeah. Okay.

16

1 Q. Does that seem right?
 2 A. Yeah.
 3 Q. Great.
 4 A. Yeah.
 5 MR. FARR: Excuse me. I don't mean to
 6 interrupt and I'm new to the game, but what
 7 were the stipulations about objections in
 8 this case? Are all objections reserved
 9 except for privilege and form of the
 10 question?
 11 MR. SPEAS: Yeah. That's the way we've
 12 been operating so far.
 13 MR. FARR: Okay. Thank you.
 14 BY MR. JONES:
 15 Q. I'm not going to go through every single
 16 photograph here. There's about 50 pages of
 17 photographs. But would you just take a
 18 moment and flip through them and if you could
 19 just tell me, do you recognize these as
 20 photographs of the storage devices, both the
 21 external hard drives and the thumb drives,
 22 that you sent to the plaintiffs' lawyers in
 23 response to the subpoena? Do you recognize
 24 them that way?
 25 A. So far, yes. It's a rainbow of colors. I

17

1 remember that, too. Yes, those look -- all
 2 of them I -- I remember.
 3 Q. Great. So having flipped through all of the
 4 photographs here, you recognize all of these
 5 images --
 6 A. Yes.
 7 Q. -- as being --
 8 A. I -- I don't see anything that I didn't have
 9 my hands on and put in that package.
 10 Q. Okay. Excellent. Would you flip to Page 23.
 11 Do you see the image there of a storage
 12 device with the label, NC Data?
 13 A. Yes, I do.
 14 Q. Do you recall that as one of the images that
 15 you sent?
 16 A. I do.
 17 Q. Or, sorry, as one of the --
 18 A. One of the --
 19 Q. -- storage devices?
 20 A. -- storage devices, yes.
 21 Q. Okay. Before sending all of these storage
 22 devices to the plaintiffs' lawyers in
 23 response to the subpoena you received, did
 24 you alter any of the -- the contents of the
 25 storage devices?

18

1 A. No.
 2 Q. Okay.
 3 A. No.
 4 Q. Did you -- did you delete any files that were
 5 on any of the storage devices?
 6 A. No. I was careful not to add or take
 7 anything away.
 8 Q. Did you modify any of the files in any way?
 9 A. No.
 10 Q. Okay. You didn't make any changes at all to
 11 any of the files --
 12 A. None.
 13 Q. -- on the storage devices? You have to --
 14 A. I'm sorry.
 15 Q. Yeah. You -- you -- I'll just start over
 16 again so we have a clean record.
 17 A. Yes.
 18 Q. So you -- you did not make any changes to any
 19 of the files or data on these storage devices
 20 before sending them to the plaintiffs'
 21 lawyers in response to the subpoena?
 22 A. That's correct. I did not.
 23 Q. Okay. You can put that to the side. So now
 24 I have some -- some pretty basic questions
 25 about where you got the devices from. Is

19

1 that okay?
 2 A. Yes.
 3 Q. Okay. Great. So, first, can you please tell
 4 me just the month and the year when you got
 5 these devices.
 6 A. October 2018.
 7 Q. Okay. And next could you please tell me just
 8 where specifically did you get the devices
 9 from, just the physical location for
 10 starters?
 11 A. The apartment where my recently deceased
 12 father lived with my mother at Springmoor.
 13 Q. Okay. And what is Springmoor?
 14 A. Springmoor is a retirement community.
 15 Q. Okay. And your father and mother had been
 16 living in this apartment in Springmoor before
 17 his -- his death; is that right?
 18 A. That's correct.
 19 Q. Okay. And at the time you got these files
 20 from the Springmoor apartment in October
 21 2018, was your mother living there at the
 22 time?
 23 A. Yes, she was.
 24 Q. Okay. Before getting the devices from the
 25 apartment in Springmoor, did you ask your

20

1 mother if it was okay to take them?
 2 A. Yes, I did.
 3 Q. Okay. And did you ask her that in October
 4 2018?
 5 A. Yes, that -- that same day.
 6 Q. Okay. Did your mother object to you taking
 7 the devices?
 8 A. No, she didn't.
 9 Q. Okay. Did -- did -- did she say it was okay
 10 to take the devices?
 11 A. Yes. She encouraged me to.
 12 Q. Okay. So now I'm -- I'm going to back and --
 13 and ask a few more questions just to fill in
 14 some additional details about when and where
 15 you got the devices, okay?
 16 A. Yes.
 17 Q. Okay. When did you first learn that your
 18 father had died?
 19 A. September 30th, 2018.
 20 Q. Okay. And when you -- when you learned of
 21 his death -- and -- and I'll say for the
 22 record, I'm -- I'm sorry for your -- for the
 23 loss.
 24 When you learned of your father's death,
 25 did you contact your mother?

21

1 A. Yes.
 2 Q. Did -- did you go to visit her then?
 3 A. Yes.
 4 Q. Okay. And -- and did you go to visit her in
 5 Raleigh at the Springmoor apartment in
 6 October 2018?
 7 A. Yes, I did.
 8 Q. And at that time when you were there at the
 9 Springmoor apartment in Raleigh in October
 10 2018 visiting your mother, did -- did you
 11 go -- did you and your mother go through some
 12 of your father's things?
 13 A. There wasn't much to go through. Most of
 14 what there even was in there was what was
 15 left out, really. There were a couple of
 16 desk drawers. I -- there were a couple of
 17 keepsakes of mine that I was looking for, but
 18 one of the main reasons that I was looking
 19 was because when I walked in the door to his
 20 room, immediately I saw a keepsake of mine
 21 from my childhood, a -- a jewelry box that I
 22 had and that I had left in -- in my parents'
 23 care. And inside of it -- it was displayed
 24 prominently right under the flag that he was
 25 buried with and -- well, not with but the

22

1 flag that draped his coffin and a picture of
 2 my grandparents and inside the box was
 3 everything exactly as I had left it. So I
 4 took that to mean that I was supposed to look
 5 for other things and so I started -- I -- I
 6 thought there was a chance that there might
 7 have been something specifically for me as in
 8 a note or a message of some sort that I would
 9 find.
 10 Q. Okay. And -- and was that when you found the
 11 storage devices that we've been discussing?
 12 A. It was in that same incident, yes, that --
 13 that same evening.
 14 Q. Okay. And where in the apartment were the
 15 storage devices?
 16 A. They were on a shelf in my father's room.
 17 Q. Okay. Were they just sitting out open on the
 18 shelf?
 19 A. Yes, they were. There was a bag -- a clear
 20 plastic bag with the thumb drives and
 21 ad-sticks and then there was just a stack
 22 of -- it wasn't the only thing on the shelf.
 23 He had also some of those pullout boxes that
 24 kind of are like drawers that had some of his
 25 papers in there, and the -- the hard drives

23

1 just were there in the corner of -- it was
 2 a -- one of those kind of box-style book
 3 shelves. It wasn't just a straight shelf.
 4 Some of them had those removable drawers in
 5 them and others were just open.
 6 Q. Okay. But all of the four external hard
 7 drives and the 18 thumb drives that you sent
 8 to the plaintiffs' lawyers in response to the
 9 subpoena were on this bookshelf in your
 10 father's room in the apartment at Springmoor?
 11 A. That's right.
 12 Q. Okay. And -- and they weren't in any sort of
 13 safe or lockbox; they were -- they were just
 14 out?
 15 A. That's right.
 16 Q. Okay. Had you seen any of these storage
 17 devices before?
 18 A. Inasmuch as I could say later having looked
 19 at them and when they were done, then I was
 20 able to confirm that, yes, there were a
 21 couple of those that I recognized from when I
 22 was either staying with on short trips or
 23 living with my parents in their house in
 24 Alexandria, Virginia.
 25 Q. Okay. And -- and could you just tell me

24

1 briefly how -- how did you recognize -- what
 2 was the connection that you made to these
 3 storage devices?
 4 A. The -- one of them had that blue rubber
 5 lining around it that I recognized
 6 immediately, and I know that there could be
 7 more than one and I also know it's a
 8 removable cover, so -- but then it just -- it
 9 appeared to be really what I -- what I was
 10 looking for, really.
 11 Q. And after getting the storage devices, when
 12 did you ask your mother if it was okay to
 13 take them?
 14 A. When I noticed them, it was in a survey and
 15 I'd first come in and -- and I was a little
 16 overwhelmed with emotion when I first walked
 17 into my father's room. Excuse me. So, you
 18 know, I was sort of looking around. There
 19 was heirloom furniture all around the
 20 apartment and other -- other things that
 21 belonged to my extended family, my, you know,
 22 great-grandparents and such, so I -- I sort
 23 of took the whole thing in, had another sort
 24 of, you know, casual, brief conversation with
 25 my mother about how things had unfolded, and

25

1 it was later when I was back in there and I
 2 also said, this is -- I think he wanted me to
 3 have this jewelry box. And so I said, I'm
 4 going to take that. Is that okay? And she
 5 said, of course. And I said, I'm going to
 6 take these, too. I think that I'll find the
 7 pictures and some of the things that I'm
 8 looking for on -- on these. Can I take
 9 these? And she said, absolutely. She -- she
 10 said, I don't even know how to use them.
 11 Q. Okay. Do you know if anyone else other than
 12 you had been to your parents' apartment at
 13 Springmoor to -- to look through or -- or
 14 potentially take any of your father's things
 15 before you had gotten there?
 16 A. That was my understanding because before I
 17 took any of those things, I specifically
 18 asked my mother -- I said, he had a work
 19 laptop still, yes? She said, yes. And she
 20 said, and a work computer. And I said, okay,
 21 did Dale come and take that stuff? She said,
 22 yes, Dale took the laptop, Dale took the work
 23 computer, and Dale took everything that he
 24 wanted.
 25 Q. And -- and who is Dale?

26

1 A. Dalton Lamar Oldham. That was my father's
 2 business partner, attorney. Together he and
 3 my father were Geographic Strategies.
 4 Q. Okay. And -- and you understood your mother
 5 to be telling you that Mr. Oldham had come to
 6 the apartment in Springmoor after your
 7 father's death and taken -- is -- was it a
 8 laptop and a desktop computer?
 9 A. Yes. And, again, it was a -- it wasn't clear
 10 exactly how much had -- he had taken as my
 11 father was dying that he had -- that my
 12 father had said to him, take this. I don't
 13 think my mother really remembers exactly what
 14 was there before and -- shortly before and
 15 then shortly after his -- his death.
 16 Q. Okay. Great. Thank you. Okay. So now I
 17 have some questions just about what you did
 18 after getting the devices, okay?
 19 A. Uh-huh.
 20 Q. Great. So after getting the devices from
 21 your parents' apartment in Springmoor, did
 22 you consistently hold on to them until you
 23 sent them to the plaintiffs' lawyers in
 24 response to the subpoena?
 25 A. Yes.

27

1 Q. Okay. You didn't give them to anyone else
 2 for any period of time in there?
 3 A. No.
 4 Q. Okay.
 5 A. I'm sorry I laugh. It's just I was so
 6 thrilled to have some of this precious data
 7 of mine that I would not let anyone else near
 8 them.
 9 Q. Great. And did -- did you stay in Raleigh
 10 then or did -- did you eventually go back to
 11 Kentucky?
 12 A. I stayed in Raleigh for a few days that time
 13 and then I went back to Kentucky.
 14 Q. Okay. And -- and did you take the storage
 15 devices with you when you went back to
 16 Kentucky?
 17 A. Yes, I did.
 18 Q. Okay. And were you then able to look at any
 19 of the -- the actual contents of the devices?
 20 A. I looked at the content of some of them that
 21 first night in my hotel room in Raleigh.
 22 Q. Oh, okay. And did -- am I -- did you -- you
 23 connected them to a computer to be able to
 24 look at them?
 25 A. Yes. Yes. I had a -- I had -- I had a

28

1 laptop with me that I use. I had found a --
 2 an appropriate cable in one -- one of my
 3 father's drawers I found a whole box of
 4 cables and one of them was the proper adapter
 5 for that -- for those external hard drives.
 6 Q. Okay. And -- and when you -- when you did
 7 connect some of the -- the storage devices to
 8 the computer to be able to look at the
 9 contents, did -- did you see any personal
 10 information in there like photographs or
 11 other personal information?
 12 A. Yes. I found specifically really what I was
 13 looking for, which were files of mine that I
 14 had -- essentially I backed them up onto my
 15 parents' computer when I was visiting them
 16 last and, actually, many times before that as
 17 I felt that it was a really good way to
 18 assure that they would be preserved because I
 19 knew that my father was not -- you know, I
 20 knew he had a tendency to -- to be, you know,
 21 careful about those things -- those kinds of
 22 things. And, yes, I found a great many
 23 photographs that I was looking for of my
 24 children and other documents that were
 25 related to my life, matters that concerned me

29

1 and my children, and it was -- it was -- I
 2 felt, well, I buried this treasure and that I
 3 was getting to dig it up. I was really very
 4 excited to see those pictures again,
 5 pictures -- also some pictures of my -- of my
 6 great-grandparents and things like that that
 7 I had hoped that I would find copies of as
 8 well.
 9 Q. Got it. So -- so some of these photographs
 10 and other personal materials were things that
 11 you yourself had stored on your parents'
 12 computer years earlier when your father was
 13 still alive; is that correct?
 14 A. That's correct.
 15 Q. Okay. And -- and you -- you saw some of
 16 those materials on these storage devices?
 17 A. Yes.
 18 Q. Okay. Other than personal files like
 19 photographs, letters, et cetera, did you see
 20 data or files on the storage devices re- --
 21 that related to your father's work creating
 22 maps?
 23 A. Yes, I did.
 24 Q. Okay. And I think I asked this before, but
 25 I'll just ask it again. Before sending the

30

1 storage devices to the plaintiffs' lawyers in
 2 this case in response to the subpoena, did
 3 you change or manipulate any of the files on
 4 the storage devices that related to your
 5 father's work?
 6 A. No, I did not.
 7 Q. Okay. Am I right that at some point after
 8 getting the storage devices, you contacted
 9 someone at the organization Common Cause; is
 10 that right?
 11 A. Yes.
 12 Q. Okay. And do -- do you remember the specific
 13 person who you first contacted at Common
 14 Cause?
 15 A. I first reached out to Bob Phillips, the
 16 director, and it was in hopes that he might
 17 be able -- he and Common Cause might be able
 18 to give me a referral to find an attorney for
 19 my mother.
 20 Q. Okay. And in the course of those discussions
 21 with Mr. Phillips, did you -- did you discuss
 22 these storage devices?
 23 A. Not in that conversation, no.
 24 Q. Okay. Did Mr. Phillips connect you to
 25 someone else at Common Cause?

31

1 A. Yes.
 2 Q. Okay. And who was that?
 3 A. Jane Pinsky.
 4 Q. Did you then have discussions with
 5 Ms. Pinsky?
 6 A. Yes, I did.
 7 Q. Okay. And in the course of those discussions
 8 with Ms. Pinsky did you mention the storage
 9 devices that we've been discussing?
 10 A. Yes, I did.
 11 Q. Okay. And did -- did you offer to -- to
 12 provide the devices to Ms. Pinsky and Common
 13 Cause?
 14 A. You know, when I first brought it up it was
 15 really just kind of an anecdotal reference to
 16 a interview with David Daley that I had
 17 recently read. At the end of this interview
 18 his last statement, and it was really the --
 19 the gist of it was about the fact that the
 20 rejected districts had been sent for redraw
 21 back to my father and now he was deceased and
 22 the comment that David Daley made was, I
 23 wonder -- I -- I think that somewhere out
 24 there on a hard drive there's a gift for the
 25 state legislators.

32

1 Q. I see. And -- and am I right, Mr. Daley is a
 2 journalist, an author who covers
 3 redistricting issues?
 4 A. Yes. He --
 5 Q. Okay.
 6 A. He sort of brought it to a little bit more
 7 mainstream attention by, I don't know, making
 8 it a little more personal, personable maybe
 9 even.
 10 Q. Got it. And -- and the article that you had
 11 read by Mr. Daley was one that was discussing
 12 the -- the redraw of North Carolina's
 13 legislative districts?
 14 A. Specifically, yes. Yes. That was the first
 15 time -- I did not even know that -- I was
 16 aware of Mr. Daley's book about Operation Red
 17 Map, but I was not aware that he was actually
 18 from North Carolina and would have such a
 19 specific interest in this for that reason.
 20 Q. Got it. So -- so in these discussions with
 21 Ms. Pinsky, having read Mr. Daley's article,
 22 am I right that you -- you expressed to
 23 Ms. Pinsky that you wanted to provide the
 24 storage devices to her and to Common Cause?
 25 A. Well, I -- I sim- --

1 THE WITNESS: Pardon?
 2 MR. SPARKS: I just want you to let him
 3 finish.
 4 A. Oh, I'm sorry.
 5 Q. Yeah. Go ahead.
 6 A. I -- I -- I simply quipped that, I have -- I
 7 have some hard drives. And we continued the
 8 discussion about that. At that time I was
 9 not aware that there was -- that one of the
 10 matters was not an appeal. I -- I was under
 11 the impression that all of the matters
 12 pending were appeals, therefore, no new
 13 evidence. I -- when I first mentioned these
 14 things, it was really from a journalistic
 15 point of view and more anecdotal. I did not
 16 presume that they had any value as
 17 evidence --
 18 Q. I see. And --
 19 A. -- per se.
 20 Q. -- did Ms. Pinsky explain to you that there
 21 is, in fact, a lawsuit relating to North
 22 Carolina's legislative districts that -- that
 23 is not on appeal yet, that is still in the
 24 trial phase?
 25 A. She did explain. I think the way she put

1 it -- because we were discussing whether
 2 there was new evidence or no new evidence,
 3 errors of law only. So she mentioned that
 4 the case of the state legislative districts
 5 would be accepting new evidence and I said,
 6 well, I think this might be pertinent. And I
 7 didn't know if it was -- I said -- even at
 8 that time I said that I was skeptical that
 9 there was anything here that was not already
 10 disclosed after all of those. I recall
 11 personally discovery and discovery and
 12 discovery and discovery and a lot of
 13 grumbling because everyone always grumbles
 14 about discovery in civil litigation. That's
 15 my experience.
 16 Q. So when you say that this is pertinent, you
 17 mean you believed that the storage devices
 18 that you had gotten from your parents'
 19 apartment in Springmoor had files or evidence
 20 that were pertinent or relevant to -- to this
 21 litigation?
 22 A. Well, in that they -- they were clearly about
 23 redistricting and they were clearly labeled,
 24 North Carolina.
 25 Q. Excellent. After speaking to Ms. Pinsky

1 about the devices, did she put you in touch
 2 then with the plaintiffs' lawyers in this
 3 case?
 4 A. Yes. And I wanted to clarify. This -- the
 5 conversation about these hard drives did not
 6 come up in the first of my conversations with
 7 Ms. Pinsky. That was a development later on
 8 when we were discussing how I was very
 9 frustrated about what was -- what was going
 10 on and -- with -- with my mother and I
 11 commented -- that's -- that's -- that's
 12 right. I commented on the progress that
 13 Common Cause had made with their assertions
 14 about the relative fairness of partisan
 15 redistricting and also the underlying issues
 16 that -- that sometimes are disguised, in my
 17 opinion, as simply partisan. And I sort of
 18 made that comment. I said, this is -- this
 19 is the furthest I've ever seen a plaintiff
 20 get with anything that my father drew, and I
 21 will say I also said, and the way I knew my
 22 father a decade ago, he would have looked at
 23 those maps and -- and laughed.
 24 Q. So am I understanding correctly that when you
 25 originally contacted Bob Phillips at Common

1 Cause and then in your initial discussions
 2 with Jane Pinsky, you were not contacting
 3 them principally about these storage devices?
 4 A. No, I was not.
 5 Q. Okay. Okay. Did you say you were -- you
 6 were contacting them in hopes that Common
 7 Cause would be able to help refer you to a
 8 lawyer in connection with your -- with your
 9 mother's situation?
 10 A. Yes.
 11 MR. SPARKS: Objection.
 12 MS. SCULLY: Objection to form,
 13 mischaracterizes the witness's testimony.
 14 A. I -- I know enough about litigation and
 15 attorneys because I'm a Hofeller. I knew
 16 that bias would come into play whether or not
 17 it was admitted. My father was often
 18 concerned that he would be discriminated
 19 against for his political position and took
 20 care to know the allegiance of someone he
 21 chose to represent him. I was not familiar
 22 with this town. I did not know -- I knew
 23 that -- many of the parties that were
 24 involved in the litigation surrounding my
 25 mother. I knew they had significant

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1 allegiances here and I felt that the only
 2 party in Raleigh that would both believe me
 3 that politics was an element and would know
 4 who might be actually independent counsel for
 5 my mother --
 6 Q. Okay. And am I right that the -- the lawyer
 7 you were seeking for your mother was in
 8 connection with the incompetency proceeding?
 9 A. Correct.
 10 Q. Okay. Let's go -- go back. After you
 11 discussed the storage devices with Ms. Pinsky
 12 at Common Cause, am I right that Ms. Pinsky
 13 then connected you directly with the
 14 plaintiffs' lawyers in this case?
 15 A. That's correct.
 16 Q. Okay. And is that Mr. Speas and Ms. Mackie?
 17 A. Yes.
 18 Q. Okay. Great. And did you -- did you have
 19 conversations with them then?
 20 A. Yes.
 21 Q. Okay. And in the course of those
 22 conversations did you -- did you express that
 23 you wanted to provide the storage devices
 24 that you had gotten from the apartment in
 25 Springmoor to them?

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1 A. Yes.
 2 Q. Okay. Then in February of -- of 2019 did you
 3 receive the subpoena from plaintiffs and
 4 that's when you sent the storage devices?
 5 A. Yes.
 6 Q. Okay. Did you tell anyone that you object to
 7 the subpoena or that you object to providing
 8 a response to the subpoena?
 9 A. No.
 10 Q. Okay. Did you, in fact, have any objection
 11 or problem with the subpoena or with
 12 providing a response to the subpoena?
 13 A. No, I didn't.
 14 Q. Okay. Did anyone else tell you that they
 15 object to the subpoena?
 16 A. No.
 17 Q. Did anyone else tell you that they had any
 18 objection or problem with you providing a
 19 response to the subpoena?
 20 A. No.
 21 Q. Did you -- did you ever speak to your mother
 22 about the subpoena?
 23 A. Yes, I did.
 24 Q. Okay. And did you tell her that you were
 25 going to respond to the subpoena?

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1 A. Yes. And because there were files that
 2 belonged to her, I asked for her permission
 3 also. I said -- she said that she had no
 4 problem with that. She also felt, as I did,
 5 that the process would most likely be
 6 centered around provably pertinent files
 7 anyway, but that -- I -- I reassured her -- I
 8 assured her, I should say, that she should be
 9 aware that once you -- and, again, this is
 10 something my father taught me. Once you let
 11 go of it, you don't have control of it
 12 anymore so you can't be guaranteed what will
 13 and won't be disclosed, so it's something you
 14 should be prepared for when you are involved
 15 with discovery.
 16 Q. Okay. And in the course of that discussion
 17 with your mother, did you understand that
 18 your mother was giving you permission or her
 19 okay to --
 20 A. Yes.
 21 Q. -- to -- let me -- let me finish the
 22 question.
 23 A. I'm sorry.
 24 Q. That's okay. I'll just -- I'm just going to
 25 ask it again, okay?

40

1 A. (Nods head).
 2 Q. So in the course of that discussion with your
 3 mother about the subpoena, did you understand
 4 that she was giving you her permission or her
 5 okay to provide the storage devices that
 6 we've discussed to the plaintiffs' lawyers in
 7 response to the subpoena?
 8 A. Yes.
 9 Q. Okay. Thank you. Okay. I just have a -- a
 10 few other questions and I -- I did want to
 11 ask you just a couple of questions about your
 12 relationship with each of your parents. And
 13 I -- and I don't intend to pry, but -- but
 14 I'll just ask a couple of basic questions if
 15 that's okay.
 16 A. That is okay, yes.
 17 Q. Okay. Would -- would you say that you had a
 18 positive relationship with your father in
 19 recent years?
 20 A. Not in recent years, no.
 21 Q. Okay. When was the last time you spoke to
 22 your father before his death last year?
 23 A. July of 2014.
 24 Q. Okay. Would you say that you have a positive
 25 relationship, a functional relationship, with

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1 your mother?
 2 A. Yes.
 3 Q. Okay. Do you know whether an official estate
 4 was opened for your father after his death?
 5 A. No. That has been a confused issue.
 6 Q. Okay. So when you say no, you --
 7 A. I --
 8 Q. -- the answer is, no, you don't know?
 9 A. Exactly.
 10 Q. Okay. That's fine. Did you send these
 11 storage devices to the plaintiffs' lawyers in
 12 this case to -- to get back at your father or
 13 to spite your father for personal reasons?
 14 A. Not at all.
 15 Q. Okay. Could you just tell me briefly in your
 16 words, why did you want to provide these
 17 devices to the plaintiffs' lawyers in this
 18 case?
 19 A. When I was expressing my skepticism that
 20 there would be anything in the way of
 21 evidence, I stated that I felt that these
 22 files would if -- certainly be of historical
 23 value, that they would give insight into the
 24 process, not any value judgment on that
 25 process. I did not have -- my political

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1 viewpoint to me seemed irrelevant to the
 2 function of census data turning into voting
 3 districts, and I really thought of it in --
 4 in those terms. I really -- I knew that if I
 5 presented them this way that they would be
 6 preserved, that they -- their integrity would
 7 be preserved and everything there, including
 8 my files, including other matters completely
 9 unrelated to this, that those -- that that
 10 would be a snapshot in time.
 11 Q. Was -- was there any financial benefit to you
 12 personally from providing these files to the
 13 plaintiffs' lawyers? Did you -- did you make
 14 any profit here?
 15 A. No.
 16 Q. Okay.
 17 MR. JONES: Can we go off the record,
 18 take a five-minute break?
 19 THE WITNESS: Sounds great.
 20 THE VIDEOGRAPHER: Going off the
 21 record. The time is 10:24 a.m.
 22 (Whereupon, there was a recess in the
 23 proceedings from 10:24 a.m. to 10:46 a.m.)
 24 THE VIDEOGRAPHER: Going back on the
 25 record. The time is 10:46 a.m.

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1 MR. JONES: Thank you. Ms. Hofeller, I
 2 have no more questions for you today. Thank
 3 you for your time.
 4 THE WITNESS: My pleasure.
 5 EXAMINATION
 6 BY MS. SCULLY:
 7 Q. Ms. Hofeller, Elizabeth Scully. We met
 8 earlier this morning. I represent the
 9 legislative defendants in this case and I do
 10 have some follow-up questions that I would
 11 like to ask of you today.
 12 First, if I could turn your attention to
 13 the document that was marked as Exhibit 2
 14 that you went through with counsel for the
 15 plaintiffs earlier. Looking at -- at the --
 16 at the first page where there's a photograph
 17 of a -- of a box and then appears to be
 18 handwriting for -- addressed to Arnold &
 19 Porter.
 20 Do you see that there?
 21 A. I see the handwriting behind the box.
 22 Q. Uh-huh.
 23 A. Yes.
 24 Q. Is that your handwriting?
 25 A. No.

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1 Q. No. Do you know whose handwriting that is?
 2 A. No.
 3 Q. Did you personally prepare the box, label it,
 4 put the contents in the box and send it to
 5 Arnold & Porter?
 6 A. I put the contents in the box, I sealed the
 7 box, and at the FedEx office the label was
 8 printed out and put on it in front of me.
 9 Q. Okay. Did you send the materials directly to
 10 Arnold & Porter or to a vendor before you
 11 sent them to Arnold & Porter?
 12 A. I sent them directly to Arnold Porter.
 13 Q. Did you ever send the materials to a -- a
 14 vendor?
 15 A. No.
 16 Q. Turning to the -- it's marked Number 4 in
 17 Exhibit Number 2.
 18 A. Okay.
 19 Q. You have that in front of you?
 20 A. I do.
 21 Q. And it appears on Page Number 4 of Exhibit
 22 Number 2 is a picture of a thumb drive. Do
 23 you see that?
 24 A. I do.
 25 Q. And on that thumb drive there are some

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1 drawing -- a handwritten drawing on that
 2 thumb drive. Do you recall what material was
 3 contained in this thumb drive?
 4 A. Are -- are you -- please clarify the -- the
 5 handwriting being the A as opposed to the
 6 label on the drive, which is etched into the
 7 metal, I believe.
 8 Q. Well, let me -- let me back up and ask you
 9 this: Do you know -- on this document on the
 10 fourth page there appears to be two
 11 photographs. Both appear to reflect a thumb
 12 drive. Do you know if these are two
 13 different thumb drives or one thumb drive?
 14 A. I believe that is the two opposite sides of
 15 the same thumb drive.
 16 Q. Do you know that for a fact or is that
 17 just -- you're making an assumption?
 18 A. I am making an assumption.
 19 Q. Do you know if you in -- if you ever reviewed
 20 the information that was on this thumb drive
 21 that appears on Page 4 of Exhibit Number 2
 22 that you sent to Arnold & Porter?
 23 A. I know that I reviewed all of the drives that
 24 I sent to -- to Arnold Porter. I do not
 25 recall what was on which storage device.

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1 Q. Did you review all of the drives that you
 2 sent to Arnold & Porter during the same day?
 3 A. Yes. Yes. Maybe perhaps I had to take a
 4 break overnight, but it was -- I -- I made
 5 sure that I was not including anything that
 6 was mine that wasn't, you know, related to
 7 this at all, that I hadn't mistakenly mixed
 8 anything in, that these were all just the
 9 files and things that had come from my
 10 father's apartment. So that -- that's about
 11 the extent of it.
 12 Q. So if I understand you, if you found
 13 materials on the -- in any of these thumb
 14 drives or drives that you thought were yours
 15 or your personal information, you removed
 16 that information before you sent it to
 17 Arnold & Porter?
 18 A. No.
 19 MR. JONES: Objection. That
 20 mischar- --
 21 THE WITNESS: Oh, I'm sorry.
 22 MR. JONES: -- mischaracterizes the
 23 testimony.
 24 MS. SCULLY: I -- I believe --
 25 MR. FARR: He asked -- she asked the

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1 question so she can answer it.
 2 MR. SPEAS: Tom, how many people are
 3 representing your side in this deposition?
 4 MR. FARR: Three.
 5 BY MS. SCULLY:
 6 Q. I believe you testified earlier that when you
 7 looked through the materials you took from
 8 your father's room that you did find
 9 information on those electronic files that
 10 were personal to you, correct?
 11 A. That is correct.
 12 Q. Did you produce that personal information
 13 when you sent the electronic materials to
 14 Arnold & Porter?
 15 A. Yes, I did.
 16 Q. A moment ago when you said you looked through
 17 the electronic files before you produced them
 18 to Arnold & Porter to make sure that nothing
 19 that related only to you or that wasn't
 20 relevant -- you wanted to make sure that
 21 wasn't being produced, what did you mean by
 22 that?
 23 A. That wasn't what I said. What I said is I
 24 checked them to make sure that they were my
 25 father's, that I hadn't mistakenly grabbed

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1 something from my own room, a storage device
 2 that I would keep, use with my phone, with my
 3 laptop, completely unrelated to this, never
 4 having been touched by my father. That's
 5 what I meant.
 6 Q. Okay. Thank you for that clarification. How
 7 many hours did it take you to go through and
 8 review the entire contents of the materials
 9 that you provided to Arnold & Porter?
 10 A. And please -- I would like to clarify that I
 11 did not open every file. I merely observed
 12 that this was the media that I thought it was
 13 when I arrived at my home. So it was, oh,
 14 two, three hours, I think, making sure. Some
 15 of them, you know, I -- they didn't light up
 16 at first. I had to put them in the other USB
 17 drive, reseat the connectors. Some -- some
 18 of them took -- some of them were slower than
 19 others to open, but I would say that I had
 20 made sure that -- done that last check before
 21 putting it in the mail that I knew what I was
 22 sending and that it was all what I was
 23 asserting it was, and I think that process
 24 took, yeah, maybe about two or three hours.
 25 Q. Do you know how many files you opened during

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1 those two to three hours?
 2 A. During those two to three hours I didn't open
 3 any of the files. I merely looked in the
 4 basic root folders on each to confirm what it
 5 was and that it had belonged to my father
 6 really was the point. The files on all of
 7 these that were mine specifically as in
 8 photographs I took, letters I wrote, those I
 9 had looked at early on. My interest in these
 10 drives initially was only for those. I
 11 ignored everything else for a period of time.
 12 Q. When you took these files from your father's
 13 room and spoke to your mother about it,
 14 you -- in that conversation with your mother
 15 you told her you were taking the files
 16 because you wanted to look through the files
 17 to find personal things related to you,
 18 photographs that may be on the files,
 19 correct?
 20 A. That's correct.
 21 Q. And with that understanding your mother gave
 22 you permission to take the files, correct?
 23 A. I did not feel that my mother's permission
 24 for me to have these was conditional on
 25 anything. When she gave me permission to

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1 take them, it was -- maybe I mentioned that I
 2 was excited about the possibility that there
 3 would be pictures of my children, but she
 4 said, they're yours. Take them. I don't
 5 have any use for them.
 6 Q. And when you had that initial conversation
 7 with your mother, you had no discussions with
 8 her and expressed no interest in looking
 9 through to find any of your father's business
 10 records or materials he may have created in
 11 connection with his work as -- as an expert
 12 in other litigations, correct?
 13 A. Correct. As a matter of fact, I went to the
 14 point of making sure that I asked my mother
 15 that all of his specifically work-related
 16 material had already been collected. I
 17 didn't wish to assert myself in -- in --
 18 in -- into the business intentionally.
 19 Q. At some point you say when you were -- well,
 20 when you first took the -- the files, did
 21 you -- you didn't know what was on these
 22 files when you first took them, correct?
 23 A. Some of them I didn't. The backups that I
 24 recognized from my parents' home PC back in
 25 Alexandria -- I was at least vaguely familiar

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1 with what had been on my parents' home PC
 2 when I was there, so those were pretty much
 3 as I expected them. And then I -- my thought
 4 was that I would at least look at everything
 5 and see what it was.
 6 Q. Now, you said you went to your mother's home.
 7 It was sometime in October 2018. Do you know
 8 specifically when you were -- went to your
 9 mother's home and took these files?
 10 A. October 11th.
 11 Q. And how do you know it was October 11th?
 12 A. I have had to recount the details of my
 13 arrival at my mother's house several times
 14 over the past few months, so it's become
 15 pretty -- pretty normal.
 16 Q. Do you have any documents that reflect when
 17 you were in North Carolina?
 18 A. Documents. I don't think so, no.
 19 Q. Did you go to any restaurants, make any
 20 credit card charges, purchase gasoline near
 21 your mother's apartment, any type of document
 22 that would indicate the time period when you
 23 were visiting with your mother?
 24 A. I believe that receipts would reflect that I
 25 was in Raleigh during certain days.

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1 Q. How long did you stay -- did you stay with
 2 your mother at that time?
 3 A. Not at that time. At that time I stayed in a
 4 hotel and I stayed for, I believe, around
 5 four days. I think -- I don't honestly
 6 recall off the top of my head if it was three
 7 nights or four nights.
 8 Q. Was the hotel located in Raleigh?
 9 A. Yes.
 10 Q. What was the name of the hotel where you
 11 stayed?
 12 A. I stayed one night in a hotel, the name of
 13 which I don't recall because I didn't like
 14 it. So then I moved to the La Quinta, I
 15 believe, yes --
 16 Q. And how --
 17 A. -- near Crabtree.
 18 Q. And how did you pay for your stay at the
 19 La Quinta?
 20 A. I paid -- I think the first night I paid cash
 21 and the next night I paid with my debit card.
 22 Q. And you get monthly statements of your debit
 23 card?
 24 A. I think I've gone paperless.
 25 Q. Do you receive e-mails of -- notification of

1 your debit card statement --
 2 A. Yes.
 3 Q. -- when it's available?
 4 A. Yes.
 5 Q. And your debit card is held with what bank?
 6 A. PNC.
 7 Q. After you took the materials from -- from
 8 your father's room, when did you first begin
 9 to look through the materials?
 10 A. That same evening.
 11 Q. When you stayed at the hotel that you don't
 12 recall the name of?
 13 A. Yes.
 14 Q. And how many -- well, did you review one
 15 device? How many devices did you review that
 16 night?
 17 A. That first night I stuck with the one because
 18 that's where I found hundreds of pictures of
 19 me with my infant children.
 20 Q. And was the one a thumb drive or was it a
 21 hard drive, if you remember?
 22 A. An external hard drive.
 23 Q. When looking through this one external hard
 24 drive on that first night, did you also find
 25 materials that appeared to be related to your

1 father's business work with his partner, Dale
 2 Oldham?
 3 A. I noticed, as was standard on my father's
 4 home PC, there would -- there was usually at
 5 least a folder related to his work. I was
 6 accustomed to not really paying much
 7 attention to the specifics. I talked to him
 8 about things. I didn't need to poke.
 9 Q. And when you noticed that there were folders
 10 on this hard drive that you reviewed related
 11 to your father's work and knowing that Dale
 12 Oldham had taken efforts to try to reclaim
 13 business records, did you go back and tell
 14 your mom, you know, we still have information
 15 related to Dad's work?
 16 A. My father always had information related to
 17 his work on the personal hard drive. It
 18 wasn't noteworthy.
 19 Q. Does that mean you did not go back and tell
 20 your mom that there was information related
 21 to his work on the hard drive that you had?
 22 A. At some point when I discussed the fact that
 23 they might be of interest to the case, I --
 24 again, with my mother there are some things
 25 because she's my mother that don't need to be

1 explicitly stated. She assumed that there
 2 would be at least some work-related material
 3 on the hard drive. I discussed with her the
 4 nature of this litigation and, again, such
 5 similar litigation was a regular fixture in
 6 my entire life living with my father. So the
 7 idea that there would be some litigation
 8 going on around things that he had drawn was
 9 just par for the course. So, yes, I don't
 10 know that I would have explicitly said,
 11 Mother, there are these kinds of files on
 12 this. It was more like, Common Cause may
 13 have an interest in these work files. And
 14 even I -- with her I even discussed my belief
 15 that this would not -- these all being
 16 backups, that this would not be any
 17 information that was not already known and
 18 had already been disclosed. There were files
 19 that were titled, Discovery, so I assumed
 20 that those had gone previously into
 21 discoveries that had already happened.
 22 Q. From your answer I'm still not clear whether
 23 you actually had a conversation with your
 24 mother about your father's business records
 25 that you discovered on the external hard

1 drives.

2 Did you have a specific conversation

3 with your mother to tell her that you

4 identified business records of your father's

5 on these external hard drives that you had

6 taken possession of?

7 MR. JONES: Objection, asked and

8 answered.

9 A. All of those points were at some point

10 mentioned. My mother was aware of the fact

11 that the interest -- the subpoena for these

12 hard drives was, in fact, for work-related

13 files only. So not only was it clear to her

14 that there were work-related files, but it

15 was clear to her that the lawyers that would

16 be looking at it on either side would not be

17 looking at anything other than my father's

18 work-related files.

19 Q. When did you first begin discussing with your

20 mother the fact that Common Cause may have an

21 interest in your father's work files?

22 A. My -- wow. She and I were discussing the

23 matter of this pressing issue of hers. Most

24 of our discussions about Common Cause in

25 those first two months were just about how

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1 nice it was that they had given us some

2 referrals.

3 Q. When you say your discussions in those first

4 two months, you mean -- what -- what time

5 period do you mean?

6 A. That would have been October and November.

7 Q. Of 2018?

8 A. Correct. I'm sorry. Yes.

9 Q. So October/November 2018 your discussions

10 with your mother are focusing on the

11 referral -- attorney referral you received

12 for her and on the --

13 A. And her case, really.

14 Q. And her case?

15 A. All of it as it may be related to the

16 unfortunate politicizing of our family life.

17 Q. And when you say her case, I believe you

18 testified earlier that the case you're

19 referring to was a petition to have your

20 mother found incompetent, correct?

21 A. Yes.

22 Q. You are aware that there was an interim order

23 entered and your mother had a guardian over

24 her estate and over her person appointed,

25 correct?

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1 A. I'm aware.

2 Q. Do you know the time period in which that

3 occurred?

4 A. November. Early November.

5 Q. October/November your conversations with your

6 mom with respect to Common Cause are focused

7 on how they'd helped her identify an

8 attorney. Who was that attorney that they

9 helped her identify?

10 A. I was referred to Allan From, who explained

11 that he didn't handle specifically those

12 matters and referred us to Douglas Noreen.

13 Q. At what point in time did you discuss with

14 your mother the possibility of turning over

15 your father's business records to Common

16 Cause or to Arnold & Porter?

17 A. The subpoena. That -- that would be when we

18 specifically discussed that.

19 Q. Did you --

20 A. I think I might have quipped about that David

21 Daley article way back in October when I was

22 looking at those hard drives recalling that

23 comment, somewhere out there on a hard drive.

24 Q. Did you --

25 A. I made a joke about that. I wasn't really,

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1 you know, saying, look at those hard drives.

2 Well --

3 Q. Did you have --

4 A. Dale got all the good stuff. Sorry.

5 Q. Did you have a conversation with your mother

6 about the possibility of turning over your

7 father's business records to Common Cause or

8 Arnold & Porter before you received the

9 subpoena?

10 A. I think that I did -- the -- did -- she was

11 also curious about the case and I had said

12 that I was -- I think I shared with her on

13 that moment when I -- when I realized --

14 maybe around that same day when I realized

15 that this wasn't strictly appeal, that --

16 that there had been a new -- a new matter

17 opened. And she never really was all that

18 familiar with the details and, to be honest,

19 I'm no expert on redistricting either. I

20 really only felt that I was uniquely informed

21 about my father as a person and perhaps his

22 process, his -- his creative process, his --

23 his political philosophy. Those kinds of

24 things I felt that I was perhaps -- that I

25 possessed some unique understanding of the

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1 man, but my mother was not -- my mother has a
 2 career of her own so her interest was really
 3 more incidental, just as much as anyone in --
 4 in -- in the public -- the general public
 5 might be interested in the political process.
 6 Q. You testified earlier that you understood
 7 your father had a business and a business
 8 partner, Dale Oldham, correct?
 9 A. Correct.
 10 Q. And you understood that your -- your father
 11 and Mr. Oldham in their business were
 12 retained and engaged as experts in
 13 litigations over the years, correct?
 14 A. That's correct.
 15 Q. You testified you're familiar with civil
 16 litigation earlier, correct?
 17 A. Yeah, and specifically with litigation on the
 18 matters of the concern of the people.
 19 Q. You understand that in connection with your
 20 father's work as an expert consultant that
 21 there are materials that he prepares as an
 22 expert that are privileged materials --
 23 MR. JONES: Ob- --
 24 BY MS. SCULLY:
 25 Q. -- materials that he prepares on behalf of

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1 the clients he's been retained to be an
 2 expert for, correct?
 3 MR. JONES: Objection, calls for a
 4 legal conclusion. The witness is not a
 5 lawyer.
 6 A. None of the materials were labeled
 7 privileged.
 8 Q. Do you have -- do you believe that you have
 9 the appropriate training or skills to
 10 determine whether the materials on your
 11 father's hard drives contained privileged
 12 information?
 13 A. All of the attorneys I've ever worked with if
 14 they were concerned about protecting
 15 privilege have pretty bold letters that said,
 16 the following contains privileged
 17 attorney-client communication and the
 18 proceeding contains privileged
 19 attorney-client communications. In that I
 20 can read when something says that it's
 21 privileged, I'm qualified. But, no, beyond
 22 that, I think if -- if -- if I just stumbled
 23 into a client's file, I would not be able to
 24 say which was and wasn't privileged, no.
 25 Q. You do not have a law degree, correct?

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1 A. That is absolutely correct.
 2 Q. You have no legal training, correct?
 3 A. No formal training.
 4 Q. You've never worked --
 5 A. Just on the street. I'm sorry.
 6 Q. You've never been employed or worked in a law
 7 firm, correct?
 8 A. I believe that I've done temp work as a
 9 receptionist for law firms but nothing --
 10 nothing noteworthy in that it would pad my
 11 CV.
 12 Q. You have never made any determinations or
 13 been asked by anyone to make any
 14 determinations about whether something is a
 15 privileged document or not, correct?
 16 A. No. That's correct. I mean, I have not been
 17 ever asked by anyone to do that, no.
 18 Q. Other than seeing a document marked as
 19 privileged, you have -- you've testified you
 20 don't know and haven't -- you don't have the
 21 skills to determine whether a document is a
 22 privileged document or not if it doesn't
 23 reflect privileged on the document itself?
 24 A. Well, you know, if it was civil litigation
 25 concerning personal matters, then I think I

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1 would assume privilege, but considering that
 2 this is a public matter and it's -- this is
 3 a -- this is a -- my understanding of -- of
 4 political philosophy and the founding of this
 5 republic is that this is -- this concerns the
 6 people and, therefore, I would probably err
 7 in the direction of it not being privileged
 8 if it weren't marked so, if that clarifies.
 9 Q. Prior to making the production of the
 10 electronic files that you made to Arnold &
 11 Porter in response to the subpoena marked as
 12 Exhibit 1, did you engage in any sort of
 13 review to determine whether the files that
 14 you were turning over contained privileged
 15 information?
 16 MR. JONES: I'll -- I'll object. It's
 17 ambiguous, the term privilege. There are
 18 lots of privileges.
 19 A. Also, I really was -- it had already been
 20 kind of clarified that the best way to
 21 preserve the integrity of this -- of this
 22 data would be not to pick and choose. There
 23 were personal files of mine on these hard
 24 drives and I left everything exactly as it
 25 was. I did not make decisions about what did

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1 and didn't go specifically for the purpose of
 2 a historical documentation of the complete
 3 media as it was when I found it.
 4 Q. You testified that it was clarified to you
 5 that the best way to preserve this data was
 6 not to go through and make any selection or
 7 remove anything from it, just to turn all of
 8 the materials over to Arnold & Porter,
 9 correct?
 10 MR. JONES: Objection. I think that
 11 mischaracterizes the testimony.
 12 BY MS. SCULLY:
 13 Q. You can answer the question.
 14 A. Could you ask it again?
 15 Q. You testified that it was clarified to you
 16 that the best way for you to preserve the
 17 integrity of this data was to just turn over
 18 the data in its entirety to Arnold & Porter
 19 and not to go through and pick and choose or
 20 remove anything from the data, correct?
 21 MR. JONES: I'll -- I'll object.
 22 It's --
 23 A. These are theoretical --
 24 MR. SPARKS: Hold on.
 25 MR. JONES: Hold on. Hold on. Let

1 me --
 2 THE WITNESS: Sorry.
 3 MR. JONES: I have to state my
 4 objection. So I'll object because it
 5 mischaracterizes the testimony and the use of
 6 the passive voice makes it ambiguous.
 7 MR. SPARKS: Now you can answer.
 8 A. I don't think there are any -- I don't think
 9 there are any solid lines in this. I think
 10 that there was a -- a collective attempt to
 11 maintain accuracy, maintain transparency.
 12 Q. Who clarified that for you? When you said,
 13 it was clarified --
 14 A. It wasn't clar- --
 15 Q. -- for me --
 16 A. Okay.
 17 Q. -- who was that?
 18 MR. SPARKS: Hold on a second. Please
 19 let her finish.
 20 THE WITNESS: I'm sorry.
 21 MR. JONES: Yeah. I'll --
 22 MR. SPARKS: Thank you.
 23 MR. JONES: Go ahead and -- is the
 24 question done?
 25 MS. SCULLY: (Nods head).

1 MR. JONES: Okay. I'll object because
 2 it misclar- -- characterizes the testimony.
 3 She has not testified that anyone clarified
 4 anything for her.
 5 A. Yeah. That's --
 6 Q. You may answer the question.
 7 A. That's -- I -- yes, I was going to say
 8 exactly that. I don't recall that -- that it
 9 was -- certainly if I said clarify -- in the
 10 discussion that I had with the attorneys
 11 Caroline Mackie and Eddie Speas, there was
 12 discussion on how it would be best recognized
 13 in court as -- as -- as a -- a good chain of
 14 custody, transparency. There would be no
 15 accusation of picking and choosing, of
 16 keeping some things secret and some things
 17 not if the media were turned over to a third
 18 party in its exact state.
 19 Q. Prior to turning over the hard drives and the
 20 thumb drives to Arnold & Porter did you ask
 21 your counsel to conduct -- well, let me ask
 22 this: Did you -- did you have representation
 23 at that point in time?
 24 A. I did not or did --
 25 THE WITNESS: Were we -- were you

1 retained yet?
 2 A. I don't -- certainly not in this matter. No,
 3 I did -- I did not have counsel at that time
 4 I don't think.
 5 THE WITNESS: Or did I?
 6 A. I don't know. I wasn't consulting with an
 7 attorney on this matter.
 8 Q. I take it from --
 9 MR. SPARKS: Do you want me to
 10 interject anything here?
 11 MS. SCULLY: No, that's all right.
 12 BY MS. SCULLY:
 13 Q. I take it from your answer that you did not
 14 seek counsel from any attorney about whether
 15 there were concerns with respect to any
 16 privileged information that may be turned
 17 over to Arnold & Porter in response to the
 18 subpoena?
 19 MR. JONES: I'll -- I'll object. I
 20 think the question is asking about
 21 communications she may or may not have had
 22 between herself and one of her lawyers, which
 23 would be privileged.
 24 BY MS. SCULLY:
 25 Q. You testified a moment ago you didn't have

1 counsel at that point in time. I'm just
 2 clarifying that you never sought any guidance
 3 from any attorney as to whether there was a
 4 concern about turning over privileged
 5 information from your father's business
 6 records to Arnold & Porter?
 7 MR. SPARKS: And I will object to that
 8 because if she did it --
 9 THE WITNESS: It would be privileged.
 10 MR. SPARKS: -- it would be
 11 attorney-client privileged.
 12 MR. JONES: Just answer it --
 13 instruct -- instruct her not -- you should
 14 instruct her not to answer.
 15 MR. SPARKS: And don't answer, please.
 16 BY MS. SCULLY:
 17 Q. I'll ask a more general question. Did you
 18 seek any counsel prior to producing the
 19 materials in response to Arnold & Porter's
 20 subpoena?
 21 MR. SPARKS: Same objection and please
 22 don't answer that.
 23 MR. FARR: Whether -- whether she
 24 talked to an attorney is privileged? Are you
 25 saying that?

1 THE WITNESS: I think so.
 2 MR. SPARKS: I'm sorry. Ask the
 3 question again.
 4 MR. FARR: Whether she -- whether she
 5 talked to an attorney is privileged, just the
 6 fact that she talked to an attorney?
 7 MS. SCULLY: Just the general thing,
 8 not what -- specifically what was discussed.
 9 Did she speak with an attorney.
 10 MR. SPARKS: I'm -- I'm going to lodge
 11 the same objection, yes, and give the same
 12 instruction.
 13 BY MS. SCULLY:
 14 Q. You testified earlier that you understood
 15 that your father's business partner,
 16 Mr. Oldham, had taken steps to retrieve
 17 records related to their business, correct,
 18 retrieve one of your father's computers, yes?
 19 A. Two --
 20 Q. Two?
 21 A. -- of his computers.
 22 Q. When you realized that there was information
 23 related to your father's business contained
 24 on these hard drives and thumb drives, did
 25 you reach out to Mr. Oldham to let him know

1 that you had possession of business records
 2 of theirs?
 3 A. There have been work files on my father's
 4 home PC since we had a home PC so, no, in
 5 that I asked -- there are other matters
 6 concerning contact. Dale isn't exactly easy
 7 to get ahold of, but I specifically -- I felt
 8 that I had pretty much covered that when I
 9 asked everyone involved that knew anything
 10 about my father and/or Dale if Dale had
 11 gotten everything he wanted and the answer
 12 was yes given the fact that some of those
 13 backups are from 2009, '10, '11, and that I
 14 was in many of those times living at home
 15 using that computer as my own and those files
 16 were there.
 17 Q. You said you asked everyone involved if Dale
 18 got everything he wanted and the answer was
 19 yes. Who is the everyone involved that you
 20 asked?
 21 A. The other person that I asked -- there are
 22 two other people that I asked other than my
 23 mother. I asked my uncle -- oh, and
 24 through -- I asked my cousin and I -- I sort
 25 of tried to establish that he had come and

1 gone. That was when my mother explained that
 2 also when Dale left with the things that were
 3 related to Geographic Strategies before my
 4 father died, that my father had given him his
 5 half of the business, which amounted to
 6 around \$300,000.
 7 Q. Who was your uncle that you asked? What's
 8 his name?
 9 A. Chris Hartsough.
 10 Q. What was his relationship with Dale?
 11 A. There -- he did not have a relationship with
 12 Dale; rather, he had been present during my
 13 parents' move from their house in Raleigh to
 14 the retirement community in Raleigh. I was
 15 interested in this move because many of my
 16 personal possessions went missing at this
 17 time. That's my -- was my principle interest
 18 in finding out what had happened.
 19 Q. And who's your cousin that you spoke with?
 20 A. Trudy Harris.
 21 Q. Did she have a relationship with Dale?
 22 A. No. None of these people had a relationship
 23 with Dale. It's just that he had apparently
 24 been there during this longer period of time
 25 when my family was helping my parents move.

1 That's all.

2 Q. If you wanted to know if Dale Oldham had

3 gotten everything that he wanted, why not ask

4 Mr. Oldham directly himself?

5 A. Because he was a part of the litigation that

6 was ongoing with my mother. He was a -- he

7 was an opposing party in that litigation and

8 noncommunicative before that point as well.

9 I did at -- at one point attempt to reach out

10 to him to discuss my mother, but he did not

11 return my calls and resisted all of my

12 attempts to -- to talk to him.

13 Q. When did you attempt to reach out to

14 Mr. Oldham to discuss your mother?

15 A. Twice, once during the first trip to Raleigh

16 and again in the second trip to Raleigh. Oh,

17 and then we sent him notice of -- of certain

18 documents -- family documents that bore his

19 name as those documents had been changed. He

20 got notice of that as well.

21 Q. The first trip to Raleigh, was that the trip

22 in October around -- on or about October

23 11th, 2018?

24 A. Yes.

25 Q. And when was the second trip?

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1 A. That would have been shortly after. Let's

2 see. The first trip was October -- okay. So

3 I -- I believe that I was then three or four

4 days back in Kentucky, but the situation

5 was -- was serious enough that I felt I had

6 to -- to change my plans to continue my work

7 in Kentucky and actually drop everything in

8 Kentucky and come back to Raleigh to help my

9 mother. That would be -- I think I was back

10 by the 18th.

11 Q. Prior to turning over the hard drives and the

12 thumb drives to Arnold & Porter, is it

13 correct that you never communicated with Dale

14 Oldham to let him know that materials related

15 to his business with your father were being

16 turned over?

17 A. Those were my father's files. I did not

18 assume that any of them or all of them --

19 many of them were there on that hard drive

20 before Geographic Strategies existed. There

21 were files related to my father's work that

22 were there from a time when I'm not even sure

23 that Dale knew my father. I did not really

24 think of this in terms of Dale Oldham, no. I

25 thought of this in terms of my dead father

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1 and his work in -- in public service, not so

2 much about -- about Dale, honestly.

3 Q. Is that, no, you did not communicate with

4 Dale Oldham before you turned over these

5 files to Arnold & Porter to let him know that

6 there were --

7 A. I did not make --

8 Q. -- records related to --

9 THE WITNESS: Yeah, I'm sorry.

10 BY MS. SCULLY:

11 Q. -- that there were records related to his

12 business with your father that were being

13 turned over in response to a subpoena?

14 MR. JONES: Objection, asked and

15 answered.

16 MR. SPARKS: Go ahead and answer.

17 A. I didn't attempt yet again to contact

18 Mr. Oldham in advance of responding to that

19 subpoena. No, I did not.

20 Q. Did you ever attempt to contact Mr. Oldham

21 and leave any substantive message for him

22 that you had possession of --

23 A. Of my father's stuff.

24 Q. -- business records --

25 A. I'm sorry.

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1 Q. -- of records related to your father and

2 Mr. Oldham's business and that you intended

3 to turn those records over to Arnold & Porter

4 and Common Cause?

5 MR. JONES: Objection, asked and

6 answered.

7 A. I didn't.

8 Q. Turning back to Exhibit Number 2. I believe

9 you testified that you -- sitting here today,

10 you do not know what specific information is

11 contained on the thumb drive that is pictured

12 on Page 4 of Exhibit 2, correct?

13 A. That's correct.

14 Q. If I could turn your attention to Page 7.

15 And is -- do you know what this device is

16 that appears on Page 7?

17 A. It appears to be an external drive.

18 Q. Do you know what the contents were of the --

19 this external drive that appears on Page 7?

20 A. I know that that's my father's handwriting on

21 that label. Beyond that, I don't know

22 offhand.

23 Q. Do you have any specific recollection of

24 reviewing the files that are contained on the

25 hard drive that appears on Page 7 of Exhibit

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1 2?

2 A. Not specifically that one, no. None of them

3 specifically. They all seem to have sort of

4 a -- a mix -- a mixture of -- of different

5 kinds of data on different matters. All of

6 them were mingle -- mingled.

7 Q. Turning to Page 9, do you know what that is a

8 picture of?

9 A. Once again, it appears to be a picture of --

10 of one of the external drives.

11 Q. I take it similar to the drive that we saw in

12 the picture immediately before that you have

13 no specific recollection of what material is

14 contained on this drive, correct?

15 A. That's correct.

16 Q. Is it fair to say that you do not have any

17 specific recollection of what information is

18 contained on any of the hard drives or the

19 thumb drives that are photographed that

20 appear in Exhibit 2?

21 A. Well, it's very similar with all of them was

22 my impression. So it was -- it would be very

23 difficult to say what was on which. I mean,

24 I don't know offhand -- like there were

25 two -- for example, there were two drives

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1 that were identical in appearance, but they

2 seemed to be backups of the same hard drive

3 but at different times. So that would be

4 very hard for me to say which was the 2011

5 set and which was the 2013 set, for example.

6 Q. You testified earlier when -- under your

7 examination with plaintiffs' counsel that you

8 recognized one of the hard drives because of

9 the blue rubber band that was around it.

10 A. No, the blue cover.

11 Q. Blue cover. Turning your attention to Page

12 15 of Exhibit 2, is that the blue -- is that

13 a picture of the blue cover you were

14 referring to when you testified earlier?

15 A. It -- it -- I would assume that it is the

16 cover that I was referring to.

17 Q. And what did -- what is it about that cover

18 that stood out in your mind?

19 A. You know, this -- it wasn't an effort at

20 precision. I just remembered that this was a

21 cover that went typically with a brand and

22 type of external storage device that my

23 father liked to use. And I had a hunch -- I

24 was hoping that it would be what it turned

25 out to be and that is a backup of the -- my

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1 parents' personal computer, which would

2 contain the files that I was looking for of

3 mine.

4 Q. In the subpoena that you received from

5 Arnold & Porter there was a specific request

6 looking for materials relating to the 2011 or

7 the 2017 North Carolina redistricting. You

8 understood that, correct?

9 A. Yes, I -- yes.

10 Q. Did you undertake any efforts to limit the

11 materials that you were turning over to

12 Arnold & Porter in response to the subpoena

13 to only documents that related to the 2011 or

14 2017 North Carolina redistricting?

15 MR. JONES: I'll -- I'll -- I'll

16 object. I think it mischaracterizes the

17 scope of the face of the subpoena.

18 MR. SPARKS: Go ahead and answer.

19 A. The request was for any and all materials

20 that might, so I -- since there appeared to

21 be relevant -- relevant data, I -- I think I

22 already answered this question. I think the

23 idea was that it was going to be preserved

24 and that I would not be deciding which files

25 would go and which files wouldn't.

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1 Q. I take it from your answer that you did not

2 review each hard drive and each thumb drive

3 to confirm that each hard drive and each

4 thumb drive, in fact, had any information

5 with respect to the 2011 or 2017 North

6 Carolina redistricting; instead, you just

7 turned it over in its entirety --

8 A. I was answering the subpoena --

9 MR. SPARKS: Let her finish.

10 THE WITNESS: Sorry.

11 BY MR. SPARKS:

12 Q. -- to Arnold & Porter, correct?

13 A. Yes. Yes.

14 Q. You testified earlier when you took the

15 electronic hard drives and thumb drives from

16 your father's home you said you were so

17 thrilled to have precious data of yours. You

18 said mine, but -- what precious data were you

19 referring to?

20 A. Pictures of me and my infant children,

21 pictures of me on my property in West

22 Virginia, pictures of dead friends, music

23 recorded years ago by me and a friend who had

24 a band together, letters that I had written

25 to friends, letters that I wrote to my

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1 father, documents that I might have otherwise
 2 possession of if it weren't for first a house
 3 fire that destroyed everything I owned in
 4 2013 and also a divorce in which everything
 5 else that I had pretty much was, you know,
 6 left in the hands of -- of someone I didn't
 7 really feel like communicating with.
 8 Q. You didn't consider the records relating to
 9 your father's work -- redistricting work to
 10 be your data, correct?
 11 A. The hard drives were given to me by my -- by
 12 my mother, so I would say that I considered
 13 everything on those hard drives that my
 14 father had left in his room that my mother
 15 gave to me unconditionally -- I considered
 16 all of it mine at that point when it was
 17 given to me by my deceased father's wife.
 18 Q. Even if the material related to your father's
 19 business with another business partner, you
 20 considered it your material, your --
 21 A. I considered the stor- --
 22 MR. JONES: Ob- -- objection. It's
 23 been asked and answered.
 24 MR. SPARKS: Go ahead and answer.
 25 A. I considered everything that my mother gave

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1 me that had previously belonged to my father
 2 who was now dead mine, yes.
 3 Q. Did your father have a will?
 4 A. Yes.
 5 Q. Do you know if in the will there was any
 6 provision with respect to his personal
 7 property and who the personal property would
 8 be left to?
 9 A. My understanding, not being an estate
 10 attorney, is my mother was the beneficiary.
 11 Q. Have you seen a copy of the will?
 12 A. Yes.
 13 Q. Did you -- did your father make any direct
 14 gifts to you in the will?
 15 A. I don't believe he did, no.
 16 Q. Did your father in the will address anything
 17 related to his -- his business records,
 18 business files?
 19 A. I don't recall.
 20 Q. Prior to turning over the electronic files to
 21 Arnold & Porter you said you spent two to
 22 three hours immediately before turning them
 23 over to Arnold & Porter. I would like to
 24 understand how much time in total you spent
 25 reviewing the materials at any point in time

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1 before you gave them to Arnold & Porter.
 2 A. That would be difficult. Do you mean -- you
 3 know, I -- for example, I printed out copies
 4 of pictures of me and my children. Do you
 5 consider me putting those on my wall time
 6 reviewing the materials?
 7 Q. No. Time spent looking through the
 8 electronic files on a computer.
 9 A. That would be very difficult to determine. I
 10 mean, I don't know. How much time do you
 11 spend looking at pictures of your children?
 12 Q. Putting aside the amount -- well --
 13 A. I didn't spend a lot of time looking at my
 14 father's work files if that's what you're
 15 driving at. No, I didn't.
 16 Q. So let's focus on that point. Putting aside
 17 the time you spent looking through files that
 18 related to you or photographs related to you
 19 or issues that were personal to you, putting
 20 all of those personal materials aside, how
 21 much time would you estimate you spent
 22 reviewing files that related to your father,
 23 his redistricting work, his business records,
 24 any expert documents he may have created,
 25 those materials?

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1 A. Well, it's also hard because there were
 2 certain situations in some of those backups
 3 where there were folders that contained a
 4 multitude of mixed documents. In certain
 5 cases I would open something thinking that it
 6 was one thing and find that it was something
 7 different. So there were -- there were both
 8 situations where -- for example, news
 9 articles that he had in a folder of -- I
 10 believe there were a lot of -- of news
 11 articles that I actually read through that he
 12 had saved, maybe articles even that mentioned
 13 him specifically and, of course, I was
 14 interested in preserving that. Of course, I
 15 wanted, you know, a scrapbook of my father
 16 and so -- also, there were -- just looking at
 17 the file extensions and having a basic
 18 familiarity with my father's work, I knew a
 19 lot of them would be file extensions that I
 20 wouldn't even be able to open considering
 21 that I didn't have the right proprietary
 22 software. So -- wow. I really -- it would
 23 be very difficult for me to give an estimate.
 24 I don't really understand. Maybe -- I mean,
 25 not -- not to be snide, but what -- what --

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1 what -- what exactly are we driving at? How
 2 many hours I spent looking specifically at
 3 just the files in folders that contained
 4 things like, again, letters to me, old trust
 5 documents, letters that my grandfather sent
 6 to my father, and interesting stories and
 7 maybe a few photographs, some of them of my
 8 father and my relatives, some of them my
 9 father and my children, some of them me and
 10 my children? It would be -- it would be very
 11 difficult to give you an estimate of how many
 12 of those minutes were spent looking at files
 13 that were specifically related to his work,
 14 much less specifically related to which -- I
 15 mean, I wouldn't be able to distinguish the
 16 legislative maps from the congressional
 17 district maps.

18 Q. Is it fair to say that the majority of the
 19 time you spent reviewing the files was spent
 20 reviewing materials related personal to you
 21 and that, in comparison, you spent very
 22 little time reviewing files related --

23 A. Very little --

24 Q. -- to your father's --

25 A. -- is kind of a --

1 MR. SPARKS: Hold, please.

2 BY MS. SCULLY:

3 Q. -- work? Yeah. It's a --

4 A. I'm sorry.

5 Q. It's -- my question, is it fair to say that?

6 MR. JONES: Objection, asked and
 7 answered.

8 MR. SPARKS: Please answer.

9 A. Yes.

10 MR. JONES: We've been going about
 11 an -- about an hour.

12 MS. SCULLY: We can take a break.

13 MR. JONES: Can we take a break?

14 THE WITNESS: This time I am going to
 15 smoke a cigarette.

16 THE VIDEOGRAPHER: Going off the
 17 record. The time is 11:39 a.m.

18 (Whereupon, there was a recess in the
 19 proceedings from 11:39 a.m. to 11:59 a.m.)

20 THE VIDEOGRAPHER: Going back on the
 21 record. The time is 11:59 a.m.

22 BY MR. SPARKS:

23 Q. Ms. Hofeller, you testified earlier today
 24 that Dale got all the good stuff. What did
 25 you mean by that?

1 A. The specifically work-related stuff, the
 2 stuff that would be -- you know, the stuff
 3 that he wanted, the stuff that he felt was
 4 pertinent.

5 Q. And you said he took two computers from your
 6 father's office; is that correct?

7 A. That's what I'm told.

8 Q. You've also testified today that these hard
 9 drives and the thumb drives, you understood
 10 them to be backups, correct?

11 A. That's correct.

12 Q. Was it your understanding that your father's
 13 work-related files that they had on the
 14 computer that Dale Oldham had taken or
 15 computers that he'd taken were also backed up
 16 on any of these hard drives or thumb drives
 17 that you received?

18 MR. JONES: Ob- -- objection, calls for
 19 speculation.

20 A. Honestly, if I speculated I would speculate
 21 that any backups that had been done
 22 specifically of the work computers would be
 23 already taken by him. I did not -- I did
 24 not -- actually, the opposite. I assumed
 25 that these were personal backups because they

1 were there with -- with those things. And,
 2 again, it's -- it's always been a little
 3 bit -- those lines have always been a bit
 4 blurry in the household.

5 MR. BRANCH: All right. I'm --

6 BY MS. SCULLY:

7 Q. Do you --

8 MR. BRANCH: -- going to remind
 9 everybody here that under the North Carolina
 10 rules, counsel's only supposed to object to
 11 the form of the question. There are no
 12 speaking objections allowed in North
 13 Carolina. This is multiple times now that
 14 the witness has changed her answer in
 15 response to a speaking objection by
 16 Mr. Jones. Now, unless I'm mistaken,
 17 Mr. Jones, you do not represent the witness.
 18 Under the rules you can object to the form of
 19 the question and that's it. You can't
 20 instruct her not to answer and she should not
 21 be changing her testimony in response to
 22 something that you articulate for her.

23 BY MS. SCULLY:

24 Q. Ms. Hofeller, do you, in fact, know one way
 25 or another if the information that was

1 contained on the hard drives and the thumb
 2 drives that you provided to Arnold & Porter
 3 were in part duplicative of the information
 4 that was contained on the computers that Dale
 5 Oldham took possession of?
 6 A. I really don't know. I really honestly don't
 7 know.
 8 Q. Turning back to your communications with
 9 Common Cause, you testified earlier that your
 10 first outreach to Common Cause was a
 11 communication that you had with someone named
 12 Bob Phillips, correct?
 13 A. Correct.
 14 Q. When did that communication occur?
 15 A. That would have been in very -- very early
 16 November, the first week of November.
 17 Q. How many times did you speak with
 18 Mr. Phillips?
 19 A. Once.
 20 Q. Was your communication with Mr. Phillips in
 21 person, telephonic? How did you communicate
 22 with him?
 23 A. Telephonic.
 24 Q. What did you know about Common Cause when you
 25 reached out to Mr. Phillips?

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1 A. I knew that they were representing the
 2 interest of voters that felt that this
 3 redistricting represented a violation of
 4 their constitutional rights.
 5 Q. And the redistricting that you're referring
 6 to, does that include the maps that were
 7 prepared by your father, Mr. Hofeller, in
 8 North Carolina?
 9 A. Yes.
 10 Q. So you understood that Common Cause was
 11 seeking to have the redistricting maps that
 12 your father had prepared thrown out, correct?
 13 A. Yes.
 14 Q. You knew that Common Cause was antagonistic
 15 to the work of your father, Mr. Hofeller,
 16 correct?
 17 A. I didn't know that they were -- initially, I
 18 did not know that they were antagonistic to
 19 the new maps.
 20 Q. When you say the new maps, what do you mean
 21 by that?
 22 A. Well, he's drawn more than one set, so
 23 interesting to know I didn't actually know
 24 that there was a new case when I first spoke
 25 to Common Cause. I thought that this was all

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1 concerning maps that had already been
 2 redrawn.
 3 Q. You knew historically that Common Cause had
 4 been antagonistic to the work that your
 5 father had done in North Carolina, correct?
 6 A. If -- if -- if that's the way to characterize
 7 it, then, yes.
 8 Q. I believe you testified you reached out to
 9 Mr. Phillips to seek a referral for your
 10 mother. Did you communicate any specific
 11 details to Mr. Phillips about why you were
 12 looking for an attorney for your mother?
 13 A. Yes, so that I could get the right kind of
 14 attorney.
 15 Q. What -- can you share with me specifically to
 16 the best of your recollection what you said
 17 to Mr. Phillips when you communicated with
 18 him on the phone?
 19 A. That my mother was facing a challenge to her
 20 competence.
 21 Q. Did you share with Mr. Phillips who had
 22 brought the incompetency petition against
 23 her?
 24 A. No.
 25 Q. Did you share with Mr. Phillips any

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1 information about who was involved in the
 2 incompetency proceedings?
 3 A. Not specifically, no.
 4 Q. If I recall correctly, you testified that
 5 Mr. Phillips then put you in touch with Jane
 6 Pinsky?
 7 A. That's correct.
 8 Q. Jane Pinsky also works for Common Cause?
 9 A. Yes.
 10 Q. Is Ms. Pinsky a lawyer, if you know?
 11 A. I don't think she is.
 12 Q. How many times did you speak with Ms. Pinsky?
 13 A. In total I believe that we had three -- three
 14 or four conversations, all on the phone.
 15 Q. Do you know what Ms. Pinsky's title is with
 16 Common Cause?
 17 A. Not offhand, no.
 18 Q. I want to go through the three or four
 19 communications that you had with Ms. Pinsky.
 20 Do you recall the first communication you had
 21 with her --
 22 A. Yes.
 23 Q. -- the time period?
 24 A. That would have been also very early
 25 November. Sometime during the first --

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1 sometime during the first eight or nine days
2 of November.
3 Q. Was anyone else on the phone during that
4 first communication that you had with
5 Ms. Pinsky?
6 A. Not that I know of.
7 Q. Approximately how long did that first
8 communication with Ms. Pinsky last?
9 A. I'm not -- it wasn't a particularly long
10 conversation. Ten minutes, maybe -- maybe,
11 if that.
12 Q. Tell me what you recall about that
13 conversation, what you said and what she
14 said.
15 A. She had -- she -- we confirmed that this was
16 about the matter of referral and that Bob had
17 said that she would be the one that would --
18 was more familiar with the names of -- of
19 local attorneys. And she had some names for
20 me and so I took down those names, and she
21 wished me luck and expressed condolences for
22 the loss of my father and I think that was
23 about it in that first conversation, I think.
24 Q. When you first communicated with Ms. Pinsky,
25 did she give you the impression that she was

1 expecting your call? Did you make the call
2 to her?
3 A. I re- -- I think we -- I don't actually know
4 who initiated the call that was the one where
5 we actually spoke. We exchanged a few
6 messages. I got an e-mail from Bob saying
7 that he had told Jane to reach out to me and
8 then exactly what combination of who left who
9 what message, I'm not honestly sure.
10 Q. You had an e-mail communication with Bob.
11 How many e-mail communications did you have
12 with Mr. Phillips?
13 A. One. I mean, one conversation. It was, I
14 think, maybe two, maybe three messages, his
15 saying that and me saying thank you. So I
16 think was -- two, I think, was all.
17 Q. I just want to make sure I understand your
18 testimony. You had one telephone
19 conversation with Mr. Phillips and then you
20 had one e-mail with Mr. Phillips, but the
21 e-mail may have had a couple of threads
22 within it?
23 A. Recalling to my best ability, it was -- the
24 e-mail would have contained his noted that I
25 would be hearing from Jane and my thanks --

1 Q. Reply.
2 A. -- for the -- for that.
3 Q. Did you have any e-mail communications with
4 Jane Pinsky?
5 A. I think that I did, yes, because I wanted --
6 we -- we were confirming names and numbers
7 and things. Like I didn't know how do you
8 spell that and I said, can you just e-mail me
9 that? And -- and then I think it was more --
10 I think maybe one more time in e-mail --
11 she -- she really prefers the phone. We --
12 we both kind of felt that way, I think. So
13 any further e-mail was more to the -- to
14 the -- to the -- like, are you going to be at
15 the office? Can I reach you today? Are you
16 busy? That sort of thing. Like the --
17 that -- that predicated the -- a follow-up
18 phone call about those attorneys. It was
19 still pretty much exclusively on that and
20 just sort of incidentals on the topic of --
21 of what this proceeding against my mother
22 really actually was, you know, very -- I
23 didn't know much about what -- what -- what
24 was actually being asserted. It's hard to
25 explain. It wasn't really very detailed. It

1 was just kind of clarifying what kind of
2 attorney I would need, I think, really,
3 whether this is -- is this an estate
4 attorney? Is this a litigation attorney? Is
5 this -- and a lot of my questions she would
6 then say, you know, I would have to -- I
7 would have to ask an attorney what kind of
8 attorney you need for your mother, that sort
9 of thing.
10 Q. Did you share with Ms. Pinsky any of the
11 documents from the incompetency proceedings,
12 any of the legal documents --
13 A. No.
14 Q. -- court documents?
15 A. No, I don't -- no, I don't think I did,
16 actually. It didn't seem necessary or
17 appropriate since she wasn't the attorney.
18 Q. Approximately how many e-mail communications
19 did you have with Ms. Pinsky?
20 A. I think maybe a grand total of two, if two.
21 I would have to look. It may even be just
22 one thread. I hon- -- I didn't really study
23 it.
24 Q. Your first conversation that you had with
25 Ms. Pinsky in early November, first eight or

1 nine days, said lasted approximately ten
 2 minutes. Can you tell me what you recall
 3 specifically about what was discussed during
 4 that conversation, what you said to her and
 5 what she said to you?
 6 A. I don't recall specifics, no. I -- it was --
 7 I was just trying to get an attorney for my
 8 mother, so I don't remember exactly what I
 9 said on the --
 10 Q. In that first communication did she give you
 11 names of attorneys that you could reach out
 12 to?
 13 A. Yes.
 14 Q. In the first conversation that you had with
 15 Ms. Pinsky did you talk substantively about
 16 who was involved in the incompetency
 17 proceedings?
 18 A. No.
 19 Q. Did you at any point in time discuss with
 20 Ms. Pinsky who was involved in the
 21 incompetency proceedings?
 22 A. Not that I recall, no. I really said very
 23 little other than I felt that the fact that
 24 my father had so many friends and coworkers
 25 and colleagues and -- and supporters and

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1 really, frankly, people who really, really,
 2 really idolized him and -- and -- and had
 3 kind of a -- a nonhuman vision of him, and
 4 that was why I was contacting Common Cause.
 5 I didn't have any -- I wasn't expecting there
 6 to be a discussion about specific names. It
 7 seemed to me from the point of view where I
 8 was at the time that the specific names were
 9 going to have to be people in Raleigh that
 10 didn't worship my father. There was no need
 11 to -- no need to -- to -- to detail. And
 12 also I wasn't really trying to discuss the
 13 merits of my mother's matter with -- with --
 14 with Common Cause. I was only trying to
 15 really seriously just hope that I might find
 16 an attorney in Raleigh that was independent
 17 of -- of my father and -- and the people he
 18 worked for.
 19 Q. When you say independent from your father,
 20 what do you mean by that?
 21 A. I mean that in matters that concern a man as
 22 a person, often when you're dealing with
 23 people that only know him in a professional
 24 context and have a great deal of their
 25 personal and professional life mingled with

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1 that image, when you begin to speak about
 2 that person as if they were a human being
 3 with multitudes of emotions, contradictions,
 4 all of those things, often people get
 5 hostile. If you are -- if you are bringing a
 6 human image to a hero's image, they -- they
 7 sometimes feel that maybe they -- they get
 8 angry.
 9 Q. How did your father's work in redistricting
 10 relate, if at all, to the incompetency
 11 proceedings that were ongoing with respect to
 12 your mother?
 13 A. Many people who only knew my father
 14 incidentally or knew him only in one context
 15 were resisting the assertion that I had that
 16 perhaps my mother and I would know better
 17 what it was that my father wanted that was
 18 not specifically spelled out. There was a
 19 lot of speculation about what your father
 20 wanted coming from a variety of sources, some
 21 people that really didn't know him very well
 22 outside of the context of work, and it was,
 23 frankly, a little bit offensive.
 24 Q. You did not have any conversations with your
 25 father regarding what he wanted to have

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1 happen with his work related to redistricting
 2 upon his death, did you?
 3 A. I don't believe I -- I don't believe I ever
 4 had a conversation with my father about what
 5 he wanted to have happen after his death
 6 pertaining specifically to his work. I think
 7 he felt that once he was dead, that his work
 8 to him at least would be no longer relevant.
 9 Q. What led you to that belief?
 10 A. He often would say that that was -- you know,
 11 if you're going to divide people into -- into
 12 camps of how they view death, my father
 13 would, whether he was sincere or not, he
 14 would often say, you know, sometimes
 15 jokingly -- I don't know how well you knew
 16 him, but he -- he had a -- he had a penchant
 17 for irony and he would often say, well, it
 18 won't matter once I'm dead, right? So -- he
 19 also said things like, I know that people on
 20 their deathbed very rarely look up and say, I
 21 wish I'd spent more time at work.
 22 Q. At what point in time did you discuss with
 23 Ms. Pinsky that you had some of your father's
 24 hard drives that you thought might be of
 25 interest to Common Cause?

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1 A. That would have been sometime in December.
 2 That was later. She -- she called me to ask
 3 how things were going with my mother because
 4 I also -- one of the things that I -- that
 5 comes -- that was coming pretty clear to
 6 anyone who talked to me in that time is there
 7 was a lot of -- there was a lot of emotion
 8 regarding the then still very recent death of
 9 my father and that it was -- it was sad that,
 10 you know, the principle concern about him,
 11 his life, and everything having to do with
 12 him was this -- this matter rather than the
 13 matter of his family.
 14 Q. How many conversations did you have with
 15 Ms. Pinsky about your father's hard drives
 16 and electronic materials that you had?
 17 A. I'm sure -- pretty -- pretty sure it was only
 18 one because she said that she really would
 19 not be certain -- I mean, really, that was
 20 it. I said -- we -- we had that
 21 conversation. She said, I'll ask the
 22 lawyers. And I think then any further
 23 conversation at all about those -- that media
 24 was had with the attorneys.
 25 Q. When you say Ms. Pinsky said, I'll ask the

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1 lawyers, was that in response to a question
 2 you asked her? What do you mean by that?
 3 A. That was not a response to a specific
 4 question. That was a response to the
 5 conversation that had begun with me
 6 mentioning the David Daley interview and
 7 saying, I have hard drives. And in the
 8 context of that article he had -- David Daley
 9 had implied that those hard drives would have
 10 maps that the state legislators would like.
 11 I, once again, didn't really think that it
 12 was anything, you know -- I don't know how to
 13 describe it. I --
 14 Q. Do you -- do you have an understanding of
 15 which lawyer she was referring to when
 16 Ms. Pinsky said, I'll ask the lawyers?
 17 A. The -- the lawyers who were involved in this
 18 matter since we were discussing whether or
 19 not there would be any use -- any
 20 admissibility. Again, I thought -- I wasn't
 21 even sure that -- I didn't even understand --
 22 at that moment when I spoke to her the first
 23 time about it and mentioned that article, I
 24 was under the impression that everything in
 25 this matter was on appeal so I wasn't

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1 thinking of it in terms of -- of evidence for
 2 any case. I was thinking of it more just as
 3 a -- an archival -- an academic interest.
 4 Q. When did you come to the understanding that
 5 this action in which you received the
 6 subpoena is still at the trial level and not
 7 on appeal?
 8 A. Actually, what's funny is that I was -- I was
 9 a little bit confused and, again, other
 10 matters were really, really pressing
 11 throughout, so I wasn't spending a lot of
 12 time studying what was going on with this. I
 13 had somehow gotten the impression that this
 14 already was in appeal, but for some reason
 15 this was -- because it was going to the lower
 16 court that it wasn't. I -- I just -- you
 17 know, I'm used to lawyers saying things.
 18 Okay, all right, whatever. I didn't even
 19 know -- I just thought it was a certain type
 20 of appeal that I wasn't even familiar with.
 21 I didn't actually understand completely that
 22 this was a new matter until it was said so
 23 like about a week ago. I -- I just -- all I
 24 knew -- all I knew for certain was that
 25 unlike the congressional districts that are

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1 at the U.S. Supreme Court, this matter
 2 would -- that new evidence would be allowed.
 3 That was what was clear.
 4 Q. How did you come to that understanding?
 5 A. Because the -- because that first
 6 conversation that -- on the matter -- I think
 7 Jane mentioned that there might be. I think
 8 might be. And, again, she was always saying,
 9 you know, I'm not -- you know, I would have
 10 to confirm that with the attorneys as a, you
 11 know, good public servant.
 12 Q. What was Jane having to confirm with the
 13 attorneys?
 14 A. That there would be -- that -- that the --
 15 that the hard drives would be potential --
 16 potentially usable as evidence in that the
 17 matter was open in that regard. I just,
 18 again, initially felt that Common Cause,
 19 being not directly affiliated with my father,
 20 would be a good -- literally like a
 21 repository for the information that I felt
 22 had historical value beyond any partisan
 23 interest but, rather -- I even used the words
 24 insight into the process -- the literal
 25 process because I -- I -- again, I'm not an

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1 expert on redistricting, but I have worked in
 2 political demographics and I have alongside
 3 my father -- you know, he studied political
 4 philosophy in general. So the -- the
 5 academic interest in this was -- was
 6 paramount to me even above any other
 7 potential. I did -- I'm not a North Carolina
 8 resident. I'm not a North Carolina voter. I
 9 have no personal concern about what happens
 10 in this case beyond the fact that this
 11 would -- this -- this man was my father and
 12 my mother was being -- being -- having a -- a
 13 very unpleasant procedure in a town that was
 14 not our home where the only people we even --
 15 that she even knew were people that had been
 16 working with my father.

17 Q. I believe you testified that Jane mentioned
 18 there might be some use for your father's
 19 materials as evidence, correct?

20 A. She did not put it in terms of use as
 21 evidence. She simply stated that the matter
 22 in the lower house was not a closed matter as
 23 far as evidence was concerned. I think
 24 that -- I don't remember her exact words, but
 25 there was no implication in that that there

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1 would be a literal use, just that there's
 2 even a possibility that new evidence could be
 3 heard on this matter at all.

4 Q. So you did understand based on your
 5 communications with Ms. Pinsky that there was
 6 a possibility that this information might be
 7 useful in the matter, correct?

8 A. Yes.

9 Q. And --

10 MR. SPARKS: I need to clarify one
 11 thing. I'm sorry. You said lower house.
 12 Did you mean lower court?

13 THE WITNESS: Lower court, yes. I'm
 14 sorry.

15 MR. SPARKS: Go ahead.

16 BY MS. SCULLY:

17 Q. And the party you were producing the
 18 information that might be useful to was on
 19 the opposite side from the work your father
 20 had done, correct?

21 MR. JONES: Objection, asked and
 22 answered.

23 MR. SPEAS: That's not a --

24 A. I understood that Common Cause was
 25 representing the voters.

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1 Q. Did Ms. Pinsky put you eventually in
 2 communication with any of the attorneys in
 3 this litigation?

4 A. Yes.

5 Q. Did you initiate the communications with any
 6 of the attorneys in this litigation?

7 A. No.

8 Q. Who did you first speak with as an attorney
 9 in this litigation?

10 A. I got a text from Eddie Speas.

11 Q. Do you still have a copy of the text message
 12 you received from him?

13 A. I don't.

14 Q. When did you receive the text from him, if
 15 you recall?

16 A. Shortly after that conversation with Jane. I
 17 believe that was December. I'm honestly -- I
 18 really -- I didn't -- the phone that I was
 19 using was running out of storage so it was --
 20 it was kind of -- you know, the phones will
 21 tend to dump those text messages. There was
 22 really no way for me to -- to track it back
 23 to exactly when.

24 Q. So you believe it was sometime in December
 25 2018 you received a text message from Eddie

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1 Speas, Jr. -- 2018, thank you, correct?

2 A. Yes.

3 Q. What do you recall the text message saying?

4 A. Intro -- he introduced himself and -- and
 5 basically said that -- I don't remember exact
 6 words. More like, Jane said you might be
 7 willing to -- to speak to us, something along
 8 those lines, and basically asking permission
 9 for contact and doing what is now polite in
 10 business and -- if you have a cell phone, you
 11 introduce yourself over text so that if he
 12 were to call again, I would know what that
 13 number was.

14 Q. Did you respond to the text message?

15 A. Yes.

16 Q. How did you respond?

17 A. Yes. I don't know if I said more than just
 18 yes. Maybe something polite just to -- to
 19 make it not so terse, but --

20 Q. You responded via text; is that correct?

21 A. Yes, I did.

22 Q. Approximately how many text communications
 23 have you had with Mr. Speas?

24 A. Not very many. There -- it was really more
 25 just an effort to schedule phone calls.

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1 Q. You have had more than one text communication
 2 with Mr. Speas, correct?
 3 A. I think there were may-- I think there were
 4 two, one in advance of -- of -- of two phone
 5 calls, two, you know, are you going to be
 6 available at such and such a time sort of
 7 thing.
 8 Q. After you communicated in response to
 9 Mr. Speas's first text where you said, yes,
 10 willing to talk to you, when was the next
 11 time you spoke with Mr. Speas?
 12 A. I think that that was about a week or so. It
 13 was -- you know, it was starting to get close
 14 to the holidays so, you know, there was time
 15 between communique. If -- if, you know,
 16 research needed to be done or references
 17 or -- or questions asked, it -- everything
 18 was starting to take a lot longer because it
 19 was the holiday season.
 20 Q. The next time you spoke with Mr. Speas, was
 21 that a telephone communication?
 22 A. Yes.
 23 Q. Did you initiate the call?
 24 A. I don't know. I really don't remember. It
 25 was -- we -- the idea being follow-up

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1 questions need to be asked on our end and --
 2 and it -- the -- the discussion continued as
 3 to whether or not there was -- I don't know,
 4 I think I -- I don't know how to -- to
 5 explain it any differently than I've already
 6 explained it, frankly.
 7 Q. On the first telephone call that you had with
 8 Mr. Speas, was there anyone else on the call
 9 as far as you know?
 10 A. No.
 11 Q. So just you and Mr. Speas on the first
 12 telephone call?
 13 A. That's how I remember it.
 14 Q. And that's all I can ask you for is the best
 15 of your recollection --
 16 A. Yeah.
 17 Q. -- today. Approximately how long did the
 18 first telephone call between you and
 19 Mr. Speas last?
 20 A. Maybe ten minutes, again, just -- there was
 21 not a lot of detail --
 22 Q. Tell me --
 23 A. -- discussed. It was really more just a
 24 friendly business-style conversation.
 25 Q. Tell me as -- to the best of your

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1 recollection what you said and what Mr. Speas
 2 said on that first telephone call.
 3 A. I said that I had -- I said that I had
 4 material that might be relevant to the case.
 5 Q. Did you explain in any further detail what
 6 material you had?
 7 A. Vague detail, external storage devices
 8 that -- I don't know whether or not I
 9 mentioned -- I -- I don't think I
 10 specifically said backups. I just said
 11 external storage devices.
 12 Q. What do you recall Mr. Speas saying in
 13 response to that?
 14 A. I believe that he did even in that first
 15 phone call want to clarify that these were --
 16 that -- that these had been given to me.
 17 Q. What specifically did Mr. Speas ask you about
 18 the hard drives?
 19 A. The -- I think if they'd been given to me.
 20 Q. And so your recollection is Mr. Speas said,
 21 have these been given to you?
 22 A. I don't know what his exact words were. The
 23 gist of it was, are they yours, and I said
 24 that they had, indeed, been given to me.
 25 Q. Did you tell him the circumstances under

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1 which you had obtained them?
 2 A. More or less, that along with things that
 3 literally belonged to me and things that I
 4 took to mean from my father that he wanted me
 5 to have, I had -- I had asked for these, you
 6 know, and as I said, I asked my mother if I
 7 could take my jewelry box, too, even though,
 8 of course, the answer would have been yes and
 9 many -- many would say that if it was
 10 something that I left with my father of mine
 11 specifically with the intent that he would
 12 hold it for me, that when I came to his
 13 apartment after his death, that anything that
 14 had belonged to me up till the point of his
 15 death was already mine, but I still went to
 16 the extra effort to make sure because, you
 17 know, I -- I didn't want to -- I didn't want
 18 to give anyone the impression that I was
 19 there to -- to pick over the corpse.
 20 Q. Just to clarify, your -- your father never
 21 told you he wanted you to have his external
 22 hard drives or these thumb drives, correct?
 23 A. He said that he wanted -- that he would keep
 24 the data that I had stored on his computer.
 25 With that I took to mean -- we didn't really

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1 get a chance to discuss the details of all of
 2 his personal effects because when I last
 3 spoke to him he wasn't dying.
 4 Q. The information you turned over to Arnold &
 5 Porter in response to the subpoena was not
 6 limited to the -- your personal data that you
 7 discussed with your father that he would
 8 preserve for you, correct?
 9 A. Correct.
 10 Q. You did not have any conversations with your
 11 father in which he told you he wanted you to
 12 have possession of his hard drives or thumb
 13 drives which you've turned over to Arnold &
 14 Porter, correct?
 15 MR. JONES: Objection, asked and
 16 answered.
 17 A. No.
 18 Q. In your initial conversation with Mr. Speas
 19 did you share with him your understanding
 20 that the external hard drives and thumb
 21 drives that you had contained your --
 22 contained information regarding your father's
 23 redistricting work including his expert
 24 consulting work?
 25 A. Could -- could you ask the question again?

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1 I'm sorry.
 2 Q. Did you share with Mr. Speas any detailed
 3 information about what you believed these
 4 hard drives and thumb drives -- what the
 5 materials were on those hard drives and thumb
 6 drives?
 7 A. I did not get very specific, no. That is how
 8 I'm accustomed to doing things with attorneys
 9 is that attorneys decide what's relevant and
 10 what isn't and that if there's a chance that
 11 it might be relevant to a matter that that
 12 attorney is working on, that I would say,
 13 this might be relevant to the matter that
 14 you're working on. So that was pretty much
 15 what I said. I don't recall talking about
 16 specific files. I don't think that there
 17 was -- already we -- there was a feeling that
 18 it would be most proper to say, this might be
 19 relevant, and then to not speculate further.
 20 Q. Did anyone from Arnold & Porter specifically
 21 tell you that would be the better way to
 22 proceed, to give --
 23 A. I did not have any discussion with anyone
 24 from Arnold Porter.
 25 Q. Okay. Did anyone from -- I apologize --

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1 Poyner Spruill tell you that the best way to
 2 proceed would be to give them the entirety of
 3 the contents?
 4 A. Well, I didn't necessarily know who was and
 5 wasn't with Pointer Spruill [sic]. I only
 6 knew that these were attorneys that were
 7 working on the matter.
 8 Q. Did Mr. Speas or Ms. Mackie ever tell you
 9 that it would be best for you to turn over
 10 the entirety --
 11 A. They didn't say that it would be best. I'm
 12 sorry. They said that it would be a -- a --
 13 a better preservation of the integrity, that
 14 the chain of custody would be transparent and
 15 in that transparency, the integrity of the --
 16 of the potential evidence would be preserved.
 17 Q. Who told you that, Mr. Speas, Mr. Mackie, or
 18 both?
 19 MR. FARR: It's Ms. Mackie.
 20 A. Ms. Mackie.
 21 Q. Ms. Mackie. Sorry.
 22 A. I -- I don't recall which one of them said
 23 that. I'm sorry. I really don't.
 24 Q. This was a discussion you had with Mr. Speas
 25 or Ms. Mackie prior to your receiving the

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1 subpoena, correct?
 2 A. I -- I don't know. Now that you ask, I don't
 3 know which -- because at some point,
 4 honestly, I, once again, had assumed that
 5 this had all been seen before and I was
 6 really honestly talking about the fact that
 7 there was personal information of mine and
 8 explaining that, once again, it's that
 9 classic, okay, you know, just because you
 10 don't have anything to hide doesn't mean that
 11 you aren't entitled to privacy. So I
 12 actually did have a -- you know, with my dad
 13 echoing in my ear that you ask about that. I
 14 was getting ready to potentially turn over
 15 data that was personal to me as well so I
 16 really wanted to find out what the intentions
 17 were. And it was explained to me that --
 18 that this was quite clear -- it was quite
 19 clear that -- that anyone, either the -- the
 20 legislative defendants or the plaintiffs,
 21 were only properly entitled to even look at
 22 the content of files that were explicitly and
 23 obviously related to this case.
 24 Q. And that was something that either Mr. Speas
 25 or Ms. Mackie told you, that the only

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1 information anyone would be entitled to look
 2 at is information related to the
 3 redistricting and that no one would be
 4 entitled to look at any of your personal --
 5 A. Well --
 6 Q. -- information?
 7 A. -- no -- I'm sorry. No one in this -- in
 8 this -- in this matter, yes.
 9 Q. Is it your understanding that your personal
 10 information to the extent it existed on the
 11 hard drives and the thumb drives has been
 12 maintained by Poyner Spruill and has not been
 13 produced in this litigation?
 14 A. You know, I haven't really been keeping up to
 15 date on -- I know that it's a matter of
 16 contention. I know that I was a little
 17 bit -- kind of raised my eyebrows when I
 18 found out that the legislative defendants
 19 felt that they needed to see everything,
 20 but -- I knew that that was probably going to
 21 be the end result because I know how
 22 litigation goes and I myself have been the
 23 subject of, you know, quite a few
 24 speculations about whether or not a person is
 25 entitled to privacy or confidentiality.

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1 Usually the answer ends up somehow being no
 2 so with that expectation, I still yet spoke
 3 my intention and that was that my personal
 4 data be protected, that my mother's personal
 5 data be protected, and that my father's
 6 personal data be protected, and that the only
 7 things that were on these drives that would
 8 be -- would be looked at on paper was files
 9 that were explicitly and clearly related to
 10 this matter. So when the legislative
 11 defendants moved to see it all, I -- I went,
 12 huh, well, what do you know. Wonder why they
 13 want that. That was about the extent of it,
 14 but it seemed pretty -- pretty predictable.
 15 My father used to often exasperate about,
 16 well, they -- they're not entitled to that,
 17 it's personal, so...
 18 Q. Did you have any conversations with Mr. Speas
 19 or with Ms. Mackie about the incompetency
 20 proceedings that you were dealing with with
 21 your mother?
 22 A. No. No. I mean, maybe I might have
 23 mentioned that that's how we got into
 24 conversation, because I was getting a
 25 referral, but, no, I did not discuss the

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1 incompetency matter with Eddie Speas or
 2 Caroline Mackie beyond the fact that it
 3 existed.
 4 Q. You do recall the -- having the discussion of
 5 the existence of the fact with them in the
 6 context --
 7 A. You know --
 8 Q. -- of the referral?
 9 A. -- I -- I'm sorry. I didn't mean to cut you
 10 off. I honestly don't know if -- if we
 11 discussed it even to that point. The only
 12 way in which there would have even been any
 13 awareness -- I don't even know if I got as
 14 specific as to say that it was incompetency.
 15 I think, honestly, I probably used some sort
 16 of colloquialism, à la Hofellerism, like,
 17 yeah, I got to beat the vultures off the
 18 widow. So really I think I put it more in
 19 terms like that. It was never my intention
 20 to discuss the matter or the merits of the
 21 case or anything specific with these
 22 attorneys. It was unrelated.
 23 Q. And who are the -- the vultures you were
 24 referring to?
 25 A. Various friends and family.

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1 Q. Who specifically?
 2 A. Trudy Harris, my cousin; a half-uncle who may
 3 or may not have been -- you know, there --
 4 it's -- it's been very unclear how many
 5 friends and family were expressing some sense
 6 of entitlement to things like my
 7 grandmother's jewelry, you know, things like
 8 that.
 9 Q. Were either Ms. Harris or your uncle involved
 10 at all in the incompetency proceedings?
 11 A. Involved, no. And, again, it's still yet
 12 unclear exactly. There's been very little
 13 transparency. So names of interested
 14 parties. That doesn't mean they were
 15 involved. It just means that someone, i.e.,
 16 the petitioner, may have looked on documents
 17 including trusts and wills and such and seen
 18 names of beneficiaries and simply written
 19 them down. I was all very unclear who was
 20 and wasn't literally involved. I mean, this
 21 is an estate. There's usually a mess when
 22 there's an estate that has any -- any
 23 interest to anyone at all.
 24 Q. During your first telephone call with
 25 Mr. Speas sometime in December 2018 did

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1 Mr. Speas during that communication talk
 2 about possibility of sending you a subpoena?
 3 A. I don't remember in which conversation, but,
 4 actually, I believe that it was -- I believe
 5 that it was Jane Pinsky that actually said
 6 they're going to send -- I think she said,
 7 they -- they asked me to let you know so that
 8 you would have a heads-up that there was a
 9 subpoena out.
 10 Q. So you had -- that there was a subpoena out.
 11 I don't understand.
 12 A. That it had been mailed --
 13 Q. Okay.
 14 A. -- or whatever.
 15 Q. Prior to your receiving the subpoena, it's
 16 your recollection that Ms. Pinsky called you
 17 to let you know that there was a subpoena
 18 being sent out?
 19 A. I don't know that that was the specific
 20 reason that she called. We had sort of --
 21 you know, we were -- we had casual
 22 conversation at that point because we --
 23 she -- she, once again, was asking me how
 24 things were going and was there -- you know,
 25 how -- how was my mother feeling, was she --

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1 how was she doing, because I'd told her that
 2 she was extremely stressed out and -- and
 3 emotionally -- emotionally drained and
 4 very -- feeling very vulnerable and -- and
 5 all because, you know, she really isn't --
 6 she isn't prepared for litigation. She was
 7 not expecting to be in such a -- an exposed
 8 position and, you know, my father had managed
 9 to keep her very sheltered from his work up
 10 until the point when he was no longer around
 11 to do that.
 12 Q. In the first telephone call that you had with
 13 Mr. Speas you told him that you had some
 14 external storage devices. You weren't sure
 15 if they were backup or not, but you had these
 16 materials. You said he asked you for
 17 clarification if they were yours and you said
 18 yes, they were yours.
 19 What else was discussed during that
 20 conversation, if you recall?
 21 A. I think at that point really that -- there
 22 wasn't much other than that. It was -- as
 23 communication with attorneys often is, you
 24 know, there was a -- a basic set of questions
 25 and then it was let's -- let's consult, let's

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1 re- -- do our research and get back to you.
 2 MR. SPARKS: Are you okay? Do you need
 3 a break?
 4 THE WITNESS: (Nods head).
 5 MS. SCULLY: We can take a break.
 6 MR. SPARKS: She seems to be tired.
 7 Thank you.
 8 THE VIDEOGRAPHER: Going off the
 9 record. The time is 12:47 p.m.
 10 (Whereupon, there was a recess in the
 11 proceedings from 12:47 p.m. to 1:04 p.m.)
 12 THE VIDEOGRAPHER: Going back on the
 13 record. The time is 1:04 p.m.
 14 BY MS. SCULLY:
 15 Q. Ms. Hofeller, before we went off the record
 16 we were talking about the first telephone
 17 communication that you had with Mr. Speas and
 18 I believe you testified that in conclusion of
 19 that conversation, Mr. Speas said something
 20 along the lines of, okay, we'll have to do
 21 some research. We'll be back in
 22 communication with you; is that correct?
 23 A. As far as I know. I mean, it -- it -- I
 24 remember it being very much what I would
 25 expect communication with an attorney on a

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1 civil matter to be like as in, tell us about
 2 what you have and we will then -- they -- I
 3 got the impression that they really wanted to
 4 make sure that -- that I was -- that this was
 5 a voluntary -- you know, that I was okay with
 6 the idea that -- that -- that I might -- you
 7 know, that this would be potentially involved
 8 in the matter, not just, you know, an aside.
 9 And with that they wanted to make sure that
 10 it was relevant really, I guess, would be the
 11 best word, that it was relevant. And before
 12 they even wanted to go into any more of the
 13 nuts and bolts, they wanted to make sure that
 14 this was even a relevant matter because I
 15 think the impression being that they didn't
 16 want to discuss -- they didn't want to
 17 discuss a lot with me that wasn't
 18 specifically relevant to the case.
 19 Q. When was the next communication that you
 20 recall having with Mr. Speas after this
 21 original approximately ten-minute phone
 22 conversation that you had with him sometime
 23 in December 2018?
 24 A. Well, again, my impressions from that time,
 25 mostly about the fact that the holidays were

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1 upon us and so there was a lot of -- there
 2 was a lot of phone tag. There was a lot of
 3 someone's going to be out of town and then
 4 another person's going to be on vacation and
 5 things like that. So I think -- I mean, the
 6 next -- the next conversation, I believe,
 7 that I can really firmly say it happened
 8 instead of just leaving messages would have,
 9 I think, been after the holidays, sometime --
 10 I think sometime in January, I think.

11 Q. That next conversation when you actually
 12 spoke with Mr. Speas, not just exchanging
 13 voicemail messages, sometime in January, did
 14 you make that call or did Mr. Speas call you?

15 A. I don't recall.

16 Q. Regardless of who initiated the call, who was
 17 on the call?

18 A. I think that -- I think that it was just --
 19 you know, it -- it -- it had come to the
 20 point where it was clear to me at least
 21 that -- that Eddie and Caroline were the
 22 attorneys that -- that were -- at Common
 23 Cause that were working on this matter. So,
 24 honestly, which -- which step was -- which --
 25 which bit of information was given to me by

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1 which one of them, Eddie or Caroline, it's
 2 kind of hard for me to recall off the top of
 3 my head, honestly. I'm not trying to be
 4 evasive. I just don't know who -- who said
 5 what. I was -- I was already thinking of
 6 them as interchangeable, you know, so --

7 Q. I understand.

8 A. -- it didn't seem relevant to me so I
 9 didn't -- I didn't make the point to remember
 10 who said what.

11 Q. Did you have any telephone conversations in
 12 which both Mr. Speas and Ms. Mackie were both
 13 on the line at the same time?

14 A. Yes. Yes, we did have at least one, and I
 15 think that was -- yeah, I think that would
 16 have been in January.

17 Q. What do you recall about that conversation
 18 with both Mr. Speas and Ms. Mackie on the
 19 phone in January?

20 A. I remember that the -- I believe -- I could
 21 say that the point of the conversation was
 22 to -- to get a -- an accurate survey of what
 23 information, what format, anything else that
 24 might be includable -- I know that's not a
 25 word but, you know, might be best included

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1 with the -- the media we'd already
 2 established was relevant to the -- to the
 3 case. Like is there any -- is -- is there
 4 anything else that you have that appears to
 5 be related to this directly that you would
 6 like to -- to mention? And I think -- I
 7 think that there was only -- there were
 8 things that were related to my father's work
 9 in that everything was related to his work,
 10 like, you know, certain -- certain statements
 11 where the -- the business is mentioned like
 12 as a -- like taxes, things like that, but
 13 nothing -- you know, nothing specific. I
 14 don't -- I don't recall.

15 Q. Do you recall having conversations with
 16 Mr. Speas and Ms. Mackie about the fact that
 17 information about your father's taxes were
 18 included in these materials that you were
 19 discussing producing to them?

20 A. We did not discuss specifically taxes. I
 21 had -- we were -- it -- it was established
 22 already that this media contained really a --
 23 a masala of -- of -- of data that was my
 24 personal data, my father's personal data, my
 25 father's work data, and, frankly, even my

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1 work data. There was stuff relevant to my
 2 work as well as my personal life on all of
 3 them and that it was very -- it was -- I
 4 think when I said personal that that pretty
 5 much covered everything nonre- --
 6 specifically North Carolina redistricting
 7 related. What I'm saying is I don't remember
 8 saying specifically, his tax returns are on
 9 this. I'm pretty sure I never said that.
 10 I -- we just -- when -- when we discussed the
 11 fact that it was all mingled, personal and
 12 work, that I -- I think that was implied that
 13 was covered.

14 Q. If I understand your testimony, you discussed
 15 with Mr. Speas and Ms. Mackie that within the
 16 materials you were providing to them was both
 17 data related to your father's work as well as
 18 personal data with regards to your father and
 19 personal data for your mother and personal
 20 data for yourself, correct?

21 A. Correct.

22 Q. Do you recall what, if anything, Mr. Speas or
 23 Ms. Mackie said in response to you sharing
 24 with them that this data was commingled and
 25 contained --

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1 A. They addressed it without -- I don't think I
 2 even had to really specify what, I think,
 3 seemed obvious and that is that obvious -- I
 4 wouldn't expect to see a lot of personal data
 5 suddenly appearing in this matter because
 6 their understanding of the directive to them
 7 was that only files that were explicitly,
 8 obviously North Carolina redistricting during
 9 this period of time related would even be
 10 looked at, much less entered into evidence.
 11 That was their understanding at that time.
 12 Q. And when you say that was their
 13 understanding --
 14 A. That's what they told me their understanding
 15 was.
 16 Q. Did you have any conversations with
 17 Ms. Mackie without Mr. Speas on the line?
 18 A. Yes.
 19 Q. How many conversations have you had with
 20 Ms. Mackie?
 21 A. I don't know. Three, maybe four. It was
 22 very -- again, many of these conversations
 23 weren't much more than just touch base,
 24 here's what we're doing, we're doing the
 25 research on this, we will get back to you,

1 just, you know, polite -- if it had been a
 2 while or if I called and left a message,
 3 like, you know, have you found out whether or
 4 not X, X, X, then it was -- a lot of this was
 5 voice mail. I don't honestly -- I can't tell
 6 you exactly how many conversations and many
 7 of them were very brief, like just an attempt
 8 to schedule a phone call or something.
 9 Q. Did you have any e-mail communications with
 10 Ms. Mackie?
 11 A. I did and I -- the -- the -- what pops into
 12 my mind instantly is she e-mailed me the
 13 address to which I -- when it was established
 14 that I was not going to be able to get to
 15 Raleigh to actually produce the -- the
 16 evidence as per the subpoena -- because that
 17 was my original intention because I was back
 18 and forth, you know, helping my mother
 19 between my work in Kentucky and -- and -- and
 20 visiting and helping her with -- with her
 21 matters. But it -- it -- it became
 22 increasingly clear, one, that I wasn't going
 23 to make it to Raleigh soon enough to -- to --
 24 to -- to -- to get this produced and, two, I
 25 think they -- that they had already said that

1 it was going to a third party anyway and that
 2 it would be basically not even handled by
 3 them. It would go directly to a third party
 4 anyway, so it would probably be just as well
 5 that I mail it directly to that third party
 6 for the -- the forensic IT expert really is
 7 what my understanding was. I don't remember
 8 the exact words they used, but the idea that
 9 this would be someone that could say, this is
 10 how it was when we received it and could
 11 confirm things like that none of the files
 12 had been altered.
 13 Q. I thought you testified earlier that you did
 14 not mail the materials directly to a
 15 third-party vendor; is that correct?
 16 A. I mailed them to -- I mean, I thought that
 17 Poyner Spruill -- no, not Poyner Spruill. I
 18 mean --
 19 Q. Is it your understanding that you thought --
 20 A. Yes.
 21 Q. -- Arnold & Porter was a third-party vendor
 22 when you sent them the material?
 23 A. Vendor? No. Just another -- a different
 24 attorney. I said an attorney in D.C. who is
 25 a forensic expert on IT essentially.

1 Q. Okay.
 2 A. I don't remember the exact words, but that
 3 was the understanding that I took away from
 4 it, that they felt that it would be a -- a --
 5 a better -- I don't know how to put it. I
 6 don't -- I don't have, as my father would
 7 call it, the legalese to -- to repeat exactly
 8 what was said. I did not ever get the
 9 impression this was a vendor. My
 10 understanding this was still a lawyer but
 11 that this was somebody who specialized in
 12 this sort of thing.
 13 Q. Okay. Approximately how many e-mail
 14 communications did you have with Ms. Mackie?
 15 A. Not very many. I remember that she gave me
 16 the address and then she had said that if I
 17 was having trouble -- at a certain point
 18 because I was having trouble finding a -- a
 19 FedEx office close to my house, and also, for
 20 a brief period of time, you know, the --
 21 it -- it was about a hundred dollars to ship
 22 and we had a brief discussion about how I
 23 would be reimbursed and I said, well, I'll
 24 have to wait till Friday because, you know,
 25 my paycheck was clearing and I didn't want to

1 spend that money in advance. So, you know,
 2 stuff like that. It was very much just how
 3 was I going to actually achieve getting it in
 4 a box and getting it to that party. So I
 5 don't know exactly how many exchanges we had
 6 over that.

7 Q. I know we talked about your text messages
 8 with Mr. Speas. Did you have any e-mail
 9 communications with Mr. Speas?

10 A. I don't know that I had a specific e-mail
 11 communication with Mr. Speas. I -- I think
 12 he was maybe CC'd on a couple of the things
 13 or if not all the things that -- anything --
 14 like I said, I was -- I was very quickly
 15 aware of the fact that Caroline and Eddie
 16 were the attorneys, so, again, I'm accustomed
 17 to working with teams of lawyers where
 18 everybody is CC'd on everything relevant. So
 19 I don't know how many of them were. I just
 20 remember seeing who was on the CC list and --
 21 like, for example, when I saw the motion, I
 22 noticed Mark Braden. I was like, oh, hey,
 23 hi, Mark.

24 Q. In your -- you've testified in the
 25 conversations that you've had with Ms. Mackie

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1 and as well as with Mr. Speas that they've
 2 mentioned doing research. Did they say
 3 specifically what type of research they were
 4 doing?

5 A. As to the relevance and admissibility of
 6 this -- potential relevance and admissibility
 7 of this evidence. Also, they -- they were --
 8 you know, they were very polite and -- and
 9 really wanted to make sure that I didn't feel
 10 that they were pulling this out of me or that
 11 I was on the spot. They were sensitive about
 12 the fact that my father had very recently
 13 passed and they were just, I mean, like
 14 attorneys are, you know, careful, you know,
 15 just polite. They didn't -- they didn't want
 16 to make me feel like I was under any pressure
 17 or -- I don't know how to put it best. I
 18 think -- is my -- am I getting my point
 19 across? I don't know.

20 Q. When you -- at what point in time did you
 21 make the decision that you were going to turn
 22 over to Arnold & Porter these hard drives and
 23 thumb drives? I know you said you originally
 24 had a plan that you were going to hand
 25 deliver them in Raleigh and couldn't do that.

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1 A. At what point did I make the decision to --
 2 did we make the decision to mail them --

3 Q. No.

4 A. -- or --

5 Q. Earlier in the process. At what point did
 6 you say, yeah, I'm going to give you -- I'm
 7 comfortable giving you all of this stuff, you
 8 can have it?

9 A. Well, honestly, I wouldn't have brought it up
 10 if I wasn't comfortable with the idea that I
 11 would eventually give it to somebody.

12 Q. So is it fair to say when you had your
 13 initial communication with Mr. Speas, at that
 14 point in time you already intended and
 15 planned to provide them if they wanted it the
 16 hard drives and the thumb drives?

17 A. Yes.

18 Q. Have you had conversations with anyone else
 19 at Poyner Spruill besides Edwin Speas and
 20 Ms. Mackie?

21 A. No.

22 Q. Is there anything you discussed with
 23 Ms. Speas [sic] or Ms. Mackie in your
 24 communications with them that we haven't
 25 already covered?

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1 A. I really don't think so, no. Maybe -- maybe
 2 somebody said something about the weather but
 3 nothing -- certainly nothing relevant.

4 Q. Other than exchanging of general pleasantries
 5 on the communications that you've had with
 6 Ms. Speas and Ms. Mackie, have we discussed
 7 the substance of the communications that
 8 you've had with them?

9 A. Yes.

10 Q. Have you had any communications with Stanton
 11 Jones with Arnold & Porter before today?

12 A. Phone call.

13 THE WITNESS: Were you -- yes, that
 14 was --

15 A. I'm sorry. I don't remember all of the
 16 names.

17 THE WITNESS: When you called and --
 18 and said, I have a room full of attorneys --
 19 it's, you know, a colloquialism -- that
 20 was -- what day was that?

21 A. Last week before the weekend. The Thursday,
 22 I think it was, there was a conference call
 23 where we -- where it was -- it was dropped
 24 that there would very likely be a deposition
 25 to authenticate.

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1 Q. Last Thursday you had a conference call with
 2 Mr. Jones. Was Mr. Sparks on the --
 3 A. Yes.
 4 Q. -- call as well? Who else was on the call,
 5 if anyone?
 6 A. I -- Caroline definitely and --
 7 THE WITNESS: Eddie, were you part of
 8 that, too?
 9 A. No. Okay.
 10 Q. It's only if you recall.
 11 A. I don't. I -- I -- I remember asking for the
 12 list, but I was in the car and --
 13 MR. JONES: I'll -- I'll just say we're
 14 looking blankly at you because --
 15 MS. SCULLY: Yes.
 16 MR. JONES: -- you have to answer based
 17 on your recollection.
 18 THE WITNESS: I know.
 19 MR. JONES: You're not allowed --
 20 THE WITNESS: I know. It's --
 21 MR. JONES: -- to ask us questions.
 22 THE WITNESS: It's -- it's -- I --
 23 MR. JONES: So I don't --
 24 THE WITNESS: I --
 25 MR. JONES: And we're not trying to be

1 rude.
 2 BY MS. SCULLY:
 3 Q. It's an un--
 4 A. Sometimes I forget that it's not --
 5 Q. And it's an unnatural --
 6 A. -- a casual conversation.
 7 MR. JONES: Yes.
 8 BY MS. SCULLY:
 9 Q. Right.
 10 A. This is -- I honestly don't recall the names
 11 of -- of everyone that was involved. I do
 12 remember because I said, hi, Caroline --
 13 because I had spoken to her before. And I
 14 think that the other names were names that I
 15 did not offhand know so..
 16 Q. So to the best of your recollection, on the
 17 call was Stanton Jones, Caroline Mackie, and
 18 Mr. Sparks. There may have been a few
 19 additional individuals whose names you can't
 20 recall and you didn't recognize at the time?
 21 A. Yes.
 22 Q. You were in a car when you received the call
 23 you said, yes?
 24 A. Yes.
 25 Q. Approximately how long did the telephone call

1 last?
 2 A. It -- it -- it's hard to say because my -- my
 3 Bluetooth connection with my car kept
 4 dropping calls so there were -- there were a
 5 number of -- of drops. There was -- at one
 6 point I even continued -- I must have gone on
 7 for at least a minute or two before I
 8 realized that there was no one on the other
 9 end. Basically, it was just about how I
 10 came -- the same set of questions that you
 11 asked today, basically, how did I come by it,
 12 making -- you know, was I -- was it given to
 13 me? Yes. All of that. That -- and I -- you
 14 know, I spoke a lot about -- actually, in
 15 that phone call I ex- -- I spoke a lot about
 16 the importance of -- of my father's work and
 17 how it was a very -- it seemed to me a very
 18 pertinent matter. And I explained at that
 19 time that I had throughout my young life
 20 been as an only child very involved in --
 21 involved in that when my father had a
 22 PowerPoint presentation that he had just
 23 designed for the state legislators, he would
 24 say (indicates). He -- I -- at age 11 I
 25 think he felt that I was about at that level.

1 If you can understand this, then I've done --
 2 I've done my job. And -- and any -- any
 3 attempts that he made to -- to -- to make the
 4 matter understandable to someone who wasn't
 5 in, you know, cartography and demographics,
 6 he would often test that on me to see because
 7 I knew more probably than your average
 8 11-year-old but still wasn't, you know, like
 9 one of the programmers. So he thought that
 10 if -- if it was clear to me, that that would
 11 be a good measure of if he, you know,
 12 summarized it accurately. So, you know, I
 13 did a little bit of -- of -- of, I don't
 14 know, sort of anecdotal tales about what it
 15 was like growing up in -- in a -- inside the
 16 beltway as it were.
 17 Q. Would you say the call lasted more than an
 18 hour?
 19 A. I don't think it was more than an hour, no.
 20 It was about -- as -- as far as the amount of
 21 time that I actually spent on the phone,
 22 closer to 45 minutes. I mean, I -- as best I
 23 can recall. I honestly was kind of trying to
 24 find a place to park where people weren't all
 25 close by. I had -- you know, wasn't really

1 familiar with the area. I just wanted to get
 2 somewhere so I wasn't going to be talking and
 3 driving at the same time.
 4 Q. Did you have any in-person meeting with
 5 Mr. Jones or Mr. Speas in advance of today's
 6 deposition?
 7 A. Nope. This is the first time I've seen
 8 either of them.
 9 Q. Prior to today's deposition had you ever seen
 10 the photographs that were marked as Exhibit
 11 2?
 12 A. No.
 13 Q. Have you had any other communications with
 14 Mr. Jones besides this telephone conversation
 15 we were talking about that occurred last
 16 Thursday?
 17 A. No. No. Messages about everything have been
 18 coming to me through my attorney.
 19 Q. In your communications with Mr. Speas and
 20 Ms. Mackie, at what point in time did either
 21 Ms. Speas or Ms. Mackie address the actual
 22 issuance of a subpoena?
 23 A. I don't think -- I honestly don't think
 24 that -- I'm not sure that I even spoke to
 25 them directly in advance of -- well, I think

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1 that -- that -- that it was Jane who
 2 mentioned that they wanted to give me the
 3 heads-up that there would be -- that that
 4 would be out and -- because I had mentioned
 5 that the Geographic Strategies computers had
 6 been taken already by my father's business
 7 partner, I think they mentioned to me that
 8 there was a subpoena issued to Dale, to
 9 Dalton Oldham, but then at that point it
 10 was -- I asked questions like, will I
 11 theoretically get this back?
 12 Q. Uh-huh.
 13 A. And they said yes. And I was just trying to
 14 get an idea of -- of what their journey was
 15 going to be, you know, considering that it
 16 was my property. And it was mostly at that
 17 point discussion about just, you know,
 18 literally where they should be sent and --
 19 and all of that.
 20 Q. Who mentioned to you that a subpoena was
 21 issued to Dale Oldham?
 22 A. I don't remember whether that was Eddie or
 23 Caroline.
 24 Q. Were you surprised that a subpoena was issued
 25 to Dale Oldham?

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1 A. No. No.
 2 Q. In what context did they bring up that a
 3 subpoena was issued to Dale Oldham?
 4 A. I think it was when I, again, had said
 5 something about -- I don't know. I felt like
 6 I didn't want to promise that any of this
 7 was -- was relevant or new because -- and I
 8 kept -- I really did genuinely believe that
 9 because of the fact that Dale had had this
 10 repeated conversation, this repeated
 11 interaction with my father and his -- you
 12 know, his possessions that everything that
 13 could possibly be at all pertinent had
 14 already been collected.
 15 Q. Did either Mr. Speas or Ms. Mackie tell you
 16 that Dale Oldham had produced materials in
 17 response to a subpoena?
 18 A. No. I -- I did ask.
 19 Q. And what did they say?
 20 A. And I think it was Caroline that said, he's
 21 refusing this -- to accept service. And I
 22 said, that's the Dale I know.
 23 Q. So it didn't surprise you that Mr. Oldham was
 24 not responding to the subpoena?
 25 A. That's correct. It's --

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1 MR. SPARKS: Objection --
 2 THE WITNESS: Oh, yeah.
 3 MR. SPARKS: -- mischaracterization.
 4 THE WITNESS: Yeah.
 5 MR. SPARKS: Go ahead.
 6 A. I -- I would say nothing -- nothing surprises
 7 me with attorneys. I -- again, you know, my
 8 father did not -- no offense to any -- any
 9 esquire here, but he did not have a very
 10 reverential attitude towards the whole
 11 process. He said something about that --
 12 along with like a -- a little quip like with
 13 legislation -- you know, legislation is like
 14 sausage, you -- you shouldn't watch it being
 15 made. You know, I think he felt the same
 16 about litigation so -- he --
 17 Q. You un- --
 18 A. -- often used to say that Dale was a very --
 19 very -- a good strategist.
 20 Q. You understood at the time you were speaking
 21 with Mr. Speas and Ms. Mackie that they had
 22 been unable to obtain from Mr. Oldham records
 23 relating to your father's work --
 24 A. Only --
 25 Q. -- correct?

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1 A. -- because I --
 2 THE WITNESS: I'm sorry.
 3 MR. SPARKS: Objection,
 4 mischaracterization. And just to be specific
 5 and not to have a talking -- she said that
 6 her -- what she was told is he never accepted
 7 service so -- and I'm not trying to shape
 8 testimony. That's just what she said.
 9 A. Yes. I asked because I was curious because
 10 I -- again, the same reason I was curious
 11 when I saw all of these files and had a
 12 minute to look at them, really my -- my
 13 interest in them was a bit more on the
 14 academic end than anything else.
 15 Q. You understood based on your conversations
 16 with Mr. Speas and Ms. Mackie that they had
 17 not received any of your father's business
 18 records from Mr. Oldham in the litigation,
 19 correct?
 20 MR. JONES: Objection. It's been asked
 21 and answered.
 22 A. It was --
 23 MS. SCULLY: It hasn't been answered.
 24 A. -- my --
 25 Q. You may answer.

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1 A. -- understanding based on a response to my
 2 direct question that Dalton Oldham was
 3 refusing to accept service on the subpoena.
 4 Q. And as a result of his refusing to accept
 5 service, you understood he had not turned
 6 over any documents, correct?
 7 A. Yes.
 8 Q. Did you retain copies of any of the hard
 9 drives and thumb drives that you produced to
 10 Arnold & Porter in response to the subpoena?
 11 A. Yes.
 12 Q. Did you make copies of all of the hard drives
 13 and thumb drives?
 14 A. I was not actually able to copy everything
 15 because I did not at that moment have
 16 adequate storage.
 17 Q. What -- which files did you copy and
 18 maintain?
 19 A. I was really principally concerned with --
 20 well, first of all, I -- I did -- there was
 21 one hard drive I know that had many, many,
 22 many, many backups of the same hard drive, so
 23 I copied, you know, the first one and the
 24 last one only knowing that that was going to
 25 be redundant and I was not -- I was not, I

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1 didn't feel, charged with maintaining the
 2 forensic integrity so I was just -- I wanted
 3 to make sure that I had -- that I had
 4 everything in that it was mine, in that it
 5 was -- I don't have a lot of -- of memento
 6 from my father. I was kind of hoping that I
 7 would be able to preserve this for posterity
 8 if nothing else. And knowing how these
 9 things work, even though it was clear that
 10 the -- that the intention was that these
 11 things would be returned to me, that's
 12 another thing my father taught me. You don't
 13 count on it.
 14 Q. The copies that you made of the -- some of
 15 the materials that you provided to Arnold &
 16 Porter, where are those copies maintained?
 17 A. I have those at home in my home in Kentucky
 18 and I have it on a couple of my own thumb
 19 drives.
 20 Q. And where are the thumb drives kept?
 21 A. In the same drawer where I keep pens,
 22 pencils, stuff like that.
 23 Q. Is the drawer in your home in Kentucky? I'm
 24 trying to understand --
 25 A. Yes.

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1 Q. -- physically --
 2 A. Yes.
 3 Q. -- where it is.
 4 A. Yes. I'm sorry. I didn't mean to -- I -- I
 5 wasn't sure what you were asking. Yes,
 6 they're -- they're in Kentucky.
 7 Q. So all of the copies that you've made are
 8 maintained at someplace in your home in
 9 Kentucky, correct?
 10 A. All of the copies that I made, yes, and --
 11 Q. Correct?
 12 A. Except, of course -- now, I have some copies
 13 of the photographs of me and my children, for
 14 example, on -- on -- on like my laptop that
 15 is -- it's like -- I -- I don't put pictures
 16 as background for desktop, but sometimes I
 17 have little decorative things. I was, again,
 18 so happy to have these pictures again that I
 19 have some of those, but other than that, no,
 20 I -- I tried really to keep it separate. I'm
 21 not, you know -- have more pressing matters.
 22 Q. Have you provided anyone else with any copies
 23 of the materials that you turned over to
 24 Arnold & Porter?
 25 A. Yes. My files, things that were literally

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1 mine, I have shared with colleagues in my
 2 work as a research consultant in criminology,
 3 specifically victimology, specifically with
 4 an emphasis on gender-based violence. So
 5 things that were relevant to our study of --
 6 of anything involving that topic that were
 7 there on note files, those -- mine, yes.

8 Q. Have you shared with anyone any copies of any
 9 materials that relate to your father or your
 10 father's work?

11 A. No, other than communication between him and
 12 me on matters that were related to me, but
 13 not -- nothing related to his work.

14 Q. There was, I understand also, on the files
 15 you provided to Arnold & Porter personal
 16 health information about your mother,
 17 correct?

18 A. I -- I honestly don't know. I didn't really
 19 examine all of the files that appeared to be
 20 health related to see which of them were Mom
 21 and which of them were Dad, and honestly,
 22 right at this moment I -- I don't -- I don't
 23 know that I really observed -- okay. I think
 24 there was like a HIPAA form, but one of them
 25 was mine and I know there are medical records

1 of mine on that hard drive, one of them.
 2 Several, I think. I have some HIPAA release
 3 forms that I scanned and sent to hospitals,
 4 doctors, to obtain medical records on myself
 5 and my children. My children's medical
 6 records are part of that archive, vaccination
 7 records, things like that.

8 Q. Sitting here today, do you know if -- in the
 9 materials that you provided to Arnold &
 10 Porter if there was personal health
 11 information related to your mother in those
 12 materials?

13 A. I don't know.

14 Q. Could have been; you just don't know?

15 A. Exactly.

16 Q. Other than the information related to you
 17 personally that you provided to some of your
 18 coworkers, have you provided copies of
 19 information -- this information that you
 20 produced to Arnold & Porter to anybody else?

21 A. I'm -- I'm sorry. Clarify the question
 22 again.

23 Q. You've testified that you provided some of
 24 your personal information that is contained
 25 within the materials you provided to Arnold &

1 Porter, correct?

2 A. Yes.

3 Q. I'd like to understand if -- putting that
 4 information aside --

5 A. Uh-huh.

6 Q. -- have you provided any other information
 7 from the materials you provided to Arnold &
 8 Porter to anyone else?

9 A. No.

10 Q. You mentioned that Mr. Speas and Ms. Mackie
 11 talked to you about a subpoena that they'd
 12 issued to Dale Oldham. Did either Mr. Speas
 13 or Ms. Mackie inform you that they had issued
 14 a subpoena to your mother as well as to the
 15 estate of your father?

16 A. Yes.

17 Q. When did they first tell you about that
 18 subpoena that they had issued?

19 A. I think almost immediately after it was
 20 issued.

21 Q. Did they tell you in advance of issuing it
 22 that they were going to issue it?

23 A. I don't think so. I don't honestly remember.
 24 No. I think it was they had just issued it.

25 Q. Did they tell you why they were sharing that

1 information with you?

2 A. Because they knew that I was in constant
 3 communication with my mother and they --
 4 again, this was all -- there was -- there's a
 5 lot of talk about being sensitive to the fact
 6 that my father had recently deceased and I
 7 think that the -- the impression was that
 8 they wanted me to know so that I -- so that
 9 my mother wouldn't, you know, see another
 10 legal document and think that it was, you
 11 know, something that she was going to be, you
 12 know, directly -- I don't know. That the
 13 incompetency got her very understandably --
 14 she felt very put upon, very examined, and --
 15 and I think the idea was -- I think I had
 16 told them that they -- that I would like them
 17 to tell me at that point so that I could know
 18 that my mother was not going to be scared
 19 when -- when she received it and think, you
 20 know, she's -- she has some memory -- memory
 21 issues as is normal for someone her age. So
 22 they knew that I was very sensitive to that
 23 and that she -- even if I had told her, which
 24 I didn't, that she might not remember that --
 25 that that's what that was. So that was

1 really pretty much it, so that -- that I
 2 would -- that my mother wouldn't be caught
 3 off guard and -- and be frightened and that I
 4 would have a chance to -- to, once again,
 5 clarify with her what was going on and that
 6 that wasn't going to be a -- a problem for
 7 her.
 8 Q. And when you say it wasn't going to be a
 9 problem for her, what do you mean by that?
 10 A. As opposed to the proceedings that are
 11 directly -- that were directly challenging
 12 her competence, which was very much a problem
 13 for her.
 14 Q. Did you have conversations with either
 15 Mr. Speas or Ms. Mackie about the fact that
 16 your mom had these memory problems?
 17 A. No, not specifically the memory problems. I
 18 think it was more casual like, you know,
 19 she's -- she's -- her emotions are very raw
 20 right now. She's on edge from everything
 21 that's been happening. And I think really it
 22 was more, again, in casual conversation
 23 the -- neither Eddie nor Caroline was
 24 expressing any type of interrogatory interest
 25 in -- in the other matter. We really -- our

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1 conversation really was very much centered on
 2 this whole -- this, this matter, those
 3 materials, and my father in his -- in the
 4 context of his work as a political
 5 demographer.
 6 Q. Did you have any conversations with Mr. Speas
 7 or Ms. Mackie about whether your mom would --
 8 had possession of any materials that would be
 9 responsive to a subpoena?
 10 A. Yes, in that I -- basically, I -- I had said
 11 that I -- that between Dale having taken the
 12 work stuff and I taken the rest of what I
 13 saw, then that all -- all that remained in
 14 her home was -- was a personal PC that was
 15 really relatively new. I don't think that --
 16 that my parents even had that PC for more
 17 than a few weeks before my father died, and
 18 it did not -- it did not appear to me -- and
 19 the reason that I was familiar at all with
 20 the content of my mother's -- now my mother's
 21 personal computer is because she'd had some
 22 issue with a virus shortly before I had come,
 23 so I had -- along with the -- with the -- the
 24 gentleman that she had -- had come in to help
 25 her make sure that her -- her PC was secure,

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1 I just checked around to see if I saw
 2 anything untoward I -- looking for, you
 3 know --
 4 Q. So you shared -- if I understand your
 5 testimony correctly, you had shared with
 6 Mr. Speas and Ms. Mackie that between Dale
 7 Oldham having the two computers of your
 8 father and you having the hard drives and the
 9 thumb drives that your mother no longer had
 10 possession of any of your father's electronic
 11 work files, correct?
 12 A. I had said that if there was -- I remember
 13 that I was, again, like a -- like a lawyer,
 14 you know, I can't say for sure, but it looked
 15 to me that the only thing that could possibly
 16 even exist in her possession would be most
 17 certainly a duplicate of one or two files, a
 18 duplicate of something that was already in
 19 the matter, i.e., that -- that there might be
 20 one or two of the last things that he -- he
 21 mentioned to himself on that PC but that --
 22 that -- at first glance -- because also, I
 23 was looking for things relevant to me,
 24 photographs of the family, things that I
 25 might have missed, but it appeared as though

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1 there really wasn't anything much new at all
 2 on -- on -- on my mother's hard drive. So
 3 I -- I did not say for sure that I knew
 4 because I -- I didn't feel confident. I
 5 wasn't even in Raleigh at that time. I just
 6 said, as far as I know, there is nothing on
 7 her personal computer and I don't believe
 8 there's anything else much there. And I said
 9 that I would -- that I would probably be
 10 better able to confirm it when I was next in
 11 Raleigh.
 12 And in answer to your next question, no,
 13 I haven't really been -- my mother and I have
 14 not really been -- that hasn't been our
 15 focus. I only recently found out that there
 16 was even going to be a deposition or that --
 17 so I haven't actually gone through to --
 18 to -- to confirm it, but that's my
 19 understanding and that's her understanding,
 20 my mother's understanding, as far as I know,
 21 too.
 22 Q. I want to make sure I understand your
 23 testimony. So you --
 24 MR. SPEAS: Ms. Scully, your questions
 25 about my conversations with this witness have

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1 now exceeded the length of those
 2 conversations. I really think it's time you
 3 moved on to something else.
 4 BY MS. SCULLY:
 5 Q. In your communications with Mr. Speas, did
 6 you share with him that you would take it
 7 upon yourself to look to determine if your
 8 mom in her files had information related to
 9 your father's work?
 10 A. I really -- it was not -- I don't know -- I
 11 mean, I wasn't giving testimony. It was just
 12 a casual conversation where I said, as far as
 13 I know, there's really nothing there. I
 14 can't say for sure because I'm not there, but
 15 I'll ask my mother and I'll look just like to
 16 see if there's a new computer sitting on the
 17 table when I get there. I mean, really,
 18 there was very nonspecific tone, but I
 19 expressed what I'll go ahead and express
 20 again and that is that I really think that I
 21 had gotten the -- the survey of everything
 22 that could possibly be relevant and it was
 23 already in the hands of Poyner Spruill, I
 24 guess. No. Which one? I'm -- I'm getting
 25 all of you confused. Yes. Okay. Arnold

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1 Porter.
 2 Q. Did you at any point in time actually go
 3 through your mother's files to determine if
 4 she had any information that may be
 5 responsive to the subpoena that was served on
 6 her?
 7 MR. SPARKS: Objection. That has been
 8 asked and answered.
 9 A. Yes, it has. It --
 10 Q. Did you?
 11 A. -- really has. I -- I said that I went
 12 through her files before -- not her files --
 13 again, the personal PC principally to look
 14 for any other pictures -- honestly, pictures
 15 of family members was specifically what I was
 16 looking for. As I did that survey, I didn't
 17 notice anything else work related -- my
 18 father's work related. So did I go through
 19 it with the idea that I was looking for stuff
 20 for them? No. Did I go through it? Yes.
 21 Q. Did you have a conversation with your mother
 22 about the subpoena that was issued by Poyner
 23 Spruill on her?
 24 A. Yes. A conversation is a little bit an
 25 exaggeration. I basically said, you don't

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1 really have to be worried about this. This
 2 is -- this is -- this is about stuff that you
 3 gave me, but just -- she's used to the idea
 4 that lawyers like to cross their T's and dot
 5 their I's, and that's the way I put it to her
 6 and she understood it that way, and that was
 7 the end of the matter as far as she was
 8 concerned. I really didn't want to -- I
 9 mean, she -- she's bored with this. She
 10 spent 52 years being married to my father.
 11 MR. JONES: We've --
 12 BY MS. SCULLY:
 13 Q. It was your ex- --
 14 MR. JONES: We've been going --
 15 BY MS. SCULLY:
 16 Q. It was your expectation that your mother
 17 didn't have any materials to produce and so
 18 you told her, you don't have to worry about
 19 it because you have no materials to produce
 20 in response to the subpoena, correct?
 21 MR. SPARKS: Objection,
 22 mischaracterization. Go ahead and answer the
 23 question.
 24 A. I'm really not trying to be evasive. I don't
 25 understand what part of your question I

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1 haven't answered yet. Maybe you could
 2 clarify what you would like to know so that I
 3 can answer --
 4 Q. Did you --
 5 A. -- your question.
 6 Q. -- tell your mother that there -- there were
 7 no materials that she needed to produce in
 8 response to the subpoena?
 9 A. You know what, no, I didn't put it that way
 10 because -- I just told her not to worry about
 11 it because my mother's really had enough of
 12 all of this and I didn't -- really, it was --
 13 it was pointless to -- to trouble her at that
 14 moment because we were actually discussing
 15 the funding of her trust, whether or not she
 16 was going to be able to access funds to come
 17 and visit me in Lexington. That was really
 18 the meat of our conversation and I -- as she
 19 was accustomed to sort of letting things go
 20 by with my father's work as married couples
 21 often don't pay a lot of attention to each
 22 other's work, it was in that tone. So I
 23 don't -- I'm really just trying to be
 24 accurate.
 25 Q. How about --

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1 A. I don't know how important it is...

2 MR. SPARKS: Do you have any more?

3 THE WITNESS: No.

4 MR. SPARKS: Okay. We need to take a

5 break. She's -- she's tired. Thank you.

6 THE VIDEOGRAPHER: Going off the

7 record. The time is 1:50 p.m.

8 (Whereupon, there was a recess in the

9 proceedings from 1:50 p.m. to 1:57 p.m.)

10 THE VIDEOGRAPHER: Going back on the

11 record. The time is 1:57 p.m.

12 BY MS. SCULLY:

13 Q. Ms. Hofeller, have you had any communications

14 with a David Gersch?

15 A. Not that I can recall, no.

16 Q. Have you had any communications with someone

17 named Elizabeth Theodore?

18 A. No.

19 Q. Any conversations or communications with

20 Daniel Jacobson?

21 A. No.

22 Q. Any conversations that you can recall with

23 anyone that works for Arnold & Porter besides

24 Mr. Stanton Jones, the conversation we've

25 already discussed?

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1 A. No.

2 Q. Any conversations with anyone working for

3 Poyner Spruill besides the conversations that

4 you've had with Mr. Speas and Ms. Mackie?

5 A. No.

6 Q. Have you had any conversations or

7 communications with Mark Elias?

8 A. No.

9 Q. Have you had any conversations or other

10 communications with someone named Aria C.

11 Branch?

12 A. No.

13 Q. Have you had any communications or other

14 written communications with Abha Khanna?

15 A. No.

16 Q. Have you had any communications with anyone

17 working for Perkins Coie?

18 A. No.

19 Q. Have you had any communications with anyone

20 at Common Cause besides the communications

21 with Ms. Pinsky and the communication with --

22 MR. JONES: Mr. Phillips.

23 BY MS. SCULLY:

24 Q. -- Bob Phillips?

25 A. No.

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1 Q. Are you a member of Common Cause?

2 A. No.

3 Q. Have you ever worked for Common Cause?

4 A. No.

5 Q. Have you ever told anyone that you were

6 working for Common Cause?

7 A. No.

8 Q. Have you ever received any money from Common

9 Cause?

10 A. No. Oh, you know, actually, I think there

11 was reimbursement for the FedEx --

12 Q. And the reim- --

13 A. -- in the form of a check.

14 Q. The reimbursement for the FedEx -- and you're

15 referring to the FedEx for shipping the

16 documents to Arnold & Porter, correct?

17 A. Yes. I provided them with a receipt and they

18 provided me with a reimbursement for that

19 amount.

20 Q. Other than the reimbursement for the shipment

21 for the box that you sent via FedEx to

22 Arnold & Porter, have you received any other

23 monies from Common Cause?

24 A. No compensations, no considerations, no

25 money.

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1 Q. Have you at any point in time received any

2 monies from anyone at Poyner Spruill?

3 A. No.

4 Q. Have you received any monies at any point in

5 time from anyone at Arnold & Porter?

6 A. No.

7 Q. Have you received monies at any time from

8 anyone working for Perkins Coie?

9 A. No.

10 Q. You've talked about the review of the

11 materials that you have conducted of the hard

12 drives and the thumb drives. At any point in

13 time did anyone else have access to and

14 review those materials before you produced

15 them to Arnold & Porter?

16 A. No.

17 Q. Did -- you testified that the materials that

18 you took possession of from the residence

19 where your father and mother resided -- you

20 took those materials -- those electronic

21 materials to your home in Kentucky --

22 A. That's correct.

23 Q. -- before --

24 A. I'm sorry. I --

25 Q. -- before you produced them to Arnold &

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1 Porter approximately March 13th, 2019,
 2 correct?
 3 A. Correct.
 4 Q. Has anyone else resided in your home in
 5 Kentucky during that period of time between
 6 October 2018 and March 13th, 2019?
 7 A. No. I live alone. Ditched the husband.
 8 First time in my life, actually, I have my
 9 own place. It's wonderful. I love it.
 10 Q. Prior to sending the hard drives and thumb
 11 drives to Arnold & Porter, did you provide
 12 copies of any of those materials to anyone
 13 else?
 14 MR. JONES: Ob- -- objection. That's
 15 been --
 16 A. I already answered that.
 17 MR. JONES: -- asked and answered.
 18 BY MS. SCULLY:
 19 Q. Was --
 20 A. I already answered that.
 21 Q. I just wanted to clarify if it was prior to
 22 your -- I know you -- you've testified
 23 already that you provided some personal
 24 information to a coworker. Was that prior to
 25 your sending the information to Arnold &

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1 Porter or after?
 2 A. That was prior and after because there was
 3 something else relevant. So, again, my
 4 material, exclusively mine, as in may -- I
 5 sent a copy of one of those pictures to
 6 another one of my colleagues, picture of my
 7 son.
 8 Q. I just wanted to clarify --
 9 A. Yeah.
 10 Q. -- so there wasn't a confusion about whether
 11 the copies were distributed prior to or after
 12 the -- the release of the information to
 13 Arnold & Porter.
 14 A. Yeah. I mean, I don't know. I mean, you
 15 know...
 16 Q. You testified earlier that before you made
 17 the production of the materials to Arnold &
 18 Porter that you did have some conversations
 19 with your mother about the fact that you were
 20 going to produce those materials to Arnold &
 21 Porter, correct?
 22 A. Yes.
 23 Q. Was anyone else present when you had those
 24 communications with your mother?
 25 A. No. I don't think so. I mean, these were

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1 done over the phone. I didn't get the
 2 impression that there was anyone else there
 3 so as far as I know there wasn't, no.
 4 MS. SCULLY: Can I have these marked 3
 5 and 4? 3 is on top, 4 is on bottom.
 6 (HOFELLER EXHIBIT 3 was marked for
 7 identification.)
 8 (HOFELLER EXHIBIT 4 was marked for
 9 identification.)
 10 MR. BRANCH: Thank you.
 11 MS. SCULLY: We're short one.
 12 MR. BRANCH: If you need to --
 13 MS. SCULLY: She has it. It's marked.
 14 MR. JONES: Why don't we give Tom your
 15 copy because --
 16 MR. SPEAS: Yeah.
 17 MR. JONES: -- he doesn't have one and
 18 we can share. So, Tom -- Tom --
 19 A. Okay. I see.
 20 MR. JONES: -- take a --
 21 BY MS. SCULLY:
 22 Q. Oh.
 23 MR. JONES: -- take a copy for each.
 24 MR. SPARKS: Thank you.
 25 A. I see that these are two different --

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1 MR. JONES: We'll share.
 2 MS. SCULLY: Thank you. I thought I'd
 3 made enough copies but apparently not.
 4 MR. SPARKS: It's good. We're good.
 5 Thanks.
 6 BY MS. SCULLY:
 7 Q. Ms. Hofeller, what's just been put in front
 8 of you marked as Exhibit 3 and 4, focusing
 9 first on Exhibit 3, do you recognize Exhibit
 10 3 as a copy of the subpoena that was issued
 11 to your mother, Kathleen Hofeller, on or
 12 about January 15th, 2019?
 13 A. I see that it is, but I don't recognize it.
 14 Q. Had you ever seen -- I know you testified
 15 earlier that you were aware that a subpoena
 16 was issued to your mother in this case. Had
 17 you ever seen a copy of the subpoena before
 18 today?
 19 A. Actually, no.
 20 Q. Exhibit 4 appears to be a copy -- I'll
 21 represent to you is a copy of a subpoena that
 22 was issued to the Estate of Thomas Hofeller.
 23 I know you testified earlier that you were
 24 aware that a subpoena was issued to your
 25 father's estate. Had you ever seen a copy of

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1 the actual subpoena?
 2 A. No.
 3 Q. Put that aside. You testified earlier that
 4 you first learned of your father's passing
 5 in -- I apologize --
 6 A. September 30th.
 7 Q. -- September 30th, 2018. How did you come to
 8 learn of your father's passing?
 9 A. I typed his name into Google and saw the New
 10 York Times article of his obituary.
 11 Q. What had prompted you to search for your
 12 father's name that day?
 13 A. I had a feeling, a hunch something might
 14 be -- and, you know, it would -- I think it
 15 had -- like a few months ago I was aware of
 16 the -- the -- the fact that there was another
 17 set of -- another set of districts in court,
 18 so, I mean, I figured if nothing else, I'd
 19 see if there was anything interesting about
 20 that basically really in my role as a -- as
 21 a -- as a student of -- of -- of political
 22 philosophy and -- and other such things.
 23 But, honestly, I -- I -- I had a hunch that
 24 maybe something was wrong.
 25 Q. Once you found out that your father had

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1 passed away, did you reach out to your
 2 mother?
 3 A. Yes.
 4 Q. Did you ask your mother why she hadn't
 5 contacted you to inform you --
 6 A. I didn't.
 7 Q. -- that your father --
 8 A. No.
 9 Q. -- had passed?
 10 A. No.
 11 Q. And why not? You said you didn't --
 12 A. I didn't need to because I don't believe that
 13 she knew how to reach me.
 14 Q. And -- and why do you say that?
 15 MR. JONES: I'm -- I'm -- I'll object
 16 to this line of questioning. I -- I can't
 17 imagine why the -- the circumstances around
 18 Ms. Hofeller's communications with her -- her
 19 mother relating to her father's death could
 20 possibly have any relevance here. It
 21 seems -- it seems vexatious.
 22 MR. SPARKS: Are you going to instruct
 23 the witness not to answer?
 24 MR. JONES: She's not my witness.
 25 A. I was -- let's see. No, I didn't ask her why

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1 she hadn't contacted me.
 2 Q. Had your father -- had there already been a
 3 funeral service for your father at that point
 4 in time when you learned of his passing?
 5 MR. JONES: Object again. It's -- I
 6 think it's inappropriate.
 7 A. I know as much about it as anyone who read
 8 the New York Times obituary.
 9 Q. I take it you did not attend a funeral
 10 service for your father; is that correct?
 11 MR. JONES: Objection.
 12 A. No.
 13 Q. You testified that you -- earlier that you
 14 had not spoken to your father -- the last
 15 time you'd spoken to your father was July
 16 2014 prior to his passing in August of 2018,
 17 correct?
 18 A. Yes.
 19 Q. Had you followed your father's work in any
 20 way between July 2014 and August 2018?
 21 MR. SPARKS: Now I'm going to object.
 22 It's -- my understanding of this proceeding
 23 is that this is to authenticate things that
 24 she turned over and we're now getting to
 25 personal family matters. I'm going to -- are

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1 we going to continue down this line? If
 2 we're going to continue down this line, I am
 3 going to instruct her not to answer.
 4 MS. SCULLY: Not much further, but I
 5 just want -- it is important. It is relevant
 6 and we can talk outside about whether it's
 7 relevant or not, but I'm not going to talk
 8 about that in front of the witness.
 9 MR. SPARKS: Okay.
 10 MS. SCULLY: I'm simply asking if she's
 11 kept track of --
 12 THE WITNESS: Oh, go on ahead.
 13 MS. SCULLY: -- her father's work.
 14 THE WITNESS: Sorry.
 15 MR. SPARKS: Go ahead and answer that
 16 question.
 17 MR. JONES: Can you repeat it? I
 18 forgot it.
 19 Can you -- can you read back the last
 20 question?
 21 MS. SCULLY: I can reask the question.
 22 BY MS. SCULLY:
 23 Q. Between July 2014 and August 6 -- I'm sorry,
 24 July 2014 and August 16th, 2018, have you
 25 followed any of your father's work?

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1 A. That is a very vague question. Maybe you
 2 could be more specific. I was not in
 3 communication with him. In what way would I
 4 follow his work?
 5 Q. Have -- did you read articles about any work
 6 your father was doing in redistricting
 7 between July 2014 and August 16th, 2018?
 8 A. I quite certainly may have read any number of
 9 the many, many newspaper articles about my
 10 father who was rather well-known including
 11 the one I just mentioned, the New York Times
 12 article that was his obituary. I read that.
 13 Q. Did you read any articles or any statements
 14 made by Common Cause about your father's
 15 work?
 16 A. I do not recall having made note of the name
 17 Common Cause until such point as my father
 18 was already deceased. I really wasn't that
 19 involved.
 20 Q. Ms. Hofeller, have you ever been charged with
 21 a crime?
 22 MR. SPARKS: Objection. Ob- -- this is
 23 totally inadmissible. I mean, this is
 24 absolutely inadmissible. Don't answer that.
 25 Go ahead.

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1 MS. SCULLY: You're going to instruct
 2 her not to answer?
 3 MR. SPARKS: I am instructing her not
 4 to answer that question.
 5 MS. SCULLY: Okay.
 6 MR. BRANCH: Okay.
 7 MS. SCULLY: Oh, did I give you one
 8 that's got any markings on it? I don't think
 9 so.
 10 MR. SPARKS: Here, you can --
 11 MS. SCULLY: That's all right. No,
 12 that's all right. I'll give you one in one
 13 second. Sorry. I just...
 14 THE WITNESS: Oh, more -- you would
 15 have --
 16 MR. SPARKS: Please.
 17 THE WITNESS: Yeah. Okay.
 18 (HOFELLER EXHIBIT 5 was marked for
 19 identification.)
 20 MS. SCULLY: I seem to have lost mine.
 21 I'm going to have this one marked also at the
 22 same time.
 23 (HOFELLER EXHIBIT 6 was marked for
 24 identification.)
 25 MR. BRANCH: Thank you.

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1 MR. JONES: These are 5 and 6?
 2 MS. SCULLY: Yes.
 3 BY MS. SCULLY:
 4 Q. Ms. Hofeller, have you had an opportunity to
 5 review the documents that's been put in front
 6 of you marked Exhibit 5 and Exhibit 6?
 7 A. Let me look quickly at 6. Yes.
 8 Q. Yes.
 9 A. Yeah.
 10 Q. Have you seen the documents marked as Exhibit
 11 5 and Exhibit 6 before?
 12 A. I have never seen this page right here
 13 (indicates).
 14 Q. When you're pointing to this page right here,
 15 which one are --
 16 A. This one on top, the first page --
 17 Q. -- you referring to?
 18 A. -- of Exhibit 5, I have never seen this
 19 before. I have seen the -- the -- this page
 20 is familiar to me.
 21 Q. And when you're saying this page, I just want
 22 to reflect for the record on the document
 23 marked as Exhibit 5, you're referring to the
 24 second page which has the caption, Notice of
 25 Hearing on Incompetence Motion in the Cause

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1 and Order Appointing Guardian Ad Litem?
 2 A. Yes.
 3 Q. Okay. And have you seen the third page of
 4 the document?
 5 A. No.
 6 Q. In the document marked Exhibit 5, the second
 7 page that you've seen, did you see that on or
 8 about October 29th, 2018, that there was
 9 going to be a hearing for your mother
 10 regarding her in- -- whether she was
 11 incompetent or not?
 12 A. On or about.
 13 MR. SPARKS: Ask the question again,
 14 please.
 15 BY MS. SCULLY:
 16 Q. Do you recall when you first saw the second
 17 page of the document marked Exhibit 5?
 18 A. Yes.
 19 Q. When?
 20 A. I think it was a few -- few days later.
 21 Q. A few days later from --
 22 A. After it was filed.
 23 Q. -- when?
 24 A. A few days after it was filed. I mean, I
 25 guess that it was filed on the 29th

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1 considering that this is stamped there.
 2 Q. And --
 3 A. I did not see it on the 29th.
 4 Q. Your recollection is that you recall seeing
 5 the second page of the document marked as
 6 Exhibit 5 a few days after October 29th,
 7 2018, correct?
 8 A. Correct.
 9 Q. The document marked as Exhibit 6 which
 10 states, Petition for Adjudication of
 11 Incompetence and Application for Appointment
 12 of Guardian or Limited Guardian, have you
 13 seen that document before?
 14 A. Yes.
 15 Q. When did you first see that document?
 16 A. A few days after it was filed.
 17 Q. You understood that one of the grounds that
 18 was asserted by the petitioner for seeking to
 19 have your mother found incompetent, if you
 20 refer to the --
 21 A. Yes, I understand --
 22 Q. -- second page --
 23 A. -- what's written here.
 24 Q. You had knowledge of that?
 25 A. I have know- -- I had knowledge of what was

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1 written here when I saw the document.
 2 Q. And when you're referring to what was written
 3 here, you are referring to -- on the second
 4 page under Paragraph 5 there are four grounds
 5 listed as the grounds for seeking to have
 6 your mother found incompetent. You
 7 understood those, correct?
 8 MR. SPARKS: Objection as to
 9 characterization. They're allegations. I
 10 understand that I'm parsing -- I'm being a
 11 lawyer here, but they are allegations and
 12 that -- to the extent that you're saying
 13 they're grounds, they're -- they're verified
 14 or they're -- they're true...
 15 Do you understand they're allegations?
 16 THE WITNESS: I understand that they
 17 are allegations.
 18 BY MS. SCULLY:
 19 Q. I'll reask the question, Ms. Hofeller. Did
 20 you -- you understood -- when you're saying,
 21 I understood what is written here, I'm just
 22 trying to make sure we have agreement on the
 23 record that the here you're referring to are
 24 the four allegations that are set forth on
 25 the second page of Exhibit 6 as the alleged

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1 basis for seeking your -- to find your mother
 2 incompetent, you understood that those were
 3 the grounds that were being alleged, correct?
 4 A. I understood that these were the facts set
 5 forth that the petitioner alleges are
 6 grounds, yes.
 7 Q. One of the facts that were set forth that the
 8 petitioner alleged that were grounds was that
 9 the respondent is believed to be under the
 10 influence of a previously estranged child.
 11 Since appearance of child financial assistant
 12 hired for respondent quit her employment upon
 13 concerns of personal safety based on actions
 14 of -- actions of previously estranged child.
 15 Respondent removed appointed attorney-in-fact
 16 over security of funds.
 17 Did you disagree with those assertions?
 18 MR. JONES: I'll -- I'm going to
 19 object.
 20 A. The --
 21 MR. JONES: I think that you're just --
 22 A. The -- you know what --
 23 THE REPORTER: One -- one at a time.
 24 MR. JONES: Hold on. Hold on. I'm
 25 going to object. I -- I think at this point

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1 you're just harassing the -- the witness.
 2 MR. SPARKS: Yeah.
 3 MR. JONES: She's not my witness so I'm
 4 not going to -- but it seems --
 5 A. This is not for me to say.
 6 MR. SPARKS: I believe the same thing.
 7 I -- I believe the same thing. If -- if you
 8 want to ask about the factual basis of this,
 9 I don't understand how it has anything to do
 10 with something so we're going to take a
 11 break -- or can you answer -- there's a
 12 question on the table. Can you answer the
 13 question?
 14 THE WITNESS: No.
 15 MR. SPARKS: Okay. Let's you and I
 16 talk, please, if we can take a break.
 17 Thanks.
 18 Not you -- not you and I.
 19 THE WITNESS: Oh, good. Excellent.
 20 THE VIDEOGRAPHER: Going off the
 21 record. Time is 2:23 p.m.
 22 (Whereupon, there was a recess in the
 23 proceedings from 2:23 p.m. to 2:36 p.m.)
 24 (HOFELLER EXHIBIT 7 was marked for
 25 identification.)

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1 THE VIDEOGRAPHER: Going back on the
 2 record. The time is 2:37 p.m.
 3 BY MS. SCULLY:
 4 Q. Ms. Hofeller, have you had an opportunity to
 5 review the document that's marked Exhibit 7
 6 that's in front of you?
 7 A. Let me -- let me finish.
 8 Q. Please, take your time. Tell me when you're
 9 ready.
 10 A. Hold on. Get my glasses. Is this -- when
 11 was this filed? What is the date on this? I
 12 don't see the date that it was filed. Is it
 13 on the second page?
 14 Q. It's -- the document is dated on Page 4,
 15 the -- November 5th, 2018.
 16 A. Oh, okay. All right. All right. I've
 17 had -- I've reviewed this.
 18 Q. Ms. Hofeller, my first question is, have you
 19 prior to today seen the document that's
 20 marked as Exhibit 7?
 21 A. I don't believe that I did ever see this one,
 22 no. No.
 23 Q. Were you at any point aware that a guardian
 24 ad litem had been appointed in the
 25 incompetency proceedings related to your

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1 mother?
 2 A. A guardian ad litem?
 3 Q. Yes.
 4 A. As in the guardian ad litem, Erin Riddick?
 5 Q. Yes.
 6 A. At -- ask again. Was I at some point aware
 7 that a guardian ad litem had been
 8 appointed --
 9 Q. Yes.
 10 A. -- at -- yes. Yes.
 11 Q. When did you first become aware of the
 12 appointment of a guardian ad litem?
 13 A. I think that that was part of the original
 14 petition. Yes, it was. Erin Riddick was
 15 appointed guardian ad litem when the petition
 16 was filed. When that was served I was aware
 17 of the fact that a guardian ad litem had been
 18 appointed for my mother.
 19 Q. Did you ever have any communications with
 20 Ms. Riddick?
 21 A. No. She never reached out to me.
 22 Q. Did you ever reach out to Ms. Riddick
 23 directly?
 24 A. No.
 25 Q. Did you ever become aware that Ms. Riddick

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1 had concluded that based on the interview of
 2 the petitioner's attorney and a review of
 3 your mother's medical records, that she
 4 believed the petitioner had met the burden to
 5 show reasonable cause to believe that your
 6 mother was --
 7 A. My mother didn't have --
 8 Q. -- incompetent?
 9 A. -- and attorney.
 10 MR. SPARKS: Stop, please.
 11 THE WITNESS: I'm sorry.
 12 MR. SPARKS: Thank you. Go ahead.
 13 THE WITNESS: I'm sorry.
 14 A. No. The answer to your question is no.
 15 Q. Did you at any point in time become aware
 16 that Ms. Riddick had informed the court that
 17 she was concerned that your mother's
 18 well-being and estate were at risk without
 19 the appointment of an interim guardian?
 20 A. Not really, no. No. No.
 21 Q. Were you aware that the guardian ad litem had
 22 informed the court that you had had until
 23 recently an estranged relationship with your
 24 mother?
 25 A. Was I aware that Erin Riddick specifically

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1 said that I had a previously estranged
 2 relationship?
 3 Q. Yes.
 4 A. I don't think I was aware specifically that
 5 Erin Riddick said that, no. No, I wasn't.
 6 (HOFELLER EXHIBIT 8 was marked for
 7 identification.)
 8 MS. SCULLY: Can you provide Exhibit 8,
 9 please, to the witness.
 10 THE WITNESS: I never saw this. I'm
 11 sorry.
 12 BY MS. SCULLY:
 13 Q. Ms. Hofeller, you've had an opportunity to
 14 review the document marked as Exhibit 8?
 15 A. Uh-huh.
 16 Q. I believe you said a moment ago you've not
 17 previously seen the document marked as
 18 Exhibit 8?
 19 A. That's correct.
 20 Q. This is the first time you've seen the
 21 document marked as Exhibit 8?
 22 A. Yep.
 23 Q. You were aware, is it correct, that the court
 24 had entered an order appointing an interim
 25 guardian of your mother, correct? Whether

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1 you'd seen the document or not, you -- you
 2 were aware that the court had appointed an
 3 interim guardian for your mother?
 4 A. At what point?
 5 Q. On or about November 6th, 2018.
 6 A. I was aware that the hearing -- the result of
 7 the hearing was a interim guardian appointed,
 8 I believe, yes.
 9 Q. You were aware that there was an interim
 10 guardian appointed over both your mother's
 11 person and over her estate, correct?
 12 A. You know, again, I am reading these
 13 documents. I am not an attorney in these
 14 matters. In that that is the proper
 15 interpretation of these documents, I was
 16 aware of what these documents said. My
 17 mother's attorney handled the matter from
 18 that point forward, so my awareness would
 19 extend to reading this as a layperson. So
 20 if -- if it says -- if you're asking me was I
 21 aware that -- that this was done, I -- yes,
 22 I -- I guess. I'm not --
 23 Q. Contemporaneous with the proceedings that
 24 were ongoing, the incompetency proceedings,
 25 were you communicating with your mother's

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1 attorney about the proceedings?
 2 A. Well, this is a -- this has -- this had been
 3 going on -- this was on -- going on for quite
 4 a while. At -- at some point I did have
 5 communication with my mother's attorney on
 6 this matter, yes.
 7 Q. And your mother's attorney on this matter I
 8 believe you said was Douglas Noreen?
 9 A. That's right.
 10 Q. Did Mr. Noreen share with you or discuss with
 11 you the fact that an interim guardian over
 12 your mother's estate and over her person was
 13 going to be appointed by the court?
 14 A. Going to be? No.
 15 Q. Did he share with you that it was, in -- that
 16 it did, in fact, occur?
 17 A. I don't think that --
 18 MR. SPARKS: Objection. You're
 19 assuming facts not in -- in evidence and I --
 20 you might want to find out when Doug Noreen
 21 became her mother's attorney. Just a hint.
 22 Go ahead and answer the question to the
 23 best -- if you can, please.
 24 A. I think that the actual -- the -- the moment
 25 when I finally saw the result of that was --

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1 was after Doug Noreen was retained that I saw
 2 the paperwork; otherwise, I would not be --
 3 not really --
 4 Q. Do --
 5 A. -- don't tend to be in communication with the
 6 Wake County court as a -- as a matter of
 7 course.
 8 Q. Did someone represent your mother prior to
 9 Doug Noreen entering his appearance and
 10 representing her in the incompetency
 11 proceeding?
 12 A. No.
 13 Q. When did Mr. Noreen first begin to represent
 14 your mother?
 15 A. I think that his first conversation with her
 16 was one or two days after the preliminary.
 17 Q. What preliminary?
 18 A. The one at which apparently the interim
 19 guardian -- the one requested in these
 20 documents that I explained that I had seen.
 21 Q. One or two days after the document that's
 22 marked Exhibit 6, the petition for
 23 incompetence?
 24 A. Yes. Isn't there a -- yeah. I think that --
 25 if I -- let's see. November 8th rings a bell

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1 for the day that my mother retained Doug
 2 Noreen.
 3 Q. November 8th --
 4 A. Uh-huh.
 5 Q. -- 2018?
 6 A. Yeah.
 7 MS. SCULLY: Can you provide the
 8 witness Exhibit 9.
 9 (HOFELLER EXHIBIT 9 was marked for
 10 identification.)
 11 BY MS. SCULLY:
 12 Q. Ms. Hofeller, actually, before I review
 13 Exhibit 9, I had one follow-up question on
 14 Exhibit 8. If I could turn your attention
 15 back to Exhibit 8.
 16 Were you aware that the interim guardian
 17 of the estate that was appointed in these
 18 proceedings was Everett Bolton?
 19 A. Yes.
 20 Q. Did you have any communications with
 21 Mr. Bolton at any point in time?
 22 A. No.
 23 Q. No?
 24 A. No.
 25 Q. Thank you. Were you aware that the Wake

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1 County Human Services was appointed as the
 2 interim guardian over your mom's person?
 3 A. Was that the name? I thought it was
 4 LifeLinks? Oh, that was the one they
 5 suggested, maybe. I -- I was aware that it
 6 was a -- a -- a body of some sort rather than
 7 a -- an individual.
 8 Q. Did you at any point in time have any
 9 communications with anyone at Wake County
 10 Human Services?
 11 A. No.
 12 Q. Turning your attention to Exhibit 9, I
 13 believe you had an opportunity to review that
 14 a few moments ago, correct?
 15 A. Yeah.
 16 Q. Have you seen the document marked as Exhibit
 17 9 before today?
 18 A. I don't -- okay. Report of the -- of the
 19 guardian ad litem. I think I reviewed it
 20 briefly.
 21 Q. It appears on Exhibit 9, last page, there's a
 22 certificate of service and it reflects
 23 that -- do you see the last page there?
 24 A. Oh. Oh, okay. I -- I was going to say, this
 25 isn't...

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1 Q. On that page it reflects that -- Tom Sparks
 2 is listed as your attorney?
 3 A. Yes.
 4 Q. Yes. At this point in time, No- -- February
 5 6, 2019, was Tom Sparks acting as your
 6 attorney in these proceedings?
 7 MR. SPARKS: What -- what is this
 8 proceeding? I want to make sure you
 9 understand.
 10 MS. SCULLY: Sorry.
 11 BY MS. SCULLY:
 12 Q. The incompetency proceedings for your mother.
 13 A. Yes.
 14 Q. When did you first retain Mr. Sparks in
 15 connection with your mother's incompetency
 16 proceedings?
 17 A. Was it December or January? I don't -- it --
 18 it's all a blur. I think it was early
 19 January. It was after the hol- -- no. It
 20 was --
 21 THE WITNESS: I think you -- you got
 22 back to me during the holiday -- what I felt
 23 was the holiday time. There you go. Thank
 24 you.
 25 A. I'm sorry. I can't keep track of --

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1 Q. At this point --
 2 A. -- all these dates.
 3 Q. -- in time, February 6, 2019, was Mr. Sparks
 4 representing you in any other matters other
 5 than your mom's incompetency proceedings?
 6 A. I -- not -- not -- what else was going on
 7 then?
 8 Q. You were having communications with Mr. Speas
 9 and --
 10 A. Oh. Only in that --
 11 Q. -- Ms. Meese [sic].
 12 A. Only in that -- I'm sorry. Only in that
 13 he -- he was kind enough to allow me to use
 14 his office address as a service address where
 15 I could receive service.
 16 Q. Did you have any communications with your
 17 mother's counsel, Mr. Noreen, about the
 18 subpoena that was issued to her in -- in this
 19 litigation?
 20 A. No, I did not.
 21 Q. I take it you didn't have any communications
 22 with the interim guardian over her estate
 23 about the subpoena that was directed to her
 24 in this litigation, correct?
 25 A. Yes.

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1 Q. And you didn't have any communications with
 2 the interim guardian over her person
 3 regarding the subpoena that was issued upon
 4 her in this litigation, correct?
 5 A. That is correct.
 6 MS. SCULLY: Can you show the witness
 7 Exhibit 10.
 8 (HOFELLER EXHIBIT 10 was marked for
 9 identification.)
 10 BY MS. SCULLY:
 11 Q. Ms. Hofeller, have you had -- had an
 12 opportunity to review the document marked
 13 Exhibit 10?
 14 A. Yes.
 15 Q. Have you seen the document marked as Exhibit
 16 10 before?
 17 A. Yes.
 18 Q. When did you first see the document marked as
 19 Exhibit 10?
 20 A. Sometime after. I really don't know exactly
 21 when. My attorney received --
 22 MR. SPARKS: Some -- sometime after
 23 when? Please tell her.
 24 A. The 7th day of February, 2019.
 25 Q. Were you aware prior to February -- the date

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1 on the document marked as Exhibit 7, February
 2 7, 2019, that there was a plan to dismiss the
 3 incompetency proceedings and submit to the
 4 court the settlement agreement that had been
 5 entered into among the interested parties?
 6 A. You know, I was represented by my attorney at
 7 that time and he was in communication with my
 8 mother's attorney. What I was and wasn't
 9 aware of, that would be really difficult to
 10 say what and when and how and to what degree
 11 because it was being negotiated. I was,
 12 again, represented by counsel so I wasn't
 13 really being spoken to directly on these
 14 matters other than my attorney.
 15 Q. You understood that Exhibit 10 was a motion
 16 to dismiss that was submitted to the court
 17 along with a settlement agreement that was in
 18 the process of being executed, correct?
 19 MR. JONES: And I'll -- I'll -- I'll
 20 object. I think the witness has already
 21 testified that she was communicating with her
 22 attorney here so it seems like anything that
 23 she learned from her attorney would be
 24 privileged.
 25 THE WITNESS: Yes.

1 MR. SPARKS: Your -- your awareness of
 2 it -- she's asked about your awareness of it.
 3 Will you --
 4 A. Yes. At some --
 5 MR. SPARKS: -- answer her question.
 6 A. -- point I was aware of -- of this, yes.
 7 Q. Do you know if the settlement agreement that
 8 is attached as Exhibit A to what's been
 9 marked as Exhibit 10, do you know if that, in
 10 fact, was ultimately signed by all the
 11 individuals that are --
 12 A. I would --
 13 Q. -- listed on --
 14 A. -- not --
 15 Q. -- Page 6 and 7?
 16 A. I'm sorry. I would not be able to tell you
 17 if this is exactly like the one that's signed
 18 without seeing the signatures on it. I was
 19 not a signator. I would not have a
 20 familiarity to the point where I would be
 21 able to say that this is the one that was
 22 signed.
 23 Q. Is it correct that you were aware that
 24 between the period November 6th, 2018, and
 25 February 7th, 2019, there was a interim

1 guardian over your mother's estate and over
 2 her person?
 3 A. Yes. I'm trusting you that those are the
 4 right dates.
 5 MS. SCULLY: If I could just have a
 6 moment to look through my notes, I believe I
 7 don't have any further questions. Might have
 8 a couple col- -- follow-ups.
 9 THE VIDEOGRAPHER: Going off the
 10 record. The time is 2:57 p.m.
 11 (Whereupon, there was a recess in the
 12 proceedings from 2:57 p.m. to 2:58 p.m.)
 13 THE VIDEOGRAPHER: Going back on the
 14 record. The time is 2:58 p.m.
 15 EXAMINATION
 16 BY MR. BRANCH:
 17 Q. Good afternoon, Ms. Hofeller. My name is
 18 John Branch. I am counsel for the intervenor
 19 defendants and with the Shanahan Law Group
 20 law firm here in Raleigh. Appreciate you
 21 kind of plowing through things today. I know
 22 there's been a lot and my hope is that I
 23 don't have very many topics for you to cover
 24 and we can get out of here on a fairly quick
 25 basis. But what -- what's going to happen is

1 I'm going to jump around some because my
 2 colleague has covered 95 percent of what I
 3 had on my list to cover. So if you would be
 4 patient with me if I do that, and if you
 5 don't understand any of the questions that I
 6 pose, want me to restate anything, please
 7 feel free to ask me to do so. I'm happy to
 8 accommodate you as best --
 9 A. Thank you.
 10 Q. -- that I can.
 11 My first question is, what's your home
 12 address?
 13 A. I stated that I wanted that protected,
 14 I'm --
 15 Q. And --
 16 A. -- a survivor of domestic violence and these
 17 documents proliferate at an amazing rate. I
 18 don't believe that it's in my best interest
 19 or -- it's a risk to my safety. That -- that
 20 address is -- I've been able to have it
 21 sealed with courts in the past. I think it's
 22 well established that I'm --
 23 Q. Well, and --
 24 A. -- at risk.
 25 Q. -- with all due respect, ma'am, I -- I don't

1 know that part of your personal history and
 2 I'm not --
 3 A. Uh-huh.
 4 Q. -- trying to antagonize you by asking you
 5 your home address. However, there's a
 6 process that the parties have agreed to with
 7 regard to having documents held confidential
 8 and highly confidential in the context of
 9 this litigation. And so what I would suggest
 10 is that if you're asking that the -- your
 11 address that you -- that would be -- that the
 12 parties would agree that it is confidential
 13 or highly confidential, I'm certain that we
 14 would not have an objection to it so long as
 15 we --
 16 MR. SPARKS: She can be served at my
 17 office. She's not going to agree to reveal
 18 that. If you want to go to the court and --
 19 and compel that, you can go to the court and
 20 compel that, but --
 21 MR. BRANCH: Okay.
 22 MR. SPARKS: -- she can be served at my
 23 office.
 24 BY MR. BRANCH:
 25 Q. And just -- just so we're clear, for purposes

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1 of any later subpoenas that's served in --
 2 that are served in the context of this
 3 lawsuit, trial subpoenas or any other
 4 documents, you're willing to be served
 5 through counsel here as opposed to at your
 6 house?
 7 MR. JONES: Hold on.
 8 MR. SPARKS: At this time are you
 9 willing to have that done?
 10 THE WITNESS: Yes.
 11 BY MR. BRANCH:
 12 Q. All right. And in the event that you are --
 13 you withdraw that authorization for your
 14 lawyer, would you then be willing to provide
 15 us with your home address so that we can
 16 serve you with process?
 17 MR. JONES: I'll object. She's
 18 outside -- she lives outside the range of the
 19 subpoena range of the court. She already
 20 testified --
 21 MR. BRANCH: I mean, doesn't mean we
 22 can't subpoena her and we have a right to --
 23 in the event that we believe that her
 24 testimony is necessary at trial to subpoena
 25 her to testify and --

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1 MR. JONES: Agree to disagree. If
 2 she's outside the range of the -- the
 3 subpoena range of the court I think you can't
 4 subpoena her.
 5 MR. SPARKS: So that we can move on,
 6 we've been here for a long time, may I
 7 interject with a question or two, please --
 8 MR. BRANCH: Uh-huh.
 9 MR. SPARKS: -- if -- if that's okay
 10 with you because it's out of order?
 11 At this time, Ms. Hofeller, are you
 12 willing to have -- allow me to accept service
 13 of documents on your behalf?
 14 THE WITNESS: I am, yes.
 15 MR. SPARKS: If that changes, will you
 16 provide to me an address at which you can be
 17 served, wherever that address is, and give me
 18 permission to let all these fine people know
 19 and everybody that's -- every attorney
 20 involved in this case know where that address
 21 might be?
 22 THE WITNESS: Yes. Yes, as long as it
 23 doesn't appear on any of these documents.
 24 MR. SPARKS: No. No. No. I didn't
 25 ask you for your home address. I said an

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1 address --
 2 THE WITNESS: Oh, yes.
 3 MR. SPARKS: -- at which you can be
 4 served.
 5 THE WITNESS: Yes. Absolutely.
 6 MR. SPARKS: Okay. Is that -- is that
 7 sufficient, sir?
 8 MR. BRANCH: Yeah, I think that's fine.
 9 MS. SCULLY: Yeah.
 10 MR. SPARKS: Thank you. I'm sorry to
 11 interrupt.
 12 MR. BRANCH: No. No. Well, that was
 13 very helpful so thank you for interrupting.
 14 THE WITNESS: Thanks.
 15 BY MR. BRANCH:
 16 Q. Why did you pick Common Cause to reach out to
 17 you -- or to reach out to with regard to
 18 finding an attorney to represent your mother
 19 in the competency dispute?
 20 MR. JONES: Objection, asked and
 21 answered earlier.
 22 A. I answered that question I thought pretty
 23 thoroughly.
 24 Q. And maybe I missed it, but I'd just like to
 25 go back over it just for a little bit. I

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1 mean, why -- again, why Common Cause?
 2 MR. JONES: Objection, asked and
 3 answered.
 4 MR. BRANCH: And, again, she can answer
 5 the question.
 6 A. They are local. They're local and I needed
 7 to, you know, ascertain who was local as far
 8 as local attorneys, and their knowledge of
 9 the politicization of my family affairs as it
 10 pertains to anyone who is involved on this
 11 level with politics, it seemed that they
 12 would comprehend that.
 13 Q. And why -- why did it seem like Common Cause
 14 would have a comprehension of the
 15 politicization of your family's affairs?
 16 A. Because all of the attorneys involved in all
 17 of these matters would have an understanding
 18 of it.
 19 Q. So that's because Common Cause had attorneys
 20 that had been involved in legal matters with
 21 knowledge of the politicization of your
 22 family's affairs?
 23 A. How shall I put this? Your average American
 24 doesn't understand what redistricting even
 25 is, so attorneys that are involved in matters

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1 that pertain to it are much more likely to
 2 understand the importance of my father's
 3 position on these matters.
 4 Q. Okay. And prior to reaching out to Common
 5 Cause about the -- about the topics on which
 6 you reached out to them, you were aware that
 7 they -- that Common Cause was involved in
 8 litigation regarding redistricting?
 9 A. Yes.
 10 Q. And were you -- and you were aware that they
 11 had taken positions adverse to those of your
 12 father or your father's businesses?
 13 A. You know, my father --
 14 MR. JONES: Oh, object. Object.
 15 MR. SPARKS: She --
 16 MR. JONES: Ans and ans --
 17 MR. SPARKS: She --
 18 MR. JONES: Asked and answered.
 19 MR. SPARKS: She actually said that --
 20 THE WITNESS: Yeah.
 21 MR. JONES: You just changed the word
 22 antagonistic to adverse. It's been asked and
 23 answered multiple times.
 24 MR. BRANCH: Well, then it's a --
 25 A. And this wasn't my father's --

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1 MR. BRANCH: -- different question.
 2 A. -- position. This was just what he did.
 3 MR. SPARKS: Please.
 4 THE WITNESS: I'm sorry.
 5 BY MR. BRANCH:
 6 Q. Was your father retained by parties in
 7 litigation with Common Cause?
 8 MR. JONES: Objection. There's no
 9 establishment of any foundation.
 10 MR. BRANCH: I'm asking if she has
 11 knowledge of that.
 12 A. I don't know the details of how my father was
 13 actually involved in all of this. I don't
 14 know the details. I -- he -- he was all over
 15 the country all the time my whole entire
 16 childhood. I don't know when he signed on
 17 with who in what capacity, whether he was
 18 working for the RNC, whether he was a
 19 consultant. I don't know those details. It
 20 would be very -- I don't know. It seems
 21 almost like it -- it -- we're trying to
 22 establish that I would misstate. I would
 23 rather just go ahead and say that I don't
 24 know these details. If you continue to press
 25 me to tell you yes or no, eventually there is

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1 an idea that I will say that I know something
 2 that I wasn't aware of.
 3 Q. And I -- to be clear, I don't know is a
 4 perfectly valid answer. If you don't know,
 5 you don't know. That's fine. I'm not trying
 6 to press you for a certain answer. I'm
 7 trying to understand what it is you do
 8 actually know.
 9 A. And, again, I've really tried to --
 10 MR. JONES: There's no --
 11 THE WITNESS: Okay.
 12 A. I tried to address it before.
 13 Q. And so are you aware that the redistricting
 14 maps at issue in this case are ones that were
 15 passed by the North Carolina General Assembly
 16 in 2017?
 17 A. Passed by? You mean -- no. No, I wasn't
 18 aware.
 19 Q. Okay. Well, are you aware that redistricting
 20 maps are enacted laws by the North Carolina
 21 General Assembly in North Carolina?
 22 A. No.
 23 Q. And you weren't -- I believe you just
 24 testified that you weren't aware that the
 25 maps that are being challenged by the

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1 plaintiffs in this lawsuit are ones that were
 2 enacted in 2017?
 3 A. No. I didn't know --
 4 Q. Okay.
 5 A. -- any of those state- -- specifics.
 6 Q. If -- on the assumption that I'm correct that
 7 the General Assembly passed the maps that are
 8 at issue in this litigation in 2017, would it
 9 be correct to say that you had no
 10 communications with your father about those
 11 maps that were passed?
 12 A. I don't know when he started drawing those
 13 maps. My fa- -- I was an only child. My
 14 father and I spoke about a lot of matters
 15 right up until the point when I didn't speak
 16 to him anymore. So I have no idea whether or
 17 not the maps that he was drawing the last
 18 time I spoke to him were those maps. I would
 19 have no way of knowing that.
 20 Q. So you have no way of knowing one way or
 21 another?
 22 A. That's right.
 23 Q. Okay. Did you -- what's -- I'm not trying to
 24 raise the same concerns you have about your
 25 address, but I do have some questions about

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1 the use of your phone. So --
 2 A. The use of my what?
 3 Q. Your --
 4 MS. SCULLY: Phone.
 5 BY MR. BRANCH:
 6 Q. Your cell phone. And so I'm going to ask you
 7 what your cell phone number is so...
 8 MR. JONES: I'll --
 9 BY MR. BRANCH:
 10 Q. Are you willing -- are you willing to share
 11 that for the --
 12 A. No.
 13 Q. Okay. Let me ask the question a different
 14 way. Have you used the same -- do you have a
 15 smartphone that you use -- that is associated
 16 with the regular phone number that you use
 17 and give out to people?
 18 A. Forgive me for being a little bit concerned
 19 about where -- I mean, I -- what can I say?
 20 I mean, I -- the -- what -- what period of
 21 time are we talking about here? I mean...
 22 Q. Current -- let's say today do you have an
 23 iPhone?
 24 A. Do I have --
 25 Q. Do you have --

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1 A. -- a smartphone?
 2 Q. -- an Android? Yes. That --
 3 A. Yes, I have a smartphone.
 4 Q. Okay. And what kind of a phone is it? Is it
 5 an iPhone, Android?
 6 MR. JONES: Ob- -- object. This is --
 7 this is ri- -- ridiculously irrelevant.
 8 MR. BRANCH: It is not.
 9 BY MR. BRANCH:
 10 Q. You can answer.
 11 A. It's -- it's either an iPhone or an Android.
 12 Q. All right. And it's one specific device. Is
 13 that the same device that you have used since
 14 September 30th of 2018?
 15 A. No.
 16 Q. Okay. How many different devices have you
 17 used since September 30th of 2018 associated
 18 with your primary telephone number?
 19 A. Two.
 20 Q. Two?
 21 A. Two, I think, yeah.
 22 Q. Okay. Do you --
 23 A. I don't know. These were not associated with
 24 the same phone number. I -- I'm a popular
 25 person. I don't tend to just give my phone

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1 number out and I also tend to -- to find that
 2 it's better when you're on Google to -- to
 3 not be quite as consistent as most of -- most
 4 people are.
 5 MR. SPARKS: Do you need to take a
 6 break?
 7 THE WITNESS: No. No, I don't.
 8 A. So, no, it hasn't been the same phone number.
 9 Q. Okay. And -- all right. So the question I
 10 had was actually as to the device that you
 11 use, the physical hardware. And what I was
 12 asking, and it was based on an assumption
 13 that I think turned out not to be correct,
 14 was how many different devices have you used
 15 since September 30th of 2018 to present day?
 16 A. I think it's two. Two.
 17 Q. Okay. Okay. Do you -- did you change phone
 18 numbers when you changed devices at some
 19 point during that period of time?
 20 A. Yes.
 21 Q. Okay. Can you tell me approximately when
 22 that was?
 23 A. Late last year, I think.
 24 Q. Towards the -- do you think possibly
 25 December? I'm not looking for a specific

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1 date.
 2 A. Possibly, yeah.
 3 Q. Okay. Can you tell me why you switched phone
 4 numbers and devices?
 5 A. Old -- old device, running out of storage. I
 6 didn't have a contract so...
 7 Q. Okay. Did you keep the old device?
 8 A. For a while I did.
 9 Q. And where is it now?
 10 A. I gave it to a friend. Cleared it off, reset
 11 it to factory settings, and gave it to a
 12 friend of mine who couldn't afford to buy a
 13 new one.
 14 Q. Okay. And when did you do that
 15 approximately?
 16 A. January, February, sometime in there.
 17 Q. All right. And is that -- you testified
 18 earlier when you were asked about the --
 19 being -- whether you're in possession of the
 20 text messages with Mr. Speas that some of the
 21 old text messages had been deleted. Were
 22 they -- when you talked about --
 23 A. That's why I got a --
 24 Q. -- them being --
 25 A. -- new phone.

1 MR. SPARKS: Let him --
 2 THE WITNESS: I'm sorry.
 3 MR. SPARKS: Let him answer --
 4 THE WITNESS: I'm sorry.
 5 MR. SPARKS: -- ask the question,
 6 please.
 7 BY MR. BRANCH:
 8 Q. Yeah. Well, I think -- you -- you can go
 9 ahead and explain. Can you tell me what
 10 happened?
 11 A. Yeah. My phone started running out of
 12 storage, it couldn't do the updates, and as
 13 it ran more and more out of storage, it was
 14 dropping -- it was dropping things like text
 15 messages and -- yeah. Both the iPhones and
 16 the androids do that so...
 17 Q. Okay. And then after it was dropping text
 18 messages, you went and got a new phone?
 19 A. You know, as -- at my earliest convenience I
 20 got a new phone.
 21 Q. Okay. And -- and to the extent that
 22 you've -- well, strike that.
 23 Has -- have you encountered the same
 24 problems with dropping phone calls and text
 25 messages since you've had your new phone?

1 A. I don't think so.
 2 Q. Okay. So you wouldn't have lost any of the
 3 text messages that have been sent to or from
 4 you with regard to the new phone?
 5 A. I don't suppose that I would have.
 6 Q. Okay. And the old phone, I believe you
 7 testified that you gave -- you erased the
 8 information that was on the old phone and
 9 gave it to a friend of yours in January or
 10 February of this year?
 11 A. Sometime early this year, yeah.
 12 Q. Okay. What -- I'm shifting topics back to
 13 the -- the devices that you turned over to
 14 Arnold & Porter in connection with the
 15 subpoena. What computers or other electronic
 16 devices did you use to read the contents of
 17 those hard drives or thumb drives?
 18 A. A laptop.
 19 Q. Was it just one laptop?
 20 A. Yes.
 21 Q. And do you still have possession of the
 22 laptop?
 23 A. Yes, I do.
 24 Q. Okay.
 25 MR. BRANCH: All right. If we can go

1 off the record for a couple minutes, I'm just
 2 about done.
 3 MS. SCULLY: I want to talk about
 4 something.
 5 THE VIDEOGRAPHER: Going off the
 6 record. The time is 3:15 p.m.
 7 (Whereupon, there was a recess in the
 8 proceedings from 3:15 p.m. to 3:18 p.m.)
 9 THE VIDEOGRAPHER: Going back on the
 10 record. The time is 3:18 p.m.
 11 MR. BRANCH: Nothing further.
 12 MR. SPARKS: Nothing from me.
 13 MR. JONES: Nothing from me either.
 14 THE VIDEOGRAPHER: This concludes the
 15 video deposition. Time going off the record
 16 is 3:18 p.m.
 17 [SIGNATURE RESERVED]
 18 [DEPOSITION CONCLUDED AT 3:18 P.M.]
 19
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 25

1 ACKNOWLEDGEMENT OF DEPONENT

2

3 I, STEPHANIE HOFELLER, declare under the
4 penalties of perjury under the State of North
5 Carolina that I have read the foregoing 212 pages,
6 which contain a correct transcription of answers
7 made by me to the question therein recorded, with
8 the exception(s) and/or addition(s) reflected on
9 the correction sheet attached hereto, if any.

10 Signed this, the ____ day of
11 _____, 2019.

12

13

14

15

STEPHANIE HOFELLER

16

17 State of: _____

18 County of: _____

19 Subscribed and sworn to before me this
20 ____ day of _____, 2019.

21

22

23

Notary Public

24

My commission expires: _____

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1 STATE OF NORTH CAROLINA)

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) CERTIFICATE
COUNTY OF WAKE)

I, LISA A. WHEELER, RPR, CRR, Court
Reporter and Notary Public, the officer before whom
the foregoing proceeding was conducted, do hereby
certify that the witness whose testimony appears in
the foregoing proceeding was duly sworn by me; that
the testimony of said witness was taken by me to
the best of my ability and thereafter transcribed
by me; and that the foregoing pages, inclusive,
constitute a true and accurate transcription of the
testimony of the witness.

I do further certify that I am neither
counsel for, related to, nor employed by any of the
parties to this action and, further, that I am not
a relative or employee of any attorney or counsel
employed by the parties thereof, nor financially or
otherwise interested in the outcome of said action.

This the 20th day of May, 2019.

Lisa A. Wheeler, RPR, CRR
Notary Public #19981350007

1 ERRATA SHEET

2

Case Name: COMMON CAUSE, ET AL. VS. DAVID R.
LEWIS, ET AL.

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Witness Name: STEPHANIE HOFELLER

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Deposition Date: FRIDAY, MAY 17, 2019

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

ROBIN KRAVITZ, *et al.*

Plaintiffs,

v.

U.S. DEPARTMENT OF COMMERCE, *et al.*

Defendants.

Civil Action No. 8:18-cv-01041-GJH

Hon. George J. Hazel

LA UNIÓN DEL PUEBLO ENTERO, *et al.*

Plaintiffs,

v.

WILBUR L. ROSS, in his official capacity as
U.S. Secretary of Commerce, *et al.*

Defendants.

Civil Action No. 8:18-cv-01570-GJH

Hon. George J. Hazel

DECLARATION OF JON GREGORY MATTHEWS

1. My name is Jon Gregory Matthews.
2. I am currently employed by Stroz Friedberg (“Stroz Friedberg”), a digital forensics and technical investigation firm, in its Washington D.C. office. My title is Vice President, Digital Forensics and Incident Response. I am responsible for conducting digital forensic acquisitions and analysis; performing comprehensive immediate response functions for network and data breach incidents; conducting electronic discovery and data production operations involving preservation, processing, and production of electronic data from a variety of digital sources; conducting technical security reviews; and providing expert testimony regarding the methods, results, and accuracy of forensic findings.
3. Stroz Friedberg was retained by Arnold & Porter Kaye Scholer LLP in the matter of Common Cause v. Lew, 18-cv-14001 (Superior Court, NC) to provide consulting and technical services regarding the forensic imaging and analysis of digital media.
4. On March 13, 2019, Stroz Friedberg’s Washington DC office received an unopened package from R. Stanton Jones of Arnold & Porter Kaye Scholer LLP. The information on the package included the following:

FedEx Shipping Label
Stephanie Hofeller
[KENTUCKY ADDRESS OMITTED]

To R. Stanton Jones, Arnold & Porter LLP
601 Massachusetts Ave. NW
Washington, DC 20001

Wed – 13 Mar 3:00P
STANDARD OVERNIGHT

The package also had an additional label with the following information on it:

Received
Mar 13, 2019
11:20

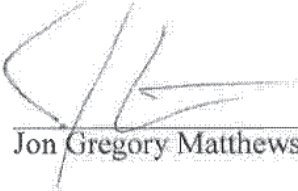
5. Upon receipt of this package, Stroz Friedberg opened the package and logged receipt of the contents of the package via our chain of custody process. This process includes photographing each device, noting identifying information such as serial number,

receiving signatures for the provider and recipient of the device, and subsequent logging of all access to, and further material transfer of the device.

6. Once logged into chain of custody, the device was then imaged using industry standard methods and tools for digital forensic preservation, including write-blocking technology to preserve the sanctity of the data on the device.
7. The hash value of the forensic image is then compared to the original device to insure the forensic image is an exact bit-stream copy of the original.
8. Once the forensic image is made and verified, Stroz Friedberg then performs its forensic analysis, again using industry standard tools, methods, and processes to protect against changes to the data and evidence.
9. One of the devices in the package received on March 13, 2019 from Arnold & Porter Kaye Scholer LLP was a Seagate Backup Plus Portable, 1.5 TB, external hard disk drive, silver and black in color, labeled "#3" with serial number NA7J06GX. The Seagate Backup Plus Portable hard drive contained numerous files. Among those files was a file titled "We note that in these two cases.docx".
10. A forensic image containing this file, as well as all files on the Seagate Backup Plus Portable hard drive were provided to Arnold & Porter Kaye Scholer LLP.
11. A printed copy of this file from the Seagate Backup Plus Portable hard drive are attached as Exhibit A-1.
12. Stroz Friedberg has maintained continuous and secure custody of the Seagate Backup Plus Portable hard disk since taking it into our control, and there has been no change, alteration to, or tampering with the data on the Seagate Backup Plus Portable hard drive.
13. Another one of the devices in the package received on March 13, 2019 from Arnold & Porter Kaye Scholer LLP was a Seagate Backup Plus Portable, 1 TB, external hard disk drive, contained in a blue silicone case, labeled "#1" with serial number NA7QGNQM. The Seagate Backup Plus Portable hard drive contained numerous files, including the following:
 - a. "The Use of Citizen Voting Age Population in Redistricting.docx"
 - b. "Appendix 1 - Legal Paper - Population Databases.docx"
 - c. "Appendix 2 - Column Header on Tables 2 - 7.xlsx"
 - d. "Appendix 3 - TLC - TX HCVAP Study for TX House of Reps.xls"
 - e. "August 31 2015 INVOICE - Washington Free Beacon.docx"

- f. "Map 1 - Texas CVAP Analysis Regions.pdf"
 - g. "Map 2 - Texas CVAP Analysis Regions.pdf"
 - h. "Table 1 -ACS Sample Sizes.xlsx"
 - i. "Table 2 - HCVAP Numbers Deviations Percentages.xlsx"
 - j. "Table 3 - HCVAP Numbers - Sort by %CVAP Dev.xlsx"
 - k. "Table 4 - HCVAP Numbers Sorted by Percentage Latino.xlsx"
 - l. "Table 5 - HCVAP Numbers Sorted and Summed by Region.xlsx"
 - m. "Table 6 - HCVAP Numbers Sorted and Summed by Party.xlsx"
 - n. "Table 7 - HCVAP Numbers Sorted by Current Percent TPOP Deviation.xlsx"
 - o. "Table 8 - Gain or Loss by Region Using CVAP.xlsx"
 - p. "RE Address & Entity for Invoice.msg"
 - q. "RE Did you see Hannity.msg"
 - r. "RE Redistricting Article.msg"
 - s. "Fw 2010 Census -- Myths and Misconceptions.msg"
 - t. "Fwd FR Notice.msg"
 - u. "Reservation at Ramparts Tavern.msg"
14. A forensic image containing these files, as well as all files on the Seagate Backup Plus Portable hard drive were provided to Arnold & Porter Kaye Scholer LLP.
15. Stroz Friedberg has maintained continuous and secure custody of the Seagate Backup Plus Portable hard drive since taking it into our control, and there has been no change, alteration to, or tampering with the data on the Seagate Backup Plus Portable hard drive.
16. Printed copies of these files from the Seagate Backup Plus Portable hard drive are attached to this Declaration as Exhibits A-2 through A-22.
17. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: June 14, 2019



Jon Gregory Matthews

THE USE OF CITIZEN VOTING AGE POPULATION IN REDISTRICTING¹

This study comments on the practicality of the use of citizen voting age population (CVAP) as a basis for achieving population equality for legislative redistricting. What this means in practice is that the total CVAP for a state would be divided by the number of legislative districts to be redistricted in order to compute an idea district population for each single-member district. Each district's variance from this ideal district population would be used to calculate both the least and most populous district and also to compute the total percentage deviation (or "high to low") for a redistricting plan as a whole. Compliance with the federal "one person, one vote" standard would thus be determined on the basis of CVAP as opposed to total population (TPOP), as is presently the case. The use of CVAP is not a new concept, but as of this date, federal courts have not held that it is permissible to use CVAP as a standard for legislative redistricting.

In Hawaii, courts have ruled that registered voters may be used as a population base for legislative redistricting. This practice was adopted to remove non-resident military personnel from the redistricting population base, and to avoid the creation of legislative districts with extremely high percentages of non-registered adults. The courts, however, have also mandated that the TPOPs in the districts must be closely related to the district deviations based on registered voters. Appendix 1 discusses these court rulings in more detail. This practice is still tied to total population.

In addition, the removal of prison inmates housed from other states has been allowed in 3 states in the 2010 redistricting cycle (Delaware, Maryland and New York). This practice, often referred to as "prisoner adjustment" also moves the counts for domestic inmates in state prisons to the location where they lived before being incarcerated (prisoners not from out-of state). Democrat allies are now lobbying the Census Bureau to include this practice in the 2010 Decennial. Prisoner adjustment is generally believed to be favorable to the Democrats,

¹ This study does not constitute professional legal advice and is not intended to be substituted in place of advice from qualified legal counsel.

but may, in some states, be less favorable to minorities. This, of course depends on the locations of the prisons. This practice, however, is still tied to total population.

As of today, the use of CVAP is limited to an evaluation of minority voting strength in districts protected by the mandates of the Federal Voting Rights Act (sometimes, also, to evaluate compliance with state and local civil rights provisions), and is most commonly used to determine the ability of Latino voters to have equal opportunities to elect their preferred candidates of choice in newly enacted districts.

The use of CVAP in redistricting has always been difficult. In decennial censuses prior to 2010, a citizenship question was included in the long form questionnaire which was distributed to approximately one in seven households. This information, however, was not available until after most states had already completed their line-drawing process.

For several reasons, the Bureau of the Census decided to discontinue the use of the long form questionnaire for the 2010 Decennial Census and to depend exclusively on the short form Questionnaire, which did not include a question on citizenship. The two primary reasons given for this change were cost savings and an increase in the initial percentage of questionnaires returned by mail.

As a replacement to the long form questionnaire, the Census Bureau instituted the American Community Survey. To quote the Census Bureau: "The American Community Survey (ACS) is an ongoing survey that provides vital information on a yearly basis about our nation and its people. Information from the survey generates data that help determine how more than \$400 billion in federal and state funds are distributed each year." Each year, about 3.5+ million households receive very detailed questionnaires of which about 2.2 million are successfully returned. This represents a 62% return rate.

In the version of the ACS data used for redistricting in this cycle, the questionnaires from 5 years were compiled together into a report released in late 2010. This included the samples collected in 2005 through 2009. The number of questionnaires included in the 2005 through

2009 sample was about 9.5 million. By comparison, about 16.2 million households would have received a Long-Form Questionnaire had its use been continued in the 2010 Decennial Census. This means that the accuracy of the ACS sample is significantly lower than the long form sample would have been. In addition, the use of a 5-year rolling sample was much less reflective of the actual characteristics of the population at the time of the actual 2010 Decennial Enumeration, which would have been a one-time snapshot taken in mid-2010 (April to August). Even if a majority of the justices on the U. S. Supreme Court are sympathetic to the use of CVAP, it is not probable, in my judgment, that they will accept a rolling 5-year survey in lieu of an actual full enumeration for use in redistricting or reapportionment.

Another issue with use of the ACS in redistricting is that the accuracy for small units of geography is extremely poor. This is particularly true for Census Tracts and Census Block Groups. In some cases the confidence interval for a Block Group exceeds the actual range of the data, creating negative numbers for the low point of the confidence interval.

Another problem with the ACS data is that the units of geography by which the ACS is compiled is different from the geographic units used in redistricting. Almost all states are using Census Voting Districts (VTDs) are preferred as the basic geographic building blocks for creating new districts. VTD boundaries generally follow precinct boundaries. ACS data are simply not available for VTDs, and any estimates of CVAP populations for VTDs would be even more inaccurate than the ACS estimates for Census Tracts and Block Groups.

For those states in which CVAP estimates for legislative districts have been compiled, determinations have been required to compute the percentage of each Census Block Group's population which is in each legislative or congressional district. The CVAP statistics have been summed for all the block groups which have either 50% or 75% of their population in an individual district and these estimates have been imputed to the total adult populations of the districts. The Texas Legislative Counsel's report (Appendix 3), contains the confidence intervals for the estimated of Texas House district are generally from 2 to 3 percent.

In many states, such as Texas, experienced redistricting experts have relied much more on the use of ethnic surname matches against the registered voter file to determine Latino voting strength, rather than estimates of the percentage of adult citizens who are Latino. Of course, since the population base for compliance with the one person, one vote rule has been TPOP, ethnic surname and CVAP estimates have only been used as indices of probable district election performance for Latino candidates.

Another issue to consider is whether or not CVAP, or just total citizen population (CPOP), would be the proper base, should the U. S. Supreme Court determine that citizenship should replace TPOP, which is presently in use. So far, courts have not even accepted the use of total voting age population (TVAP or VAP) as a redistricting standard, so it would be a high leap from TPOP to CVAP as the new standard.

All this leads to a possible conclusion that without a congressional mandate for the United States Census Bureau to add a citizenship question to the 2020 Decennial Census form, or such a mandate from the Supreme Court, the relief sought in the *Evenwel* case is functionally unworkable.

The other important topic to address are the political ramifications of using CVAP as the redistricting population standard for one person, one vote compliance. Would the gain of GOP voting strength be worth the alienation of Latino voters who will perceive a switch to CVAP as an attempt to diminish their voting strength? That, however, is not the subject of this study.

By mutual agreement, a study of the effect of using CVAP instead of TPOP as the redistricting population basis for drafting a plan for the Texas State House of Representatives has been commissioned. Demographic information on the current 150 State House districts has been obtained from the website of the Texas Legislative Council. Since State House districts are roughly equal in population they are appropriate for such an examination.

A spreadsheet containing information on each of the 150 State House districts in Texas has been compiled. There is one row for each district and each row contains 15 columns of geographic, demographic and political information for each individual district. This spreadsheet has been sorted in 6 different orders which make up Tables 2 through 7. The column header by which the table is sorted is shaded purple. An explanation of each of the 15 columns can be found in Appendix 2.

Table 2 is sorted by district number (Column A).

Table 7 is sorted by the population deviation measured in terms of TPOP (Column M).

Table 3 is sorted by the population deviation measured in terms of CVAP (Column O).

The population deviations for the current districts, as measured in terms of TPOP, ranges from 4.83% above to -5.02% below the idea district population (Table 7. Column M). The ideal population is the sum of the base population (either TPOP or CVAP) divided by the total number of districts. The range of deviation from the most to least populated district is 9.85% (total deviation), which is below the 9.99% range acceptable under the provisions of the United States Supreme Court's "one person, one vote" rule. The deviations of the 2003 House district could have been lower. They are as high as they are because Texas' Constitution has special provisions for the redistricting of it State House of Representatives which mandate keeping districts within whole counties or groups of whole counties. These provisions, however, may, to some extent, fall by the wayside as a result of the current federal court lawsuit challenging Texas' adherence to the Voting Rights Act in its latest redistricting (2003).

When CVAP is used as the population base, the population deviations for the current State House districts increase in range from a high of 20.47% to a low of -40.38% with a total deviation of 60.85% (Table 3, Column O),. This deviation is clearly unacceptable under the "one person, one vote" rule. If the Supreme Court were to impose CVAP as the proper

population base, and mandate its application to the districts for 2016, a radical redrawing of the State House districts would be required.

POLITICAL AND DEMOGRAPHIC EFFECTS OF USING CVAP

There are several general rules related to redistricting in general which should be discussed at this point:

1. First, the party which controls the actual line-drawing process, in most instances, possesses a huge advantage which outweighs almost all other factors influencing the redistricting process. This would be equally true if the population base were to be shifted from TPOP to CVAP.
2. Second, redistricting has often been described as a “game of margins”. Many times a shift of two or three precincts into or out of a district can significantly alter the political characteristic of that district. As an example, if a district is solidly Democratic and the Republicans are drawing the plan, the Republican will almost always add additional heavily Democratic precincts to that district to improve their advantage in surrounding districts. On the other hand, if Democrats are doing the line drawing, they will often submerge heavily Republican precincts into a strong Democratic district to improve their chances of electing Democrats in the surrounding districts.

These factors would also apply for Texas if CVAP were to become the new population base. In the case of Texas redistricting, the ability of the party in power to overcome a switch to CVAP would be somewhat limited in State House redistricting because of the mandate to keep counties intact – particularly if the Democrats regained control.

Table 4, which sorts the existing House districts by percent Hispanic CVAP, demonstrates that considerable population would have to be added to a majority of the Latino districts to bring their populations up to acceptable levels of deviation (Table 4, Column H). There are

presently 35 districts with HCVAP percentages over 40. As a whole, those 35 districts only contain sufficient HCVAP populations to comprise 30.1 districts (See the green shading on Table 4). As would be expected, the remaining 115 districts have sufficient combined HCVAP populations to comprise 119.6 districts.

Table 6 sorts the districts by the political party of the incumbent State House members (See Table 6, Column C). The 97 GOP districts have sufficient CVAP populations to actually form 103.2 districts, while the 53 Democrat districts only have sufficient CVAP population to comprise 46.8 districts. Use of CVAP would clearly be a disadvantage for the Democrats.

Since all of the Republican and Democrat districts are not located in two distinct areas, it is helpful to examine the effects of switching from TPOP to CVAP as the population base by regions. Texas has been divided into 13 regions comprised of whole State House Districts. Those regions are show on Maps 1 and 2. The regions are:

1. Dallas-Ft Worth and suburbs (3 regions)
2. Houston and its suburbs (2 regions)
3. Austin and its suburbs (1 region)
4. San Antonio and its suburbs (1 region)
5. El Paso County (1 region)
6. The Rio Grande Valley and South Texas (1 region)
7. The area southeast of Houston (1 region)
8. The northeast area of Texas (1 region)
9. The central area of the State, roughly between DFW, Austin and Houston (1 region)
10. The areas of West-Central and Western Texas (1 region).

These regions certainly are not in any way official, but are sufficient for this redistricting analysis.

The data for these 13 regions may be found on Table 5 (which is sorted first by Column B and then by Column A) and demonstrates some interesting characteristics. This table compares

the number of projected CVAP-based districts which would be contained in these 13 regions to the number of actual Texas State House districts presently located within them (the 2003 House Plan). The combined CVAP district deviations within each region have been summed to determine the number of districts each region would be entitled to using CVAP as the population base. These data are summarized on Table 8, and correspond to the green-shaded areas on Table 5 (found in Column O at the bottom of the section for each region).

The use of CVAP as the population based would cause a loss of relative population (and, thus districts) in the Greater Dallas/Ft. Worth Area (-.7 districts overall), with the greatest loss in Dallas County (1.7 districts). Harris County and its suburbs would lose relative population (1.7 districts overall), with a loss of 1.9 districts being slightly offset by the gain in the surrounding suburban counties. The greatest loss would be in South Texas, El Paso and the Rio Grande Valley which would lose 2.6 districts overall. All other regions of the State would enjoy relative gains in population, with the greatest gains being in Central as well as West Texas' rural and semi-rural counties.

Even within the individual regions (Using Table 5), an inspection of the CVAP deviation percentages of Republican versus Democratic districts shows that the Democratic CVAP deviations are generally negative and the GOP deviations are generally positive. This means that Democratic districts could geographically expand to absorb additional high Democrat precincts from adjacent Republican districts, strengthening the adjoining GOP districts.

CONCLUSIONS

- A shift from a redistricting population based determined using total population to adult population is radical departure from the federal "one person, one vote" rule presently used in the United States.
- Without a question on citizenship being included on the 2020 Decennial Census questionnaire, the use of citizen voting age population is functionally unworkable.

- The Obama Administration and congressional Democrats would probably be extremely hostile to the addition of a citizenship question on the 2020 Decennial Census questionnaire.
- The chances of a U. S. Supreme Court's mandate to add a citizenship question to the 2020 Decennial Census are not high.
- A switch to the use of citizen voting age population as the redistricting population base for redistricting would be advantageous to Republicans and Non-Hispanic Whites.
- A proposal to use CVAP can be expected to provoke a high degree of resistance from Democrats and the major minority groups in the nation.

TABLE 1
American Community Survey (ACS)
Sample Sizes by Year and Type

Year	Housing Units		Group Quarters People		
	Initial Addresses Selected	Final Interviews	Initial Sample Selected	Actual Interviews	<u>Synthetic Interviews</u>
2013	3,551,227	2,208,513	207,410	163,663	135,758
2012	3,539,552	2,375,715	208,551	154,182	137,086
2011	3,272,520	2,128,104	204,553	148,486	150,052
2010	2,899,676	1,917,799	197,045	144,948	N/A
2009	2,897,256	1,917,748	198,808	146,716	N/A
2008	2,894,711	1,931,955	186,862	145,974	N/A

TABLE 2
STATE OF TEXAS
STATE HOUSE OF REPRESENTITIVES
83rd Legislature - 1st Called Session - S.B. 3 (June 2013)
Citizen Voting Age Population Analysis Using American Community Survey
Sorted by District Number

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Angle	PCT HCVP	PCT HVAP	%HVAP - %HCVP	%HCVP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
1	Northeast TX	R	165,823	125,927	122,470	75.1	3.1	5.8	-2.7	53.5	-1814	-1.08	14,488	13.42	14.50
2	Northeast TX	R	173,869	130,806	124,825	85.1	5.5	10.0	-4.5	55.2	6232	3.72	16,843	15.60	11.88
3	Houston Suburbs	R	164,955	119,595	109,760	75.4	9.7	20.0	-10.3	48.5	-2682	-1.60	1,778	1.65	3.25
4	DFW Suburbs	R	168,429	123,603	117,715	81.5	6.3	11.7	-5.4	53.6	792	0.47	9,733	9.01	8.54
5	Northeast TX	R	160,253	120,169	112,555	78.8	5.2	13.2	-7.9	39.8	-7384	-4.40	4,573	4.23	8.64
6	Northeast TX	R	160,008	119,154	109,970	70.1	6.5	14.9	-8.3	44.0	-7629	-4.55	1,988	1.84	6.39
7	Northeast TX	R	161,039	120,296	112,255	74.7	3.9	11.2	-7.3	34.9	-6598	-3.94	4,273	3.96	7.89
8	Central Texas	R	161,098	123,550	114,450	72.1	8.8	15.4	-6.6	57.0	-6539	-3.90	6,468	5.99	9.89
9	Northeast TX	R	166,719	125,947	121,420	75.8	2.5	6.9	-4.4	35.8	-918	-0.55	13,438	12.44	12.99
10	DFW Suburbs	R	163,063	116,978	111,680	75.6	13.1	18.7	-5.5	70.4	-4574	-2.73	3,698	3.42	6.15
11	Northeast TX	R	168,699	128,086	118,640	72.2	5.7	13.9	-8.3	40.6	1062	0.63	10,658	9.87	9.24
12	Central Texas	R	160,573	119,556	111,590	64.4	11.8	19.5	-7.7	60.6	-7064	-4.21	3,608	3.34	7.56
13	Central Texas	R	170,617	131,129	123,515	75.2	9.5	15.9	-6.4	59.7	2980	1.78	15,533	14.38	12.61
14	Central Texas	R	163,187	131,479	114,485	68.6	14.1	21.0	-6.9	67.2	-4450	-2.65	6,503	6.02	8.68
15	Houston Suburbs	R	167,349	120,450	116,690	81.8	7.4	13.5	-6.1	55.0	-288	-0.17	8,708	8.06	8.24
16	Houston Suburbs	R	166,647	122,271	108,180	80.7	9.3	21.1	-11.8	44.2	-990	-0.59	198	0.18	0.77
17	Central Texas	R	163,480	121,295	112,125	61.1	27.0	33.4	-6.4	80.9	-4157	-2.48	4,143	3.84	6.32
18	Southeast TX	R	169,888	132,877	126,560	71.3	8.1	14.2	-6.1	57.0	2251	1.34	18,578	17.20	15.86
19	Southeast TX	R	171,969	131,682	128,705	82.5	3.7	6.3	-2.6	58.3	4332	2.58	20,723	19.19	16.61
20	Central Texas	R	159,816	121,754	115,395	82.8	10.3	16.6	-6.2	62.4	-7821	-4.67	7,413	6.87	11.53
21	Southeast TX	R	172,180	130,308	121,365	82.0	5.2	9.3	-4.1	55.7	4543	2.71	13,383	12.39	9.68
22	Southeast TX	D	161,930	122,897	115,525	37.0	7.7	15.7	-8.0	49.0	-5707	-3.40	7,543	6.99	10.39
23	Houston Suburbs	R	163,720	123,736	111,960	59.8	16.6	22.7	-6.1	73.2	-3917	-2.34	3,978	3.68	6.02
24	Houston Suburbs	R	162,685	118,491	118,260	74.8	11.3	15.6	-4.3	72.3	-4952	-2.95	10,278	9.52	12.47
25	Houston Suburbs	R	174,168	129,041	121,250	62.4	20.8	27.4	-6.6	75.9	6531	3.90	13,268	12.29	8.39
26	Houston Suburbs	R	160,091	117,247	97,320	52.2	11.6	14.9	-3.3	77.8	-7546	-4.50	-10,662	-9.87	-5.37
27	Houston Suburbs	D	160,084	113,596	104,295	26.2	14.8	19.7	-4.8	75.4	-7553	-4.51	-3,687	-3.41	1.09
28	Houston Suburbs	R	160,373	107,968	100,995	53.3	15.6	20.6	-5.0	75.8	-7264	-4.33	-6,987	-6.47	-2.14
29	Houston Suburbs	R	175,700	124,171	116,165	57.5	17.4	23.2	-5.8	74.9	8063	4.81	8,183	7.58	2.77
30	Central Texas	R	166,022	124,729	121,220	59.0	31.8	35.2	-3.4	90.4	-1615	-0.96	13,238	12.26	13.22
31	S Tex RG Valley	D	171,858	121,699	104,285	23.1	73.9	77.7	-3.8	95.1	4221	2.52	-3,697	-3.42	-5.94
32	S Tex RG Valley	R	167,074	126,072	124,080	46.8	44.2	45.9	-1.6	96.5	-563	-0.34	16,098	14.91	15.24
33	DFW Suburbs	R	172,135	119,518	115,655	77.9	8.5	13.5	-4.9	63.5	4498	2.68	7,673	7.11	4.42
34	S Tex RG Valley	D	173,149	125,896	117,465	28.0	64.6	67.7	-3.1	95.4	5512	3.29	9,483	8.78	5.49

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVP	PCT HVAP	%HVAP - %HCVP	%HCVP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
35	S Tex RG Valley	D	168,627	109,154	77,585	18.6	78.9	85.1	-6.2	92.7	990	0.59	-30,397	-28.15	-28.74
36	S Tex RG Valley	D	168,963	110,963	76,060	11.9	86.0	90.8	-4.8	94.7	1326	0.79	-31,922	-29.56	-30.35
37	S Tex RG Valley	D	169,088	113,454	78,885	15.5	81.5	87.1	-5.6	93.6	1451	0.87	-29,097	-26.95	-27.81
38	S Tex RG Valley	D	168,214	110,865	92,195	13.5	80.2	86.7	-6.4	92.6	577	0.34	-15,787	-14.62	-14.96
39	S Tex RG Valley	D	168,659	110,751	85,015	14.6	78.9	88.0	-9.1	89.7	1022	0.61	-22,967	-21.27	-21.88
40	S Tex RG Valley	D	168,662	108,086	79,875	8.2	88.4	92.1	-3.8	95.9	1025	0.61	-28,107	-26.03	-26.64
41	S Tex RG Valley	D	168,776	115,033	88,365	17.9	75.7	80.4	-4.6	94.2	1139	0.68	-19,617	-18.17	-18.85
42	S Tex RG Valley	D	167,668	111,699	84,125	5.4	91.2	95.0	-3.9	95.9	31	0.02	-23,857	-22.09	-22.11
43	S Tex RG Valley	R	169,564	124,492	120,575	35.8	57.7	59.8	-2.1	96.5	1927	1.15	12,593	11.66	10.51
44	Central Texas	R	174,451	126,713	125,720	60.9	29.7	32.7	-3.0	90.9	6814	4.06	17,738	16.43	12.36
45	Austin Area	R	167,604	126,549	124,330	66.7	25.5	30.0	-4.6	84.8	-33	-0.02	16,348	15.14	15.16
46	Austin Area	D	166,410	118,539	94,335	41.6	24.6	41.6	-16.9	59.3	-1227	-0.73	-13,647	-12.64	-11.91
47	Austin Area	R	175,314	127,689	125,095	80.3	12.3	12.6	-0.3	97.7	7677	4.58	17,113	15.85	11.27
48	Austin Area	D	173,008	135,585	127,810	74.4	16.7	20.4	-3.7	81.9	5371	3.20	19,828	18.36	15.16
49	Austin Area	D	167,309	144,371	130,085	73.1	14.3	21.6	-7.3	66.2	-328	-0.20	22,103	20.47	20.66
50	Austin Area	D	166,516	124,252	110,735	57.5	17.7	25.3	-7.6	69.9	-1121	-0.67	2,753	2.55	3.22
51	Austin Area	D	175,709	128,793	98,320	41.5	44.0	56.2	-12.2	78.3	8072	4.82	-9,662	-8.95	-13.76
52	Austin Area	R	165,994	114,146	111,445	62.8	19.6	26.7	-7.1	73.5	-1643	-0.98	3,463	3.21	4.19
53	West Texas	R	162,897	127,381	123,515	72.2	23.1	26.8	-3.7	86.3	-4740	-2.83	15,533	14.38	17.21
54	Central Texas	R	167,736	117,164	112,385	51.6	15.8	17.6	-1.9	89.5	99	0.06	4,403	4.08	4.02
55	Central Texas	R	162,176	119,755	116,635	64.4	14.9	19.4	-4.5	76.8	-5461	-3.26	8,653	8.01	11.27
56	Central Texas	R	163,869	123,411	117,985	72.6	12.4	17.8	-5.4	69.7	-3768	-2.25	10,003	9.26	11.51
57	Southeast TX	R	164,418	124,630	118,140	72.8	7.2	13.0	-5.8	55.5	-3219	-1.92	10,158	9.41	11.33
58	Central Texas	R	169,146	123,826	118,105	84.2	8.7	14.9	-6.1	58.8	1509	0.90	10,123	9.37	8.47
59	Central Texas	R	163,609	122,193	118,030	75.9	11.4	15.6	-4.2	73.1	-4028	-2.40	10,048	9.31	11.71
60	West Texas	R	171,429	131,870	127,825	86.9	9.2	11.8	-2.6	78.0	3792	2.26	19,843	18.38	16.11
61	DFW Suburbs	R	176,054	130,782	128,065	88.5	6.0	10.6	-4.6	56.9	8417	5.02	20,083	18.60	13.58
62	Northeast TX	R	160,023	122,203	117,530	85.0	4.2	8.6	-4.4	49.0	-7614	-4.54	9,548	8.84	13.38
63	DFW Suburbs	R	167,337	115,634	113,605	80.8	8.0	13.1	-5.1	61.2	-300	-0.18	5,623	5.21	5.39
64	DFW Suburbs	R	167,588	129,175	116,875	75.0	10.1	16.6	-6.5	60.8	-49	-0.03	8,893	8.24	8.26
65	DFW Suburbs	R	165,742	124,977	109,350	62.3	9.8	18.6	-8.8	52.5	-1895	-1.13	1,368	1.27	2.40
66	DFW Suburbs	R	172,129	130,796	113,390	69.7	6.0	9.1	-3.1	65.8	4492	2.68	5,408	5.01	2.33
67	DFW Suburbs	R	172,141	126,368	111,250	70.1	7.5	13.9	-6.4	54.0	4504	2.69	3,268	3.03	0.34
68	West Texas	R	160,508	121,547	112,760	80.9	12.8	18.5	-5.7	69.1	-7129	-4.25	4,778	4.42	8.68
69	West Texas	R	160,087	123,063	117,450	77.2	9.7	12.9	-3.2	75.3	-7550	-4.50	9,468	8.77	13.27
70	DFW Suburbs	R	172,135	117,432	110,995	75.3	10.0	15.9	-5.9	62.9	4498	2.68	3,013	2.79	0.11
71	West Texas	R	166,924	127,097	123,650	71.2	17.9	20.1	-2.1	89.4	-713	-0.43	15,668	14.51	14.94
72	West Texas	R	170,479	130,771	123,075	64.6	27.6	32.3	-4.8	85.3	2842	1.70	15,093	13.98	12.28
73	Bexar	R	166,719	127,882	126,130	79.7	16.6	19.8	-3.3	83.6	-918	-0.55	18,148	16.81	17.35
74	S Tex RG Valley	D	162,357	115,236	91,345	24.6	69.4	76.6	-7.3	90.5	-5280	-3.15	-16,637	-15.41	-12.26

Table 2 - Page 2 of 4

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
75	El Paso	D	159,691	103,209	77,455	8.9	89.0	91.8	-2.8	97.0	-7946	-4.74	-30,527	-28.27	-23.53
76	El Paso	D	159,752	116,389	94,705	11.2	83.5	87.3	-3.7	95.7	-7885	-4.70	-13,277	-12.30	-7.59
77	El Paso	D	160,385	115,924	90,830	22.9	69.6	76.0	-6.4	91.6	-7252	-4.33	-17,152	-15.88	-11.56
78	El Paso	D	160,161	111,913	98,925	31.6	58.3	64.7	-6.4	90.0	-7476	-4.46	-9,057	-8.39	-3.93
79	El Paso	D	160,658	112,399	98,435	17.0	76.7	79.9	-3.2	96.0	-6979	-4.16	-9,547	-8.84	-4.68
80	S Tex RG Valley	D	161,949	106,402	86,650	15.5	78.7	86.1	-7.4	91.4	-5688	-3.39	-21,332	-19.76	-16.36
81	West Texas	R	169,684	120,535	108,980	51.8	39.0	46.9	-7.9	83.2	2047	1.22	998	0.92	-0.30
82	West Texas	R	163,234	118,623	113,415	59.3	28.6	35.2	-6.6	81.2	-4403	-2.63	5,433	5.03	7.66
83	West Texas	R	173,918	127,906	123,330	67.1	24.9	28.1	-3.2	88.8	6281	3.75	15,348	14.21	10.47
84	West Texas	R	167,970	128,898	124,075	58.7	28.0	30.2	-2.2	92.8	333	0.20	16,093	14.90	14.70
85	Houston Suburbs	R	160,182	113,433	102,620	48.3	27.5	35.1	-7.6	78.5	-7455	-4.45	-5,362	-4.97	-0.52
86	West Texas	R	165,183	121,555	115,915	76.4	16.5	22.3	-5.8	73.9	-2454	-1.46	7,933	7.35	8.81
87	West Texas	R	174,343	125,360	109,320	65.0	21.8	29.7	-7.9	73.3	6706	4.00	1,338	1.24	-2.76
88	West Texas	R	160,896	115,622	103,670	60.9	29.4	38.9	-9.5	75.7	-6741	-4.02	-4,312	-3.99	0.03
89	DFW Suburbs	R	172,138	118,380	116,895	72.4	8.9	13.0	-4.2	68.0	4501	2.68	8,913	8.25	5.57
90	Tarrant Cnty	D	159,684	105,664	71,770	27.9	49.0	70.7	-21.7	69.3	-7953	-4.74	-36,212	-33.54	-28.79
91	Tarrant Cnty	R	162,838	119,048	108,845	75.9	10.9	18.2	-7.2	60.2	-4799	-2.86	863	0.80	3.66
92	Tarrant Cnty	R	162,326	126,290	116,980	70.3	9.6	14.5	-4.9	66.1	-5311	-3.17	8,998	8.33	11.50
93	Tarrant Cnty	R	162,161	113,584	103,455	64.1	14.8	22.8	-8.0	65.0	-5476	-3.27	-4,527	-4.19	-0.93
94	Tarrant Cnty	R	167,374	125,516	114,195	69.8	10.2	15.3	-5.2	66.3	-263	-0.16	6,213	5.75	5.91
95	Tarrant Cnty	D	161,634	115,752	96,150	32.9	12.9	24.3	-11.4	53.0	-6003	-3.58	-11,832	-10.96	-7.38
96	Tarrant Cnty	R	164,930	113,924	109,035	65.5	10.1	15.2	-5.1	66.5	-2707	-1.61	1,053	0.98	2.59
97	Tarrant Cnty	R	168,869	131,311	122,870	70.5	9.8	15.7	-5.9	62.3	1232	0.73	14,888	13.79	13.05
98	Tarrant Cnty	R	164,081	114,953	114,875	83.7	6.7	9.8	-3.1	68.8	-3556	-2.12	6,893	6.38	8.50
99	Tarrant Cnty	R	170,473	125,722	116,830	74.7	14.7	20.1	-5.4	73.1	2836	1.69	8,848	8.19	6.50
100	Dallas Cnty	D	161,143	117,479	97,410	29.8	18.3	33.1	-14.8	55.2	-6494	-3.87	-10,572	-9.79	-5.92
101	Tarrant Cnty	D	164,664	110,209	92,990	35.5	19.7	32.5	-12.8	60.6	-2973	-1.77	-14,992	-13.88	-12.11
102	Dallas Cnty	R	161,136	122,520	96,850	65.0	11.3	24.1	-12.8	46.8	-6501	-3.88	-11,132	-10.31	-6.43
103	Dallas Cnty	D	170,948	121,837	71,970	39.0	42.7	64.3	-21.7	66.3	3311	1.98	-36,012	-33.35	-35.33
104	Dallas Cnty	D	172,784	115,035	78,780	25.3	51.7	69.2	-17.5	74.7	5147	3.07	-29,202	-27.04	-30.11
105	Dallas Cnty	R	175,728	127,590	95,900	51.1	24.1	39.2	-15.1	61.4	8091	4.83	-12,082	-11.19	-16.02
106	DFW Suburbs	R	161,947	110,568	107,290	76.1	8.8	14.7	-5.9	60.1	-5690	-3.39	-692	-0.64	2.75
107	Dallas Cnty	R	171,872	123,986	108,045	57.9	15.6	28.9	-13.4	53.8	4235	2.53	63	0.06	-2.47
108	Dallas Cnty	R	163,233	133,667	122,505	74.3	13.6	19.5	-6.0	69.4	-4404	-2.63	14,523	13.45	16.08
109	Dallas Cnty	D	174,223	122,347	112,780	23.4	11.4	20.0	-8.6	57.0	6586	3.93	4,798	4.44	0.51
110	Dallas Cnty	D	167,508	111,827	83,885	14.6	24.9	45.5	-20.6	54.7	-129	-0.08	-24,097	-22.32	-22.24
111	Dallas Cnty	D	166,963	118,393	103,410	24.2	15.1	25.5	-10.3	59.4	-674	-0.40	-4,572	-4.23	-3.83
112	Dallas Cnty	R	167,051	120,192	97,965	54.9	14.8	26.3	-11.5	56.4	-586	-0.35	-10,017	-9.28	-8.93
113	Dallas Cnty	R	171,418	120,834	106,040	53.5	15.3	26.0	-10.8	58.6	3781	2.26	-1,942	-1.80	-4.05
114	Dallas Cnty	R	172,330	130,817	105,540	68.2	11.0	24.2	-13.2	45.6	4693	2.80	-2,442	-2.26	-5.06

Table 2 - Page 3 of 4

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
115	Dallas Cnty	R	171,802	127,352	100,760	58.5	16.7	24.4	-7.8	68.2	4165	2.48	-7,222	-6.69	-9.17
116	Bexar	D	171,463	132,823	115,470	32.3	57.1	59.9	-2.8	95.3	3826	2.28	7,488	6.93	4.65
117	Bexar	R	168,692	117,126	111,045	32.3	60.9	58.8	2.1	103.6	1055	0.63	3,063	2.84	2.21
118	Bexar	D	164,436	116,859	106,575	28.1	67.1	68.7	-1.6	97.6	-3201	-1.91	-1,407	-1.30	0.61
119	Bexar	D	159,981	114,477	106,465	28.5	58.3	62.7	-4.4	93.0	-7656	-4.57	-1,517	-1.40	3.16
120	Bexar	D	175,132	124,829	114,810	30.6	34.1	42.2	-8.1	80.9	7495	4.47	6,828	6.32	1.85
121	Bexar	R	174,867	133,224	128,905	61.0	26.7	31.4	-4.6	85.2	7230	4.31	20,923	19.38	15.06
122	Bexar	R	175,184	128,725	124,270	64.8	23.4	27.8	-4.3	84.4	7547	4.50	16,288	15.08	10.58
123	Bexar	D	175,674	135,763	119,930	30.6	62.3	66.5	-4.2	93.7	8037	4.79	11,948	11.06	6.27
124	Bexar	D	174,795	120,503	115,090	24.8	62.4	66.0	-3.6	94.6	7158	4.27	7,108	6.58	2.31
125	Bexar	D	174,549	125,158	115,800	26.3	64.3	69.1	-4.8	93.1	6912	4.12	7,818	7.24	3.12
126	Houston	R	169,256	123,014	99,335	51.8	17.0	26.8	-9.9	63.2	1619	0.97	-8,647	-8.01	-8.97
127	Houston	R	163,983	115,865	114,290	67.1	12.4	18.1	-5.7	68.6	-3654	-2.18	6,308	5.84	8.02
128	Houston	R	172,221	124,645	116,020	66.4	17.1	25.0	-7.9	68.5	4584	2.73	8,038	7.44	4.71
129	Houston	R	174,127	130,457	121,280	62.9	13.6	20.4	-6.8	66.5	6490	3.87	13,298	12.32	8.44
130	Houston	R	175,532	122,108	119,770	71.6	11.6	17.7	-6.2	65.3	7895	4.71	11,788	10.92	6.21
131	Houston	D	175,227	121,368	93,535	13.2	24.0	41.2	-17.2	58.3	7590	4.53	-14,447	-13.38	-17.91
132	Houston	R	172,973	117,666	109,150	52.4	20.6	33.0	-12.4	62.5	5336	3.18	1,168	1.08	-2.10
133	Houston	R	171,401	135,423	114,530	70.2	9.5	14.7	-5.2	64.6	3764	2.25	6,548	6.06	3.82
134	Houston	R	174,421	143,575	130,040	74.7	11.0	13.3	-2.3	82.6	6784	4.05	22,058	20.43	16.38
135	Houston	R	172,422	121,136	99,750	50.0	18.2	28.5	-10.3	64.0	4785	2.85	-8,232	-7.62	-10.48
136	Austin Area	R	164,376	116,361	113,740	72.8	12.9	16.3	-3.4	79.1	-3261	-1.95	5,758	5.33	7.28
137	Houston	D	171,079	127,834	64,375	32.5	22.0	51.5	-29.6	42.6	3442	2.05	-43,607	-40.38	-42.44
138	Houston	R	173,059	124,435	98,420	50.3	22.3	41.3	-19.0	54.0	5422	3.23	-9,562	-8.86	-12.09
139	Houston	D	175,733	123,875	100,540	21.6	19.0	35.8	-16.7	53.2	8096	4.83	-7,442	-6.89	-11.72
140	Houston	D	170,732	112,332	69,415	17.2	58.5	75.8	-17.2	77.3	3095	1.85	-38,567	-35.72	-37.56
141	Houston	D	166,498	113,951	92,390	13.5	18.2	37.6	-19.4	48.4	-1139	-0.68	-15,592	-14.44	-13.76
142	Houston	D	159,541	113,288	91,845	20.3	21.3	35.0	-13.7	60.8	-8096	-4.83	-16,137	-14.94	-10.11
143	Houston	D	167,215	113,877	84,625	23.7	53.0	69.4	-16.4	76.4	-422	-0.25	-23,357	-21.63	-21.38
144	Houston	D	161,859	108,509	75,785	34.9	50.3	69.8	-19.5	72.1	-5778	-3.45	-32,197	-29.82	-26.37
145	Houston	D	164,574	116,918	83,645	28.4	55.6	69.8	-14.2	79.7	-3063	-1.83	-24,337	-22.54	-20.71
146	Houston	D	174,485	130,444	97,195	24.7	11.2	27.3	-16.1	41.0	6848	4.09	-10,787	-9.99	-14.07
147	Houston	D	175,873	136,034	114,905	28.9	18.4	31.2	-12.8	59.0	8236	4.91	6,923	6.41	1.50
148	Houston	D	170,811	125,873	91,615	40.1	43.5	61.1	-17.6	71.2	3174	1.89	-16,367	-15.16	-17.05
149	Houston	D	170,702	121,535	89,230	27.0	19.1	33.8	-14.7	56.6	3065	1.83	-18,752	-17.37	-19.19
150	Houston	R	168,735	120,462	109,725	66.0	12.3	21.0	-8.7	58.7	1098	0.65	1,743	1.61	0.96

Note: The Ideal CVAP Population is 107,982. The ideal TPOP Deviation is 167,637.
 Source is Texas Legislative Council at <ftp://ftpgis1.tlc.state.tx.us/PlanH358/Reports/Excel/>
 Note: CVAP data is from 2010 ACS (2005 through 2009)

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TABLE 3
STATE OF TEXAS
STATE HOUSE OF REPRESENTATIVES
83rd Legislature - 1st Called Session - S.B. 3 (June 2013)
Citizen Voting Age Population Analysis Using American Community Survey
Sorted by Percent CVAP Deviation

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
49	Austin Area	D	167,309	144,371	130,085	73.1	14.3	21.6	-7.3	66.2	-328	-0.20	22,103	20.47	20.66
134	Houston	R	174,421	143,575	130,040	74.7	11.0	13.3	-2.3	82.6	6784	4.05	22,058	20.43	16.38
121	Bexar	R	174,867	133,224	128,905	61.0	26.7	31.4	-4.6	85.2	7230	4.31	20,923	19.38	15.06
19	Southeast TX	R	171,969	131,682	128,705	82.5	3.7	6.3	-2.6	58.3	4332	2.58	20,723	19.19	16.61
61	DFW Suburbs	R	176,054	130,782	128,065	88.5	6.0	10.6	-4.6	56.9	8417	5.02	20,083	18.60	13.58
60	West Texas	R	171,429	131,870	127,825	86.9	9.2	11.8	-2.6	78.0	3792	2.26	19,843	18.38	16.11
48	Austin Area	D	173,008	135,585	127,810	74.4	16.7	20.4	-3.7	81.9	5371	3.20	19,828	18.36	15.16
18	Southeast TX	R	169,888	132,877	126,560	71.3	8.1	14.2	-6.1	57.0	2251	1.34	18,578	17.20	15.86
73	Bexar	R	166,719	127,882	126,130	79.7	16.6	19.8	-3.3	83.6	-918	-0.55	18,148	16.81	17.35
44	Central Texas	R	174,451	126,713	125,720	60.9	29.7	32.7	-3.0	90.9	6814	4.06	17,738	16.43	12.36
47	Austin Area	R	175,314	127,689	125,095	80.3	12.3	12.6	-0.3	97.7	7677	4.58	17,113	15.85	11.27
2	Northeast TX	R	173,869	130,806	124,825	85.1	5.5	10.0	-4.5	55.2	6232	3.72	16,843	15.60	11.88
45	Austin Area	R	167,604	126,549	124,330	66.7	25.5	30.0	-4.6	84.8	-33	-0.02	16,348	15.14	15.16
122	Bexar	R	175,184	128,725	124,270	64.8	23.4	27.8	-4.3	84.4	7547	4.50	16,288	15.08	10.58
32	S Tex RG Valley	R	167,074	126,072	124,080	46.8	44.2	45.9	-1.6	96.5	-563	-0.34	16,098	14.91	15.24
84	West Texas	R	167,970	128,898	124,075	58.7	28.0	30.2	-2.2	92.8	333	0.20	16,093	14.90	14.70
71	West Texas	R	166,924	127,097	123,650	71.2	17.9	20.1	-2.1	89.4	-713	-0.43	15,668	14.51	14.94
13	Central Texas	R	170,617	131,129	123,515	75.2	9.5	15.9	-6.4	59.7	2980	1.78	15,533	14.38	12.61
53	West Texas	R	162,897	127,381	123,515	72.2	23.1	26.8	-3.7	86.3	-4740	-2.83	15,533	14.38	17.21
83	West Texas	R	173,918	127,906	123,330	67.1	24.9	28.1	-3.2	88.8	6281	3.75	15,348	14.21	10.47
72	West Texas	R	170,479	130,771	123,075	64.6	27.6	32.3	-4.8	85.3	2842	1.70	15,093	13.98	12.28
97	Tarrant Cnty	R	168,869	131,311	122,870	70.5	9.8	15.7	-5.9	62.3	1232	0.73	14,888	13.79	13.05
108	Dallas Cnty	R	163,233	133,667	122,505	74.3	13.6	19.5	-6.0	69.4	-4404	-2.63	14,523	13.45	16.08
1	Northeast TX	R	165,823	125,927	122,470	75.1	3.1	5.8	-2.7	53.5	-1814	-1.08	14,488	13.42	14.50
9	Northeast TX	R	166,719	125,947	121,420	75.8	2.5	6.9	-4.4	35.8	-918	-0.55	13,438	12.44	12.99
21	Southeast TX	R	172,180	130,308	121,365	82.0	5.2	9.3	-4.1	55.7	4543	2.71	13,383	12.39	9.68
129	Houston	R	174,127	130,457	121,280	62.9	13.6	20.4	-6.8	66.5	6490	3.87	13,298	12.32	8.44
25	Houston Suburbs	R	174,168	129,041	121,250	62.4	20.8	27.4	-6.6	75.9	6531	3.90	13,268	12.29	8.39
30	Central Texas	R	166,022	124,729	121,220	59.0	31.8	35.2	-3.4	90.4	-1615	-0.96	13,238	12.26	13.22
43	S Tex RG Valley	R	169,564	124,492	120,575	35.8	57.7	59.8	-2.1	96.5	1927	1.15	12,593	11.66	10.51
123	Bexar	D	175,674	135,763	119,930	30.6	62.3	66.5	-4.2	93.7	8037	4.79	11,948	11.06	6.27
130	Houston	R	175,532	122,108	119,770	71.6	11.6	17.7	-6.2	65.3	7895	4.71	11,788	10.92	6.21
11	Northeast TX	R	168,699	128,086	118,640	72.2	5.7	13.9	-8.3	40.6	1062	0.63	10,658	9.87	9.24
24	Houston Suburbs	R	162,685	118,491	118,260	74.8	11.3	15.6	-4.3	72.3	-4952	-2.95	10,278	9.52	12.47
57	Southeast TX	R	164,418	124,630	118,140	72.8	7.2	13.0	-5.8	55.5	-3219	-1.92	10,158	9.41	11.33

Table 3 - Page 1 of 4

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVP	PCT HVAP	%HVAP - %HCVP	%HCVP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
58	Central Texas	R	169,146	123,826	118,105	84.2	8.7	14.9	-6.1	58.8	1509	0.90	10,123	9.37	8.47
59	Central Texas	R	163,609	122,193	118,030	75.9	11.4	15.6	-4.2	73.1	-4028	-2.40	10,048	9.31	11.71
56	Central Texas	R	163,869	123,411	117,985	72.6	12.4	17.8	-5.4	69.7	-3768	-2.25	10,003	9.26	11.51
4	DFW Suburbs	R	168,429	123,603	117,715	81.5	6.3	11.7	-5.4	53.6	792	0.47	9,733	9.01	8.54
62	Northeast TX	R	160,023	122,203	117,530	85.0	4.2	8.6	-4.4	49.0	-7614	-4.54	9,548	8.84	13.38
34	S Tex RG Valley	D	173,149	125,896	117,465	28.0	64.6	67.7	-3.1	95.4	5512	3.29	9,483	8.78	5.49
69	West Texas	R	160,087	123,063	117,450	77.2	9.7	12.9	-3.2	75.3	-7550	-4.50	9,468	8.77	13.27
92	Tarrant Cnty	R	162,326	126,290	116,980	70.3	9.6	14.5	-4.9	66.1	-5311	-3.17	8,998	8.33	11.50
89	DFW Suburbs	R	172,138	118,380	116,895	72.4	8.9	13.0	-4.2	68.0	4501	2.68	8,913	8.25	5.57
64	DFW Suburbs	R	167,588	129,175	116,875	75.0	10.1	16.6	-6.5	60.8	-49	-0.03	8,893	8.24	8.26
99	Tarrant Cnty	R	170,473	125,722	116,830	74.7	14.7	20.1	-5.4	73.1	2836	1.69	8,848	8.19	6.50
15	Houston Suburbs	R	167,349	120,450	116,690	81.8	7.4	13.5	-6.1	55.0	-288	-0.17	8,708	8.06	8.24
55	Central Texas	R	162,176	119,755	116,635	64.4	14.9	19.4	-4.5	76.8	-5461	-3.26	8,653	8.01	11.27
29	Houston Suburbs	R	175,700	124,171	116,165	57.5	17.4	23.2	-5.8	74.9	8063	4.81	8,183	7.58	2.77
128	Houston	R	172,221	124,645	116,020	66.4	17.1	25.0	-7.9	68.5	4584	2.73	8,038	7.44	4.71
86	West Texas	R	165,183	121,555	115,915	76.4	16.5	22.3	-5.8	73.9	-2454	-1.46	7,933	7.35	8.81
125	Bexar	D	174,549	125,158	115,800	26.3	64.3	69.1	-4.8	93.1	6912	4.12	7,818	7.24	3.12
33	DFW Suburbs	R	172,135	119,518	115,655	77.9	8.5	13.5	-4.9	63.5	4498	2.68	7,673	7.11	4.42
22	Southeast TX	D	161,930	122,897	115,525	37.0	7.7	15.7	-8.0	49.0	-5707	-3.40	7,543	6.99	10.39
116	Bexar	D	171,463	132,823	115,470	32.3	57.1	59.9	-2.8	95.3	3826	2.28	7,488	6.93	4.65
20	Central Texas	R	159,816	121,754	115,395	82.8	10.3	16.6	-6.2	62.4	-7821	-4.67	7,413	6.87	11.53
124	Bexar	D	174,795	120,503	115,090	24.8	62.4	66.0	-3.6	94.6	7158	4.27	7,108	6.58	2.31
147	Houston	D	175,873	136,034	114,905	28.9	18.4	31.2	-12.8	59.0	8236	4.91	6,923	6.41	1.50
98	Tarrant Cnty	R	164,081	114,953	114,875	83.7	6.7	9.8	-3.1	68.8	-3556	-2.12	6,893	6.38	8.50
120	Bexar	D	175,132	124,829	114,810	30.6	34.1	42.2	-8.1	80.9	7495	4.47	6,828	6.32	1.85
133	Houston	R	171,401	135,423	114,530	70.2	9.5	14.7	-5.2	64.6	3764	2.25	6,548	6.06	3.82
14	Central Texas	R	163,187	131,479	114,485	68.6	14.1	21.0	-6.9	67.2	-4450	-2.65	6,503	6.02	8.68
8	Central Texas	R	161,098	123,550	114,450	72.1	8.8	15.4	-6.6	57.0	-6539	-3.90	6,468	5.99	9.89
127	Houston	R	163,983	115,865	114,290	67.1	12.4	18.1	-5.7	68.6	-3654	-2.18	6,308	5.84	8.02
94	Tarrant Cnty	R	167,374	125,516	114,195	69.8	10.2	15.3	-5.2	66.3	-263	-0.16	6,213	5.75	5.91
136	Austin Area	R	164,376	116,361	113,740	72.8	12.9	16.3	-3.4	79.1	-3261	-1.95	5,758	5.33	7.28
63	DFW Suburbs	R	167,337	115,634	113,605	80.8	8.0	13.1	-5.1	61.2	-300	-0.18	5,623	5.21	5.39
82	West Texas	R	163,234	118,623	113,415	59.3	28.6	35.2	-6.6	81.2	-4403	-2.63	5,433	5.03	7.66
66	DFW Suburbs	R	172,129	130,796	113,390	69.7	6.0	9.1	-3.1	65.8	4492	2.68	5,408	5.01	2.33
109	Dallas Cnty	D	174,223	122,347	112,780	23.4	11.4	20.0	-8.6	57.0	6586	3.93	4,798	4.44	0.51
68	West Texas	R	160,508	121,547	112,760	80.9	12.8	18.5	-5.7	69.1	-7129	-4.25	4,778	4.42	8.68
5	Northeast TX	R	160,253	120,169	112,555	78.8	5.2	13.2	-7.9	39.8	-7384	-4.40	4,573	4.23	8.64
54	Central Texas	R	167,736	117,164	112,385	51.6	15.8	17.6	-1.9	89.5	99	0.06	4,403	4.08	4.02
7	Northeast TX	R	161,039	120,296	112,255	74.7	3.9	11.2	-7.3	34.9	-6598	-3.94	4,273	3.96	7.89
17	Central Texas	R	163,480	121,295	112,125	61.1	27.0	33.4	-6.4	80.9	-4157	-2.48	4,143	3.84	6.32
23	Houston Suburbs	R	163,720	123,736	111,960	59.8	16.6	22.7	-6.1	73.2	-3917	-2.34	3,978	3.68	6.02
10	DFW Suburbs	R	163,063	116,978	111,680	75.6	13.1	18.7	-5.5	70.4	-4574	-2.73	3,698	3.42	6.15

Table 3 - Page 2 of 4

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
12	Central Texas	R	160,573	119,556	111,590	64.4	11.8	19.5	-7.7	60.6	-7064	-4.21	3,608	3.34	7.56
52	Austin Area	R	165,994	114,146	111,445	62.8	19.6	26.7	-7.1	73.5	-1643	-0.98	3,463	3.21	4.19
67	DFW Suburbs	R	172,141	126,368	111,250	70.1	7.5	13.9	-6.4	54.0	4504	2.69	3,268	3.03	0.34
117	Bexar	R	168,692	117,126	111,045	32.3	60.9	58.8	2.1	103.6	1055	0.63	3,063	2.84	2.21
70	DFW Suburbs	R	172,135	117,432	110,995	75.3	10.0	15.9	-5.9	62.9	4498	2.68	3,013	2.79	0.11
50	Austin Area	D	166,516	124,252	110,735	57.5	17.7	25.3	-7.6	69.9	-1121	-0.67	2,753	2.55	3.22
6	Northeast TX	R	160,008	119,154	109,970	70.1	6.5	14.9	-8.3	44.0	-7629	-4.55	1,988	1.84	6.39
3	Houston Suburbs	R	164,955	119,595	109,760	75.4	9.7	20.0	-10.3	48.5	-2682	-1.60	1,778	1.65	3.25
150	Houston	R	168,735	120,462	109,725	66.0	12.3	21.0	-8.7	58.7	1098	0.65	1,743	1.61	0.96
65	DFW Suburbs	R	165,742	124,977	109,350	62.3	9.8	18.6	-8.8	52.5	-1895	-1.13	1,368	1.27	2.40
87	West Texas	R	174,343	125,360	109,320	65.0	21.8	29.7	-7.9	73.3	6706	4.00	1,338	1.24	-2.76
132	Houston	R	172,973	117,666	109,150	52.4	20.6	33.0	-12.4	62.5	5336	3.18	1,168	1.08	-2.10
96	Tarrant Cnty	R	164,930	113,924	109,035	65.5	10.1	15.2	-5.1	66.5	-2707	-1.61	1,053	0.98	2.59
81	West Texas	R	169,684	120,535	108,980	51.8	39.0	46.9	-7.9	83.2	2047	1.22	998	0.92	-0.30
91	Tarrant Cnty	R	162,838	119,048	108,845	75.9	10.9	18.2	-7.2	60.2	-4799	-2.86	863	0.80	3.66
16	Houston Suburbs	R	166,647	122,271	108,180	80.7	9.3	21.1	-11.8	44.2	-990	-0.59	198	0.18	0.77
107	Dallas Cnty	R	171,872	123,986	108,045	57.9	15.6	28.9	-13.4	53.8	4235	2.53	63	0.06	-2.47
106	DFW Suburbs	R	161,947	110,568	107,290	76.1	8.8	14.7	-5.9	60.1	-5690	-3.39	-692	-0.64	2.75
118	Bexar	D	164,436	116,859	106,575	28.1	67.1	68.7	-1.6	97.6	-3201	-1.91	-1,407	-1.30	0.61
119	Bexar	D	159,981	114,477	106,465	28.5	58.3	62.7	-4.4	93.0	-7656	-4.57	-1,517	-1.40	3.16
113	Dallas Cnty	R	171,418	120,834	106,040	53.5	15.3	26.0	-10.8	58.6	3781	2.26	-1,942	-1.80	-4.05
114	Dallas Cnty	R	172,330	130,817	105,540	68.2	11.0	24.2	-13.2	45.6	4693	2.80	-2,442	-2.26	-5.06
27	Houston Suburbs	D	160,084	113,596	104,295	26.2	14.8	19.7	-4.8	75.4	-7553	-4.51	-3,687	-3.41	1.09
31	S Tex RG Valley	D	171,858	121,699	104,285	23.1	73.9	77.7	-3.8	95.1	4221	2.52	-3,697	-3.42	-5.94
88	West Texas	R	160,896	115,622	103,670	60.9	29.4	38.9	-9.5	75.7	-6741	-4.02	-4,312	-3.99	0.03
93	Tarrant Cnty	R	162,161	113,584	103,455	64.1	14.8	22.8	-8.0	65.0	-5476	-3.27	-4,527	-4.19	-0.93
111	Dallas Cnty	D	166,963	118,393	103,410	24.2	15.1	25.5	-10.3	59.4	-674	-0.40	-4,572	-4.23	-3.83
85	Houston Suburbs	R	160,182	113,433	102,620	48.3	27.5	35.1	-7.6	78.5	-7455	-4.45	-5,362	-4.97	-0.52
28	Houston Suburbs	R	160,373	107,968	100,995	53.3	15.6	20.6	-5.0	75.8	-7264	-4.33	-6,987	-6.47	-2.14
115	Dallas Cnty	R	171,802	127,352	100,760	58.5	16.7	24.4	-7.8	68.2	4165	2.48	-7,222	-6.69	-9.17
139	Houston	D	175,733	123,875	100,540	21.6	19.0	35.8	-16.7	53.2	8096	4.83	-7,442	-6.89	-11.72
135	Houston	R	172,422	121,136	99,750	50.0	18.2	28.5	-10.3	64.0	4785	2.85	-8,232	-7.62	-10.48
126	Houston	R	169,256	123,014	99,335	51.8	17.0	26.8	-9.9	63.2	1619	0.97	-8,647	-8.01	-8.97
78	El Paso	D	160,161	111,913	98,925	31.6	58.3	64.7	-6.4	90.0	-7476	-4.46	-9,057	-8.39	-3.93
79	El Paso	D	160,658	112,399	98,435	17.0	76.7	79.9	-3.2	96.0	-6979	-4.16	-9,547	-8.84	-4.68
138	Houston	R	173,059	124,435	98,420	50.3	22.3	41.3	-19.0	54.0	5422	3.23	-9,562	-8.86	-12.09
51	Austin Area	D	175,709	128,793	98,320	41.5	44.0	56.2	-12.2	78.3	8072	4.82	-9,662	-8.95	-13.76
112	Dallas Cnty	R	167,051	120,192	97,965	54.9	14.8	26.3	-11.5	56.4	-586	-0.35	-10,017	-9.28	-8.93
100	Dallas Cnty	D	161,143	117,479	97,410	29.8	18.3	33.1	-14.8	55.2	-6494	-3.87	-10,572	-9.79	-5.92
26	Houston Suburbs	R	160,091	117,247	97,320	52.2	11.6	14.9	-3.3	77.8	-7546	-4.50	-10,662	-9.87	-5.37
146	Houston	D	174,485	130,444	97,195	24.7	11.2	27.3	-16.1	41.0	6848	4.09	-10,787	-9.99	-14.07
102	Dallas Cnty	R	161,136	122,520	96,850	65.0	11.3	24.1	-12.8	46.8	-6501	-3.88	-11,132	-10.31	-6.43

Table 3 - Page 3 of 4

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVP	PCT HVAP	%HVAP - %HCVP	%HCVP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
95	Tarrant Cnty	D	161,634	115,752	96,150	32.9	12.9	24.3	-11.4	53.0	-6003	-3.58	-11,832	-10.96	-7.38
105	Dallas Cnty	R	175,728	127,590	95,900	51.1	24.1	39.2	-15.1	61.4	8091	4.83	-12,082	-11.19	-16.02
76	El Paso	D	159,752	116,389	94,705	11.2	83.5	87.3	-3.7	95.7	-7885	-4.70	-13,277	-12.30	-7.59
46	Austin Area	D	166,410	118,539	94,335	41.6	24.6	41.6	-16.9	59.3	-1227	-0.73	-13,647	-12.64	-11.91
131	Houston	D	175,227	121,368	93,535	13.2	24.0	41.2	-17.2	58.3	7590	4.53	-14,447	-13.38	-17.91
101	Tarrant Cnty	D	164,664	110,209	92,990	35.5	19.7	32.5	-12.8	60.6	-2973	-1.77	-14,992	-13.88	-12.11
141	Houston	D	166,498	113,951	92,390	13.5	18.2	37.6	-19.4	48.4	-1139	-0.68	-15,592	-14.44	-13.76
38	S Tex RG Valley	D	168,214	110,865	92,195	13.5	80.2	86.7	-6.4	92.6	577	0.34	-15,787	-14.62	-14.96
142	Houston	D	159,541	113,288	91,845	20.3	21.3	35.0	-13.7	60.8	-8096	-4.83	-16,137	-14.94	-10.11
148	Houston	D	170,811	125,873	91,615	40.1	43.5	61.1	-17.6	71.2	3174	1.89	-16,367	-15.16	-17.05
74	S Tex RG Valley	D	162,357	115,236	91,345	24.6	69.4	76.6	-7.3	90.5	-5280	-3.15	-16,637	-15.41	-12.26
77	El Paso	D	160,385	115,924	90,830	22.9	69.6	76.0	-6.4	91.6	-7252	-4.33	-17,152	-15.88	-11.56
149	Houston	D	170,702	121,535	89,230	27.0	19.1	33.8	-14.7	56.6	3065	1.83	-18,752	-17.37	-19.19
41	S Tex RG Valley	D	168,776	115,033	88,365	17.9	75.7	80.4	-4.6	94.2	1139	0.68	-19,617	-18.17	-18.85
80	S Tex RG Valley	D	161,949	106,402	86,650	15.5	78.7	86.1	-7.4	91.4	-5688	-3.39	-21,332	-19.76	-16.36
39	S Tex RG Valley	D	168,659	110,751	85,015	14.6	78.9	88.0	-9.1	89.7	1022	0.61	-22,967	-21.27	-21.88
143	Houston	D	167,215	113,877	84,625	23.7	53.0	69.4	-16.4	76.4	-422	-0.25	-23,357	-21.63	-21.38
42	S Tex RG Valley	D	167,668	111,699	84,125	5.4	91.2	95.0	-3.9	95.9	31	0.02	-23,857	-22.09	-22.11
110	Dallas Cnty	D	167,508	111,827	83,885	14.6	24.9	45.5	-20.6	54.7	-129	-0.08	-24,097	-22.32	-22.24
145	Houston	D	164,574	116,918	83,645	28.4	55.6	69.8	-14.2	79.7	-3063	-1.83	-24,337	-22.54	-20.71
40	S Tex RG Valley	D	168,662	108,086	79,875	8.2	88.4	92.1	-3.8	95.9	1025	0.61	-28,107	-26.03	-26.64
37	S Tex RG Valley	D	169,088	113,454	78,885	15.5	81.5	87.1	-5.6	93.6	1451	0.87	-29,097	-26.95	-27.81
104	Dallas Cnty	D	172,784	115,035	78,780	25.3	51.7	69.2	-17.5	74.7	5147	3.07	-29,202	-27.04	-30.11
35	S Tex RG Valley	D	168,627	109,154	77,585	18.6	78.9	85.1	-6.2	92.7	990	0.59	-30,397	-28.15	-28.74
75	El Paso	D	159,691	103,209	77,455	8.9	89.0	91.8	-2.8	97.0	-7946	-4.74	-30,527	-28.27	-23.53
36	S Tex RG Valley	D	168,963	110,963	76,060	11.9	86.0	90.8	-4.8	94.7	1326	0.79	-31,922	-29.56	-30.35
144	Houston	D	161,859	108,509	75,785	34.9	50.3	69.8	-19.5	72.1	-5778	-3.45	-32,197	-29.82	-26.37
103	Dallas Cnty	D	170,948	121,837	71,970	39.0	42.7	64.3	-21.7	66.3	3311	1.98	-36,012	-33.35	-35.33
90	Tarrant Cnty	D	159,684	105,664	71,770	27.9	49.0	70.7	-21.7	69.3	-7953	-4.74	-36,212	-33.54	-28.79
140	Houston	D	170,732	112,332	69,415	17.2	58.5	75.8	-17.2	77.3	3095	1.85	-38,567	-35.72	-37.56
137	Houston	D	171,079	127,834	64,375	32.5	22.0	51.5	-29.6	42.6	3442	2.05	-43,607	-40.38	-42.44

Note: The Ideal CVAP Population is 107,982. The ideal TPOP Deviation is 167,637.
 Source is Texas Legislative Council at <ftp://ftpgis1.tlc.state.tx.us/PlanH358/Reports/Excel/>
 Note: CVAP data is from 2010 ACS (2005 through 2009)

TABLE 4
STATE OF TEXAS
STATE HOUSE OF REPRESENTATIVES
83rd Legislature - 1st Called Session - S.B. 3 (June 2013)
Citizen Voting Age Population Analysis Using American Community Survey
Sorted by Percentage Citizen Adult Latino

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
42	S Tex RG Valley	D	167,668	111,699	84,125	5.4	91.2	95.0	-3.9	95.9	31	0.02	-23,857	-22.09	-22.11
75	El Paso	D	159,691	103,209	77,455	8.9	89.0	91.8	-2.8	97.0	-7946	-4.74	-30,527	-28.27	-23.53
40	S Tex RG Valley	D	168,662	108,086	79,875	8.2	88.4	92.1	-3.8	95.9	1025	0.61	-28,107	-26.03	-26.64
36	S Tex RG Valley	D	168,963	110,963	76,060	11.9	86.0	90.8	-4.8	94.7	1326	0.79	-31,922	-29.56	-30.35
76	El Paso	D	159,752	116,389	94,705	11.2	83.5	87.3	-3.7	95.7	-7885	-4.70	-13,277	-12.30	-7.59
37	S Tex RG Valley	D	169,088	113,454	78,885	15.5	81.5	87.1	-5.6	93.6	1451	0.87	-29,097	-26.95	-27.81
38	S Tex RG Valley	D	168,214	110,865	92,195	13.5	80.2	86.7	-6.4	92.6	577	0.34	-15,787	-14.62	-14.96
39	S Tex RG Valley	D	168,659	110,751	85,015	14.6	78.9	88.0	-9.1	89.7	1022	0.61	-22,967	-21.27	-21.88
35	S Tex RG Valley	D	168,627	109,154	77,585	18.6	78.9	85.1	-6.2	92.7	990	0.59	-30,397	-28.15	-28.74
80	S Tex RG Valley	D	161,949	106,402	86,650	15.5	78.7	86.1	-7.4	91.4	-5688	-3.39	-21,332	-19.76	-16.36
79	El Paso	D	160,658	112,399	98,435	17.0	76.7	79.9	-3.2	96.0	-6979	-4.16	-9,547	-8.84	-4.68
41	S Tex RG Valley	D	168,776	115,033	88,365	17.9	75.7	80.4	-4.6	94.2	1139	0.68	-19,617	-18.17	-18.85
31	S Tex RG Valley	D	171,858	121,699	104,285	23.1	73.9	77.7	-3.8	95.1	4221	2.52	-3,697	-3.42	-5.94
77	El Paso	D	160,385	115,924	90,830	22.9	69.6	76.0	-6.4	91.6	-7252	-4.33	-17,152	-15.88	-11.56
74	S Tex RG Valley	D	162,357	115,236	91,345	24.6	69.4	76.6	-7.3	90.5	-5280	-3.15	-16,637	-15.41	-12.26
118	Bexar	D	164,436	116,859	106,575	28.1	67.1	68.7	-1.6	97.6	-3201	-1.91	-1,407	-1.30	0.61
34	S Tex RG Valley	D	173,149	125,896	117,465	28.0	64.6	67.7	-3.1	95.4	5512	3.29	9,483	8.78	5.49
125	Bexar	D	174,549	125,158	115,800	26.3	64.3	69.1	-4.8	93.1	6912	4.12	7,818	7.24	3.12
124	Bexar	D	174,795	120,503	115,090	24.8	62.4	66.0	-3.6	94.6	7158	4.27	7,108	6.58	2.31
123	Bexar	D	175,674	135,763	119,930	30.6	62.3	66.5	-4.2	93.7	8037	4.79	11,948	11.06	6.27
117	Bexar	R	168,692	117,126	111,045	32.3	60.9	58.8	2.1	103.6	1055	0.63	3,063	2.84	2.21
140	Houston	D	170,732	112,332	69,415	17.2	58.5	75.8	-17.2	77.3	3095	1.85	-38,567	-35.72	-37.56
78	El Paso	D	160,161	111,913	98,925	31.6	58.3	64.7	-6.4	90.0	-7476	-4.46	-9,057	-8.39	-3.93
119	Bexar	D	159,981	114,477	106,465	28.5	58.3	62.7	-4.4	93.0	-7656	-4.57	-1,517	-1.40	3.16
43	S Tex RG Valley	R	169,564	124,492	120,575	35.8	57.7	59.8	-2.1	96.5	1927	1.15	12,593	11.66	10.51
116	Bexar	D	171,463	132,823	115,470	32.3	57.1	59.9	-2.8	95.3	3826	2.28	7,488	6.93	4.65
145	Houston	D	164,574	116,918	83,645	28.4	55.6	69.8	-14.2	79.7	-3063	-1.83	-24,337	-22.54	-20.71
143	Houston	D	167,215	113,877	84,625	23.7	53.0	69.4	-16.4	76.4	-422	-0.25	-23,357	-21.63	-21.38
104	Dallas Cnty	D	172,784	115,035	78,780	25.3	51.7	69.2	-17.5	74.7	5147	3.07	-29,202	-27.04	-30.11
144	Houston	D	161,859	108,509	75,785	34.9	50.3	69.8	-19.5	72.1	-5778	-3.45	-32,197	-29.82	-26.37
90	Tarrant Cnty	D	159,684	105,664	71,770	27.9	49.0	70.7	-21.7	69.3	-7953	-4.74	-36,212	-33.54	-28.79
32	S Tex RG Valley	R	167,074	126,072	124,080	46.8	44.2	45.9	-1.6	96.5	-563	-0.34	16,098	14.91	15.24
51	Austin Area	D	175,709	128,793	98,320	41.5	44.0	56.2	-12.2	78.3	8072	4.82	-9,662	-8.95	-13.76
148	Houston	D	170,811	125,873	91,615	40.1	43.5	61.1	-17.6	71.2	3174	1.89	-16,367	-15.16	-17.05
103	Dallas Cnty	D	170,948	121,837	71,970	39.0	42.7	64.3	-21.7	66.3	3311	1.98	-36,012	-33.35	-35.33

-459.53

Average Deviation (35 Districts)

-13.13

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A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
81	West Texas	R	169,684	120,535	108,980	51.8	39.0	46.9	-7.9	83.2	2047	1.22	998	0.92	-0.30
120	Bexar	D	175,132	124,829	114,810	30.6	34.1	42.2	-8.1	80.9	7495	4.47	6,828	6.32	1.85
30	Central Texas	R	166,022	124,729	121,220	59.0	31.8	35.2	-3.4	90.4	-1615	-0.96	13,238	12.26	13.22
44	Central Texas	R	174,451	126,713	125,720	60.9	29.7	32.7	-3.0	90.9	6814	4.06	17,738	16.43	12.36
88	West Texas	R	160,896	115,622	103,670	60.9	29.4	38.9	-9.5	75.7	-6741	-4.02	-4,312	-3.99	0.03
82	West Texas	R	163,234	118,623	113,415	59.3	28.6	35.2	-6.6	81.2	-4403	-2.63	5,433	5.03	7.66
84	West Texas	R	167,970	128,898	124,075	58.7	28.0	30.2	-2.2	92.8	333	0.20	16,093	14.90	14.70
72	West Texas	R	170,479	130,771	123,075	64.6	27.6	32.3	-4.8	85.3	2842	1.70	15,093	13.98	12.28
85	Houston Suburbs	R	160,182	113,433	102,620	48.3	27.5	35.1	-7.6	78.5	-7455	-4.45	-5,362	-4.97	-0.52
17	Central Texas	R	163,480	121,295	112,125	61.1	27.0	33.4	-6.4	80.9	-4157	-2.48	4,143	3.84	6.32
121	Bexar	R	174,867	133,224	128,905	61.0	26.7	31.4	-4.6	85.2	7230	4.31	20,923	19.38	15.06
45	Austin Area	R	167,604	126,549	124,330	66.7	25.5	30.0	-4.6	84.8	-33	-0.02	16,348	15.14	15.16
83	West Texas	R	173,918	127,906	123,330	67.1	24.9	28.1	-3.2	88.8	6281	3.75	15,348	14.21	10.47
110	Dallas Cnty	D	167,508	111,827	83,885	14.6	24.9	45.5	-20.6	54.7	-129	-0.08	-24,097	-22.32	-22.24
46	Austin Area	D	166,410	118,539	94,335	41.6	24.6	41.6	-16.9	59.3	-1227	-0.73	-13,647	-12.64	-11.91
105	Dallas Cnty	R	175,728	127,590	95,900	51.1	24.1	39.2	-15.1	61.4	8091	4.83	-12,082	-11.19	-16.02
131	Houston	D	175,227	121,368	93,535	13.2	24.0	41.2	-17.2	58.3	7590	4.53	-14,447	-13.38	-17.91
122	Bexar	R	175,184	128,725	124,270	64.8	23.4	27.8	-4.3	84.4	7547	4.50	16,288	15.08	10.58
53	West Texas	R	162,897	127,381	123,515	72.2	23.1	26.8	-3.7	86.3	-4740	-2.83	15,533	14.38	17.21
138	Houston	R	173,059	124,435	98,420	50.3	22.3	41.3	-19.0	54.0	5422	3.23	-9,562	-8.86	-12.09
137	Houston	D	171,079	127,834	64,375	32.5	22.0	51.5	-29.6	42.6	3442	2.05	-43,607	-40.38	-42.44
87	West Texas	R	174,343	125,360	109,320	65.0	21.8	29.7	-7.9	73.3	6706	4.00	1,338	1.24	-2.76
142	Houston	D	159,541	113,288	91,845	20.3	21.3	35.0	-13.7	60.8	-8096	-4.83	-16,137	-14.94	-10.11
25	Houston Suburbs	R	174,168	129,041	121,250	62.4	20.8	27.4	-6.6	75.9	6531	3.90	13,268	12.29	8.39
132	Houston	R	172,973	117,666	109,150	52.4	20.6	33.0	-12.4	62.5	5336	3.18	1,168	1.08	-2.10
101	Tarrant Cnty	D	164,664	110,209	92,990	35.5	19.7	32.5	-12.8	60.6	-2973	-1.77	-14,992	-13.88	-12.11
52	Austin Area	R	165,994	114,146	111,445	62.8	19.6	26.7	-7.1	73.5	-1643	-0.98	3,463	3.21	4.19
149	Houston	D	170,702	121,535	89,230	27.0	19.1	33.8	-14.7	56.6	3065	1.83	-18,752	-17.37	-19.19
139	Houston	D	175,733	123,875	100,540	21.6	19.0	35.8	-16.7	53.2	8096	4.83	-7,442	-6.89	-11.72
147	Houston	D	175,873	136,034	114,905	28.9	18.4	31.2	-12.8	59.0	8236	4.91	6,923	6.41	1.50
100	Dallas Cnty	D	161,143	117,479	97,410	29.8	18.3	33.1	-14.8	55.2	-6494	-3.87	-10,572	-9.79	-5.92
135	Houston	R	172,422	121,136	99,750	50.0	18.2	28.5	-10.3	64.0	4785	2.85	-8,232	-7.62	-10.48
141	Houston	D	166,498	113,951	92,390	13.5	18.2	37.6	-19.4	48.4	-1139	-0.68	-15,592	-14.44	-13.76
71	West Texas	R	166,924	127,097	123,650	71.2	17.9	20.1	-2.1	89.4	-713	-0.43	15,668	14.51	14.94
50	Austin Area	D	166,516	124,252	110,735	57.5	17.7	25.3	-7.6	69.9	-1121	-0.67	2,753	2.55	3.22
29	Houston Suburbs	R	175,700	124,171	116,165	57.5	17.4	23.2	-5.8	74.9	8063	4.81	8,183	7.58	2.77
128	Houston	R	172,221	124,645	116,020	66.4	17.1	25.0	-7.9	68.5	4584	2.73	8,038	7.44	4.71
126	Houston	R	169,256	123,014	99,335	51.8	17.0	26.8	-9.9	63.2	1619	0.97	-8,647	-8.01	-8.97
48	Austin Area	D	173,008	135,585	127,810	74.4	16.7	20.4	-3.7	81.9	5371	3.20	19,828	18.36	15.16
115	Dallas Cnty	R	171,802	127,352	100,760	58.5	16.7	24.4	-7.8	68.2	4165	2.48	-7,222	-6.69	-9.17
23	Houston Suburbs	R	163,720	123,736	111,960	59.8	16.6	22.7	-6.1	73.2	-3917	-2.34	3,978	3.68	6.02
73	Bexar	R	166,719	127,882	126,130	79.7	16.6	19.8	-3.3	83.6	-918	-0.55	18,148	16.81	17.35

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A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
86	West Texas	R	165,183	121,555	115,915	76.4	16.5	22.3	-5.8	73.9	-2454	-1.46	7,933	7.35	8.81
54	Central Texas	R	167,736	117,164	112,385	51.6	15.8	17.6	-1.9	89.5	99	0.06	4,403	4.08	4.02
28	Houston Suburbs	R	160,373	107,968	100,995	53.3	15.6	20.6	-5.0	75.8	-7264	-4.33	-6,987	-6.47	-2.14
107	Dallas Cnty	R	171,872	123,986	108,045	57.9	15.6	28.9	-13.4	53.8	4235	2.53	63	0.06	-2.47
113	Dallas Cnty	R	171,418	120,834	106,040	53.5	15.3	26.0	-10.8	58.6	3781	2.26	-1,942	-1.80	-4.05
111	Dallas Cnty	D	166,963	118,393	103,410	24.2	15.1	25.5	-10.3	59.4	-674	-0.40	-4,572	-4.23	-3.83
55	Central Texas	R	162,176	119,755	116,635	64.4	14.9	19.4	-4.5	76.8	-5461	-3.26	8,653	8.01	11.27
27	Houston Suburbs	D	160,084	113,596	104,295	26.2	14.8	19.7	-4.8	75.4	-7553	-4.51	-3,687	-3.41	1.09
112	Dallas Cnty	R	167,051	120,192	97,965	54.9	14.8	26.3	-11.5	56.4	-586	-0.35	-10,017	-9.28	-8.93
93	Tarrant Cnty	R	162,161	113,584	103,455	64.1	14.8	22.8	-8.0	65.0	-5476	-3.27	-4,527	-4.19	-0.93
99	Tarrant Cnty	R	170,473	125,722	116,830	74.7	14.7	20.1	-5.4	73.1	2836	1.69	8,848	8.19	6.50
49	Austin Area	D	167,309	144,371	130,085	73.1	14.3	21.6	-7.3	66.2	-328	-0.20	22,103	20.47	20.66
14	Central Texas	R	163,187	131,479	114,485	68.6	14.1	21.0	-6.9	67.2	-4450	-2.65	6,503	6.02	8.68
108	Dallas Cnty	R	163,233	133,667	122,505	74.3	13.6	19.5	-6.0	69.4	-4404	-2.63	14,523	13.45	16.08
129	Houston	R	174,127	130,457	121,280	62.9	13.6	20.4	-6.8	66.5	6490	3.87	13,298	12.32	8.44
10	DFW Suburbs	R	163,063	116,978	111,680	75.6	13.1	18.7	-5.5	70.4	-4574	-2.73	3,698	3.42	6.15
95	Tarrant Cnty	D	161,634	115,752	96,150	32.9	12.9	24.3	-11.4	53.0	-6003	-3.58	-11,832	-10.96	-7.38
136	Austin Area	R	164,376	116,361	113,740	72.8	12.9	16.3	-3.4	79.1	-3261	-1.95	5,758	5.33	7.28
68	West Texas	R	160,508	121,547	112,760	80.9	12.8	18.5	-5.7	69.1	-7129	-4.25	4,778	4.42	8.68
127	Houston	R	163,983	115,865	114,290	67.1	12.4	18.1	-5.7	68.6	-3654	-2.18	6,308	5.84	8.02
56	Central Texas	R	163,869	123,411	117,985	72.6	12.4	17.8	-5.4	69.7	-3768	-2.25	10,003	9.26	11.51
150	Houston	R	168,735	120,462	109,725	66.0	12.3	21.0	-8.7	58.7	1098	0.65	1,743	1.61	0.96
47	Austin Area	R	175,314	127,689	125,095	80.3	12.3	12.6	-0.3	97.7	7677	4.58	17,113	15.85	11.27
12	Central Texas	R	160,573	119,556	111,590	64.4	11.8	19.5	-7.7	60.6	-7064	-4.21	3,608	3.34	7.56
26	Houston Suburbs	R	160,091	117,247	97,320	52.2	11.6	14.9	-3.3	77.8	-7546	-4.50	-10,662	-9.87	-5.37
130	Houston	R	175,532	122,108	119,770	71.6	11.6	17.7	-6.2	65.3	7895	4.71	11,788	10.92	6.21
109	Dallas Cnty	D	174,223	122,347	112,780	23.4	11.4	20.0	-8.6	57.0	6586	3.93	4,798	4.44	0.51
59	Central Texas	R	163,609	122,193	118,030	75.9	11.4	15.6	-4.2	73.1	-4028	-2.40	10,048	9.31	11.71
24	Houston Suburbs	R	162,685	118,491	118,260	74.8	11.3	15.6	-4.3	72.3	-4952	-2.95	10,278	9.52	12.47
102	Dallas Cnty	R	161,136	122,520	96,850	65.0	11.3	24.1	-12.8	46.8	-6501	-3.88	-11,132	-10.31	-6.43
146	Houston	D	174,485	130,444	97,195	24.7	11.2	27.3	-16.1	41.0	6848	4.09	-10,787	-9.99	-14.07
114	Dallas Cnty	R	172,330	130,817	105,540	68.2	11.0	24.2	-13.2	45.6	4693	2.80	-2,442	-2.26	-5.06
134	Houston	R	174,421	143,575	130,040	74.7	11.0	13.3	-2.3	82.6	6784	4.05	22,058	20.43	16.38
91	Tarrant Cnty	R	162,838	119,048	108,845	75.9	10.9	18.2	-7.2	60.2	-4799	-2.86	863	0.80	3.66
20	Central Texas	R	159,816	121,754	115,395	82.8	10.3	16.6	-6.2	62.4	-7821	-4.67	7,413	6.87	11.53
94	Tarrant Cnty	R	167,374	125,516	114,195	69.8	10.2	15.3	-5.2	66.3	-263	-0.16	6,213	5.75	5.91
64	DFW Suburbs	R	167,588	129,175	116,875	75.0	10.1	16.6	-6.5	60.8	-49	-0.03	8,893	8.24	8.26
96	Tarrant Cnty	R	164,930	113,924	109,035	65.5	10.1	15.2	-5.1	66.5	-2707	-1.61	1,053	0.98	2.59
70	DFW Suburbs	R	172,135	117,432	110,995	75.3	10.0	15.9	-5.9	62.9	4498	2.68	3,013	2.79	0.11
97	Tarrant Cnty	R	168,869	131,311	122,870	70.5	9.8	15.7	-5.9	62.3	1232	0.73	14,888	13.79	13.05
65	DFW Suburbs	R	165,742	124,977	109,350	62.3	9.8	18.6	-8.8	52.5	-1895	-1.13	1,368	1.27	2.40
69	West Texas	R	160,087	123,063	117,450	77.2	9.7	12.9	-3.2	75.3	-7550	-4.50	9,468	8.77	13.27
3	Houston Suburbs	R	164,955	119,595	109,760	75.4	9.7	20.0	-10.3	48.5	-2682	-1.60	1,778	1.65	3.25

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A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVP	PCT HVAP	%HVAP - %HCVP	%HCVP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
92	Tarrant Cnty	R	162,326	126,290	116,980	70.3	9.6	14.5	-4.9	66.1	-5311	-3.17	8,998	8.33	11.50
133	Houston	R	171,401	135,423	114,530	70.2	9.5	14.7	-5.2	64.6	3764	2.25	6,548	6.06	3.82
13	Central Texas	R	170,617	131,129	123,515	75.2	9.5	15.9	-6.4	59.7	2980	1.78	15,533	14.38	12.61
16	Houston Suburbs	R	166,647	122,271	108,180	80.7	9.3	21.1	-11.8	44.2	-990	-0.59	198	0.18	0.77
60	West Texas	R	171,429	131,870	127,825	86.9	9.2	11.8	-2.6	78.0	3792	2.26	19,843	18.38	16.11
89	DFW Suburbs	R	172,138	118,380	116,895	72.4	8.9	13.0	-4.2	68.0	4501	2.68	8,913	8.25	5.57
106	DFW Suburbs	R	161,947	110,568	107,290	76.1	8.8	14.7	-5.9	60.1	-5690	-3.39	-692	-0.64	2.75
8	Central Texas	R	161,098	123,550	114,450	72.1	8.8	15.4	-6.6	57.0	-6539	-3.90	6,468	5.99	9.89
58	Central Texas	R	169,146	123,826	118,105	84.2	8.7	14.9	-6.1	58.8	1509	0.90	10,123	9.37	8.47
33	DFW Suburbs	R	172,135	119,518	115,655	77.9	8.5	13.5	-4.9	63.5	4498	2.68	7,673	7.11	4.42
18	Southeast TX	R	169,888	132,877	126,560	71.3	8.1	14.2	-6.1	57.0	2251	1.34	18,578	17.20	15.86
63	DFW Suburbs	R	167,337	115,634	113,605	80.8	8.0	13.1	-5.1	61.2	-300	-0.18	5,623	5.21	5.39
22	Southeast TX	D	161,930	122,897	115,525	37.0	7.7	15.7	-8.0	49.0	-5707	-3.40	7,543	6.99	10.39
67	DFW Suburbs	R	172,141	126,368	111,250	70.1	7.5	13.9	-6.4	54.0	4504	2.69	3,268	3.03	0.34
15	Houston Suburbs	R	167,349	120,450	116,690	81.8	7.4	13.5	-6.1	55.0	-288	-0.17	8,708	8.06	8.24
57	Southeast TX	R	164,418	124,630	118,140	72.8	7.2	13.0	-5.8	55.5	-3219	-1.92	10,158	9.41	11.33
98	Tarrant Cnty	R	164,081	114,953	114,875	83.7	6.7	9.8	-3.1	68.8	-3556	-2.12	6,893	6.38	8.50
6	Northeast TX	R	160,008	119,154	109,970	70.1	6.5	14.9	-8.3	44.0	-7629	-4.55	1,988	1.84	6.39
4	DFW Suburbs	R	168,429	123,603	117,715	81.5	6.3	11.7	-5.4	53.6	792	0.47	9,733	9.01	8.54
61	DFW Suburbs	R	176,054	130,782	128,065	88.5	6.0	10.6	-4.6	56.9	8417	5.02	20,083	18.60	13.58
66	DFW Suburbs	R	172,129	130,796	113,390	69.7	6.0	9.1	-3.1	65.8	4492	2.68	5,408	5.01	2.33
11	Northeast TX	R	168,699	128,086	118,640	72.2	5.7	13.9	-8.3	40.6	1062	0.63	10,658	9.87	9.24
2	Northeast TX	R	173,869	130,806	124,825	85.1	5.5	10.0	-4.5	55.2	6232	3.72	16,843	15.60	11.88
5	Northeast TX	R	160,253	120,169	112,555	78.8	5.2	13.2	-7.9	39.8	-7384	-4.40	4,573	4.23	8.64
21	Southeast TX	R	172,180	130,308	121,365	82.0	5.2	9.3	-4.1	55.7	4543	2.71	13,383	12.39	9.68
62	Northeast TX	R	160,023	122,203	117,530	85.0	4.2	8.6	-4.4	49.0	-7614	-4.54	9,548	8.84	13.38
7	Northeast TX	R	161,039	120,296	112,255	74.7	3.9	11.2	-7.3	34.9	-6598	-3.94	4,273	3.96	7.89
19	Southeast TX	R	171,969	131,682	128,705	82.5	3.7	6.3	-2.6	58.3	4332	2.58	20,723	19.19	16.61
1	Northeast TX	R	165,823	125,927	122,470	75.1	3.1	5.8	-2.7	53.5	-1814	-1.08	14,488	13.42	14.50
9	Northeast TX	R	166,719	125,947	121,420	75.8	2.5	6.9	-4.4	35.8	-918	-0.55	13,438	12.44	12.99

459.56

Average Deviation (115 Districts)

4.00

Note: The Ideal CVAP Population is 107,982. The ideal TPOP Deviation is 167,637.
 Source is Texas Legislative Council at <ftp://ftp.gis1.tlc.state.tx.us/PlanH358/Reports/Excel/>
 Note: CVAP data is from 2010 ACS (2005 through 2009)

TABLE 5
STATE OF TEXAS
STATE HOUSE OF REPRESENTITIVES
83rd Legislature - 1st Called Session - S.B. 3 (June 2013)
Citizen Voting Age Population Analysis Using American Community Survey
Sorted and Summed by Region

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
45	Austin Area	R	167,604	126,549	124,330	66.7	25.5	30.0	-4.6	84.8	-33	-0.02	16,348	15.14	15.16
46	Austin Area	D	166,410	118,539	94,335	41.6	24.6	41.6	-16.9	59.3	-1227	-0.73	-13,647	-12.64	-11.91
47	Austin Area	R	175,314	127,689	125,095	80.3	12.3	12.6	-0.3	97.7	7677	4.58	17,113	15.85	11.27
48	Austin Area	D	173,008	135,585	127,810	74.4	16.7	20.4	-3.7	81.9	5371	3.20	19,828	18.36	15.16
49	Austin Area	D	167,309	144,371	130,085	73.1	14.3	21.6	-7.3	66.2	-328	-0.20	22,103	20.47	20.66
50	Austin Area	D	166,516	124,252	110,735	57.5	17.7	25.3	-7.6	69.9	-1121	-0.67	2,753	2.55	3.22
51	Austin Area	D	175,709	128,793	98,320	41.5	44.0	56.2	-12.2	78.3	8072	4.82	-9,662	-8.95	-13.76
52	Austin Area	R	165,994	114,146	111,445	62.8	19.6	26.7	-7.1	73.5	-1643	-0.98	3,463	3.21	4.19
136	Austin Area	R	164,376	116,361	113,740	72.8	12.9	16.3	-3.4	79.1	-3261	-1.95	5,758	5.33	7.28

Average Deviation (9 Districts) 59.32
6.59

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
73	Bexar	R	166,719	127,882	126,130	79.7	16.6	19.8	-3.3	83.6	-918	-0.55	18,148	16.81	17.35
116	Bexar	D	171,463	132,823	115,470	32.3	57.1	59.9	-2.8	95.3	3826	2.28	7,488	6.93	4.65
117	Bexar	R	168,692	117,126	111,045	32.3	60.9	58.8	2.1	103.6	1055	0.63	3,063	2.84	2.21
118	Bexar	D	164,436	116,859	106,575	28.1	67.1	68.7	-1.6	97.6	-3201	-1.91	-1,407	-1.30	0.61
119	Bexar	D	159,981	114,477	106,465	28.5	58.3	62.7	-4.4	93.0	-7656	-4.57	-1,517	-1.40	3.16
120	Bexar	D	175,132	124,829	114,810	30.6	34.1	42.2	-8.1	80.9	7495	4.47	6,828	6.32	1.85
121	Bexar	R	174,867	133,224	128,905	61.0	26.7	31.4	-4.6	85.2	7230	4.31	20,923	19.38	15.06
122	Bexar	R	175,184	128,725	124,270	64.8	23.4	27.8	-4.3	84.4	7547	4.50	16,288	15.08	10.58
123	Bexar	D	175,674	135,763	119,930	30.6	62.3	66.5	-4.2	93.7	8037	4.79	11,948	11.06	6.27
124	Bexar	D	174,795	120,503	115,090	24.8	62.4	66.0	-3.6	94.6	7158	4.27	7,108	6.58	2.31
125	Bexar	D	174,549	125,158	115,800	26.3	64.3	69.1	-4.8	93.1	6912	4.12	7,818	7.24	3.12

Average Deviation (11 Districts) 89.54
8.14

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Angle	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
8	Central Texas	R	161,098	123,550	114,450	72.1	8.8	15.4	-6.6	57.0	-6539	-3.90	6,468	5.99	9.89
12	Central Texas	R	160,573	119,556	111,590	64.4	11.8	19.5	-7.7	60.6	-7064	-4.21	3,608	3.34	7.56
13	Central Texas	R	170,617	131,129	123,515	75.2	9.5	15.9	-6.4	59.7	2980	1.78	15,533	14.38	12.61
14	Central Texas	R	163,187	131,479	114,485	68.6	14.1	21.0	-6.9	67.2	-4450	-2.65	6,503	6.02	8.68
17	Central Texas	R	163,480	121,295	112,125	61.1	27.0	33.4	-6.4	80.9	-4157	-2.48	4,143	3.84	6.32
20	Central Texas	R	159,816	121,754	115,395	82.8	10.3	16.6	-6.2	62.4	-7821	-4.67	7,413	6.87	11.53
30	Central Texas	R	166,022	124,729	121,220	59.0	31.8	35.2	-3.4	90.4	-1615	-0.96	13,238	12.26	13.22
44	Central Texas	R	174,451	126,713	125,720	60.9	29.7	32.7	-3.0	90.9	6814	4.06	17,738	16.43	12.36
54	Central Texas	R	167,736	117,164	112,385	51.6	15.8	17.6	-1.9	89.5	99	0.06	4,403	4.08	4.02
55	Central Texas	R	162,176	119,755	116,635	64.4	14.9	19.4	-4.5	76.8	-5461	-3.26	8,653	8.01	11.27
56	Central Texas	R	163,869	123,411	117,985	72.6	12.4	17.8	-5.4	69.7	-3768	-2.25	10,003	9.26	11.51
58	Central Texas	R	169,146	123,826	118,105	84.2	8.7	14.9	-6.1	58.8	1509	0.90	10,123	9.37	8.47
59	Central Texas	R	163,609	122,193	118,030	75.9	11.4	15.6	-4.2	73.1	-4028	-2.40	10,048	9.31	11.71

109.16

Average Deviation (13 Districts)

8.40

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Angle	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
100	Dallas Cnty	D	161,143	117,479	97,410	29.8	18.3	33.1	-14.8	55.2	-6494	-3.87	-10,572	-9.79	-5.92
102	Dallas Cnty	R	161,136	122,520	96,850	65.0	11.3	24.1	-12.8	46.8	-6501	-3.88	-11,132	-10.31	-6.43
103	Dallas Cnty	D	170,948	121,837	71,970	39.0	42.7	64.3	-21.7	66.3	3311	1.98	-36,012	-33.35	-35.33
104	Dallas Cnty	D	172,784	115,035	78,780	25.3	51.7	69.2	-17.5	74.7	5147	3.07	-29,202	-27.04	-30.11
105	Dallas Cnty	R	175,728	127,590	95,900	51.1	24.1	39.2	-15.1	61.4	8091	4.83	-12,082	-11.19	-16.02
107	Dallas Cnty	R	171,872	123,986	108,045	57.9	15.6	28.9	-13.4	53.8	4235	2.53	63	0.06	-2.47
108	Dallas Cnty	R	163,233	133,667	122,505	74.3	13.6	19.5	-6.0	69.4	-4404	-2.63	14,523	13.45	16.08
109	Dallas Cnty	D	174,223	122,347	112,780	23.4	11.4	20.0	-8.6	57.0	6586	3.93	4,798	4.44	0.51
110	Dallas Cnty	D	167,508	111,827	83,885	14.6	24.9	45.5	-20.6	54.7	-129	-0.08	-24,097	-22.32	-22.24
111	Dallas Cnty	D	166,963	118,393	103,410	24.2	15.1	25.5	-10.3	59.4	-674	-0.40	-4,572	-4.23	-3.83
112	Dallas Cnty	R	167,051	120,192	97,965	54.9	14.8	26.3	-11.5	56.4	-586	-0.35	-10,017	-9.28	-8.93
113	Dallas Cnty	R	171,418	120,834	106,040	53.5	15.3	26.0	-10.8	58.6	3781	2.26	-1,942	-1.80	-4.05
114	Dallas Cnty	R	172,330	130,817	105,540	68.2	11.0	24.2	-13.2	45.6	4693	2.80	-2,442	-2.26	-5.06
115	Dallas Cnty	R	171,802	127,352	100,760	58.5	16.7	24.4	-7.8	68.2	4165	2.48	-7,222	-6.69	-9.17

-120.31

Average Deviation (14 Districts)

-8.59

Table 5 - Page 2 of 7

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Angle	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
4	DFW Suburbs	R	168,429	123,603	117,715	81.5	6.3	11.7	-5.4	53.6	792	0.47	9,733	9.01	8.54
10	DFW Suburbs	R	163,063	116,978	111,680	75.6	13.1	18.7	-5.5	70.4	-4574	-2.73	3,698	3.42	6.15
33	DFW Suburbs	R	172,135	119,518	115,655	77.9	8.5	13.5	-4.9	63.5	4498	2.68	7,673	7.11	4.42
61	DFW Suburbs	R	176,054	130,782	128,065	88.5	6.0	10.6	-4.6	56.9	8417	5.02	20,083	18.60	13.58
63	DFW Suburbs	R	167,337	115,634	113,605	80.8	8.0	13.1	-5.1	61.2	-300	-0.18	5,623	5.21	5.39
64	DFW Suburbs	R	167,588	129,175	116,875	75.0	10.1	16.6	-6.5	60.8	-49	-0.03	8,893	8.24	8.26
65	DFW Suburbs	R	165,742	124,977	109,350	62.3	9.8	18.6	-8.8	52.5	-1895	-1.13	1,368	1.27	2.40
66	DFW Suburbs	R	172,129	130,796	113,390	69.7	6.0	9.1	-3.1	65.8	4492	2.68	5,408	5.01	2.33
67	DFW Suburbs	R	172,141	126,368	111,250	70.1	7.5	13.9	-6.4	54.0	4504	2.69	3,268	3.03	0.34
70	DFW Suburbs	R	172,135	117,432	110,995	75.3	10.0	15.9	-5.9	62.9	4498	2.68	3,013	2.79	0.11
89	DFW Suburbs	R	172,138	118,380	116,895	72.4	8.9	13.0	-4.2	68.0	4501	2.68	8,913	8.25	5.57
106	DFW Suburbs	R	161,947	110,568	107,290	76.1	8.8	14.7	-5.9	60.1	-5690	-3.39	-692	-0.64	2.75

Average Deviation (12 Districts) 71.29
5.94

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Angle	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
75	El Paso	D	159,691	103,209	77,455	8.9	89.0	91.8	-2.8	97.0	-7946	-4.74	-30,527	-28.27	-23.53
76	El Paso	D	159,752	116,389	94,705	11.2	83.5	87.3	-3.7	95.7	-7885	-4.70	-13,277	-12.30	-7.59
77	El Paso	D	160,385	115,924	90,830	22.9	69.6	76.0	-6.4	91.6	-7252	-4.33	-17,152	-15.88	-11.56
78	El Paso	D	160,161	111,913	98,925	31.6	58.3	64.7	-6.4	90.0	-7476	-4.46	-9,057	-8.39	-3.93
79	El Paso	D	160,658	112,399	98,435	17.0	76.7	79.9	-3.2	96.0	-6979	-4.16	-9,547	-8.84	-4.68

Average Deviation (5 Districts) -73.68
-14.74

Table 5 - Page 3 of 7

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
126	Harris Cnty	R	169,256	123,014	99,335	51.8	17.0	26.8	-9.9	63.2	1619	0.97	-8,647	-8.01	-8.97
127	Harris Cnty	R	163,983	115,865	114,290	67.1	12.4	18.1	-5.7	68.6	-3654	-2.18	6,308	5.84	8.02
128	Harris Cnty	R	172,221	124,645	116,020	66.4	17.1	25.0	-7.9	68.5	4584	2.73	8,038	7.44	4.71
129	Harris Cnty	R	174,127	130,457	121,280	62.9	13.6	20.4	-6.8	66.5	6490	3.87	13,298	12.32	8.44
130	Harris Cnty	R	175,532	122,108	119,770	71.6	11.6	17.7	-6.2	65.3	7895	4.71	11,788	10.92	6.21
131	Harris Cnty	D	175,227	121,368	93,535	13.2	24.0	41.2	-17.2	58.3	7590	4.53	-14,447	-13.38	-17.91
132	Harris Cnty	R	172,973	117,666	109,150	52.4	20.6	33.0	-12.4	62.5	5336	3.18	1,168	1.08	-2.10
133	Harris Cnty	R	171,401	135,423	114,530	70.2	9.5	14.7	-5.2	64.6	3764	2.25	6,548	6.06	3.82
134	Harris Cnty	R	174,421	143,575	130,040	74.7	11.0	13.3	-2.3	82.6	6784	4.05	22,058	20.43	16.38
135	Harris Cnty	R	172,422	121,136	99,750	50.0	18.2	28.5	-10.3	64.0	4785	2.85	-8,232	-7.62	-10.48
137	Harris Cnty	D	171,079	127,834	64,375	32.5	22.0	51.5	-29.6	42.6	3442	2.05	-43,607	-40.38	-42.44
138	Harris Cnty	R	173,059	124,435	98,420	50.3	22.3	41.3	-19.0	54.0	5422	3.23	-9,562	-8.86	-12.09
139	Harris Cnty	D	175,733	123,875	100,540	21.6	19.0	35.8	-16.7	53.2	8096	4.83	-7,442	-6.89	-11.72
140	Harris Cnty	D	170,732	112,332	69,415	17.2	58.5	75.8	-17.2	77.3	3095	1.85	-38,567	-35.72	-37.56
141	Harris Cnty	D	166,498	113,951	92,390	13.5	18.2	37.6	-19.4	48.4	-1139	-0.68	-15,592	-14.44	-13.76
142	Harris Cnty	D	159,541	113,288	91,845	20.3	21.3	35.0	-13.7	60.8	-8096	-4.83	-16,137	-14.94	-10.11
143	Harris Cnty	D	167,215	113,877	84,625	23.7	53.0	69.4	-16.4	76.4	-422	-0.25	-23,357	-21.63	-21.38
144	Harris Cnty	D	161,859	108,509	75,785	34.9	50.3	69.8	-19.5	72.1	-5778	-3.45	-32,197	-29.82	-26.37
145	Harris Cnty	D	164,574	116,918	83,645	28.4	55.6	69.8	-14.2	79.7	-3063	-1.83	-24,337	-22.54	-20.71
146	Harris Cnty	D	174,485	130,444	97,195	24.7	11.2	27.3	-16.1	41.0	6848	4.09	-10,787	-9.99	-14.07
147	Harris Cnty	D	175,873	136,034	114,905	28.9	18.4	31.2	-12.8	59.0	8236	4.91	6,923	6.41	1.50
148	Harris Cnty	D	170,811	125,873	91,615	40.1	43.5	61.1	-17.6	71.2	3174	1.89	-16,367	-15.16	-17.05
149	Harris Cnty	D	170,702	121,535	89,230	27.0	19.1	33.8	-14.7	56.6	3065	1.83	-18,752	-17.37	-19.19
150	Harris Cnty	R	168,735	120,462	109,725	66.0	12.3	21.0	-8.7	58.7	1098	0.65	1,743	1.61	0.96
														-194.62	
														Average Deviation (24 Districts)	-8.11

Table 5 - Page 4 of 7

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Angle	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
3	Houston Suburbs	R	164,955	119,595	109,760	75.4	9.7	20.0	-10.3	48.5	-2682	-1.60	1,778	1.65	3.25
15	Houston Suburbs	R	167,349	120,450	116,690	81.8	7.4	13.5	-6.1	55.0	-288	-0.17	8,708	8.06	8.24
16	Houston Suburbs	R	166,647	122,271	108,180	80.7	9.3	21.1	-11.8	44.2	-990	-0.59	198	0.18	0.77
23	Houston Suburbs	R	163,720	123,736	111,960	59.8	16.6	22.7	-6.1	73.2	-3917	-2.34	3,978	3.68	6.02
24	Houston Suburbs	R	162,685	118,491	118,260	74.8	11.3	15.6	-4.3	72.3	-4952	-2.95	10,278	9.52	12.47
25	Houston Suburbs	R	174,168	129,041	121,250	62.4	20.8	27.4	-6.6	75.9	6531	3.90	13,268	12.29	8.39
26	Houston Suburbs	R	160,091	117,247	97,320	52.2	11.6	14.9	-3.3	77.8	-7546	-4.50	-10,662	-9.87	-5.37
27	Houston Suburbs	D	160,084	113,596	104,295	26.2	14.8	19.7	-4.8	75.4	-7553	-4.51	-3,687	-3.41	1.09
28	Houston Suburbs	R	160,373	107,968	100,995	53.3	15.6	20.6	-5.0	75.8	-7264	-4.33	-6,987	-6.47	-2.14
29	Houston Suburbs	R	175,700	124,171	116,165	57.5	17.4	23.2	-5.8	74.9	8063	4.81	8,183	7.58	2.77
85	Houston Suburbs	R	160,182	113,433	102,620	48.3	27.5	35.1	-7.6	78.5	-7455	-4.45	-5,362	-4.97	-0.52

Average Deviation (11 Districts)

18.24
1.66

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Angle	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
1	Northeast TX	R	165,823	125,927	122,470	75.1	3.1	5.8	-2.7	53.5	-1814	-1.08	14,488	13.42	14.50
2	Northeast TX	R	173,869	130,806	124,825	85.1	5.5	10.0	-4.5	55.2	6232	3.72	16,843	15.60	11.88
5	Northeast TX	R	160,253	120,169	112,555	78.8	5.2	13.2	-7.9	39.8	-7384	-4.40	4,573	4.23	8.64
6	Northeast TX	R	160,008	119,154	109,970	70.1	6.5	14.9	-8.3	44.0	-7629	-4.55	1,988	1.84	6.39
7	Northeast TX	R	161,039	120,296	112,255	74.7	3.9	11.2	-7.3	34.9	-6598	-3.94	4,273	3.96	7.89
9	Northeast TX	R	166,719	125,947	121,420	75.8	2.5	6.9	-4.4	35.8	-918	-0.55	13,438	12.44	12.99
11	Northeast TX	R	168,699	128,086	118,640	72.2	5.7	13.9	-8.3	40.6	1062	0.63	10,658	9.87	9.24
62	Northeast TX	R	160,023	122,203	117,530	85.0	4.2	8.6	-4.4	49.0	-7614	-4.54	9,548	8.84	13.38

Average Deviation (8 Districts)

70.21
8.78

Table 5 - Page 5 of 7

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
31	S Tex RG Valley	D	171,858	121,699	104,285	23.1	73.9	77.7	-3.8	95.1	4221	2.52	-3,697	-3.42	-5.94
32	S Tex RG Valley	R	167,074	126,072	124,080	46.8	44.2	45.9	-1.6	96.5	-563	-0.34	16,098	14.91	15.24
34	S Tex RG Valley	D	173,149	125,896	117,465	28.0	64.6	67.7	-3.1	95.4	5512	3.29	9,483	8.78	5.49
35	S Tex RG Valley	D	168,627	109,154	77,585	18.6	78.9	85.1	-6.2	92.7	990	0.59	-30,397	-28.15	-28.74
36	S Tex RG Valley	D	168,963	110,963	76,060	11.9	86.0	90.8	-4.8	94.7	1326	0.79	-31,922	-29.56	-30.35
37	S Tex RG Valley	D	169,088	113,454	78,885	15.5	81.5	87.1	-5.6	93.6	1451	0.87	-29,097	-26.95	-27.81
38	S Tex RG Valley	D	168,214	110,865	92,195	13.5	80.2	86.7	-6.4	92.6	577	0.34	-15,787	-14.62	-14.96
39	S Tex RG Valley	D	168,659	110,751	85,015	14.6	78.9	88.0	-9.1	89.7	1022	0.61	-22,967	-21.27	-21.88
40	S Tex RG Valley	D	168,662	108,086	79,875	8.2	88.4	92.1	-3.8	95.9	1025	0.61	-28,107	-26.03	-26.64
41	S Tex RG Valley	D	168,776	115,033	88,365	17.9	75.7	80.4	-4.6	94.2	1139	0.68	-19,617	-18.17	-18.85
42	S Tex RG Valley	D	167,668	111,699	84,125	5.4	91.2	95.0	-3.9	95.9	31	0.02	-23,857	-22.09	-22.11
43	S Tex RG Valley	R	169,564	124,492	120,575	35.8	57.7	59.8	-2.1	96.5	1927	1.15	12,593	11.66	10.51
74	S Tex RG Valley	D	162,357	115,236	91,345	24.6	69.4	76.6	-7.3	90.5	-5280	-3.15	-16,637	-15.41	-12.26
80	S Tex RG Valley	D	161,949	106,402	86,650	15.5	78.7	86.1	-7.4	91.4	-5688	-3.39	-21,332	-19.76	-16.36

Average Deviation (14 Districts)

-190.07
-13.58

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
18	Southeast TX	R	169,888	132,877	126,560	71.3	8.1	14.2	-6.1	57.0	2251	1.34	18,578	17.20	15.86
19	Southeast TX	R	171,969	131,682	128,705	82.5	3.7	6.3	-2.6	58.3	4332	2.58	20,723	19.19	16.61
21	Southeast TX	R	172,180	130,308	121,365	82.0	5.2	9.3	-4.1	55.7	4543	2.71	13,383	12.39	9.68
22	Southeast TX	D	161,930	122,897	115,525	37.0	7.7	15.7	-8.0	49.0	-5707	-3.40	7,543	6.99	10.39
57	Southeast TX	R	164,418	124,630	118,140	72.8	7.2	13.0	-5.8	55.5	-3219	-1.92	10,158	9.41	11.33

Average Deviation (5 Districts)

65.18
13.04

Table 5 - Page 6 of 7

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Angle	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
90	Tarrant Cnty	D	159,684	105,664	71,770	27.9	49.0	70.7	-21.7	69.3	-7953	-4.74	-36,212	-33.54	-28.79
91	Tarrant Cnty	R	162,838	119,048	108,845	75.9	10.9	18.2	-7.2	60.2	-4799	-2.86	863	0.80	3.66
92	Tarrant Cnty	R	162,326	126,290	116,980	70.3	9.6	14.5	-4.9	66.1	-5311	-3.17	8,998	8.33	11.50
93	Tarrant Cnty	R	162,161	113,584	103,455	64.1	14.8	22.8	-8.0	65.0	-5476	-3.27	-4,527	-4.19	-0.93
94	Tarrant Cnty	R	167,374	125,516	114,195	69.8	10.2	15.3	-5.2	66.3	-263	-0.16	6,213	5.75	5.91
95	Tarrant Cnty	D	161,634	115,752	96,150	32.9	12.9	24.3	-11.4	53.0	-6003	-3.58	-11,832	-10.96	-7.38
96	Tarrant Cnty	R	164,930	113,924	109,035	65.5	10.1	15.2	-5.1	66.5	-2707	-1.61	1,053	0.98	2.59
97	Tarrant Cnty	R	168,869	131,311	122,870	70.5	9.8	15.7	-5.9	62.3	1232	0.73	14,888	13.79	13.05
98	Tarrant Cnty	R	164,081	114,953	114,875	83.7	6.7	9.8	-3.1	68.8	-3556	-2.12	6,893	6.38	8.50
99	Tarrant Cnty	R	170,473	125,722	116,830	74.7	14.7	20.1	-5.4	73.1	2836	1.69	8,848	8.19	6.50
101	Tarrant Cnty	D	164,664	110,209	92,990	35.5	19.7	32.5	-12.8	60.6	-2973	-1.77	-14,992	-13.88	-12.11

Average Deviation (11 Districts)

-18.34
-1.67

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Angle	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
53	West Texas	R	162,897	127,381	123,515	72.2	23.1	26.8	-3.7	86.3	-4740	-2.83	15,533	14.38	17.21
60	West Texas	R	171,429	131,870	127,825	86.9	9.2	11.8	-2.6	78.0	3792	2.26	19,843	18.38	16.11
68	West Texas	R	160,508	121,547	112,760	80.9	12.8	18.5	-5.7	69.1	-7129	-4.25	4,778	4.42	8.68
69	West Texas	R	160,087	123,063	117,450	77.2	9.7	12.9	-3.2	75.3	-7550	-4.50	9,468	8.77	13.27
71	West Texas	R	166,924	127,097	123,650	71.2	17.9	20.1	-2.1	89.4	-713	-0.43	15,668	14.51	14.94
72	West Texas	R	170,479	130,771	123,075	64.6	27.6	32.3	-4.8	85.3	2842	1.70	15,093	13.98	12.28
81	West Texas	R	169,684	120,535	108,980	51.8	39.0	46.9	-7.9	83.2	2047	1.22	998	0.92	-0.30
82	West Texas	R	163,234	118,623	113,415	59.3	28.6	35.2	-6.6	81.2	-4403	-2.63	5,433	5.03	7.66
83	West Texas	R	173,918	127,906	123,330	67.1	24.9	28.1	-3.2	88.8	6281	3.75	15,348	14.21	10.47
84	West Texas	R	167,970	128,898	124,075	58.7	28.0	30.2	-2.2	92.8	333	0.20	16,093	14.90	14.70
86	West Texas	R	165,183	121,555	115,915	76.4	16.5	22.3	-5.8	73.9	-2454	-1.46	7,933	7.35	8.81
87	West Texas	R	174,343	125,360	109,320	65.0	21.8	29.7	-7.9	73.3	6706	4.00	1,338	1.24	-2.76
88	West Texas	R	160,896	115,622	103,670	60.9	29.4	38.9	-9.5	75.7	-6741	-4.02	-4,312	-3.99	0.03

Average Deviation (13 Districts)

114.11
8.78

Note: The Ideal CVAP Population is 107,982. The ideal TPOP Deviation is 167,637.
Source is Texas Legislative Council at <ftp://ftpgis1.tlc.state.tx.us/PlanH358/Reports/Excel/>
Note: CVAP data is from 2010 ACS (2005 through 2009)

TABLE 6
STATE OF TEXAS
STATE HOUSE OF REPRESENTATIVES
83rd Legislature - 1st Called Session - S.B. 3 (June 2013)
Citizen Voting Age Population Analysis Using American Community Survey
Sorted and Summed by Party

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
1	Northeast TX	R	165,823	125,927	122,470	75.1	3.1	5.8	-2.7	53.5	-1814	-1.08	14,488	13.42	14.50
2	Northeast TX	R	173,869	130,806	124,825	85.1	5.5	10.0	-4.5	55.2	6232	3.72	16,843	15.60	11.88
3	Houston Suburbs	R	164,955	119,595	109,760	75.4	9.7	20.0	-10.3	48.5	-2682	-1.60	1,778	1.65	3.25
4	DFW Suburbs	R	168,429	123,603	117,715	81.5	6.3	11.7	-5.4	53.6	792	0.47	9,733	9.01	8.54
5	Northeast TX	R	160,253	120,169	112,555	78.8	5.2	13.2	-7.9	39.8	-7384	-4.40	4,573	4.23	8.64
6	Northeast TX	R	160,008	119,154	109,970	70.1	6.5	14.9	-8.3	44.0	-7629	-4.55	1,988	1.84	6.39
7	Northeast TX	R	161,039	120,296	112,255	74.7	3.9	11.2	-7.3	34.9	-6598	-3.94	4,273	3.96	7.89
8	Central Texas	R	161,098	123,550	114,450	72.1	8.8	15.4	-6.6	57.0	-6539	-3.90	6,468	5.99	9.89
9	Northeast TX	R	166,719	125,947	121,420	75.8	2.5	6.9	-4.4	35.8	-918	-0.55	13,438	12.44	12.99
10	DFW Suburbs	R	163,063	116,978	111,680	75.6	13.1	18.7	-5.5	70.4	-4574	-2.73	3,698	3.42	6.15
11	Northeast TX	R	168,699	128,086	118,640	72.2	5.7	13.9	-8.3	40.6	1062	0.63	10,658	9.87	9.24
12	Central Texas	R	160,573	119,556	111,590	64.4	11.8	19.5	-7.7	60.6	-7064	-4.21	3,608	3.34	7.56
13	Central Texas	R	170,617	131,129	123,515	75.2	9.5	15.9	-6.4	59.7	2980	1.78	15,533	14.38	12.61
14	Central Texas	R	163,187	131,479	114,485	68.6	14.1	21.0	-6.9	67.2	-4450	-2.65	6,503	6.02	8.68
15	Houston Suburbs	R	167,349	120,450	116,690	81.8	7.4	13.5	-6.1	55.0	-288	-0.17	8,708	8.06	8.24
16	Houston Suburbs	R	166,647	122,271	108,180	80.7	9.3	21.1	-11.8	44.2	-990	-0.59	198	0.18	0.77
17	Central Texas	R	163,480	121,295	112,125	61.1	27.0	33.4	-6.4	80.9	-4157	-2.48	4,143	3.84	6.32
18	Southeast TX	R	169,888	132,877	126,560	71.3	8.1	14.2	-6.1	57.0	2251	1.34	18,578	17.20	15.86
19	Southeast TX	R	171,969	131,682	128,705	82.5	3.7	6.3	-2.6	58.3	4332	2.58	20,723	19.19	16.61
20	Central Texas	R	159,816	121,754	115,395	82.8	10.3	16.6	-6.2	62.4	-7821	-4.67	7,413	6.87	11.53
21	Southeast TX	R	172,180	130,308	121,365	82.0	5.2	9.3	-4.1	55.7	4543	2.71	13,383	12.39	9.68
23	Houston Suburbs	R	163,720	123,736	111,960	59.8	16.6	22.7	-6.1	73.2	-3917	-2.34	3,978	3.68	6.02
24	Houston Suburbs	R	162,685	118,491	118,260	74.8	11.3	15.6	-4.3	72.3	-4952	-2.95	10,278	9.52	12.47
25	Houston Suburbs	R	174,168	129,041	121,250	62.4	20.8	27.4	-6.6	75.9	6531	3.90	13,268	12.29	8.39
26	Houston Suburbs	R	160,091	117,247	97,320	52.2	11.6	14.9	-3.3	77.8	-7546	-4.50	-10,662	-9.87	-5.37
28	Houston Suburbs	R	160,373	107,968	100,995	53.3	15.6	20.6	-5.0	75.8	-7264	-4.33	-6,987	-6.47	-2.14
29	Houston Suburbs	R	175,700	124,171	116,165	57.5	17.4	23.2	-5.8	74.9	8063	4.81	8,183	7.58	2.77
30	Central Texas	R	166,022	124,729	121,220	59.0	31.8	35.2	-3.4	90.4	-1615	-0.96	13,238	12.26	13.22
32	S Tex RG Valley	R	167,074	126,072	124,080	46.8	44.2	45.9	-1.6	96.5	-563	-0.34	16,098	14.91	15.24
33	DFW Suburbs	R	172,135	119,518	115,655	77.9	8.5	13.5	-4.9	63.5	4498	2.68	7,673	7.11	4.42
43	S Tex RG Valley	R	169,564	124,492	120,575	35.8	57.7	59.8	-2.1	96.5	1927	1.15	12,593	11.66	10.51
44	Central Texas	R	174,451	126,713	125,720	60.9	29.7	32.7	-3.0	90.9	6814	4.06	17,738	16.43	12.36
45	Austin Area	R	167,604	126,549	124,330	66.7	25.5	30.0	-4.6	84.8	-33	-0.02	16,348	15.14	15.16
47	Austin Area	R	175,314	127,689	125,095	80.3	12.3	12.6	-0.3	97.7	7677	4.58	17,113	15.85	11.27
52	Austin Area	R	165,994	114,146	111,445	62.8	19.6	26.7	-7.1	73.5	-1643	-0.98	3,463	3.21	4.19

Table 6 - Page 1 of 4

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
53	West Texas	R	162,897	127,381	123,515	72.2	23.1	26.8	-3.7	86.3	-4740	-2.83	15,533	14.38	17.21
54	Central Texas	R	167,736	117,164	112,385	51.6	15.8	17.6	-1.9	89.5	99	0.06	4,403	4.08	4.02
55	Central Texas	R	162,176	119,755	116,635	64.4	14.9	19.4	-4.5	76.8	-5461	-3.26	8,653	8.01	11.27
56	Central Texas	R	163,869	123,411	117,985	72.6	12.4	17.8	-5.4	69.7	-3768	-2.25	10,003	9.26	11.51
57	Southeast TX	R	164,418	124,630	118,140	72.8	7.2	13.0	-5.8	55.5	-3219	-1.92	10,158	9.41	11.33
58	Central Texas	R	169,146	123,826	118,105	84.2	8.7	14.9	-6.1	58.8	1509	0.90	10,123	9.37	8.47
59	Central Texas	R	163,609	122,193	118,030	75.9	11.4	15.6	-4.2	73.1	-4028	-2.40	10,048	9.31	11.71
60	West Texas	R	171,429	131,870	127,825	86.9	9.2	11.8	-2.6	78.0	3792	2.26	19,843	18.38	16.11
61	DFW Suburbs	R	176,054	130,782	128,065	88.5	6.0	10.6	-4.6	56.9	8417	5.02	20,083	18.60	13.58
62	Northeast TX	R	160,023	122,203	117,530	85.0	4.2	8.6	-4.4	49.0	-7614	-4.54	9,548	8.84	13.38
63	DFW Suburbs	R	167,337	115,634	113,605	80.8	8.0	13.1	-5.1	61.2	-300	-0.18	5,623	5.21	5.39
64	DFW Suburbs	R	167,588	129,175	116,875	75.0	10.1	16.6	-6.5	60.8	-49	-0.03	8,893	8.24	8.26
65	DFW Suburbs	R	165,742	124,977	109,350	62.3	9.8	18.6	-8.8	52.5	-1895	-1.13	1,368	1.27	2.40
66	DFW Suburbs	R	172,129	130,796	113,390	69.7	6.0	9.1	-3.1	65.8	4492	2.68	5,408	5.01	2.33
67	DFW Suburbs	R	172,141	126,368	111,250	70.1	7.5	13.9	-6.4	54.0	4504	2.69	3,268	3.03	0.34
68	West Texas	R	160,508	121,547	112,760	80.9	12.8	18.5	-5.7	69.1	-7129	-4.25	4,778	4.42	8.68
69	West Texas	R	160,087	123,063	117,450	77.2	9.7	12.9	-3.2	75.3	-7550	-4.50	9,468	8.77	13.27
70	DFW Suburbs	R	172,135	117,432	110,995	75.3	10.0	15.9	-5.9	62.9	4498	2.68	3,013	2.79	0.11
71	West Texas	R	166,924	127,097	123,650	71.2	17.9	20.1	-2.1	89.4	-713	-0.43	15,668	14.51	14.94
72	West Texas	R	170,479	130,771	123,075	64.6	27.6	32.3	-4.8	85.3	2842	1.70	15,093	13.98	12.28
73	Bexar	R	166,719	127,882	126,130	79.7	16.6	19.8	-3.3	83.6	-918	-0.55	18,148	16.81	17.35
81	West Texas	R	169,684	120,535	108,980	51.8	39.0	46.9	-7.9	83.2	2047	1.22	998	0.92	-0.30
82	West Texas	R	163,234	118,623	113,415	59.3	28.6	35.2	-6.6	81.2	-4403	-2.63	5,433	5.03	7.66
83	West Texas	R	173,918	127,906	123,330	67.1	24.9	28.1	-3.2	88.8	6281	3.75	15,348	14.21	10.47
84	West Texas	R	167,970	128,898	124,075	58.7	28.0	30.2	-2.2	92.8	333	0.20	16,093	14.90	14.70
85	Houston Suburbs	R	160,182	113,433	102,620	48.3	27.5	35.1	-7.6	78.5	-7455	-4.45	-5,362	-4.97	-0.52
86	West Texas	R	165,183	121,555	115,915	76.4	16.5	22.3	-5.8	73.9	-2454	-1.46	7,933	7.35	8.81
87	West Texas	R	174,343	125,360	109,320	65.0	21.8	29.7	-7.9	73.3	6706	4.00	1,338	1.24	-2.76
88	West Texas	R	160,896	115,622	103,670	60.9	29.4	38.9	-9.5	75.7	-6741	-4.02	-4,312	-3.99	0.03
89	DFW Suburbs	R	172,138	118,380	116,895	72.4	8.9	13.0	-4.2	68.0	4501	2.68	8,913	8.25	5.57
91	Tarrant Cnty	R	162,838	119,048	108,845	75.9	10.9	18.2	-7.2	60.2	-4799	-2.86	863	0.80	3.66
92	Tarrant Cnty	R	162,326	126,290	116,980	70.3	9.6	14.5	-4.9	66.1	-5311	-3.17	8,998	8.33	11.50
93	Tarrant Cnty	R	162,161	113,584	103,455	64.1	14.8	22.8	-8.0	65.0	-5476	-3.27	-4,527	-4.19	-0.93
94	Tarrant Cnty	R	167,374	125,516	114,195	69.8	10.2	15.3	-5.2	66.3	-263	-0.16	6,213	5.75	5.91
96	Tarrant Cnty	R	164,930	113,924	109,035	65.5	10.1	15.2	-5.1	66.5	-2707	-1.61	1,053	0.98	2.59
97	Tarrant Cnty	R	168,869	131,311	122,870	70.5	9.8	15.7	-5.9	62.3	1232	0.73	14,888	13.79	13.05
98	Tarrant Cnty	R	164,081	114,953	114,875	83.7	6.7	9.8	-3.1	68.8	-3556	-2.12	6,893	6.38	8.50
99	Tarrant Cnty	R	170,473	125,722	116,830	74.7	14.7	20.1	-5.4	73.1	2836	1.69	8,848	8.19	6.50
102	Dallas Cnty	R	161,136	122,520	96,850	65.0	11.3	24.1	-12.8	46.8	-6501	-3.88	-11,132	-10.31	-6.43
105	Dallas Cnty	R	175,728	127,590	95,900	51.1	24.1	39.2	-15.1	61.4	8091	4.83	-12,082	-11.19	-16.02
106	DFW Suburbs	R	161,947	110,568	107,290	76.1	8.8	14.7	-5.9	60.1	-5690	-3.39	-692	-0.64	2.75
107	Dallas Cnty	R	171,872	123,986	108,045	57.9	15.6	28.9	-13.4	53.8	4235	2.53	63	0.06	-2.47

Table 6 - Page 2 of 4

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVP	PCT HVAP	%HVAP - %HCVP	%HCVP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
108	Dallas Cnty	R	163,233	133,667	122,505	74.3	13.6	19.5	-6.0	69.4	-4404	-2.63	14,523	13.45	16.08
112	Dallas Cnty	R	167,051	120,192	97,965	54.9	14.8	26.3	-11.5	56.4	-586	-0.35	-10,017	-9.28	-8.93
113	Dallas Cnty	R	171,418	120,834	106,040	53.5	15.3	26.0	-10.8	58.6	3781	2.26	-1,942	-1.80	-4.05
114	Dallas Cnty	R	172,330	130,817	105,540	68.2	11.0	24.2	-13.2	45.6	4693	2.80	-2,442	-2.26	-5.06
115	Dallas Cnty	R	171,802	127,352	100,760	58.5	16.7	24.4	-7.8	68.2	4165	2.48	-7,222	-6.69	-9.17
117	Bexar	R	168,692	117,126	111,045	32.3	60.9	58.8	2.1	103.6	1055	0.63	3,063	2.84	2.21
121	Bexar	R	174,867	133,224	128,905	61.0	26.7	31.4	-4.6	85.2	7230	4.31	20,923	19.38	15.06
122	Bexar	R	175,184	128,725	124,270	64.8	23.4	27.8	-4.3	84.4	7547	4.50	16,288	15.08	10.58
126	Houston	R	169,256	123,014	99,335	51.8	17.0	26.8	-9.9	63.2	1619	0.97	-8,647	-8.01	-8.97
127	Houston	R	163,983	115,865	114,290	67.1	12.4	18.1	-5.7	68.6	-3654	-2.18	6,308	5.84	8.02
128	Houston	R	172,221	124,645	116,020	66.4	17.1	25.0	-7.9	68.5	4584	2.73	8,038	7.44	4.71
129	Houston	R	174,127	130,457	121,280	62.9	13.6	20.4	-6.8	66.5	6490	3.87	13,298	12.32	8.44
130	Houston	R	175,532	122,108	119,770	71.6	11.6	17.7	-6.2	65.3	7895	4.71	11,788	10.92	6.21
132	Houston	R	172,973	117,666	109,150	52.4	20.6	33.0	-12.4	62.5	5336	3.18	1,168	1.08	-2.10
133	Houston	R	171,401	135,423	114,530	70.2	9.5	14.7	-5.2	64.6	3764	2.25	6,548	6.06	3.82
134	Houston	R	174,421	143,575	130,040	74.7	11.0	13.3	-2.3	82.6	6784	4.05	22,058	20.43	16.38
135	Houston	R	172,422	121,136	99,750	50.0	18.2	28.5	-10.3	64.0	4785	2.85	-8,232	-7.62	-10.48
136	Austin Area	R	164,376	116,361	113,740	72.8	12.9	16.3	-3.4	79.1	-3261	-1.95	5,758	5.33	7.28
138	Houston	R	173,059	124,435	98,420	50.3	22.3	41.3	-19.0	54.0	5422	3.23	-9,562	-8.86	-12.09
150	Houston	R	168,735	120,462	109,725	66.0	12.3	21.0	-8.7	58.7	1098	0.65	1,743	1.61	0.96

Average Deviation (97 Districts) 6.37

22	Southeast TX	D	161,930	122,897	115,525	37.0	7.7	15.7	-8.0	49.0	-5707	-3.40	7,543	6.99	10.39
27	Houston Suburbs	D	160,084	113,596	104,295	26.2	14.8	19.7	-4.8	75.4	-7553	-4.51	-3,687	-3.41	1.09
31	S Tex RG Valley	D	171,858	121,699	104,285	23.1	73.9	77.7	-3.8	95.1	4221	2.52	-3,697	-3.42	-5.94
34	S Tex RG Valley	D	173,149	125,896	117,465	28.0	64.6	67.7	-3.1	95.4	5512	3.29	9,483	8.78	5.49
35	S Tex RG Valley	D	168,627	109,154	77,585	18.6	78.9	85.1	-6.2	92.7	990	0.59	-30,397	-28.15	-28.74
36	S Tex RG Valley	D	168,963	110,963	76,060	11.9	86.0	90.8	-4.8	94.7	1326	0.79	-31,922	-29.56	-30.35
37	S Tex RG Valley	D	169,088	113,454	78,885	15.5	81.5	87.1	-5.6	93.6	1451	0.87	-29,097	-26.95	-27.81
38	S Tex RG Valley	D	168,214	110,865	92,195	13.5	80.2	86.7	-6.4	92.6	577	0.34	-15,787	-14.62	-14.96
39	S Tex RG Valley	D	168,659	110,751	85,015	14.6	78.9	88.0	-9.1	89.7	1022	0.61	-22,967	-21.27	-21.88
40	S Tex RG Valley	D	168,662	108,086	79,875	8.2	88.4	92.1	-3.8	95.9	1025	0.61	-28,107	-26.03	-26.64
41	S Tex RG Valley	D	168,776	115,033	88,365	17.9	75.7	80.4	-4.6	94.2	1139	0.68	-19,617	-18.17	-18.85
42	S Tex RG Valley	D	167,668	111,699	84,125	5.4	91.2	95.0	-3.9	95.9	31	0.02	-23,857	-22.09	-22.11
46	Austin Area	D	166,410	118,539	94,335	41.6	24.6	41.6	-16.9	59.3	-1227	-0.73	-13,647	-12.64	-11.91
48	Austin Area	D	173,008	135,585	127,810	74.4	16.7	20.4	-3.7	81.9	5371	3.20	19,828	18.36	15.16
49	Austin Area	D	167,309	144,371	130,085	73.1	14.3	21.6	-7.3	66.2	-328	-0.20	22,103	20.47	20.66
50	Austin Area	D	166,516	124,252	110,735	57.5	17.7	25.3	-7.6	69.9	-1121	-0.67	2,753	2.55	3.22
51	Austin Area	D	175,709	128,793	98,320	41.5	44.0	56.2	-12.2	78.3	8072	4.82	-9,662	-8.95	-13.76
74	S Tex RG Valley	D	162,357	115,236	91,345	24.6	69.4	76.6	-7.3	90.5	-5280	-3.15	-16,637	-15.41	-12.26

Table 6 - Page 3 of 4

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVP	PCT HVAP	%HVAP - %HCVP	%HCVP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
75	El Paso	D	159,691	103,209	77,455	8.9	89.0	91.8	-2.8	97.0	-7946	-4.74	-30,527	-28.27	-23.53
76	El Paso	D	159,752	116,389	94,705	11.2	83.5	87.3	-3.7	95.7	-7885	-4.70	-13,277	-12.30	-7.59
77	El Paso	D	160,385	115,924	90,830	22.9	69.6	76.0	-6.4	91.6	-7252	-4.33	-17,152	-15.88	-11.56
78	El Paso	D	160,161	111,913	98,925	31.6	58.3	64.7	-6.4	90.0	-7476	-4.46	-9,057	-8.39	-3.93
79	El Paso	D	160,658	112,399	98,435	17.0	76.7	79.9	-3.2	96.0	-6979	-4.16	-9,547	-8.84	-4.68
80	S Tex RG Valley	D	161,949	106,402	86,650	15.5	78.7	86.1	-7.4	91.4	-5688	-3.39	-21,332	-19.76	-16.36
90	Tarrant Cnty	D	159,684	105,664	71,770	27.9	49.0	70.7	-21.7	69.3	-7953	-4.74	-36,212	-33.54	-28.79
95	Tarrant Cnty	D	161,634	115,752	96,150	32.9	12.9	24.3	-11.4	53.0	-6003	-3.58	-11,832	-10.96	-7.38
100	Dallas Cnty	D	161,143	117,479	97,410	29.8	18.3	33.1	-14.8	55.2	-6494	-3.87	-10,572	-9.79	-5.92
101	Tarrant Cnty	D	164,664	110,209	92,990	35.5	19.7	32.5	-12.8	60.6	-2973	-1.77	-14,992	-13.88	-12.11
103	Dallas Cnty	D	170,948	121,837	71,970	39.0	42.7	64.3	-21.7	66.3	3311	1.98	-36,012	-33.35	-35.33
104	Dallas Cnty	D	172,784	115,035	78,780	25.3	51.7	69.2	-17.5	74.7	5147	3.07	-29,202	-27.04	-30.11
109	Dallas Cnty	D	174,223	122,347	112,780	23.4	11.4	20.0	-8.6	57.0	6586	3.93	4,798	4.44	0.51
110	Dallas Cnty	D	167,508	111,827	83,885	14.6	24.9	45.5	-20.6	54.7	-129	-0.08	-24,097	-22.32	-22.24
111	Dallas Cnty	D	166,963	118,393	103,410	24.2	15.1	25.5	-10.3	59.4	-674	-0.40	-4,572	-4.23	-3.83
116	Bexar	D	171,463	132,823	115,470	32.3	57.1	59.9	-2.8	95.3	3826	2.28	7,488	6.93	4.65
118	Bexar	D	164,436	116,859	106,575	28.1	67.1	68.7	-1.6	97.6	-3201	-1.91	-1,407	-1.30	0.61
119	Bexar	D	159,981	114,477	106,465	28.5	58.3	62.7	-4.4	93.0	-7656	-4.57	-1,517	-1.40	3.16
120	Bexar	D	175,132	124,829	114,810	30.6	34.1	42.2	-8.1	80.9	7495	4.47	6,828	6.32	1.85
123	Bexar	D	175,674	135,763	119,930	30.6	62.3	66.5	-4.2	93.7	8037	4.79	11,948	11.06	6.27
124	Bexar	D	174,795	120,503	115,090	24.8	62.4	66.0	-3.6	94.6	7158	4.27	7,108	6.58	2.31
125	Bexar	D	174,549	125,158	115,800	26.3	64.3	69.1	-4.8	93.1	6912	4.12	7,818	7.24	3.12
131	Houston	D	175,227	121,368	93,535	13.2	24.0	41.2	-17.2	58.3	7590	4.53	-14,447	-13.38	-17.91
137	Houston	D	171,079	127,834	64,375	32.5	22.0	51.5	-29.6	42.6	3442	2.05	-43,607	-40.38	-42.44
139	Houston	D	175,733	123,875	100,540	21.6	19.0	35.8	-16.7	53.2	8096	4.83	-7,442	-6.89	-11.72
140	Houston	D	170,732	112,332	69,415	17.2	58.5	75.8	-17.2	77.3	3095	1.85	-38,567	-35.72	-37.56
141	Houston	D	166,498	113,951	92,390	13.5	18.2	37.6	-19.4	48.4	-1139	-0.68	-15,592	-14.44	-13.76
142	Houston	D	159,541	113,288	91,845	20.3	21.3	35.0	-13.7	60.8	-8096	-4.83	-16,137	-14.94	-10.11
143	Houston	D	167,215	113,877	84,625	23.7	53.0	69.4	-16.4	76.4	-422	-0.25	-23,357	-21.63	-21.38
144	Houston	D	161,859	108,509	75,785	34.9	50.3	69.8	-19.5	72.1	-5778	-3.45	-32,197	-29.82	-26.37
145	Houston	D	164,574	116,918	83,645	28.4	55.6	69.8	-14.2	79.7	-3063	-1.83	-24,337	-22.54	-20.71
146	Houston	D	174,485	130,444	97,195	24.7	11.2	27.3	-16.1	41.0	6848	4.09	-10,787	-9.99	-14.07
147	Houston	D	175,873	136,034	114,905	28.9	18.4	31.2	-12.8	59.0	8236	4.91	6,923	6.41	1.50
148	Houston	D	170,811	125,873	91,615	40.1	43.5	61.1	-17.6	71.2	3174	1.89	-16,367	-15.16	-17.05
149	Houston	D	170,702	121,535	89,230	27.0	19.1	33.8	-14.7	56.6	3065	1.83	-18,752	-17.37	-19.19
														-618.03	
														Average Deviation (53 Districts)	-11.66

Note: The Ideal CVAP Population is 107,982. The ideal TPOP Deviation is 167,637.
 Source is Texas Legislative Council at <ftp://ftp.gis1.tlc.state.tx.us/PlanH358/Reports/Excel/>
 Note: CVAP data is from 2010 ACS (2005 through 2009)

TABLE 7
STATE OF TEXAS
STATE HOUSE OF REPRESENTATIVES
83rd Legislature - 1st Called Session - S.B. 3 (June 2013)
Citizen Voting Age Population Analysis Using American Community Survey
Sorted by Percent TPOP Deviation

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
61	DFW Suburbs	R	176,054	130,782	128,065	88.5	6.0	10.6	-4.6	56.9	8417	5.02	20,083	18.60	13.58
147	Houston	D	175,873	136,034	114,905	28.9	18.4	31.2	-12.8	59.0	8236	4.91	6,923	6.41	1.50
139	Houston	D	175,733	123,875	100,540	21.6	19.0	35.8	-16.7	53.2	8096	4.83	-7,442	-6.89	-11.72
105	Dallas Cnty	R	175,728	127,590	95,900	51.1	24.1	39.2	-15.1	61.4	8091	4.83	-12,082	-11.19	-16.02
51	Austin Area	D	175,709	128,793	98,320	41.5	44.0	56.2	-12.2	78.3	8072	4.82	-9,662	-8.95	-13.76
29	Houston Suburbs	R	175,700	124,171	116,165	57.5	17.4	23.2	-5.8	74.9	8063	4.81	8,183	7.58	2.77
123	Bexar	D	175,674	135,763	119,930	30.6	62.3	66.5	-4.2	93.7	8037	4.79	11,948	11.06	6.27
130	Houston	R	175,532	122,108	119,770	71.6	11.6	17.7	-6.2	65.3	7895	4.71	11,788	10.92	6.21
47	Austin Area	R	175,314	127,689	125,095	80.3	12.3	12.6	-0.3	97.7	7677	4.58	17,113	15.85	11.27
131	Houston	D	175,227	121,368	93,535	13.2	24.0	41.2	-17.2	58.3	7590	4.53	-14,447	-13.38	-17.91
122	Bexar	R	175,184	128,725	124,270	64.8	23.4	27.8	-4.3	84.4	7547	4.50	16,288	15.08	10.58
120	Bexar	D	175,132	124,829	114,810	30.6	34.1	42.2	-8.1	80.9	7495	4.47	6,828	6.32	1.85
121	Bexar	R	174,867	133,224	128,905	61.0	26.7	31.4	-4.6	85.2	7230	4.31	20,923	19.38	15.06
124	Bexar	D	174,795	120,503	115,090	24.8	62.4	66.0	-3.6	94.6	7158	4.27	7,108	6.58	2.31
125	Bexar	D	174,549	125,158	115,800	26.3	64.3	69.1	-4.8	93.1	6912	4.12	7,818	7.24	3.12
146	Houston	D	174,485	130,444	97,195	24.7	11.2	27.3	-16.1	41.0	6848	4.09	-10,787	-9.99	-14.07
44	Central Texas	R	174,451	126,713	125,720	60.9	29.7	32.7	-3.0	90.9	6814	4.06	17,738	16.43	12.36
134	Houston	R	174,421	143,575	130,040	74.7	11.0	13.3	-2.3	82.6	6784	4.05	22,058	20.43	16.38
87	West Texas	R	174,343	125,360	109,320	65.0	21.8	29.7	-7.9	73.3	6706	4.00	1,338	1.24	-2.76
109	Dallas Cnty	D	174,223	122,347	112,780	23.4	11.4	20.0	-8.6	57.0	6586	3.93	4,798	4.44	0.51
25	Houston Suburbs	R	174,168	129,041	121,250	62.4	20.8	27.4	-6.6	75.9	6531	3.90	13,268	12.29	8.39
129	Houston	R	174,127	130,457	121,280	62.9	13.6	20.4	-6.8	66.5	6490	3.87	13,298	12.32	8.44
83	West Texas	R	173,918	127,906	123,330	67.1	24.9	28.1	-3.2	88.8	6281	3.75	15,348	14.21	10.47
2	Northeast TX	R	173,869	130,806	124,825	85.1	5.5	10.0	-4.5	55.2	6232	3.72	16,843	15.60	11.88
34	S Tex RG Valley	D	173,149	125,896	117,465	28.0	64.6	67.7	-3.1	95.4	5512	3.29	9,483	8.78	5.49
138	Houston	R	173,059	124,435	98,420	50.3	22.3	41.3	-19.0	54.0	5422	3.23	-9,562	-8.86	-12.09
48	Austin Area	D	173,008	135,585	127,810	74.4	16.7	20.4	-3.7	81.9	5371	3.20	19,828	18.36	15.16
132	Houston	R	172,973	117,666	109,150	52.4	20.6	33.0	-12.4	62.5	5336	3.18	1,168	1.08	-2.10
104	Dallas Cnty	D	172,784	115,035	78,780	25.3	51.7	69.2	-17.5	74.7	5147	3.07	-29,202	-27.04	-30.11
135	Houston	R	172,422	121,136	99,750	50.0	18.2	28.5	-10.3	64.0	4785	2.85	-8,232	-7.62	-10.48
114	Dallas Cnty	R	172,330	130,817	105,540	68.2	11.0	24.2	-13.2	45.6	4693	2.80	-2,442	-2.26	-5.06
128	Houston	R	172,221	124,645	116,020	66.4	17.1	25.0	-7.9	68.5	4584	2.73	8,038	7.44	4.71
21	Southeast TX	R	172,180	130,308	121,365	82.0	5.2	9.3	-4.1	55.7	4543	2.71	13,383	12.39	9.68
67	DFW Suburbs	R	172,141	126,368	111,250	70.1	7.5	13.9	-6.4	54.0	4504	2.69	3,268	3.03	0.34
89	DFW Suburbs	R	172,138	118,380	116,895	72.4	8.9	13.0	-4.2	68.0	4501	2.68	8,913	8.25	5.57

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A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
33	DFW Suburbs	R	172,135	119,518	115,655	77.9	8.5	13.5	-4.9	63.5	4498	2.68	7,673	7.11	4.42
70	DFW Suburbs	R	172,135	117,432	110,995	75.3	10.0	15.9	-5.9	62.9	4498	2.68	3,013	2.79	0.11
66	DFW Suburbs	R	172,129	130,796	113,390	69.7	6.0	9.1	-3.1	65.8	4492	2.68	5,408	5.01	2.33
19	Southeast TX	R	171,969	131,682	128,705	82.5	3.7	6.3	-2.6	58.3	4332	2.58	20,723	19.19	16.61
107	Dallas Cnty	R	171,872	123,986	108,045	57.9	15.6	28.9	-13.4	53.8	4235	2.53	63	0.06	-2.47
31	S Tex RG Valley	D	171,858	121,699	104,285	23.1	73.9	77.7	-3.8	95.1	4221	2.52	-3,697	-3.42	-5.94
115	Dallas Cnty	R	171,802	127,352	100,760	58.5	16.7	24.4	-7.8	68.2	4165	2.48	-7,222	-6.69	-9.17
116	Bexar	D	171,463	132,823	115,470	32.3	57.1	59.9	-2.8	95.3	3826	2.28	7,488	6.93	4.65
60	West Texas	R	171,429	131,870	127,825	86.9	9.2	11.8	-2.6	78.0	3792	2.26	19,843	18.38	16.11
113	Dallas Cnty	R	171,418	120,834	106,040	53.5	15.3	26.0	-10.8	58.6	3781	2.26	-1,942	-1.80	-4.05
133	Houston	R	171,401	135,423	114,530	70.2	9.5	14.7	-5.2	64.6	3764	2.25	6,548	6.06	3.82
137	Houston	D	171,079	127,834	64,375	32.5	22.0	51.5	-29.6	42.6	3442	2.05	-43,607	-40.38	-42.44
103	Dallas Cnty	D	170,948	121,837	71,970	39.0	42.7	64.3	-21.7	66.3	3311	1.98	-36,012	-33.35	-35.33
148	Houston	D	170,811	125,873	91,615	40.1	43.5	61.1	-17.6	71.2	3174	1.89	-16,367	-15.16	-17.05
140	Houston	D	170,732	112,332	69,415	17.2	58.5	75.8	-17.2	77.3	3095	1.85	-38,567	-35.72	-37.56
149	Houston	D	170,702	121,535	89,230	27.0	19.1	33.8	-14.7	56.6	3065	1.83	-18,752	-17.37	-19.19
13	Central Texas	R	170,617	131,129	123,515	75.2	9.5	15.9	-6.4	59.7	2980	1.78	15,533	14.38	12.61
72	West Texas	R	170,479	130,771	123,075	64.6	27.6	32.3	-4.8	85.3	2842	1.70	15,093	13.98	12.28
99	Tarrant Cnty	R	170,473	125,722	116,830	74.7	14.7	20.1	-5.4	73.1	2836	1.69	8,848	8.19	6.50
18	Southeast TX	R	169,888	132,877	126,560	71.3	8.1	14.2	-6.1	57.0	2251	1.34	18,578	17.20	15.86
81	West Texas	R	169,684	120,535	108,980	51.8	39.0	46.9	-7.9	83.2	2047	1.22	998	0.92	-0.30
43	S Tex RG Valley	R	169,564	124,492	120,575	35.8	57.7	59.8	-2.1	96.5	1927	1.15	12,593	11.66	10.51
126	Houston	R	169,256	123,014	99,335	51.8	17.0	26.8	-9.9	63.2	1619	0.97	-8,647	-8.01	-8.97
58	Central Texas	R	169,146	123,826	118,105	84.2	8.7	14.9	-6.1	58.8	1509	0.90	10,123	9.37	8.47
37	S Tex RG Valley	D	169,088	113,454	78,885	15.5	81.5	87.1	-5.6	93.6	1451	0.87	-29,097	-26.95	-27.81
36	S Tex RG Valley	D	168,963	110,963	76,060	11.9	86.0	90.8	-4.8	94.7	1326	0.79	-31,922	-29.56	-30.35
97	Tarrant Cnty	R	168,869	131,311	122,870	70.5	9.8	15.7	-5.9	62.3	1232	0.73	14,888	13.79	13.05
41	S Tex RG Valley	D	168,776	115,033	88,365	17.9	75.7	80.4	-4.6	94.2	1139	0.68	-19,617	-18.17	-18.85
150	Houston	R	168,735	120,462	109,725	66.0	12.3	21.0	-8.7	58.7	1098	0.65	1,743	1.61	0.96
11	Northeast TX	R	168,699	128,086	118,640	72.2	5.7	13.9	-8.3	40.6	1062	0.63	10,658	9.87	9.24
117	Bexar	R	168,692	117,126	111,045	32.3	60.9	58.8	2.1	103.6	1055	0.63	3,063	2.84	2.21
40	S Tex RG Valley	D	168,662	108,086	79,875	8.2	88.4	92.1	-3.8	95.9	1025	0.61	-28,107	-26.03	-26.64
39	S Tex RG Valley	D	168,659	110,751	85,015	14.6	78.9	88.0	-9.1	89.7	1022	0.61	-22,967	-21.27	-21.88
35	S Tex RG Valley	D	168,627	109,154	77,585	18.6	78.9	85.1	-6.2	92.7	990	0.59	-30,397	-28.15	-28.74
4	DFW Suburbs	R	168,429	123,603	117,715	81.5	6.3	11.7	-5.4	53.6	792	0.47	9,733	9.01	8.54
38	S Tex RG Valley	D	168,214	110,865	92,195	13.5	80.2	86.7	-6.4	92.6	577	0.34	-15,787	-14.62	-14.96
84	West Texas	R	167,970	128,898	124,075	58.7	28.0	30.2	-2.2	92.8	333	0.20	16,093	14.90	14.70
54	Central Texas	R	167,736	117,164	112,385	51.6	15.8	17.6	-1.9	89.5	99	0.06	4,403	4.08	4.02
42	S Tex RG Valley	D	167,668	111,699	84,125	5.4	91.2	95.0	-3.9	95.9	31	0.02	-23,857	-22.09	-22.11
45	Austin Area	R	167,604	126,549	124,330	66.7	25.5	30.0	-4.6	84.8	-33	-0.02	16,348	15.14	15.16
64	DFW Suburbs	R	167,588	129,175	116,875	75.0	10.1	16.6	-6.5	60.8	-49	-0.03	8,893	8.24	8.26
110	Dallas Cnty	D	167,508	111,827	83,885	14.6	24.9	45.5	-20.6	54.7	-129	-0.08	-24,097	-22.32	-22.24

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A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
94	Tarrant Cnty	R	167,374	125,516	114,195	69.8	10.2	15.3	-5.2	66.3	-263	-0.16	6,213	5.75	5.91
15	Houston Suburbs	R	167,349	120,450	116,690	81.8	7.4	13.5	-6.1	55.0	-288	-0.17	8,708	8.06	8.24
63	DFW Suburbs	R	167,337	115,634	113,605	80.8	8.0	13.1	-5.1	61.2	-300	-0.18	5,623	5.21	5.39
49	Austin Area	D	167,309	144,371	130,085	73.1	14.3	21.6	-7.3	66.2	-328	-0.20	22,103	20.47	20.66
143	Houston	D	167,215	113,877	84,625	23.7	53.0	69.4	-16.4	76.4	-422	-0.25	-23,357	-21.63	-21.38
32	S Tex RG Valley	R	167,074	126,072	124,080	46.8	44.2	45.9	-1.6	96.5	-563	-0.34	16,098	14.91	15.24
112	Dallas Cnty	R	167,051	120,192	97,965	54.9	14.8	26.3	-11.5	56.4	-586	-0.35	-10,017	-9.28	-8.93
111	Dallas Cnty	D	166,963	118,393	103,410	24.2	15.1	25.5	-10.3	59.4	-674	-0.40	-4,572	-4.23	-3.83
71	West Texas	R	166,924	127,097	123,650	71.2	17.9	20.1	-2.1	89.4	-713	-0.43	15,668	14.51	14.94
73	Bexar	R	166,719	127,882	126,130	79.7	16.6	19.8	-3.3	83.6	-918	-0.55	18,148	16.81	17.35
9	Northeast TX	R	166,719	125,947	121,420	75.8	2.5	6.9	-4.4	35.8	-918	-0.55	13,438	12.44	12.99
16	Houston Suburbs	R	166,647	122,271	108,180	80.7	9.3	21.1	-11.8	44.2	-990	-0.59	198	0.18	0.77
50	Austin Area	D	166,516	124,252	110,735	57.5	17.7	25.3	-7.6	69.9	-1121	-0.67	2,753	2.55	3.22
141	Houston	D	166,498	113,951	92,390	13.5	18.2	37.6	-19.4	48.4	-1139	-0.68	-15,592	-14.44	-13.76
46	Austin Area	D	166,410	118,539	94,335	41.6	24.6	41.6	-16.9	59.3	-1227	-0.73	-13,647	-12.64	-11.91
30	Central Texas	R	166,022	124,729	121,220	59.0	31.8	35.2	-3.4	90.4	-1615	-0.96	13,238	12.26	13.22
52	Austin Area	R	165,994	114,146	111,445	62.8	19.6	26.7	-7.1	73.5	-1643	-0.98	3,463	3.21	4.19
1	Northeast TX	R	165,823	125,927	122,470	75.1	3.1	5.8	-2.7	53.5	-1814	-1.08	14,488	13.42	14.50
65	DFW Suburbs	R	165,742	124,977	109,350	62.3	9.8	18.6	-8.8	52.5	-1895	-1.13	1,368	1.27	2.40
86	West Texas	R	165,183	121,555	115,915	76.4	16.5	22.3	-5.8	73.9	-2454	-1.46	7,933	7.35	8.81
3	Houston Suburbs	R	164,955	119,595	109,760	75.4	9.7	20.0	-10.3	48.5	-2682	-1.60	1,778	1.65	3.25
96	Tarrant Cnty	R	164,930	113,924	109,035	65.5	10.1	15.2	-5.1	66.5	-2707	-1.61	1,053	0.98	2.59
101	Tarrant Cnty	D	164,664	110,209	92,990	35.5	19.7	32.5	-12.8	60.6	-2973	-1.77	-14,992	-13.88	-12.11
145	Houston	D	164,574	116,918	83,645	28.4	55.6	69.8	-14.2	79.7	-3063	-1.83	-24,337	-22.54	-20.71
118	Bexar	D	164,436	116,859	106,575	28.1	67.1	68.7	-1.6	97.6	-3201	-1.91	-1,407	-1.30	0.61
57	Southeast TX	R	164,418	124,630	118,140	72.8	7.2	13.0	-5.8	55.5	-3219	-1.92	10,158	9.41	11.33
136	Austin Area	R	164,376	116,361	113,740	72.8	12.9	16.3	-3.4	79.1	-3261	-1.95	5,758	5.33	7.28
98	Tarrant Cnty	R	164,081	114,953	114,875	83.7	6.7	9.8	-3.1	68.8	-3556	-2.12	6,893	6.38	8.50
127	Houston	R	163,983	115,865	114,290	67.1	12.4	18.1	-5.7	68.6	-3654	-2.18	6,308	5.84	8.02
56	Central Texas	R	163,869	123,411	117,985	72.6	12.4	17.8	-5.4	69.7	-3768	-2.25	10,003	9.26	11.51
23	Houston Suburbs	R	163,720	123,736	111,960	59.8	16.6	22.7	-6.1	73.2	-3917	-2.34	3,978	3.68	6.02
59	Central Texas	R	163,609	122,193	118,030	75.9	11.4	15.6	-4.2	73.1	-4028	-2.40	10,048	9.31	11.71
17	Central Texas	R	163,480	121,295	112,125	61.1	27.0	33.4	-6.4	80.9	-4157	-2.48	4,143	3.84	6.32
82	West Texas	R	163,234	118,623	113,415	59.3	28.6	35.2	-6.6	81.2	-4403	-2.63	5,433	5.03	7.66
108	Dallas Cnty	R	163,233	133,667	122,505	74.3	13.6	19.5	-6.0	69.4	-4404	-2.63	14,523	13.45	16.08
14	Central Texas	R	163,187	131,479	114,485	68.6	14.1	21.0	-6.9	67.2	-4450	-2.65	6,503	6.02	8.68
10	DFW Suburbs	R	163,063	116,978	111,680	75.6	13.1	18.7	-5.5	70.4	-4574	-2.73	3,698	3.42	6.15
53	West Texas	R	162,897	127,381	123,515	72.2	23.1	26.8	-3.7	86.3	-4740	-2.83	15,533	14.38	17.21
91	Tarrant Cnty	R	162,838	119,048	108,845	75.9	10.9	18.2	-7.2	60.2	-4799	-2.86	863	0.80	3.66
24	Houston Suburbs	R	162,685	118,491	118,260	74.8	11.3	15.6	-4.3	72.3	-4952	-2.95	10,278	9.52	12.47
74	S Tex RG Valley	D	162,357	115,236	91,345	24.6	69.4	76.6	-7.3	90.5	-5280	-3.15	-16,637	-15.41	-12.26
92	Tarrant Cnty	R	162,326	126,290	116,980	70.3	9.6	14.5	-4.9	66.1	-5311	-3.17	8,998	8.33	11.50

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A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Dist	Area of State	Party	Total	VAP	CVAP	PCT Anglo	PCT HCVAP	PCT HVAP	%HVAP - %HCVAP	%HCVAP/ %HVAP	TPOP Deviation	%TPOP Deviation	CVAP Deviation	% CVAP Deviation	% CVAP Dev - % TPOP Dev
55	Central Texas	R	162,176	119,755	116,635	64.4	14.9	19.4	-4.5	76.8	-5461	-3.26	8,653	8.01	11.27
93	Tarrant Cnty	R	162,161	113,584	103,455	64.1	14.8	22.8	-8.0	65.0	-5476	-3.27	-4,527	-4.19	-0.93
80	S Tex RG Valley	D	161,949	106,402	86,650	15.5	78.7	86.1	-7.4	91.4	-5688	-3.39	-21,332	-19.76	-16.36
106	DFW Suburbs	R	161,947	110,568	107,290	76.1	8.8	14.7	-5.9	60.1	-5690	-3.39	-692	-0.64	2.75
22	Southeast TX	D	161,930	122,897	115,525	37.0	7.7	15.7	-8.0	49.0	-5707	-3.40	7,543	6.99	10.39
144	Houston	D	161,859	108,509	75,785	34.9	50.3	69.8	-19.5	72.1	-5778	-3.45	-32,197	-29.82	-26.37
95	Tarrant Cnty	D	161,634	115,752	96,150	32.9	12.9	24.3	-11.4	53.0	-6003	-3.58	-11,832	-10.96	-7.38
100	Dallas Cnty	D	161,143	117,479	97,410	29.8	18.3	33.1	-14.8	55.2	-6494	-3.87	-10,572	-9.79	-5.92
102	Dallas Cnty	R	161,136	122,520	96,850	65.0	11.3	24.1	-12.8	46.8	-6501	-3.88	-11,132	-10.31	-6.43
8	Central Texas	R	161,098	123,550	114,450	72.1	8.8	15.4	-6.6	57.0	-6539	-3.90	6,468	5.99	9.89
7	Northeast TX	R	161,039	120,296	112,255	74.7	3.9	11.2	-7.3	34.9	-6598	-3.94	4,273	3.96	7.89
88	West Texas	R	160,896	115,622	103,670	60.9	29.4	38.9	-9.5	75.7	-6741	-4.02	-4,312	-3.99	0.03
79	El Paso	D	160,658	112,399	98,435	17.0	76.7	79.9	-3.2	96.0	-6979	-4.16	-9,547	-8.84	-4.68
12	Central Texas	R	160,573	119,556	111,590	64.4	11.8	19.5	-7.7	60.6	-7064	-4.21	3,608	3.34	7.56
68	West Texas	R	160,508	121,547	112,760	80.9	12.8	18.5	-5.7	69.1	-7129	-4.25	4,778	4.42	8.68
77	El Paso	D	160,385	115,924	90,830	22.9	69.6	76.0	-6.4	91.6	-7252	-4.33	-17,152	-15.88	-11.56
28	Houston Suburbs	R	160,373	107,968	100,995	53.3	15.6	20.6	-5.0	75.8	-7264	-4.33	-6,987	-6.47	-2.14
5	Northeast TX	R	160,253	120,169	112,555	78.8	5.2	13.2	-7.9	39.8	-7384	-4.40	4,573	4.23	8.64
85	Houston Suburbs	R	160,182	113,433	102,620	48.3	27.5	35.1	-7.6	78.5	-7455	-4.45	-5,362	-4.97	-0.52
78	El Paso	D	160,161	111,913	98,925	31.6	58.3	64.7	-6.4	90.0	-7476	-4.46	-9,057	-8.39	-3.93
26	Houston Suburbs	R	160,091	117,247	97,320	52.2	11.6	14.9	-3.3	77.8	-7546	-4.50	-10,662	-9.87	-5.37
69	West Texas	R	160,087	123,063	117,450	77.2	9.7	12.9	-3.2	75.3	-7550	-4.50	9,468	8.77	13.27
27	Houston Suburbs	D	160,084	113,596	104,295	26.2	14.8	19.7	-4.8	75.4	-7553	-4.51	-3,687	-3.41	1.09
62	Northeast TX	R	160,023	122,203	117,530	85.0	4.2	8.6	-4.4	49.0	-7614	-4.54	9,548	8.84	13.38
6	Northeast TX	R	160,008	119,154	109,970	70.1	6.5	14.9	-8.3	44.0	-7629	-4.55	1,988	1.84	6.39
119	Bexar	D	159,981	114,477	106,465	28.5	58.3	62.7	-4.4	93.0	-7656	-4.57	-1,517	-1.40	3.16
20	Central Texas	R	159,816	121,754	115,395	82.8	10.3	16.6	-6.2	62.4	-7821	-4.67	7,413	6.87	11.53
76	El Paso	D	159,752	116,389	94,705	11.2	83.5	87.3	-3.7	95.7	-7885	-4.70	-13,277	-12.30	-7.59
75	El Paso	D	159,691	103,209	77,455	8.9	89.0	91.8	-2.8	97.0	-7946	-4.74	-30,527	-28.27	-23.53
90	Tarrant Cnty	D	159,684	105,664	71,770	27.9	49.0	70.7	-21.7	69.3	-7953	-4.74	-36,212	-33.54	-28.79
142	Houston	D	159,541	113,288	91,845	20.3	21.3	35.0	-13.7	60.8	-8096	-4.83	-16,137	-14.94	-10.11

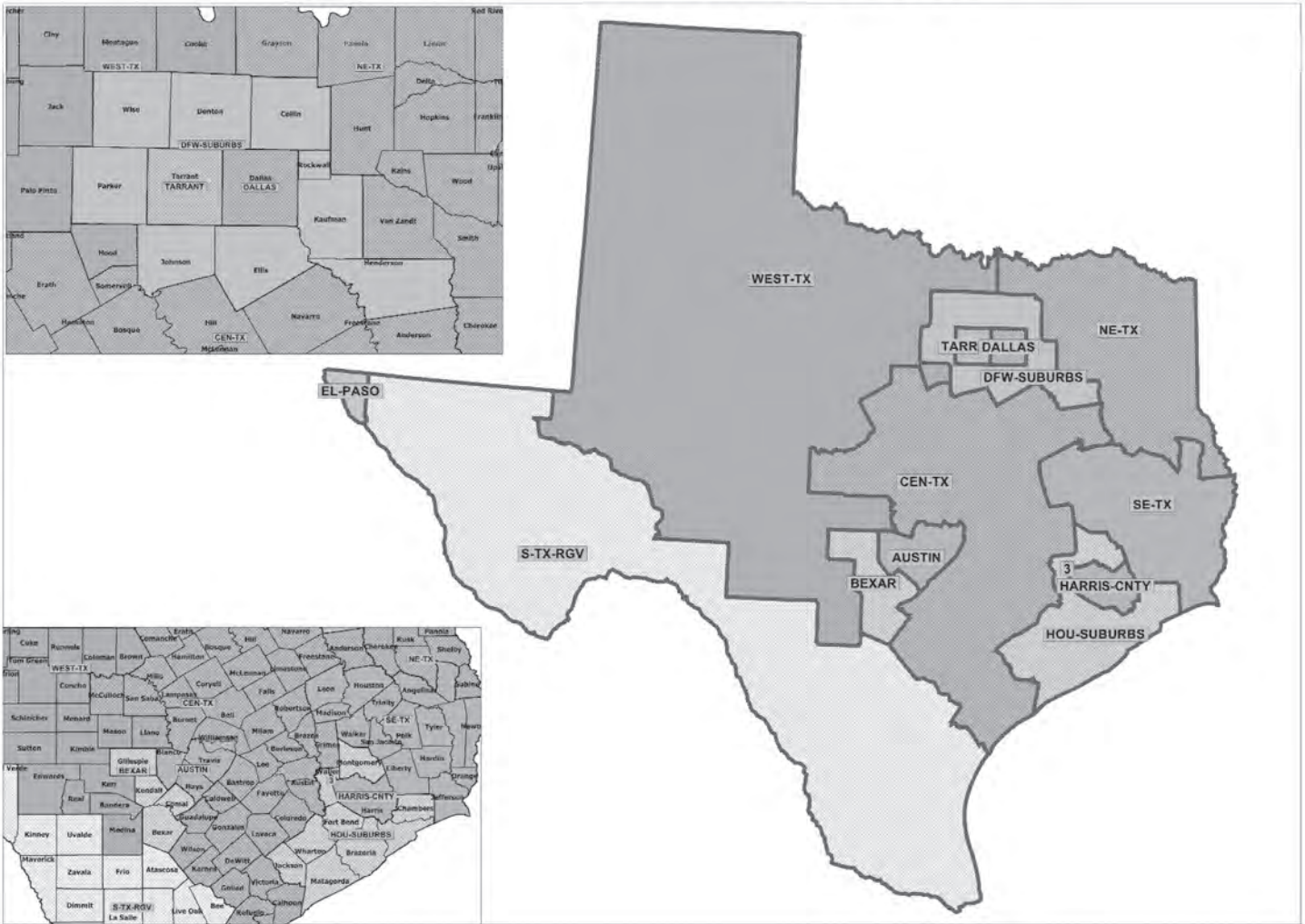
Note: The Ideal CVAP Population is 107,982. The ideal TPOP Deviation is 16,7637.
 Source is Texas Legislative Council at <ftp://ftpgis1.tlc.state.tx.us/PlanH358/Reports/Excel/>
 Note: CVAP data is from 2010 ACS (2005 through 2009)

TABLE 8
Texas Regions Using Whole State House Districts
Showing Gain or Loss of Districts Using CVAP as Population Base

Region of State	Present Districts	Districts Under CVAP	Gain or Loss Under CVAP	Average Pct. Deviation per District
Austin and Suburbs	9	9.6	0.6	6.59
San Antonio and Suburbs	11	11.9	0.9	8.14
Central Texas	13	14.1	1.1	8.4
Dallas County	14	12.8	-1.2	-8.59
Dallas Suburbs	12	12.7	0.7	5.94
Tarrant County	11	10.8	-0.2	-1.67
Harris County	24	22.1	-1.9	-8.11
Houston Suburbs	11	11.2	0.2	1.66
Northeast Texas	8	8.7	0.7	8.78
El Paso County	5	4.3	-0.7	-14.74
Rio Grande Valley and South Texas	14	12.1	-1.9	-13.58
Southeast Texas	5	5.7	0.7	13.04
West Texas	13	14.1	1.1	8.78
State Total	150	150.1	0.1	

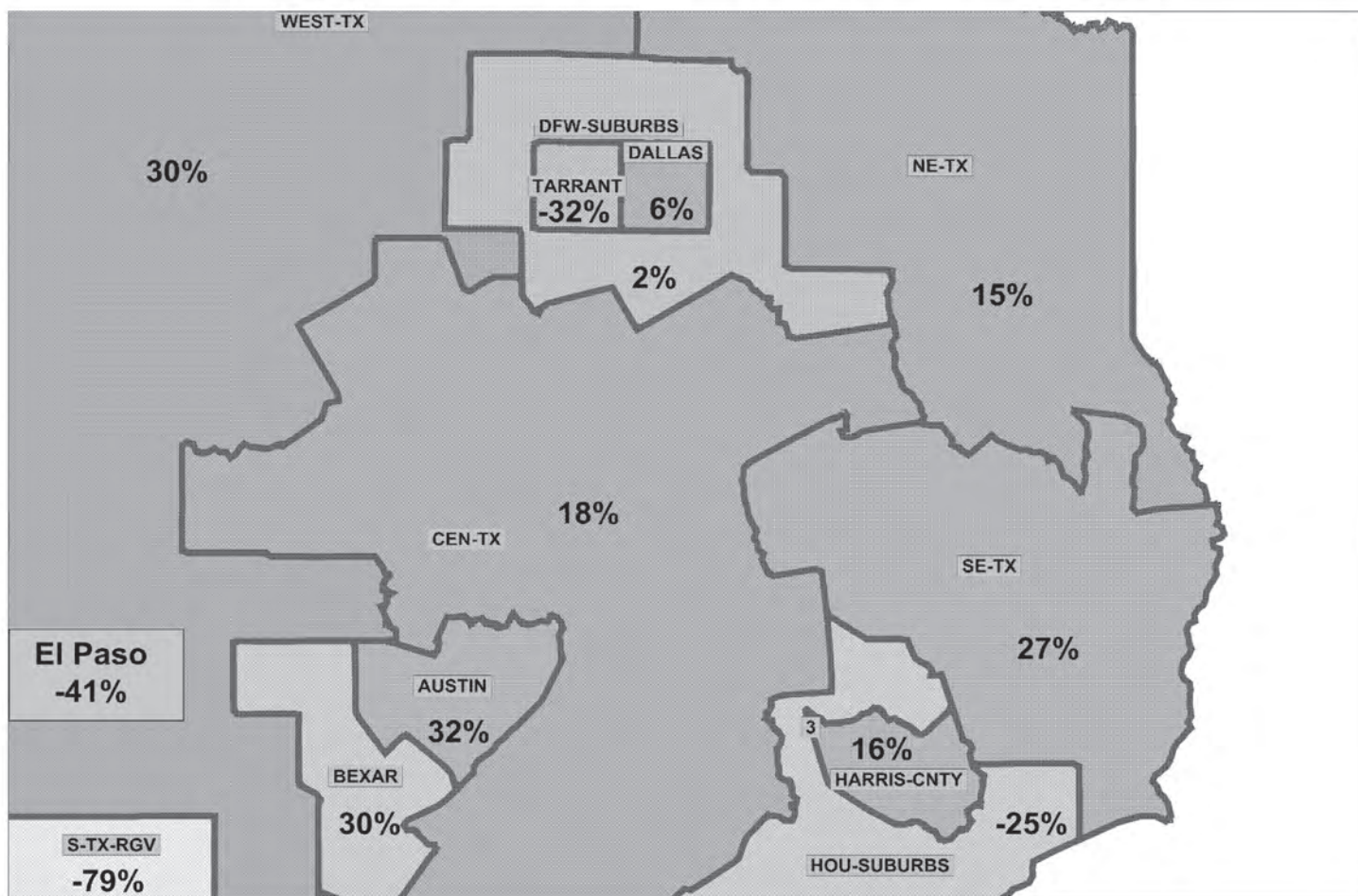
Note: There are small rounding errors.

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MAP 1 - TEXAS CVAP ANALYSIS REGIONS
Using Whole State House Districts



MAP 2 - TEXAS REGIONS

Showing Percentage of a District over or Under Using CVAP



APPENDIX 1

LEGAL PAPER - POPULATION DATABASES

When examining population databases for intrastate redistricting purposes it is important to remember that one may be potentially talking about two sets of data; one used by the state to draw up the plan and possibly another used by the courts to assess "one person one vote." The courts have been clear that population databases in addition to the population database used to judge one person one vote are allowed. The most obvious and prominent example of this is in Hawaii. Hawaii has an interesting factual situation. Because of the large number of military personnel stationed on a variety of Naval, Marine, Army and Air Force installations it is possible with little effort to draw districts which meet the one person one vote standard but only contain a handful of voters. Virtually none of the military personnel in Hawaii are Hawaii voters. Therefore, by grabbing a section of military population that would almost completely constitute a legislative district and including it with a few registered voters, literally a single family could elect a legislator. This is what was referred to in the 19th century as a "rotten borough." As the court stated in *Burns v. Gill*, "if total population were to be the only acceptable criterion upon which legislative representation could be based, in Hawaii grossly absurd and disastrous results would flow... the factors of tourists and the military concentration in particular regions of Oahu... are and apparently will be ever present in Hawaii."⁵⁵ (Emphasis added) Hawaii has attempted to solve this problem by requiring that the numbers of permanent residents and registered voters are equalized in the state's districts.

The courts examined this issue in a series of cases beginning with *Burns v. Richardson*.⁵⁶ In *Richardson* the Supreme Court stated that "we hold the that the present [Hawaii] apportionment satisfies the Equal Protection Clause only because on this record it was found to have produced a distribution of legislators not substantially different from that which would have resulted from the use of a permissible population basis." The Court also observed in a footnote from the same paragraph that the Fourth Circuit in *Ellis v. Mayor & City of Baltimore* had "disapproved a registered voter's basis for apportioning the governing council of Baltimore Maryland. The Court of Appeals held that this basis was permissible only if it yielded results substantially approximating those obtained by use of a total population base."⁵⁷

In the 1980's, a subsequent district court in Hawaii noted the *Ellis* footnote and while conceding that there might be another permissible population base (such as citizen population), registered voters was not such a population base and total population as reported by the census was. As a result, "the plan's [Hawaii's congressional and legislative] failure to replicate the results of a total population-based apportionment creates at least a prima facie showing of invalidity." The court found that once the prima facie case had been made the burden was on the state to justify the deviations.⁵⁸ The *Travis* Court did not forbid the policy of equalizing the voters between the districts but still required that it equalize total population as well.

There can be substantial deviations from an equal distribution of persons across districts depending upon the population base used for apportionment. See *Chen v. City of Houston*, (Thomas, J., dissenting) (stating that whether "population" for purposes of apportionment means "total population" or "citizen voting age population" may "be dispositive of whether" the Equal Protection Clause has been violated)⁵⁹; *Garza v. County of Los Angeles*, (Kozinski, J., concurring

and dissenting in part) (recognizing the potential substantive difference between striving for "equality of population" and "equality of voting strength" in the apportionment process, and stating that "[a]pportionment by population can result in unequally weighted votes, while assuring equality in voting power might well call for districts of unequal population.").⁶⁰

The issue raised in these opinions is whether the mandates of equal protection are related to equality of representation or equality of electoral power. The rhetoric of the apportionment revolution of the 1960s was one person one vote. The Supreme Court talked virtually exclusively about equality of votes. This becomes significant only when there is a disconnect between equality of total population and numbers of voters or potential voters (for example, area with large non-citizen populations or other large non-voting groups).

A similar set of issues is implicated by the recent consideration by many states of legislation which would redistribute the census results so as to reallocate prisoners from the prisons where they were held on the census day to the address which they listed as their residence on the day of their incarceration. At first blush such reallocation would appear to be constitutional, particularly since states like Kansas have reallocated college students from their campuses back to their homes in Kansas.⁶¹ However, unlike Kansas, many of the states considering prisoner reallocation have decided not to count out-of-state prisoners at all. This would appear to conflict with the principles set down in the Hawaii cases. As the court noted in the *Travis* case, having received a second congressional seat the state cannot proceed to ignore the population which allowed this to occur.⁶² A similar issue would appear to be at work if a state simply removed all of the out-of-state prison population from its redistricting population database. Prison population can have significant effects on state legislative districts particularly in light of the intentional deviation manipulation issues highlighted by *Larios* case. Therefore, we can almost certainly expect litigation of these issues in this redistricting cycle. The ultimate constitutionality of the statutes will most likely depend on the method of the reallocation and whether it creates a discriminatory manipulation of the deviations between the districts.

⁵⁵ *Burns v. Gill* 316 F.Supp. 1285, 1293 (D. Haw. 1970).

⁵⁶ *Burns v. Richardson* 384 U.S. 73 (1966).

⁵⁷ *Ellis v. Mayor & City of Baltimore* 352 F.2d 123, 130 (4th Cir. 1965).

⁵⁸ *Travis v. King*, 552 F.Supp. 554, 572 (D. Haw. 1982).

⁵⁹ *Chen v. City of Houston*, 532 U.S. 1046, 2021 (2001) (Thomas, J., dissenting)

⁶⁰ *Garza v. County of Los Angeles*, 918 F.2d 763, 781 (9th Cir. 1990) (Kozinski, J., concurring and dissenting in part).

APPENDIX 2**Column Descriptions for Table 8**

Column	Column Header	Explanation
Column A	Dist	Texas State House District #
Column B	Area of State	Region of the State
Column C	Party	Political Party of the Incument
Column D	Total	Total 2010 Population (TPOP)
Column E	VAP	Total 2010 Adult Population (VAP)
Column F	CVAP	Total Citizen Voting Age Population
Column G	PCT Anglo	Percent CVAP Anglo
Column H	PCT HCVAP	Percent Hispanic CVAP
Column I	PCT HVAP	Percent Adult Hispanic VAP
Column J	%HVAP - %HCVAP	Column I minus Column H
Column K	%HCVAP/%HVAP	Column H divided by Column I
Column L	TPOP Deviation	Deviation using TPOP
Column M	% TPOP Deviatin	Percent Deviation using TPOP
Column N	CVAP Deviation	Deviation using CVAP
Column O	% CVAP Deviation	Percent Deviation using CVAP
Column P	% CVAP Dev - % TPOP Dev	Column O - Column M

APPENDIX 3

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Data: 2009-2013 ACS; 2010 Census
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American Community Survey Special Tabulation
HOUSE DISTRICTS - PLANH358

Texas Legislative Council
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Special Tabulation of Citizen Voting Age Population (CVAP) from the 2009-2013 American Community Survey with Margins of Error

District	2010 Census			Hispanic CVAP % Hispanic	Not Hispanic or Latino Citizen Voting Age Population (CVAP)											
	Total	VAP	CVAP		% Black			% American Indian			% Native			% Asian		% Remainder 2 or More
					Alone	White	+ Indian	Alone	Alone	Alone	+ White	+ White				
1	165,823	125,927	122,470 (±2,705)	4.0 (±0.5)	18.1 (±1.1)	0.3 (±0.2)	0.3 (±0.2)	75.1 (±0.9)	0.7 (±0.2)	0.4 (±0.2)	0.1 (±0.2)	0.8 (±0.2)	0.1 (±0.1)	0.2 (±0.1)		
2	173,869	130,806	124,825 (±2,634)	6.3 (±0.6)	6.5 (±0.6)	0.0 (±0.1)	0.0 (±0.1)	85.1 (±0.8)	0.7 (±0.2)	0.4 (±0.2)	0.2 (±0.2)	0.6 (±0.2)	0.0 (±0.1)	0.1 (±0.1)		
3	164,955	119,595	109,760 (±3,444)	12.1 (±1.2)	9.8 (±1.1)	0.3 (±0.2)	0.0 (±0.1)	75.4 (±1.2)	0.2 (±0.1)	1.0 (±0.3)	0.1 (±0.1)	1.0 (±0.2)	0.1 (±0.1)	0.1 (±0.1)		
4	168,429	123,603	117,715 (±2,818)	7.3 (±0.7)	8.9 (±0.8)	0.3 (±0.2)	0.1 (±0.1)	81.5 (±1.1)	0.6 (±0.2)	0.4 (±0.2)	0.1 (±0.2)	0.6 (±0.2)	0.2 (±0.2)	0.1 (±0.1)		
5	160,253	120,169	112,555 (±2,513)	7.0 (±0.7)	12.5 (±0.9)	0.1 (±0.1)	0.0 (±0.1)	78.8 (±0.9)	0.6 (±0.2)	0.3 (±0.2)	0.0 (±0.1)	0.5 (±0.2)	0.0 (±0.1)	0.0 (±0.1)		
6	160,008	119,154	109,970 (±2,538)	8.7 (±0.9)	19.3 (±1.1)	0.1 (±0.1)	0.0 (±0.1)	70.1 (±1.0)	0.3 (±0.2)	0.8 (±0.3)	0.0 (±0.1)	0.3 (±0.2)	0.2 (±0.2)	0.1 (±0.1)		
7	161,039	120,296	112,255 (±2,507)	5.5 (±0.6)	17.7 (±1.0)	0.0 (±0.1)	0.1 (±0.2)	74.7 (±1.1)	0.5 (±0.2)	0.8 (±0.3)	0.0 (±0.1)	0.5 (±0.2)	0.1 (±0.1)	0.0 (±0.1)		
8	161,098	123,550	114,450 (±2,495)	9.5 (±0.7)	16.9 (±0.9)	0.1 (±0.1)	0.0 (±0.1)	72.1 (±1.0)	0.4 (±0.1)	0.4 (±0.2)	0.0 (±0.1)	0.4 (±0.2)	0.0 (±0.1)	0.1 (±0.1)		
9	166,719	125,947	121,420 (±2,713)	3.5 (±0.5)	19.6 (±1.1)	0.1 (±0.1)	0.0 (±0.1)	75.8 (±0.9)	0.1 (±0.1)	0.3 (±0.2)	0.0 (±0.1)	0.3 (±0.2)	0.1 (±0.1)	0.1 (±0.1)		
10	163,063	116,978	111,680 (±2,473)	14.0 (±1.1)	8.6 (±0.8)	0.1 (±0.1)	0.1 (±0.2)	75.6 (±0.9)	0.5 (±0.2)	0.5 (±0.2)	0.0 (±0.1)	0.5 (±0.2)	0.0 (±0.1)	0.0 (±0.1)		
11	168,699	128,086	118,640 (±2,557)	7.5 (±0.6)	18.5 (±0.9)	0.1 (±0.1)	0.1 (±0.1)	72.2 (±1.0)	0.4 (±0.2)	0.7 (±0.2)	0.0 (±0.1)	0.5 (±0.2)	0.1 (±0.1)	0.0 (±0.1)		
12	160,573	119,556	111,590 (±2,665)	13.8 (±1.1)	20.1 (±1.1)	0.1 (±0.1)	0.1 (±0.1)	64.4 (±0.9)	0.3 (±0.2)	0.6 (±0.2)	0.1 (±0.1)	0.4 (±0.2)	0.1 (±0.1)	0.0 (±0.1)		
13	170,617	131,129	123,515 (±2,668)	11.3 (±0.9)	12.4 (±1.0)	0.1 (±0.1)	0.1 (±0.1)	75.2 (±0.7)	0.1 (±0.1)	0.3 (±0.2)	0.0 (±0.1)	0.3 (±0.2)	0.0 (±0.1)	0.0 (±0.1)		
14	163,187	131,479	114,485 (±3,221)	16.5 (±1.0)	10.9 (±1.0)	0.5 (±0.3)	0.1 (±0.1)	68.6 (±1.4)	0.3 (±0.1)	2.4 (±0.4)	0.0 (±0.1)	0.4 (±0.1)	0.2 (±0.2)	0.1 (±0.1)		
15	167,349	120,450	116,690 (±3,258)	9.9 (±0.9)	3.6 (±0.6)	0.2 (±0.1)	0.1 (±0.1)	81.8 (±1.4)	0.1 (±0.1)	3.0 (±0.5)	0.1 (±0.1)	0.7 (±0.2)	0.5 (±0.3)	0.2 (±0.1)		
16	166,647	122,271	108,180 (±3,231)	11.0 (±1.1)	6.7 (±0.9)	0.2 (±0.2)	0.1 (±0.2)	80.7 (±1.3)	0.2 (±0.1)	0.6 (±0.2)	0.0 (±0.1)	0.3 (±0.1)	0.1 (±0.1)	0.1 (±0.1)		
17	163,480	121,295	112,125 (±2,794)	28.2 (±1.3)	9.1 (±0.8)	0.1 (±0.1)	0.1 (±0.1)	61.1 (±1.2)	0.3 (±0.2)	0.4 (±0.2)	0.0 (±0.1)	0.6 (±0.2)	0.1 (±0.1)	0.1 (±0.1)		
18	169,888	132,877	126,560 (±3,430)	10.3 (±0.7)	17.0 (±1.1)	0.0 (±0.1)	0.0 (±0.1)	71.3 (±1.0)	0.3 (±0.2)	0.4 (±0.2)	0.0 (±0.1)	0.5 (±0.2)	0.1 (±0.1)	0.0 (±0.1)		
19	171,969	131,682	128,705 (±2,845)	4.4 (±0.5)	11.5 (±0.8)	0.1 (±0.1)	0.0 (±0.1)	82.5 (±0.9)	0.7 (±0.2)	0.3 (±0.2)	0.0 (±0.1)	0.4 (±0.1)	0.0 (±0.1)	0.0 (±0.1)		
20	159,816	121,754	115,395 (±2,504)	12.1 (±1.0)	3.6 (±0.5)	0.1 (±0.1)	0.0 (±0.1)	82.8 (±0.8)	0.4 (±0.2)	0.5 (±0.2)	0.0 (±0.1)	0.5 (±0.2)	0.1 (±0.2)	0.0 (±0.1)		
21	172,180	130,308	121,365 (±2,639)	7.6 (±0.7)	7.8 (±0.7)	0.1 (±0.1)	0.1 (±0.1)	82.0 (±0.8)	0.4 (±0.2)	1.4 (±0.4)	0.0 (±0.1)	0.4 (±0.2)	0.1 (±0.1)	0.1 (±0.1)		
22	161,930	122,897	115,525 (±2,666)	9.5 (±0.8)	49.8 (±1.3)	0.2 (±0.2)	0.1 (±0.1)	37.0 (±1.1)	0.3 (±0.2)	2.5 (±0.4)	0.1 (±0.1)	0.3 (±0.2)	0.1 (±0.1)	0.1 (±0.1)		
23	163,720	123,736	111,960 (±2,649)	17.4 (±1.1)	19.7 (±1.0)	0.2 (±0.2)	0.0 (±0.1)	59.8 (±1.3)	0.4 (±0.2)	1.7 (±0.4)	0.1 (±0.1)	0.6 (±0.2)	0.1 (±0.1)	0.1 (±0.1)		
24	162,685	118,491	118,260 (±2,930)	13.9 (±1.2)	7.2 (±0.8)	0.3 (±0.2)	0.0 (±0.1)	74.8 (±1.1)	0.1 (±0.1)	2.9 (±0.5)	0.0 (±0.1)	0.5 (±0.2)	0.3 (±0.2)	0.1 (±0.1)		
25	174,168	129,041	121,250 (±2,832)	23.4 (±1.3)	12.1 (±0.9)	0.1 (±0.1)	0.1 (±0.2)	62.4 (±1.2)	0.3 (±0.2)	1.0 (±0.3)	0.1 (±0.2)	0.3 (±0.2)	0.1 (±0.1)	0.1 (±0.2)		

The American Community Survey provided estimated citizen voting age population (CVAP) data at the block group level in a Special Tabulation. All block groups with more than 50% of the population in a district are included in the

American Community Survey Special Tabulation
 HOUSE DISTRICTS - PLANH358

Special Tabulation of Citizen Voting Age Population (CVAP) from the 2009-2013 American Community Survey with Margins of Error

District	2010 Census			Hispanic CVAP % Hispanic	Not Hispanic or Latino Citizen Voting Age Population (CVAP)									
	Total	VAP	CVAP		% Black Alone	% Black + White	% Black + American Indian	% White Alone	% American Indian Alone	% Asian Alone	% Native Hawaiian Alone	% American Indian + White	% Asian + White	% Remainder 2 or More Other
26	160,091	117,247	97,320 (+2,690)	14.5 (+1.3)	10.4 (+1.1)	0.1 (+0.1)	0.0(+0.1)	52.2 (+1.5)	0.1 (+0.1)	21.7 (+1.4)	0.0 (+0.1)	0.3 (+0.2)	0.6 (+0.3)	0.1 (+0.2)
27	160,084	113,596	104,295 (+2,865)	15.5 (+1.2)	46.2 (+1.8)	0.2 (+0.2)	0.1(+0.1)	26.2 (+1.1)	0.2 (+0.2)	10.9 (+1.1)	0.0 (+0.1)	0.2 (+0.2)	0.1 (+0.1)	0.3 (+0.2)
28	160,373	107,968	100,995 (+3,011)	15.3 (+1.3)	16.1 (+1.6)	0.1 (+0.1)	0.1(+0.1)	53.3 (+1.6)	0.1 (+0.1)	13.9 (+1.3)	0.0 (+0.1)	0.3 (+0.2)	0.5 (+0.2)	0.2 (+0.2)
29	175,700	124,171	116,165 (+2,991)	20.0 (+1.5)	13.7 (+1.3)	0.1 (+0.1)	0.1(+0.1)	57.5 (+1.3)	0.4 (+0.2)	7.3 (+0.8)	0.0 (+0.1)	0.4 (+0.2)	0.2 (+0.1)	0.2 (+0.2)
30	166,022	124,729	121,220 (+2,579)	33.7 (+1.3)	5.1 (+0.6)	0.1 (+0.1)	0.2(+0.2)	59.0 (+1.0)	0.1 (+0.1)	0.8 (+0.2)	0.0 (+0.1)	0.8 (+0.2)	0.1 (+0.1)	0.1 (+0.1)
31	171,858	121,699	104,285 (+2,886)	75.1 (+1.5)	1.2 (+0.2)	0.0 (+0.1)	0.0(+0.1)	23.1 (+1.1)	0.2 (+0.2)	0.2 (+0.2)	0.0 (+0.1)	0.2 (+0.2)	0.0 (+0.1)	0.0 (+0.1)
32	167,074	126,072	124,080 (+2,920)	46.1 (+1.5)	4.3 (+0.5)	0.1 (+0.1)	0.0(+0.1)	46.8 (+1.2)	0.3 (+0.1)	1.7 (+0.3)	0.0 (+0.1)	0.4 (+0.2)	0.3 (+0.1)	0.1 (+0.1)
33	172,135	119,518	115,655 (+2,731)	9.9 (+0.9)	6.1 (+0.7)	0.2 (+0.2)	0.1(+0.1)	77.9 (+1.1)	0.4 (+0.2)	3.9 (+0.6)	0.1 (+0.1)	0.6 (+0.2)	0.4 (+0.2)	0.2 (+0.2)
34	173,149	125,896	117,465 (+3,003)	67.4 (+1.6)	3.4 (+0.5)	0.0 (+0.1)	0.0(+0.1)	28.0 (+1.0)	0.2 (+0.2)	0.5 (+0.2)	0.1 (+0.1)	0.2 (+0.2)	0.1 (+0.2)	0.0 (+0.1)
35	168,627	109,154	77,585 (+2,538)	80.1 (+1.7)	0.4 (+0.2)	0.0 (+0.1)	0.0(+0.1)	18.6 (+1.3)	0.0 (+0.1)	0.6 (+0.3)	0.0 (+0.1)	0.1 (+0.2)	0.1 (+0.2)	0.0 (+0.1)
36	168,963	110,963	76,060 (+2,839)	87.1 (+1.5)	0.4 (+0.2)	0.0 (+0.2)	0.0(+0.2)	11.9 (+1.1)	0.1 (+0.2)	0.4 (+0.2)	0.0 (+0.2)	0.1 (+0.2)	0.0 (+0.2)	0.0 (+0.2)
37	169,088	113,454	78,885 (+2,323)	83.7 (+1.3)	0.4 (+0.2)	0.0 (+0.2)	0.0(+0.2)	15.5 (+1.1)	0.1 (+0.2)	0.2 (+0.2)	0.0 (+0.2)	0.1 (+0.2)	0.0 (+0.2)	0.0 (+0.2)
38	168,214	110,865	92,195 (+2,979)	84.7 (+1.5)	0.4 (+0.2)	0.0 (+0.1)	0.0(+0.1)	13.5 (+1.0)	0.1 (+0.1)	1.0 (+0.3)	0.0 (+0.1)	0.1 (+0.2)	0.0 (+0.1)	0.1 (+0.2)
39	168,659	110,751	85,015 (+2,934)	84.7 (+1.5)	0.2 (+0.2)	0.0 (+0.2)	0.0(+0.2)	14.6 (+1.2)	0.2 (+0.2)	0.2 (+0.2)	0.0 (+0.1)	0.0 (+0.1)	0.0 (+0.2)	0.0 (+0.1)
40	168,662	108,086	79,875 (+3,099)	89.3 (+1.6)	1.4 (+0.3)	0.1 (+0.2)	0.0(+0.1)	8.2 (+0.9)	0.1 (+0.2)	0.8 (+0.3)	0.0 (+0.1)	0.1 (+0.1)	0.0 (+0.1)	0.0 (+0.1)
41	168,776	115,033	88,365 (+2,968)	79.0 (+1.7)	0.5 (+0.2)	0.1 (+0.1)	0.0(+0.1)	17.9 (+1.1)	0.1 (+0.2)	2.2 (+0.5)	0.0 (+0.1)	0.1 (+0.1)	0.0 (+0.1)	0.0 (+0.1)
42	167,668	111,699	84,125 (+2,400)	93.6 (+0.9)	0.4 (+0.2)	0.0 (+0.2)	0.0(+0.2)	5.4 (+0.6)	0.1 (+0.2)	0.5 (+0.3)	0.0 (+0.2)	0.0 (+0.2)	0.1 (+0.2)	0.0 (+0.2)
43	169,564	124,492	120,575 (+2,893)	59.2 (+1.5)	3.7 (+0.4)	0.1 (+0.1)	0.0(+0.1)	35.8 (+1.0)	0.1 (+0.1)	0.6 (+0.2)	0.0 (+0.1)	0.4 (+0.2)	0.0 (+0.1)	0.0 (+0.1)
44	174,451	126,713	125,720 (+2,673)	30.9 (+1.4)	5.3 (+0.6)	0.2 (+0.2)	0.0(+0.1)	60.9 (+1.0)	0.2 (+0.1)	1.1 (+0.2)	0.1 (+0.1)	0.5 (+0.2)	0.2 (+0.1)	0.4 (+0.2)
45	167,604	126,549	124,330 (+3,187)	27.5 (+1.4)	3.5 (+0.6)	0.1 (+0.1)	0.0(+0.1)	66.7 (+1.1)	0.4 (+0.2)	1.0 (+0.2)	0.0 (+0.1)	0.5 (+0.2)	0.2 (+0.1)	0.1 (+0.1)
46	166,410	118,539	94,335 (+2,518)	27.2 (+1.5)	25.3 (+1.4)	0.3 (+0.2)	0.2(+0.2)	41.6 (+1.3)	0.3 (+0.2)	4.2 (+0.8)	0.0 (+0.1)	0.4 (+0.2)	0.2 (+0.2)	0.1 (+0.2)
47	175,314	127,689	125,095 (+2,576)	12.3 (+0.9)	1.7 (+0.4)	0.2 (+0.1)	0.0(+0.1)	80.3 (+0.8)	0.1 (+0.1)	4.1 (+0.5)	0.1 (+0.1)	0.5 (+0.2)	0.5 (+0.2)	0.1 (+0.1)
48	173,008	135,585	127,810 (+2,462)	17.5 (+1.0)	3.2 (+0.5)	0.3 (+0.2)	0.0(+0.1)	74.4 (+0.7)	0.3 (+0.1)	3.3 (+0.5)	0.1 (+0.1)	0.4 (+0.2)	0.5 (+0.2)	0.1 (+0.1)
49	167,309	144,371	130,085 (+3,439)	15.5 (+0.9)	4.6 (+0.6)	0.2 (+0.1)	0.1(+0.2)	73.1 (+0.6)	0.2 (+0.2)	4.7 (+0.5)	0.0 (+0.1)	0.6 (+0.2)	0.7 (+0.2)	0.2 (+0.1)
50	166,516	124,252	110,735 (+2,788)	19.8 (+1.3)	11.9 (+1.2)	0.4 (+0.2)	0.2(+0.2)	57.5 (+1.2)	0.3 (+0.2)	8.5 (+0.8)	0.1 (+0.1)	0.5 (+0.2)	0.6 (+0.2)	0.3 (+0.2)
51	175,709	128,793	98,320 (+2,727)	42.6 (+1.7)	11.9 (+1.1)	0.4 (+0.2)	0.2(+0.2)	41.5 (+1.3)	0.3 (+0.2)	1.9 (+0.4)	0.0 (+0.1)	0.5 (+0.2)	0.3 (+0.2)	0.3 (+0.2)

The American Community Survey provided estimated citizen voting age population (CVAP) data at the block group level in a Special Tabulation. All block groups with more than 50% of the population in a district are included in the

American Community Survey Special Tabulation
 HOUSE DISTRICTS - PLANH358

Special Tabulation of Citizen Voting Age Population (CVAP) from the 2009-2013 American Community Survey with Margins of Error

District	2010 Census			Hispanic CVAP % Hispanic	Not Hispanic or Latino Citizen Voting Age Population (CVAP)									
	Total	VAP	CVAP		% Black Alone	% Black + White	% Black + American Indian	% White Alone	% American Indian Alone	% Asian Alone	% Native Hawaiian Alone	% American Indian + White	% Asian + White	% Remainder 2 or More Other
52	165,994	114,146	111,445 (+2,924)	23.2 (±1.4)	8.9 (±0.9)	0.5 (±0.2)	0.0 (±0.1)	62.8 (±1.5)	0.4 (±0.2)	3.0 (±0.6)	0.0 (±0.1)	0.4 (±0.2)	0.4 (±0.2)	0.2 (±0.2)
53	162,897	127,381	123,515 (+2,792)	24.8 (±1.2)	1.6 (±0.4)	0.0 (±0.1)	0.0 (±0.1)	72.2 (±0.9)	0.3 (±0.1)	0.3 (±0.2)	0.0 (±0.1)	0.5 (±0.2)	0.1 (±0.1)	0.1 (±0.1)
54	167,736	117,164	112,385 (+3,320)	17.8 (±1.5)	23.5 (±1.5)	0.7 (±0.3)	0.1 (±0.1)	51.6 (±1.5)	0.6 (±0.2)	3.0 (±0.5)	0.8 (±0.3)	0.3 (±0.1)	0.9 (±0.3)	0.7 (±0.3)
55	162,176	119,755	116,635 (+2,783)	16.0 (±1.0)	15.5 (±1.0)	0.5 (±0.2)	0.2 (±0.2)	64.4 (±1.1)	0.5 (±0.2)	1.4 (±0.3)	0.3 (±0.2)	0.6 (±0.2)	0.5 (±0.2)	0.2 (±0.1)
56	163,869	123,411	117,985 (+2,622)	14.2 (±1.0)	10.6 (±0.9)	0.2 (±0.2)	0.0 (±0.1)	72.6 (±1.0)	0.4 (±0.2)	1.3 (±0.3)	0.0 (±0.1)	0.3 (±0.2)	0.2 (±0.1)	0.1 (±0.1)
57	164,418	124,630	118,140 (+2,852)	9.2 (±0.9)	16.8 (±1.0)	0.1 (±0.2)	0.0 (±0.1)	72.8 (±1.0)	0.3 (±0.1)	0.3 (±0.2)	0.0 (±0.1)	0.4 (±0.2)	0.0 (±0.1)	0.1 (±0.1)
58	169,146	123,826	118,105 (+2,666)	11.3 (±0.9)	2.6 (±0.5)	0.1 (±0.1)	0.0 (±0.1)	84.2 (±0.9)	0.5 (±0.2)	0.4 (±0.2)	0.1 (±0.2)	0.6 (±0.2)	0.1 (±0.1)	0.1 (±0.1)
59	163,609	122,193	118,030 (+2,640)	13.1 (±0.9)	7.8 (±0.7)	0.2 (±0.2)	0.1 (±0.1)	75.9 (±0.9)	0.4 (±0.2)	0.8 (±0.2)	0.2 (±0.2)	0.9 (±0.2)	0.2 (±0.1)	0.3 (±0.2)
60	171,429	131,870	127,825 (+2,616)	9.5 (±0.7)	1.8 (±0.3)	0.1 (±0.1)	0.1 (±0.1)	86.9 (±0.7)	0.4 (±0.2)	0.4 (±0.2)	0.0 (±0.1)	0.6 (±0.2)	0.2 (±0.1)	0.0 (±0.1)
61	176,054	130,782	128,065 (+2,722)	7.7 (±0.7)	1.7 (±0.3)	0.0 (±0.1)	0.0 (±0.1)	88.5 (±0.7)	0.9 (±0.2)	0.5 (±0.2)	0.0 (±0.1)	0.5 (±0.2)	0.1 (±0.1)	0.0 (±0.1)
62	160,023	122,203	117,530 (+2,410)	5.7 (±0.6)	6.0 (±0.6)	0.2 (±0.2)	0.0 (±0.1)	85.0 (±0.7)	1.1 (±0.2)	0.6 (±0.2)	0.1 (±0.1)	1.0 (±0.3)	0.1 (±0.1)	0.1 (±0.1)
63	167,337	115,634	113,605 (+2,348)	9.8 (±0.8)	4.1 (±0.6)	0.2 (±0.2)	0.2 (±0.2)	80.8 (±0.9)	0.4 (±0.2)	3.5 (±0.5)	0.1 (±0.1)	0.7 (±0.2)	0.3 (±0.2)	0.1 (±0.1)
64	167,588	129,175	116,875 (+2,745)	11.5 (±0.9)	9.2 (±0.8)	0.5 (±0.2)	0.1 (±0.1)	75.0 (±1.0)	0.3 (±0.1)	1.9 (±0.4)	0.1 (±0.1)	0.8 (±0.2)	0.4 (±0.2)	0.3 (±0.2)
65	165,742	124,977	109,350 (+2,600)	12.6 (±1.0)	13.8 (±1.2)	0.7 (±0.3)	0.1 (±0.1)	62.3 (±1.4)	0.3 (±0.2)	8.5 (±0.8)	0.1 (±0.1)	0.8 (±0.2)	0.3 (±0.2)	0.4 (±0.2)
66	172,129	130,796	113,390 (+2,427)	7.2 (±0.7)	8.9 (±0.9)	0.2 (±0.2)	0.1 (±0.2)	69.7 (±1.0)	0.4 (±0.2)	12.1 (±0.9)	0.1 (±0.1)	0.7 (±0.2)	0.6 (±0.2)	0.1 (±0.1)
67	172,141	126,368	111,250 (+2,433)	8.9 (±0.9)	7.3 (±0.9)	0.2 (±0.2)	0.0 (±0.1)	70.1 (±1.0)	0.5 (±0.2)	11.5 (±0.9)	0.2 (±0.2)	0.5 (±0.2)	0.7 (±0.2)	0.2 (±0.2)
68	160,508	121,547	112,760 (+2,116)	13.6 (±0.7)	3.8 (±0.4)	0.2 (±0.2)	0.0 (±0.1)	80.9 (±0.8)	0.5 (±0.2)	0.4 (±0.2)	0.1 (±0.2)	0.6 (±0.2)	0.1 (±0.1)	0.0 (±0.1)
69	160,087	123,063	117,450 (+2,316)	11.1 (±0.7)	8.5 (±0.7)	0.3 (±0.2)	0.0 (±0.1)	77.2 (±0.9)	0.6 (±0.2)	1.3 (±0.3)	0.0 (±0.1)	0.7 (±0.2)	0.2 (±0.2)	0.1 (±0.2)
70	172,135	117,432	110,995 (+2,630)	11.0 (±1.0)	9.8 (±1.1)	0.1 (±0.1)	0.0 (±0.1)	75.3 (±1.0)	0.4 (±0.2)	2.7 (±0.5)	0.0 (±0.1)	0.3 (±0.2)	0.2 (±0.1)	0.1 (±0.1)
71	166,924	127,097	123,650 (+3,017)	19.0 (±0.9)	7.6 (±0.8)	0.1 (±0.1)	0.1 (±0.1)	71.2 (±0.7)	0.4 (±0.2)	0.9 (±0.2)	0.1 (±0.1)	0.5 (±0.2)	0.2 (±0.1)	0.1 (±0.1)
72	170,479	130,771	123,075 (+2,618)	29.0 (±1.3)	4.3 (±0.5)	0.2 (±0.2)	0.0 (±0.1)	64.6 (±0.8)	0.4 (±0.2)	0.8 (±0.2)	0.1 (±0.1)	0.4 (±0.2)	0.1 (±0.1)	0.1 (±0.1)
73	166,719	127,882	126,130 (+2,865)	17.2 (±1.1)	1.4 (±0.3)	0.1 (±0.1)	0.0 (±0.1)	79.7 (±0.9)	0.1 (±0.1)	0.6 (±0.2)	0.1 (±0.1)	0.7 (±0.2)	0.2 (±0.1)	0.1 (±0.1)
74	162,357	115,236	91,345 (+2,485)	71.7 (±1.5)	2.2 (±0.4)	0.1 (±0.2)	0.0 (±0.2)	24.6 (±1.0)	0.8 (±0.3)	0.2 (±0.2)	0.0 (±0.2)	0.2 (±0.2)	0.1 (±0.2)	0.0 (±0.2)
75	159,691	103,209	77,455 (+2,689)	88.4 (±1.4)	1.3 (±0.5)	0.1 (±0.2)	0.0 (±0.2)	8.9 (±1.2)	0.5 (±0.3)	0.4 (±0.3)	0.0 (±0.2)	0.1 (±0.2)	0.1 (±0.2)	0.1 (±0.2)
76	159,752	116,389	94,705 (+2,507)	84.6 (±1.1)	3.3 (±0.6)	0.1 (±0.2)	0.1 (±0.2)	11.2 (±0.9)	0.2 (±0.2)	0.4 (±0.2)	0.0 (±0.2)	0.1 (±0.2)	0.0 (±0.1)	0.1 (±0.2)
77	160,385	115,924	90,830 (+2,529)	70.2 (±1.6)	3.8 (±0.5)	0.2 (±0.2)	0.0 (±0.2)	22.9 (±1.0)	0.4 (±0.2)	1.5 (±0.4)	0.2 (±0.2)	0.3 (±0.2)	0.1 (±0.2)	0.2 (±0.2)

The American Community Survey provided estimated citizen voting age population (CVAP) data at the block group level in a Special Tabulation. All block groups with more than 50% of the population in a district are included in the

American Community Survey Special Tabulation
 HOUSE DISTRICTS - PLANH358

Special Tabulation of Citizen Voting Age Population (CVAP) from the 2009-2013 American Community Survey with Margins of Error

District	2010 Census			Hispanic CVAP % Hispanic	Not Hispanic or Latino Citizen Voting Age Population (CVAP)									
	Total	VAP	CVAP		% Black Alone	% Black + White	% Black + American Indian	% White Alone	% American Indian Alone	% Asian Alone	% Native Hawaiian Alone	% American Indian + White	% Asian + White	% Remainder 2 or More Other
78	160,161	111,913	98,925 (+2,476)	59.4 (+1.5)	5.7 (+0.7)	0.3 (+0.2)	0.0 (+0.1)	31.6 (+1.3)	0.3 (+0.2)	1.8 (+0.4)	0.1 (+0.2)	0.2 (+0.1)	0.5 (+0.2)	0.2 (+0.1)
79	160,658	112,399	98,435 (+2,776)	77.8 (+1.5)	3.4 (+0.5)	0.1 (+0.1)	0.1 (+0.1)	17.0 (+1.0)	0.4 (+0.2)	0.8 (+0.3)	0.1 (+0.1)	0.1 (+0.1)	0.2 (+0.2)	0.1 (+0.1)
80	161,949	106,402	86,650 (+2,847)	83.3 (+1.4)	1.0 (+0.3)	0.1 (+0.2)	0.0 (+0.1)	15.5 (+1.1)	0.1 (+0.1)	0.1 (+0.2)	0.0 (+0.1)	0.0 (+0.1)	0.0 (+0.1)	0.0 (+0.1)
81	169,684	120,535	108,980 (+2,590)	42.3 (+1.4)	4.1 (+0.6)	0.1 (+0.2)	0.0 (+0.1)	51.8 (+1.2)	0.3 (+0.2)	0.6 (+0.2)	0.0 (+0.1)	0.6 (+0.2)	0.0 (+0.1)	0.1 (+0.2)
82	163,234	118,623	113,415 (+2,760)	32.3 (+1.5)	6.4 (+0.7)	0.2 (+0.2)	0.1 (+0.1)	59.3 (+1.1)	0.4 (+0.2)	0.8 (+0.3)	0.0 (+0.1)	0.4 (+0.2)	0.1 (+0.1)	0.1 (+0.1)
83	173,918	127,906	123,330 (+2,602)	26.5 (+1.2)	4.1 (+0.4)	0.3 (+0.2)	0.0 (+0.1)	67.1 (+1.0)	0.4 (+0.2)	0.9 (+0.3)	0.0 (+0.1)	0.6 (+0.2)	0.2 (+0.2)	0.0 (+0.1)
84	167,970	128,898	124,075 (+3,073)	29.7 (+1.4)	8.7 (+0.7)	0.2 (+0.2)	0.1 (+0.1)	58.7 (+1.3)	0.3 (+0.1)	1.3 (+0.3)	0.1 (+0.1)	0.3 (+0.1)	0.2 (+0.1)	0.3 (+0.2)
85	160,182	113,433	102,620 (+2,716)	28.7 (+1.6)	14.6 (+1.1)	0.1 (+0.1)	0.0 (+0.1)	48.3 (+1.3)	0.2 (+0.2)	7.6 (+0.8)	0.0 (+0.1)	0.2 (+0.1)	0.1 (+0.1)	0.2 (+0.2)
86	165,183	121,555	115,915 (+2,397)	19.7 (+1.1)	2.1 (+0.3)	0.1 (+0.1)	0.0 (+0.1)	76.4 (+0.8)	0.4 (+0.2)	0.8 (+0.2)	0.0 (+0.1)	0.5 (+0.2)	0.1 (+0.1)	0.1 (+0.1)
87	174,343	125,360	109,320 (+2,225)	23.7 (+1.2)	7.8 (+0.7)	0.3 (+0.2)	0.2 (+0.2)	65.0 (+0.9)	0.7 (+0.2)	1.6 (+0.3)	0.1 (+0.1)	0.5 (+0.2)	0.1 (+0.1)	0.1 (+0.2)
88	160,896	115,622	103,670 (+2,034)	33.3 (+1.2)	3.8 (+0.4)	0.1 (+0.2)	0.2 (+0.2)	60.9 (+0.7)	0.4 (+0.2)	0.4 (+0.2)	0.0 (+0.1)	0.8 (+0.2)	0.0 (+0.2)	0.0 (+0.1)
89	172,138	118,380	116,895 (+2,992)	9.3 (+0.8)	9.5 (+1.2)	0.2 (+0.1)	0.0 (+0.1)	72.4 (+1.2)	0.3 (+0.2)	7.5 (+0.9)	0.0 (+0.1)	0.3 (+0.1)	0.3 (+0.2)	0.1 (+0.1)
90	159,684	105,664	71,770 (+2,274)	52.1 (+1.8)	18.6 (+1.4)	0.1 (+0.2)	0.1 (+0.2)	27.9 (+1.2)	0.3 (+0.2)	0.5 (+0.3)	0.0 (+0.2)	0.2 (+0.2)	0.1 (+0.2)	0.1 (+0.2)
91	162,838	119,048	108,845 (+2,647)	13.0 (+1.1)	5.0 (+0.8)	0.2 (+0.2)	0.3 (+0.3)	75.9 (+1.0)	0.5 (+0.3)	4.2 (+0.6)	0.1 (+0.2)	0.6 (+0.2)	0.3 (+0.2)	0.1 (+0.2)
92	162,326	126,290	116,980 (+2,548)	11.5 (+1.0)	11.3 (+1.0)	0.3 (+0.2)	0.0 (+0.1)	70.3 (+1.0)	0.2 (+0.1)	4.6 (+0.6)	0.6 (+0.3)	0.5 (+0.2)	0.4 (+0.2)	0.2 (+0.2)
93	162,161	113,584	103,455 (+3,090)	16.6 (+1.3)	13.0 (+1.2)	0.2 (+0.2)	0.1 (+0.1)	64.1 (+1.5)	0.5 (+0.2)	4.1 (+0.6)	0.3 (+0.2)	0.5 (+0.2)	0.3 (+0.2)	0.2 (+0.3)
94	167,374	125,516	114,195 (+2,455)	11.4 (+0.9)	12.6 (+1.0)	0.2 (+0.2)	0.0 (+0.1)	69.8 (+1.0)	0.6 (+0.2)	4.4 (+0.6)	0.0 (+0.1)	0.5 (+0.2)	0.3 (+0.2)	0.2 (+0.1)
95	161,634	115,752	96,150 (+2,408)	14.7 (+1.0)	49.4 (+1.6)	0.2 (+0.2)	0.2 (+0.2)	32.9 (+1.1)	0.4 (+0.2)	1.3 (+0.4)	0.0 (+0.2)	0.5 (+0.2)	0.1 (+0.2)	0.2 (+0.2)
96	164,930	113,924	109,035 (+2,811)	11.1 (+1.0)	18.7 (+1.4)	0.3 (+0.2)	0.1 (+0.1)	65.5 (+1.2)	0.2 (+0.2)	3.1 (+0.5)	0.2 (+0.3)	0.4 (+0.2)	0.3 (+0.2)	0.1 (+0.1)
97	168,869	131,311	122,870 (+2,732)	12.4 (+1.0)	13.4 (+1.1)	0.2 (+0.2)	0.1 (+0.1)	70.5 (+0.8)	0.3 (+0.2)	2.5 (+0.5)	0.0 (+0.1)	0.3 (+0.2)	0.3 (+0.2)	0.1 (+0.1)
98	164,081	114,953	114,875 (+2,600)	7.5 (+0.9)	2.7 (+0.5)	0.1 (+0.1)	0.1 (+0.1)	83.7 (+0.7)	0.4 (+0.2)	4.2 (+0.6)	0.1 (+0.1)	0.7 (+0.3)	0.3 (+0.1)	0.2 (+0.1)
99	170,473	125,722	116,830 (+2,877)	16.2 (+1.1)	4.6 (+0.7)	0.2 (+0.2)	0.0 (+0.1)	74.7 (+0.9)	0.6 (+0.2)	2.1 (+0.5)	0.1 (+0.1)	0.7 (+0.2)	0.2 (+0.1)	0.5 (+0.3)
100	161,143	117,479	97,410 (+2,567)	20.4 (+1.3)	47.0 (+1.5)	0.3 (+0.2)	0.3 (+0.3)	29.8 (+1.1)	0.2 (+0.2)	1.1 (+0.3)	0.1 (+0.2)	0.4 (+0.2)	0.1 (+0.2)	0.3 (+0.3)
101	164,664	110,209	92,990 (+2,870)	22.2 (+1.7)	29.7 (+1.9)	0.6 (+0.3)	0.1 (+0.2)	35.5 (+1.4)	0.3 (+0.2)	10.9 (+1.2)	0.1 (+0.1)	0.2 (+0.2)	0.4 (+0.2)	0.1 (+0.1)
102	161,136	122,520	96,850 (+2,335)	11.7 (+1.1)	14.4 (+1.1)	0.2 (+0.2)	0.1 (+0.2)	65.0 (+1.0)	0.2 (+0.2)	6.8 (+0.7)	0.2 (+0.2)	0.6 (+0.2)	0.3 (+0.2)	0.4 (+0.3)
103	170,948	121,837	71,970 (+2,118)	40.8 (+1.8)	13.8 (+1.3)	0.1 (+0.2)	0.7 (+0.4)	39.0 (+1.2)	0.1 (+0.2)	3.7 (+0.6)	0.0 (+0.2)	1.0 (+0.4)	0.3 (+0.2)	0.5 (+0.3)

The American Community Survey provided estimated citizen voting age population (CVAP) data at the block group level in a Special Tabulation. All block groups with more than 50% of the population in a district are included in the

American Community Survey Special Tabulation
 HOUSE DISTRICTS - PLANH358

Special Tabulation of Citizen Voting Age Population (CVAP) from the 2009-2013 American Community Survey with Margins of Error

District	2010 Census			Hispanic CVAP	Not Hispanic or Latino Citizen Voting Age Population (CVAP)										
	Total	VAP	CVAP		% Hispanic	% Black Alone	% Black + White	% Black + American Indian	% White Alone	% American Indian Alone	% Asian Alone	% Native Hawaiian Alone	% American Indian + White	% Asian + White	% Remainder 2 or More Other
104	172,784	115,035	78,780 (±2,416)	54.4 (±1.9)	17.9 (±1.3)	0.2 (±0.2)	0.1 (±0.2)	25.3 (±1.3)	0.4 (±0.3)	1.3 (±0.4)	0.0 (±0.2)	0.2 (±0.2)	0.1 (±0.2)	0.1 (±0.2)	
105	175,728	127,590	95,900 (±2,538)	27.3 (±1.6)	14.8 (±1.1)	0.2 (±0.2)	0.1 (±0.2)	51.1 (±1.2)	0.4 (±0.2)	5.5 (±0.7)	0.0 (±0.2)	0.3 (±0.2)	0.1 (±0.2)	0.2 (±0.2)	
106	161,947	110,568	107,290 (±2,749)	9.9 (±1.0)	8.1 (±1.0)	0.3 (±0.2)	0.1 (±0.2)	76.1 (±1.2)	0.3 (±0.2)	4.3 (±0.7)	0.0 (±0.1)	0.4 (±0.2)	0.4 (±0.2)	0.1 (±0.1)	
107	171,872	123,986	108,045 (±2,691)	19.5 (±1.3)	17.4 (±1.4)	0.2 (±0.2)	0.2 (±0.2)	57.9 (±1.1)	0.3 (±0.2)	3.6 (±0.5)	0.0 (±0.1)	0.6 (±0.2)	0.2 (±0.2)	0.1 (±0.1)	
108	163,233	133,667	122,505 (±2,453)	12.6 (±0.9)	7.1 (±0.7)	0.3 (±0.2)	0.4 (±0.2)	74.3 (±0.7)	0.3 (±0.2)	3.4 (±0.5)	0.1 (±0.1)	0.8 (±0.2)	0.4 (±0.2)	0.3 (±0.2)	
109	174,223	122,347	112,780 (±2,842)	12.9 (±1.0)	61.8 (±1.6)	0.4 (±0.3)	0.2 (±0.1)	23.4 (±1.0)	0.2 (±0.1)	0.8 (±0.3)	0.1 (±0.1)	0.2 (±0.1)	0.0 (±0.1)	0.1 (±0.1)	
110	167,508	111,827	83,885 (±2,610)	28.6 (±1.7)	56.0 (±1.7)	0.2 (±0.2)	0.1 (±0.2)	14.6 (±1.0)	0.1 (±0.2)	0.3 (±0.3)	0.0 (±0.2)	0.1 (±0.2)	0.0 (±0.2)	0.1 (±0.2)	
111	166,963	118,393	103,410 (±2,784)	17.0 (±1.3)	56.6 (±1.6)	0.2 (±0.2)	0.1 (±0.1)	24.2 (±1.1)	0.1 (±0.1)	1.4 (±0.3)	0.0 (±0.1)	0.1 (±0.1)	0.1 (±0.1)	0.1 (±0.2)	
112	167,051	120,192	97,965 (±2,668)	17.3 (±1.4)	14.0 (±1.2)	0.3 (±0.2)	1.3 (±0.4)	54.9 (±1.2)	0.1 (±0.1)	10.0 (±1.1)	0.1 (±0.1)	1.5 (±0.4)	0.2 (±0.2)	0.3 (±0.2)	
113	171,418	120,834	106,040 (±2,701)	18.0 (±1.3)	20.0 (±1.3)	0.4 (±0.3)	0.5 (±0.2)	53.5 (±1.3)	0.3 (±0.1)	6.4 (±0.8)	0.1 (±0.1)	0.5 (±0.2)	0.2 (±0.2)	0.1 (±0.2)	
114	172,330	130,817	105,540 (±2,278)	11.4 (±0.9)	17.1 (±1.2)	0.0 (±0.2)	0.2 (±0.2)	68.2 (±0.7)	0.3 (±0.2)	2.0 (±0.4)	0.0 (±0.1)	0.3 (±0.2)	0.2 (±0.2)	0.1 (±0.2)	
115	171,802	127,352	100,760 (±2,378)	16.9 (±1.2)	11.8 (±1.1)	0.3 (±0.2)	0.2 (±0.2)	58.5 (±1.0)	0.5 (±0.2)	11.0 (±0.9)	0.0 (±0.1)	0.3 (±0.2)	0.5 (±0.4)	0.1 (±0.1)	
116	171,463	132,823	115,470 (±2,903)	58.7 (±1.6)	5.3 (±0.7)	0.2 (±0.2)	0.1 (±0.1)	32.3 (±1.2)	0.2 (±0.2)	2.0 (±0.4)	0.1 (±0.2)	0.3 (±0.2)	0.5 (±0.2)	0.2 (±0.2)	
117	168,692	117,126	111,045 (±3,035)	58.0 (±1.7)	6.0 (±0.7)	0.2 (±0.1)	0.1 (±0.1)	32.3 (±1.2)	0.2 (±0.1)	1.9 (±0.4)	0.2 (±0.2)	0.3 (±0.1)	0.4 (±0.2)	0.3 (±0.2)	
118	164,436	116,859	106,575 (±2,997)	67.4 (±1.7)	3.1 (±0.5)	0.1 (±0.1)	0.0 (±0.1)	28.1 (±1.0)	0.3 (±0.2)	0.7 (±0.2)	0.1 (±0.2)	0.2 (±0.1)	0.1 (±0.1)	0.1 (±0.1)	
119	159,981	114,477	106,465 (±2,745)	59.5 (±1.6)	9.6 (±0.9)	0.2 (±0.2)	0.1 (±0.1)	28.5 (±1.1)	0.2 (±0.2)	0.9 (±0.3)	0.0 (±0.1)	0.6 (±0.3)	0.2 (±0.2)	0.2 (±0.2)	
120	175,132	124,829	114,810 (±2,965)	37.9 (±1.6)	26.5 (±1.2)	0.5 (±0.3)	0.4 (±0.3)	30.6 (±1.1)	0.3 (±0.2)	1.9 (±0.4)	0.3 (±0.3)	0.3 (±0.2)	0.5 (±0.2)	0.6 (±0.2)	
121	174,867	133,224	128,905 (±2,866)	30.0 (±1.3)	5.7 (±0.7)	0.3 (±0.2)	0.0 (±0.1)	61.0 (±1.1)	0.3 (±0.2)	1.7 (±0.4)	0.2 (±0.2)	0.3 (±0.2)	0.3 (±0.1)	0.2 (±0.2)	
122	175,184	128,725	124,270 (±2,576)	26.7 (±1.3)	3.4 (±0.5)	0.0 (±0.1)	0.1 (±0.1)	64.8 (±1.2)	0.2 (±0.2)	3.9 (±0.6)	0.1 (±0.1)	0.3 (±0.1)	0.4 (±0.2)	0.2 (±0.1)	
123	175,674	135,763	119,930 (±2,981)	63.9 (±1.4)	4.0 (±0.6)	0.1 (±0.1)	0.0 (±0.1)	30.6 (±1.1)	0.2 (±0.2)	0.8 (±0.2)	0.0 (±0.1)	0.1 (±0.1)	0.1 (±0.1)	0.1 (±0.2)	
124	174,795	120,503	115,090 (±3,161)	63.8 (±1.7)	8.1 (±1.0)	0.3 (±0.2)	0.0 (±0.1)	24.8 (±1.1)	0.2 (±0.1)	2.0 (±0.4)	0.0 (±0.1)	0.3 (±0.2)	0.4 (±0.2)	0.1 (±0.1)	
125	174,549	125,158	115,800 (±2,763)	65.9 (±1.5)	4.9 (±0.7)	0.2 (±0.2)	0.1 (±0.1)	26.3 (±1.0)	0.1 (±0.1)	1.8 (±0.4)	0.0 (±0.1)	0.2 (±0.2)	0.3 (±0.2)	0.2 (±0.2)	
126	169,256	123,014	99,335 (±2,751)	19.8 (±1.5)	17.4 (±1.3)	0.1 (±0.1)	0.0 (±0.1)	51.8 (±1.3)	0.4 (±0.3)	9.6 (±0.9)	0.0 (±0.1)	0.4 (±0.2)	0.2 (±0.1)	0.1 (±0.2)	
127	163,983	115,865	114,290 (±2,879)	15.7 (±1.2)	13.5 (±1.3)	0.2 (±0.2)	0.1 (±0.1)	67.1 (±1.2)	0.2 (±0.2)	2.1 (±0.4)	0.3 (±0.3)	0.4 (±0.2)	0.3 (±0.2)	0.1 (±0.1)	
128	172,221	124,645	116,020 (±2,888)	19.9 (±1.3)	10.4 (±1.1)	0.2 (±0.2)	0.0 (±0.1)	66.4 (±1.1)	0.6 (±0.2)	1.7 (±0.4)	0.0 (±0.1)	0.6 (±0.3)	0.1 (±0.1)	0.1 (±0.1)	
129	174,127	130,457	121,280 (±2,930)	18.2 (±1.3)	8.9 (±1.0)	0.3 (±0.2)	0.1 (±0.1)	62.9 (±1.0)	0.3 (±0.2)	8.3 (±1.0)	0.1 (±0.1)	0.5 (±0.3)	0.4 (±0.2)	0.2 (±0.1)	

The American Community Survey provided estimated citizen voting age population (CVAP) data at the block group level in a Special Tabulation. All block groups with more than 50% of the population in a district are included in the

American Community Survey Special Tabulation
 HOUSE DISTRICTS - PLANH358

Special Tabulation of Citizen Voting Age Population (CVAP) from the 2009-2013 American Community Survey with Margins of Error

District	2010 Census			Hispanic CVAP % Hispanic	Not Hispanic or Latino Citizen Voting Age Population (CVAP)									
	Total	VAP	CVAP		% Black Alone	% Black + White	% Black + American Indian	% White Alone	% American Indian Alone	% Asian Alone	% Native Hawaiian Alone	% American Indian + White	% Asian + White	% Remainder 2 or More Other
	130	175,532	122,108		119,770 (+2,847)	14.9 (+1.3)	7.7 (+0.9)	0.1 (+0.1)	0.0 (+0.1)	71.6 (+1.2)	0.3 (+0.2)	4.7 (+0.6)	0.0 (+0.1)	0.4 (+0.2)
131	175,227	121,368	93,535 (+2,983)	24.8 (+1.7)	54.5 (+2.0)	0.3 (+0.2)	0.1 (+0.2)	13.2 (+1.0)	0.2 (+0.2)	6.2 (+0.8)	0.0 (+0.1)	0.1 (+0.2)	0.3 (+0.2)	0.2 (+0.2)
132	172,973	117,666	109,150 (+3,154)	26.3 (+1.8)	14.7 (+1.4)	0.1 (+0.2)	0.1 (+0.1)	52.4 (+1.2)	0.2 (+0.1)	5.2 (+0.8)	0.0 (+0.1)	0.4 (+0.2)	0.2 (+0.2)	0.2 (+0.2)
133	171,401	135,423	114,530 (+2,796)	12.2 (+1.1)	9.6 (+1.2)	0.2 (+0.2)	0.0 (+0.1)	70.2 (+0.7)	0.3 (+0.2)	6.3 (+0.7)	0.1 (+0.2)	0.6 (+0.3)	0.3 (+0.2)	0.1 (+0.1)
134	174,421	143,575	130,040 (+2,586)	11.4 (+0.9)	4.8 (+0.6)	0.1 (+0.1)	0.0 (+0.1)	74.7 (+0.8)	0.2 (+0.1)	8.0 (+0.7)	0.0 (+0.1)	0.2 (+0.2)	0.3 (+0.2)	0.3 (+0.2)
135	172,422	121,136	99,750 (+2,933)	21.3 (+1.6)	17.5 (+1.5)	0.3 (+0.3)	0.0 (+0.1)	50.0 (+1.4)	0.1 (+0.1)	10.1 (+1.1)	0.0 (+0.1)	0.2 (+0.1)	0.2 (+0.2)	0.1 (+0.1)
136	164,376	116,361	113,740 (+2,738)	15.4 (+1.1)	5.1 (+0.8)	0.2 (+0.2)	0.0 (+0.1)	72.8 (+1.2)	0.2 (+0.1)	4.9 (+0.6)	0.0 (+0.1)	0.5 (+0.2)	0.6 (+0.2)	0.3 (+0.2)
137	171,079	127,834	64,375 (+2,377)	25.8 (+1.9)	30.1 (+2.1)	0.3 (+0.3)	0.1 (+0.2)	32.5 (+1.5)	0.4 (+0.3)	9.8 (+1.1)	0.0 (+0.2)	0.2 (+0.2)	0.5 (+0.3)	0.2 (+0.3)
138	173,059	124,435	98,420 (+2,701)	28.0 (+1.6)	10.9 (+1.3)	0.1 (+0.1)	0.0 (+0.1)	50.3 (+1.3)	0.2 (+0.2)	9.7 (+1.0)	0.1 (+0.1)	0.3 (+0.2)	0.2 (+0.2)	0.4 (+0.3)
139	175,733	123,875	100,540 (+2,776)	23.8 (+1.6)	49.7 (+1.6)	0.1 (+0.1)	0.1 (+0.1)	21.6 (+1.0)	0.1 (+0.1)	4.1 (+0.6)	0.0 (+0.1)	0.2 (+0.2)	0.1 (+0.1)	0.2 (+0.2)
140	170,732	112,332	69,415 (+2,552)	62.4 (+2.2)	17.0 (+1.5)	0.1 (+0.2)	0.1 (+0.2)	17.2 (+1.2)	0.3 (+0.3)	2.8 (+0.8)	0.0 (+0.2)	0.0 (+0.2)	0.0 (+0.2)	0.0 (+0.2)
141	166,498	113,951	92,390 (+2,829)	21.0 (+1.4)	62.5 (+1.6)	0.4 (+0.3)	0.2 (+0.2)	13.5 (+1.2)	0.2 (+0.2)	1.6 (+0.4)	0.3 (+0.4)	0.1 (+0.1)	0.1 (+0.2)	0.2 (+0.2)
142	159,541	113,288	91,845 (+2,711)	26.2 (+1.7)	50.6 (+1.6)	0.2 (+0.2)	0.1 (+0.2)	20.3 (+1.1)	0.3 (+0.2)	2.1 (+0.5)	0.0 (+0.1)	0.1 (+0.2)	0.1 (+0.1)	0.2 (+0.2)
143	167,215	113,877	84,625 (+2,678)	56.5 (+1.9)	18.0 (+1.3)	0.2 (+0.2)	0.1 (+0.2)	23.7 (+1.6)	0.1 (+0.2)	1.0 (+0.4)	0.1 (+0.2)	0.2 (+0.2)	0.1 (+0.2)	0.1 (+0.2)
144	161,859	108,509	75,785 (+2,295)	59.1 (+1.8)	4.4 (+0.7)	0.0 (+0.2)	0.1 (+0.2)	34.9 (+1.4)	0.4 (+0.3)	0.5 (+0.3)	0.1 (+0.2)	0.3 (+0.2)	0.1 (+0.2)	0.1 (+0.2)
145	164,574	116,918	83,645 (+2,505)	59.3 (+1.8)	8.4 (+0.9)	0.2 (+0.2)	0.0 (+0.2)	28.4 (+1.3)	0.1 (+0.2)	3.1 (+0.6)	0.1 (+0.2)	0.3 (+0.3)	0.1 (+0.2)	0.1 (+0.2)
146	174,485	130,444	97,195 (+2,715)	13.1 (+1.1)	55.6 (+1.7)	0.2 (+0.2)	0.1 (+0.2)	24.7 (+1.1)	0.3 (+0.2)	5.0 (+0.6)	0.1 (+0.2)	0.2 (+0.2)	0.2 (+0.2)	0.5 (+0.3)
147	175,873	136,034	114,905 (+2,933)	22.7 (+1.3)	43.4 (+1.3)	0.1 (+0.1)	0.1 (+0.2)	28.9 (+1.0)	0.1 (+0.1)	4.3 (+0.6)	0.0 (+0.1)	0.1 (+0.1)	0.1 (+0.1)	0.2 (+0.2)
148	170,811	125,873	91,615 (+2,800)	46.8 (+2.0)	9.7 (+1.2)	0.0 (+0.2)	0.0 (+0.2)	40.1 (+1.1)	0.3 (+0.2)	2.4 (+0.4)	0.0 (+0.2)	0.1 (+0.2)	0.2 (+0.2)	0.3 (+0.2)
149	170,702	121,535	89,230 (+2,957)	23.4 (+1.5)	27.7 (+1.9)	0.1 (+0.1)	0.2 (+0.2)	27.0 (+1.4)	0.2 (+0.2)	20.4 (+1.3)	0.1 (+0.2)	0.2 (+0.2)	0.5 (+0.2)	0.2 (+0.2)
150	168,735	120,462	109,725 (+2,754)	15.4 (+1.2)	12.7 (+1.1)	0.3 (+0.2)	0.2 (+0.2)	66.0 (+1.2)	0.1 (+0.1)	4.7 (+0.6)	0.1 (+0.1)	0.2 (+0.1)	0.2 (+0.1)	0.1 (+0.1)

The American Community Survey provided estimated citizen voting age population (CVAP) data at the block group level in a Special Tabulation. All block groups with more than 50% of the population in a district are included in the

A-6

“August 31 2015 INVOICE - Washington Free Beacon.docx”

INVOICE

Thomas B. Hofeller, Ph.D.

6701 Point Vista Circle
Raleigh, NC 27615
(703) 623-0764
TIN: 558-62-7218

August 31, 2015

Washington Free Beacon
1000 Wilson Boulevard
Suite 2600
Arlington, VA 22209

For Services rendered in production of an analysis of the effects of the use of citizen voting age population in redistricting.

16 hours @ \$300.00	\$ 4,800.00
Discount per prior agreement	\$ 1,800.00
Total Due:	<u>\$ 3,000.00</u>

Thomas B. Hofeller

A-18

"RE Did you see Hannity.msg"

Strickland, Shemaiah

From: christa jones <xtahonez@hotmail.com>
Sent: Saturday, February 6, 2010 9:28 AM
To: Tom Hofeller
Subject: RE: Did you see Hannity?

We estimate every percentage point in the response rate is worth about \$80-90 million--that's a soft number though, we're trying to recalculate. That's about one million or so households.

Christa D Jones Washington, DC

From: celticheal@aol.com
To: xtahonez@hotmail.com
Subject: RE: Did you see Hannity?
Date: Fri, 5 Feb 2010 20:01:38 -0500

So how many extra questionnaires would have to be answered to make this ad worthwhile?

From: christa jones [mailto:xtahonez@hotmail.com]
Sent: Friday, February 05, 2010 6:42 PM
To: Tom Hofeller; Tom Hofeller
Subject: Did you see Hannity?

<http://www.foxnews.com/story/0,2933,584929,00.html>

They could really hurt the census. What do you think?

Your E-mail and More On-the-Go. Get Windows Live Hotmail Free. Sign up now.
<<http://clk.atdmt.com/GBL/go/201469229/direct/01/>>

=

Hotmail: Trusted email with powerful SPAM protection. Sign up now.
<<http://clk.atdmt.com/GBL/go/201469227/direct/01/>>

A-19

“RE Redistricting Article.msg”

Strickland, Shemaiah

From: Michael Smith <smithmichl@majorityamerica.net>
Sent: Thursday, January 7, 2010 8:28 PM
To: 'Tom Hofeller - Redistricting'; celticheal@aol.com
Cc: ncs-va@msn.com; chapin.fay@mail.house.gov; charlie.black@bksh.com;
chip.Lake@mail.house.gov; chip_lake@bellsouth.net; xtahonez@hotmail.com;
davella@gopac.org; dwinston@winstongroup.net
Subject: RE: Redistricting Article

I can live with it;

M

From: Tom Hofeller - Redistricting [mailto:thofeller@rnchq.org]
Sent: Thursday, January 07, 2010 11:49 AM
To: celticheal@aol.com
Cc: ncs-va@msn.com; chapin.fay@mail.house.gov; charlie.black@bksh.com; chip.Lake@mail.house.gov;
chip_lake@bellsouth.net; xtahonez@hotmail.com; davella@gopac.org; dwinston@winstongroup.net
Subject: Redistricting Article

FYI. A little slanted, but it touches many of the bases.

Thomas B Hofeller
Redistricting Consultant
Office (202) 863-8816
Cell (703) 623-0764

A-20

"Fw 2010 Census -- Myths and Misconceptions.msg"

Strickland, Shemaiah

From: christa.d.jones@census.gov
Sent: Friday, March 19, 2010 11:07 AM
To: amarkneu@aol.com; celticheal@aol.com
Subject: Fw: 2010 Census -- Myths and Misconceptions

FYI...

----- Forwarded by Christa D Jones/DMD/HQ/BOC on 03/19/2010 11:05 AM -----

From: Burton H Reist/DIR/HQ/BOC
To: "Stephen Buckner" <stephen.l.buckner@census.gov>, Angela M Manso/CAO/HQ/BOC@BOC, Michele H Lowe/PIO/HQ/BOC@BOC, "Stuart Durst" <stuart.p.durst.jr@census.gov>, James L Dinwiddie/DMD/HQ/BOC@BOC, "Christa Jones" <christa.d.jones@census.gov>
Date: 03/19/2010 10:48 AM
Subject: 2010 Census -- Myths and Misconceptions

Please forward to stakeholders as appropriate. . .

The 2010 Census is now in full gear. As with any operation this large, there is bound to be misleading information circulated about nature and goals of the endeavor. Your office or your constituents may be receiving emails or inquiries about misconceptions on the Census.

The independent website Factcheck.org , has today posted a point by point rebuttal of this video. I draw your attention to it as it represents an independent defense of the Census Bureau and a comprehensive explanation of the 2010 Census, and its relationship with the other surveys conducted by the Census Bureau. This post is helpful in debunking many of the myths about the Census currently making the rounds, and I urge you to share it with your stakeholders and constituents.

<http://factcheck.org/2010/03/census-nonsense/> <<http://factcheck.org/2010/03/census-nonsense/>>

You may also find the blog of Census Director Robert Groves on our website useful to answer other questions. You can find it on our homepage at www.2010census.gov.

Additionally, you may be hearing questions about the constitutional origins of the census or where in law the census questionnaire is authorized. For more information on these questions, we have created a page on our website here:

<http://2010.census.gov/2010census/why/constitutional.php>
<<http://2010.census.gov/2010census/why/constitutional.php>>

A-21

“Fwd FR Notice.msg”

Strickland, Shemaiah

From: Christa Jones <xtadjones@hotmail.com>
Sent: Wednesday, January 7, 2015 9:04 AM
To: Tom Hofeller
Subject: Fwd: FR Notice

This can also be an opportunity to mention citizenship as well.

Sent from my iPhone

Begin forwarded message:

> From: Christa D Jones <xtadjones@hotmail.com>
> Date: January 6, 2015 at 2:47:15 PM EST
> To: Tom Hofeller - Hofeller <celticheal@aol.com>
> Subject: FR Notice
>
> The notice ends on 2/27. Public comments highly useful in this context.
>
> <https://federalregister.gov/a/2014-28247>
>

the Commission's Web site, www.usccr.gov, or to contact the Western Regional Office at the above email or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in November 25, 2014.

David Mussatt,
Chief, Regional Programs Coordination Unit.

[FR Doc. 2014-28276 Filed 12-1-14; 8:45 am]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; 2015 National Content Test

AGENCY: U.S. Census Bureau,
Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before February 2, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at jjessup@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Erin Love, Census Bureau, HQ-3H154E, Washington, DC 20233; (301) 763-2034 (or via email at erin.s.love@census.gov).

SUPPLEMENTARY INFORMATION:

I. Abstract

The 2015 National Content Test (NCT) is part of the research and development cycle leading up to the re-engineered 2020 Census. The 2015 NCT will help the Census Bureau achieve one of its Strategic Goals—developing a census that is cost-effective, improves coverage, and reduces operational risk.

The first objective of this test is to evaluate and compare different census content, including race and Hispanic origin, relationship, and within-household coverage. This will be the primary mid-decade opportunity to compare different content strategies prior to making final decisions about the content in the 2020 Census. The test will include a reinterview to further assess the accuracy and reliability of the question alternatives for race, origin, and within-household coverage.

The second objective is to test different contact strategies for optimizing self-response. This includes nine different approaches to encouraging households to respond and, specifically, to respond using the less costly and more efficient Internet response option. These approaches include altering the timing of the first reminder, use of email as a reminder, altering the timing for sending the mail questionnaire, use of a third reminder, and sending a letter in place of a paper questionnaire to non-respondents.

The third objective is to test different options for offering non-English materials. The goal is to provide language support for respondents with limited English proficiency. Options being explored include online Spanish questionnaires, dual-language English and Spanish paper questionnaires and letters, and additional questionnaire options and support in non-English languages.

Regarding the first objective, the classification of racial and ethnic responses to the decennial census by the Census Bureau adheres to the U.S. Office of Management and Budget's (OMB) October 30, 1997 "Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity" (see www.whitehouse.gov/omb/fedreg_1997standards). There are five minimum categories for data on race: "White," "Black or African American," "American Indian or Alaska Native," "Asian," and "Native Hawaiian or Other Pacific Islander." There are two minimum categories for data on ethnicity: "Hispanic or Latino" and "Not Hispanic or Latino." The OMB standards advise that respondents shall be offered the option of selecting one or more racial designations. The OMB standards also advise that race and ethnicity are two distinct concepts; therefore, Hispanics or Latinos may be any race.

The minimum categories for data on race and ethnicity for Federal statistics, program administrative reporting, and civil rights compliance reporting are defined by OMB as follows:

- American Indian or Alaska Native—A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

- Asian—A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

- Black or African American—A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American."

- Hispanic or Latino—A person of Mexican, Puerto Rican, Cuban, South or Central American, or other Spanish culture or origin, regardless of race. The term, "Spanish origin," can be used in addition to "Hispanic or Latino."

- Native Hawaiian or Other Pacific Islander—A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

- White—A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

The 1997 OMB standards state the minimum categories that must be used to collect and present federal data on race and ethnicity. Additionally, the 1997 OMB standards permit the collection of more detailed information on population groups, provided that any additional groups can be aggregated into the minimum standard set of categories. Currently, the Census Bureau collects additional detailed information on Hispanic or Latino groups, American Indian and Alaska Native tribes, Asian groups, and Native Hawaiian and Other Pacific Islander groups.

For example, responses to the race question such as "Navajo Nation," "Doyon," and "Mayan" are collected and tabulated in Census Bureau censuses and surveys, and can be aggregated into the total American Indian or Alaska Native population. Detailed responses to the race question such as "Chinese," "Asian Indian," and "Vietnamese" are collected and tabulated, and can be aggregated into the total Asian population. Responses to the ethnicity question such as "Mexican," "Puerto Rican," and "Cuban" are collected and tabulated in Census Bureau censuses and surveys, and can be aggregated into the total Hispanic or Latino population. Responses to the race question such as "Native Hawaiian," "Chamorro," or "Fijian" are collected and tabulated, and can be aggregated into the total

Native Hawaiian or Other Pacific Islander population.

The 2015 NCT will test ways to collect and tabulate detailed information for all groups, including data for White groups, such as German, Irish, and Lebanese, and data for Black groups, such as African American, Jamaican, and Nigerian, which have not been tabulated previously from the question on race. Responses to the race question such as "African American," "Jamaican," or "Nigerian" will be collected and tabulated, and can be aggregated to the total Black or African American population. Responses to the race question such as "German," "Irish," or "Lebanese" will be collected and tabulated, and can be aggregated into the total White population.

The 2015 NCT will also test a separate "Middle Eastern or North African" category and the collection of detailed groups such as "Lebanese," "Egyptian," and "Iranian." Following the current OMB standards, Middle Eastern and North African responses are classified as "White."

The results of the 2015 NCT will guide future collection and tabulation of detailed information for all race and ethnicity groups.

Plans for the 2020 Census call for the use of less costly and more efficient web-based response options to collect information, as opposed to a previous predominant reliance on paper-based questionnaires. One benefit of the online response mode is that it allows for more functionality and greater flexibility in designing questions compared to paper, which is constrained by space availability. With the advantage of new technology, the 2015 National Content Test will utilize web-based technology, such as internet, smart phone, tablet, and telephone to improve question designs and optimize reporting of detailed racial and ethnic groups (e.g., Samoan, Iranian, Blackfeet Tribe, Filipino, Jamaican, Puerto Rican, Irish, etc.).

The web-based designs provide much more utility and flexibility for using detailed checkboxes and write-in spaces to elicit and collect data for detailed groups than traditional paper questionnaires, and will help collect data for both the broader OMB categories, as well as detailed responses across all groups.

Components of the Test

A. Race and Origin Content

The Census Bureau conducted an extensive research undertaking as part of the 2010 Census—the 2010 Census Race and Hispanic Origin Alternative

Questionnaire Experiment (AQE) (for details, see www.census.gov/2010census/news/press-kits/aqe/aqe.html). The 2010 AQE examined alternative strategies for improving the collection of data on a race and Hispanic origin, with four goals in mind:

1. Increasing reporting in the standard race and ethnic categories as defined by the U.S. Office of Management and Budget;

2. Decreasing item non-response for these questions;

3. Increasing the accuracy and reliability of the results for this question; and

4. Eliciting detailed responses for all racial and ethnic communities (e.g., Chinese, Mexican, Jamaican, etc.).

The results of the AQE supported all of these objectives. Additionally, many individuals across communities liked the combined question approach. They believed it presented equity to the different categories. Some of the findings from this research include:

- Combining race and ethnicity into one question did not change the proportion of people who reported as Hispanics, Blacks, Asians, American Indians and Alaska Natives, or Native Hawaiians and Other Pacific Islanders.
- The combined question yielded higher response rates.
- The combined question increased reporting of detailed responses for most groups, but decreased reporting for others.

- The combined question better reflected self-identity.

The successful strategies from the AQE research have been employed in the design of the Census Bureau's mid-decade research. Four key dimensions of the questions on race and Hispanic origin are being tested in the 2015 NCT. These include question format, response categories, wording of the instructions, and question terminology.

Question Format

The 2015 NCT will evaluate the use of two alternative question format approaches for collecting data on race and ethnicity. One approach uses two separate questions: the first about Hispanic origin and the second about race ("separate questions"). The other approach combines the two items into one question about race and origin ("combined question"). The 2015 mid-decade research will test the approaches with new data collection methods, including internet, telephone, and in-person response.

1. Separate race and origin questions: This is a modified version of the race and Hispanic origin format used in the

2010 Census. Updates since the 2010 Census include added write-in spaces and examples for the "White" and "Black or African Am." response categories, removal of the term "Negro," and an instruction to select one or more boxes in the Hispanic origin question.

2. Combined question with checkboxes and write-ins on same screen: This is a modified version of the combined question approaches found to be successful in the 2010 AQE.

Checkboxes are provided for the U.S. Office of Management and Budget (OMB) standard categories (per the 1997 Standards for the Classification of Federal Data on Race and Ethnicity) with a corresponding write-in space for each checkbox category. In this version, all write-in spaces are visible at all times. Each response category contains six example origins, which represent the diversity of the geographic definitions of the OMB category. For instance, the "Asian" category examples of Chinese, Filipino, Asian Indian, Vietnamese, Korean, and Japanese represent the six largest detailed Asian groups in the United States, reflecting OMB's definition of Asian ("A person having origins in any of the original peoples of the Far East, Southeast Asia, and the Indian subcontinent."). Respondents do not have to select an OMB checkbox, but may enter a detailed response in the write-in space without checking a category.

- a. Combined question with checkboxes and write-ins on separate screens (Internet-only): In this version, the detailed origin groups are solicited on subsequent screens after the OMB response categories have been selected. On the first screen, the OMB checkbox categories are shown along with their six representative example groups. Once the OMB categories have been selected, one at a time, subsequent screens solicit further detail for each category that was chosen (e.g., Asian), using a write-in space to collect the detailed groups (e.g., Korean and Japanese). The intent is to separate mouse click tasks (checkbox categories) and typing tasks (write-ins) in an attempt to elicit responses that are more detailed. The same version was used as one of three race and origin Internet panels in the 2014 Census Test.

3. Combined question branching with detailed checkbox screens (Internet-only): This version is an alternative method of soliciting detailed origin groups using separate screens, detailed checkboxes, and write-in spaces. On the first screen, the OMB checkbox categories are shown along with their six representative example groups. Once the OMB categories have been selected, one at a time, subsequent screens solicit

further detail for each category, this time using a series of additional checkboxes for the six largest detailed groups (e.g., Chinese, Filipino, Asian, Indian, Vietnamese, Korean, and Japanese) with a write-in space also provided to collect additional groups.

Race Response Categories

The 2015 National Content Test will evaluate the use of the Middle Eastern or North African (MENA) category in the race question. There will be two treatments for testing this dimension:

1. Use of MENA category: This treatment tests the addition of a MENA checkbox category to the race question. The MENA category is placed within the current category lineup, based on estimates of population size, between the categories for Native Hawaiians and Other Pacific Islanders and “Some other race.” With the addition of this new category, the “White” example groups are revised. The Middle Eastern and North African examples of “Lebanese” and “Egyptian” are replaced with the European examples of “Polish” and of “French.” The MENA checkbox category will have the examples of “Lebanese, Iranian, Egyptian, Syrian, Moroccan, Algerian, etc.” All other checkbox categories and write-in spaces remain the same.

2. No separate MENA category: This treatment tests approaches without a separate MENA checkbox category, and represents the current OMB definition of White (“A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.”). Here we will provide examples of Middle Eastern and North African origins (“Lebanese” and “Egyptian”) with European origin groups as part of the “White” racial category.

Wording of the Instructions

1. “Mark [X] one or more boxes”: The current paper version of the instructions on paper states, “Mark [X] one or more boxes AND print your specific origin(s).”

2. “Mark all that apply/You may mark multiple groups”: In this version, the instruction is modified to “Mark all boxes that apply AND print the specific [origin(s)/ethnicities] in the spaces below. Note, you may report more than one group.” Recent qualitative focus groups and cognitive research (e.g., 2010 AQE research; 2013 Census Test research) found that respondents frequently overlook the instruction to “Mark” [X] one or more boxes. The research found that some respondents may have stopped reading the instruction after noticing the visual cue [X] and proceeded directly to do just

that—mark a box—overlooking the remainder of the instruction. The new instruction (“Mark all boxes that apply”) is an attempt to improve the clarity of the question and make it more apparent that more than one group may be selected.

Question Terms

1. “Origin” term: The current version of the race and Hispanic origin questions use the terms “race” and/or “origin” to describe the concepts and groups in the question stem, instructions, and examples. For instance, in the combined race and Hispanic origin approach, the question stem is “What is your race or origin?” In addition, prior to each write-in field, respondents are instructed to “Print specific origin(s), for example . . .”

2–3. Alternative terms: Recent qualitative focus groups and qualitative research (e.g., 2010 AQE research; 2013 Census Test research; cognitive pre-testing for 2016 American Community Survey Content Test) found that the term “origin” is confusing or misleading to many respondents, who may think it is asking about where they immigrated from or where they were born. Two alternative options are being explored in cognitive testing and usability research. One approach tests the use of the term “ethnicities” along with “race” (e.g., “Print the specific races(s) and/or ethnicities . . .”). The other approach tests the removal of the terms altogether from the question stem, instructions, and examples. Instead, a general approach asks, “Which categories describe this person?” The exact terminology to be used for the alternative version is pending cognitive testing and usability results later this year, which will inform the wording to be used in the 2015 NCT.

B. Relationship Content

Two versions of the relationship question will be tested. Both versions are the same as those used in a split-sample in the 2014 Census Test, with no changes. The new relationship categories have also been tested in other Census Bureau surveys including the American Housing Survey, American Community Survey, and the Survey of Income and Program Participation (currently used in production). Although research to date has been informative, leading to the development of the revised relationship question, additional quantitative testing is needed. Since the incidence of some household relationships—such as same-sex couples—is relatively low in the general population, the revised question needs to be tested with large,

representative samples prior to routinely including them in the 2020 Census questionnaire.

The first version uses the 2010 Census relationship question response options, but in a new order, starting with “husband or wife” and then the “unmarried partner” category. This version also re-introduces the foster child category, which was removed from the 2010 Census form due to space issues.

The second version includes the same basic response options as the 2010 Census version, but modifies/expands the “husband or wife” and “unmarried partner” categories to distinguish between same-sex and opposite-sex relationships.

C. Coverage Content (Internet Only)

The 2012 National Census Test experimented with several methods to improve accurate within-household coverage for Internet respondents. One benefit of the online response mode is that it allows for more functionality and greater flexibility in designing questions compared to paper, which is constrained by space availability. The 2012 test included a coverage follow-up reinterview to evaluate the different Internet design options, but some results were inconclusive. In the 2015 NCT, two designs will be tested to compare different approaches for helping respondents provide a more accurate roster of household residents.

The first approach is the “Rules-Based” approach, and will allow us to see whether the presence of a question asking the number of people in the household along with the residence rule instructions helps respondents create an accurate roster. This is similar to the approach used across all modes in Census 2000 and the 2010 Census, where the respondent was expected to understand our residence rules and apply them to their household. This is followed by a household-level question that probes to determine if any additional people not listed originally should be included for consideration as residents of the household (several types of people and living situations are shown in a bulleted list).

The “Question-Based” approach allows us to ask guided questions to help improve resident information. Respondents are not shown the residence rule instructions and are only asked to create an initial roster of people they consider to be living or staying at their address on Census Day. This is followed by several short household-level questions about types of people and living situations that might apply to

someone in the household that was not listed originally.

D. Optimizing Self Response

The nine proposed contact strategies for optimizing self response (OSR) are summarized as follows:

Internet Push (Control): This is the standard Internet Push strategy used in the most recent series of self response tests, including the 2014 Census Test. This panel will serve as a control panel against which to compare the experimental strategies. There will be nine treatments as part of the OSR test.

Internet Push With Early Postcard: The motivation for this panel is to study the timing of reminders. The hypothesis is that sending the first reminder sooner (closer to the initial Internet push) would provide for a better connection between the two mailings, and could increase response. A side benefit is that this could also reduce the volume of later targeted mailings since responses may be quicker overall.

The motivation for the following sequence of three panels is based on recent American Community Survey (ACS) research, which has found depressed self response rates among certain respondents/areas with lower Internet usage. Testing the delivery of the paper questionnaires at various points in the response process will allow us to have complete response measures under several scenarios for the cost/benefit analysis needed to inform 2020 Census planning. Although these strategies may not make sense for everyone in 2020, using a responsive design and tailoring the contact strategy for certain geographic areas or populations may be beneficial.

- *Internet Push With Early Questionnaire:* questionnaire sent at third mailing, one week sooner
- *Internet Push With Even Earlier Questionnaire:* questionnaire sent at second mailing, two weeks sooner
- *Internet Choice:* questionnaire sent at first mailing, providing a choice of Internet or paper from the beginning

Internet Push With Postcard as Third Reminder: The motivation for this panel is to further encourage self response, after the questionnaire mailing, prior to nonresponse follow-up. Numerous survey research studies have concluded that, while there is a point of diminishing returns, further reminders will inevitably increase self response rates.

Internet Push Postcard: The motivation for this panel is to study the impact of sending a postcard at the first mailing instead of a letter. There are two potential benefits. First is the possible cost savings of printing and mailing a

postcard compared to the envelope package (with letter and instruction card). Second is the potential for increased self response because reading a postcard requires less effort by a respondent. In this panel, we send a letter at the third contact (sent to non-respondents only), in place of a postcard, to vary the types of contacts received.

Internet Push With Early Postcard and Second Letter Instead of Mail Questionnaire: The motivation for testing an approach in which we do not send a mail questionnaire is to address the high-level goal of greatly reducing paper responses in the 2020 Census. By testing an approach in which we send an Internet push letter in place of a paper questionnaire at the fourth mailing, we will have a more robust set of response measures for informing cost/benefit analyses.

Internet Push With Postcard and Email as 1st Reminder (same time): The motivation for this panel is to determine if we can take advantage of the email addresses in the supplemental contact frame maintained by the Center for Administrative Records Research and Applications. The hypothesis is that by sending a postcard and email at the same time, we may be able to elicit increased response.

E. Language

In the two mailings that contain a letter for each Optimizing Self response strategy, three different methods will be used to encourage response. In particular, by altering the language support provided in the letter, the goal is to increase response for respondents with limited English proficiency.

The control panel is similar to the 2014 Census Test design, in which the mailing materials are in English with a single Spanish sentence directing respondents to the Web site or the telephone assistance line.

One of the goals of language research is to maximize the number of non-English speakers that receive the same message as English speakers prior to going online to respond. Two panels provide equality between the English and Spanish content in the letter and test whether one method is better at eliciting Spanish responses. The swimlane design has been used in the past, such as with the bilingual questionnaire in the 2010 Census. The dual-sided letter provides English content on one side and Spanish content on the other side. In addition, because research has shown that Spanish-speaking respondents do not always open the mailings because they may not know that language resource information is

provided inside, the outgoing envelope for both panels will include the census test Web site URL and a brief message in both languages.

This test will also explore additional options for non-English speakers to complete the questionnaires.

F. Content Reinterview

A sub-sample of respondents from the 2015 NCT will be selected for a content reinterview, focused on race and origin and within-household coverage, with a goal of assessing accuracy and reliability of the different designs. Reinterviews are conducted with a sub-sample of respondents, by asking more detailed questions on question topics, in order to assess the accuracy of the responses.

II. Method of Collection

The initial mail-out is planned for late August 2015. This contact will explain why we are conducting the mandatory 2015 NCT, assure respondents that their answers are confidential, and inform them of the measures we take to keep their personal information secure. The second mail-out is considered a reminder and is sent to all housing units. All contacts after the second mailing are sent to non-respondents only.

Respondents are encouraged to respond to the 2015 NCT by Internet but may also be able to provide information by phone. Many will also receive a paper questionnaire at some point in the mail-out strategy. The test will be conducted nationally in all 50 U.S. states, the District of Columbia, and Puerto Rico.

III. Data

OMB Control Number: None.

Form Number: TBD.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1.3 million households. (1.2 million initial response + 100,000 reinterview).

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 216,667.

Estimated Total Annual Cost: There is no cost to respondents except for their time to respond.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. 141 and 193.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have

practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 25, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014-28247 Filed 12-1-14; 8:45 am]

BILLING CODE 3510-07-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-85-2014]

Foreign-Trade Zone 116—Port Arthur, Texas; Expansion of Subzone 116B; Total Petrochemicals & Refining USA, Inc.; Port Arthur and Jefferson County, Texas

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Foreign-Trade Zone of Southeast Texas, Inc., grantee of FTZ 116, requesting an expansion of Subzone 116B on behalf of Total Petrochemicals & Refining USA, Inc. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on November 25, 2014.

Subzone 116B was approved on September 18, 1995 (Board Order 772, 60 FR 49564, 9/26/95). The subzone (1,457 acres) currently consists of four sites located in Port Arthur and Jefferson County: *Site 1* (1,244 acres)—main refinery complex located along the Neches River at State Farm to Market Highway 366 and 32nd St., Port Arthur; *Site 2* (19 acres)—West Port Arthur Tank Farm located at Roosevelt and 53rd Streets, Port Arthur; *Site 3* (194 acres)—refinery expansion site, located adjacent to the refinery at State Farm to Market Hwy 366, Port Arthur; and, *Site 4*—Sun Marine Terminal-Nederland tank storage facility (leased storage) located along the Neches River in Nederland.

The current request would add a pipeline that originates from the subzone's leased storage facility at Site 4 to the main refinery located at Site 1, as described in the application. No additional authorization for production activity has been requested at this time.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is January 12, 2015. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to January 26, 2015.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230-0002, and in the "Reading Room" section of the FTZ Board's Web site, which is accessible via www.trade.gov/ftz.

For further information, contact Camille Evans at Camille.Evans@trade.gov or (202) 482-2350.

Dated: November 25, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014-28416 Filed 12-1-14; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Proposed Information Collection; Comment Request; Domestic and International Clients Export Services and Customized Forms

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before February 2, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer,

Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at JJessup@doc.gov).

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument and instructions should be directed to Joe Carter, Office of Strategic Planning, 1999 Broadway, Suite 2205 Denver, CO 80220, (303) 844-5656, joe.carter@trade.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The International Trade Administration's Global Markets (GM) is seeking approval to renew the currently approved OMB control number: 0625-0143. These collections include all client intake, events/activities and export success forms. This comprehensive information collection will cover all aspects of a U.S. organization's life-cycle with GM.

GM is mandated by Congress to help U.S. organizations, particularly small and medium-sized organizations, export their products and services to global markets. As part of its mission, GM provides market entry/expansion services and trade events to U.S. organizations.

The Domestic and International Clients Export Services and Customized Forms are needed to collect information to enable, but not limited to small and medium sized, U.S. organizations to efficiently and effectively enhance their ability to determine which international organizations are most suited for their exporting expansion efforts.

The key to effectively and efficiently assist U.S. organizations export is identifying and verifying potential international buyers of U.S. goods and services. The categories of questions are: Contact information, organization information, organization type, agreements and confirmations, objectives, products and services, exporting experience, marketing, events and activities, trade fair/show, certified trade missions, trade missions, advocacy, environment, and education. GM asks only those questions that provide the required information to assist GM in fulfilling a client's objective for a requested service and/or event/activity.

As GM moves forward, we understand the importance and need for strategic planning and integration of future technology and initiatives that relate to GM programs and metrics with the types of information collected from clients to conduct those programs. Additionally, the most important,

A-22

“Reservation at Ramparts Tavern.msg”

Strickland, Shemaiah

From: Christa Jones <xtadjones@hotmail.com>
Sent: Friday, April 24, 2015 11:32 AM
To: Tom Hofeller
Subject: Reservation at Ramparts Tavern

Let's eat! I reserved a table for 3 at Ramparts Tavern.

When:
Friday, April 24 at 6:30 PM

Address:
1700 Fern Street
Alexandria, VA, 22302
[Get directions](#)

This reservation was made through OpenTable. Download the free iPhone app.

Sent from my iPhone

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

ROBYN KRAVITZ, et al.,) Civil Action No.
) 8:18-cv-01041-GJH
 Plaintiffs,)
) Hon. George J. Hazel
 vs.)
)
 U.S DEPARTMENT OF)
 COMMERCE, et al.,)
)
 Defendants.)

LA UNION DEL PUEBLO) Civil Action No.
 ENTERO; et al.,) 8:18-cv-01570-GJH
)
 Plaintiffs,) Hon. George J. Hazel
)
 vs.)
)

WILBUR L. ROSS, sued in)
 his official capacity as)
 U.S. Secretary of)
 Commerce, et al.,)
)
 Defendants.)

VIDEOTAPED DEPOSITION OF A. MARK NEUMAN
 Taken on behalf of Plaintiffs
 October 28, 2018
 (Starting time of the deposition: 12:22 p.m.)

Veritext Legal Solutions
 Mid-Atlantic Region
 1250 Eye Street NW - Suite 350
 Washington, D.C. 20005

1 you know.

2 A. I don't have -- I -- I never really sort of
3 knew the total number of people who were on the
4 Commerce transition. Because, again, there were
5 people who showed up at meetings, and I didn't see
6 very much, and there were other people that -- the
7 core group of people, when we were writing a Commerce
8 agency action plan, sitting around the table, David
9 Bohigian, Willie Gaynor, David Rokeach.

10 Q. (By Mr. Duraiswamy) Anyone else that you
11 remember on the Commerce team, other than those three?

12 A. Loretta Green was sort of the -- you know,
13 like coordinating -- coordinating appointments for
14 Ray, you know, arranging when Ray would show up.
15 Again, that -- that was really the core group of
16 people on the agency action plan. And I wasn't always
17 there. So like, you know, there -- there was a lot of
18 time that I wasn't even in town.

19 Q. Who is Tom Hoffler?

20 A. Tom Hoffler was a person who was known in
21 the redistricting community. He passed away in -- in
22 August.

23 Q. Was he a member of the transition?

24 A. No, he was not.

25 Q. What was the context in which you talked to

1 him about the citizenship question during the
2 transition?

3 A. He would have told me what views of members
4 of Congress would have been on this issue.

5 Q. Did he reach out to you to have that
6 conversation, or did you reach out to him?

7 A. I can't remember which it was, but, you
8 know, I've known him for 25 years.

9 Q. How do you know him?

10 A. I knew him when he was working at the NRCC,
11 and I knew him when he was working at the Department
12 of Agriculture.

13 Q. Could you spell his last name for me?

14 A. It's H-O-F-F-L-E-R, I think. Thomas
15 Hoffler.

16 Q. How many times did you talk to him about the
17 citizenship question during the transition?

18 A. I don't know how many times.

19 Q. More than five? Less than five?

20 A. It certainly would be less than ten. It
21 would -- probably less than five during the
22 transition.

23 Q. Why were you talking to him about the views
24 of members of Congress regarding the citizenship
25 question?

1 A. The goal of the transition is not to sort of
2 say, "This is what you should do. This is what you
3 shouldn't do." The goal of the -- one of the most
4 important things that Willie Gaynor and others wanted
5 us to do is reach out to people who would be pushing
6 different things related to Commerce and make sure
7 that we had an understanding if someone was going to
8 introduce legislation on NOAA, that we would have a
9 forecast of likely proposals, likely interests, likely
10 budgetary issues, likely priorities. So the incoming
11 team would have a good sense of what Congress is
12 likely to do.

13 Q. So if I understand you correctly, one of the
14 things you were trying to accomplish on a transition
15 is understand the views of members of Congress with
16 regard to certain policy issues that were relevant to
17 the Commerce Department and what the --

18 A. Correct.

19 Q. -- incoming team would have to deal with at
20 the Commerce Department, correct?

21 A. So on NOAA, we would be interested. Well,
22 people from Alaska are very interested in fisheries.
23 The Magnuson Act. People from other states with
24 installations are interested in the NOAA satellites,
25 that this delegation is interested in the technology

1 issues or the intellectual property issues related to
2 PTO, that there are budgetary issues that the
3 Oversight Committee or the Appropriations Committee
4 thinks that the Census Bureau is costing too much, or
5 spending too much money. You'd want to have all of
6 that, that forecast in there, and not prejudge what --
7 whether Congress was right or wrong about the issue.

8 But Congress is likely to introduce
9 legislation affecting international -- affecting NAFTA
10 and dispute resolutions. So you would want to have a
11 forecast so you could give them a sense of what --
12 what issues they're going to face coming into the
13 door.

14 Q. So you were speaking with Mr. Hoffler to
15 understand the views of Congress with respect to a
16 potential citizenship question on the decennial,
17 because that was an issue that you anticipated the
18 incoming Commerce team was going to be dealing with?

19 A. They needed to understand that this was one
20 of the issues that people would raise with him.

21 Q. Who is the "they"? When you say, "they
22 needed to understand that this was one of the
23 issues" --

24 A. The incoming Commerce team needed to
25 understand all the potential issues that would be

1 raised by members of Congress, especially those in
2 oversight roles or committee chairmen. And so this
3 was one of many, many issues that were identified.

4 Q. So you were speaking with Mr. Hoffler to --
5 to understand and identify issues related to the
6 Commerce Department that members of Congress would
7 likely be interested in; is that correct?

8 A. I was trying to make sure that if the new
9 Commerce team were going on the Hill and meeting with
10 people on the census, that they would understand
11 issues that would be raised to them.

12 Q. And specifically the conversations with
13 Mr. Hoffler were to understand what members of
14 Congress might say or think about possibly adding a
15 citizenship question to the 2020 decennial?

16 A. No, that would have been one --

17 MR. ROSENBERG: Objection, form.

18 Q. (By Mr. Duraiswamy) I'm sorry, go ahead.

19 A. That would have been one of the issues.
20 Remember, Tom Hoffler is also pretty important,
21 because in the past Tom Hoffler was able to get
22 members of Congress to support funding for the Bureau.
23 Because he would say, we need to take a good census.
24 Because, remember, people generally don't want to
25 spend money on the census until we get on top of 2020.

1 Q. And you said Mr. Hoffler was a redistricting
2 expert; is that right?

3 A. He was a point person on redistricting,
4 yeah.

5 Q. A point person in what context?

6 A. He would talk to members of Congress about
7 redistricting.

8 Q. From his perch at the NRCC?

9 A. He wasn't -- I'm not sure he was at the NRCC
10 at the time. I'm not sure he was a -- he was
11 certainly a person that was connected to that issue.

12 Q. Do you know when he was at the NRCC?

13 A. I would imagine that he was a consultant or
14 something. Again, I don't know his status, but I know
15 that he was connected to that.

16 Q. What other issues did you talk to
17 Mr. Hoffler about during the transition, other than
18 the citizenship question, redistricting issues and
19 funding issues?

20 A. About the -- about the challenges that the
21 census would face in 2020. Because again, we were
22 going to the Internet to the online response. We were
23 going to -- we're adopting new technology. And, you
24 know, when I talk to people, stakeholders, I'm talking
25 always about the challenges that we'll face in the

1 next census that we didn't face in the last one.

2 And those really have to do with the work
3 force. They have to do with the technology that
4 sometimes is successful, sometimes is unsuccessful.
5 And what -- it's really important for the census to
6 have a broad -- a broad range of stakeholders that all
7 have skin in the game, that all feel like they're
8 united around the idea of, you know, we may have
9 political differences, but we all want to take a good
10 census.

11 Q. What do you recall learning from Mr. Hoffler
12 about the views of members of Congress regarding a
13 potential citizenship question on the 2020 decennial?

14 A. Pretty much what I just explained to you.

15 Q. Maybe I didn't understand. I'm trying to
16 understand what were the views that members of
17 Congress held that he conveyed to you?

18 MR. ROSENBERG: Objection. It call -- form.
19 It calls for speculation.

20 Q. (By Mr. Duraiswamy) You -- you can answer.
21 They will object from time to time. Unless they tell
22 you not to answer, you can answer.

23 MR. FELDMAN: The only comment I would have,
24 if you know in the conversations that he specifically
25 represented something from his knowledge of Congress'

1 view.

2 A. I -- I -- I don't recall specifics, but I
3 know, in general, Tom always believed, and I share his
4 view on this, block level data, accurate block level
5 data is very important.

6 Q. (By Mr. Duraiswamy) For redistricting
7 purposes?

8 A. For everything. For everything.

9 Q. Including redistricting purposes?

10 A. Including redistricting purposes.

11 Q. Block level data for what?

12 A. For everything. For all census data, and
13 that basically if you -- the hardest thing about the
14 census is not counting everyone living in America.
15 It's counting everyone living in America at the right
16 address one time.

17 Q. And he conveyed that view to you in your
18 conversations with him during the transition?

19 MR. ROSENBERG: Objection, vague, form.

20 A. Yeah, again --

21 Q. (By Mr. Duraiswamy) Let me try to --

22 A. I gave you a broad thing of -- of something
23 that Tom was always concerned with in every
24 conversation that I would have with him.

25 Q. I'm just trying to understand. You said you

1 talked to him about the views of members of Congress
2 related to the citizenship question.

3 A. I -- so I would start --

4 Q. That's my understanding.

5 A. I would start out the conversation by saying
6 what are members of Congress likely to raise on the
7 census issue that we can incorporate into the
8 transition planning so the new Commerce team is not
9 blindsided.

10 Q. And then he raised the issue of a
11 citizenship question or an immigration --

12 A. That was one of -- that was one of the
13 questions.

14 Q. Okay. Did he --

15 A. And I'm sure that we talked about census
16 residency rules as well.

17 Q. Can you -- just for people who may not
18 understand what census residency rules means, can you
19 explain what that means?

20 A. It basically means where were you on
21 April 1st. So people move around, they're snowbirds,
22 they're living at colleges, they're incarcerated or
23 otherwise detained. They're in group houses. There's
24 overseas military. Census residency rules say -- are
25 designed to ensure that people are -- are counted at

1 the right address.

2 Q. I assume you talked about census residency
3 rules for undocumented immigrants?

4 A. No, not that I recall.

5 Q. It's possible, but you just don't recall one
6 way or the other?

7 A. I don't recall that. It's generally not
8 something associated -- residency rules generally
9 don't get associated with that issue, unless you're
10 dealing with migrant farm workers who tend to be
11 documented.

12 Q. Well, you know there's litigation going on
13 about that right now, right?

14 A. Not -- I don't.

15 MR. ROSENBERG: Objection.

16 A. I don't.

17 Q. (By Mr. Duraiswamy) Okay. That's fair. I'm
18 sorry.

19 (The court reporter motioned to the
20 attorney.)

21 MR. DURAISWAMY: I will do my best, but I
22 will caution you that may not be the last time you
23 have to remind me.

24 COURT REPORTER: Thanks.

25 Q. (By Mr. Duraiswamy) And the census residency

1 Then there was October. Not a lot happened. Then
2 November, a lot of activity. Then December, a lot of
3 activity. Now a lot of activity.

4 So it's -- and, again, this is a part-time
5 volunteer job, so it's very difficult for me to kind
6 of try to recall exactly who said what when.

7 Q. Well -- well, do you recall discussing with
8 other individuals on the Commerce team whether there
9 were particular people or constituencies who are
10 interested in adding a citizenship question to the
11 census?

12 MR. ROSENBERG: Objection, vague.

13 MR. FELDMAN: If you -- if you can answer
14 it, answer it.

15 A. Tom Hoffler was, I think, the first person
16 that said something to me about that issue.

17 Q. (By Mr. Duraiswamy) Meaning he -- he --

18 A. He flagged it, you know. He said --

19 Q. He flagged it as something that might be of
20 interest to some people --

21 A. Right.

22 Q. -- in constituencies?

23 A. Right.

24 Q. And you said he was a point person for
25 redistricting in certain circles. He's -- he's a

1 Republican -- he was a Republican?

2 A. Yeah, he is.

3 Q. Okay.

4 A. Yeah.

5 Q. And so his work on redistricting over the
6 years has been in connection with the Republican party
7 or different state Republican parties, if you know?

8 A. Well, he was --

9 MR. ROSENBERG: Objection, vague, lack of
10 foundation.

11 MR. FELDMAN: Go ahead.

12 A. He was the person I recall in the 2000
13 census who was advising Bill Thomas, who was the
14 Chairman of the House Administration Committee, and
15 Bill Thomas was an expert, you know, as -- he was an
16 expert on a lot of things, but he was an expert on
17 redistricting. So I knew that Tom Hoffler had the ear
18 of committee chairmen who would interact with a
19 Secretary of Commerce.

20 Q. (By Mr. Duraiswamy) Did he -- do you recall
21 him referring to specific members of Congress who
22 might be interested in that issue?

23 A. I don't recall --

24 MR. ROSENBERG: Objection, vague --

25 A. -- the specific ones.

1 MR. ROSENBERG: -- as to who the him was.

2 MR. DURAISWAMY: Okay.

3 MR. FELDMAN: He answered it.

4 MR. DURAISWAMY: That's fine. I'd ask,
5 though, that you just object to the form.

6 MR. ROSENBERG: (Nodding head.)

7 Q. (By Mr. Duraiswamy) What was the substance
8 of the conversations that you had with the other
9 members of the Commerce team regarding a citizenship
10 question during the transition?

11 A. Again, one of many issues.

12 Q. I understand it's one of many issues. I'm
13 just trying to understand what was discussed about it.

14 MR. FELDMAN: When?

15 MR. DURAISWAMY: During the transition.

16 MR. FELDMAN: That's from a period of when
17 to when? Why don't we put --

18 A. From September through -- through January.

19 Q. (By Mr. Duraiswamy) When did you join the
20 transition?

21 A. Probably September was the first time I went
22 there.

23 Q. Okay. And I assume we can agree that the
24 transition ended at the time that President Trump, now
25 President Trump, took office as --

1 A. Right.

2 Q. -- the president, correct?

3 A. Right.

4 Q. Okay.

5 A. So, again, the November, December, January
6 is a whirlwind of activity. I'm volunteering. This
7 is my spare time that I'm doing it, and it's not like
8 I'm there 8:00 to 5:00 five days a week. I'm there
9 when I can be there. And so, again, very difficult
10 for me to try to recall who said what to whom.

11 Q. Okay. Let me try to be more specific. Did
12 you all talk about the potential uses of a citizenship
13 question on the census?

14 A. Uses?

15 Q. Of how the citizenship -- of how -- strike
16 that.

17 By uses, I mean how the data gathered from
18 asking the citizenship question could be used?

19 A. Well, my understanding would be that the use
20 would be having block level citizen voting age
21 population data.

22 Q. And that was the understanding that you had
23 at the time?

24 A. That was what I was told was the principal
25 objective.

1 Q. By who?

2 A. By Tom Hoffler.

3 Q. For what purpose?

4 A. Taxes.

5 Q. What would be the value of having block
6 level --

7 A. Citizen age voting -- to ensure one person,
8 one vote.

9 Q. Can you explain, how -- how does having
10 block level citizenship voting age population data
11 ensure one person, one vote?

12 A. This is going to be a long explanation.

13 Q. That's fine.

14 A. Have you -- have you read through my
15 presentation on this?

16 Q. Yes.

17 A. You know which one it is?

18 Q. I think so.

19 A. You said to a federal judge that I -- that
20 there was no record of what I talked about with the
21 Secretary. And yet you're saying that you read my
22 presentation to the Secretary, but you told a federal
23 judge that I didn't --

24 MR. FELDMAN: Just answer the question.

25 Q. (By Mr. Duraiswamy) I think he produced it

1 in response to the subpoena we served after the
2 federal judge ordered the deposition.

3 A. No, actually it was in -- it was in the
4 documents before.

5 MR. FELDMAN: Mark, answer -- answer his
6 question.

7 Q. (By Mr. Duraiswamy) In any event, can you
8 explain what Mr. Hoffler said to you about why --

9 A. No. Wait. No. You wanted me to explain
10 why I think that block level data is important to
11 citizen voting age population, or do you want it
12 explained why Tom Hoffler does?

13 Q. I'm trying to understand the conversations
14 you had during the transition. So you said --

15 A. He said that after the long-form data went
16 away in 2000, that the quality of block level citizen
17 voting age population had now diminished. So the --
18 so the ability to draw a district which would elect a
19 Latino in a population where there were non-citizens
20 was very, very difficult.

21 Q. He said that to you during the transition?

22 A. He -- we would have talked about it. I'm
23 not sure whether it was in the transition or after the
24 transition, but we would have talked about that issue.

25 Q. I'm trying to focus on in the transition

1 right now. So you're not sure if you had that
2 conversation with him about that potential use of
3 citizenship data during the transition; is that right?

4 A. I'm not sure that I did.

5 Q. Okay. So I'm trying to understand, you
6 discussed potential uses of citizenship data gathered
7 from the decennial with others on the Commerce team or
8 Mr. Hoffler during the transition?

9 A. I would think so.

10 Q. Okay. And --

11 A. I -- I don't recall, but I would think so.

12 Q. Do you recall discussing the possibility
13 that it could be used for immigration enforcement
14 purposes?

15 A. Oh, I -- I would never -- first of all, I
16 would -- that would be illegal, number one. Number
17 two, anyone that would suggest that or broach that to
18 me, I would immediately be totally opposed to that.

19 Q. I understand your view about that. Did
20 someone, in fact, suggest or broach that to you during
21 the transition?

22 A. No, no.

23 Q. Okay. I'm just -- I'm not asking for your
24 views, and I'm not even asking if you advocated for
25 it. I'm just trying to understand, did you have any

1 conversations with anyone where the possibility, good
2 or bad, of using --

3 A. Definitely -- definitely not.

4 Q. Let me just finish the question --

5 MR. FELDMAN: Let him finish the question.

6 Q. (By Mr. Duraiswamy) -- so the record's
7 clear -- of using citizenship data from the decennial
8 for immigration enforcement purposes came up?

9 A. No.

10 Q. Okay. Did you discuss, during the
11 transition, potential use of citizenship data from the
12 decennial for reapportionment purposes?

13 A. Citizenship, no.

14 Q. Did you discuss, during the transition, with
15 anyone, whether undocumented immigrants or
16 non-citizens should be included in the state
17 population counts for reapportionment purposes? That
18 issue, generally. I'm not asking you about a position
19 you took, but did that issue come up in your
20 conversations?

21 A. Not -- not to my --

22 MR. ROSENBERG: Objection, form.

23 A. Not to my recollection, no.

24 Q. (By Mr. Duraiswamy) Did the issue of how
25 states might use citizenship data from the decennial

1 census in deciding how to draw legislative districts
2 come up in your conversations with Mr. Hoffler?

3 A. I don't believe so. Again, you know, when
4 you -- these are conversations long ago, but it --
5 it -- I don't think so. Because it -- again, it's not
6 the kind of thing that he would talk about.

7 Q. Did it come up in your discussions with
8 anyone else during --

9 A. No.

10 Q. -- the transition? Are you aware of anyone
11 else involved with the transition or the Trump
12 campaign or the incoming Trump administration
13 discussing that issue during the transition?

14 A. I -- not personally, but I've heard that
15 from reporters and other people.

16 Q. Okay. What have you heard from reporters
17 and other people?

18 A. That those people -- that there were people
19 discussing it. And I said, "Well, if they were, they
20 weren't discussing it with me."

21 Q. Who have you heard was discussing that issue
22 during the transition?

23 MR. ROSENBERG: Objection, vague.

24 A. Again, I don't have personal knowledge of --
25 because I didn't -- no one discussed it with me.

1 A. I don't know.

2 Q. I'm just looking for an approximation. More
3 than an hour?

4 A. I doubt it was more than an hour.

5 Q. More than 30 minutes?

6 A. Probably.

7 Q. Okay. So roughly somewhere between 30 and
8 60 minutes?

9 A. I think so.

10 Q. You're aware that there was a letter sent by
11 the Department of Justice to the Commerce Department
12 in December 2017 regarding the addition of a
13 citizenship question to the census?

14 A. Yes.

15 Q. Did you have any involvement in the drafting
16 of that letter?

17 MR. ROSENBERG: Objection, form.

18 MR. FELDMAN: If you know.

19 A. Well, it -- again, I wasn't part of the
20 drafting process of the letter, but I'm sure that in
21 our -- I -- when I met with John Gore, I wanted to
22 show him what the Census Bureau said about why they
23 ask the ACS question. Because, again --

24 MR. ROSENBERG: And I'm -- again, I'm going
25 to object and instruct the witness not to answer the

1 MS. BRANNON: Okay.

2 MR. ROSENBERG: -- of course, in the
3 Government be as -- as nimble as possible in meeting
4 and conferring and responding, and I imagine that we
5 could do so tomorrow.

6 MS. BRANNON: Okay. No, that makes sense.
7 So we will agree to that. There has -- and just to be
8 clear, the reason, there has been some meet and
9 confer -- meet and confer on related topics to this,
10 and a motion was filed today in the NYIC case. And so
11 I am just not familiar enough, and would want to
12 confer with my colleagues as to whether or not the
13 nature of the discussions that have come up at the
14 deposition today fall within that issue or whether it
15 is a new and separate issue. We will certainly try to
16 meet and confer about that part with you as quickly as
17 possible before we would move forward without
18 revealing anything publicly.

19 MR. ROSENBERG: Thank you.

20 Q. (By Mr. Duraiswamy) Okay. Sorry for the
21 interlude. So at that meeting you provided some
22 information to Mr. Gore for purposes of the letter
23 that DOJ subsequently drafted regarding the
24 citizenship question?

25 A. Mainly the -- mainly a copy of the -- of the

1 letter from the Obama Administration, Justice
2 Department, to the Census Bureau on the issue of
3 adding a question on the ACS. Right.

4 Q. There -- there were -- in the documents that
5 you produced, there were two such letters, I believe,
6 one from 2014 and one from 2016. Does that sound
7 correct to you?

8 A. Yeah.

9 Q. And you provided both of those?

10 A. Just -- I think probably just the 2016 one.

11 Q. Okay. And the purpose of that was to
12 show --

13 A. Modalities.

14 Q. Well, strike --

15 MR. ROSENBERG: And I'm going to interpose
16 an objection and again instruction to not answer again
17 on deliberative process privilege grounds.

18 Q. (By Mr. Duraiswamy) Well -- well, let me
19 strike that and ask a -- a different question.

20 That document, if I'm recalling correctly,
21 has a chart of different demographic questions that
22 are asked on the ACS and an explanation of the
23 governmental uses of those questions; is that correct?

24 A. Yes.

25 Q. Okay. And you were providing that to

1 Mr. Gore in order to explain the potential use of a
2 citizenship question on the decennial census as well?

3 MR. ROSENBERG: The same -- the same
4 objection and instruction not to answer on
5 deliberative process privilege grounds.

6 MR. FELDMAN: Go ahead.

7 A. I wanted the -- John Gore, who was a
8 non-career person, to understand the modalities and
9 accepted process of the interaction between DOJ and
10 Census on census issues.

11 Q. (By Mr. Duraiswamy) What was it about that
12 that you wanted him to understand?

13 MR. ROSENBERG: The same objection and
14 instruction not to answer on deliberative process
15 privilege grounds.

16 MR. FELDMAN: Go ahead.

17 A. I wanted him to understand what had -- the
18 previous interactions on additions of questions.

19 Q. (By Mr. Duraiswamy) What about those
20 interactions did you want him to understand?

21 MR. ROSENBERG: The same objection and
22 instruction not to answer on deliberative process
23 privilege grounds.

24 MR. FELDMAN: Go ahead.

25 A. How that -- the normal procedures. Who at

1 DOJ, when you're talking about census issues, talks to
2 Census and who they talk to.

3 Q. (By Mr. Duraiswamy) And the fact that in
4 adding questions to the ACS or the decennial census
5 questionnaire, the requests come from outside of the
6 Commerce Department to the Commerce Department where
7 there is a need for some other agency; is that
8 correct?

9 MR. ROSENBERG: Objection. The same
10 objection and instruction not to answer on
11 deliberative process privilege grounds and also an
12 objection to form.

13 MR. FELDMAN: Go ahead and answer if you
14 understand the question.

15 A. I communicated that requests for data to the
16 Census from the administration come from agencies.

17 Q. (By Mr. Duraiswamy) You agree that the
18 census doesn't typically -- well, strike that.

19 Did he provide you any information at that
20 meeting?

21 MR. ROSENBERG: Same objection and
22 instruction not to answer on deliberative process --

23 A. I don't know.

24 MR. ROSENBERG: -- privilege grounds, unless
25 the witness can answer that with a yes or no.

1 A. No.

2 Q. James Sherk?

3 A. No.

4 Q. Have you spoken with Mr. Hoffler about this
5 issue since the transition?

6 A. Tom was very sick, very sick. And, in fact,
7 I didn't know that he passed away. So Tom was really
8 kind of out of the picture. And I also want to say,
9 Tom was not an -- did not appear to me to be an
10 adviser to the -- to the administration at all.

11 Q. A separate question.

12 A. Yeah.

13 Q. And I'm not -- I didn't necessarily mean to
14 connect it.

15 A. So I don't kind of see him as an
16 intermediary for the administration.

17 Q. No, I'm asking about Mr. Hoffler separately.
18 Did you -- I'm not sure that I got a clear answer to
19 the question. Did you have any communications with
20 him about a potential citizenship question since the
21 transition?

22 A. Tom Hoffler?

23 Q. Yes.

24 A. Oh, yes. Yes.

25 Q. How many times, roughly?

1 A. It would be more than a couple, but it
2 wouldn't be more than a dozen. And remember, we're
3 talking about from January through -- through whenever
4 I last talked to him, which would have been maybe --
5 I'm not even sure I talked to him in 2017.

6 MR. FELDMAN: 2017 or 2000 --

7 A. Or 2000 -- I'm not sure I talked to him
8 since even May of this year.

9 Q. (By Mr. Duraiswamy) And he -- what were
10 the -- what was the substance of those conversations?

11 A. Well, Tom and I are good friends, so I don't
12 know -- you know, I've known him for 30 years. We
13 talked a lot about his cancer treatment. We talked a
14 lot about what he was going through. We talked a lot
15 about prayer. So, you know, there would be
16 conversations about what was going on in politics that
17 would bleed into our personal conversations.

18 Q. And some of that was about the potential
19 citizenship question on the 2020 census?

20 A. It seemed like -- like it wasn't a topic in
21 the last -- in the last -- certainly the last six
22 months. Again, hard for me to remember about --
23 again, with someone like Tom that I'm a -- a good
24 friend of a long time, and with someone that I check
25 in with about their health, and there are not a lot of

1 people like that, so I don't -- I don't recall how
2 many times.

3 Q. Well, my question is -- well, I think you
4 mentioned before that you did have those conversations
5 since January 2017, but my question is just what was
6 the substance of your conversation about this issue,
7 about the citizenship question?

8 A. Well, he talked about how block level data
9 was -- and, again, block level data is an obsession
10 with him, because block level data means that you can
11 draw the most accurate districts. And so, again, his
12 focus was always on block level data, and always on,
13 "Mark, you need to make sure that we take a good
14 census, that the administration doesn't skimp on the
15 budget," because a good census is good for what he
16 does.

17 Q. And he was the person that you principally
18 relied on for your understanding regarding the need
19 for block level citizenship data; is that right?

20 A. He was the one of the people that I --
21 actually, Tom -- in talking to Tom, I knew that it was
22 going to be an issue that the department would
23 confront, because I knew Tom had the ability to get
24 members of Congress, who were important to the
25 administration, to pay attention to the issue. You

1 know, that's what -- again, in the transition, your
2 job is to forecast what's going to come across the
3 transom for the new administration.

4 Q. Did you speak with anyone else in Congress
5 or affiliated with a member of Congress about the
6 citizenship question since January of 2017?

7 A. I talked to -- you know, I talk to my own
8 member of Congress, Rodney Davis, all the time. You
9 know, I see him at things. I talk to people in the
10 Illinois delegation that I see at the University of
11 Illinois. I -- again, to say did I talk to someone in
12 Congress, I talk to people in Congress who I've known
13 for a long time. I went to school with Peter Roskam.
14 I -- I talk about lots of things with them.

15 Q. Sure.

16 A. Did I go and do a presentation in anyone's
17 office about this, no.

18 Q. I was wondering if you talked to any of them
19 about this issue?

20 A. I'm sure that I talked to members of
21 Congress, including Democratic members of Congress
22 about this issue.

23 Q. And what do you recall them communicating to
24 you about it?

25 A. I recall Congressman Lacy Clay being upset

1 suggested to you that block level citizenship data --
2 strike that.

3 Has anyone ever suggested to you that having
4 access to block level citizenship data would be
5 helpful to Republican efforts in redistricting?

6 A. I'm sure someone has said that.

7 Q. Tom, presumably?

8 A. What he said is that it will help draw maps,
9 which will be acceptable as the maps that best provide
10 minority representation, and so therefore are not
11 challenged. So the frustration is you keep drawing a
12 district, and because you don't have block level data,
13 someone says, well, you didn't draw a map that
14 maximized -- I use the word "maximized," Latino
15 representation based on their numbers. And when you
16 don't have that block level citizenship data, what
17 you're doing is you're cheating the Latino community
18 out of representation at all levels of government.

19 Q. That was the -- that was something that he
20 suggested to you?

21 A. No, it was -- it was a conversation that we
22 had. My point about maximization is my word. I want
23 Latino representation to be maximized.

24 Q. Have you done any research on the Voting
25 Rights Act?

1 A. I'm not an expert on the Voting Rights Act.

2 Q. Have you done any research on the Voting
3 Rights Act?

4 A. I'm not an expert on it. I -- I read about
5 the Voting Rights Act, yeah.

6 Q. Do you have any expertise on the legal
7 standard for Section 2 of the Voting Rights Act?

8 A. I'm not an expert on it.

9 Q. Have you relied on others for expertise on
10 the Voting Rights Act in Section 2 in particular?

11 A. Yes. So I -- you know, when I -- when I
12 study things, I look to people who are experts.

13 Q. Okay. And who -- who have you looked to for
14 expertise on those issues?

15 A. Off the top of my head, I'd have to go back.
16 I'd have to go back and look at it. But I did -- I --
17 one of the things that I was most interested in is
18 there was an amicus brief that was filed by five
19 census directors. And those -- in a nutshell, what
20 those census directors said is block level data is the
21 most important thing in end product in terms of
22 ensure -- ensuring accurate representation, and you
23 can only get block level data from the census. I
24 didn't look at that until -- you know, until 2018.

25 Q. Was Mr. Hoffler one of the people you relied

1 on for expertise about the Voting Rights Act --

2 A. I -- you --

3 Q. I'm asking you. Sorry.

4 A. Oh, okay.

5 Q. Was he one of the people?

6 A. No.

7 Q. Who -- who were the people? You said off
8 the -- you'd have to go back and check, but --

9 A. I'd have to -- I'd have to -- I don't
10 recall.

11 Q. You -- you can't remember anyone that you've
12 relied on --

13 A. I can recall looking at the cases --

14 Q. -- for expertise on that issue?

15 A. -- and looking at what Justices of the
16 Supreme Court said about it and looking at that.

17 Q. Okay. Let's go back to if you recall
18 communicating with anyone else direct -- in the Trump
19 administration directly or indirectly about the
20 citizenship question, other than the people we've
21 already identified.

22 MR. FELDMAN: I'm not sure I understand.
23 Are you talking about was there anybody else other
24 than the people that have been discussed?

25 MR. DURAISWAMY: Yes.

1 A. I don't remember the person's name. I seem
2 to remember he had a Bush connection, like law school
3 or something like that.

4 Q. Any other candidates that you can recall?

5 A. Brunell was the main one that I recall.

6 Q. Anyone else from the redistricting world
7 that you recall being considered?

8 A. Not that I recall, no.

9 [Marked Exhibit No. 17.]

10 Q. Handing you what we've marked as Exhibit 17.
11 Did we mark it as Exhibit 17? Yes. Sorry. Do you
12 see this is an e-mail exchange between Secretary Ross
13 and Peter Davidson from October 8th, 2017?

14 A. Uh-huh.

15 Q. Was the --

16 A. Yes.

17 Q. For the record, can you identify the subject
18 of the e-mail exchange?

19 A. Subject is, "Letter from DOJ."

20 Q. Okay. And the first e-mail is from
21 Secretary Ross to Mr. Davidson --

22 A. Uh-huh.

23 Q. -- asking what is its status. Do you see
24 that?

25 A. Yes.

1 Q. And Mr. Davidson responds that he is on the
2 phone with you, and you're giving him a readout of a
3 meeting last week, correct?

4 A. I see that.

5 Q. Was that your meeting with John Gore?

6 MR. ROSENBERG: Objection, assumes facts not
7 in evidence. It calls for speculation.

8 A. I don't know whether it's -- it would make
9 sense, but I don't know.

10 Q. (By Mr. Duraiswamy) Did you have a meeting
11 with anyone else about a letter from DOJ?

12 A. That -- that's why I said the -- the timing
13 seems like it's -- dovetails with what you and I were
14 discussing earlier.

15 Q. Right. Because the meeting with John Gore
16 was about the letter from DOJ regarding the
17 citizenship question, correct?

18 A. No, the letter -- the meeting with John Gore
19 was about the -- how Census interacts with the Justice
20 Department. Again, this is a communication from two
21 other people, not from me.

22 MR. ROSENBERG: And just -- just for the
23 record, again, we're going back to the substance of
24 the communications with Mr. Gore, which the Government
25 believes is covered by the deliberative process

1 privilege, and so I would instruct the witness not to,
2 you know, provide any additional information regarding
3 that meeting.

4 MR. FELDMAN: And subject to that, he's
5 answered the question, I believe.

6 Q. (By Mr. Duraiswamy) Well -- well, you had a
7 phone call with Mr. Neuman -- strike that.

8 You had a phone call with Mr. Davidson
9 around -- on or around October 8th, correct?

10 A. It -- it says that. I don't know that I
11 did.

12 Q. Okay.

13 A. I don't recall that I did.

14 Q. No reason to believe it didn't happen,
15 correct?

16 A. I don't recall that it happened.

17 Q. Okay. No reason to believe that when
18 Mr. Davidson wrote on October 8th in an e-mail, "I'm
19 on the phone with Mark Neuman right now" that he was
20 lying?

21 A. I don't know the answer to that question.

22 Q. Okay. You don't know whether he was lying
23 or not when he wrote Secretary Ross on October 8th?

24 A. I don't know what he did --

25 MR. ROSENBERG: Objection.

1 A. -- and what he didn't do. I only know when
2 you ask me things about me.

3 Q. (By Mr. Duraiswamy) Well, I am asking you
4 things about you. I'm asking you -- I understand you
5 may not specifically remember. I'm just asking you,
6 do you --

7 A. I said I do not recall.

8 Q. -- have any reason to believe it didn't
9 happen?

10 MR. ROSENBERG: Objection, form.

11 MR. FELDMAN: If you know what -- if -- if
12 you don't have a reason that it didn't happen, say --
13 tell him.

14 A. I don't have a reason to know whether it
15 happened or it didn't happen.

16 Q. (By Mr. Duraiswamy) Just -- just so we're
17 clear on what the e-mail says, Secretary Ross asks
18 Mr. Davidson what is the status of the letter from
19 DOJ, right?

20 A. That's what this says.

21 Q. Okay. And Mr. Davidson responds and says
22 that he's on the phone with you and you're giving him
23 a readout of a meeting that you had the previous week,
24 correct?

25 A. That's what this says.

1 Q. Okay. And separate from the e-mail, your
2 meeting with John Gore was around this time frame,
3 correct?

4 A. Yes.

5 Q. Okay. But you have no recollection of
6 this -- of a phone call with Mr. Davidson around this
7 date?

8 A. I don't recall that.

9 Q. Do you recall ever having a phone call with
10 Mr. Davidson where he told you that Secretary Ross
11 wanted an update on the status of a letter from DOJ?

12 A. I don't recall.

13 Q. The e-mail seems to indicate that
14 Mr. Davidson wrapped up the call at 10:54 p.m. after
15 emailing Secretary Ross that he was on the phone with
16 you at 6:47 p.m. First of all, do -- do you see what
17 I'm referring to in the e-mail?

18 A. Yes.

19 Q. Okay. Have you ever been on the phone with
20 Mr. Davidson for four hours?

21 MR. ROSENBERG: Objection, misleading.

22 MR. DURAIWAMY: What is misleading about
23 the --

24 A. I --

25 MR. DURAIWAMY: Wait, wait. What's --

1 MR. ROSENBERG: It may not --

2 MR. DURAISWAMY: No, no. That -- that's an
3 improper objection.

4 MR. ROSENBERG: No.

5 MR. DURAISWAMY: What's misleading about the
6 question?

7 MR. ROSENBERG: It's -- so we don't know
8 necessarily from these date -- time stamps whether
9 there might be different time zones involved in this
10 e-mail.

11 MR. DURAISWAMY: Do you -- what was my
12 question?

13 MR. ROSENBERG: I made my objection.

14 Q. (By Mr. Duraiswamy) Have you ever been on
15 the phone with Mr. Davidson for four hours?

16 A. I don't recall.

17 Q. How long were -- were your typical phone
18 calls with him about census issues?

19 A. I don't recall how long they would go.

20 Q. You don't recall anything about how long
21 your phone calls were with him?

22 A. No.

23 Q. Do you recall if they were -- it's possible
24 that they were 14 hours in length?

25 A. I'm sure that I never talked him for 14

1 hours.

2 Q. Okay. Do you remember that when we started
3 this deposition, we talked about the fact that if you
4 say that you don't recall something, when, in fact,
5 you do recall it, that that's false testimony? Do you
6 remember that we talked about that --

7 A. Yes.

8 Q. -- at the outset? Okay. What do you recall
9 about the length of the phone calls or conversations
10 that you had with Mr. Davidson about the census over
11 the last couple of years?

12 A. I recall that I had some.

13 Q. And you have no recollection about how long
14 those calls were or those interactions were?

15 A. Well, you said -- you asked me if I was --
16 talked to him for four hours. I don't recall talking
17 to anyone for hour hours in one phone call.

18 Q. No. I'm asking you now approximately how
19 long were the interactions that you had with him
20 regarding the census. Can you give me a range?

21 A. I -- I don't know. I don't recall how long
22 they were.

23 [Marked Exhibit No. 18.]

24 Q. Handing you what we've marked as Exhibit 18.
25 We've got one copy for you guys. Take a minute to

1 review this document and let me know if you've seen it
2 before.

3 A. I have seen it before.

4 Q. When did you see it?

5 A. I've seen versions of this before.

6 Q. When you say versions of this, what do you
7 mean?

8 A. Well, something that starts out with John
9 Thompson and then says reinstatement of the
10 questionnaire. I -- I've -- this is -- I recall
11 seeing something like this in different versions --

12 Q. This is --

13 A. -- at different times.

14 Q. Okay. And just so the record is clear, this
15 is a -- a draft of a letter from the Department of
16 Justice to the Commerce Department requesting the
17 reinstatement of a question on the 2020 census
18 questionnaire related to citizenship, correct?

19 A. Do we know that it's from DOJ? Oh, because
20 it says --

21 Q. Do you see the last line?

22 A. -- for doj.gov.

23 Q. Yes.

24 A. So what was the question again?

25 Q. So this is a draft of a letter from DOJ to

1 the Commerce Department requesting a reinstatement of
2 a citizenship question on the 2020 --

3 A. Right.

4 Q. -- census, right?

5 MR. ROSENBERG: Objection, form, assumes
6 facts not in evidence.

7 A. I -- I -- I -- it seems to be that.

8 Q. (By Mr. Duraiswamy) Okay. And when did
9 you -- or who -- who provided you with versions of
10 this draft letter?

11 A. I'm not sure which version this is. Again,
12 I'm familiar with the letter. I'm not sure who the
13 original author is. I'm sure that I looked at it. I
14 might have commented on it, but I'm not sure who
15 writes a first -- a first template, as it were.
16 What's interesting is when I look at this, it seems
17 like --

18 MR. FELDMAN: And this being?

19 A. This being the version that you're looking
20 at right now.

21 MR. FELDMAN: Exhibit 18.

22 A. And I look at the letter that I first saw in
23 ProPublica. This letter is very different than the
24 letter that ultimately went from DOJ.

25 Q. (By Mr. Duraiswamy) Okay. In order to help

1 us all get out of here on time, I'm going to ask you
2 try to --

3 A. Oh, we're all going to get here on -- out of
4 here on time.

5 Q. Well, I want you -- in order to avoid the
6 risk of our having to come back and do more
7 questioning, I want to you to try to focus on just
8 answering the question --

9 A. Right.

10 Q. -- that I've asked. So my question, you
11 stated that you had previously seen a version of this
12 draft, correct?

13 A. Correct.

14 Q. Okay. And I believe you said --

15 A. And, again, there are people within the
16 Secretary's office who could have had a version, could
17 have had -- marked up their own version, could have --
18 again, trying to figure out who an original author is
19 when this looks a little --

20 MR. FELDMAN: The question --

21 Q. (By Mr. Duraiswamy) Yeah.

22 MR. FELDMAN: Just --

23 Q. (By Mr. Duraiswamy) I don't -- I don't
24 want -- I don't -- I'm not asking you to tell me about
25 who the original author was or anything. I want to

1 try to ask about your experience with this --

2 A. Right.

3 Q. -- with versions of this draft letter.

4 Okay? Do you recall who provided you with a -- a
5 version of this draft letter?

6 A. No.

7 Q. Presumably, you -- well, strike that.

8 You said you might have commented on it. Do
9 you recall what comments you may have made on the
10 draft letter?

11 A. I don't recall.

12 Q. Do you recall why you were reviewing it?

13 A. I was comparing this to that ACS letter. So
14 again, how does DOJ interact with Census on data
15 needs.

16 Q. Why were you comparing it to the ACS letter?

17 A. Process. I'm a process person.

18 Q. But I'm -- I'm --

19 A. If you want --

20 Q. -- trying to understand why specifically you
21 were asked to or took the initiative to compare a
22 draft version of this letter to the ACS letter that we
23 talked about before.

24 A. Again, I want to make sure that if the
25 department has an interest in evaluating a change in

1 the questionnaire, that they're following procedures.
2 This clearly doesn't look like the -- the letter that
3 actually went out, but it looks like almost a
4 placeholder, a template.

5 Q. When you say you want to make sure that if
6 the department has an interest in evaluating a change
7 in the questionnaire, you're referring to the -- the
8 Department of Commerce --

9 A. Correct.

10 Q. -- correct?

11 A. Correct.

12 Q. Okay. And you recall that others at the
13 Department of Commerce were reviewing and offering
14 thoughts on draft versions of this letter?

15 A. I seem to recall that, yes.

16 Q. Who do you recall was involved in that
17 effort?

18 A. It might have been the general counsel's
19 office, and it might have been the policy office. And
20 again, blurring a lot of those people, interactions
21 together, new people coming on board, Peter Davidson
22 coming on board, Earl being involved in policy
23 matters, people that work for Earl. There are a lot
24 of cooks in the kitchen.

25 Q. Other than Mr. Davidson and Mr. Comstock,

1 who you just mentioned, are there other specific
2 people that you recall being involved in that process?

3 A. Maybe --

4 MR. ROSENBERG: Objection, mischaracterizes
5 testimony.

6 MR. FELDMAN: Go ahead.

7 A. Maybe Izzy Hernandez, maybe Sahra Park-Su.
8 You know, when I think of the policy people, they're
9 all sort of blended together, the general counsel's
10 people and so forth.

11 Q. (By Mr. Duraiswamy) Do you recall any
12 specific comments or edits that you suggested to the
13 draft version of this letter?

14 A. I don't recall, but I'm sure that I made
15 comments.

16 Q. You just don't remember specifically what
17 the comments were?

18 A. Right, right.

19 Q. Do you remember who you made the comments to
20 or who you provided the comments to?

21 A. They would have been within that group of
22 people, and I would -- I would -- you know, when I say
23 general counsel, I -- I include James in that too.

24 Q. Okay.

25 A. And in this --

John H. Thompson
Director,
Bureau of the Census
US Department of Commerce
Washington, DC 20233

Dear Mr Thompson:

We are writing to formally request the reinstatement of a question on the 2020 Census questionnaire relating to citizenship. The Department seeks to reinstate the question because of recent Court decisions _____ where courts required enumerated (block level) data related to voting age population. This data can only be provided based on enumerated (Census), rather than sample (ACS) data.

We are aware that the 2010 Census was the first decennial census since the 1880 Census without a question about citizenship. We also note that the American Community Survey, which replaced the "long form" version of the questionnaire in the decennial 2000 Census, asks a question about citizenship. We are not aware that of any serious concerns relating to the presence of a citizenship question on the ACS.

We understand that the Bureau personnel may believe that ACS data on citizenship was sufficient for redistricting purposes. We wanted the Bureau to be aware that two recent Court cases have underscored that ACS data is not viable and/or sufficient for purposes of redistricting. Two important citations from these cases are as follows:

We note that in these two cases, one in 2006 and one in 2009, courts reviewing compliance with requirements of the Voting Rights Act and its application in legislative redistricting, have required Latino voting districts to contain 50% + 1 of "Citizen Voting Age Population (or CVAP). It is clear that full compliance with these Federal Court decisions will require block level data than 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.

We accordingly request that the Bureau prepare, without delay, the appropriate question on citizenship for the 2020 Census, and submit this addition for 2020

Census for OMB Review and other appropriate notifications.

Please let me know if you have any questions about his letter or wish to discuss this subject. I can be reached at (202) ----- or _____@doj.gov.

Sincerely yours,

Attachment.

Cc:

HGO066101

1

1 [REDACTED]

2 [REDACTED]

3 HGO066101

4 INTERVIEW OF JOHN M. GORE, ESQUIRE

5 Thursday, March 7, 2019

6 House of Representatives

7 Committee on Oversight and Government Reform

8 Washington, D.C.

9 The Interview in the above matter was held in Room 6400,

10 O'Neill House Office Building, commencing at 9:29 a.m.

11 Staff Present: S. Tori Anderson, Oversight Counsel;

12 Russell M. Anello, Chief Oversight Counsel; Susanne Sachsman

13 Grooms, Majority Staff; [REDACTED] [REDACTED] [REDACTED] [REDACTED] Stephen

14 Castor, Republican Staff; Caroline Nabity, Republican Staff;

15 Ellen Johnson, Republican Staff.

16 On Behalf of the Witness: Josh Gardner, Special Counsel,

17 Department of Justice; Kira Antell, Acting Deputy Assistant

18 Attorney General, Department of Justice, Legislative Affairs;

19 Brett Shumate, Deputy Assistant Attorney General, Department of

20 Justice.

EXHIBIT INDEX

21

22

E X H I B I T S

23

(Attached to the transcript)

24

GOVERNMENT

PAGE

25

Exhibit 1 Email chain; top email dated 48

26

9-18-17 from Wendy Teramoto to John

27

Gore; 0002636 - 2639

28

Exhibit 2 Letter dated December 12, 2017, 65

29

From Arthur E. Gary to Dr. Ron

30

Jarmin; four pages

31

Exhibit 3 Email dated 12-22-17 from 146

32

Ron S. Jarmin to Karen Kelley

33 Ms. Anderson. This is a transcribed interview
34 of John Gore, conducted by the House Committee on Oversight
35 and Reform. This interview was requested by Chairman
36 Elijah Cummings as part of the Committee's oversight of the
37 2020 census, including the decision to add a citizenship
38 question.

39 Can you please state your full name and spell
40 your last name for the record, Mr. Gore.

41 Mr. Gore. John Matthew Gore, G-O-R-E.

42 Ms. Anderson. My name is Tori Anderson. I
43 work as a majority counsel for the Committee on Oversight
44 and Reform. I first want to thank you for coming in today
45 for this interview. We appreciate you being willing to
46 speak with us voluntarily.

47 At this time I'll ask the additional staff in
48 the room to introduce themselves for the record before I
49 begin, and then we can go through the rules.

50 Mr. Anello. Russell Anello, majority staff.

51 Ms. Sachsman Grooms. I'm Susanne Sachsman
52 Grooms from the majority.

53 [REDACTED]

54 Mr. Castor. Steve Castor with the Republican
55 staff.

56 Ms. Nability. Caroline Nability with the
57 Republican staff.

58 Ms. Johnson. Ellen Johnson, Republican staff.

59 Mr. Shumate. Brett Shumate, DOJ.

60 Ms. Antell. Kira Antell, DOJ.

61 Mr. Gardner. Josh Gardner, DOJ.

62 Ms. Anderson. So, before we begin, I would

63 like to go over some ground rules for this interview.

64 First we can go over the structure of the transcribed

65 interview.

66 The witness interview will proceed as follows:

67 The majority and minority staffs will alternate asking you

68 questions, one hour per side per round.

69 The majority staff will begin and proceed for

70 an hour, and the minority staff will then have an hour to

71 ask questions. And, also, just let me know if I'm going

72 too fast.

73 Thereafter the majority staff may ask

74 additional questions and so on.

75 We will alternate back and forth in this manner

76 until there are more no questions from either side and the

77 interview will be over.

78 During the interview, we will do our best to

79 limit the number of people who are directing questions at

80 you during that given hour. That said, from time to time,

81 following-up or clarifying questions may be useful. If

82 that's the case, we will hear from additional people around

83 the table.

84 Presence of counsel. Do you have personal
85 counsel with you today?

86 Mr. Gore. No. I -- department counsel is here
87 today.

88 Ms. Anderson. I understand that you do not
89 have a personal attorney with you today but, instead, have
90 agency counsel with you. Would agency counsel please
91 identify himself.

92 Mr. Gardner. Josh Gardner.

93 Ms. Anderson. Do you understand that agency
94 counsel represents agency and not you personally?

95 Mr. Gore. Yes, I do.

96 Ms. Anderson. And are you choosing to have
97 agency counsel with you in the room today?

98 Mr. Gore. Yes, I am.

99 Ms. Anderson. We'll now discuss court reporter
100 transcription. This is a -- there is a court reporter
101 taking down everything I say and everything you say to make
102 a written record of the interview. For the record to be
103 clear, please wait until I finish each question before you
104 begin to answer, and I will wait until you finish each
105 response before asking you the next question.

106 The court reporter cannot record nonverbal
107 answers such as shaking of your head so it's important that

108 you answer each question with audible, verbal answers.

109 Do you understand?

110 Mr. Gore. Yes.

111 Ms. Anderson. Clarifying questions. We want
112 to answer a question -- we want you to answer our questions
113 in the most complete and truthful manner possible so we are
114 going to take our time.

115 If you have any questions or do not understand
116 any of the questions, please let us know. We'll be happy
117 to clarify or repeat the question for you.

118 Do you understand?

119 Mr. Gore. Yes.

120 Ms. Anderson. If you -- if I ask you about
121 conversations or events in the past and you are unable to
122 recall the exact words or details, you should testify to
123 the substance of those conversations or events to the best
124 of your recollection. If you recall only a part of the
125 conversation or event, you should give us your best
126 recollection of those events or parts of the conversations
127 that you recall.

128 Do you understand?

129 Mr. Gore. Yes.

130 Ms. Anderson. If you need to take a break,
131 please let us know. We are happy to accommodate you.
132 Ordinarily we take a five-minute break at the end of each

133 hour of questioning, but if you need a break before that,
134 just let us know.

135 However, to the extent there is a pending
136 question, I would just ask that you finish answering the
137 question before we take a break.

138 Do you understand?

139 Mr. Gore. Yes.

140 Ms. Anderson. Although you are here
141 voluntarily and we will not swear you in, you are required
142 by law to answer questions from Congress truthfully. This
143 also applies to questions posed by congressional staff in
144 the interview.

145 Do you understand?

146 Mr. Gore. Yes.

147 Ms. Anderson. If at any time you knowingly
148 make false statements, you could be subject to criminal
149 prosecution.

150 Do you understand?

151 Mr. Gore. Yes.

152 Ms. Anderson. Is there any reason that you are
153 unable today to provide truthful answers in this interview?

154 Mr. Gore. No.

155 Ms. Anderson. Please note if you wish to
156 assert a privilege over any statement today, that assertion
157 must comply with committee rules. Committee Rule 16(c)(1)

158 states that "For the chair to consider assertions of
159 privilege over testimony or statements, witnesses or
160 entities must clearly state the specific privilege being
161 asserted and the reason for that assertion on or before the
162 scheduled date of testimony or appearance."

163 In addition, Committee Rule 16(c)(3) states,
164 "The only assertions of executive privilege that the chair
165 of the Committee will consider are those made in writing by
166 an executive branch official authorized to assert that
167 privilege."

168 Do you understand?

169 Mr. Gore. Yes.

170 Ms. Antell. I want to mention at this point, I
171 understand what you've requested. And at this point, at
172 this point in the accommodation process, Mr. Gore is going
173 to be able to answer questions that are related to the
174 Department's request to the Census Bureau to add a
175 citizenship question to the census that can be answered
176 without compromising the ongoing litigation or other
177 executive branch confidentiality interests.

178 Ms. Sachsman Grooms. Is that some kind of a
179 privilege?

180 Ms. Antell. We are not asserting privilege.
181 We feel that this is an accommodation process, and we're
182 happy to answer those questions, as I said several times in

183 email. So I think we'll go through, we'll see the
184 questions that you might have that remain, and we're happy
185 to take that back.

186 Ms. Sachsman Grooms. So he'll come back in?

187 Ms. Antell. If that's necessary, or we can do
188 this by writing. We'll sort of see where the process takes
189 us. At this point at this interview, that's what he'll be
190 prepared to answer.

191 Ms. Sachsman Grooms. Mr. Gore, are you
192 committed to come back to answer those questions?

193 Ms. Antell. He's not committing to anything.
194 We're committing to fully engage in the accommodation
195 process as we always have.

196 Ms. Sachsman Grooms. Sure. My question is to
197 Mr. Gore, though.

198 Mr. Gore, are you committed to come in -- back
199 in to answer those questions for us?

200 Mr. Gore. I'm not making any commitment today.
201 This is an accommodation process between the Committee and
202 the Department of Justice, and I anticipate that that
203 process will play out in the ordinary course, and whether
204 further information is sought from me or from the
205 Department will be handled through the Office of
206 Legislative Affairs.

207 Ms. Anderson. Do you have any questions before

208 we begin?

209 Mr. Gore. I do not.

210

211 Ms. Anderson. I want to note that we're
212 beginning our hour at 9:36.

213 EXAMINATION

214 BY MS. ANDERSON.

215 Q So, Mr. Gore, when did you first have a
216 discussion about the addition of a citizenship question to
217 the 2020 census?

218 A It was in late August or early September of
219 2017.

220 Q When did you first become aware that anyone at
221 the Department of Commerce was interested in a citizenship
222 question?

223 A Through that discussion late August, early
224 September 2017.

225 Q Who was that discussion with?

226 A I received a phone call from two individuals at
227 the Department of Justice, so Attorney General Sessions and
228 Mary Blanche Hankey.

229 Q They were both on the same phone call?

230 A Yes.

231 Q Were you aware of the contents of that
232 conversation prior to their phone call?

233 A I'm a little confused. Which conversation?

234 Q Did they just call you, or were you aware that
235 they were calling about a specific purpose when you got
236 that phone call in late August 2017?

237 A Oh, I see. I had no advance knowledge of what
238 that conversation was about.

239 Q Okay. At any point did you become aware of the
240 reason why Secretary Ross was interested in adding a
241 citizenship question to the 2020 census?

242 A Yes.

243 Q When did you become aware of that?

244 A Around that same time frame.

245 Q So around August 2017?

246 A Late August 2017 or early September.

247 Q And, so, in that late August, early September
248 2017 period, that's when you first became aware that the
249 Department of Justice was interested in helping the
250 Department of Commerce with the citizenship question issue?

251 Mr. Gardner. I instruct the witness not to
252 answer to the extent that it implicates the confidentiality
253 and litigation interests reflected in the Department's
254 letter to the Committee. To the extent you can answer that
255 question without divulging those confidential and
256 litigation interests, you can do so.

257 Q I'll rephrase. When did you become aware of the

258 Department of Justice's interest in the Department of
259 Commerce's efforts to add a citizenship question to the
260 2020 census? Simply when.

261 Mr. Gardner. Same objection and the same
262 instruction. If you can answer that without divulging
263 anything.

264 A Consistent with that instruction, I can't answer
265 it.

266 Ms. Sachsman Grooms. He can't tell us when he
267 became aware?

268 Mr. Gardner. I think the problem is the
269 predicate.

270 Ms. Sachsman Grooms. I don't understand.

271 Mr. Gardner. The predicate of your question
272 assumes something that may or may not be the case. If you
273 want to try to rephrase it, you can do it that way. I am
274 trying to accommodate and I do want to have Mr. Gore
275 testify, so maybe if you can rephrase the question again.

276 Mr. Anello. If I might, I believe you just
277 stated that you did become aware that Secretary Ross wanted
278 to add a citizenship question, correct?

279 Mr. Gore. Yes.

280 Mr. Anello. When did you become aware?

281 Mr. Gore. I believe I already testified that
282 that was in late August or early September of 2017.

283 Mr. Anello. How did you become aware?

284 Mr. Gore. Through the conversation that I had
285 with the Attorney General and Mary Blanche Hankey,

286 Q Had you had any other conversations prior to
287 that conversation in late August, early September 2017
288 about an addition of a citizenship question?

289 A No.

290 Q At any point did you become aware of why the
291 Department of Justice wanted to support the Department of
292 Commerce in an addition of a citizenship question?

293 A Yes.

294 Q When did you become aware of that?

295 A I think that is maybe not as simple of a
296 question as you're making it sound,

297 Q Sure.

298 A I became aware there was -- I became aware of
299 the Department of Commerce's interest in the question in
300 August -- late August, early September 2017, and that there
301 was interest in the Department of Justice in potentially
302 supporting that effort.

303 Q Okay. And so you became involved in this
304 process at that same time; is that correct?

305 A That is correct.

306 Q And so you would put that in that late August,
307 early September time frame still, correct?

308 A Correct.

309 Q You said you received a phone call from Attorney
310 General Jeff Sessions and Mary Blanche Hankey, and they
311 were both on that phone call; is that correct?

312 A That's correct.

313 Q Was there anyone else present during that phone
314 call besides those two people?

315 A No, at least not to my knowledge.

316 Q Sure.

317 Did you take any contemporaneous notes during
318 that phone call?

319 A No, I did not.

320 Q Did anyone at that point tell you not to create
321 documentation about your involvement in that conversation?

322 Mr. Gardner. I instruct the witness not to
323 answer for the same grounds previously stated.

324 Ms. Anderson. So, to be clear, the witness is
325 instructed not to answer the question of whether someone
326 told him not to create documentation based on their
327 conversation?

328 Mr. Gardner. If you're asking about the
329 internal conversations within the Department of Justice,
330 yes. If you want to rephrase the question, we can try it
331 that way.

332 Q Did Attorney General Jeff Sessions tell you not

333 to take notes about your conversation in late August and/or
334 early September 2017?

335 Mr. Gardner. You can answer that question.

336 A No.

337 Q Did Mary Blanche Hankey tell you not to take
338 notes during that conversation?

339 A No.

340 Q Did anyone else tell you not to create notes
341 about that -- about that conversation?

342 A No.

343 Q So you said they initiated that phone call. Did
344 they tell you why they wanted to talk to you at that point?

345 A I believe that they told me why they wanted to
346 talk to me while we were on the phone call. There was no
347 -- no one told me in advance what to expect from the phone
348 call.

349 Q Sure.

350 What did you discuss?

351 Mr. Gardner. Objection. I instruct the
352 witness not to answer.

353 Ms. Anderson. What is the basis for that
354 objection?

355 Mr. Gardner. The same basis I previously
356 stated.

357 Ms. Anderson. Would you state it again for the

358 record, please.

359 Mr. Gardner. Sure. As reflected in our
360 correspondence to the Committee, the Department's
361 confidentiality and litigation interests.

362 Q Did you do anything in response to that
363 particular conversation that you had with Attorney General
364 Jeff Sessions and Mary Blanche Hankey?

365 A I don't recall doing anything specifically in
366 response to that conversation.

367 Q Did you take any action based on that
368 conversation?

369 A I don't know that it was based on that
370 conversation, but I did take action after that
371 conversation.

372 Q Did you have any other conversations with
373 Attorney General Jeff Sessions about the citizenship
374 question?

375 A Yes.

376 Q How many?

377 A I believe it arose maybe three or four times.

378 Q Do you remember when those conversations
379 occurred?

380 A Generally they occurred between September and
381 December of 2017.

382 Q You said September and December?

383 A And December.

384 Q Do you have any -- do you have any recollection
385 on your next conversation after that initial conversation
386 in August -- late August, early September?

387 A With Attorney General Sessions --

388 Q Correct.

389 A -- or with somebody else?

390 I'm trying to remember exactly. It probably
391 would have been late September of 2017.

392 Q Did that conversation occur in person or over
393 the phone?

394 A In person.

395 Q Who initiated that conversation?

396 A That conversation took place as part of a
397 monthly briefing I had with the Attorney General. So every
398 month I had a standing meeting with him to discuss matters
399 related to the Civil Rights Division and its work, and as
400 part of that monthly conversation or briefing, which was a
401 standing meeting, we discussed this issue.

402 Q Was there anyone else present during this
403 monthly meeting?

404 A Yes.

405 Q Who else?

406 A Rachael Tucker and Ben Aguinaga.

407 Q If you could spell the last names for the

408 record, that would be great.

409 A Sure. Let me also spell Rachael's first name.

410 It's R-A-C-H-A-E-L. Tucker is T-U-C-K-E-R.

411 Ben is B-E-N. I'm going to do my best with

412 Aguinaga. I think, if I recall, it's A-G-U-I-N-A-G-A.

413 Q Thank you.

414 What did you discuss at that meeting?

415 Mr. Gardner. I instruct the witness not to

416 answer.

417 Ms. Anderson. On that basis?

418 Mr. Gardner. Same basis I previously stated.

419 Q Did you do anything in response to that

420 discussion you had with Attorney General Jeff Sessions?

421 A I don't recall doing anything specifically in

422 response to that conversation.

423 Q Did you take any actions as a result of that

424 conversation?

425 A I don't recall taking any actions as a result of

426 that conversation.

427 Q Did you conduct any other conversations as a

428 result of that conversation?

429 A I do not recall doing that.

430 Q Did you have any other conversations with Mary

431 Blanche Hankey about the addition of a citizenship

432 question?

433 A I don't recall.

434 Q Did you have any conversations around that time
435 with anyone else about an addition of a citizenship
436 question?

437 A Yes.

438 Q With who?

439 A Within the Department of Justice I discussed the
440 issue, as I mentioned, with Attorney General Sessions, Mary
441 Blanche Hankey, Rachael Tucker, Ben Aguinaga, Danielle
442 Cutrona, C-U-T-R-O-N-A, Gene Hamilton, all of who -- they
443 were employed by the Office of Attorney General. I
444 eventually spoke with Bob Troester, T-R-O-E-S-T-E-R, who at
445 the time -- is a career lawyer at the Department of Justice
446 but at the time was serving in the Office of the Deputy
447 Attorney General.

448 I spoke with Rachel Brand, who was then the
449 Associate Attorney General. I spoke with Jesse Panuccio,
450 J-E-S-S-E, P-A-N-U-C-C-I-O, who was Rachel's principal
451 deputy. I spoke with Patrick Hovakimian,
452 H-O-V-A-K-I-M-I-A-N, who at the time was also in the Office
453 of Associate Attorney General.

454 I eventually spoke later, not in the September
455 time frame, but later, with Bethany Pickett, P-I-C-K-E-T-T,
456 who was in the Civil Rights Division; Chris Herren,
457 H-E-R-R-E-N, in the Civil Rights Division; Arthur Gary,

458 G-A-R-Y, of the Justice Management Division.

459 I can recall speaking to three individuals at
460 the Department of Commerce, Peter Davidson, who I
461 understood to be the general counsel with the Department of
462 Commerce; James Uthmeier, U-T-H-M-E-I-E-R; Wendy Teramoto,
463 T-E-R-A-M-O-T-O. And around October of 2017, I had a
464 conversation with a man named Mark Neuman. I believe he
465 spells his last name N-E-U-M-A-N.

466 I think that's everybody, but if you read back
467 the list, I can tell you if I inadvertently left anybody
468 off.

469 Q I have Mary Blanche Hankey, Rachael Tucker, Ben
470 Aguinaga -- my apologies if I butchered that -- Danielle
471 Cutrona, Gene Hamilton, Bob Troester, Rachel Brand, Jesse
472 Panuccio, Patrick --

473 A Hovakimian.

474 Q Hovakimian. Bethany Pickett, Chris Herren,
475 Arthur Gary, Peter Davidson, James Uthmeier, Wendy
476 Teramoto, and Mark Neuman.

477 A Right. Is Arthur Gary on the list?

478 Q Yes.

479 A Attorney General Sessions, obviously, and then
480 John Zadrozny, J-O-H-N, Z-A-D-R-O-Z-N-Y, who at the time
481 worked for the Domestic Policy Council at the White House.
482 I think that's everybody.

483 Q So outside of the people you mentioned inside of
484 the Justice Department at the time, how many conversations
485 did you have with third parties about the addition of a
486 citizenship question?

487 A Can you clarify what you mean by "third
488 parties"?

489 Q People outside of the Department.

490 A Anybody outside of the Department.

491 Q Correct.

492 A Sure. I had, with Peter Davidson, probably
493 about a dozen phone calls. And with James Uthmeier -- I
494 had one phone call with James Uthmeier where it was just
495 the two of us, and I think James participated in one or two
496 phone calls that involved Peter Davidson and me as well.
497 And I spoke one time with Wendy Teramoto, and I spoke one
498 time with Mark Neuman, and one time with John Zadrozny.

499 Q Do you recall when your conversation was with
500 Mark Neuman?

501 A I think it was in early October of 2017. Late
502 September, early October. I'm pretty sure it was early
503 October.

504 Q Were these conversations that occurred with
505 people who were not in the Justice Department initiated by
506 you or initiated by those parties? And we can -- we can
507 return to some -- to the Department of Commerce later, but

508 specifically with regard to Mark Neuman, was that
509 conversation initiated by you or by Mark Neuman?

510 A Not by me,

511 Q Was it by Mark Neuman or by somebody else?

512 A So Mark Neuman did call me, but I -- it was
513 Peter Davidson who mentioned Mark Neuman to me, and then
514 Mr. Neuman called me.

515 Q And you discussed the citizenship question with
516 Mark Neuman?

517 A Yes, I did.

518 Q What was the nature of those discussions?

519 Mr. Gardner. I instruct the witness not to
520 answer.

521 Ms. Anderson. On what basis?

522 Mr. Gardner. Same grounds.

523 Q Did you do anything -- is Mark Neuman employed
524 -- a government employee?

525 A I don't know whether he's a government employee.
526 I understood Mr. Neuman to have been at least formerly an
527 employee at the Department of Commerce or the Census
528 Bureau, I'm not sure which. And I understood he was an
529 advisor to the Department of Commerce on issues related to
530 the 2020 census or at least the issue of whether to
531 reinstate a citizenship question on the 2020 census
532 questionnaire.

533 Mr. Anello. Can I just clarify a question for
534 counsel. Are you instructing the witness not to answer
535 about a conversation with somebody who is not a federal
536 employee?

537 Mr. Gardner. He was an advisor to the Commerce
538 Department.

539 Mr. Anello. But he was not employed by the
540 Commerce Department, correct?

541 Mr. Gardner. What do you mean, was he being
542 paid by the Commerce Department? Mr. Gore can answer that
543 question. I will represent to you that Mr. Neuman was an
544 advisor to the Commerce Department. And on that basis I
545 instruct him not to answer about the substance of his
546 conversations.

547 Ms. Sachsman Grooms. Do you know more
548 information about Mr. Neuman's employment or advising to
549 the Commerce Department?

550 Mr. Gardner. I'm not here to testify.

551 Ms. Sachsman Grooms. You have just testified
552 to us so you have represented to us --

553 Mr. Gardner. No, I just repeated back what Mr.
554 Gore just said.

555 Ms. Sachsman Grooms. -- that he was an advisor
556 in some capacity that you think makes him somehow protected
557 by this ongoing litigation aspect, which is not a

558 privilege.

559 Mr. Gardner. Is there a question? I'm sorry.

560 Ms. Sachsman Grooms. Yes. My question is,

561 what on earth would be the basis for not answering a

562 question about a conversation with somebody who is not

563 employed, even by the federal government?

564 Mr. Gardner. The confidentiality and

565 litigation interests I previously stated.

566 Ms. Sachsman Grooms. Is there something about

567 the conversation with Mr. Neuman that would impact the

568 ongoing litigation?

569 Ms. Antell. At this point I understand that

570 you have an interest in this. I'm happy for Mr. Gore to

571 continue answering questions. I don't know that it's

572 helpful for this back-and-forth to continue regarding what

573 Mr. Gardner knows about this.

574 Ms. Sachsman Grooms. He did decide to make a

575 representation on the record.

576 Mr. Gardner. I just repeated what Mr. Gore

577 said.

578 Mr. Gore. I believe I'm the one who testified

579 that I understood that Mr. Neuman was advising the

580 Department of Commerce on this issue.

581 Q Did you do anything in response to your

582 conversation with Mark Neuman?

583 A I reviewed -- yes, I did.

584 Q What did you do?

585 Mr. Gardner. You can answer that question to
586 the extent you can do so without divulging confidential or
587 litigation-based interests the Department has.

588 A I reviewed some documents and information
589 regarding the census.

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

591 A I reviewed some documents and information
592 regarding the census.

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

595 A Yes.

596 Q Which one? Sorry.

597 Mr. Gardner. I instruct the witness not to
598 answer. I'm sorry, I misunderstood your question. Can you
599 rephrase your question. I apologize.

600 Ms. Anderson. Sure.

601 Q Did he provide the documentation to you or did
602 he point you to the documentation?

603 A He provided it.

604 Q Was that information public information or
605 internal private information?

606 A Public information.

607 Q What was it?

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

612 Q Was that all he provided you?

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

614 Q A draft letter of what?

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

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

619 Mr. Gardner. I instruct you --

620 A No.

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

624 Mr. Gardner. I instruct the witness not to
625 answer.

626 Ms. Anderson. On what basis?

627 Mr. Gardner. The same basis.

628

629 Mr. Anello. Can I ask you a question. Was the
630 draft letter that he handed you, was it addressed from the
631 Department of Justice to the Department of Commerce?

632 Mr. Gardner. Same instruction.

633 Mr. Anello. So just to be clear, you've told

634 us that he gave you a draft letter, but you're being
635 instructed not to tell us to whom the draft letter was
636 addressed. Is that the instruction?

637 Mr. Gardner. You're asking about the contents
638 of the letter. I'm instructing him not to answer those
639 questions, correct.

640 Q Besides the pamphlet and the draft letter, was
641 there anything else that he provided you?

642 A No.

643 BY MR. ANELLO.

644 Q The draft letter that he provided you, had you
645 requested that he provide you with that draft letter?

646 Mr. Gardner. You can answer.

647 A No.

648 Q Had somebody else asked him to provide that
649 draft letter to you?

650 A I don't know.

651 Q Why did he give it to you?

652 Mr. Gardner. I instruct the witness not to
653 answer.

654 Q Do you know why he gave it to you?

655 A I don't, actually.

656 Q Did you agree with the contents of the letter?

657 Mr. Gardner. I instruct the witness not to
658 answer.

659 Q Did the letter -- the draft letter that he gave
660 you propose that a citizenship question should be added in
661 order to assist with VRA enforcement?

662 Mr. Gardner. I instruct the witness not to
663 answer.

664 BY MS. ANDERSON.

665

666 Q Did the letter contain any rationale for an
667 addition of a citizenship question?

668 Mr. Gardner. I instruct the witness not to
669 answer.

670 BY MR. ANELLO.

671

672 Q When you -- I apologize for skipping around a
673 little bit with the questions here. I appreciate your
674 indulgence.

675 Mr. Gardner. Sure.

676 Q When you drafted the letter that eventually was
677 sent to the Department of Commerce on December 12th, were
678 the words in that letter all your own? I can rephrase if
679 that's not clear.

680 Mr. Gardner. If you can try to rephrase that.

681 Q You created the first draft of the letter that
682 eventually was sent to Secretary Wilbur Ross requesting a
683 citizenship question, correct?

684 A That's correct.

685 Q When you made your first draft, were the words
686 in that first draft your own?

687 Mr. Gardner. To the extent you can answer that
688 question without divulging the Department's confidentiality
689 and litigation interests, you may do so.

690 A I actually don't know how to answer that
691 question because I believe there were -- I believe that
692 there were words that came from cases, so I'm not sure how
693 to answer that question.

694 Q Aside from quotations from case law, were there
695 any words that were not your own?

696 Mr. Gardner. Same objection. Same
697 instruction. If you can answer that question without
698 divulging those interests, you may do so.

699 A Not that I recall.

700 Q Were any -- when you wrote your letter, did any
701 information that you received from anybody outside the
702 Department of Justice play a role in what you wrote in that
703 first draft?

704 Mr. Gardner. I instruct the witness not to
705 answer.

706 Q Did any information that you received from
707 somebody who is not a federal employee play a role in the
708 letter that you drafted?

709 Mr. Gardner. I instruct the witness not to
710 answer.

711 BY MS. ANDERSON.

712

713 Q Okay. I want to go back to kind of that initial
714 point where you became involved in the citizenship question
715 issue, okay?

716 And you said you had spoken with several other
717 people, both inside and outside of the Department. One of
718 those people inside of the Department -- do you know who
719 James McHenry is?

720 A I do know James McHenry.

721 Q Where is he?

722 A I don't know that I ever discussed the issue
723 with him. I believe he's mentioned in -- I certainly know
724 who he is, but he's mentioned in some documents, and I
725 don't recall whether I had a conversation with him about
726 this issue.

727 BY MR. ANELLO.

728

729 Q You described a conversation in late August or
730 early September with the Attorney General and with Mary
731 Blanche Hankey, correct?

732 A That's correct.

733 Q And you stated that -- I believe, that during

734 that conversation you learned that Secretary Ross wanted to
735 add a citizenship question to the census, correct?

736 A I don't know if that was my testimony.

737 Q Did you learn during that conversation from the
738 Attorney General that Secretary Ross was interested in
739 adding a citizenship question to the census?

740 A Now you've changed the question and, so, yes.

741 Q And I believe you also stated a few minutes
742 earlier that around that same time you learned that there
743 was some interest at the Department of Justice in
744 cooperating with that request.

745 A I'm not sure if cooperating is the right word,
746 but, yes, I had learned that there was interest in the
747 Department of Justice in examining whether something could
748 be done to support that.

749 Q Did Attorney General Sessions tell you in that
750 conversation in late August or early September that he
751 personally had an interest in helping the Department of
752 Commerce add the citizenship question to the census?

753 Mr. Gardner. I instruct the witness not to
754 answer.

755 Q Did the Attorney General tell you that the
756 Department had an interest in assisting the Department of
757 Commerce in adding a citizenship question to the census?

758 Mr. Gardner. I instruct the witness not to

759 answer.

760 Mr. Anello. If I might, I believe the witness
761 has just stated that he learned that the Department of
762 Justice at this time period had an interest in potentially
763 helping the Department of Commerce add the citizenship
764 question. So the only question I'm asking now is did the
765 Attorney General tell you that.

766 Mr. Gardner. I understand your question.

767 Mr. Anello. So you're telling me that that --
768 the fact of the knowledge is not something you would object
769 to, but who gave him that knowledge is objectionable to
770 you?

771 Mr. Gardner. You're asking about a
772 conversation between Mr. Gore and the Attorney General. I
773 instruct the witness --

774 Mr. Anello. Mr. Gore has told us that the
775 Attorney General told him that the Department of Commerce
776 wanted to add a citizenship question. So I'm asking any --

777 Mr. Gardner. I understand. I completely
778 understand. If you can rephrase --

779 Mr. Anello. I fail to understand -- I fail to
780 understand why this question is objectionable.

781 Mr. Gardner. If you can try to rephrase the
782 question, I'm happy to let Mr. Gore testify to the extent
783 he can, consistent with our litigation and confidentiality

784 interests.

785 Q You stated a moment ago that you learned around
786 this time that the Department of Justice had an interest in
787 assisting the Department of Commerce with adding a
788 citizenship question to the census, correct?

789 A I believe that's what I said, yes.

790 Q Did you learn that during a phone call with the
791 Attorney General and Mary Blanche Hankey?

792 Mr. Gardner. I instruct the witness not to
793 answer.

794 Ms. Sachsman Grooms. He's already answered,
795 though.

796 Mr. Gardner. Then why are you asking again? I
797 don't think he did answer that question.

798 Q I'll rephrase.

799 You learned that information either in late
800 August or early September, correct?

801 A That is correct.

802 Q Did you learn that information from somebody at
803 the Department of Commerce?

804 A What information?

805 Q Information that you just said you learned, the
806 information that the Department of Justice was interested
807 in assisting the Department of Commerce in adding a
808 citizenship question. Did you learn that information from

809 somebody at the Department of Commerce?

810 A No.

811 Q Did you learn that information from somebody at
812 the Department of Justice?

813 A Yes.

814 Q Who at the Department of Justice told you that?

815 Mr. Gardner. I'm going to instruct the witness
816 not to answer.

817

818 Ms. Sachsman Grooms. Who at the Department of
819 Justice did you learn that information from?

820 Mr. Gardner. Same instruction.

821 Ms. Sachsman Grooms. So the parameters aren't
822 around the conversation itself? They're not around the
823 words within the conversation. They're around his
824 knowledge set also?

825 Mr. Gardner. I couldn't be more clear. I'm
826 sorry. I'm not trying to be difficult with you. You're
827 asking questions that directly implicate the Department's
828 confidentiality and litigation interests. I instruct him
829 not to answer. Mr. Gore is here to answer questions, and
830 we're trying not to be obstreperous. So if you can come up
831 with a different way to ask these questions, we're happy to
832 facilitate that.

833 Q So you've testified -- you told us that you did

834 not learn that from somebody at the Department of Commerce,
835 and you did learn it from somebody at the Department of
836 Justice.

837 Did you learn it from somebody in the Civil
838 Rights Division?

839 Mr. Gardner. Go ahead.

840 A No.

841 Q Did you learn it from somebody in the Deputy
842 Attorney General's Office?

843 A Excuse me.

844 Mr. Gardner. I think at this point I'm going
845 to instruct the witness not to answer.

846 Q Did you learn it from somebody at the Attorney
847 General's Office?

848 Mr. Gardner. Same instruction.

849 Q I have one more question about that first
850 conversation that you said you had with the Attorney
851 General and Mary Blanche Hankey. You said you took action
852 -- some actions after that conversation. What were the
853 actions you took after that conversation?

854 A I conducted some legal research and some general
855 research regarding the census.

856 Q What research did you conduct?

857 Mr. Gardner. I instruct the witness not to
858 answer.

859 Q Did you conduct research about the citizenship
860 question?

861 Mr. Gardner. So at that level of detail, you
862 can answer that question.

863 A Yes.

864 Q Were you directed by somebody to do so?

865 Mr. Gardner. I'm going to instruct not to
866 answer.

867 Q Was it your own decision to conduct that
868 research?

869 Mr. Gardner. Same instruction.

870 Q Aside from conducting research, did you take any
871 other action?

872 A Not in specific response to that conversation
873 that I can recall. I did, as I mentioned, have
874 conversations with many people about the issue, and as I've
875 already stated, eventually I wrote the first draft of a
876 letter on behalf of the Department of Justice.

877 Q What was the next action you took after -- after
878 that conversation?

879 A I'm sorry, which conversation?

880 Q The conversation with the Attorney General.
881 What was the next action you took related to the
882 citizenship question after that?

883 A As I've just testified, I conducted some legal

884 research and some general research regarding the census.

885 Q And then after that, what was the next step?

886 A Again, I'm not clear on all of the sequencing as
887 it played out, but I did have conversations with many of
888 the people on the list who I just named regarding this
889 issue.

890 BY MS. ANDERSON.

891

892 Q Did you provide that legal research to anyone
893 else inside the Department of Justice?

894 A I discussed that legal research with other
895 individuals within the Department of Justice.

896 Q Who?

897 A I discussed it eventually with the Attorney
898 General, Rachael Tucker, Gene Hamilton, Danielle Cutrona,
899 Rachel Brand, Jesse Panuccio, Patrick Hovakimian, Bob
900 Troester.

901 Q It's fair to say everyone you listed before?

902 A Pretty much everybody. There may have been one
903 or two people I didn't, but ...

904 Q Did you discuss your legal research with anyone
905 outside of the Department of Justice?

906 A Yes, I did.

907 Q Is it anyone else who's not mentioned in that
908 list that you described earlier?

909 A No.

910 Q Was it everyone who's on that list that you said
911 earlier?

912 A More or less everyone. I don't know if I
913 discussed legal research with Mark Neuman, but I certainly
914 discussed it, I think, with everyone else on that list.

915 Q Including those three people you mentioned from
916 the Department of Commerce?

917 A Not Ms. Teramoto. And I can't remember whether
918 I discussed it with Mr. Zadrozny. I think not, but I can't
919 remember.

920 Q What was your initial conclusion after you
921 conducted your legal research?

922 Mr. Gardner. I instruct the witness not to
923 answer.

924 Q At some point you became aware that the
925 Department of Commerce and the Department of Justice had
926 had conversations prior to your involvement in the
927 citizenship question; is that correct?

928 A Yes, at some point I did become aware of that.

929 Q Who informed you of those conversations?

930 A I can't remember how I became aware of those,
931 whether someone informed me or whether it was because
932 there's a memo in the record in one of the litigation cases
933 that was shown in my deposition written by Earl Comstock.

934 It's a memo to the file or something like that. I can't
935 remember if it's because I saw that document or because
936 somebody told me, but at some point I became aware that
937 conversations had occurred prior to my involvement in the
938 issue.

939 Q Who from the Department of Justice was involved
940 in those conversations that you are aware of?

941 A Again, I'd have to go back in my memory to the
942 memo that Mr. Comstock wrote, which I don't have right in
943 front of me, but I believe he mentions having spoken to
944 Mary Blanche Hankey and to James McHenry, and also that he
945 spoke to Gene Hamilton, who at that time was at the
946 Department of Homeland Security. Later he joined the
947 Department of Justice.

948 Q Did you ever become aware of the contents of
949 those conversations that occurred between Mary Blanche
950 Hankey, Gene Hamilton, or anyone else at the Department of
951 Justice and the Department of Commerce?

952 A Only -- only what's reflected in Mr. Comstock's
953 memo, which I believe is dated September 8th, 2017.

954 Q Okay. So to be clear, you did not become aware
955 of those conversations after having spoken with anyone at
956 the Department of Justice about them?

957 A I don't think so. Not that I recall.

958 Q And you also became aware of conversations that

959 occurred between Secretary Ross and Attorney General Jeff
960 Sessions; is that correct?

961 A Yes, I became aware of the conversations.

962 Q And those conversations were about the addition
963 of a citizenship question; is that correct?

964 A Again, I wasn't a party to those conversations,
965 but that's my understanding.

966 Q Sure.

967 Were you aware of more than one conversation
968 that occurred between Attorney General Jeff Sessions and
969 Secretary Ross about an addition of a citizenship question?

970 A I believe so, yes.

971 Q How many conversations?

972 A I think I'm aware of maybe two or three
973 conversations.

974 Q When did those conversations occur that you are
975 aware of?

976 A Again, I wasn't a party to those conversations.
977 It's my understanding that there was at least one
978 conversation before I received a phone call from the
979 Attorney General and Mary Blanche Hankey, and there may
980 have been one or two other conversations thereafter.

981 Q So just to get the timeline, one before that
982 late August, early September phone call that you received
983 from Mary Blanche and Attorney General Jeff Sessions; is

984 that correct?

985 A That's my understanding.

986 Q Sure.

987 A I don't know. Again, I wasn't a party to any of
988 those conversations. I don't know.

989 Q Sure.

990 And then a few that happened after that point,
991 did those conversations, to your knowledge, happen before
992 the December 12th, 2017, letter?

993 A Yes.

994 Q So in that September to December time frame.

995 A Correct.

996 Q Were you aware of anyone else being present
997 during those conversations with Attorney General Jeff
998 Sessions and Secretary Ross?

999 A No, I am not. I have no awareness one way or
1000 the other. I should specify. Since I wasn't a party to
1001 the conversations, I don't know.

1002 Q Did you become aware at any point about the
1003 contents of those conversations between Secretary Ross and
1004 Attorney General Jeff Sessions?

1005 A Yes, at least some of the content.

1006 Q Did you become aware of the content of the
1007 conversation that happened before you became involved in
1008 the citizenship question?

1009 A Yes.

1010 Q When did you become aware of that?

1011 A On that phone call, meaning the late August,
1012 early September phone call.

1013 Q And then did you become aware of the contents of
1014 the conversation that happened between September, that
1015 phone call, and the December 12th letter?

1016 A Yes, at least some of the contents.

1017 Q Who made you aware of the contents of those
1018 conversations?

1019 A It was the Attorney General.

1020 Q What did you discuss during those conversations?

1021 Mr. Gardner. I instruct the witness not to
1022 answer.

1023 Q Let me just be very clear.

1024 The conversation that happened prior to -- when
1025 they called you in September -- late Septem- -- I'm just
1026 going to say early September from now on if that's okay.

1027 A That's fine.

1028 Q Prior to the conversation that happened in early
1029 September 2017, after the Attorney General informed you of
1030 the conversation and the contents of that with Secretary
1031 Ross, what did he tell you about the contents of those
1032 conversations?

1033 Mr. Gardner. I instruct the witness not to

1034 answer.

1035 Q And as per the conversations that happened
1036 between Attorney General Jeff Sessions and Secretary Ross
1037 between early September and December 12th, 2017, what were
1038 the contents of those discussions between Secretary Ross
1039 and Attorney General Jeff Sessions?

1040 Mr. Gardner. Same instruction.

1041 BY MR. ANELLO.

1042

1043 Q Did -- I want to ask you a few more questions
1044 about what you learned about the conversations between
1045 Secretary Ross and the Attorney General. Did you ever
1046 learn that Secretary Ross and the Attorney General -- let
1047 me start here.

1048 You learned that they discussed the citizenship
1049 question, correct?

1050 A That's correct.

1051 Q The Attorney General told you that.

1052 A That's correct.

1053 Q Did he tell you that they discussed how adding a
1054 citizenship question could impact census participation by
1055 immigrants and noncitizens?

1056 Mr. Gardner. I instruct the witness not to
1057 answer.

1058 Q Did the Attorney General tell you that he

1059 discussed with the Secretary of Commerce how adding a
1060 citizenship question could impact congressional
1061 apportionment?

1062 Mr. Gardner. I instruct the witness not to
1063 answer.

1064 Q Did he tell you that he -- "he" being the
1065 Attorney General -- discussed with the Secretary of
1066 Commerce that adding citizenship could impact the outcome
1067 of any election?

1068 Mr. Gardner. I instruct the witness not to
1069 answer.

1070 Q Did the Attorney General tell you that he and
1071 Secretary Ross discussed concealing the process by which
1072 the citizenship would be added to the census?

1073 Mr. Gardner. I instruct the witness not to
1074 answer.

1075 Mr. Anello. Just to be clear, is the
1076 Department of Justice asserting some confidentiality over
1077 concealment from the public of the nature of the decision?

1078 Mr. Gardner. I'm just plainly stating that
1079 your question implicates the Department of Justice's
1080 confidentiality and litigation interests.

1081 Mr. Anello. My question is whether the
1082 Department of Justice was concealing information.

1083 Mr. Gardner. No, your question was about a

1084 specific conversation that the Attorney General and the
1085 Secretary of Commerce had that was then disclosed to
1086 Mr. Gore.

1087 Mr. Anello. Let me rephrase that question
1088 then.

1089 Q Did the Department of Justice seek to conceal --
1090 did anyone at the Department of Justice seek to conceal any
1091 part of the process by which the citizenship question was
1092 added to the census?

1093 A Absolutely not. I don't think there's any basis
1094 for that implication.

1095 Q Well, that's something we can talk about off the
1096 record, but ...

1097 Did you ever -- were there ever any
1098 conversations about concealing discussions between the
1099 Department of Commerce and the Department of Justice on
1100 this topic?

1101 Mr. Gardner. Between whom? I'm sorry, I'm not
1102 clear what your question is. Can you repeat it.

1103 Q Were you ever involved in any discussions about
1104 efforts to conceal communications between the Department of
1105 Justice and the Department of Commerce regarding the
1106 citizenship question?

1107 Mr. Gardner. You can answer.

1108 A No.

1109 BY MS. ANDERSON.

1110

1111 Q One of the people you said that you spoke with
1112 from the Department of Commerce around this time, in that
1113 early September time frame, was Wendy Teramoto; is that
1114 correct?

1115 A Yes. I believe I spoke to her on September 16th
1116 of 2017.

1117 Q And Peter Davidson asked you to reach out to
1118 Wendy Teramoto?

1119 A That's correct.

1120 Q When did he ask you to do that?

1121 A It would have been maybe a few days before that.

1122 Q Why did he ask you to reach out to Wendy?

1123 A There was some confusion at the Department of
1124 Commerce as to what my job was, and Ms. Teramoto had been
1125 tasked with scheduling a call between the Secretary of
1126 Commerce and the Attorney General and thought that I could
1127 be of assistance in that endeavor.

1128 Q So you said that you spoke with her on September
1129 16th. Is that correct?

1130 A That's correct.

1131 Q And that conversation was about -- or at least
1132 about in part the citizenship question; is that correct?

1133 A I understood it to be about scheduling a call

1134 for the Secretary and the Attorney General to discuss that
1135 topic.

1136 Q Did you discuss that topic with Wendy Teramoto?

1137 A Not really, no.

1138 Q Yes or no? Did you discuss it or did you not
1139 discuss it?

1140 A I would -- no. I mean, we really discussed the
1141 scheduling issue, and she asked if I could help schedule a
1142 call on that topic, and I said that's not my job and I'll
1143 put you in contact with somebody who can potentially help
1144 you manage schedules.

1145 Q And you said before, was that the only
1146 conversation you had with Wendy Teramoto?

1147 A Yes. It's the only one I can recall.

1148 Q So after -- after you received -- or you spoke
1149 with Wendy Teramoto, you connected her with Danielle
1150 Cutrona, correct?

1151 A That's correct.

1152 Q And Danielle works at the Department of Justice;
1153 is that correct?

1154 A Yes.

1155 Q You connected them on September 16th as well; is
1156 that correct?

1157 A That's correct, yes.

1158 Q At that point when you introduced Danielle to

1159 Wendy, you said that Danielle is the person to connect
1160 about the issue we discussed today --

1161 A That's correct.

1162 Q Presumably September 16th, correct?

1163 A Yes.

1164 Q -- scheduling to connect Secretary Ross with the
1165 Attorney General Jeff Sessions to discuss the citizenship
1166 question.

1167 A That's correct.

1168 (Exhibit 1 was marked for identification and
1169 attached to the transcript.)

1170 Q So I've handed you a copy of a document that
1171 I've marked now as Exhibit 1. Do you have a copy of that?
1172 I can hand you the one that I've actually marked. We can
1173 trade.

1174 Mr. Gardner. Why don't you trade.

1175 Ms. Anderson. We can trade. I think that's a
1176 little bit --

1177 Q I handed you a document that's marked as Exhibit
1178 1.

1179 A Okay.

1180 Q I would like you to turn to the second page of
1181 that document, the bottom of which -- it's numbered. It's
1182 numbered 0002637. Are you on that page?

1183 A I am.

1184 Q And this email, the email I'm going -- there are
1185 several emails on the page so I'm just going to point you
1186 towards a particular email.

1187 Oh, I'm sorry.

1188 If you just want to review that document for
1189 just one second.

1190 A Sure. (Document review.)
1191 Ms. Anderson. Just give me one second.

1192 Mr. Gardner. Take your time.

1193 Q So the top of that -- I'm actually going to
1194 refer you to the first page, 2636. The top of that is an
1195 email that's dated September 18th, 2017. And it's an email
1196 from Wendy Teramoto to John Gore. That would be you; is
1197 that correct?

1198 A It appears to be.

1199 Q Sure.

1200 That email says, "Hi. AG and Sec spoke.
1201 Please let me know when you have a minute."

1202 Presumably that's referring to Attorney General
1203 Jeff Sessions and Secretary Ross; is that correct?

1204 A I think that's correct.

1205 Q Did you speak to Wendy Teramoto on that day?

1206 A I don't recall speaking to her after this email.

1207 Q And then I want -- I want to go to the second
1208 page -- again, sorry, 2637. There's an email there, the

1209 second email on the page from September 17th, 2017, at
1210 12:10 p.m. from Danielle Cutrona to Wendy Teramoto.

1211 In that Danielle writes, "From what John said,
1212 it sounds like we can do whatever you all need us to do."

1213 Did you say that to Danielle Cutrona?

1214 Mr. Gardner. I instruct the witness not to
1215 answer.

1216 Q What did you mean by that?

1217 Mr. Anello. I'm sorry, are you -- this email
1218 is -- this is an email that I believe you actually produced
1219 in litigation, correct?

1220 Mr. Gardner. That's correct.

1221 Mr. Anello. So are you saying the witness is
1222 not permitted to talk about this document?

1223 Mr. Gardner. I didn't say that.

1224 Mr. Anello. I think he's been asked simply
1225 whether the statement in the document is accurate.

1226 Mr. Gardner. He's been asked whether
1227 Ms. Cutrona's reference to a statement that John might have
1228 told him is accurate, That's what I've objected to. These
1229 aren't John's words.

1230 Ms. Sachsman Grooms. So is this a different
1231 objection?

1232 Mr. Gardner. No, it's the exact same
1233 instruction.

1234 Try to rephrase it. See if we can do it that
1235 way.

1236 Q She then says, "The delay was due to
1237 miscommunication." Did you tell Danielle Cutrona that the
1238 delay was due to miscommunication?

1239 Mr. Gardner. I instruct the witness not to
1240 answer.

1241 Q She then says, "The AG is eager to assist." Did
1242 you tell Danielle Cutrona that the AG was eager to assist?

1243 Mr. Gardner. Same instruction.

1244 Q Did you have a discussion with Danielle Cutrona
1245 prior to connecting her with Wendy Teramoto?

1246 A Yes, I did.

1247 Q When was that conversation?

1248 A It was on the phone on September 16th, 2017.

1249 Q Did you communicate to Danielle Cutrona why you
1250 were connecting her with Wendy Teramoto?

1251 Mr. Gardner. You can answer that with a yes or
1252 no.

1253 A Yes, I did.

1254 Q What did you tell her the reason was for you to
1255 connect her to Wendy Teramoto?

1256 Mr. Gardner. I instruct the witness not to
1257 answer.

1258 Q Did you tell her that you wanted to connect her

1259 to schedule a phone call between the Attorney General and
1260 Secretary Ross?

1261 Mr. Gardner. You can answer that.

1262 A Yes.

1263 Q Did you tell her anything else on that phone
1264 call?

1265 Mr. Gardner. You can answer that with a yes or
1266 no.

1267 A Yes.

1268 Q Did you tell her anything else on that phone
1269 call regarding the addition of a citizenship question?

1270 Mr. Gardner. You can answer that with a yes or
1271 no.

1272 A Yes.

1273 Q Did you tell her at any point during that
1274 conversation about why the Department of Justice was
1275 interested in adding a citizenship question to the census?

1276 Mr. Gardner. You can answer that question yes
1277 or no.

1278 A Yes, to the extent I understand your question.

1279 Q Did you tell her on that phone call anything
1280 about the Attorney General's interest in a citizenship
1281 question?

1282 Mr. Gardner. I'm sorry, can you rephrase that?
1283 That question was a little confusing.

1284 Ms. Anderson. Sure.

1285 Q Did you communicate to Danielle Cutrona on that
1286 phone call anything about what the Attorney General's
1287 interest was in a citizenship question?

1288 Mr. Gardner. I instruct the witness not to
1289 answer.

1290 Q Did you communicate with Danielle Cutrona on
1291 that phone call anything that you had learned from your
1292 discussion or conversation with Wendy Teramoto?

1293 A Anything I learned from Ms. Teramoto?

1294 Q Yes.

1295 A Yes.

1296 Q Were the contents of what you told Danielle
1297 Cutrona that you had learned from Wendy Teramoto anything
1298 besides scheduling?

1299 A No.

1300 BY MR. ANELLO.

1301

1302 Q You've read this email from Danielle Cutrona,
1303 correct?

1304 A Yes, I have.

1305 Q Is it accurate?

1306 Mr. Gardner. I instruct —

1307 Q Are the representations she made accurate?

1308 Mr. Gardner. I instruct the witness not to

1309 answer.

1310 Q When you spoke to Danielle Cutrona, did you tell
1311 Ms. Cutrona what the Attorney General had communicated to
1312 you?

1313 Mr. Gardner. I instruct the witness not to
1314 answer.

1315 Mr. Anello. I'm only asking for a yes or no.

1316 Mr. Gardner. You're asking about the content
1317 of the conversation.

1318 BY MS. ANDERSON.

1319

1320 Q Okay. So after you received an email from Wendy
1321 Teramoto saying AG and Secretary Ross spoke, you learned
1322 that they had, in fact, spoken around that time frame; is
1323 that correct?

1324 A That is correct.

1325 Q Did you become aware of the contents of the
1326 conversation that happened -- I'm going to put it as
1327 September 17th, is that okay, for the purposes of this?

1328 A On or about.

1329 Q On or about September 17th --

1330 A Sure.

1331 Q -- did you become aware of the contents of that
1332 particular conversation between Secretary Ross and Attorney
1333 General Jeff Sessions?

1334 A Am I aware of the contents? Yes, I believe so,
1335 at least some of the contents.

1336 Q Who made you aware of that?

1337 A I think I heard from Danielle Cutrona about it.

1338 Q Was she on the phone call?

1339 A Maybe -- I don't know. I wasn't a party to that
1340 call. And I can't recall whether I specifically heard from
1341 the Attorney General about that conversation or not.

1342 Q What did you learn the Attorney General and
1343 Secretary Ross spoke about on that phone call?

1344 Mr. Gardner. I instruct the witness not to
1345 answer.

1346 Q Did Attorney General Jeff Sessions ask you to do
1347 anything after his phone call with Secretary Ross?

1348 Mr. Gardner. You can answer that with a yes or
1349 no.

1350 A No.

1351 Q Did anyone else ask you to do anything after
1352 Secretary Ross and Attorney General Jeff Sessions spoke on
1353 or about September 17th, 2017?

1354 A No.

1355 Q Did the Department of Justice's position change
1356 regarding the addition of a citizenship question after
1357 Attorney General Jeff Sessions and Secretary Ross spoke on
1358 or about September 17th, 2017?

1359 Mr. Gardner. I'm going to instruct the witness
1360 not to answer.

1361 Q Were you aware of any conversations between
1362 Attorney General Jeff Sessions and Kris Kobach regarding a
1363 citizenship question?

1364 A No.

1365 Q Were you aware of any conversations between
1366 Attorney General Jeff Sessions and Steve Bannon about the
1367 addition of a citizenship question?

1368 A No.

1369 Q Were you aware of any conversations with anyone
1370 else at the Department of Justice and Kris Kobach about an
1371 addition of a citizenship question?

1372 A No.

1373 Q Were you aware of any conversations between
1374 anyone at the Department of Justice and Steve Bannon about
1375 an addition of a citizenship question?

1376 A No.

1377 Q Were you aware of any conversations between
1378 Attorney General Jeff Sessions and the White House about an
1379 addition of a citizenship question?

1380 A So, can I just ask for clarification? You keep
1381 asking me, was I aware, were you aware. Are you talking
1382 about a specific time frame or at any point in time?

1383 Mr. Anello. Is the question you're trying to

1384 clarify --

1385 Mr. Gardner. At what point did he know.

1386 Mr. Anello. -- once you became aware of the
1387 conversation?

1388 Mr. Gore. Well, that assumes there's a
1389 predicate, but you're asking a past-tense question, "Were
1390 you aware?" Are you referring to on September 17th or 18th
1391 or ever?_

1392 Q No, I'm referring to ever, yes.

1393 A I'm not aware of any conversations between the
1394 Department of Justice and Attorney General Sessions and any
1395 of the other individuals you've named.

1396 Q Okay. So I think we paused --

1397 A At any point in time.

1398 Q Sure.

1399 I think we paused on whether Attorney General
1400 Jeff Sessions had spoken with anyone at the White House
1401 regarding this issue. Is your answer -- it remains no on
1402 that as well?

1403 A I have no awareness that he ever spoke with
1404 anyone at the White House regarding this issue.

1405 Q Do you have any awareness of anyone speaking --
1406 from the Department of Justice speaking with anyone at the
1407 White House besides the conversation you identified with
1408 John Zadrozny in October of 2017?

1409 A No, but I will clarify that, as I recall that
1410 conversation with Mr. Zadrozny, it was a conference call in
1411 which Rachael Tucker and Gene Hamilton also participated,
1412 but I don't recall anyone else participating on that call.

1413 Q And no other --

1414 A So it wasn't just -- I'm just trying to clarify.
1415 It wasn't just Mr. Zadrozny and me. Rachael and Gene were
1416 also on the call, as I recall.

1417 Q And that was your only conversation, that you're
1418 aware, people from the Department of Justice and people
1419 from the White House.

1420 A That is correct.

1421 Q Okay. You said one of the other people -- let
1422 me just -- you said one of the other people from the
1423 Department of Commerce that you had a discussion with was
1424 Peter Davidson, or discussions with.

1425 A That is correct.

1426 Q And Peter Davidson initiated those conversations
1427 with you; is that correct?

1428 A Yes, he did.

1429 Q How did he get in contact with you?

1430 A Called me.

1431 Q Did he tell you why he called?

1432 A Yes.

1433 Q Why did he call?

1434 A He called to discuss the Department possibly
1435 requesting reinstatement of a citizenship question on the
1436 2020 census questionnaire.

1437 Q Did he tell you how he came to come in contact
1438 with you in particular at the Department of Justice?

1439 A I believe he did.

1440 Q How?

1441 Mr. Gardner. I instruct the witness not to
1442 answer.

1443 Q Did Peter Davidson tell you that someone had
1444 told him to contact you?

1445 Mr. Gardner. Same instruction.

1446 Q Had you spoken with anyone else at the
1447 Department of Commerce prior to Peter Davidson contacting
1448 you?

1449 A No.

1450 Q So he was your first point of contact from the
1451 Department of Commerce; is that correct?

1452 A That is correct.

1453 BY MR. ANELLO.

1454

1455 Q So that conversation with Mr. Davidson, you said
1456 he told you the reason he was calling was to inquire about
1457 the Department of Justice requesting a citizenship question
1458 being added on the census. That's what you just said,

1459 correct?

1460 A I don't think I said to inquire. He called me
1461 to discuss that issue.

1462 Q To discuss the Department of Justice making that
1463 request.

1464 A Potentially, yes.

1465 Q And why did he tell you he was calling to
1466 discuss that?

1467 Mr. Gardner. Same instruction.

1468 Q Did he express a particular view on whether the
1469 Department of Justice should make that request?

1470 Mr. Gardner. Same instruction.

1471 BY MS. ANDERSON.

1472

1473 Q Did he provide a reason why or did he ask you
1474 why you might be interested in making that request?

1475 Mr. Gardner. Same instruction.

1476 Q Did you -- what did you do after -- did you do
1477 anything in particular after you had your conversation with
1478 Peter Davidson?

1479 A No.

1480 Q Did you follow up with anyone else following
1481 your conversation with Peter Davidson besides Wendy
1482 Teramoto?

1483 A No. Just to clarify, I had many conversations

1484 with Mr. Davidson, and I'm answering with respect to all of
1485 them. I don't recall doing anything in particular in
1486 response to his phone calls.

1487 Q How many conversations would you say you had
1488 with Peter Davidson between -- between when he first
1489 contacted you --

1490 A At any time?

1491 Q Yes.

1492 A I think I said earlier it was about a dozen.

1493 Q Were they all by phone?

1494 A Yes, they were.

1495 Q Did you take any notes during those phone calls?

1496 A No, I did not.

1497 Q Was anyone else ever on those phone calls
1498 besides you and Peter Davidson except for that one or two
1499 phone calls you mentioned with James Uthmeier?

1500 A No.

1501 Q Did Peter Davidson provide any documentation to
1502 you throughout this time period?

1503 A No, he did not.

1504 Q Did you provide any documentation to Peter
1505 Davidson besides perhaps the legal research that you
1506 mentioned earlier?

1507 A No, and I didn't provide him any legal research,
1508 but we discussed it. I provided him no documents.

1509 Q You called Peter Davidson on November 28th,
1510 2017; is that correct?

1511 A If you say so. I don't recall exactly when I --
1512 that I called him on that date, but I think there's a
1513 document in the record indicating that I did call him on
1514 that date.

1515 Q And that would be consistent with your
1516 recollection that you had a dozen phone calls in this time
1517 period.

1518 A Yes, that I had phone calls with him over that
1519 time period. He initiated the first one. I can't remember
1520 if I ever initiated phone calls or if I just simply called
1521 him back every time. But we talked over the phone.

1522 Q And during those dozen or so conversations, you
1523 discussed the citizenship question; is that correct?

1524 A That's correct.

1525 Q Did you discuss where DOJ was in their
1526 production of a possible request to the Department of
1527 Commerce?

1528 Mr. Gardner. I instruct the witness not to
1529 answer.

1530 Q You testified -- you stated earlier that he
1531 contacted you to see whether the Department of Justice
1532 would consider making a request to the Department of
1533 Commerce; is that correct?

1534 A I think what I said is that he contacted me to
1535 discuss the possibility of the Department requesting
1536 reinstatement of the citizenship question on the census
1537 questionnaire.

1538 Q Did you discuss that topic at every single one
1539 of your later conversations or at some point did you
1540 discuss other things?

1541 A We certainly discussed that at every one of our
1542 conversations. I can't remember -- I believe I had a
1543 conversation with him at one point where he was quite
1544 literally on a ski slope, and so I asked him how the ski
1545 conditions were on that particular day. But other than
1546 that -- we may have exchanged pleasantries, but every
1547 conversation we had was about that topic.

1548 Mr. Anello. Did he -- did Mr. Davidson tell
1549 you in any of those calls that he was calling on the
1550 instructions of Secretary Ross?

1551 Mr. Gardner. I instruct the witness not to
1552 answer.

1553 Mr. Anello. Did he provide any information to
1554 you about Secretary Ross' views on the citizenship
1555 question?

1556 Mr. Gardner. Same instruction.

1557 Q Did you discuss with the Attorney General the
1558 fact that you had been in contact with Peter Davidson?

1559 Mr. Gardner. I instruct the witness not to
1560 answer the question.

1561 Q Did you discuss with the Attorney General
1562 anything that you had discussed with Peter Davidson?

1563 Mr. Gardner. Same instruction.

1564 Q Did you do anything in response to David -- your
1565 discussions with Peter Davidson?

1566 A I don't recall doing anything specifically in
1567 response to those discussions.

1568 Q Did Peter Davidson direct you to look at any
1569 documents or any particular legal research during your
1570 conversations?

1571 Mr. Gardner. Same instruction.

1572 Ms. Sachsman Grooms. Why so many conversations
1573 with Peter Davidson?

1574 Mr. Gardner. Objection. To the extent you can
1575 answer that question without divulging confidential or
1576 litigation interests of the Department, you may do so.

1577 Otherwise, I instruct you not to answer.

1578 Mr. Gore. I don't know.

1579 Q Did he always call you?

1580 A Yes.

1581 Ms. Sachsman Grooms. Was he checking on the
1582 status? Was that what was going on?

1583 Mr. Gardner. Same instruction.

1584

1585 Mr. Anello. Did the calls stop once the DOJ
1586 sent its letter?

1587 Mr. Gore. I can't recall when the last time
1588 was when I spoke to Mr. Davidson.

1589 Ms. Anderson. I think we've reached our hour.
1590 If we could go off the record for five minutes.

1591 (A brief recess was taken.)

1592 Mr. Castor. Back on the record. It's 10:47.
1593 I'm Steve Castor with the Republican staff.

1594 I'm going to mark as Exhibit 2 the
1595 December 12th letter.

1596 (Exhibit 2 was marked for identification and
1597 attached to the transcript.)

1598 EXAMINATION

1599 BY MR. CASTOR.

1600 Q At the time you were the acting Assistant
1601 Attorney General for the Civil Rights Division when this
1602 letter was prepared?

1603 A Yes, I was.

1604 Q Could you help us understand why that letter
1605 went out under the Justice Management Division letterhead
1606 and why Mr. Gary signed it?

1607 A Sure, I would be happy to. Mr. Gary serves as
1608 general counsel of the Justice Management Division, and one

1609 of his responsibilities on behalf of the Department of
1610 Justice is to make formal request to the Census Bureau
1611 whenever the Department is seeking addition of questions to
1612 the census questionnaire or the American Community Survey.

1613 So Mr. Gary had signed these letters -- letters
1614 such as this one in the past on behalf of requests that had
1615 been made by the Department, including by the Civil Rights
1616 Division. There had been a request related to the American
1617 Community Survey, I believe, sent in about 2016, and
1618 Mr. Gary is the point person -- think of him as the point
1619 person between the Department of Justice and the Census
1620 Bureau for formal requests like this one. So it is
1621 consistent with standard practice and process in the
1622 Department of Justice for Mr. Gary to be the signatory for
1623 this letter.

1624 Q And you obviously drafted the letter?

1625 A As I testified before, I wrote the first draft
1626 of the letter, and I think the record reflects that several
1627 other people made comments or suggested edits to the
1628 letter, including Mr. Gary. And this is the final product,
1629 represents the Department's letter.

1630 Q You testified earlier that you first started
1631 looking at this question the end of August, beginning of
1632 September, and this letter is dated December 12th. Is it
1633 fair to say that the Department was considering the issue

1634 at the heart of the matter here for that time period?

1635 A Yes.

1636 Q September, October, November, it's about three
1637 and a half months; is that fair?

1638 A Sounds about right.

1639 Q Is it fair to consider that as a thoughtful
1640 effort by the Justice Department before this letter was
1641 sent?

1642 A Yes.

1643 Q And by "thoughtful," I think if the letter was
1644 sent, you know, on September 1st or September 2nd, you
1645 might be -- you might not be able to call that a thoughtful
1646 process, but this is the product of three months of careful
1647 consideration; is that fair?

1648 A Yes, that's fair.

1649 Q Could you walk us through -- there's a Supreme
1650 Court oral argument on April 23rd; is that correct?

1651 A That sounds right, yes.

1652 Q And the Supreme Court is looking at the New York
1653 case, but there are several other pieces of litigation
1654 surrounding this question right now. Is that correct?

1655 A That's my understanding, yes.

1656 Q Are you aware of the various cases?

1657 A I have limited knowledge and awareness of the
1658 cases. Those cases are being handled by the Civil Division

1659 of the Department of Justice on behalf of the Department of
1660 Commerce, which is the defendant in those cases. The Civil
1661 Rights Division is not involved in those cases. We're not
1662 counsel of record. We're not managing the day-to-day on
1663 those cases, so what I know is what I've seen reported in
1664 the press, and I've read portions of the New York decision.

1665 There's a case in New York, a case in
1666 California, and a case in Maryland, and I think there might
1667 be one more case. And I understand the Supreme Court has
1668 granted certiorari before judgment in the New York case.

1669 The Department filed its opening brief on the
1670 merits in that case yesterday, and I do believe the oral
1671 argument before the Supreme Court is on April 23rd.

1672 Q It hasn't been considered at the appellate
1673 level; it went from District Court straight to the Supreme
1674 Court; is that right?

1675 A That's correct.

1676 Q That's relatively unusual, right?

1677 A In my experience, it is.

1678 Q And would you say it's fair to conclude that
1679 this is a unique issue, relatively important question for
1680 the Supreme Court to reach down and take it right out of
1681 the District Court level?

1682 A Like I said, it's very unusual. I have a fair
1683 amount of experience litigating before the Supreme Court.

1684 I'm not aware of any case where this has happened before.
1685 It certainly never happened in any of my cases. I can't
1686 characterize what the court's thinking on that might be,
1687 but I can certainly say it's an unusual procedural posture
1688 for a case to arrive in the Supreme Court.

1689 Q I know you're not litigating the case, but what
1690 are the questions presented as you understand them? You
1691 got into this a little bit with your May testimony before
1692 the Committee.

1693 A I don't know much about the issues presented
1694 except that the appeal on behalf of the United States and
1695 the Department of Commerce is an appeal from Judge Furman's
1696 findings of fact and conclusions of law. And, as I have a
1697 very limited understanding of what Judge Furman decided in
1698 that 277-page opinion, but I think he found a violation of
1699 the Administrative Procedure Act, I would imagine that
1700 that's being appealed from, as well as any other claims he
1701 may have upheld in that opinion.

1702 Q Bear with me with this question. We're not as
1703 expert in the history of the citizenship question by the
1704 Census Bureau, but as I understand it, the question has
1705 been asked of -- by the census probably since the beginning
1706 of time. Is that fair?

1707 A I don't know exactly when it was started. What
1708 I can tell you is that there is a citizenship question on

1709 the census questionnaire that went to every household
1710 through the 1950 census, as I recall. It was later moved
1711 to what's called the long form of the census, which was a
1712 longer form with more questions, as the name implies, that
1713 went to about one out of every six households from 1960 to
1714 2000.

1715 That was the data -- that long-form
1716 questionnaire included a question about citizenship. And
1717 that was -- data derived from that long-form questionnaire
1718 is what the Department of Justice and other plaintiffs
1719 relied upon when bringing Section 2 vote dilution cases
1720 where citizenship rights are at issue or can be at issue.

1721 There's no dispute that the Department of
1722 Justice and other plaintiffs bringing Section 2 vote
1723 dilution cases need citizenship data and need that data at
1724 the block level. The question here is where that data
1725 comes from.

1726 So between 1960 and 2000, it came from the long
1727 form of the census questionnaire. After the 2000 census,
1728 in about 2004 and 2005, the Census Bureau decided no longer
1729 to use the long-form questionnaire and started using what's
1730 called the American Community Survey. The American
1731 Community Survey is sent, I believe, to about one out of
1732 every 38 households every year across the country.

1733 It's a very long survey. I think it takes 45

1734 minutes to an hour to complete. It asks all kinds of
1735 questions about demographics and socioeconomics. I think
1736 one of the questions is whether you have a dishwasher in
1737 the house or something like that, but it does ask a
1738 citizenship question.

1739 And that -- the results of the American
1740 Community Survey are aggregated into one -- now one- and
1741 five-year rolling averages. There used to be a one-year,
1742 three-year, and five-year. They got rid of the three-year.
1743 Now they're one-year and five-year averages.

1744 That's the data that was used in the 2010
1745 redistricting cycle with respect to citizenship, came from
1746 the American Community Survey. And it was used both by map
1747 drawers and by litigants litigating cases under Section 2
1748 or under the one person, one vote mandate of the
1749 Constitution or racial gerrymandering cases or other cases
1750 that might have arisen under state law.

1751 Q You walked through in the first hour the sort of
1752 a roster of folks that you spoke with about this issue.

1753 A Correct.

1754 Q Would you be able to go through and help us
1755 understand where these people fit into the big picture.

1756 A I can certainly tell you --

1757 Q To the extent you know.

1758 A -- some job descriptions about each of these

1759 people.

1760 Q Yeah.

1761 A Obviously, Attorney General Sessions was the

1762 Attorney General. Thank you.

1763 Mr. Gardner. He's here all day.

1764 Mr. Gore. I take tips too.

1765 A The Office of Attorney -- within the Office of
1766 the Attorney General, the Attorney General has a chief of
1767 staff and has what are called counsel or senior counsel to
1768 the Attorney General. It's his personal staff that advises
1769 him. And so, Rachael Tucker, Danielle Cutrona, and Gene
1770 Hamilton were all counsel to the Attorney General. I
1771 believe at the time Mary Blanche Hankey -- I had a
1772 conversation with Mary Blanche Hankey. That was her title
1773 as well. She moved on to a different role in the
1774 Department. She may have been the White House liaison at
1775 the time as well. I can't recall.

1776 Underneath -- within the organizational
1777 structure of the Department of Justice, the next office
1778 below the Office of Attorney General is the Office of the
1779 Deputy Attorney General. The current Deputy Attorney
1780 General is Mr. Rosenstein. At the time, I spoke with Bob
1781 Troester, as I mentioned before, T-R-O-E-S-T-E-R.
1782 Mr. Troester is a long-time career lawyer at the Department
1783 of Justice. He was an Assistant United States Attorney in

1784 Oklahoma. I think he's on his second or third tour of duty
1785 now as the acting U.S. Attorney in Oklahoma. He at the
1786 time was on detail to the Office of Deputy Attorney
1787 General, serving as what's called an Associate Deputy
1788 Attorney General, and was our point of contact in that
1789 office for civil rights-related issues.

1790 I mentioned Rachel Brand was the Associate
1791 Attorney General. That made her the third highest ranking
1792 official in the Department after Mr. Sessions and Deputy
1793 Attorney General Rosenstein. Her principal deputy was
1794 Jesse Panuccio. And Patrick Hovakimian -- I can't remember
1795 if he was the deputy or -- I think he was a deputy in her
1796 office, but he was our point of contact in that office. He
1797 had the civil rights portfolio.

1798 Q And then the Justice Management Division, does
1799 that report up through the Associate Attorney General?

1800 A I don't know.

1801 Q Or is it up through the DAG?

1802 A It's one of -- either one or both. I'm not
1803 sure. I don't know where it fits in the org chart.

1804 Q And the Civil Rights Division reports up through
1805 the DAG?

1806 A We report through the Associate Attorney
1807 General, then to the Deputy Attorney General and then to
1808 the Attorney General.

1809 Q Okay.

1810 How about Bethany Pickett? Have we talked
1811 about her yet?

1812 A Yes, Bethany Pickett was counsel in the Civil
1813 Rights Division's Office of Assistant Attorney General,
1814 which was the office where I worked, and that's about it.

1815 Q How long were you the Acting Assistant Attorney
1816 General for the Civil Rights Division?

1817 A I was Acting Assistant Attorney General for just
1818 over 15 months while the Senate very thoroughly deliberated
1819 the nomination of Eric Dreiband.

1820 Q And currently you are the principal deputy?

1821 A That's correct.

1822 Q How many deputies are there in the Civil Rights
1823 Division?

1824 A There's a principal deputy and then four
1825 deputies.

1826 Q How is the work split up? What are the various
1827 responsibilities of the four deputies?

1828 A So each of the deputies has a portfolio. So the
1829 Civil Rights Division is divided into sections that perform
1830 the law enforcement mission of the division, and each
1831 deputy has oversight over some number of those sections
1832 depending on what their portfolio is. And things flow up
1833 from the sections to the deputy level and then ultimately

1834 to the principal deputy and the Assistant Attorney General
1835 where appropriate.

1836 Q Did you have any assistance in preparing the
1837 December 12th letter? Did you have any staffers helping
1838 you?

1839 A As I mentioned before, I think the record
1840 reflects that I received comments on and edits to the
1841 letter from a variety of people.

1842 Q But you primarily drafted it, or did you assign
1843 it out to a more junior attorney?

1844 A I did the drafting.

1845 Q Prior to coming to the Justice Department, did
1846 you litigate any Section 2 Voting Rights Act claims?

1847 A Yes, I did.

1848 Q Could you maybe just explain a little bit about
1849 your experience in that space.

1850 A Certainly. So I handled a number of voting
1851 rights cases while I was in private practice. I had a
1852 case, a racial gerrymandering case with Virginia. I had
1853 some Section 2 and equal population, one person, one vote
1854 cases in South Carolina and New York as well.

1855 Q So you have some experience in this topic area?

1856 A Yes, I do.

1857 Q Did you personally believe that the Justice
1858 Department needed additional information from the census as

1859 reflected in this letter?

1860 Mr. Gardner. I'm going to instruct the witness
1861 not to answer.

1862 Q Did you believe in the content of the letter
1863 that you were preparing or was it simply an assignment?

1864 Mr. Gardner. Same instruction.

1865 Q If the Justice Department received more accurate
1866 citizenship data, would that be of assistance in performing
1867 the mission of enforcing the Voting Rights Act?

1868 A I believe the Department's letter speaks for
1869 itself and states what the Department's position is on that
1870 question. The Department is always looking at the academic
1871 literature, looking for the best sources of data to carry
1872 out its law enforcement mission. That's certainly what we
1873 do in the Civil Rights Division. We want to have the best,
1874 most complete, most comprehensive, and most accurate set of
1875 data on all the questions that we deal with, including a
1876 citizenship question where it's implicated by Voting Rights
1877 Act cases.

1878 So, our goal is to collect as much data as we
1879 possibly can to identify potential violations of the Voting
1880 Rights Act and bringing enforcement actions where
1881 appropriate.

1882 Q And the most accurate data; is that correct?

1883 A Sure.

1884 Q Mr. Zadrozny, of the Domestic Policy Council,
1885 how did he enter into the mix here?

1886 A As I believe I've testified previously, both
1887 today and in my deposition, I was -- I received an invite
1888 to be on a conference call in which Mr. Zadrozny also
1889 participated, along with Rachael Tucker and Gene Hamilton.

1890 Q And when was that?

1891 A I believe it was in October of 2017.

1892 Q Do you remember the -- how long that call
1893 lasted?

1894 A Half an hour, maybe.

1895 Q Were there any requests from Mr. Zadrozny?

1896 Mr. Gardner. Objection.

1897 Q Were there any marching orders?

1898 Mr. Gardner. To the extent you can answer that
1899 question without divulging confidential or litigation
1900 interests of the Department, you may do so. Otherwise, I
1901 instruct you not to answer.

1902 Mr. Gore. Can I give a yes or no to that?

1903 Mr. Gardner. You may.

1904 A No.

1905 Q Was the information exchanged bilateral or was
1906 the Justice Department giving information to the Domestic
1907 Policy Council? Was the Domestic Policy Council giving
1908 information to you? Could you help us understand sort of

1909 the contours of that call.

1910 Mr. Gardner. Same instruction. To the extent
1911 you can answer that question without divulging the
1912 confidential and litigation interests of the Department,
1913 you may do so.

1914 A What I can say is all four participants who I
1915 named who participated in that call spoke during the call.

1916 Q I guess my question was, was the purpose of the
1917 call, to the extent you know, because the Domestic Policy
1918 Council wanted to hear from you, wanted an update, or was
1919 the purpose of the call something else?

1920 Mr. Gardner. Same instruction.

1921 A I don't think I can answer that question
1922 consistent with that instruction.

1923 Q Did you ever speak with a little known official
1924 named Steve Bannon?

1925 A I have never spoken to Mr. Bannon in my life.

1926 Q Ever speak with any other official with --
1927 associated with the White House?

1928 Mr. Gardner. About the census question?

1929 Mr. Castor. Yes.

1930 A Specifically about the census question, no, just
1931 Mr. Zadrozny.

1932 Q Okay. And is that the sum total of your
1933 communications with the White House staff about the census?

1934 A About the census, yes.

1935 Q The individuals at the census -- I'm sorry -- at
1936 the Commerce Department that you spoke with, obviously we
1937 identified Mr. Davidson as the general counsel. And then
1938 you named two other people at the Commerce Department, Ms.
1939 Teramoto and Mr. Uthmeier?

1940 A Uthmeier.

1941 Q How do they fit into this? Do you know what
1942 their jobs were?

1943 A Ms. Teramoto at the time was Secretary Ross'
1944 chief of staff, and Mr. Uthmeier was at least at that time
1945 employed in the Office of General Counsel of the Commerce
1946 Department. I don't know whether he's still in that office
1947 or somewhere else, but I understand that he's still with
1948 the Commerce Department.

1949 Q Did you ever get a readout from the telephone
1950 call between -- or any of the communications between the
1951 Secretary and the Attorney General?

1952 Mr. Gardner. You can answer that with a yes or
1953 no.

1954 A Yes.

1955 Q Do you know how many communications there were,
1956 how many phone calls there were between the Secretary and
1957 the Attorney General?

1958 A I think I stated earlier today that I'm aware of

1959 one phone call before I received the late August, early
1960 September -- early college football season call from the
1961 Attorney General and Mary Blanche Hankey. I believe I'm
1962 aware of maybe two further conversations between the
1963 Attorney General and Secretary Ross related to this
1964 particular issue.

1965 Q Did you get readouts from all of them or ...

1966 A Yes, I did. That's how I know about them.

1967 Q Is it still the position of the Justice
1968 Department that the census should include a citizenship
1969 question?

1970 A To my knowledge, that remains the position of
1971 the Justice Department and the Department of Commerce in
1972 the litigation.

1973 Q Did you receive any feedback from other
1974 government agencies other than Department of Commerce about
1975 the inclusion of that question?

1976 A I'm sorry, at what point in time?

1977 Q After the December 12th letter.

1978 A After the December 12th letter?

1979 Q Yes.

1980 A I don't believe so.

1981 Q Did you ever have any communications with the
1982 Department of Homeland Security about the inclusion of this
1983 question?

1984 A At what point in time?

1985 Q After the December 12th letter.

1986 A No, I didn't.

1987 Q Or any other -- any other components, such as

1988 ICE?

1989 A No.

1990 Q Have you ever been involved with any discussions

1991 about use of this data in enforcement actions for

1992 immigration?

1993 Mr. Gardner. Are you talking about discussions

1994 with Homeland Security?

1995 Q Or other Justice Department officials. I mean,

1996 he's just -- he's just testified that after the 12th --

1997 MR. GARDNER. I was just clarifying what your

1998 question was.

1999 To be fair, could you just ask the question one

2000 more time so we're all clear what you're asking.

2001 Q After the December 12th letter, did you have any

2002 communications about use of this data for immigration

2003 enforcement matters?

2004 A No, I did not, except I believe I was asked

2005 about that when I testified in front of the full committee,

2006 and I testified to the best of my knowledge as to how this

2007 data could or could not be used, but I'm not an expert on

2008 that.

2009 Q So, to your knowledge, is there anybody at the
2010 Justice Department that wanted this information for
2011 purposes of pursuing immigration enforcement matters?

2012 Mr. Gardner. You can answer that question to
2013 the extent you can do so without divulging confidential or
2014 litigation interests of the Department. Otherwise, I
2015 instruct you not to answer.

2016 A Not to my knowledge.

2017 Q So there's no plan that you're aware of to take
2018 this data, use it to prosecute immigration matters?

2019 Mr. Gardner. Same instruction with the same
2020 caveat.

2021 A Not to my knowledge.

2022 Q What data does the Civil Rights Division receive
2023 from the Census Bureau on a regular basis?

2024 A The Civil Rights Division receives a lot of data
2025 from the Census Bureau, but one -- we are a principal
2026 consumer of the Census Bureau's data and product, and it
2027 falls into a variety of different categories. Virtually
2028 all of the data that we use in the Civil Rights Division is
2029 publicly available. It's aggregate data. We don't get any
2030 individual census responses or any individual questionnaire
2031 responses or any data by any individual person. What we
2032 get is aggregate data at various levels of census
2033 geography, the smallest of which is the census block level.

2034 We get data about citizenship through the
2035 American Community Survey. We get socioeconomic data
2036 through the American Community Survey. We get racial data,
2037 which comes from the short-form census. We also get
2038 Hispanic origin or Latino origin data from both the census
2039 questionnaire, and then we get certain data related to that
2040 from the ACS, including language data.

2041 Every five years the Census Bureau makes
2042 determinations about coverage under Section 203 of the
2043 Voting Rights Act, which is the language minority provision
2044 of that act. And those determinations identify
2045 jurisdictions that have to provide voting-related
2046 materials, ballots, signs, translators, poll workers in the
2047 covered language. That's all done by the American
2048 Community Survey every five years.

2049 So, there's a whole host of data that we
2050 receive. I'm aware of at least one occasion in which we
2051 requested Section 203 data in some kind of table format
2052 that the Census Bureau otherwise wouldn't have produced
2053 publicly, but other than that, I understand that everything
2054 else we've received has been publicly available data,
2055 aggregate data.

2056 Q Completely anonymous.

2057 A Completely anonymous.

2058 Q Do you know if the Census Bureau provides data

2059 to any other government agency that's in any other form?

2060 A I imagine the Census Bureau provides data to
2061 many government agencies, but I don't have any knowledge of
2062 that.

2063 Q But is it all anonymous?

2064 A I would believe so. I don't know particularly.
2065 I'm not an expert on that. I don't work at the Census
2066 Bureau. Title 13 of the U.S. Code places criminal
2067 penalties on unauthorized disclosure of individual census
2068 responses or survey responses to the Census Bureau. I
2069 don't know how all of that works, but I do know that there
2070 are other programs within the government where census data
2071 would be at least relevant, if not important to those
2072 government programs, so I imagine the Census Bureau shares
2073 the data with those agencies.

2074 Q It would be against the law for somebody at the
2075 Census Bureau of the Commerce Department to take specific
2076 information about a specific person and use that to go find
2077 them and prosecute them; is that fair to say?

2078 A I think what -- I think what's -- my
2079 understanding -- I haven't studied Title 13 and I'm not an
2080 expert in that. My understanding is that individuals at
2081 the Census Bureau who handle the individual questionnaires
2082 have to sign a nondisclosure agreement and that an
2083 unauthorized disclosure of one of those questionnaires or

2084 its contents would be a criminal violation of federal law.

2085 Q So, as we understand it, DOJ exclusively uses

2086 the sampling data to determine voting right -- Voting

2087 Rights Act violations?

2088 A That's the use -- I'm sorry, which census data?

2089 Q The sampling data.

2090 A That is a use for which we use it in the Civil

2091 Rights Division. I don't know if there are other uses.

2092 Q Okay. Maybe it would help to just walk us

2093 through the -- what data sampling is for the record and how

2094 the Civil Rights Division uses it.

2095 A Data sampling in particular?

2096 Q Yes.

2097 A Or the data we receive from the Census Bureau?

2098 Q The data you receive from the Census Bureau.

2099 A Sure. So as I mentioned, take the American

2100 Community Survey, for example. That's a sample of data

2101 since it goes to one in every 38 households. It's not

2102 given to everybody, so it's not a hard count. And the --

2103 through the ACS, the Census Bureau can generate estimates

2104 about -- can extrapolate estimates from the survey

2105 responses to a larger population.

2106 And the Census Bureau currently reports the ACS

2107 citizenship data estimates at the level of what's called a

2108 census block group. A census block group is a collection

2109 of census blocks, usually on -- it's an average of about
2110 39. But it could be fewer or it could be a lot more,
2111 depending on how the census has drawn its block groups in a
2112 particular geographic area.

2113 And so we take that data and conduct further
2114 estimates to extrapolate it down to the census block level.
2115 We need census block-level data to identify potential
2116 Voting Rights Act violations for investigation and
2117 appropriate enforcement actions.

2118 Q Can you explain how both the asking and
2119 answering of the citizenship question will help the
2120 Department enforce the Voting Rights Act?

2121 A As I said, as I think the letter speaks for
2122 itself, the Department's trying to get the most accurate,
2123 complete, and comprehensive data on citizenship that it
2124 possibly can, just like it tries to get the most accurate,
2125 complete, and comprehensive data it can on race or on
2126 Hispanic origin or on the language minority issues that are
2127 raised by Section 203 of the Voting Rights Act.

2128 We haven't asked for the ACS to go away. Quite
2129 to the contrary, the letter requests that the ACS continue
2130 both for use in Section 203 cases but also for use in
2131 Section 2 cases. It's a data-driven world, and we think if
2132 we have more data and the best possible data, we can
2133 identify cases and investigations that the Department can

2134 conduct under Section 2 of the Voting Rights Act.

2135 Q Before the September -- late August, early
2136 September communication with the Attorney General, was
2137 adding the citizenship question something that the Civil
2138 Rights Division had planned for or advocated for?

2139 Mr. Gardner. I'm going to instruct the witness
2140 not to answer.

2141 Q Can you help us understand how the lack of data
2142 prior to, I guess, the current situation impacts the
2143 prosecution of Voting Rights Act cases?

2144 A So, as I've explained, we've been making do with
2145 the ACS data --

2146 Q Right.

2147 A -- and extrapolating the ACS block group level
2148 estimates down to the block level to identify potential
2149 investigations and enforcement actions.

2150 Q Right.

2151 A There's, I think, an acknowledgment that the ACS
2152 data is an estimate. The Census Bureau puts confidence
2153 intervals and margins of error around it. And we don't
2154 bring cases unless we can win them. So we've been able to
2155 file cases and litigate them under -- using the ACS data.

2156 We would like to get an additional source of
2157 data because there may be districts or cases out there
2158 where that data provides a clearer picture of what's going

2159 on at the block level and within a particular district or
2160 redistricting plan, and we might be able to identify
2161 additional cases for investigation and potential
2162 prosecution.

2163 Q We may not have time to go through all of this,
2164 as we only have about 30 minutes left, but I guess we could
2165 start. Could you walk us through the Section 2 cases filed
2166 by the Justice Department in 2010 to the extent you can
2167 list them all?

2168 A The Justice Department did not file any Section
2169 2 cases in 2010.

2170 Q Do you know if the Justice Department filed any
2171 in 2009?

2172 A Yes, the Justice Department filed one case in, I
2173 believe it was May 2009. It was a vote dilution case
2174 involving a locality in Florida that ultimately was
2175 resolved by consent decree.

2176 Q Okay. That's one case in 2009?

2177 A Correct.

2178 Q You said there were zero cases in 2010?

2179 A That's correct.

2180 Q How about in 2011?

2181 A Zero cases.

2182 Q 2012?

2183 A Zero.

2184 Q 2013?

2185 A There were three Section 2 cases filed by the
2186 Department in 2013. Only one of those cases was a
2187 redistricting case. That's the case, United States versus
2188 the State of Texas. It was challenges to redistricting
2189 plans drawn by the Texas legislature in 2011 for the State
2190 House and for Congress.

2191 Now, ironically at the time the Justice
2192 Department filed that lawsuit in 2013, the Texas
2193 legislature had already adopted new plans to supersede
2194 those 2011 plans. So the case was in a very unusual
2195 posture.

2196 The Department filed two other Section 2 cases
2197 in 2013. One was a challenge to Texas' voter ID
2198 requirement. Another case -- the style was the United
2199 States versus the State of Texas. And then there was a
2200 case that the Department filed against the State of North
2201 Carolina related to voter ID requirement and several other
2202 voting-related laws that the North Carolina legislature had
2203 enacted.

2204 Q You need data to file these cases, right?

2205 A Yes, you need data to file all of those cases,
2206 and you, in particular, need block-level citizenship data
2207 to file the redistricting cases and vote dilution cases.

2208 Q How many lawyers are there that work on these

2209 cases?

2210 A I don't -- I don't know exactly. We have a
2211 voting section that handles these cases as well as any
2212 other voting-related cases under Section 203 of the Voting
2213 Rights Act. We also enforce the Uniformed and Overseas
2214 Citizens Absentee Voting Act, which protects military
2215 voters and other overseas voters. And we enforce the
2216 National Voter Registration Act, Help America Vote Act, and
2217 the federal laws pertaining to the right to vote.

2218 Q How many lawyers work on Section 2 cases?

2219 A At any given time, I don't know. Any lawyer
2220 within the voting section could be staffed on any case
2221 arising under any of the statutes that we enforce.

2222 Q Could you list all the cases in 2014?

2223 A There were no -- the Department filed zero
2224 Section 2 cases in 2014.

2225 Q Could you list all the cases in 2015?

2226 A The Department filed zero Section 2 cases in
2227 2015.

2228 Q Could you list all the cases in 2016 that were
2229 filed?

2230 A The Department filed zero Section 2 cases in
2231 2016.

2232 Q So, any cases filed in 2017?

2233 A Yes, there was a case filed in January 2017,

2234 United States against Eastpointe, Michigan. That is a vote
2235 dilution claim brought against Eastpointe's at-large method
2236 of electing the city council.

2237 Q How about so far in -- or in 2018?

2238 A The Department filed zero Section 2 cases in
2239 2018.

2240 Q Any this year so far?

2241 A None so far this year.

2242 Q So it's four cases during the previous
2243 administration and one case during the current
2244 administration?

2245 A The 2017 case was actually filed about ten days
2246 before this administration took office. It was filed on, I
2247 think, January 10th or something like that. We've
2248 continued to litigate that case on behalf of the United
2249 States. It's still in District Court. We have, I believe,
2250 cross motions for summary judgment pending with the
2251 District Court.

2252 Q Does the Justice Department collect any of its
2253 own data to enforce the Voting Rights Act or does it rely
2254 exclusively on the Commerce Department?

2255 A I'm not aware of the Justice Department
2256 collecting any citizenship or demographic data.

2257 Q You get that all from the Census Bureau?

2258 A That data, yes.

2259 Q Has the Civil Rights Division ever requested the
2260 raw data from the Census Bureau that could be used to
2261 identify ACS respondents?

2262 A I'm not aware of any such request.

2263 Q Has that request ever come up during litigation
2264 where it was challenged?

2265 A I'm not sure I understand the question, but to
2266 the extent I understand the question, I'm not aware of that
2267 ever happening.

2268 Q I think you answered this before, but the
2269 responses to the -- any of the information collected from
2270 individual respondents on the census can never be used by
2271 the Justice Department or any other law enforcement agency
2272 in any judicial proceeding. Is that fair?

2273 A I don't know the answer to that question because
2274 I haven't studied the issue. It's a legal question about
2275 the contours of Title 13. It's my understanding that Title
2276 13 imposes criminal penalties on the unauthorized
2277 disclosure of census questionnaire responses or other data
2278 collected by the Census Bureau.

2279 I don't know as I sit here today exactly what
2280 the contours of that are. I am not aware of the Department
2281 of Justice bringing any kind of enforcement action against
2282 anyone based on a response to the census questionnaire. I
2283 think I may have read an article suggesting there was some

2284 kind of action in the 1970s against somebody who said or
2285 did something on a census questionnaire, but I don't know
2286 anything about it.

2287 Q What are the penalties if somebody does not fill
2288 out the census form?

2289 A Again, I've not studied that question. That's a
2290 legal question. I don't know what the answer is to that.
2291 I think there may be some penalty somewhere in the federal
2292 code about that. I don't know what it is. I will say it's
2293 my understanding that the Census Bureau counts all of the
2294 information from the census questionnaire that it can, even
2295 from an incomplete questionnaire.

2296 So, let's say, I don't know how many questions
2297 are on the questionnaire as I sit here today, but let's say
2298 there are ten. If somebody answers only eight questions,
2299 the Census Bureau will tally the information received in
2300 response to those eight questions. It doesn't reject the
2301 questionnaire in total. So if somebody for whatever reason
2302 doesn't answer a question or answers it in a way that's
2303 unintelligible, the Census Bureau still collects from that
2304 questionnaire whatever data it can make out.

2305 Q You're required by law to fill out the census
2306 form?

2307 A That's my understanding, but as I said, I
2308 haven't studied it.

2309 Q But in reality nobody ever gets prosecuted for
2310 not filling out their census form, right?

2311 A My understanding is that any such prosecution is
2312 extraordinarily rare to vanishing.

2313 Q Are you aware of any ever?

2314 A As I said, I think I read an article suggesting
2315 there was -- something happened in the 1970s on this, but I
2316 don't know the details of that, and I can't independently
2317 verify that that case even exists.

2318 Q Are you aware of any plan to change that? Is
2319 the Justice Department talking about possibly prosecuting
2320 people going forward for not responding to the census?

2321 Mr. Gardner. I'll instruct the witness not to
2322 answer.

2323 Mr. Castor. On what basis?

2324 Mr. Gardner. You're asking about the
2325 Department of Justice's deliberations about prosecution
2326 plans, correct?

2327 Mr. Castor. Okay.

2328 Mr. Gardner. Is that your question?

2329 Mr. Castor. Right.

2330 Mr. Gardner. Based on confidentiality and
2331 litigation interests, I instruct the witness not to answer.

2332 Q I think we had a hearing during 2018, and
2333 Justice Department officials said there are, in fact, no
2334 plans to prosecute people for failing to respond to the

2335 census. Are you aware of any information to the contrary?

2336 Mr. Gardner. Just to be clear, that's a

2337 different question. You asked whether there any

2338 discussions in the Department. Now is your question are

2339 there current plans? I'll let him answer that question.

2340 A I'm sorry, can you restate your question just so

2341 I understand it.

2342 Q Are you aware of any effort to prosecute people

2343 for failing to answer the census? As I mentioned, there's

2344 been testimony before our Committee that, in fact, there is

2345 not a plan to prosecute people for failing to answer the

2346 census, and that's testimony from Commerce Department

2347 officials.

2348 A I'm not aware of any plan to prosecute.

2349 Q So you're not aware of any reason that that

2350 testimony from the Commerce Department is contradicted?

2351 A No, I'm not.

2352 Q How many times have you been asked to testify

2353 about this topic? You had your deposition. You had your

2354 May 2018 appearance before the Committee. Are there other

2355 instances where you've been on the record?

2356 A Today. Those are the only three instances.

2357 Q Okay. So you gave a deposition in the New York

2358 case?

2359 A I believe it was -- I think it may have been

2360 designated in other cases as well.

2361 Q And that deposition is the only one that you've
2362 given as part of the numerous pieces of litigation?

2363 A Yes. I gave one deposition, and it went the
2364 full seven hours allowed by the federal rules.

2365 Q Are you aware of former Kansas Secretary of
2366 State Kris Kobach?

2367 A I am aware of Mr. Kobach, yes.

2368 Q Have you ever had any communications with him?

2369 A Not on this issue. I met Mr. Kobach once at a
2370 meeting of the National Association of Secretaries of
2371 State. He came over to meet during a lunch and introduced
2372 himself. I believe that's the only time I ever spoke to
2373 him.

2374 Q Do you remember when that was?

2375 A It was in early 2017.

2376 Q Have you ever had any discussions with Stephen
2377 Miller at the White House?

2378 A No, I have not.

2379 Q There's a fellow by the name of Thomas Brunell?

2380 A No, I have not, not on this issue.

2381 Q But on different issues?

2382 A Yes. I believe when I was in private practice,
2383 I had conversations with Mr. Brunell connected to a voting
2384 rights case, but it had nothing to do with the census or

2385 with the Department's request to reinstate a citizenship
2386 question on the census questionnaire. Maybe it's Dr.
2387 Brunell, too, I'm not sure, but I think he's a doctor.

2388 Q Does the Justice Department have any role in the
2389 Commerce Department's submissions to Congress? You know,
2390 the Commerce Department submits a census question to
2391 Congress at two points in time before it's finalized. Does
2392 the Justice Department have a role in that?

2393 A I have no idea.

2394 Q But you probably would know if the -- I mean, if
2395 the Justice Department was involved with the process, you
2396 know, you would likely know that, right?

2397 A I don't know. I don't know one way or the
2398 other.

2399 Q For the 2020 census, Secretary Ross submitted
2400 the topics to Congress on March 28, 2017. This is required
2401 by Title 13. And then the final questions were submitted
2402 in -- a year later. And the question is whether you had
2403 any role in that submission, or anyone else in your
2404 Department.

2405 A Not to my knowledge. I know I didn't. Not to
2406 my knowledge on behalf of the Department of Justice.

2407 Q Who does the Commerce Department consult about
2408 the propriety of the various questions that go on the
2409 census? Is that handled inside the Commerce Department or

2410 do they seek legal advice from the Justice Department?

2411 A I don't know.

2412 Q Do you know whether the Office of Legal Counsel
2413 has any role in helping the Commerce Department with these
2414 questions?

2415 A I don't know.

2416 Q In any of your discussions with Mr. Davidson,
2417 did that come up? Did he seek your legal counsel on the
2418 propriety of this question?

2419 Mr. Gardner. I instruct the witness not to
2420 answer to the extent it would -- to the extent it would
2421 divulge confidential or litigation-protected information.
2422 Otherwise, you may answer the question.

2423 A Yes.

2424 Q What more can you tell us about that?

2425 Mr. Gardner. Same instruction.

2426 Q Anything?

2427 A No.

2428 Q Mr. Gowdy at the May hearing asked the question
2429 whether if the Secretary wanted to add what's your favorite
2430 movie onto the census, would he be permitted to do so.

2431 Do you know the answer to that question?

2432 A I don't.

2433 Q If you wanted to add a question, what's your
2434 favorite movie, what would be the process to get that on

2435 the form? Do you know what type of internal deliberations
2436 the Commerce Department officials go through, or the Census
2437 Bureau officials?

2438 A I've never worked at the Department of Commerce
2439 or Census Bureau. I don't know what process they would
2440 follow. I also understand that the legal standard
2441 governing addition of questions to the citizenship -- to
2442 the census questionnaire is pending in litigation. I don't
2443 know what the statute says about that in particular or -- I
2444 understand the Secretary is authorized to make that
2445 determination, but I don't know under what circumstances,
2446 so I really don't know. I'm the wrong guy to ask that
2447 question.

2448 Q Okay. Fair enough.

2449 Do you have any independent knowledge of
2450 communications Secretary Ross may have had with White House
2451 officials about this topic?

2452 A I have no knowledge of any such communications.

2453 Q So you don't know whether somebody at the White
2454 House instructed the Secretary to pursue this?

2455 A I have no knowledge on that one way or the
2456 other.

2457 MR. CASTOR. I think that's it for now. We can
2458 come back if we have additional questions later. Thanks.

2459 Ms. Sachsman Grooms. Let's go off the record.

2460 (A brief recess was taken.)

2461 MS. ANDERSON. Back on the record.

2462 So, for the record, again, my name is Tori

2463 Anderson, and the time is now 11:51.

2464 FURTHER EXAMINATION

2465 BY MS. ANDERSON.

2466 Q So, I want to talk a little bit about the third

2467 person that you discussed things with at the Department of

2468 Commerce. That's James Uthmeier. Is that how you

2469 pronounce it?

2470 A Close enough.

2471 Q We'll just stick with that.

2472 You said you also first spoke with him around

2473 September of 2017; is that correct?

2474 A That is correct.

2475 Q Did he reach out to you or did you reach out to

2476 him?

2477 A He reached out to me.

2478 Q Via phone, via email?

2479 A Phone.

2480 Q Is that the first time you had spoken to him?

2481 A Ever?

2482 Q No, as -- about the citizenship question.

2483 A Yes.

2484 Q Did he tell you why he was reaching out to you?

2485 A Yes. He told me he was reaching out to me to
2486 discuss the possibility of the Department of Justice
2487 requesting reinstatement of the citizenship question on the
2488 census questionnaire.

2489 Q And just so I understand kind of the ordering by
2490 which you had contact with the Department of Commerce, you
2491 talked to Peter Davidson first and then James Uthmeier and
2492 then Wendy, or was it a different order?

2493 A I can't remember whether I spoke with Wendy -- I
2494 think I may have spoken with Wendy before I spoke to James.
2495 I think there's an email in the record somewhere that says
2496 that James called me around September 22nd or something
2497 like that.

2498 Q Okay. Did he indicate that anyone had asked him
2499 or told him to contact you?

2500 Mr. Gardner. You can answer that yes or no.

2501 A I think so, yes.

2502 Q Who was that?

2503 Mr. Gardner. I instruct the witness not to
2504 answer.

2505 Q Was that person inside the Department of
2506 Justice?

2507 Mr. Gardner. Same instruction.

2508 Q Was that person inside the Department of
2509 Commerce?

2510 Mr. Gardner. Same instruction.

2511 Q You guys discussed the citizenship question, is
2512 that correct, on or about that September 22nd date?

2513 A Yes.

2514 Q What did you discuss?

2515 Mr. Gardner. I instruct the witness not to
2516 answer.

2517 Q Did he ask you or tell you to do anything in
2518 light of that discussion?

2519 Mr. Gardner. Same instruction.

2520 Q Did you do anything based on your conversation
2521 with James Uthmeier?

2522 Mr. Gardner. You can answer that to the extent
2523 you can do so without divulging confidential or litigation
2524 interests of the Department.

2525 A No.

2526 Q You mentioned that you had several conversations
2527 with Mr. Uthmeier; is that correct?

2528 A No, I said I had one conversation with him, and
2529 then he was a participant in one or two of the phone calls
2530 I had with Mr. Davidson.

2531 Q Those conversations with Mr. Davidson and
2532 Mr. Uthmeier, were those in the after early September time
2533 frame? Is that correct?

2534 A That is correct.

2535 Q In the conversation that you had, when he called
2536 you that first time, did you -- did he tell you he was
2537 going to provide you any documentation about the
2538 citizenship question?

2539 Mr. Gardner. You can answer that with a yes or
2540 no.

2541 A Yes.

2542 Q Did he tell you what that was?

2543 A Yes.

2544 Q What was it?

2545 A That was a memorandum.

2546 Q Was there anything else that he was going to
2547 send you besides the memorandum?

2548 A I don't know whether he mentioned anything else.
2549 I don't recall that.

2550 He did, in fact, send me a handwritten cover
2551 note along with the memorandum.

2552 Q What was the memorandum about?

2553 Mr. Gardner. To the extent you can answer that
2554 question without divulging any confidential or litigation
2555 interests of the Department, you may do so. Otherwise, I
2556 instruct you not to answer.

2557 A The memorandum was about reinstatement of a --
2558 potential reinstatement of a citizenship question on the
2559 census questionnaire.

2560 Q Did that memorandum come before or after you did
2561 your legal research about the reinstatement of the
2562 citizenship question?

2563 A It came during the time I was doing that
2564 research.

2565 Q So you had already started doing that research?

2566 A Yes, I had.

2567 Q Did he tell you that the memo you were going to
2568 receive was about the reinstatement of the citizenship
2569 question on that phone call?

2570 A Yes, he did.

2571 Q Did he tell you anything else about the contents
2572 of that memorandum?

2573 Mr. Gardner. I instruct you not to answer.

2574 Ms. Anderson. Sorry, just to be clear, I'm
2575 asking him did the conversation just include I will send
2576 you a memo, or did it include I will send you a memo and
2577 some other?

2578 Mr. Gardner. I see. Okay. To the extent
2579 that's the question, you may answer that.

2580 A So as I understand your question, you're asking
2581 if he told me he was going to send me anything in addition
2582 to the memo?

2583 Q No. My question was --

2584 Mr. Gardner. That was my understanding what

2585 you asked. Try it again.

2586 Q When you were on the phone with him, did he
2587 simply tell you I'm going to send you a memorandum about
2588 the reinstatement of the citizenship question or did you
2589 discuss anything else about the memorandum? Not what did
2590 you discuss, did you discuss anything else?

2591 Mr. Gardner. Let's try this one step at a
2592 time. You can answer that with a yes or no.

2593 A Yes, we did discuss -- the phone call lasted
2594 about 15 or 20 minutes, and I knew Mr. Uthmeier previously.
2595 We had been employed at the same law firm. So a bunch of
2596 discussion -- I hadn't spoken to him since around January
2597 of 2017 when we had come into the government, and so much
2598 of the conversation was just a social call to catch back
2599 up.

2600 Q Okay. But just to be really clear, he did not
2601 just tell you I'm going to send you a memo. You discussed
2602 other -- did you discuss other things about the memo?

2603 Mr. Gardner. Once again, you can answer that
2604 with a yes or no.

2605 A Yes.

2606 Q When did you receive the memo?

2607 A I don't recall exactly when I received the memo.
2608 It was hand delivered to my office with a handwritten cover
2609 note, and I don't recall how long it took -- how much time

2610 elapsed between that phone call and when I received the
2611 memo.

2612 Q In that phone call when you were talking -- when
2613 he informs you he's going to send you a memo, what did you
2614 specifically discuss?

2615 Mr. Gardner. I'll instruct the witness not to
2616 answer.

2617 Q You said that he -- it came -- it was delivered
2618 to you. How was it delivered, that you're aware of?

2619 A All I know is that my assistant brought it to me
2620 and said it had been hand delivered. I don't know who
2621 delivered it or whether Mr. Uthmeier did it himself or
2622 whether somebody else did it. Is that your question?

2623 BY MR. ANELLO.

2624

2625 Q Can I ask a follow-up on that?

2626 A Sure.

2627 Q I don't mean to sound facetious, but you
2628 obviously have access to email, correct?

2629 A I do.

2630 Q And Mr. Uthmeier, obviously, has access to
2631 email.

2632 A I imagine he does, yes.

2633 Q So, is it fair to say that he could have emailed
2634 the memorandum to you if he had wanted to?

2635 A I don't know. You would have to ask him that.
2636 I don't know what format he had the memorandum in and
2637 whether that would have been possible.

2638 Q Do you know why it was hand delivered to you?

2639 A I don't.

2640 Q Do you know whether he was instructed to hand
2641 deliver it to you, Mr. Uthmeier?

2642 A I don't.

2643 Q How often do you receive memorandum -- paper
2644 memos from other agencies rather than receiving memorandums
2645 in electronic form?

2646 A I don't know.

2647 Q Would you say this was unusual?

2648 A No, not necessarily. I sometimes receive memos
2649 in paper rather than through email certainly within the
2650 Department, too.

2651 Q My question is from other agencies. Is a
2652 memorandum coming from the Department of Commerce -- let's
2653 say have you received other hand -- other hand-delivered
2654 memoranda from the Department of Commerce?

2655 A Not that I recall.

2656 Q Have you received other hand-delivered memoranda
2657 from other agencies, outside?

2658 A I don't believe I received memoranda from any
2659 other agencies. This would be the only memorandum I

2660 received from another department or agency, and it was
2661 delivered by hand. So I guess, to follow your line of
2662 questioning, that makes it usual.

2663 Q I guess that's a definitional question we could
2664 quibble with a little bit.

2665 A You were trying to compare it to some other
2666 practice, and this is the only other practice I've ever
2667 experienced --

2668 Q It sounds like you're saying it's the only time
2669 you've ever received a memo from another agency and the
2670 only time you've ever received one -- a handwritten memo
2671 hand delivered to you, so I would describe it as unusual.

2672 A No, that was not my testimony. What I said was,
2673 it's the only time I've received a memorandum from another
2674 department, and I have on several occasions received
2675 hand-delivered memoranda within the Department of Justice.
2676 BY MS. ANDERSON.

2677 Q When you were on the phone and he informed you
2678 that he was going to send you a memo, did you discuss the
2679 form of delivery?

2680 A Yes.

2681 Q Did you discuss why he wanted to send it to you?
2682 Mr. Gardner. I'll instruct the witness -- you
2683 can answer that with a yes or no.

2684 A Why he wanted to send it to me at all?

2685 Q Sorry. When you discussed the form of delivery,
2686 did he tell you at that point in time that it was going to
2687 be hand delivered?

2688 A Yes, he did.

2689 Q Did he tell you why it was going to be hand
2690 delivered?

2691 Mr. Gardner. You can answer that yes or no.

2692 A Yes, he did.

2693 Ms. Sachsman Grooms. I thought you just said
2694 you didn't know why he hand delivered it to you. Do you
2695 know why he hand delivered it to you?

2696 Mr. Gore. I know -- I know why he told me he
2697 wanted to hand deliver it to me. I don't know why he did
2698 it.

2699 Q What did he tell you?

2700 Mr. Gardner. I instruct the witness not to
2701 answer.

2702 Q So you received the memo and you received a
2703 handwritten note accompanying it; is that correct?

2704 A Yes, I did.

2705 Q Was that the extent of the documentation that
2706 you received from Mr. Uthmeier?

2707 A Yes, it was.

2708 Q Was that the extent of the documentation you
2709 received from the Department of Commerce?

2710 A That's the extent of the documentation I
2711 received from Mr. Uthmeier. As I've testified previously,
2712 I got sent documentation from Mr. Neuman, but I did not
2713 receive documentation from Mr. Davidson or anyone else at
2714 the Department of Commerce.

2715 Q Okay. And, so, the handwritten note and the
2716 memo were together; is that correct?

2717 A That is correct.

2718 Q Had Mr. Uthmeier on the phone indicated to you
2719 that he was going to be giving you the memo alongside any
2720 other notations, any other notes or anything else?

2721 A Not that I recall.

2722 Q Did you discuss -- did you ask -- how do I
2723 phrase this.

2724 Did you follow up on any discussion -- on the
2725 statement that Mr. Uthmeier made to you about why he wanted
2726 to hand deliver the memo? Did you ask any additional
2727 questions of him?

2728 A No, I didn't.

2729 Q After you received the handwritten note and the
2730 memo, did you talk to Mr. Uthmeier again about those
2731 contents -- about the memo or the note?

2732 A Yes, on one of the conversations I had with him
2733 and Mr. Davidson, one of the telephone conversations.

2734 Q Is that the only time you discussed with him the

2735 memo and the note?

2736 A Yes. Again, it may have been one or two

2737 conversations, but I can recall one in particular.

2738 Q Did you read the memo?

2739 A Yes, I did.

2740 Q Did you read the note?

2741 A Yes, I did.

2742 Q Okay. What did the note say?

2743 Mr. Gardner. I instruct the witness not to

2744 answer.

2745 Q Did the note talk about the contents of the

2746 memo?

2747 Mr. Gardner. Same instruction.

2748 Q Did the note talk about the citizenship

2749 question?

2750 Mr. Gardner. Same instruction.

2751 Q Did the note talk about any other rationales

2752 related to the addition of a citizenship question?

2753 Mr. Gardner. Same instruction.

2754 Q Did the note contain any directives or possible

2755 decisions or actions you might have to take from there?

2756 Mr. Gardner. Same instruction.

2757 Q Did the note indicate to you that you should

2758 include any material in your own personal legal research?

2759 Mr. Gardner. Same instruction.

2760 Mr. Anello. Can I just ask a question. Are
2761 you -- one of those questions was whether the note related
2762 to the citizenship question. You're saying the witness is
2763 not allowed to tell us whether the note related to the
2764 citizenship question?

2765 Mr. Gardner. That's a fair clarification.
2766 You're right. I think he can answer that high-level
2767 question. So please re-ask that. Thank you.
2768 Ms. Anderson. Sure.

2769 Q Did the note relate to the addition of a
2770 citizenship question?

2771 A Yes.

2772 Q What did the memo say?

2773 Mr. Gardner. Same instruction.

2774 Q Did the memo talk about the addition of a
2775 citizenship question?

2776 A Yes, as I've already stated.

2777 Q Okay. Did it include any legal research?

2778 Mr. Gardner. I instruct the witness not to
2779 answer.

2780 Q Did it include anything besides legal research?

2781 Mr. Gardner. Same instruction.

2782 Q Did you show or share the memo with anyone else,
2783 or the note? We'll start with the memo. Did you show or
2784 share the memo with anyone else?

2785 A So, with respect to the memo, I did not show or
2786 share it to anyone with the exception of Kathleen Toomey in
2787 the Civil Rights Division, who managed the document
2788 collection in the litigation. So once the litigation was
2789 filed and document requests were propounded, to which the
2790 memo might potentially be responsive, I turned it over to
2791 Ms. Toomey for review and potential production or assertion
2792 of privilege in the litigation.

2793 Q So that would have been around March?

2794 A I don't recall. It was certainly after the
2795 letter was sent on December 12th.

2796 Q Did you show or share the note with anyone else?

2797 A I did the same thing with the note that I did
2798 with the memo. I didn't show or share it to -- show it to
2799 or share it with anyone until I gave it to Ms. Toomey as
2800 potentially responsive to document requests in the
2801 litigation.

2802 Q Besides Peter Davidson and James Uthmeier, did
2803 you discuss the contents of the memo with anyone else?

2804 A No.

2805 Q Besides Peter Davidson and James Uthmeier, did
2806 you discuss the contents of the note with anyone else?

2807 A No, with the exception on both fronts of handing
2808 it to Ms. Toomey and telling her what it was.

2809 Q Okay.

2810 Mr. Anello. Why didn't you share the note or
2811 the memo with anyone else?

2812 Mr. Gardner. I instruct the witness not to
2813 answer.

2814 Mr. Anello. Did it -- I'm not asking the right
2815 question then.

2816 Did the memorandum or the note play a role in
2817 the Department of Justice's decision to request a
2818 citizenship question?

2819 Mr. Gardner. I instruct the witness not to
2820 answer.

2821 Mr. Anello. It's just a yes-or-no question I'm
2822 asking him.

2823 Mr. Gardner. I understand. I instructed the
2824 witness not to answer.

2825 Mr. Anello. Did you consider the memo in
2826 drafting the -- sorry. Did you consider the memo and the
2827 note from Mr. Uthmeier in drafting the memo that you
2828 eventually sent back to the Department of Commerce?

2829 Mr. Gardner. I instruct the witness not to
2830 answer.

2831 Q Did any of the language in the note or the memo
2832 appear in the draft letter that you made?

2833 Mr. Gardner. Same instruction.

2834 Ms. Sachsman Grooms. I'm sorry, just to

2835 clarify. Did you consider the note or the memo when you
2836 drafted the initial draft of this December 12th, 2017,
2837 letter?

2838 Mr. Gardner. Same instruction.

2839 BY MR. ANELLO.

2840 Q Did the -- did either the note or the memo
2841 discuss the issue of congressional apportionment?

2842 Mr. Gardner. I instruct the witness not to
2843 answer.

2844 Q Did your conversations with Mr. Uthmeier involve
2845 the discussion of congressional apportionment?

2846 Mr. Gardner. Same instruction.

2847 Q Did the note or the memo discuss whether the
2848 addition of a citizenship question would reduce
2849 participation in the census by certain groups?

2850 Mr. Gardner. Same instruction. I'm sorry.
2851 Same instruction.

2852 Q Did the note or the memo discuss or contain a
2853 rationale for the addition of the citizenship question?

2854 Mr. Gardner. I instruct the witness not to
2855 answer.

2856 Q Did the note or the memo contain a rationale
2857 that was different from the one that the Department of
2858 Justice ultimately put in writing?

2859 Mr. Gardner. Same instruction.

2860 Q Did you -- did you describe the note or the memo
2861 in your testimony to Congress?

2862 A I don't recall whether it came up in that
2863 testimony or not.

2864 Q Was the Attorney General aware or made aware of
2865 the note or the memo?

2866 Mr. Gardner. To the extent you can answer that
2867 question without divulging confidential and litigation
2868 interests of the Department, you may do so. Otherwise, I
2869 instruct you not to answer.

2870 A I don't recall specifically, but I don't think
2871 so.

2872 Q Is the existence of the note or the memo
2873 inconsistent with his testimony to Congress regarding the
2874 process that was followed for the addition of a citizenship
2875 question?

2876 Mr. Gardner. I'm sorry. Can you re-ask that
2877 question.

2878 Mr. Anello. Sure.

2879 Mr. Gardner. I am not sure I understood it.

2880 Q Secretary Ross has testified about the decision
2881 to add a citizenship question to the census, correct? Were
2882 you aware of that?

2883 A I'm aware of that generally, yes.

2884 Q And he testified that that request came from the

2885 Department of Justice.

2886 A I'm not familiar with Secretary Ross' testimony
2887 or the particulars of it, nor am I Secretary Ross so I
2888 can't speak to that testimony.

2889 Q You're not familiar with his testimony?

2890 A I'm aware of the fact that he did testify. I
2891 haven't watched or reviewed that testimony, nor would
2892 watching it or reviewing it put me in a position really to
2893 comment on it since it's his testimony and not mine.

2894 Q Let's just go to your knowledge then. Are you
2895 aware of any public testimony about this issue that would
2896 be contradicted by the existence of this memo or what is
2897 written in this memo? That's the memo from Mr. Uthmeier.

2898 Mr. Gardner. I'm not sure I fully understand
2899 your question. But to the extent you understand it and to
2900 the extent you can answer without disclosing confidential
2901 and litigation interests of the Department, you may do so.
2902 Otherwise, I instruct you not to answer.

2903 A I didn't follow your question. Would you mind
2904 restating it.

2905 Mr. Gardner. I'm sorry.

2906 Q Sure. I understand you may not have watched
2907 every word of it, of every piece of testimony in this
2908 matter, but to the extent that you're aware of any public
2909 testimony regarding the addition of a citizenship question,

2910 are you aware of -- does the -- is there any testimony that
2911 is contradicted by the existence of this memo?

2912 Mr. Gardner. So I think I understand the
2913 problem. Could you lay a foundation as to what testimony
2914 he's aware of? Because I think that will make for a much
2915 better question and answer.

2916 Mr. Anello. Sure.
2917

2918 Q You're aware of the testimony that you gave,
2919 correct?

2920 A I am aware of that testimony, yes.

2921 Q Is there anything in your testimony inconsistent
2922 with what was written in the memo?

2923 A I'm still not sure I totally follow the
2924 question. Let me -- let me put it this way. I'm not aware
2925 of anything in my testimony that's inconsistent with the
2926 existence or contents of the memo. You've asked me about
2927 the existence. You've asked me about the contents.

2928 Q I appreciate you answering both.

2929 A I'm trying to answer your question.

2930 Mr. Gardner. We're trying to work with you.
2931 We're still trying to understand your question.

2932 A Maybe I can just say it this way. I'm not aware
2933 of anyone else's testimony that would be -- in any
2934 particular respect or any general respect that would be
2935 contradicted by the existence or contents of a memo, but I

2936 will say I have I haven't studied anybody else's testimony.
2937 I'm generally aware that testimony was given, but I'm not
2938 really in a position to answer that question, I guess is
2939 what I'm trying to tell you, other than with respect to my
2940 own testimony.

2941 BY MS. ANDERSON.

2942 Q Would you say that -- can you answer the same
2943 question with regards to the note that accompanied the
2944 memo.

2945 A Yes. Same answer with regard to the note.

2946 Mr. Anello. Did the memorandum from
2947 Mr. Uthmeier include a draft of a letter from the
2948 Department of Justice back to the Department of Commerce
2949 requesting the citizenship question?

2950 Mr. Gardner. You can answer.

2951 Mr. Gore. No, it did not.

2952 Q Did it include any other draft language that the
2953 Department of Justice might send to the Department of
2954 Commerce?

2955 Mr. Gardner. Sorry, are you asking did the
2956 memo itself provide draft language; is that your question?
2957 Ms. Anderson. Yes.

2958 Mr. Gardner. I instruct the witness not to
2959 answer.

2960 Q So you became involved in this decision around
2961 that early September date, just going back to that.

2962 A I wasn't aware of a decision at that point. I
2963 became aware --

2964 Q Sorry, in these conversations about --

2965 A I became aware of a conversation or a
2966 consideration of this issue.

2967 Q Yes. I'm just going to go back to that time
2968 frame.

2969 A Fine.

2970 Q Who told you what your role was going to be
2971 going forward from when you became aware that these
2972 discussions were happening?

2973 A Attorney General Sessions.

2974 Q Did Attorney General Sessions ask -- tell you or
2975 ask you not to inquire as to why there was interest in this
2976 question?

2977 Mr. Gardner. I'll instruct the witness not to
2978 answer.

2979 Q Did anyone else ask you or tell you not to
2980 inquire as to why there was interest in this question?

2981 Mr. Gardner. Same instruction.

2982 Q What role were you told you were going to have
2983 in this consideration process?

2984 Mr. Gardner. I instruct the witness not to
2985 answer.

2986 Q I want to kind of go back to the people that you

2987 discussed the citizenship question with after you became
2988 involved.

2989 A Okay.

2990 Q So I'm just going to go through that list again,
2991 and I apologize. I sometimes can't read my own handwriting
2992 so I might butcher some names, so if you could clarify
2993 that, that would be great.

2994 So you said that you spoke with Mary Blanche
2995 Hankey. That was sort of when you got introduced to this.
2996 Did you discuss immigration with her with regards to the
2997 citizenship question?

2998 Mr. Gardner. I instruct the witness not to
2999 answer.

3000 Q You said you also talked to Rachael -- and
3001 I'm -- I did not quite grab her last name.

3002 A Tucker.

3003 Q Tucker. Did you discuss immigration with her as
3004 it related to a citizenship question?

3005 Mr. Gardner. Same instruction.

3006 Q How about with Danielle Cutrona?

3007 Mr. Gardner. Same instruction.

3008 Q How about with Gene Hamilton?

3009 Mr. Gardner. Same instruction.

3010 Q Bob Troester?

3011 Mr. Gardner. Same instruction.

3012 Q Rachel Brand?
3013 Mr. Gardner. Same instruction.

3014 Q Jesse Panuccio?
3015 Mr. Gardner. Same instruction.

3016 Q Patrick -- how do you say it?

3017 A Hovakimian.

3018 Q Hovakimian.
3019 Mr. Gardner. Same instruction.

3020 Q Bethany Pickett?
3021 Mr. Gardner. Same instruction.

3022 Q Chris Herren?
3023 Mr. Gardner. Same instruction.

3024 Q Arthur Gary?
3025 Mr. Gardner. Same instruction.

3026 Q Peter Davidson?
3027 Mr. Gardner. Same instruction.

3028 Q James Uthmeier?
3029 Mr. Gardner. Same instruction.

3030 Q Wendy Teramoto?
3031 Mr. Gardner. Same instruction.

3032 Q Mark Neuman?
3033 Mr. Gardner. Same instruction.

3034 Q John Zadrozny?
3035 Mr. Gardner. Same instruction.

3036 BY MR. ANELLO.

3037 Q There are a couple of these conversations I

3038 don't think we've talked about yet so I wanted to ask you
3039 about one or two.

3040 A Sure.

3041 Q You mentioned Gene Hamilton.

3042 A Yes.

3043 Q When did you speak with him about this issue?

3044 A I spoke with Gene in September or October of
3045 2017.

3046 Q Was he at the Department of Justice?

3047 A He was at the Department of Justice at that
3048 time, yes.

3049 Q Whereabout?

3050 A He was in the Office of Attorney General.

3051 Q What was his role?

3052 A I believe he was counsel in the Office of
3053 Attorney General.

3054 Q What issues did he cover?

3055 A I don't know in particular. I had interactions
3056 with him, conversations with him about a couple of
3057 different civil rights issues. And I understand he worked
3058 on immigration issues and maybe other issues. There were
3059 issues within -- when Attorney General Sessions was the
3060 Attorney General, there were people in the Office of
3061 Attorney General who worked across a variety of areas, and
3062 both Gene and Danielle would sometimes touch on civil

3063 rights issues. Our main point of contact was Rachael
3064 Tucker, but the office was fairly horizontal in terms of
3065 the roles.

3066 Q So why did you speak with him about this issue?
3067 You said -- I believe you said it was early -- did you say
3068 it was September, October?

3069 A Yes, probably October. It might have been
3070 September.

3071 Mr. Gardner. To the extent you can answer that
3072 question without divulging confidential or litigation
3073 interests of the Department, you may do so. Otherwise, I
3074 instruct you not to answer.

3075 A Consistent with that instruction, I can't
3076 answer.

3077 Q What did you talk about with him?

3078 Mr. Gardner. Same instruction.

3079 Q Did somebody ask you to speak with him?

3080 Mr. Gardner. Same instruction.

3081 Q You can't say yes or no whether somebody asked
3082 you to speak with Mr. Hamilton?

3083 Mr. Gardner. I think he can answer yes or no.

3084 A I don't recall.

3085 Q Did you take any steps as a result of your
3086 conversation with Mr. Hamilton related to the citizenship
3087 question?

3088 A Not that I can recall.

3089 Q Were other people involved in the discussion you
3090 had?

3091 A I think I talked to Gene, I'm trying to
3092 remember, once, maybe twice. I think from one of those
3093 conversations that I can remember, Danielle and Rachael
3094 were also present.

3095 Q When did you talk to Ms. Brand?

3096 A I spoke regularly with Rachel Brand about civil
3097 rights issues. As I mentioned before, the Civil Rights
3098 Division reports up to the Office of Associate Attorney
3099 General, to the Office of Deputy Attorney General, and to
3100 the Office of Attorney General.

3101 I had regular meetings with Ms. Brand at least
3102 every two weeks on civil rights issues generally and to
3103 update her on what was going on in the Division.

3104 I can recall talking to her about this issue
3105 maybe four or five times, sometimes in connection with
3106 those meetings. And maybe once or twice we had a separate
3107 meeting or conversation about this issue, and that would
3108 have started in that September -- in September and gone
3109 into October 2017.

3110 Q What did you talk about with Ms. Brand regarding
3111 the citizenship question?

3112 Mr. Gardner. I instruct the witness not to

3113 answer.

3114 BY MS. ANDERSON.

3115

3116 Q Did you talk to or hear from any other agencies
3117 like DHS or ICE about the citizenship question before
3118 September 12, 2017?

3119 A Yes, I -- the question earlier reminded me, I
3120 did have a phone call with somebody -- I was on a phone
3121 call with somebody from DHS about the issue.

3122 Q Do you remember who?

3123 A I don't.

3124 Q About when was that conversation?

3125 A It was in October of 2017, I think.

3126 Q Was anyone else on the phone call?

3127 A Gene Hamilton was on. I think Rachael Tucker
3128 may have been on. I can't remember whether -- I always
3129 want to call him by his nickname, Patrick Hovakimian was
3130 on -- I think he may have been on. And I don't recall who
3131 else.

3132 Q Do you recall who set up that meeting?

3133 A I think it was Gene, but I don't recall. It
3134 wasn't a meeting. It was a phone call.

3135 Q Oh, who arranged the phone call, then?

3136 A Yes.

3137 Q About how long was that conversation?

3138 A Oh, gosh. Maybe it was 15 minutes or less.

3139 Q What did you discuss?

3140 Mr. Gardner. I instruct the witness not to
3141 answer.

3142 Q Did the person -- were there multiple people
3143 from DHS on the call or just one?

3144 A I think there was more than one, but I don't
3145 recall either way.

3146 Q Did they participate in the conversation?

3147 A Yes, they were parties to the conversation.

3148 Q Sure. They spoke during the phone call?

3149 A I believe so, yes.

3150 Q Did they tell you to do anything?

3151 Mr. Gardner. To the extent you can answer that
3152 question without divulging confidential or litigation
3153 interests of the Department, you may do so. Otherwise, I
3154 instruct you not to answer.

3155 A No.

3156 Q Did they instruct you to do anything?

3157 Mr. Gardner. Same instruction.

3158 Q And that call, I think you said earlier,
3159 concerned the citizenship question; is that correct?

3160 A That is correct.

3161 Q Did you talk about immigration on that call?

3162 Mr. Gardner. I instruct the witness not to

3163 answer.

3164 Mr. Anello. I think -- just to make sure I'm
3165 understanding, just whether that call involved immigration
3166 is something that the witness can't answer?

3167 Mr. Gardner. Right. I gave my instruction,
3168 yes.

3169 Q Did you ever make an effort to limit staff
3170 involvement in the request to add a citizenship question?

3171 Mr. Gardner. To the extent you can answer that
3172 question without divulging confidential or litigation
3173 interests of the Department, you may do so. Otherwise, I
3174 instruct you not to answer.

3175 A To the extent I understand your question, no.

3176 Q Did you ever make an effort to limit who you
3177 consulted with on your staff regarding your drafting of the
3178 December 12th letter?

3179 Mr. Gardner. Same objections. Same
3180 instruction.

3181 A To the extent I understand your question, no.

3182 Q So I want to talk a little bit --

3183 Mr. Anello. Sorry, can we go back to the DHS
3184 call again?

3185 Ms. Anderson. Sure.

3186 BY MR. ANELLO.

3187 Q I just want to make sure I'm understanding the

3188 context of this DHS call. Generally, DHS is not involved
3189 in enforcing the Voting Rights Act, correct?

3190 A That's correct.

3191 Q They do enforce immigration laws, correct?

3192 A That's my understanding, yes, as does the
3193 Department of Justice.

3194 Q So was there an -- did DHS express an interest
3195 in the citizenship question?

3196 Mr. Gardner. I instruct the witness not to
3197 answer.

3198 Q Why were they on the call?

3199 Mr. Gardner. Same instruction.

3200 Q Did DHS ask the Department of Justice to make a
3201 request for a citizenship question?

3202 Mr. Gardner. I instruct the witness not to
3203 answer.

3204 Mr. Anello. To be clear, we've already heard
3205 statements today that the Department of Commerce made that
3206 request. Did the Department of Homeland Security make that
3207 request? I don't know why he can't answer that.

3208 Mr. Gardner. I understand. I'm instructing
3209 the witness not to answer.

3210 Mr. Anello. What is the basis for that?

3211 Mr. Gardner. The instruction is
3212 confidentiality and litigation interests of the Department.

3213 Mr. Anello. What is the difference between the
3214 Department of Commerce and the Department of Homeland
3215 Security?

3216 Mr. Gardner. I gave you my objection, my
3217 instruction not to answer.

3218

3219 Q Did the Department of Homeland Security indicate
3220 that they thought adding the citizenship question would
3221 help with immigration enforcement efforts?

3222 Mr. Gardner. I instruct the witness not to
3223 answer.

3224 Q Did the Department of Homeland Security indicate
3225 that adding the citizenship question would have some other
3226 impact on immigration policy that they thought was
3227 beneficial?

3228 Mr. Gardner. Same instruction.

3229 Q Do you normally consult with the Department of
3230 Homeland Security on civil rights issues relating to
3231 voting?

3232 Mr. Gardner. You can answer that question to
3233 the extent you can do so without divulging the
3234 confidentiality -- the confidential and litigation
3235 interests of the Department.

3236 A I have consulted with the Department of Homeland
3237 Security on civil rights issues, yes.

3238 Q On voting rights issues?

3239 A Not on -- not that I can specifically recall,
3240 but certainly on civil rights issues.

3241 Q But not on voting. I think your memo -- sorry,
3242 the letter you wrote to the Department of Commerce was
3243 about voting.

3244 A Now that I have -- I have actually consulted
3245 with the Department of Homeland Security on voting issues.

3246 Q About what issues?

3247 Mr. Gardner. To the extent you can answer that
3248 question without divulging confidential or litigation
3249 interests of the Department, you may do so. Otherwise, I
3250 instruct you not to answer.

3251 A I think consistent with that instruction, I
3252 can't answer.

3253 Q Were those other conversations also related to
3254 the citizenship question then?

3255 Mr. Gardner. Same instruction.

3256 Q I'm losing the train here. We've talked about
3257 one call, correct, that you had with the Department of
3258 Homeland Security about the citizenship question? That
3259 testimony is on the record, correct? That -- you agree
3260 with that statement, that this one call we talked about was
3261 about the citizenship question?

3262 A Yes.

3263 Q Okay. Were there other calls that you had with
3264 the Department of Homeland Security about the citizenship
3265 question?

3266 A I do not recall any other calls or conversations
3267 with the Department of Homeland Security about the
3268 citizenship question.

3269 To answer your other question, I have consulted
3270 with the Department of Homeland Security about civil rights
3271 issues, including voting-related issues.

3272 Q Which voting-related issues have you consulted
3273 about?

3274 Mr. Gardner. Same instruction.

3275 Mr. Anello. I guess I don't understand. Is
3276 there -- I'm not understanding because the testimony didn't
3277 relate to the citizenship question.

3278 Mr. Gardner. You're asking him for the content
3279 of his discussions with another agency about voting rights
3280 enforcement, correct? Is that what you're asking?

3281 Mr. Anello. Correct.

3282 Mr. Gardner. I instruct the witness not to
3283 answer.

3284 Mr. Anello. Are you in litigation about these
3285 other topics? Did they relate to topics in which you're in
3286 ongoing litigation?

3287 Mr. Gardner. Again, it's a confidentiality and

3288 litigation-related interest, just so we're clear, Russ.

3289 Again, the instruction remains.

3290 Q I think you said you didn't recall the name of
3291 the person that you spoke to; is that correct?

3292 A We're talking about the one conversation --

3293 Q The Department of Homeland Security about the
3294 citizenship question.

3295 A I don't recall the name of that person.

3296 Q Do you recall which office within the Department
3297 they were in?

3298 A I don't.

3299 Q Were they in an operating division like ICE, for
3300 example, or were they in DHS headquarters?

3301 A I don't recall.

3302 BY MS. ANDERSON.

3303

3304 Q Did Gene Hamilton tell you why he set up that
3305 phone call?

3306 Mr. Gardner. The phone call with Homeland
3307 Security now?

3308 Ms. Anderson. Correct.

3309 Mr. Gardner. You can answer that with a yes or
3310 no.

3311 A Yes, he did.

3312 Q Why did he set up that phone call?

3313 Mr. Gardner. I instruct the witness not to
3314 answer.

3315 Q I want to talk a little bit about the phone
3316 call -- I guess conference call you had with John Zadrozny
3317 in October 2017. And I think you said who participated --
3318 who else was there, but could you just repeat it really
3319 quickly.

3320 A I remember Rachael Tucker and Gene Hamilton also
3321 being on that call. Whether others were on the call as
3322 well, I don't recall.

3323 Q And who set up that phone call, conference call?

3324 A I don't recall.

3325 Q Did Mr. Zadrozny indicate why he was involved in
3326 that conference call?

3327 Mr. Gardner. You can answer that with a yes or
3328 no.

3329 A I don't recall whether he did or not.

3330 Q Do you know why?

3331 A I don't think I specifically know why, no.

3332 Q Did you discuss with anyone else why he was on
3333 the conference call?

3334 Mr. Gardner. You can answer that with a yes or
3335 no.

3336 A Yes, I guess I did.

3337 Q Who was that?

- 3338 A Rachael.
- 3339 Q What did you discuss?
- 3340 Mr. Gardner. I instruct the witness not to
- 3341 answer.
- 3342 Q What did you discuss on that phone call?
- 3343 Mr. Gardner. Same instruction.
- 3344 Q Did you take any action after that phone call?
- 3345 A After the phone call, yes.
- 3346 Q Related to the phone call?
- 3347 A No.
- 3348 Q Did anyone else take any action after that phone
- 3349 call related to that phone call?
- 3350 A I don't know.
- 3351 Q You said that was your only conversation with
- 3352 Mr. Zadrozny, is that correct, about the citizenship
- 3353 question?
- 3354 A About the citizenship question, yes.
- 3355 Q You also said earlier, just to clarify, you
- 3356 didn't speak with anyone else at the White House about the
- 3357 citizenship question; is that correct?
- 3358 A That is correct.
- 3359 BY MR. ANELLO.
- 3360 Q Mr. Gore, you spoke to Attorney General Sessions
- 3361 regarding apportionment, correct?
- 3362 A Yes, I believe, as I testified in my deposition,

3363 I've -- I did discuss that topic with him.

3364 Q And when did you discuss that topic with him?

3365 A It was sometime in the fall of 2017, around the
3366 time when the State of Alabama filed a lawsuit about
3367 apportionment issues against the Department of Commerce.

3368 Q Was that the same discussion that we talked
3369 about earlier that happened in early September when you
3370 also discussed the issue of the citizenship question with
3371 the Attorney General?

3372 A No, it was not.

3373 Q Did the issue of the citizenship question come
3374 up in your discussion with him about apportionment?

3375 Mr. Gardner. I instruct the witness not to
3376 answer.

3377 Q Was the lawsuit that was filed that you
3378 mentioned related to the census?

3379 Mr. Gardner. You can answer.

3380 A I don't recall the specifics of that lawsuit. I
3381 think it was. I think they -- I think the case is still in
3382 litigation so I'm going off of my memory. Again, I'm not
3383 counsel of record so I can't speak for the Department or
3384 bind anybody with respect to that. I believe I've read
3385 part of the complaint or seen part of the complaint, but I
3386 believe that Alabama has brought a claim against the
3387 Department of Commerce or the Census Bureau. I do believe

3388 it's somehow census related, about apportionment and
3389 whether certain individuals should be counted or how they
3390 should be allocated for purposes of apportionment.

3391 It's -- I'm puzzled by the lawsuit, to be
3392 honest with you, because there's a federal statute that
3393 directly deals with this and says how apportionment is to
3394 be conducted, and it's consistent with the 14th Amendment.
3395 So I don't know enough about the lawsuit to know whether it
3396 makes sense to be suing the Department of Commerce over
3397 this or not, but that's just my memory off the top of my
3398 head. As I said, I don't know much about it other than
3399 that.

3400 Q And so, what was the nature of your discussion
3401 about apportionment with the Attorney General?

3402 Mr. Gardner. I'm going to instruct the witness
3403 not to answer.

3404 Mr. Anello. On what basis?

3405 Mr. Gardner. On the same basis,
3406 confidentiality and litigation interests.

3407

3408 Q You said this took place in the fall of 2017.
3409 Can you give us more precision? Was it before or after the
3410 conversation when you learned that the Department of
3411 Commerce wanted the Department of Justice to request a
3412 citizenship question? Before or after that conversation?

3413 A After.

3414 Q Was it before or after you began drafting a
3415 letter back to the Department of Commerce making that
3416 request?

3417 A I don't recall specifically.

3418 Q Who else was involved in the conversation where
3419 you discussed apportionment?

3420 A I think Rachael Tucker was in the room, but I
3421 don't recall.

3422 Q Who initiated the call or the meeting? Was it a
3423 meeting or a call?

3424 A No, it was -- it was an in-person meeting, and I
3425 don't recall who initiated it.

3426 Q Were you given any instructions in the meeting?
3427 Mr. Gardner. You can answer that with a yes or
3428 no.

3429 A No, I was not.

3430 Q Did you do anything as a result of that meeting?

3431 A No, I did not.

3432 Q Did you discuss with the Attorney General
3433 whether adding a citizenship question to the census would
3434 impact apportionment?

3435 Mr. Gardner. I instruct the witness not to
3436 answer.

3437 Q Who else did you talk to at the Department of

3438 Justice about apportionment issues?

3439 A Let me think. I don't -- I don't recall exactly
3440 who all I spoke to about it.

3441 Q Did you talk to other people other than the
3442 Attorney General and Ms. Tucker?

3443 A I imagine I did.

3444 Q Do you know whether the Attorney General had
3445 other discussions about apportionment other than the one
3446 that you described?

3447 A I don't.

3448 Q Do you know whether he talked to Secretary Ross
3449 about apportionment?

3450 A I don't.

3451 Q Did you talk about apportionment yourself with
3452 anybody at the Department of Commerce?

3453 A I believe I discussed it with Peter Davidson and
3454 James Uthmeier.

3455 Q When did those conversations take place?

3456 A Again, in the September or October 2017 time
3457 frame.

3458 Q So do you remember the first time you talked
3459 with Mr. Davidson, let's start with him, about
3460 apportionment?

3461 A I don't.

3462 Q Do you remember the first time you talked to Mr.

3463 Uthmeier about apportionment?

3464 A I don't.

3465 Q About how many times would you say you talked to

3466 Mr. Davidson about apportionment?

3467 A Once.

3468 Q And was that in a conversation when you also

3469 discussed the citizenship question?

3470 Mr. Gardner. I instruct the witness not to

3471 answer.

3472 Q You did talk to him about apportionment in the

3473 fall of 2017, right?

3474 A Yes.

3475 Q You did -- you also talked to him about the

3476 citizenship question in the fall of 2017.

3477 A Yes.

3478 Q Were those in the same conversation?

3479 Mr. Gardner. I instruct the witness not to

3480 answer.

3481 Q So you said you talked to Mr. Uthmeier about

3482 apportionment, correct?

3483 A Yes.

3484 Q You also talked to him about the citizenship

3485 question.

3486 A Yes.

3487 Q Both of those conversations took place in the

3488 fall of 2017 or -- I'm sorry, let me rephrase that.

3489 You talked to him about both of those issues in
3490 the fall of 2017, correct?

3491 A Correct.

3492 Q Were they in the same conversation?

3493 Mr. Gardner. Same instruction.

3494 Q Did his memorandum to you, hand delivered to
3495 your office, talk about apportionment?

3496 Mr. Gardner. Same instruction.

3497 Q Did his handwritten note to you -- again, with
3498 Mr. Uthmeier, did his handwritten note to you talk about
3499 apportionment?

3500 Mr. Gardner. Same instruction.

3501 Q When you spoke to Mr. Davidson, what was the
3502 substance of your discussion regarding apportionment?

3503 Mr. Gardner. Same instruction.

3504 Ms. Sachsman Grooms. What's the instruction
3505 again?

3506 Mr. Gardner. Not to answer.

3507 Ms. Sachsman Grooms. No, I got that part. But
3508 what's the basis?

3509 Mr. Gardner. The same basis as we've been
3510 talking about all day, confidentiality and litigation
3511 interests.

3512 Mr. Anello. But that presupposes, I guess,

3513 that there's -- strike that. We'll keep going.

3514

3515 Q What was the substance of your conversation with
3516 Mr. Uthmeier regarding apportionment?

3517 Mr. Gardner. I instruct the witness not to
3518 answer.

3519 Q Was your conversation -- did you talk to
3520 Mr. Davidson and Mr. Uthmeier in a single conversation
3521 together about apportionment or were these separate
3522 conversations?

3523 A I hope so. I'm thinking. Are you asking me
3524 whether --

3525 Q I'll just rephrase.

3526 A I think I had one conversation with Peter and
3527 James together. Is that your question?

3528 Q So it's a single conversation with the
3529 Department of Commerce and two lawyers from the Department
3530 of Commerce on the call.

3531 A Two lawyers on the call.

3532 Q Was anybody else on the call?

3533 A No.

3534 BY MS. ANDERSON.

3535 Q On the phone call with Peter Davidson and James
3536 Uthmeier together, did you talk about apportionment on that
3537 phone call?

3538 A I talked about apportionment on a phone call
3539 with James and Peter together. Is that what you're asking?

3540 Q Yes.

3541 A Okay.

3542 BY MR. ANELLO.

3543 Q Did you talk about apportionment with anybody at
3544 the Department of Homeland Security?

3545 A Not that I can recall.

3546 Q Did you talk about apportionment with anybody at
3547 the White House?

3548 A Not that I can recall.

3549 Q Did you talk about apportionment with Mark
3550 Neuman?

3551 A Not that I can recall.

3552 Q Let's focus in on this period of time from,
3553 let's say, the fall of 2017. Did you have any other
3554 discussions with anybody else that we haven't talked about
3555 yet regarding apportionment?

3556 A As I mentioned, I may have talked about it with
3557 one or two other people in the Department of Justice. I'm
3558 trying to remember who those might have been. I think I
3559 may have spoken to one of the U.S. Attorneys in Alabama
3560 about it since. Once the lawsuit was filed, I believe he
3561 called me about it. I would have talked to Ben Aguinaga
3562 about it, as he was just generally interested in voting

3563 issues, but I can't recall whether I spoke to anybody else.

3564 Q Those conversations you just mentioned, did they
3565 also relate to the decision or the request, I should say,
3566 to add a citizenship question to the census?

3567 Mr. Gardner. I instruct the witness not to
3568 answer.

3569 BY MS. ANDERSON.

3570 Q Did you have any other conversations with
3571 Attorney General Jeff Sessions about apportionment besides
3572 the one that you previously mentioned?

3573 A I can only -- I can recall it only coming up
3574 once.

3575 Q When was that?

3576 A In the fall of 2017.

3577 Q After or before the conversation that you
3578 mentioned previously?

3579 Mr. Gardner. I think you guys are talking past
3580 each other. I think he's referring to the conversation you
3581 already talked about.

3582 A I had the one conversation we talked about. I
3583 don't recall another one.

3584 Mr. Gardner. I'm just trying to be helpful.
3585 Ms. Anderson. That's fair.

3586 A I'm not sure I'm following all of this.

3587 Q You just talked to him once in the fall of 2017.

3588 Did you have any other conversations with Attorney General
3589 Jeff Sessions about apportionment?

3590 A Not that I recall.

3591 Q So I want to talk for a second about what
3592 happened soon after the letter was sent from the Department
3593 of Justice on December 12th, 2017.

3594 A Okay.

3595 Q So that's the day that Arthur Gary sent a letter
3596 to the Department of Commerce, correct?

3597 A That's correct.

3598 Q And then Arthur Gary received a communication
3599 from the Department of Commerce, specifically Ron Jarmin,
3600 acknowledging the receipt of that letter. Is that correct?

3601 A As I recall, yes, that's correct.

3602 Q And that email also included a request to have
3603 technical people at the Department of Commerce meet with
3604 technical people at the Department of Justice; is that
3605 correct?

3606 A I don't know whether -- I don't have that
3607 communication right in front of me. I believe I've seen it
3608 before. I can't recall whether there was a reference to
3609 technical people or -- sure. It was a reference to some
3610 kind of meeting, but I don't -- I can't testify as to
3611 whether it was technical people or somebody else.

3612 Q But you acknowledge he reached out to set up a

3613 meeting. Would that be fair?

3614 A He reached out to offer a meeting, yes, would be
3615 the way I would say that.

3616 Q Okay. And Arthur Gary communicated to you that
3617 the Department of Commerce offered a meeting with the
3618 Department of Justice; is that correct?

3619 A Yes, he did.

3620 Q And that was -- do you remember when that was?

3621 A I believe he sent me an email shortly after he
3622 received that one because he wished my family and me happy
3623 holidays, so I think he sent it to me shortly before
3624 Christmas.

3625 Ms. Anderson. I'm going to mark this email,
3626 from December 22nd, 2017, as Exhibit 3.

3627 (Exhibit 3 was marked for identification and
3628 attached to the transcript.)

3629 Q I'm going to hand you what's marked as Exhibit
3630 3. Would you mind just taking a second to read that.

3631 A (Document review.)

3632 Q And in particular the email that appears on the
3633 lower part of the page.

3634 A All right.

3635 Q Is it fair to say that this is the email -- the
3636 second part -- the second email that appears on the lower
3637 half of the page that's entitled "Request to reinstate

3638 citizenship question on the 2020 census questionnaire"
3639 directed at Arthur from Ron Jarmin, is it fair to say
3640 that's the email that Arthur Gary provided to you at sort
3641 of the holiday time in 2017?

3642 A Yes, this looks like -- it appears -- of course
3643 the "to" line on the email address is redacted, but it
3644 appears to be that email.

3645 Q That email says in the part that -- the Census
3646 Bureau staff has -- I'm going to quote. "They have now
3647 briefed me, and their finding suggests that the best way to
3648 provide PL94 block-level data with citizenship voting
3649 population by race and ethnicity will be through utilizing
3650 a linked file of administrative and survey data the Census
3651 Bureau already possesses."

3652 Did I read that correctly?

3653 A You did.

3654 Q Then it says, "This would result in higher
3655 quality data produced at lower cost."

3656 Did I read that correctly?

3657 A You did.

3658 Q So fair to say that you received this forwarded
3659 communication through Arthur Gary around that sort of
3660 holiday time in 2017, and you said earlier that it was the
3661 Department of Justice's goal to get the highest quality
3662 data; is that correct?

3663 A That is correct.

3664 Q And to be able to receive that from the Census
3665 Bureau; is that correct?

3666 A That is correct.

3667 Q And this offer to have a meeting between the
3668 Department of Justice and the Department of Commerce, that
3669 did not happen; is that correct?

3670 A The offer didn't happen, or the meeting did not
3671 happen?

3672 Q Sorry. That the meeting did not happen.

3673 A Oh, the meeting did not happen.

3674 Q I guess my statement is that it did happen, the
3675 offer, but not --

3676 A The offer happened.

3677 Q The meeting did not happen between --

3678 A That's correct.

3679 Q Why did that meeting not occur?

3680 Mr. Gardner. To the extent you can answer that
3681 question without divulging confidential or litigation
3682 interests of the Department, you may do so. Otherwise, I
3683 instruct you not to answer.

3684 A Consistent with that instruction, I can't
3685 answer.

3686 Q Did you decide on your own to not have that
3687 meeting, or was there another decision made to not have the

3688 meeting?

3689 Mr. Gardner. Same instruction with the same
3690 caveat.

3691 A I guess consistent with that instruction, I
3692 can't answer.

3693 Mr. Anello. Haven't you previously testified
3694 that the Attorney General told you to cancel the meeting?

3695 Mr. Gore. I was never told to cancel a meeting
3696 because no meeting was ever scheduled.

3697 Mr. Anello. Have you previously testified that
3698 the Attorney General told you not to accept the offer of a
3699 meeting?

3700 Mr. Gore. I believe what I previously
3701 testified to in my deposition is that the Attorney General
3702 decided not to have the meeting.

3703 Q How was that communicated to you?

3704 A I don't recall.

3705 Q How was that communicated to Arthur Gary?

3706 A I told Arthur, Art.

3707 Q Art, okay.

3708 How did you know that the Attorney General did
3709 not -- did not want to have the meeting with the Department
3710 of Commerce -- or the Census Bureau, to be specific?

3711 A As I said, I don't recall how that was
3712 communicated to me.

3713 BY MR. ANELLO.

3714 Q Can I ask you a question?

3715 Did you want to have the meeting?

3716 Mr. Gardner. I instruct the witness not to

3717 answer.

3718 Mr. Anello. On what basis?

3719 Mr. Gardner. Confidentiality and litigation

3720 interests of the Department of Justice.

3721 Q I mean, I want to maybe back up a second. I

3722 want to make sure I'm understanding the context. The

3723 context here is that this letter you sent says, "As

3724 demonstrated below, the decennial census questionnaire is

3725 the most appropriate vehicle for collecting that data" --

3726 which is the citizenship data -- "and reinstating a

3727 question on citizenship will best enable the Department to

3728 protect all American voting rights under Section 2."

3729 That was a quote from your letter of December

3730 12th. I'm sorry, I was quoting from the end of the first

3731 paragraph of your letter on December 12th.

3732 A Okay.

3733 Q Is that right?

3734 A I wasn't reading along, but if you tell me that

3735 that's -- that you read it out loud, then it's good enough

3736 for me.

3737 Q If I made a mistake, I will correct the record.

3738 I was just reading from the letter.

3739 A Terrific.

3740 Q Then the email that was handed to you just now
3741 from Ron Jarmin -- who was, I believe, the head of the
3742 Census Bureau, correct -- the acting head of the Census
3743 Bureau?

3744 A That's my understanding of who he was at the
3745 time. I don't know what role he plays now.

3746 Q His email says, "The best way to provide PL94
3747 block-level data with citizenship -- citizen voting
3748 population by race and ethnicity would be by utilizing a
3749 linked file of administrative and survey data the Census
3750 Bureau already possesses. This would result in higher
3751 quality data produced at a lower cost."

3752 A That's not what this email says. You've left
3753 off -- now, let me be clear on this. You've truncated the
3754 sentence in a way that takes out a very important phrase.
3755 He says that his staff -- somebody at the Census Bureau
3756 made findings that suggest that conclusion, not that that's
3757 the conclusion of the Census Bureau. In fact, that turns
3758 out to be false. There are gaps in the administrative
3759 records. Administrative records can't actually provide
3760 this data. And that was the determination that Secretary
3761 Ross made in his memo of decision, which is why he decided,
3762 and I understand from publicly available information, to

3763 reinstate the question and use some kind of administrative
3764 records data to get at block-level citizenship data. You
3765 didn't say their findings suggest that. You started with
3766 "the best way to provide." That's inaccurate.

3767 Q Fair enough. I was not attempting to miss
3768 something that was in the document. That's right. That's
3769 exactly what the document says. The question that I'm
3770 asking -- I didn't get to my question. That was just
3771 trying to lay a foundation for you.

3772 The question I'm trying to understand is, the
3773 letter you sent was a request to Dr. Ron Jarmin. This
3774 email is a response from Dr. Ron Jarmin expressing, as you
3775 said, the views of his staff as expressed in a briefing to
3776 him. Is that fair?

3777 A I think it speaks for itself. It says that he's
3778 had this briefing and that somebody suggested some findings
3779 that suggest a particular outcome.

3780 Q Can you explain to me why -- strike that.

3781 Wouldn't it have been important in a
3782 circumstance like this, given a response like this from Dr.
3783 Jarmin, to meet and talk about the issue?

3784 Mr. Gardner, To the extent you can answer that
3785 question without divulging confidential or litigation
3786 interests of the Department, you may do so. Otherwise, I
3787 instruct you not to answer.

3788 A Can you ask the question again? I didn't follow
3789 it.

3790 Q Yes. Given the letter that you sent, the
3791 response that you got back, wouldn't it be important to
3792 meet with the Census Bureau and talk through these issues?

3793 Mr. Gardner. Same instruction.

3794 A I think consistent with that instruction, the
3795 only answer I can give is, not necessarily.

3796 Q So you don't think it would be important -- you
3797 don't think it was important to meet with them to discuss
3798 this email and the views expressed in this email?

3799 A What I can tell you is no meeting took place,
3800 and, in fact, the conclusion suggested by these findings is
3801 inaccurate.

3802 Ms. Sachsman Grooms. Did you -- you just
3803 stated the conclusions suggested by the findings described
3804 in this email are inaccurate. Did you know that those were
3805 inaccurate at the time you received the email?

3806 Mr. Gardner. To the extent you can answer that
3807 question without divulging confidential or litigation
3808 interests of the Department, you may do so. Otherwise, I
3809 instruct you not to answer.

3810 Mr. Gore. Consistent with that instruction, I
3811 can't answer.

3812 Q Did you tell the Attorney General -- did you

3813 tell the Attorney General that the Census Bureau had sent
3814 this email?

3815 Mr. Gardner. I instruct you not to answer.

3816 Q Did you conduct additional research after you
3817 got this email?

3818 A I don't recall.

3819 Q Shouldn't you have conducted additional
3820 research?

3821 Mr. Gardner. Sorry, can you rephrase that
3822 question?

3823 Q Wouldn't it have been reasonable and
3824 responsible, given this -- after having received this
3825 email, to conduct additional research on the topic?

3826 Mr. Gardner. You can answer that question if
3827 you can.

3828 A Again, not necessarily.

3829 Q After you received this email, did you have
3830 further discussions with anybody at the Department of
3831 Commerce about the issues described here?

3832 A I don't recall.

3833 Q Did you have further discussions with anybody at
3834 the Department of Justice about these issues?

3835 A Which issues in particular are we talking about?

3836 Q The issues described -- the issues in the
3837 quotation I just read from Dr. Jarmin.

3838 A I believe I did.

3839 Q Who did you speak to?

3840 A Rachael Tucker, and I think I spoke with the

3841 Attorney General as well.

3842 Q Why did you have those conversations?

3843 Mr. Gardner. To the extent you can answer that

3844 question without divulging confidential or litigation

3845 interests of the Department, you may do so. Otherwise, I

3846 instruct you not to answer.

3847 A Consistent with that instruction, I can't

3848 answer.

3849 BY MS. ANDERSON.

3850

3851 Q Did you talk with anybody in the Voting Rights

3852 Section about the contents of this email?

3853 Mr. Gardner. Same instruction.

3854 A Yes.

3855 Q Who did you talk to?

3856 A Chris Herren.

3857 Q When did you talk to him?

3858 A I don't recall specifically when I talked to

3859 him.

3860 Q What did you talk about?

3861 Mr. Gardner. I instruct the witness not to

3862 answer.

3863 Q Did you talk about scheduling this meeting or
3864 scheduling a potential meeting?

3865 Mr. Gardner. Sorry, can you ask that one more
3866 time? I just got a little lost in the meaning of what.

3867 Q Did you talk with Chris Herren about scheduling
3868 a possible meeting with the Department of Commerce?

3869 Mr. Gardner. I think at that level you can
3870 answer that question.

3871 A Yes. Let me clarify. I talked to him about the
3872 offer to hold a meeting.

3873 Q Sure.

3874 Did you talk with him about the suggestions
3875 that are in the email from Ron Jarmin?

3876 Mr. Gardner. You can answer that with yes or
3877 no.

3878 A Yes, I did.

3879 Q What did Mr. Herren say about the suggestions
3880 that are outlined in this email?

3881 Mr. Gardner. I instruct the witness not to
3882 answer.

3883 Q What did he say about the offer for a meeting?

3884 Mr. Gardner. I instruct the witness not to
3885 answer.

3886 Q Did he want to have a meeting with the
3887 Department of Commerce?

3888 Mr. Gardner. I instruct the witness not to
3889 answer.

3890 I don't mean to interrupt you, but we've been
3891 going about an hour again. Is it almost a good time for
3892 lunch?

3893 Ms. Anderson. Yes.

3894 Mr. Gardner. If you have a question or two, I
3895 don't want to stop you. It's lunchtime.

3896 Ms. Anderson. We can go off the record.

3897 (A lunch recess was taken.)

3898 Ms. Anderson. Back on the record.

3899 For the record, my name is Tori Anderson, and
3900 the time, just to be aware, is 1:53.

3901 BY MS. ANDERSON.

3902 Q So I just want to go back through -- at the very
3903 beginning we went through a list of a bunch of people that
3904 you discussed. So I'm just going to go back through and
3905 kind of -- and go through that list with you, obviously
3906 skipping over the ones that we already talked about.

3907 You said that one of the people that you
3908 discussed the citizenship question with was Rachael Tucker;
3909 is that correct?

3910 A That's correct.

3911 Q How many times did you talk with her about the
3912 citizenship question?

3913 A I don't recall specifically, and at the time she

3914 was our point of contact in the Office of Attorney General,
3915 and I imagine I spoke with her maybe five to ten times
3916 about the issue either as part of regular conversations
3917 about the Civil Rights Division work generally or
3918 specifically with respect to this issue, and she would have
3919 participated in conversations between me and the Attorney
3920 General regarding the issue. She would have sat in on
3921 those conversations.

3922 Q And did you speak with her substantively about
3923 the citizenship question issue?

3924 A Yes.

3925 Q What did you discuss with her?

3926 Mr. Gardner. I instruct the witness not to
3927 answer.

3928 Q How many times did you have a substantive
3929 discussion with her about the citizenship question?

3930 A I don't recall specifically.

3931 Q The next one I have is Ben. Is that correct?
3932 What was his last name game?

3933 A Aguinaga.

3934 Q I'm not going to get that right.

3935 How many times did you discuss with him the
3936 citizenship question?

3937 A I don't recall specifically. He was my chief of
3938 staff at the time, so he attended meetings with me, and we

3939 generally discussed the issues in the Division.

3940 Q Did you have substantive conversations with him
3941 about the addition of a citizenship question?

3942 A Yes, I did.

3943 Q What were the contents of those discussions?

3944 Mr. Gardner. I instruct the witness not to
3945 answer.

3946 Q Do you remember speaking with him after you
3947 first became aware of interest in the citizenship question
3948 in early September 2017?

3949 A I certainly did speak with him after that time.
3950 I don't know when I first spoke to him about the issue.

3951 Q You said Bob Troester was in the Office of the
3952 Attorney General; is that correct?

3953 A Troester.

3954 Q Troester.

3955 A Office of the Deputy Attorney General.

3956 Q How many times did you talk to Bob Troester,
3957 about?

3958 A So Bob was a point of contact in the Office of
3959 Deputy Attorney General on civil rights issues, so I talked
3960 to him regularly about issues in the Civil Rights
3961 Division -- I can't remember specifically how many times --
3962 either through more general conversations or broader
3963 conversations or specific conversations I talked to him

3964 about this particular issue.

3965 Q Did you have substantive conversations with him?

3966 A Yes, I did.

3967 Q What did you talk about?

3968 Mr. Gardner. I instruct the witness not to
3969 answer.

3970 Q Did you talk to him first, would you say, more
3971 closely to when you first became aware that this -- the DOJ
3972 might be considering the Department of Commerce's request
3973 or later in time?

3974 Mr. Gardner. Could you ask that question one
3975 more time?

3976 Q Did you first talk to him around that early
3977 September date or did you talk to him more towards
3978 December?

3979 A I don't recall.

3980 Q How many times did you talk to Rachel Brand
3981 about the addition of a citizenship question?

3982 A I don't recall specifically. I think I said
3983 earlier it was four or five or three or four. I can't
3984 remember what I said earlier today, but that sounds about
3985 right.

3986 Q You had substantive conversations with her; is
3987 that correct?

3988 A Yes, I did.

3989 Q What were the contents of those conversations?

3990 Mr. Gardner. I instruct the witness not to

3991 answer.

3992 Q Did you first speak with her in that early

3993 September range or did you first speak with her later, if

3994 you can recall?

3995 A I can't recall specifically, but I think I first

3996 spoke with Rachel in mid to late September about the issue.

3997 Ms. Sachsman Grooms. I'm sorry, did you say

3998 mid to late September?

3999 Mr. Gore. Yes.

4000 Ms. Sachsman Grooms. Why do you think that?

4001 Mr. Gore. I'm sorry?

4002 Ms. Sachsman Grooms. I thought that the

4003 beginning time frame that we were starting at was late

4004 September, early October.

4005 Mr. Gore. No, it was late August, early

4006 September.

4007 Ms. Sachsman Grooms. Sorry, okay.

4008 Q When you had discussions with Rachel Brand, were

4009 they with -- was anybody else present or were they with

4010 her?

4011 A Other people were present. I can recall Jesse

4012 Panuccio being present and Patrick Hovakimian being present

4013 for at least some of those conversations.

4014 Q How many times did you talk to Jesse Panuccio?

4015 A I don't recall exactly. Probably -- I think I
4016 talked to Jesse a couple of times in addition to the times
4017 I spoke with Rachel. So I talked to him two or three more
4018 times about the issue than I did with Rachel.

4019 Q Just with him or with other people present as
4020 well?

4021 A Either just with him or with him and Pat
4022 Hovakimian.

4023 Q Were those subsequent conversations?

4024 A Yes.

4025 Q What did you discuss?

4026 Mr. Gardner. I instruct the witness not to
4027 answer.

4028 Q You said at some point later you talked to
4029 Bethany Pickett; is that correct?

4030 A That is correct.

4031 Q And Chris Herren; is that correct?

4032 A That's correct.

4033 Q When did you first have conversations with them?

4034 A With Bethany, I think I first had conversations
4035 with her in October of 2017. I don't recall specifically
4036 when I first had conversations with Chris Herren. My
4037 standard practice within the Civil Rights Division, that if
4038 someone from the Office of Assistant Attorney General wants

4039 to solicit the views of career attorneys or a career
4040 section within the Division, to speak directly to and only
4041 to the section chief, so it would have been extraordinary
4042 for me to talk directly to any other career staff regarding
4043 this. So that's our standard practice. That's been
4044 standard practice in the division going back a very long
4045 time, it's my understanding. So I would have raised it
4046 with Chris, and Chris then could have solicited the views
4047 of other career attorneys if he thought it was appropriate
4048 to do so.

4049 Q I think -- I think what I would like to do is
4050 kind of just get a more global understanding of sort of the
4051 timeline of events and sort of when you were talking and
4052 who was talking to who, if that makes sense.

4053 A Sure.

4054 Q So I'm going to walk through it to my
4055 understanding and probably do some follow-up questions.

4056 So you first became aware of this issue in
4057 early September through talking with Mary Blanche Hankey
4058 and Attorney General Jeff Sessions. That's still correct?

4059 A That is correct.

4060 Q What did you do next about this issue?

4061 A So, as I mentioned before, I conducted some
4062 legal research and some general research regarding the
4063 census.

4064 Q Who did you talk to after talking with Mary
4065 Blanche Hankey and Attorney General Jeff Sessions, and in
4066 what time frame was that?

4067 A Eventually I spoke to everyone on the list,
4068 obviously.

4069 Q Sure.

4070 A I think if you're -- I don't recall exactly the
4071 timeline of everything. I received my first call from
4072 Peter Davidson pretty shortly after that initial
4073 conversation I had, and within the September time frame I
4074 would have spoken to Rachel, Jesse, Pat -- Rachel Brand,
4075 Jesse, Pat, Rachael Tucker, Danielle, obviously. I spoke
4076 with Wendy Teramoto again on September 16th, James Uthmeier
4077 I think towards the end of September.

4078 I don't recall when I first talked to Gene or
4079 Bob Troester or Chris Herren. I probably would have spoken
4080 to Ben Aguinaga pretty soon after since he was the chief of
4081 staff. I know I talked to Bethany in October.

4082 Q Besides the draft letter that you wrote prior to
4083 the, I guess the more formal letter on December 12th, did
4084 you produce any other documents related to the addition of
4085 the citizenship question?

4086 A Can you clarify what you mean by "produce"?

4087 Q Did you write -- put together any documents?

4088 A I'm trying to think about how to answer that

4089 question. I don't recall. I think at one point I
4090 participated in or reviewed some talking points regarding
4091 the issue for the hearing that the Attorney General was
4092 going to testify at here on the Hill, but I don't recall.
4093 I think Ben may have written the first draft of those. I
4094 don't recall. And I don't recall producing -- writing
4095 anything else related to that other than emails.

4096 Q About what time would -- to your recollection
4097 were the talking points written?

4098 A I believe it was in October of 2017, but I'm not
4099 sure. Might have been later. It probably was later now
4100 that I think about it. So I don't know. I shouldn't put a
4101 date on it when I don't remember.

4102 Q Okay.

4103 So then that's sort of the September time
4104 frame. What happened next?

4105 A Let's see, so September time frame. And then in
4106 October I continued to do some research, legal research and
4107 research generally about the census. Began drafting -- at
4108 some point began drafting the first draft of the letter,
4109 continued to talk to those individuals I mentioned before.
4110 And at some point along the way, I don't know if it was
4111 September or October, I talked to Chris Herren and Art Gary
4112 and the other individuals on the list, Mark Neuman, and, as
4113 I mentioned, continued to have conversations with other

4114 people in the Department regarding this issue.

4115 Q Did you discuss, with anyone outside of the
4116 Department of Justice while you were drafting the letter,
4117 your drafting process?

4118 Mr. Gardner. Sorry, I'm not sure I understand
4119 the question.

4120 Q Did you discuss drafting what ultimately became
4121 the December 12th letter with anyone else outside of the
4122 Department of Justice?

4123 Mr. Gardner. I'm sorry, is your question did
4124 he discuss the fact that he was drafting the letter?

4125 Ms. Anderson. Yes, that's my first question.

4126 Mr. Gardner. You can answer that.

4127 A Yes.

4128 Q Who did you discuss it with?

4129 A I discussed it with Peter Davidson. I may have
4130 discussed it with James Uthmeier, although I don't recall
4131 specifically.

4132 Q Did they give you any comments, feedback, advice
4133 about the drafting of that letter?

4134 Mr. Gardner. You can answer that with a yes or
4135 no.

4136 A Yes.

4137 Q Just to be clear, does that yes pertain to both
4138 Peter Davidson and James Uthmeier or one or the other?

4139 A Both.

4140 Q How many times would you say you discussed,
4141 received comments, talked about the drafting of that letter
4142 with Peter Davidson?

4143 A The fact that -- as I understand, you were
4144 asking about the fact that I was drafting the letter --

4145 Q Sure.

4146 A -- or that process was going on?

4147 Q Yes.

4148 A I think I would have discussed that with him
4149 every time I talked to him or almost every time I talked to
4150 him.

4151 Q Did you discuss the contents of what you were
4152 drafting with Peter Davidson?

4153 A Yes, I did.

4154 Q Every single time as well?

4155 A Maybe not -- probably not every time, but more
4156 than once.

4157 Q Did he give you any advice, feedback, or
4158 comments about the contents of your drafting letter?

4159 Mr. Gardner. You can answer that yes or no.

4160 A Yes.

4161 Q Would you say he gave those comments or feedback
4162 or -- every single time you spoke with him?

4163 A No.

4164 Q Do you remember when that time was where you
4165 received a comment or anything from Peter Davidson on the
4166 more substantive parts of the drafting?

4167 A Not specifically.

4168 Q Did you incorporate any of those feedback or
4169 comments into your draft letter?

4170 Mr. Gardner. I instruct the witness not to
4171 answer.

4172 Q Did you discuss the -- you said you discussed
4173 the fact that you were drafting the letter with James
4174 Uthmeier as well; is that correct?

4175 A Correct.

4176 Q Did you discuss the contents of what was in your
4177 draft letter with James Uthmeier?

4178 A Yes, I did.

4179 Q How many times?

4180 A Once, maybe twice.

4181 Q Did you receive any comments or feedback or
4182 thoughts about the contents of your draft letter from James
4183 Uthmeier?

4184 Mr. Gardner. You can answer that with a yes or
4185 no.

4186 A Yes.

4187 Q What were the substance of those comments?

4188 Mr. Gardner. I instruct the witness not to

4189 answer.

4190 Q Did any of those comments or thoughts or
4191 questions go into the draft letter that you wrote?

4192 Mr. Gardner. Same instruction.

4193 Q So you were drafting as part of that October
4194 time frame, and then what happened next?

4195 A At some point, I believe around November 1st, I
4196 solicited comments on the draft from a variety of people in
4197 the Department of Justice.

4198 Q Who were those people?

4199 A Chris Herren. As I explained before, it was
4200 standard practice in the Civil Rights Division. I wanted
4201 to get input from the career staff who has a lot of
4202 experience in Voting Rights Act cases and Voting Rights Act
4203 issues, and the conduit to do that is to contact the
4204 section chief, in this case the chief of the Voting
4205 Section, Chris Herren, and that's what I did with Chris.
4206 Comments -- I also received comments from Bethany Pickett,
4207 Ben Aguinaga, Bob Troester, Rachael Tucker.

4208 Q If you could just slow down for just a second.
4209 Thank you.

4210 Okay. Go ahead.

4211 A Art Gary.

4212 Q Could you just, sorry, quickly remind me of
4213 those people's positions? I can name them back to you if

4214 that's helpful.

4215 A Chris Herren is the chief of the Voting Section.

4216 Q Yes.

4217 A Bethany Pickett was counsel in the Civil Rights
4218 Division. Ben Aguinaga was chief of staff in the Civil
4219 Rights Division. Bob Troester was an Associate Deputy
4220 Attorney General in the Office of the Deputy Attorney
4221 General. Rachael Tucker was a counsel in the Office of the
4222 Attorney General, and Art Gary is the general counsel of
4223 the Justice Management Division.

4224 Ms. Sachsman Grooms. Did all of those people
4225 give you feedback?

4226 Mr. Gore. Yes, those are all the people I
4227 received comments or feedback or edits to the letter from.

4228 Ms. Sachsman Grooms. Were there additional
4229 people who you sent the letter to that you did not get
4230 feedback from?

4231 Mr. Gore. Not that I recall.

4232

4233 Q Was there anyone else additional that you had
4234 contact with outside the Department of Justice about the
4235 draft letter or that November 1st, I guess, more done draft
4236 letter?

4237 Mr. Gardner. I'm sorry, I don't understand the
4238 question.

4239 A I didn't understand. Try again.

4240 Q Besides James Uthmeier and Peter Davidson, did
4241 you consult with anyone else about the substance of your
4242 draft letter outside of the Department of Justice?

4243 A Oh, I see. No.

4244 Ms. Sachsman Grooms. What about Mr. Neuman?

4245 Mr. Gore. No.

4246 Q Okay. So then after you, I guess, solicited
4247 comments from that list of people, what did you do next?

4248 A I received comments from each of those people at
4249 various points in time and incorporated some of those
4250 comments into the draft.

4251 Q Whose comments did you incorporate?

4252 Mr. Gardner. To the extent you can answer that
4253 question without divulging confidential or litigation
4254 information, you may do so. Otherwise, I instruct you not
4255 to answer.

4256 A I'm not sure I can answer the question
4257 consistent with that instruction.

4258 Q Were there comments that you received that you
4259 did not incorporate into the letter?

4260 Mr. Gardner. You can answer that with a yes or
4261 no.

4262 A Yes.

4263 Q Whose comments were those?

4264 Mr. Gardner. I instruct you not to answer.

4265 Q What did you do next?

4266 A I don't recall specifically what I did next.

4267 During that period of time, I was continuing to have

4268 conversations with people in the Department and with

4269 Mr. Davidson about the letter. And after incorporating all

4270 of the edits and discussing the letter, at one point -- at

4271 some point I had a conversation with Art Gary about the

4272 letter.

4273 Q When you were having discussions with Peter

4274 Davidson, did you send to him or review with him your more

4275 updated draft letter, the one that incorporated comments

4276 from November 1st?

4277 A No.

4278 Q Did you review or send to James Uthmeier your

4279 more updated letter that incorporated comments from

4280 November 1st?

4281 A No.

4282 Q Did you send Peter Davidson your original draft

4283 of the letter?

4284 A No.

4285 Q Did you send James Uthmeier the original draft

4286 of the letter?

4287 A No.

4288 Let me just clarify. There was a draft around

4289 November 1st, and then there were many drafts after that
4290 that incorporated rounds of comments.

4291

4292 Ms. Sachsman Grooms. Just to make sure I'm
4293 clear on this, you had conversations about the contents of
4294 the draft of your letter with Mr. Uthmeier and
4295 Mr. Davidson, but you never sent them an actual copy of it.
4296 Is that accurate?

4297 Mr. Gore. That is correct.

4298 Q What happened next?

4299 A At some point -- I'm trying to remember. So
4300 that gets us through November, and into December I was
4301 still receiving comments on the letter and at some point
4302 incorporated those comments and had further communications
4303 and conversations with Art Gary and with Rachael Tucker and
4304 Bob Troester regarding finalizing that letter and whether a
4305 final decision was made to send the letter.

4306 Q Did you ever show -- let's start with your
4307 original draft before this sort of rounds of drafts.

4308 Did you ever show that draft to the Attorney
4309 General?

4310 A No.

4311 Q Did you ever show any subsequent draft to the
4312 Attorney General?

4313 A I can't recall specifically sharing a draft with

4314 the Attorney General. I don't know whether anyone else
4315 did. It's certainly possible.

4316 Q And then can you just talk about that final, I
4317 guess, end of November to December 12th time period?

4318 A Sure. As I recall, I was still receiving
4319 comments on the letter during that time period. And at
4320 some point, I believe it was on the morning of December
4321 12th, I understood that the final decision had been made to
4322 send the letter, and the letter was sent -- the decision
4323 became final and the letter was sent that day.

4324 Q Okay. Who did you understand was making the, as
4325 you said, final decision?

4326 A I believe it came from Department leadership.

4327 Q Who did that include? Who do you mean by
4328 "Department leadership"?

4329 A The Attorney General.

4330 Q Is that the normal process of approval for
4331 sending out a letter, or can you talk through what the
4332 normal process is?

4333 Mr. Gardner. Just to be clear, do you mean any
4334 letter of the Department? I think we need to be clear
4335 about this.

4336 Ms. Anderson. Sure.

4337 Q So what was the process that was used to have
4338 this letter be approved to send out?

4339 Mr. Gardner. If you can answer that question.

4340 A Yes. May I describe what process we actually
4341 did in fact use?

4342 Q Sure.

4343 A There are within the Department certain issues
4344 that --

4345 Q Sorry. I want to cabin it so you don't have to
4346 talk about everything all the way back.

4347 A Okay.

4348 Q But that final phase, once you were done
4349 incorporating the comments, what was -- from that point to
4350 December 12th.

4351 A As I said, I mean, I think I had further
4352 conversations with Bob Troester and Rachael Tucker
4353 regarding the letter, and it was conveyed to me that we
4354 should send the letter on December 12th, and it was sent on
4355 December 12th.

4356 Q Who conveyed that to you?

4357 A I think I heard from both Bob and Rachael, but I
4358 think I heard from Rachael last.

4359 Ms. Sachsman Grooms. Do you know what
4360 packaging form, what set of documents would have gone to
4361 the Attorney General for the decision-making on this point?

4362 Mr. Gore. I have no idea.

4363 Ms. Sachsman Grooms. So did you get any

4364 package back? You didn't formulate some package together
4365 with a final letter in a recommendation memo and then send
4366 that up the chain? Did you do that?

4367 Mr. Gore. No, I did not.

4368 Ms. Sachsman Grooms. You didn't get some piece
4369 of paper back saying that he had approved it?

4370 Mr. Gore. No, I did not.

4371 Q From January 20th, 2017, to March 2018, so that
4372 ...

4373 A Okay.

4374 Q Did you have any communications or were you
4375 aware of any communications involving executive branch
4376 officials or others about whether adding a citizenship
4377 question would help with redistricting?

4378 Mr. Gardner. You can answer that with a yes or
4379 no. You might want to break that up into multiple
4380 questions because it's awful broad.

4381 Ms. Anderson. Do we have the same time frame
4382 or would you like me to --

4383 Mr. Gardner. Yes, keep the time frame. Just
4384 like you can ask him first is he aware of any conversation.

4385 Ms. Anderson. Sure.

4386 Q Did you have any conversations involving
4387 executive branch officials about whether adding a
4388 citizenship question would help with redistricting?

4389 Mr. Gardner. You can answer that question with
4390 a yes or no.

4391 A Yes.

4392 Q Who?

4393 Mr. Gardner. I will instruct you not to
4394 answer.

4395 Q So between the same time frame -- we're just
4396 going to keep that for now, but if you would like me to
4397 repeat it, I'm happy to do that -- did you become aware of
4398 any conversations involving executive branch officials
4399 involving whether the citizenship question would help with
4400 redistricting?

4401 Mr. Gardner. Same instruction. You can answer
4402 yes or no.

4403 A Yes.

4404 Q Who?

4405 Mr. Gardner. I'll instruct you not to answer.

4406 Q We'll stick with the executive branch officials
4407 about whether redistricting -- whether the citizenship
4408 question would help with redistricting. Do you know when
4409 you were aware of those conversations occurring?

4410 A I was aware of the conversations I participated
4411 in when they occurred.

4412 Q We can start there. When did those occur?

4413 A Those occurred -- I can recall conversations

4414 between September and December of 2017.

4415 Mr. Gardner. I thought you were asking between
4416 January and March.

4417 Ms. Anderson. January 2017.

4418 Mr. Gardner. I'm sorry,

4419 Ms. Anderson. And March 2018.

4420 Mr. Gardner. I'm sorry. That's why I was
4421 confused. Okay. I'm sorry.

4422 Q Now, going back to were you aware about
4423 conversations involving executive branch officials about
4424 whether a citizenship question would help with
4425 redistricting, were you aware of when those conversations
4426 occurred?

4427 A I participated in those conversations and I was
4428 aware of them when they occurred.

4429 Q Okay. Were you involved with any conversations
4430 with other people about whether adding a citizenship
4431 question would help -- would help with redistricting?

4432 A Other than who?

4433 Q Other than executive branch officials.

4434 A I think I have given you the list of everyone I
4435 spoke to.

4436 Q Between the same -- I'll just -- between January
4437 2017 and March 26, 2018, did you have any communications or
4438 conversations about whether adding a citizenship question

4439 would influence the outcome of an election?

4440 Mr. Gardner. I'm sorry, can you say that one

4441 more time? I apologize.

4442 Q Between January 20th, 2017, and March 26th,

4443 2018, did you have any communications or conversations

4444 about whether adding a citizenship question would influence

4445 the outcome of an election?

4446 Mr. Gardner. I see. You can answer that

4447 question with a yes or no.

4448 A Not that I recall.

4449 Q Were you aware in that same time frame of

4450 conversations or communications between any executive

4451 branch officials about whether adding a citizenship

4452 question would influence the outcome of an election?

4453 Mr. Gardner. You can answer that question with

4454 a yes or no.

4455 A Not that I recall.

4456 Ms. Anderson. I don't think we have any more

4457 questions at this time.

4458 Mr. Gardner. Thank you.

4459 Ms. Sachsman Grooms. We can go off the record.

4460 (Interview concluded at 2:21 p.m.)

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	John Gore
Date of Interview	March 7, 2019

PAGE	LINE	CORRECTION	APPROVED*
1	17	Change "Senior Counsel" to "Acting Deputy Assistant Attorney General"	Y
19	443	Insert "except for Ben"	N
56	1362	Change "Chris Kovach" to "Kris Kobach"	Y
56	1370	Change "Chris Kovach" to "Kris Kobach"	Y
72	1779	Add "General" to "Deputy Attorney General"	Y
73	1794	Add period to end sentence after "Jesse Panuccio"	Y
96	2366	Change "Chris Kovach" to "Kris Kobach"	Y
96	2367	Change "Chris Kovach" to "Kris Kobach"	Y
96	2369	Change "Mr. Kovach" to "Mr. Kobach"	Y
136	3365	Insert "and again 2018" (see attached letter from DOJ)	N
143	3559	Add "U.S." in front of "attorneys"	Y
148	3673	Delete quotation marks	Y
153	3795	Add comma after "is"	Y

* For COR Majority Staff use only.



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 21 2019

The Honorable Elijah E. Cummings
Chairman
Committee on Oversight and Reform
U.S. House of Representatives
Washington, DC 20515

The Honorable Jim Jordan
Ranking Member
Committee on Oversight and Reform
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Cummings and Ranking Member Jordan:

This responds to the Department of Justice's (Department) review of a transcript from the March 7, 2019 interview of John Gore, Principal Deputy Assistant Attorney General of the Civil Rights Division. The Department provided proposed errata as noted in the draft transcript on March 19, 2019 and is providing one substantive revision below.

- p. 135-138; 144: Mr. Gore was asked whether he had discussed apportionment with Attorney General Sessions, how many conversations on the topic had occurred, and when those conversations occurred. Mr. Gore indicated that he discussed the topic one time with Attorney General Sessions in the fall of 2017, "around the time when the state of Alabama filed a lawsuit about apportionment issues against the Department of Commerce." p.136. On review of the transcript, Mr. Gore realized that case was filed in 2018 (*see*, Complaint, *Alabama v. United States Dep't of Commerce*, 18-cv-772 (N.D. Al. May 21, 2018) and on reflection, he now believes that there were two conversations on this topic – one in the fall of 2017 and one in the spring of 2018. The Department is not prepared at this time to discuss the content of those conversations. As the Department has repeatedly explained to the Committee, not only does the Department have an essential need to maintain the confidentiality of its internal deliberations, but it also has the more specific concern that the Department's litigation position regarding privileges, which was not challenged in litigation, could be compromised if those very same confidential deliberations were made public through a concurrent oversight process.

The Honorable Elijah E. Cummings
The Honorable Jim Jordan
Page Two

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "K Antell". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kira Antell
Acting Deputy Assistant Attorney General

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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MEMORANDUM

March 14, 2019

To: Committee Members

Fr: Majority Staff

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

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

I. DEPARTMENT OF JUSTICE WITHHOLDING INFORMATION

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

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

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

II. NEW INFORMATION FROM INTERVIEW

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

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

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

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

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

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

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

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

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

C. Gore Discussed Citizenship Question with Department of Homeland Security

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

D. Gore Discussed Apportionment with Sessions and Commerce Lawyers

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

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

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

III. EXCERPTS FROM TRANSCRIBED INTERVIEW WITH GORE

Excerpts on Mark Neuman Providing Draft Letter Page 24-27

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

A: I reviewed—yes, I did.

Q: What did you do?

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

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

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

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

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

A: Yes.

Q: Which one? Sorry.

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

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

A: He provided it.

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

A: Public information.

Q: What was it?

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

Q: Was that all he provided you?

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

Q: A draft letter of what?

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

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

DOJ Counsel: I instruct you—

A: No.

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

DOJ Counsel: I instruct the witness not to answer.

Committee Staff: On what basis?

DOJ Counsel: The same basis.

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

DOJ Counsel: Same instruction.

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

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

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

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

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

A: Yes.

Q: When did you receive the memo?

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

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

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

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

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

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

A: Sure.

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

A: I do.

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

A: I imagine he does, yes.

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

A: I don't know. You would have to ask him that. I don't know what format he had the memorandum in and whether that would have been possible.

Q: Do you know why it was hand delivered to you?

A: I don't.

Q: Do you know whether he was instructed to hand deliver it to you, Mr. Uthmeier?

A: I don't.

Q: How often do you receive memorandum—paper memos from other agencies rather than receiving memorandums in electronic form?

A: I don't know.

Q: Would you say this was unusual?

A: No, not necessarily. I sometimes receive memos in paper rather than through email certainly within the Department, too.

Q: My question is from other agencies. Is a memorandum coming from the Department of Commerce—let's say have you received other hand—other hand-delivered memoranda from the Department of Commerce?

A: Not that I recall.

Q: Have you received other hand-delivered memoranda from other agencies, outside?

A: I don't believe I received memoranda from any other agencies. This would be the only memorandum I received from another department or agency, and it was delivered by hand. So I guess, to follow your line of questioning, that makes it usual.

Q: I guess that's a definitional question we could quibble with a little bit.

A: You were trying to compare it to some other practice, and this is the only other practice I've ever experienced—

Q: It sounds like you're saying it's the only time you've ever received a memo from another agency and the only time you've ever received one—a handwritten memo hand delivered to you, so I would describe

it as unusual.

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

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

A: Yes.

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

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

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

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

A: Yes, he did.

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

DOJ Counsel: You can answer that yes or no.

A: Yes, he did.

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

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

Q: What did he tell you?

DOJ Counsel: I instruct the witness not to answer.

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

INTERVIEW OF: GENE PATRICK HAMILTON

Thursday, May 30, 2019

Washington, D.C.

The interview in the above matter was held in Room 6400, O'Neill House Office Building, commencing at 10:04 a.m.

Appearances:

For the COMMITTEE ON OVERSIGHT AND REFORM:

TORI ANDERSON, COUNSEL

RUSSELL ANELLO, CHIEF OVERSIGHT COUNSEL

SUSANNE SACHSMAN GROOMS, DEPUTY STAFF DIRECTOR AND CHIEF COUNSEL

STEVE CASTOR, MINORITY GENERAL COUNSEL

ELLEN JOHNSON, MINORITY SENIOR PROFESSIONAL STAFF MEMBER

CAROLINE NABITY, MINORITY COUNSEL

For the DEPARTMENT OF JUSTICE:

MEGAN L. GREER, SENIOR COUNSEL

KIRA ANTELL, SENIOR COUNSEL

JOSHUA E. GARDNER, SPECIAL COUNSEL

Ms. Anderson. I'm just going to read the preamble first and then we'll get started.

This is a transcribed interview of Gene Hamilton, 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. Hamilton, can you please state your full name and spell your last name for the record.

Mr. Hamilton. Gene Patrick Hamilton, H-a-m-i-l-t-o-n.

Ms. Anderson. Thank you. Mr. Hamilton, my name is Tori Anderson. I work for the majority staff on the Committee on Oversight and Reform. First, I want to thank you for coming in today for this voluntary transcribed interview. We appreciate you being willing to speak with us and for the department's cooperation.

At this time, I'll ask everybody else to introduce themselves for the record, and then we'll go over some ground rules.

Mr. Anello. Russell Anello, majority staff.

Ms. Sachsman Grooms. I'm Susanne Sachsman Grooms, from the majority.

Mr. Castor. Steve Castor, with the Republican staff.

Ms. Johnson. Ellen Johnson, Republican staff.

Ms. Nabity. Caroline Nabity, Republican staff.

 
Ms. Greer. Megan Greer, Department of Justice.

Ms. Antell. Kira Antell, Department of Justice.

Mr. Gardner. Josh Gardner, Department of Justice.

Ms. Anderson. The witness interview will proceed as follows. The majority and

minority staffs will alternate asking you, Mr. Hamilton, 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 and so forth. We'll alternate back and forth in this manner until there are no more questions from either side, and then the interview will be concluded.

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, followup or clarifying questions may be useful. And if that's the case, you might hear from additional people around the table.

Under the committee rules, you're allowed to have an attorney present to advise you. Do you have an attorney present to represent you in a personal capacity today?

Mr. Hamilton. No.

Ms. Anderson. Would counsel please identify yourselves again?

Mr. Gardner. Josh Gardner, with the Department of Justice.

Ms. Anderson. Okay. I understand that you do not have a personal attorney with you today, but instead, have agency counsel with you. You've identified yourself.

Do you understand that agency counsel represents the agency and not you personally?

Mr. Hamilton. Yes.

Ms. Anderson. And you are choosing to have agency counsel in the room with you today?

Mr. Hamilton. Yes.

Ms. Anderson. There's a stenographer taking down everything I say and everything you say to make a written record for the interview. For the record to be clear, please wait until I finish each question before you begin to answer, and I will 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's important that you answer each question audibly and verbally. Do you understand?

Mr. Hamilton. Sure.

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

Mr. Hamilton. I do.

Ms. Anderson. If I ask you 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 of those events or parts of the conversation that you do recall. Do you understand?

Mr. Hamilton. Yes.

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

Mr. Hamilton. I do.

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

Mr. Hamilton. Yes, I do.

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

Mr. Hamilton. I do.

Ms. Anderson. Is there any reason today you are unable to provide truthful answers in the interview?

Mr. Hamilton. No.

Ms. Anderson. Please know if you wish to assert a privilege over any statement, you must do so pursuant to committee rules. Committee rule 16(c)(1) states that, 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 schedule date of testimony or appearance.

In addition, subsection 3 states, quote, the only assertions 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.

Do you understand?

Mr. Hamilton. I understand.

Ms. Anderson. Do you have any questions?

Mr. Hamilton. No.

Ms. Antell. Before you begin questions, I just wanted to clarify, while we are here voluntarily and, you know, we're glad we were able to work out the scheduling issues, we remain disappointed that we were unable to come to a resolution regarding access to the transcript, having a final copy of the transcript after the interview.

We understand that it is committee policy not to provide that final transcript, but we think it's really important for recordkeeping purposes and fundamental fairness that we would have that transcript in the future. Again, we're here, we're ready to answer

questions. But in the future, if you guys decide to request a transcribed interview, we will have to revisit this.

Mr. Anello. If I may just briefly respond to that point. I think we reached a resolution, which is that the committee made an accommodation regarding the transcript. There was a request that we do so, and we did. I think we came to an agreement on that. I think you're correct in stating that the committee's practice under both Democrats and Republicans has not been to provide copies of final transcripts to agencies or to witnesses. However, we do make copies of the transcripts available at our offices. And you will have access to our transcript, which you'll be able to review and provide comments on, if you have any comments or concerns about mistakes or accuracy.

We've also made an offer for you to come back and look at the final transcript after it's been finalized, if you have a desire to do so, which was an additional accommodation. And then we also had an accommodation regarding notice that we discussed.

So obviously, if there is another interview, we can discuss that, but I do believe we reached a resolution and we've made several accommodations.

Ms. Antell. So we reached a resolution in that we're here and we are participating in the interview under the circumstances that you described. But note that we don't necessarily -- this is something we may have to return to.

Mr. Castor. Just for the record, the committee's been doing transcribed interviews of witnesses at a pretty high clip, going back to 2007. And some of those years there have been hundreds of TIs. Like in the IRS targeting investigation, I believe we interviewed almost 80 witnesses. And so our practices are not -- we have a pretty well worn path with our practices.

So I just want to say from the Republican side of things that the decision, you know, not to give the witness or the department a copy of the transcript isn't something new, and it really is the way things have been done. There have been exceptions, but very, very few. And some of those exceptions have related to when there has been IG investigations and they haven't been able to get ahold of the witness because the witness has left the department. And so, you know, maybe this litigation maybe is one of those exceptions, but that's something that certainly can be revisited in the future.

I just wanted to add that for the record, just for context purposes. But this isn't like a new Mr. Cummings rule.

Ms. Anderson. Anyone else want to add anything?

Okay. I will note for the record that it's now 10:12 a.m.

EXAMINATION

BY MS. ANDERSON:

Q Mr. Hamilton, can you please tell us when you first started working for the Department of Homeland Security?

A When I first started working for the Department of Homeland Security?

Q Yes.

A August of 2010.

Q Okay. And how about the most recent stint?

A January 20 of 2017.

Q And starting on January 20, 2017, what position or positions did you hold at the Department of Homeland Security?

A I was the senior counselor to the Secretary?

Q Who did you report to in that role?

A The Secretary.

Q Did you have any other roles during your time at DHS, starting in January 2017?

A No.

Mr. Anello. Can I just ask, were you at DHS in 2010 all the way through 2017 as well?

Mr. Hamilton. No.

Mr. Anello. So can you just give us a brief history of what you were doing?

Mr. Hamilton. Yeah. So I was a DHS employee from -- I don't remember if it was August or September. It was right around there, 2010 -- until spring of 2012. I left general counsel's office, went to ICE. I was with ICE from spring of 2012 to February of 2015. 2015 to January 20 of 2017, I was general counsel to Senator Sessions in the Senate Judiciary Committee.

Mr. Anello. Okay.

BY MS. ANDERSON:

Q So in your role as senior counsel, what issues did you work on?

A A number. Immigration, border security, Coast Guard, national security issues. There was a whole host of things.

Q And when did you leave DHS?

A The last -- toward the end of October of 2017.

Q Why did you leave DHS?

A I went to the Department of Justice.

Q What role did you take on at the Department of Justice?

A Counselor to the Attorney General.

Q Who did you report to in that role?

A Primarily the Attorney General. Although, in both situations at DHS and

Justice, there's some reporting involved to the chief of staff, of course, as well, in both places.

Q What issues did you start working on at the Department of Justice once you moved in October 2017?

A Largely the same issues.

Q So that --

A Immigration, border security, some national security issues.

Q Did you staff the Attorney General on those issues?

A I did. And I do.

Mr. Anello. If I might just go back to DHS for a moment. Can you just provide a little bit more detail about your role, let's say, starting with immigration, what your role was regarding immigration issues at DHS?

Mr. Hamilton. What do you mean by what my role was?

Mr. Anello. What did you do regarding immigration?

Mr. Gardner. Are you asking about specific assignments he worked on, Russ?

BY MR. ANELLO:

Q No. I am asking generally if there were particular subject matters you worked on, if you had a particular role. Why don't we start with particular subject matters that you worked on at DHS that related to immigration.

A I don't think I could identify particular subject matters. Just anything that affected immigration, my job was to advise the Secretary and to --

Q Were you -- I'm sorry.

A -- provide him with options, policy options, and to ensure that his decisions were executed on.

Q So were you the Secretary's senior-most adviser on immigration issues

during your time at DHS?

A Yes.

Q And did anybody report to you?

A I had some administrative folks who worked for me directly, but in terms of a chain of command reporting structure, no.

Q And at DOJ, can you describe a little bit more your role in immigration?

Were there particular issues related to immigration that you have worked on at DOJ?

A Very much the same, although it involves advising the Attorney General about litigation, reviewing briefs, doing things like that.

Q Are you the Attorney General's senior-most immigration adviser?

A Yes.

Q And was that the case under Attorney General Sessions as well?

A Yes.

Q And under Mr. Whitaker as well?

A Yes.

Q And is there a team that reports to you or do you have anybody that reports to you other than administrative staff at DOJ?

A On the organizational chart, I do not have any direct reports.

Q And you mentioned a few other issues that you said you worked on border security, national security. Are you also the most -- senior-most adviser to the Attorney General on those issues?

A The national security docket is largely handled by someone else, but I -- there's overlap, so we -- we work as a team.

BY MS. ANDERSON:

Q Has your position changed at all since you started in the Department of

Justice?

A No.

Q When did you first become aware that there were discussions about possibly adding a citizenship question to the 2020 Census?

A I guess probably -- it was probably spring, April of 2017, that time period.

Q How did you become aware?

A My recollection is that I was contacted by John Zadrozny on the Domestic Policy Council that I would be receiving a phone call from someone from the Department of Commerce related to the Census.

Q Okay. Had you worked on Census issues prior to that?

A No.

Q Had you been in contact with John Zadrozny prior to that?

A Almost every day, multiple times a day likely. I mean, it would depend.

Some days not, but we were in frequent contact because Domestic Policy Council at the White House, as I am sure you appreciate to know, has a role in the immigration world, and so there was frequent contact on that subject matter. And I've known John for a number of years. And so oftentimes, when John reaches out to me or when he reached out to me when he was in that capacity, it was on the basis of, hey, I know someone at DHS, I know Gene.

Q Okay. When he reached out to you, was that on the phone or email, in person?

A I think it was on the phone to the -- I think.

Q Can you go through a little bit about what John Zadrozny's role was, what your role working with him was like? Can you walk through that a little bit for us?

Mr. Gardner. While he was at Homeland Security?

Ms. Anderson. Yes. In that spring, April 2017 timeline.

Mr. Hamilton. Kind of hard to describe. It's having a normal working relationship in that these issues come up, there's discussions. The White House wants to know what's happening, certain issues. Sometimes we have a role to advise the White House. And so just attending meetings. I mean, there's a whole range of conduct.

BY MR. ANELLO:

Q Was Mr. Zadrozny your primary point of contact at the White House on immigration issues?

A No.

Q Who was your primary point of contact?

A Stephen Miller.

Q And did Mr. Zadrozny work on immigration issues?

A Yes.

Q And so what was his -- how did his role compare to Stephen Miller's role during the time that you worked with both?

A Well, John was a special assistant to the President, I believe, on the Domestic Policy Council, so he was more junior. Stephen's an assistant to the President.

Q And did you work with Mr. Miller at this time on immigration issues also?

A Yes.

Q And what was your working relationship with Mr. Miller like in terms of the types of conversations that you would have?

A I mean, the same general thing. It's hard to describe the meetings. I mean, we work with a lot of people at the White House on immigration generally. It's hard to nail it down to, not just John and Stephen; it is a whole host of people at the

White House. But Stephen is the White House's senior person on immigration.

And so to answer your question earlier, that's the senior-most person I worked with on immigration.

BY MS. ANDERSON:

Q So when he called you and said you might receive a call from DOC, did he tell you who you'd receive a phone call from?

A I think he said Earl Comstock, I think.

Q And did he tell you what that phone call would be about?

A I don't recall.

Q Did he tell you -- do you recall any of the other details about what he told you on that initial phone call?

A No.

BY MR. ANELLO:

Q Did he mention the Census?

A I believe I've already said that, that he mentioned I would be getting a call about the Census.

Q Did he mention the citizenship, the issue of the citizenship question?

A I don't recall.

Q Because I think that you -- I think you initially said the first time you became aware of the idea of adding the citizenship question was the call from Mr. Zadrozny, right?

Mr. Gardner. I don't think that characterizes his testimony accurately, but --

Mr. Anello. Well, he brought up the call, I think, in response to a question about the citizenship question, that's why I mentioned it.

Mr. Hamilton. I mean, I don't want to parse words here, but she asked a

question when did I first become aware of the issue. So looking back now, that's when it arose. I don't have any specific recollection if on that phone call I was told this is about the citizenship issue, but that was obviously my first engagement with the Department of Commerce.

BY MS. ANDERSON:

Q How long after that initial phone call did you receive contact from Earl Comstock or a person named Earl from the Department of Commerce?

A I don't remember exactly. It was pretty soon afterwards.

Q Was that via phone or email or in person?

A I think it was on the phone.

Q So could you describe what role you played regarding the citizenship question while you were at the Department of Homeland Security?

A Could you get a little more specific?

Q Did you have a role with dealing with this issue of the citizenship question while you were at the Department of Homeland Security?

Ms. Antell. Can I just ask you to make that question either more specific about it? I think that's a really -- that's a super general question.

I'm not sure if you're having trouble answering that.

Mr. Hamilton. Yeah. I guess, I mean -- what was my role? I mean, it would help me to better answer your question if we went back to the phone call and relayed some factual information that there was further discussions or something. I mean, this is -- we're taking a giant leap from here to here in your questioning. So if you can break it down, I will be able to give you better answers.

BY MS. ANDERSON:

Q Okay. When you received the phone call, was there anyone else on the

phone call besides Earl?

A Not to my knowledge.

Q Okay. How long did you talk for?

A Just a few minutes.

Q Did he tell you why he was calling?

A He did.

Q Why was he calling?

A He wanted to know if the Department of Homeland Security could use or had a need for the information for citizenship information on the Census that would facilitate a departmental mission.

Q Did he tell you why he was reaching out to see whether you had a need?

A No. Not that I can recall.

Q Is it usual for a different department to call you and ask whether you need information that you haven't requested?

A Sure.

Q In what other context have you received a similar phone call?

A I can't recall specific instances, but it's common practice for people at various departments to call each other to ask about various issues, to ask if something would be helpful or not helpful, or if there's something that they're working on they want to get our input. It's pretty standard practice.

Q And just to be clear, you hadn't asked for that particular dataset or reached out to the Department of Commerce before then?

A No.

BY MR. ANELLO:

Q So you said he asked you whether you could use that data, he meant

citizenship data?

A Yeah.

Q Did he give you any context? What type of citizenship data, where the data was coming from?

A No.

Q He just asked could you use citizenship data?

A Yes.

Q Did he say citizenship data on the 2020 Decennial Census?

A On the Census, Decennial Census. Yes, the one Census, same thing. Yes.

Q Did you have any – before that phone call, did you have any background in whether the Census asked questions related to citizenship?

A I was generally familiar with the issue, not specific – I am not an expert on it.

But generally, I was vaguely familiar with the public dialogue on the issue.

Q Had you spoken to anybody else about that issue prior to that conversation?

Mr. Gardner. You mean while at Homeland Security or ever?

BY MR. ANELLO:

Q Well, let's start with that, Homeland Security, and then we can go before then.

A At DHS? None.

Q How about prior to your 2017 stint?

A I don't recall having specific discussions about citizenship before. I know that when I was on the transition team, Kris Kobach had reached out to me at some point and mentioned some legislative proposals to something about citizenship. I remembered I didn't do anything with it. Got a lot of ideas from a lot of people, a lot of things that folks wanted to do or have the new administration do. I didn't really do

anything with it.

Q When did Mr. Kobach reach out to you?

A It was probably early November of 2016.

Q Early November, so after the election?

A Yeah.

Q Did he reach out to you before or after the election?

A I don't remember. Sometime around the election.

Q And can you describe what he told you, to the best of your memory?

A It was just he mentioned that he had a number of legislative things that he wanted to propose. One of them I think involved citizenship questions or citizenship on the Census. I don't really know. I didn't have any details on it.

Q Did he tell you what steps he'd taken, aside from calling you, to try to get a citizenship question on the Census?

A I don't think so.

Q Did he tell you that he had talked to anybody else on the transition team?

A No.

Q Did he tell you that he talked to the President-elect about it?

A No.

Q Did you take any further actions after you talked to him?

A No.

BY MS. ANDERSON:

Q Did you work on census issues as part of the transition team?

A No.

Q Did he indicate to you why he was reaching out to you specifically?

A He was -- Kris worked on the transition. He was part of our team, and so it

was not uncommon for Kris to say he was working on some thing or he had some idea or something.

Q What team was that?

A The immigration team.

BY MR. ANELLO:

Q And that was the team -- you were both on the immigration team?

A Correct.

Q Did he send you an email or any documentation relating to the citizenship question?

A I mean, I know he sent me an email saying he had this idea, but I don't think there's anything more than just an email with the idea.

Q An email describing the idea of adding the citizenship question to the Census?

A An email about a legislative proposal that he had related to the Census, but I don't -- I don't recall ever receiving an actual proposal or doing anything with it.

Q Did he explain to you or put in his email the question of -- explanation of why he would want to add a citizenship question?

A No.

Q Did you have a sense, either from talking to him or from talking to other people, about why? It seems like, to me, it's sort of a random thing to ask an immigration staffer on the transition team, right? I guess, did you have a sense of why he came to you?

A No. Look, again, Kris was part of our team. This was a time when people were talking about a lot of things. It was mentioned in the context of a number of legislative packages that he thought that we should advance in the new administration.

So he's more than welcome to share his thoughts and ideas. There's a lot of people who gave us -- much like staffers in Congress, I know you appreciate, you have a lot of folks who want your time -- propose a lot of ideas and you don't always do things with all of them.

Ms. Anderson. Was he part of any other team during the transition?

Mr. Hamilton. I don't think so.

Ms. Anderson. Okay. And then when he emailed you or reached out to you, did he discuss any like draft language for that legislative proposal or draft questions or anything like that?

Mr. Hamilton. I don't remember anything.

Mr. Anello. Did he talk to you during the transition in that conversation or separately about issues relating to congressional apportionment?

Mr. Hamilton. No.

Mr. Anello. Did you have other discussions during the transition about the Census citizenship question?

Mr. Gardner. With Mr. Kobach?

Mr. Anello. No, generally.

BY MR. ANELLO:

Q So there was the one conversation with Mr. Kobach, but did you have any other conversations with him or anybody else?

A Not that I can recall.

Q Prior to the transition, had you had discussions -- was there something that had come up in discussion, the issue of adding a citizenship question?

A Again, I don't recall any specific conversations. I just -- I'm vaguely familiar with it being part of the public discourse for a number of years, but it's not something I've

been --

Q So is it fair to say that that conversation with Mr. Kobach is the only conversation that you recall on this topic until Mr. Zadrozny called you?

A It's the only specific one I can recall. And I don't know that it was a conversation so much as an unsolicited email.

Q Even if you can't remember a specific email, do you have a more vague recollection that you might have talked to other folks during that period?

A No, no.

BY MS. ANDERSON:

Q So you received the phone call from Earl at the Department of Commerce, and he called you and you talked for a few minutes. Is that right? And he doesn't exactly say why the Department of Homeland Security might want this information, just asked whether you might want it?

A Yeah. I mean, it was a vague kind of general discussion about they were thinking about adding it to the Census and wanted to know if we had a need for it, if we could use the information for some reason.

Q Was there any ask or any next steps that were taken at the end of the phone call, or he just asked you whether you want it and hung up the phone?

A I told him, like, I would need to check with folks in the department and get back to him, is my recollection.

Q Who were those -- did you check with any people?

A I know I followed up, I don't know exactly who with, but my standard practice would have been to check with most of the components that were under kind of my portfolio, and with other folks, as well as headquarter's offices. Usually, the component or office head and their chief of staff was kind of my standard practice, just to

make sure that everyone's equities would be represented and everyone had a chance to opine.

So I can't tell you precisely who I contacted, but that was generally who I'd go to when I had questions about incoming things.

Q Which components would that be?

A Generally, we'd be talking about the Office of Policy, general counsel's office, ICE, USCIS, CBP, occasionally others, depending on the issue.

Mr. Anello. For an issue like this, who -- of those groups or others, who do you think you would have asked?

Mr. Hamilton. Probably that group. I mean, I don't know if I went to Coast Guard also, I am not sure. But they were also in my portfolio, but I don't remember if I did or if I didn't.

Ms. Anderson. Do you recall hearing back from any of them whether they could or could not use the particular information, or considered using or not using?

Mr. Hamilton. I don't recall any like specific feedback from any individual person or component, but my recollection is that there was -- no one had anything. And so I got back to Earl, I don't know what time period, maybe it was a couple days, maybe it was a week. I don't remember. -- basically let him know we didn't really have anything for him. We didn't really have a use for the information.

Ms. Anderson. Was that via email, phone, in person?

Mr. Hamilton. I don't remember.

BY MR. ANELLO:

Q Did you speak with the Secretary about this issue?

A I don't remember.

Q The Secretary of Homeland Security?

A I'm sorry, I just don't remember if I -- if I talked to him about it or not.

Q Is this the type of issue that you would have raised with the Secretary?

A Maybe. Again, sorry, it's been a busy 2 years, so --

Q Do you know if you ever had a conversations at DHS with the Secretary about the citizenship question?

A I don't recall any discussions with Kelly or Duke.

BY MS. ANDERSON:

Q Do you recall, besides sort of talking to components that were underneath your portfolio, do you recall talking with anyone else in that April timeframe at DHS about this issue?

A I don't think so.

Q Did you talk to anyone outside of DHS at that time about this issue?

A I don't -- I don't think -- other than Commerce and John Zadrozny at DPC, I don't -- I don't recall.

Q Did you reach back out to John Zadrozny after you'd spoken to Earl Comstock?

A I don't remember if I did or if I didn't.

Q And when you said people at Commerce, was that just Earl or were there other people that you had spoken with?

A Earl's the only one I remember, but maybe there was a couple -- I don't know.

Ms. Greer. Just to clarify, when you say did you reach back out to John Zadrozny after you spoke to Earl Comstock, you're talking specifically about the Census question?

Ms. Anderson. Yes.

Ms. Greer. Okay.

BY MS. ANDERSON:

Q Or did he reach -- did you guys talk at all after that?

A I mean, I talked to John all the time.

Q About the citizenship.

A About other things, but I don't recall any specific issues on a citizenship question.

Q Do you recall speaking about it with anyone else from the White House at that time?

A No.

Mr. Anello. What about later, did you speak to Mr. Zadrozny or anybody else at the White House about this issue later?

Mr. Hamilton. I don't think so. I mean, it might have come up when I was at DOJ, like in terms of a status check on something, but I don't recall, I guess, the specifics of the conversation.

BY MS. ANDERSON:

Q So going back to you informing Mr. Comstock that you didn't necessarily have a use for that data, was that the last time you spoke about this issue while you were at the Department of Homeland Security or did it come up at all after that?

Mr. Gardner. So just to be clear, are you asking about the last time he spoke with Mr. Comstock or --

Ms. Anderson. No, generally.

Mr. Gardner. Okay. Do you understand the question?

Can you just repeat it one more time?

Ms. Anderson. Sure.

BY MS. ANDERSON:

Q Between sort of that April, early April date and when you left the Department of Homeland Security, did this issue come up again? Did you speak with anyone else about this issue during that timeframe?

A No, not that I can recall.

Q And no one else from the Department of Commerce or the Department of Justice reached out to you about this issue when you were at the Department of Homeland Security?

A I don't recall.

Q And you said that you moved to the Department of Justice sometime in October of 2017?

A Yeah. I think it was the last week of October, I think.

Q Did you hear about this issue again in your role after you moved to the Department of Justice?

A I can recall it being an issue that was being looked at by the Department at the time.

Q How did you become aware that it was being looked at by the Department at the time?

A I couldn't tell you specifically like when I first became aware or how I first became aware. I just know generally it was something that was being evaluated. Do you know – have a sense of what else is happening in the Department or what else is under consideration generally speaking. But the way that the OAG, the Office of the Attorney General, is broken down, it was not my issue. It fell under the Civil Rights Division, and that was not my – generally not my group.

The Civil Rights Division does some immigration work, so their Immigration and Employee Rights Division in terms of work authorization and things like that, making sure

that people aren't discriminated against. So I know about that kind of work that they're doing. But other than that, Civil Rights Division is not at all in my portfolio and that was someone else at DOJ.

Q Just to go back quickly to when you first talked to Earl Comstock, did he mention where he had gotten -- if he had gotten your contact information from anyone else or if he talked to any other departments before talking to you?

A I don't recall specifically, but it seemed vaguely -- I think he mentioned that he had talked to Justice.

Q You don't remember if he provided any other details about what that entailed?

A No.

Q Did you refer or indicate to Earl Comstock that he should talk to anyone else after you sort of concluded that you didn't have use for that information at the time?

A I think I might have told him -- I'm sorry, it's been a couple of years, so some of this stuff is coming back together and it's hard to remember certain things. I seem to -- I seem to -- I seem to recall that he had told me that he had talked to Justice. I think that's right. He told me that he had talked to Justice at some point. And so I think I just told him to go back to Justice. We didn't have anything for him.

Q Okay. You didn't refer to anyone else inside of the Department of Homeland Security or any other agency?

A I don't think so.

BY MR. ANELLO:

Q Can I go back to one thing you just asked? You said that the Census citizenship question was not an issue that was in your portfolio because it fell under the Civil Rights Division when you were at DOJ.

A Uh-huh.

Q So whose portfolio was it in?

A Racheal Tucker.

Q Racheal Tucker. And her portfolio covered all the Civil Rights Division?

A Yes, that's correct. Racheal had a number of things under her portfolio.

Racheal's great, a really talented person. She's also a little protective of her turf. So she's a good friend, but I tried to tread carefully on making sure I wouldn't intrude on her work product in things that were under her oversight for the Attorney General.

Q Got it. So this is sort of a general question and I am not looking for a long answer, but did the Attorney General divide up all the issue areas among a small number of senior staff? Is that how it worked?

A Yes.

Q Can you give me a rough breakdown, instead of who those staff were, what the breakdown was? It was you, Racheal Tucker -- if this is too much to answer, of course, I understand.

Mr. Gardner. Russ, just to be clear, is there a particular time period?

Mr. Anello. Let's start with the time period we're talking about, which was, I guess, October 2017 when you started.

Mr. Hamilton. So in October, I mean, OAG I think was Matt Whitaker was the chief of staff, Gary Barnett was there, Danielle Cutrona, Racheal Tucker, me, Brian Morrissey. I think that might have been it. And so we all covered different offices and issue areas generally. Of course, as I touched on with my own work, occasionally there's overlap, and so you try to work together and make sure everything's -- everyone is playing nicely. We have a great team, a collaborative effort, but generally wouldn't get involved with something in someone else's portfolio.

BY MR. ANELLO:

Q I understand. So for the issues of immigration, that would be you?

A Yes.

Q Anybody else kind of keep all their immigration --

A Not really. I mean, people would be vaguely involved with, you know, things if there's overlap, but --

Q And on issues of voting or voting rights, would that have been Racheal?

A Yes.

Mr. Anello. Okay.

BY MS. ANDERSON:

Q So you became sort of vaguely aware that DOJ was working on this after you arrived in October of 2017. What do you mean by working on it?

A I mean, it was under consideration. I don't really know a better way to put it. It was something that was being evaluated.

Q By whom?

A I think by the Civil Rights Division and by the Attorney General.

Q Do you recall sort of the decision point or progress point that the Department was at when you first got there?

Mr. Gardner. I am not sure I understand the question.

Ms. Anderson. Sure. You're saying it's being considered, right? That's kind of, I presume, a broad range of what is considered in sort of the process of that. Do you remember when you first became aware of what part of the process they were in considering? Was it being considered for a few months? Was it right out the gate? Had anyone, you know -- can you describe what that point of the process they were in at that time?

Mr. Hamilton. Again, I want to make sure I give you the best answers here. It's been a while, but vaguely, I just seem to recall that it had been something they had been looking at for some time. It had been some months or something, I think. And I recall the AG had a discussion with Wilbur Ross at some point months before I got there. So I think that folks were looking at the issue as to whether, you know, there is the Department could use the information from the citizenship question on the Census.

Ms. Anderson. Did you learn anything else about -- or did you ever learn about the contents of the conversation between the Attorney General and Secretary Ross?

Mr. Hamilton. I don't recall any of the contents. And I can -- I remember a meeting I was at with John Gore, Racheal, and the boss. And I seem to recall they mentioned the discussion, the past discussion with Wilbur Ross, but I don't recall if they said anything specifically about the contents.

BY MR. ANELLO:

Q And do you remember when that -- based on -- if you remember, based on that conversation when the discussion had taken place with Mr. -- with Secretary Ross?

A No. It was sometime before I got there. I just don't recall.

Q At that meeting with Mr. Gore and the Attorney General and Ms. Tucker, was there a decision made to take some action?

A I don't recall. I don't think so.

Q Do you remember why the meeting took place and what was being discussed at the meeting, aside from the fact of this previous discussion?

A No. I mean, look, it's -- it might be like working for your member, your committee leadership. You're in the boss's office all the time to talk about all kinds of things all the time, on a frequent basis. So I couldn't tell you what the genesis was. I imagine it was something they're looking at, but I couldn't tell you.

BY MS. ANDERSON:

Q Besides your general awareness that this was an issue under consideration, did you talk to or discuss this issue with anyone at the Department of Justice?

A I mean, I guess I probably talked in -- I mean, if I was at a meeting where it came up, I must have talked with Racheal. I imagine it probably came up. I seem to recall having a couple of conversations with Racheal about it.

Q What were those conversations about?

A Just where things were with it, in general. How it was important to the AG to make a decision, I think, on, you know, what they were going to do to get back to the other -- to Secretary Ross on the issue, to be responsive. I think the AG felt like he owed an answer to him one way or the other about whether the Department could use the information.

Q Did you ever hear sort of prior to the, I guess a letter that went on December 12, that the Attorney General made a particular decision?

A No.

BY MR. ANELLO:

Q Did Racheal Tucker ever express a view on this issue to you?

A What do you mean by a view?

Q So you said that the Attorney General was -- felt it was important to make a decision and get back to the Department of Commerce, correct?

A Yes.

Q So did Racheal ever express a view on what that decision should be?

A I don't recall a specific discussion of her sharing her personal views of what the decision should or shouldn't be.

Ms. Anderson. Did you hear about anyone else's personal perspective on

whether the Department should request the question?

Mr. Gardner. I mean, just a yes or no and then follow up.

Mr. Hamilton. Could you say it again?

Ms. Anderson. Do you ever recall hearing about anyone else's personal perspective on whether the Department should ask the question?

Mr. Hamilton. I don't -- no, not a personal.

Ms. Anderson. What about a professional perspective?

Mr. Hamilton. I know that besides Racheal, I seem to recall Danielle also thought it was important to get back to Secretary Ross, for the boss.

Mr. Anello. Is that Danielle Cutrona?

Mr. Hamilton. Correct.

Ms. Anderson. Did she express a particular response she wanted or anticipated would be the response to Secretary Ross?

Mr. Gardner. You can answer that with a yes or no.

Mr. Hamilton. Not that I can recall.

BY MS. ANDERSON:

Q Did you ever see any materials generated by the Department of Justice or -- let's start there, by the Department of Justice about the citizenship question?

A I think so.

Q Okay. What do you think you saw?

A I think I saw the letter.

Q Okay. Was that the final letter or a draft of the letter?

A I think I saw a draft.

Q About what time did you see a draft?

A Either November or December.

Q Who gave you that?

A Racheal.

Q Why?

A I don't know.

Q Did she ask you to offer feedback or comments?

A I think she might have.

Q Did you do that?

A I think I got back to her. I don't think I gave her any feedback or comments or anything.

Q Was the draft that you saw different than the final draft that the Department sent to the Census Bureau?

A I couldn't tell you.

Q Do you remember seeing anyone else's comments or suggestions about the draft?

A Other than Racheal, no.

BY MR. ANELLO:

Q So you told us before this issue was not in your area or your portfolio, correct?

A Yeah.

Q And your primary portfolio was immigration?

A Correct.

Q Did you discuss with Racheal or others at the Department whether the citizenship question related in some way to your portfolio?

A I don't recall any specific discussions.

Q What about when you discussed that draft letter?

A I don't --

Mr. Gardner. Can you re-ask that same question again? I --

Mr. Anello. Sure. So you did, I believe, recall discussions with Racheal regarding a draft letter, because you said she asked you to take a look at it.

Mr. Hamilton. Yeah.

Mr. Anello. During those discussions, did the issue of immigration come up?

Mr. Hamilton. I don't think so.

Ms. Anderson. Do you recall seeing any materials from anyone outside of the Department of Justice about this issue?

Mr. Hamilton. Any materials from anyone on -- I mean, other than what's like in the news?

Ms. Anderson. Sure.

Mr. Hamilton. I mean, no.

Mr. Gardner. Wait. Hold on one second. Are you asking if he's seen things like newspaper articles?

Ms. Anderson. No.

Mr. Gardner. Or are you asking if people outside DOJ provided things to DOJ about the citizenship question?

Ms. Anderson. Correct.

Mr. Gardner. I think you guys probably passed each other. So do me a favor, re-ask the question again, because I think there was a lack of clarity on both sides.

Ms. Anderson. Sure.

BY MS. ANDERSON:

Q Do you remember seeing any materials that were received from people outside of the Department of Justice --

A No.

Q -- about the citizenship question?

A No.

Q Do you remember if anyone discussed receiving materials or having seen materials from outside of the Department of Justice?

A No.

Mr. Anello. Are you aware of anybody at the Department of Justice having conversations with people outside the Department of Justice about this issue?

Mr. Hamilton. I mean, other than the Department of Commerce?

Mr. Anello. Let's say other than the Department of Commerce.

Mr. Hamilton. Not that I can recall.

BY MS. ANDERSON:

Q Besides the draft letter that Racheal showed you the first time, did you see any other drafts of anything regarding the citizenship question?

A No, I don't think so.

Q You didn't see any follow-up drafts to that letter, nothing like that?

A I don't think I received any follow-up drafts.

Q I don't know if I already asked this, but I'll ask it again just in case. Did you speak with anyone outside of the Department of Justice about this issue while you were at the Department of Justice?

A During what time period?

Q Presumably after you got there in October through, let's say, the new year.

A I don't think during that time period that I had any discussions with anyone. Although, I don't remember, there's some litigation that followed. I don't remember when that started, but I would have been vaguely aware of the ongoing litigation --

Q As far as you know, did the Department of Homeland Security or any of its components change its position on whether it could use this citizenship data during this time?

Mr. Gardner. Just to be clear, by during this time, you mean after Mr. Hamilton went to the Department of Justice did DHS change its position?

Ms. Anderson. No. Let's start with you indicated to Mr. Comstock we don't need this at this time. From that point until now, are you aware of the Department of Homeland Security changing its position or any of its components about whether it could use this particular information?

Ms. Antell. I'm not really sure how Mr. Hamilton can be responsible for the Department of Homeland Security's position after the time he left.

Ms. Anderson. I'm just asking whether he became aware of the position changing, not whether he was responsible for the position changing.

Mr. Hamilton. I have no knowledge of anything changing.

Mr. Anello. Just to follow up on that one point, though, do you work closely with people at the Department of Homeland Security?

Mr. Hamilton. Yeah.

[Hamilton Exhibit No. 1

Was marked for identification.]

BY MS. ANDERSON:

Q I'm going to hand you what's marked as exhibit No. 1, and I'll just give you a chance to read it.

A Okay.

Q So I've handed you what's marked as exhibit No. 1. It's an email that's time stamped September 16, 2017, sent from Earl Comstock to Wendy Teramoto.

Is Earl Comstock the Earl that we've been discussing?

A Yeah.

Q Okay. And do you have that email in front of you right now?

A Yes.

Q Okay. So the email appears to be a memo from Earl Comstock sent to Secretary Ross on September 8, 2017, and it reads -- and then let me know if I've gotten anything wrong -- quote: In early May, Eric Branstad put me in touch with Mary Blanche Hankey as the White House liaison and the Department of Justice. Mary Blanche worked for AG Sessions in his Senate office and came with him to the Department of Justice. We met in person to discuss the citizenship question. She said she would locate someone at the Department who would address -- who could address the issue. A few days later, she directed me to James McHenry in the Department of Justice.

I spoke several times with James McHenry by phone. And after considering the matter further, James said that Justice staff did not want to raise the question, given the difficulties Justice was encountering in the press at the time (the whole Comey matter). James directed me to Gene Hamilton at the Department of Homeland Security.

Gene and I had several phone calls to discuss the matter, and then Gene relayed that after discussions with DHS -- after discussions, DHS really felt that it was best handled by the Department of Justice.

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 could add the question to the Census itself.

Did I get that right?

A Seems about right.

Q Approximately.

Okay. Do you know James McHenry or had you worked with him while you were at DHS or DOJ?

A Yes.

Q Okay. In what capacity did you work with him?

A James is currently the director of the Executive Office for Immigration Review, the Department of Justice. So I work with him now pretty regularly. I know I had worked with James previously when I was at DHS and he was at DOJ at the start of the administration. And James and I also worked together at ICE.

Q Did James McHenry reach out to you or speak to you at all about referring Earl Comstock to speak to you about this issue?

A I don't -- I don't recall. He never mentioned it.

Q Do you know why he would have directed Earl Comstock to speak with you?

A No.

Q Did Earl Comstock indicate at all that he had spoken to James McHenry when he contacted you?

A He might have. I just -- I don't remember.

Q Did he indicate why James McHenry thought of you after he had spoken with the Department of Justice?

A No.

Q Did you ever have any conversations, to your recollection, with James McHenry about citizenship question being added to the 2020 Census?

A I don't remember any.

Q Were you aware that Mr. McHenry said that "Justice staff did not want to raise the question given the difficulties Justice was encountering in the press at the time, the whole Comey matter"?

A I don't remember that because I don't know that I was ever told that. And this email seems to indicate that this was a discussion between James and Earl, so I don't know why I would know that.

Q Are you aware, though, of any circumstances surrounding that or any more details regarding what he would be referring to?

A No.

Q And just to be clear, had you ever spoken to Earl Comstock before he called you?

A I don't think so.

BY MR. ANELLO:

Q I know we talked a little bit about the conversation already, but I just want to clarify something. When he called you and he mentioned the citizenship question –

A Who's he?

Q Earl Comstock.

A Okay.

Q – and he mentioned the citizenship question, did he explain why he was asking for your thoughts on whether DHS would be interested in having that data?

A Again, I think we covered this, but I don't recall him saying why he wanted the information.

Q Did he say that the Department of Commerce had an interest in adding a citizenship question?

A I don't recall him saying that they had an interest or they didn't have an interest. I couldn't tell you.

Q Did he mention Secretary Ross', Secretary Wilbur Ross' views on the topic?

A No, I don't recall.

Q Did he tell you anything about Secretary Ross? For example, did he say that Secretary Ross had asked him to place this call?

A I don't recall.

Q And did you ask him for any context about this?

A I don't remember.

BY MS. ANDERSON:

Q Did he provide any reason why DHS might want this information?

A Did he give me any reason why he thought he just might want to –

Q Sure.

A Not that I can recall.

Q Did you give him any indication how DHS might use this before you sort of went to check in with the different components?

A Not that I can recall.

Mr. Anello. So just to make sure I'm getting it, it sounds like he came sort of a request that was out of the blue and random. Is that fair, from your understanding?

Mr. Hamilton. I think that's fairly -- that's a fair assessment. I mean, it was kind of unexpected, other than the fact that John Zadrozny had let me know that Earl would be reaching out to me. It was a little bit out of the blue.

Mr. Anello. And you went ahead and then polled sort of the components and offices within your department on this issue without having any background on it?

Mr. Gardner. That mischaracterizes Mr. Hamilton's testimony. Previously, he said he didn't recall what he did, but he stated his general practice previously.

Mr. Anello. Okay. But I think you said you thought that's what you would have done in the circumstance. I guess I'm asking what -- what you told us that in the circumstance, you got no context for the request, but you still think you would have gone

and polled everybody at the components, the senior folks at the components that you work closely with.

[11:03 a.m.]

Mr. Hamilton. Sure. I don't -- I'm telling you today I don't kind of recall any specific information he told me about it, but I seem to recall asking people questions about it at the Department. I don't -- couldn't tell you specifically who I asked, but --

Mr. Anello. Did the fact that John Zadrozny had called you from the Domestic Policy Council beforehand influence your decision about how to handle this request?

Mr. Hamilton. I don't know that it did, but, I mean, it showed me he was aware of it, the White House was aware of it. But I couldn't -- I don't recall any specific reasoning.

BY MS. ANDERSON:

Q Does John Zadrozny or someone from the White House reach out to you every time before someone from a different agency reaches out?

A No.

Q About how -- you know, if you were to put a percentage on it or kind of tag how often that happens, how often does it happen that he calls you and says someone from somewhere else might call you?

A I couldn't put a number on it, but it happens when -- oftentimes, it's -- the White House does a good job of introducing people from different departments when they don't know each other. And so given that half the battle in the government is actually knowing the human being on the other end of the phone call to talk to, when people don't know the other human being to talk to, sometimes they'll make connections. So it happens occasionally, but I couldn't give you an estimate.

Q Would you say it's fewer or more than 10 times?

A I couldn't -- I couldn't give you an estimate.

Q But it wasn't the only time that he did that, or was this the only time that he

did that?

A I seem to recall John reaching out on multiple occasions to introduce me to different people over the last couple of years, and continues to today. John works at the State Department now, and if there's someone at the State Department that we need to talk to or something, he'll make an introduction. I mean, it's -- it's just kind of the way people interact.

Q From your recollection sort of when he was at the White House talking to you and coordinating with you was mainly the people he was introducing you to other people in the immigration space?

A I mean, a lot of the time, but it could have been other issues too. Again, I think with John especially, since I've known John since 2015, it's really a matter of, hey, I know someone who works at that department, not necessarily related to specific issues but, you know, that you can at least help put a, you know -- you can at least tell him where to go or vice versa if there's a question.

Q You said that sometimes when you hear from, I guess, John or someone else from the White House, that that indicates to you that the White House might be aware. Did you have anymore specific indication that the White House was aware of this issue or a particular person at the White House was aware of this issue or interested in this issue?

A No, not that I can remember.

BY MR. ANELLO:

Q Did you ever talk to Stephen Miller about the citizenship question?

A I don't remember ever talking to Stephen about the citizenship question.

Q I do want to ask one more question about the conversation with Mr. Comstock. Did you talk about the Voting Rights Act with Mr. Comstock?

A I don't -- I don't recall talking about the Voting Rights Act.

Q Did he mention it when he asked if DHS would have an interest or a use for citizenship data?

A I don't remember.

Q I mean --

A Again, vaguely I think he said something about having to talk to the Department of Justice, but I don't recall any specifics.

Q DHS does not enforce the Voting Rights Act, right?

A As far as I'm aware.

Q Does -- are you aware that DHS has any particular expertise in the Voting Rights Act?

A I don't think so.

Q And I think you told us you don't have a particular expertise in the Voting Rights Act?

A No.

Q Is it fair to say that if the Voting Rights Act was the subject of the call, you would not have been the right person to talk to about it?

A I think that's -- I would not have been the right person to talk to about it.

Ms. Anderson. Did you ever ask why there was this interest in, I guess, adding the question or considering adding the question?

Mr. Gardner. Ask Earl Comstock or anyone?

BY MS. ANDERSON:

Q Well, we'll start with Earl Comstock.

A I don't remember.

Q Okay. How about -- so you said you didn't hear about it again until you got to the Department of Justice?

A That's my recollection.

Q Sure. Did you recall asking or hearing -- well, let's start with asking. Do you recall asking anyone at the Department of Justice why Secretary Ross, the Department of Commerce was interested in considering or wanting to add the citizenship question?

A I don't think so.

Q Okay. How about, do you remember asking or inquiring why the Attorney General or anyone at the Department of Justice might be interested in adding or supporting the Department of Commerce in adding the citizenship question?

A I don't recall anything.

Q So when Racheal Tucker handed you this document, did you have any -- do you recall having a conversation around it? Did she drop it off in your mailbox?

Mr. Gardner. Just so we have a clear transcript. By document you mean the draft of the December letter?

Ms. Anderson. Correct. Yes. Thank you.

Do you remember having any conversation around why she was -- not why but any conversation about the contents of the letter or any other context, or did she just kind of hand you something?

Mr. Hamilton. Well, to go back, I can recall at least one meeting that I was in in the AG's office where it came up. And I think I said this earlier also, I may have had a couple discussions afterwards about the general subject with Racheal, maybe Danielle, maybe not. I don't recall specifically.

So vaguely, I was kind of aware of what was going on, and so it wasn't completely out of the blue when Racheal sent the draft letter to me. But I don't recall -- I don't recall much about the time around there or the --

Mr. Anello. I just have one question. You mentioned a meeting just now. Is this the meeting we already discussed where you learned about Secretary Ross talking to the Attorney General --

Mr. Hamilton. Yes.

Mr. Anello. -- or was it a different meeting?

Mr. Hamilton. Yes.

BY MS. ANDERSON:

Q When you said she sent the letter to you, was that via email?

A I think so.

Q Okay. And did you also respond to that via email or in person?

A Probably on email.

Q Okay. Did Earl Comstock indicate to you at all why the Department of Commerce was reaching out to agencies to see whether they needed the information?

A I don't recall.

Q When you indicated to him the Department of Homeland Security does not currently need that information, do you recall more specifically what you told him?

A No.

Q Were there any other reasons for the Department of Homeland Security declining to request the question besides sort of what you think may have been your survey of the components?

Mr. Gardner. I'm not sure I understand that question.

Ms. Anderson. Sure. So you indicated to Mr. Comstock that, you know, DHS did not have a need at that time for the question. Were there any other factors that influenced that decision from the Department of Homeland Security to not request or not support the request for the addition of the question?

Mr. Hamilton. I'm still not sure I understand your question.

Ms. Anderson. Okay. So --

Mr. Anello. Maybe -- can I maybe just back up. Do you remember the reason that you told him DHS did not need this information?

Mr. Hamilton. Well, I think we already talked about this, and I think what I conveyed back was that we didn't have a use for it, generally. I think that's what we talked about. I don't have the transcript in front of me, but I'm fairly certain we talked about that about 10 minutes ago.

Ms. Anderson. Was there any other reason -- besides not having a general need, was there any other reason involved?

A I presume no.

Ms. Antell. We've been going just about 1 hour. Is this a good time for a break?

Ms. Anderson. Sure.

Ms. Antell. Great.

[Recess.]

Ms. Anderson. We're going back on the record at 11:24. I believe the Republican staff has decided to not take their hour at this moment, so we will continue from here.

BY MS. ANDERSON:

Q I want to point your attention back to Exhibit 1, which I handed you before our break. Mr. Comstock indicated that he had spoken with you on the phone several times. Do you recall only one conversation or do you recall his several times recollection of that?

A I don't recall several times. It was -- define several, right. And, I mean, I

know he reached out to me and I got back to him, so that's two times. But I don't think there's anything beyond that.

Q Okay. So you don't recall any other details regarding any conversations that you had with Mr. Comstock besides his initial phone call and then your, I guess, return communication or phone call?

A No. I don't recall anything else.

Q When he called you, I think you indicated that it was just the two of you on the phone. Is that correct?

A I think so.

Q Okay. When you returned his phone call or reached back out to him again, did you have anyone else on the phone with you at that point?

A I don't think I did. I don't remember exactly, but I seem to think it was just the two of us.

Q Okay. And you spoke with -- or did you ever have conversations with John Gore at the Department of Justice about the citizenship question?

A Well, during what time period?

Q Let's go with from when you started at the Department of Homeland Security to, I guess, January 20, 2017, through the rest of 2017.

A I don't recall specific conversations with John. I just -- I know that there was at least one meeting that if we were in there and that was a topic, we arguably would have discussed it then. But it's -- I don't recall a specific additional question -- discussions with John.

Q Do you recall speaking with him in the fall of 2017, I guess, outside of that one meeting about this issue?

A No, I don't think so.

Q Okay.

A I don't recall.

Q And I think you indicated earlier that you don't recall specific discussion points around the citizenship question; it's just it may have been discussed at that meeting. Is that accurate?

A I think so.

Q Okay. Were you ever asked to do anything or were you ever responsible for doing anything regarding the citizenship question at the Department of Justice?

A I don't recall having any -- been asked to do anything or --

Q Were you aware of specific actions being taken by other Department of Justice officials regarding the citizenship question besides, I guess, the drafting of the letter? Were you -- let me -- I'll rephrase.

Mr. Gardner. Yes.

BY MS. ANDERSON:

Q Were you aware of any other conversations that Department of Justice officials were having with anyone outside of the agency regarding the citizenship question?

A No.

Q Okay. Were you ever aware, just to be more specific, of conversations that were occurring between the Department of Justice and the Department of Commerce about the citizenship question?

A Not -- not more than just generally knowing -- no, there was ongoing discussions of some kind.

Q Okay. So you never participated in any phone calls or anything regarding that?

A I don't remember any phone calls.

Q Did you arrange a phone call between John Gore and the Department of Homeland Security in the fall of 2017?

A I don't remember.

Q After you joined the Department of Justice, did you often arrange communications between not yourself and other members of the Department of Justice and officials from the Department of Homeland Security?

A I mean, on an as-needed basis, I would -- I'm happy to make connections between people who need to talk to each other.

Mr. Anello. Can I ask that just -- do you recall, at any point after you came to DOJ, speaking to anybody at the Department of Homeland Security about the issue of the citizenship question?

Mr. Hamilton. I don't remember having any additional conversations.

Ms. Anderson. You mentioned that you had a conference call or a phone call with John Zadrozny after you joined the Department of Justice about this issue? Or am I misremembering?

Mr. Gardner. I think that misrepresents the testimony.

Ms. Anderson. Okay. Did you have any conversations with John Zadrozny or anyone else at the White House regarding the citizenship question after you joined the Department of Justice? I'm happy to cap in the timeframe a little bit more if that's helpful. Why don't we do -- I guess you joined in October 2017, and when Secretary Ross issued his decision memo in March of 2018.

Mr. Gardner. And the question is what? I'm sorry.

Ms. Anderson. Did you -- do you recall any conversations that you had or participated in with John Zadrozny or anyone at the White House about the addition of

the citizenship question in that timeframe?

Mr. Hamilton. I don't think so. I mean, again, it's been a very, very busy time in the administration. There's been a lot happening. I know that the issue has come up, but it might have just been -- come up with counsel's office in terms of litigation. But I don't -- I couldn't tell you when the litigation started. I don't know when Ross made his decision. I don't know.

Mr. Anello. Well, let me just ask you this. Are you aware of a conference call that involved John Gore, Racheal Tucker, John Zadrozny in roughly October 2017 about the citizenship question?

Mr. Hamilton. No.

BY MS. ANDERSON:

Q Was John Zadrozny Racheal Tucker's point of contact in the White House as well or primarily yours?

A I don't know that we -- I don't know that I understand your question. I mean, he -- he works at the White House and we work at the Department of Justice, and you talk to whoever you need to talk to.

Q Okay. I'll rephrase. Did John Zadrozny stay your primary point of contact at the White House when you moved from the Department of Homeland Security to Department of Justice?

A Well, he -- I mean, he was a person I dealt with. He was not a primary contact. He was -- I do not have a primary contact at the White House. I have many contacts at the White House.

Q Okay. Are you aware of Racheal Tucker communicating with John Zadrozny about general issues or specific issues?

A She could have. I just -- I don't know. I mean, I -- Racheal, like me,

knows -- has known John for a while, so I couldn't tell you how often they talk or don't talk.

Mr. Anello. What is John Zadrozny's portfolio at the Domestic Policy Council, to your knowledge?

Mr. Gardner. You mean what was it?

Mr. Anello. Yes. What was it at the time?

Mr. Hamilton. I know he dealt with some immigration stuff, but he dealt with a lot of other things too. I don't know what they were because I didn't really interact with him on things outside of the immigration space, except if it was to connect me, you know, as I said earlier, unless it was like, hey, Gene, I'm looking for such and such, can you point me in the right direction.

Ms. Anderson. I'm going to hand you what's marked as Exhibit 2.

[Hamilton Exhibit No. 2

Was marked for identification.]

Mr. Anello. The first Bates stamp number should be 125753.

Mr. Gardner. Four pages?

Mr. Anello. Yes.

Mr. Gardner. Is yours five pages?

Mr. Hamilton. 753 through 756?

Mr. Anello. Yes.

Mr. Hamilton. Those are the pages I have.

Okay.

BY MS. ANDERSON:

Q Okay. So I've handed you what's marked as Exhibit 2. I'm going to direct you to the fourth page of the document. It's DOJ number 00125756. Are you looking

at that page?

A Yes.

Q Okay. The email is from John Zadrozny. Is that -- that's the John Zadrozny we've been speaking about?

A Yes.

Q Okay. And the email reads on February 16, 2018: Brian, James, and Gene, I want to connect with the three of you about having that conversation we discussed at some point this week.

And then goes on to --

Mr. Gardner. Some point next week.

Ms. Anderson. Sorry. What did I say?

Mr. Gardner. This week.

Ms. Anderson. Oh, sometime next week. Thank you.

BY MS. ANDERSON:

Q And then it goes on to, I guess, discuss where it will be hosted and the timing.

A Okay.

Q And that email is sent to you. Is that correct?

A Looks like it was, yes.

Q And the other people on the email appear to be James Uthmeier at the Department of Commerce and Brian Lenihan.

A Okay.

Q Does that appear correct?

A Those are the names.

Q Sure. Do you recall what this particular meeting was supposed to be

concerning?

A No.

Q Okay. Did you have any cause to or had you ever had any other discussions with James Uthmeier about other topics or about topics in general?

A No. I don't recall having any discussions with James Uthmeier or Brian Lenihan. I couldn't pick them out of a lineup.

Mr. Anello. Do you know them? Do you know who they are?

Mr. Hamilton. I don't. It doesn't -- sounds like they work for the Department of Commerce and it seems to vaguely seem familiar. I --

BY MS. ANDERSON:

Q Were you aware that James Uthmeier worked, I would say, fairly extensively on the citizenship question issue from the Department of Commerce side?

A No.

Q And you said you had never had a conversation with James Uthmeier. Is that correct?

Mr. Gardner. I think he said he didn't recall.

Ms. Anderson. Sure.

Mr. Hamilton. I don't recall ever having a conversation with him or with Brian.

Mr. Anello. Do you work on any issues that involve Domestic Policy Council and the Department of Commerce?

Mr. Hamilton. I don't know. Maybe.

Mr. Anello. Well, do you remember any issues you've worked on?

Mr. Hamilton. No. I don't think so. I mean, I -- Department of Commerce and DPC have been on phone calls with other components of the White House that I've been on various things, but I don't generally -- no, I don't think so.

Ms. Anderson. Have you ever had discussions with Peter Davidson from the Department of Commerce?

Mr. Hamilton. I don't think -- I don't think so. I don't recall.

Ms. Anderson. On the first page of that document, Exhibit 2, there's an email from you that says, quote, Thanks, John. I have an unavoidable conflict at 4:30, and I'm slammed -- and a slammed afternoon otherwise. -- And I just can't read today. Sorry about that. -- Can I call?

And John Zadrozny writes back, quote, I'll fill you in on what happens. I'm trying to avoid phones on this one.

Do you know what he means by --

Mr. Gardner. For this one.

Ms. Anderson. For this one. Thank you. It's just one of those.

BY MS. ANDERSON:

Q Do you recall what he meant by "I am trying to avoid phones for this one"?

A No, I couldn't tell you.

Q Would there be any reason why he'd want to avoid phones on a particular topic?

A I don't know why he would want to avoid a phone call.

Q Would that sort of hit on your radar as something unusual or odd?

A I mean, it seems odd to me looking at it now. But I have no knowledge of this or recollection of his reasons why he'd want to avoid a phone.

Q Were there other topics where he indicated he wanted to avoid phone calls about them?

A Not that I can remember.

Ms. Sachsman Grooms. Were there any topics that you talked to John Zadrozny

about that were extremely sensitive?

Mr. Gardner. You can say yes or no, if you understand.

Mr. Hamilton. I don't think I understand what you mean by extremely sensitive.

Ms. Sachsman Grooms. Were there any topics that you talked to John Zadrozny about that you or he felt were so sensitive that they needed to not be discussed over the phone?

Mr. Gardner. You can answer that with a yes or no.

Mr. Hamilton. I don't think so. I don't recall anything. If there was ever a sensitive discussion, we would -- presumably involving classified information, we would use secure modes of communication to have those conversations.

BY MS. SACHSMAN GROOMS:

Q Sure. How about sensitive topics that are not classified?

A No, I don't think so.

Q Did you ever have a conversation with Mr. Zadrozny about not writing down any particular information in an email?

A I don't think so.

Q Did you have any conversations with anyone else at the White House about not documenting or writing down any particular information in an email form?

Mr. Gardner. You're talking about ever or with respect to the citizenship question?

Ms. Sachsman Grooms. Ever.

Mr. Gardner. You can answer that yes or no.

Mr. Hamilton. I don't think so.

Ms. Sachsman Grooms. Have you ever discussed with anyone at the Department of Justice not writing down any particular information in a document or an email?

Mr. Gardner. You can answer that with a yes or no.

Mr. Hamilton. Not that I can recall.

[Hamilton Exhibit No. 3

Was marked for identification.]

Ms. Anderson. I'm going to hand you what's marked as Exhibit 3.

Mr. Hamilton. Okay.

Ms. Anderson. It's from the same email chain, so --

BY MR. ANELLO:

Q So if you look at this email, the bottom of the first page, it's the same email from John Zadrozny --

A Okay.

Q -- to James Uthmeier and you. It looks like they blacked out the third name. It says it's addressed to Brian, James, and Gene. And then your response to -- on February 16 at 1:34 p.m. is, Remind me when I see you what this meeting is about. And John writes, Will do.

A Okay.

Q Do you know why you asked him to remind you when you see him what the meeting is about?

A No. It could have -- no, I don't remember.

Q Okay. Why didn't you just ask him to tell you over email what the meeting was about?

A Well, generally, on -- during this time period, I think there were standing meetings at the White House on Friday afternoons that we would both attend. So -- and I think they happened around 2:00 or 3:00, so I don't know. But he responds at 6:00 saying, Will do. So I -- honestly, I don't have any idea.

Q Okay. So I just want to make sure we're understanding the context here. His email said, I wanted to connect with the three of you about having that conversation we discussed at some point next week.

So from this email, it appears that you had previously talked to him about having a future conversation, correct? Is that how you read this?

A That's what his sentence says. I don't recall having any discussion with John Zadrozny that would have involved James and Brian.

Q I -- we have reason to believe that this conversation related to the citizenship question, based on the production from your department. Do you have any recollection that this conversation may have related to the citizenship question?

A No.

Q To provide you some context, this was February 16 of 2018. Secretary Ross issued his decision memo March -- 26?

Ms. Anderson. 28th.

BY MR. ANELLO:

Q -- 28th, 2018, so a little bit over a month later. Do you recall ever having a meeting or a call or discussion at the White House that related to Secretary Ross' decision memo?

A No.

Q Did you ever discuss that decision memo with anyone at the White House?

A No.

Q Did you ever discuss it with anybody at the Department of Commerce?

A No, I don't think so. I don't think I've ever talked about it with anybody, other than at DOJ and then the ensuing litigation.

Q Did you have any discussions in February 2018 about Secretary Ross'

decision or impending decision regarding the citizenship question?

Mr. Gardner. Discussions with anyone?

Mr. Anello. Correct.

Mr. Hamilton. I don't remember any discussions during that time period about this issue.

[Hamilton Exhibit No. 4

Was marked for identification.]

BY MR. ANELLO:

Q I want to show you another email. So this is DOJ 00125641. This is another version of the same email chain. And in this one, if you look at the first page, the second email down you write to John Zadrozny, on February 21, 4:37 p.m., Can we just turn this into a call?

A Okay.

Q And Mr. Zadrozny responds, We need to do this as a meeting because of the sensitivity of the content. Can you do Monday? I would rather hold off until James is physically back in the United States.

A Okay.

Q Does that jog your memory as to —

A No.

Q Do you recall any other circumstances when Mr. Zadrozny told you he didn't want to talk about an issue over the phone because of the sensitivity of the content?

A I can't recall any specifics.

Q Is this unusual?

A For some people, yes. John can be a little quirky about things, but he can be very sensitive about talking about things or approaching different issues, but I don't

recall any specifics.

Q So you don't recall any other time that he told you there was an issue he didn't want to talk about over the phone?

A I just said I can't recall a specific time.

BY MS. SACHSMAN GROOMS:

Q To be clear, do you recall this time?

A No. I just said that.

Q So --

A I don't recall this. I don't recall anything about this. You all can ask me about it all day and we can waste the next 4 hours sitting here, but I'm telling you, I don't remember.

Q Okay. On Exhibit 3, after he said to you, I want to discuss -- "I wanted to connect with the three of you about having that conversation we discussed at some point next week," you say, "Remind me when I see you what this meeting is about."

A Okay.

Q Do you know why you didn't just ask him what the meeting was about?

A We just talked about this. I just answered that question with your colleague. Like, I don't have any idea what this is about. Clearly, I had no idea what this meeting was about at the time. I don't have any idea why I would say remind me or, you know, why don't I just hit reply with a question mark. I have no idea.

BY MR. ANELLO:

Q Who is David Wetmore?

A Dave Wetmore is -- who is he now? Who was he then? What time period?

Q That sounds existential. How about who was he at the time?

A Who was he at the time? Dave Wetmore was a tremendous individual who worked at the Domestic Policy Council. He was on a detail. He is today -- I'll go ahead and just answer your next question. He is today a tremendous person who works at the Department of Justice for the deputy attorney general.

Q On February -- in February of 2018, did he already work -- had -- did he work at the Department of Justice or at the Domestic Policy Council?

A I don't remember. He turned -- not turned. He changed back to DOJ around that timeframe. I don't know -- I don't recall when.

[Hamilton Exhibit No. 5

Was marked for identification.]

BY MR. ANELLO:

Q All right. I'm going to show you another email. So this is DOJ00125693. This is another version of the same email chain, and I wanted to direct your attention to the bottom of page three.

A When you say page three --

Q Sorry, the third page.

A -- you mean Bates stamped 695?

Q Yes.

A Okay.

Q So this is an email from February 26, 2:41 p.m. John Zadrozny, he wrote: Gene, and I'm adding Dave, if either or both of you two can be available at 4:00 p.m., we can call one of your numbers so you are in on the conversation. I just don't want to set up a conference line.

A Okay.

Q David Wetmore wrote back, I will be available. And you said, I shall -- I

should be around for a little while.

Why -- do you know why Mr. Zadrozny would not have wanted to set up a conference line?

A No.

Q Were there concerns about the security of conference lines used by the Department of Justice or the White House?

A I have no idea.

Q So this is not a concern you've heard before from him or others at the White House?

A No. I mean, I know that conference lines can be -- I'm generally familiar with principles of operational security, that if someone has a phone number and a conference line access code, you can call in. But I -- other than that, I don't know why he wouldn't want a conference line.

Q Okay.

A It doesn't make sense.

Q There's then some further scheduling emails. And then if you go to the first page, which is 00125693 --

A Okay.

Q -- there's an email from David at the bottom, David Wetmore to you. "Are you on the call?" You respond, "No one called me." He responds, "Odd."

A Okay.

Q Do you have any memory of this email?

A No.

Q Do you have any memory of ever talking to David Wetmore about the Census citizenship question?

A No.

Q Do you know if he played any role in that question?

A No.

BY MS. ANDERSON:

Q What was his portfolio at the White House -- or when he was at the White House and then when he was at DOJ?

A He worked at the Domestic Policy Council. I don't know precisely what all he did on -- in his portfolio. He did a lot of immigration stuff, but I know -- I think -- I seem to recall he did other things too.

Q Okay. So did you work with him in that capacity when you were at DHS?

A Yes, I think so.

Q Okay. And then at DOJ?

A Yeah.

Q And then what was his portfolio when he -- this email seems to indicate that he was at the Department of Justice in February?

A Yes, it does seem to indicate that. So that's good, so he did turn into a DOJ employee again. That's good.

Q What did he work on at DOJ?

A I think he primarily does immigration.

Q Does he work on voting rights at all?

A Not that I can recall. Not that I know of. I'm not aware of John -- or Dave.

BY MR. ANELLO:

Q Who is Theo Wold?

A Theo works -- I think he still works at -- I mean, I think at -- Theo works at the Domestic Policy Council now, I think. Pretty sure.

Q Do you know what his portfolio is there?

A No.

Q Okay.

A He works on a lot of different things, but I don't know specifically.

Ms. Anderson. Do you know where he worked before?

Mr. Hamilton. He came from the Hill. I think he came from Senator Lee's office, I seem to recall.

BY MR. ANELLO:

Q Senator Mike Lee?

A Yeah.

Q I apologize. I literally just asked this. Did you ever talk to Mr. Wold about the citizenship question?

A I don't think so.

Q Who is James Sherk, S-h-e-r-k?

A I think James works at the Domestic Policy Council.

Q Do you know if he ever talked -- do you know what his portfolio is?

A I think James primarily works on regulatory matters.

Q And have you ever talked to James about the Census citizenship question?

A Not that I can recall.

Ms. Sachsman Grooms. Have you ever talked to James about any other topic?

Mr. Hamilton. I think we had a general discussion about regulatory effort at some point in the past, but I don't remember what it was about.

BY MS. ANDERSON:

Q To your knowledge, did the President or anyone else at the White House direct or encourage Secretary Ross to add a citizenship question to the Census?

A I have no idea.

Q To your knowledge, did anyone at the White House or the President direct or encourage the Attorney General to support the addition of a citizenship question?

A Couldn't tell you.

Q Are you aware of any communications between the President and Secretary Ross about the addition of a citizenship question?

A No.

Q Are you aware of any communications between the President and the Attorney General about the addition of a citizenship question?

A No.

Q What about anyone at the White House and the Attorney General?

A No.

BY MR. ANELLO:

Q Aside from the communications we just talked about, are you aware of any communications with anybody at the White House that related to the Census citizenship question?

A Between whom?

Q Between the White House and any agency. Are you aware of any conversations involving the White House? I think we've talked about a handful of conversations with John Zadrozny. Aside from those, are you aware of any conversations?

A No, I don't think so.

Q What about Steve Bannon when he was at the White House?

A No.

[Hamilton Exhibit No. 6

Was marked for identification.]

BY MS. ANDERSON:

Q I'm handing you what's marked as Exhibit 6.

A Okay.

Q I'm handing you a document which is now marked as Exhibit 6. It's DOJ00036385. Is that the document that you have?

A Yes.

Q Okay. On the -- I'm going to direct your attention to the second page, which is an email from April 2nd, 2018, and it is a -- for immediate release, a statement by Attorney General Sessions on today's new lawsuit against the State of California, and it was sent to Stephen Miller.

A Okay.

Q And then right above that there's a email from Stephen Miller to you and several other folks, I think, about less than -- no, a little over 10 minutes later.

A Okay.

Q Stephen Miller writes, quote: Does DOJ have a press release on the actual new lawsuit itself? What is the suit?

Have you ever had any conversations with Stephen Miller about Census or citizenship question?

A I think I answered that earlier.

Q Just --

A I don't remember having any conversation with Stephen.

Q Did you ever become aware of him having conversations with anyone else about Census or a citizenship question?

A I couldn't tell you.

BY MR. ANELLO:

Q Do you recall this email?

A I mean, no, other than I'm on it and it's a press release on something completely different.

Q Do you recall the lawsuit that is under discussion?

A Of course.

Q Did the lawsuit relate in any way to the citizenship question?

A No.

Q Do you know whether the -- this press release raised any questions for Mr. Miller or others that related to the citizenship question?

A No, but I'm reading the Attorney General's quote on 387, and there's a line in there that says: And we are forced spend our resources to defend against lawsuits that are patently meritless, like one now filed by California claiming that adding back a question on citizenship to the Census is unconstitutional after decades of its inclusion.

So that line is there.

Q Do you remember any discussion about why the citizenship question was described in that release?

A Well, no, but, again, I don't know the point of this. The paragraph says: We are forced to spend our resources to bring these lawsuits against States like California that believe they're above the law and are passing facially unconstitutional laws specifically intended to interfere with the Federal Government's ability to carry out its legitimate law enforcement duties. And we are forced to spend our resources, blah, blah, blah.

So it seems to be a resource issue. But I don't -- I couldn't tell you.

Q Okay. But you don't remember any conversations about the citizenship

question relating to the lawsuit --

A No.

Q -- to this lawsuit or to this press release?

A No.

Ms. Anderson. Did you ever have any conversations with someone named Mark Neuman about the citizenship question?

Mr. Hamilton. What was the name?

Ms. Anderson. Mark Neuman.

MR. Hamilton. No.

BY MR. ANELLO:

Q Do you know who that is, N-e-u-m-a-n, Mark Neuman?

A No.

Q He's a member of the President's transition team?

A Mark Neuman? No.

Q He also apparently served as some kind of outside adviser to the Department of Commerce on the issue of the citizenship question?

A I have no idea who he is.

Q Do you remember ever hearing that there were -- that there was more outside advisers providing advice or guidance to the Department of Commerce or to the Department of Justice --

A No.

Q -- relating to the citizenship question?

A Huh-uh, no.

Q Did John Gore ever told you -- ever tell you that he had interactions with folks outside the government relating to the citizenship question?

A No. Not that I can recall.

BY MS. ANDERSON:

Q Did you ever hear of -- did you ever speak to or hear of anyone speaking to Thomas Hofeller?

A No.

Q Also a member of the transition team.

A Okay.

Q Doesn't ring a bell?

A No.

Q Okay.

Mr. Anello. That's H-o-f-e-l-l-e-r.

Mr. Hamilton. He could spell it H-o-e-f-l-e-r, and I have no ideas who he is.

Mr. Anello. Yes. But the person doing our transcript has to spell it correctly.

BY MR. ANELLO:

Q Are you aware of -- strike that.

Are you aware -- so you mentioned that you had a discussion with Mr. Kobach during the transition about the citizenship question, correct, or you got an email from him?

A I got an unsolicited email from him.

Q Did you have any further conversations with him after the transition about this topic?

A No.

Q Okay. Did you ever hear that adding a citizenship question to the 2020 Census could be advantageous for congressional apportionment purposes?

A I have heard the public discourse in the media and allegations in the lawsuits

about the issue generally, but before that, not really.

Q So -- let's say before any lawsuits were filed, so let's say before March of -- before the March 2018 decision memo came out from Secretary Ross, had you ever heard any discussions or participated in any discussions about whether adding a citizenship question to the Census could impact congressional apportionment?

A Not that I can recall.

Q Or whether adding a citizenship question to the Census -- again, did you participate or hear of conversations about how adding a citizenship question to the Census could advantage Republicans or disadvantage Democrats?

A Not that I can recall.

Q How about whether adding a citizenship question to the Census could provide more representation for non-Hispanic Whites and would provide -- and with less representation for Hispanics?

A Not that I can recall.

Q Did you ever become aware of a memorandum that was related to the Census citizenship question that was written in 2015?

Mr. Gardner. So that's really vague.

BY MR. ANELLO:

Q Okay. Did you ever become aware of a memorandum by Thomas Hofeller that was written in 2015 and related to the Census citizenship question?

A No. I testified I have no idea who Thomas H-o-f-f-l-e-r --

Q One F.

A One F, sorry. I have no idea who he is. I am not aware of any memo. I'm not aware of anything about the guy.

Q Okay. Are you aware of a memorandum written on the topic of the

Census -- of adding a citizenship question to the Census and how that might impact redistricting efforts?

A No.

Q When you reviewed a copy of the draft letter from the Department of Justice to the Census Bureau --

A Okay.

Q -- in 2017 --

A Okay.

Q -- were you told that any information contained in that letter came from any source outside of the Department of Justice?

Mr. Gardner. You can say yes or no.

Mr. Hamilton. No.

BY MR. ANELLO:

Q Were you told anything about sort of where the information in that draft letter came from?

A No. I have no idea. I would assume Department of Justice.

Q Do you assume that for a particular reason?

A We typically write our own letters.

Q Would it be unusual for the Department of Justice to write a letter based on text or research that was done by somebody outside the Department of Justice?

A I have no idea.

Q You said you usually write your own letters.

A In my experience, we write our own letters. I have no idea if other people do different -- anything different. I couldn't tell you.

Q Okay. So it had been your experience DOJ writes its own letters?

A Yeah.

Q So in your experience, it would be unusual for DOJ to issue a letter that it had not written?

Ms. Antell. Well, I think he said in his experience, but I don't think you can expand that to the rest of the Department of Justice.

Mr. Anello. I didn't expand it. I'm saying in his own experience.

Ms. Antell. I just -- I don't --

Mr. Hamilton. All I can tell you is that the only letters that I'm aware of are letters, you know, that, like, I've helped write for the Attorney General on different issues and things, and those came from us. I don't know what everyone else does. I couldn't tell you.

Mr. Anello. Understand. But the letters that you've worked on, as you just said, those came from us, meaning those came from within the Department of Justice?

Mr. Hamilton. Yeah.

Mr. Anello. When Mr. Kobach reached out to you during the transition, did he tell you or indicate that he was in touch with anybody else in the transition team on this issue of the citizenship question? Do you remember?

Mr. Hamilton. I don't -- I don't remember him saying anything about who he was -- or if he was talking to anybody else.

Ms. Anderson. Are you aware of any conversations that happened within the administration about whether adding a citizenship question would impact immigration policy or immigration enforcement?

Mr. Hamilton. No.

Ms. Anderson. Were you aware of any documents that came from the Department of Commerce to the Department of Justice about the citizenship question

issue?

Mr. Hamilton. No.

Ms. Anderson. Okay.

BY MR. ANELLO:

Q So you said you were not aware of any discussions about the citizenship question impacting immigration policy. Is that correct?

A I don't recall having any discussions about that.

Q Okay. How about impacting immigration enforcement?

A I don't recall having any discussions about that.

Q When you were at the Department of Justice, you were -- you said you were the senior-most immigration adviser -- or sorry, you are at the Department of Justice. You are the senior-most immigration adviser at the Department?

A For the Attorney General, yeah.

Q Okay. Was that the case in December of 2017?

A Yeah.

Q So I want to ask you about a memo -- sorry. Do you mind getting Exhibit 4?

This is a memo that we understand is a draft memo, as we understand, was written on -- I believe it was December 16, 2017, so 4 days after the letter on the citizenship question was sent to the Census Bureau.

A Okay.

Q Are you familiar with this memo?

Mr. Gardner. I noticed there were no page labels on this. Where did this come from?

Mr. Anello. This is a public document.

Mr. Gardner. Okay.

Mr. Anello. Yeah.

Mr. Hamilton. A public document from -- that relates -- okay.

BY MR. ANELLO:

Q So are you familiar with this memo?

A I think I've seen it before.

Q When did you see it?

A I don't remember exactly.

Q You don't remember exactly? In what context did you see it then?

A I think DHS may have sent a memo to us to look at. I think this might have been it. But what does this have to do with the citizenship question?

Q So who at -- sorry. Who at DHS sent this to you?

A What does this have to do with the citizenship question?

Ms. Antell. Before we go any further -- yes.

Mr. Hamilton. There's nothing on any of these pages that has anything to do with citizenship. So --

Mr. Anello. I appreciate if you would answer the question. I think that this is pertinent --

Mr. Hamilton. I would appreciate it if you don't waste my time.

Ms. Antell. So I certainly understand that you have interest in this, and it sounds like Mr. Hamilton may have seen this at some point. Is there something in this that's directly related to the citizenship question?

Mr. Anello. I don't know. That's why we're asking these questions, among other reasons.

Ms. Antell. Okay. Is there anything in the language of this that relates to the citizenship question?

Mr. Anello. The language of the memo?

Ms. Antell. Yes.

Mr. Anello. The language of the memo talks about a number of different immigration issues --

Ms. Antell. Okay. So --

Mr. Anello. -- and it appears to be discussing those issues in December 16, 2017, 4 days after the citizenship question memo was issued, a memo that the witness has apparently reviewed. I don't know if there's a connection between these two things, and that's one of the reasons that we want to ask about them.

Mr. Gardner. I think --

Mr. Anello. And I don't see any reason -- this document has been public I think for 6 months, and the witness has said that he's reviewed the document.

Mr. Gardner. I -- I --

Mr. Anello. And I --

Mr. Gardner. I'm sorry.

Mr. Anello. I don't understand any reason that we couldn't ask these questions.

Mr. Gardner. I think the simplest way to do it is to ask him if there's any connection between this and the citizenship question.

Mr. Anello. That's a question we can ask.

Ms. Sachsman Grooms. I mean, he's still in the very beginning of laying a foundation of what the document even is.

Mr. Gardner. Sure.

Ms. Sachsman Grooms. So I think --

Mr. Gardner. The fact is we made Mr. Hamilton available to ask your questions about the citizenship question, and that's what he's here to do. To the extent that there

is no tether to that -- that issue, we don't think it would be appropriate for him to answer questions about that, certainly not today.

Mr. Anello. If he has knowledge of this document, I don't see why we can't ask him about it.

Mr. Gardner. Not if it's not within the scope of the topics for which he --

Mr. Anello. It is within the scope.

Mr. Gardner. You just said you haven't even --

Mr. Anello. You cut me off, first of all. Second of all, our request letter did not say we were going to limit every single question to the citizenship question. That is absolutely the focus of this interview. That's why we are here. We think this may be related to it, but it's an issue that is important and we have questions about it either way.

So I intend to ask about the document. I'm very interested in understanding whether it's related to the citizenship question, and I intend to lay a foundation to find that out. But we have a number of questions about this document that I think we have a right to ask.

Ms. Antell. So I think we are certainly prepared to answer any questions that you may have. Certainly, the first question is in -- is to Mr. Hamilton's knowledge is this related to the citizenship question, and maybe we will move from there.

[12:13 p.m.]

Mr. Anello. Okay. So we'll repeat the question. Who at the Department of Homeland Security sent you this document?

Ms. Antell. So, again, that's not the question.

Mr. Anello. I'm laying a foundation.

Ms. Sachsman Grooms. We're laying a foundation for what the document is.

Ms. Antell. So where's the --

Ms. Sachsman Grooms. You don't get to conduct the way we conduct our investigation.

Ms. Antell. I certainly understand that, and I --

Ms. Sachsman Grooms. And you don't get to say what questions we ask or don't ask as we are laying a foundation of what a document is so that we can then ask some additional followup questions. So if you could just let us do it, I'm sure we'll get to a point where we can have the conversation about whether it's related. Okay?

Go ahead.

BY MR. ANELLO:

Q Who at the Department of Homeland Security sent this memo to the Department of Justice?

A I don't recall.

Q Do you know who at the Department of Homeland Security drafted the memo?

A I don't. I don't know.

Q Okay. On December 16, 2017, who at Department of Homeland Security was in charge of drafting policy options to respond to the border surge of illegal immigrants?

A Could've been a number of folks. I have no idea.

Q Who would be the most likely folks, based on your experience at the time?

A I don't know.

Q You have no idea?

A Well, DHS has multiple immigration components. They have an Office of Policy, they have an Office of General Counsel, they have a secretary's office. They have all kinds of places where this could've been -- that could've written something. I don't know who did it.

Q Was there someone -- again, we're talking December 16, 2017. Was there somebody in charge of this particular issue at the Department of Homeland Security that you interacted with at the time?

A There were and there are lots of people at DHS who worked in immigration policy that I interacted with.

Q So this memorandum is policy options to respond to border surge of illegal immigration. As of December 2017, who was your primary point of contact at the Department of Homeland Security --

Ms. Antell. I'm sorry. We're just not prepared to answer questions about this today. If this is a topic that you'd like to talk about in the future, we're certainly prepared to have that discussion.

Mr. Anello. I haven't even laid the foundation for how he got the document.

Ms. Antell. And I understand that. But I've never seen this before. We weren't --

Mr. Anello. This document was published, I believe, in maybe January, February. It's been out there. The witness has said he has seen it before.

If you guys need a minute to read it, I'm happy to give you a minute to read the

document.

Ms. Antell. I'm sorry. I think --

Mr. Hamilton. So how about I tell you this? And maybe this will help focus your questioning. I am not aware of anything in this document -- nothing in this document triggers anything at all related to the citizenship question. I'm not aware of any immigration nexus to immigration enforcement, surge of illegal immigration, anything. No discussions ever dealing with the citizenship issue.

Mr. Anello. Okay.

Mr. Hamilton. So, I mean, like, the connection is not there. I have never discussed the issues at the same time. It's never been something I've even heard about.

Mr. Anello. Okay. Can you tell me who at the Department of Homeland Security was your primary point of contact on the issues discussed in this memo?

Ms. Antell. So, again, we're not going to answer questions about this. Mr. Hamilton has just explained that he is aware of no nexus between this --

Mr. Anello. That doesn't get to the issues, necessarily, that I need to understand. Laying the foundation for this might reveal a connection that he does not remember or is not aware of, and it's important that we have the ability to lay that foundation.

If you guys want to talk after we lay the full foundation and we understand what he knows about this document, where it came from, when he saw it, what he did with it, I'm happy to then have that conversation afterwards. But you're cutting me off repeatedly before we can ask even a basic question about the document. So it's going to make this process a lot harder, not easier.

Ms. Antell. I doubt --

Mr. Anello. So I'd ask again that we be allowed to ask these very basic questions of the witness. I'm not aware of any privilege being cited. This is a public document

that the witness has seen before that he apparently played a role in reviewing 4 days after the December 12, 2017, memo on the citizenship question.

So I don't think this is a rabbit hole. I think it's important that we at least lay the foundation. I don't think this is going to take too long. I understand you may have time issues. We can always come back after -- I know you have a call at 12:15. We can always come back and ask these questions afterwards. But I think we need to have the ability to at the very least lay the foundation, and then we can go from there.

Mr. Hamilton. What's the date on the document, by the way?

Ms. Antell. Well, can we --

Mr. Anello. There was an NBC News story that identified it, as we have written -- I think we have copies of the story if you want to see it. So I couldn't --

Ms. Antell. That's fine. You can ask him.

Ms. Sachsman Grooms. So, again, that's what we're doing, is laying the foundation.

Could you tell us when you saw this document?

Ms. Antell. So we're at 12:15, and we did agree that we need to go and take a call. I do understand your interest in this, and we can certainly resume --

BY MR. ANELLO:

Q I'd like to come back and continue these questions. But before we take a break, I'd like to ask one question, which is, if you look at the comments on the side here, there's a number of comments that say HG(1), HG(2), HG(3), HG(4).

A Okay.

Q Can you just take a minute and look at the comments, let's just say, on the first page?

A Sure.

Q We won't make you read the whole document, given that I know you have to take a break.

A Okay.

Q Did you write those comments?

A I don't know. I might've. But I don't specifically recall.

Q "HG," is that Hamilton comma Gene?

A It might've been my -- I don't know. I mean, typically, when we get things from other departments to review, I collect comments and consolidate feedback from across the departments.

Q Is that what you did in this instance?

A I don't know. I don't remember.

But, again, this citizenship question on the Census has nothing to do with illegal immigration.

Q I understand that. You've made your view on that clear. But I'm trying to just get an answer to the question that I asked.

A And I think I just answered your question.

Q Well, my question is whether these were your comments.

A And I just told you I don't know if they were all my comments. I don't know if some of them are mine or if any portion of them are mine. I couldn't tell.

Q They're all the same user. So I guess -- I don't want to put words in your mouth. Are you saying that either you might have drafted them or you might have compiled them? Is that what you're saying?

A It's possible.

Ms. Sachsman Grooms. When you input things into Word and do track changes and do put comments, does it come up as "HG"?

Ms. Antell. So, again, you had one more question. We're now far beyond that. And we do have this additional engagement we need to run to. So can we take our 1-hour break now?

Ms. Sachsman Grooms. Yeah, we just have one outstanding question --

Ms. Antell. No.

Mr. Anello. We just haven't gotten an answer to this question.

Ms. Greer. Well, you have. You just don't like the question -- the answer to the question.

Mr. Anello. No, I don't think we have. I think he --

Ms. Antell. You can certainly come back --

Ms. Sachsman Grooms. We are just trying to understand if he's "HG" when he does inputting on any document.

Ms. Antell. So we're now a few minutes late over the time that we agreed.

Ms. Sachsman Grooms. So we could debate it, or he could just answer the question.

Ms. Antell. Or we could just stop, as I've requested.

Mr. Castor. They're coming back in an hour. So just do your call or get a sandwich and --

Ms. Sachsman Grooms. I'm curious if he's "HG" when he does inputting.

Mr. Anello. Could we just do the "yes" or "no"? Could we just do the "yes" or "no" on that? And then we can go to break. I think that might resolve this.

Mr. Hamilton. I'm not sure. I have no idea.

Mr. Anello. You don't know whether you come up as "HG"?

Mr. Hamilton. I don't know.

Mr. Anello. Okay.

[Recess.]

[1:21 p.m.]

Ms. Anderson. All right. We're back on the record at 1:21 p.m.

BY MR. ANELLO:

Q So we wanted to ask a couple questions relating to some of the conversations and documents that you've had. We just want to make sure we have a good sense of some of your email practices to make sure we understand where these conversations would've taken place.

So you mentioned that you believe you received an email, unsolicited, from Mr. Kobach during the transition. Do you know to what email account that would've come?

A Is it my transition?

Q Transition? Transition.gov or something like that?

A Dot-gov.

Q Did you use that email address exclusively for transition-related --

A Yes.

Q -- communications?

A Yes.

Q Okay. Did you use your personal email during the transition?

A No.

Q Okay. Did you use text messages or other forms of messaging services during the transition to talk about transition issues?

A No, I don't think so, other than, "Hey, where are you? Do you want to go to lunch?"

Q "Do you have a K-Cup?"

A "How about a K-Cup?"

Q How about with Mr. Kobach in particular? Do you remember using any

other form of communication with him?

A No.

Q Okay.

Fast-forward to DHS, 2017. Did you use any form of communication other than your official DHS email account to have communications about any work-related issues?

A And my phone to talk?

Q Sorry. I mean for written communications.

A For written communications? No.

Q Okay.

How about, thinking specifically about this citizenship question, when you were at DHS, do have you any memory of having any communications, any written communications, using your personal email?

A No.

Q Using text messaging or other messaging services?

A No.

Q Okay.

Do you know whether you communicated in writing at all with Mr. Comstock?

A If I did, it would be on a work email. But I don't seem to recall.

Q Okay.

So fast-forwarding to DOJ --

A Okay.

Q -- in your current role there, do you use personal email ever to communicate with people inside or outside the Department about work-related issues?

A No.

Q Have you ever done that, used personal email to communicate regarding the

Census citizenship question?

A No.

Q How about with anybody at the White House?

A No.

Q With John Zadrozny in particular, have you ever communicated with him using personal email?

A No.

Q Or using text messaging or messaging services?

A Not that I can recall.

Q How about Stephen Miller?

A No.

Ms. Sachsman Grooms. Have you ever received a communication from anybody at the White House where they were using their personal email?

Mr. Hamilton. I don't think so.

Mr. Anello. Aside from the White House, are you aware of anybody else in the administration that communicated regarding the citizenship question on a personal email account or using text messages or anything?

Mr. Hamilton. I honestly couldn't tell you. I have no idea.

[Hamilton Exhibit No. 8

Was marked for identification.]

Mr. Anello. So this is exhibit -- what are we up to?

Ms. Anderson. Eight.

Mr. Anello. Exhibit 8, DOJ00036371.

BY MR. ANELLO:

Q So this is an email from July 23, 2018. And it starts with an email from

Errical Bryant, OAG, who's the director of scheduling. And it says, "Sec. Ross would like to talk to the AG regarding the Citizenship questions. Any issues with setting up later today?" And that was sent to Matt Whitaker and to Danielle Cutrona.

Was that the time Mr. Whitaker was the chief of staff?

A Yep.

Q And Errical then forwarded this to you and wrote, "Would this be your issue."

A Uh-huh.

Q And you wrote, "Me and Rachael."

A Okay.

Q And then there's some followup.

So what did you mean when you said "me and Rachael"?

A I don't recall exactly, but I think that -- so this is July of 2018. At this point, I think we had been involved in litigation, and it had been alleged that this was an immigration issue. So, based on those allegations, I became more aware. Had to keep the boss, you know, advised if it affected immigration at all.

Q So, functionally, what did you do regarding this issue during that period?

A Nothing really, other than keeping abreast of the litigation.

Q Did you have conversations with officials at other departments regarding the citizenship question during this period, after March 2018, let's say?

A I don't think so.

Q Do you know whether this conversation between Secretary Ross and the Attorney General went forward?

A I don't. I don't remember.

Q Aside from that earlier conversation in 2017 that we discussed earlier, are

you aware of any conversations between the Attorney General -- Attorney General Sessions, I should say -- and Secretary Ross on the citizenship question?

A No. I mean, not specifically. No.

Q Did you sit in on any, for example?

A I don't recall sitting in any discussions.

Q I'd like to get your understanding. So the citizenship question, I think you're -- are you familiar with what the question asks?

A I presume it asks if you're a citizen or not.

Q Right. Do you know whether the Department of Homeland Security is permitted to use data gathered from the citizenship question on the Census to enforce the immigration laws?

A I don't know specifically if they would or wouldn't be.

Q Do you have any awareness of the rules governing whether Census data can be used for immigration enforcement?

A Not really. I vaguely think that there are some restrictions that are applied to the information generally that's provided on the Census form, but I don't know.

Q Has that issue ever come up? Did it ever come up when you were at DHS? Did anybody ever ask you, even if it was beyond the issue of citizenship, whether Census data could be used for immigration enforcement purposes?

A Not that I can recall.

Q Did it ever come up -- has it come up at the Department of Justice?

Mr. Gardner. About whether DHS can use the information?

Mr. Anello. Yeah, let's say, whether the Federal Government can use the information for immigration enforcement purposes.

Mr. Hamilton. Not that I can recall.

Mr. Anello. Based on your -- you are an expert on immigration law. Based on your expertise, do you have a view on that?

Mr. Gardner. Lack of foundation.

Mr. Anello. Well, he's told us he's the senior-most immigration advisor to the Attorney General and previously was the senior-most immigration advisor to the Secretary of Homeland Security. So I think he qualifies.

Mr. Gardner. That doesn't establish anything about how Census information is used. So lack of foundation.

BY MR. ANELLO:

Q Well, that's the question.

The question is, do you have a view on whether Census data may be used for immigration enforcement purposes?

A Do I have a view as to whether it may be used?

Q Correct. Legally. Whether it would be legal to use.

A I don't know enough about it to know if legally -- I couldn't answer that question for today. I'd have to do some research.

Q Do you know if anybody in the current administration has done an analysis, a legal analysis, of that issue?

A Not that I can think of. That would be, to be frank with you, a waste of resources.

Q Why would that be a waste of resources?

A DHS already knows generally the location of millions of unlawfully present aliens in the United States. I don't know why they would want to use the information from the Census form to find out more for enforcement purposes. That doesn't seem to make sense.

Q Are there other purposes related to immigration that it would be useful to have that data, from your perspective?

A I mean, I could give you a hypothetical, but --

Q Sure.

A I mean, it could be helpful to use with USCIS to know where they need to allocate resources in terms of their field offices located across the country. They have a large noncitizen population. It's possible that they might have a need for USCIS's services.

Q Are you aware of any proposals to use citizenship data for that purpose?

A No.

Q Are you aware of any proposals -- and I mean proposals that may have been discussed within the administration -- to use citizenship data from the Census for any purpose related to immigration?

A No.

Q Putting aside the specifics, the specifics of the December 12 DOJ letter, are you aware of any proposals within the administration to use the Census citizenship data for any other purpose?

A I haven't heard of any.

Mr. Anello. I'd like to go back to the document and see if we can continue to authenticate it, the one that I was -- was that exhibit 7?

Ms. Antell. So, with respect to exhibit 7, I do understand that you have a number of questions about this document. I think you have come back after the break and asked questions that are directly tied to the Census, and we'd like to proceed and answer any questions you might have that are tied to the Census. And, you know, Mr. Hamilton has, I think, been quite open to answering those questions. So is it possible to

wait until the end, if have you any other questions, to discuss this topic, this document?

Mr. Anello. I don't think we have other issues.

Ms. Antell. So this document -- which everyone in the room acknowledges there's nothing, on its face, that has anything to do with the citizenship question, correct?

Okay. So the point is we're here to talk about the citizenship question. Mr. Hamilton has answered apparently all of your questions related to the citizenship question and the Commerce Department's decision to reinstate it. He has also said that, to his knowledge, there's no relationship between the citizenship question and this document. So I don't think we have anything else to answer about this.

This does relate directly to another investigation that your committee is undertaking. You have an open inquiry on this, and it seems to me that that would be the appropriate arena in which to ask questions about this document.

Mr. Anello. Okay. So I hear your point. We were interrupted when we were simply trying to authenticate this document. And I think what we have established is that the witness was involved in reviewing, if not editing -- I think there was a question about whether he edited -- but Mr. Hamilton was involved in reviewing a draft letter on the citizenship question while he was at DOJ, while he was the senior immigration advisor to the Attorney General. That letter went out 4 days before this memo came out.

Ms. Antell. So you've said --

Mr. Anello. I'm sorry. Let me just finish. Can I just finish?

Ms. Antell. Yes, please.

Mr. Anello. Mr. Hamilton does not recall conversations related to immigration and the citizenship question, but I don't believe we got a blanket "no" that they didn't happen. I think what he said is he doesn't recall.

We know there are a number of conversations around this time with immigration

staffers, including Mr. Zadrozny at the White House, that DOJ suggested related to immigration, because we got the document that was part of -- excuse me -- that related to the citizenship question, because they were part of a document production related to that. But Mr. Hamilton doesn't recall the conversation.

So there are a lot of unanswered questions that Mr. Hamilton doesn't seem to have a recollection of. So I don't think we know exactly the extent of the conversations that he may have had, just based on the recollection that he may not have at this point. And that's fine.

But we have a document that he appears to have been involved in drafting right around the same time, and I think it's fair to just ask him basic authentication questions to understand where the document came from and who was involved in drafting it and what his role is.

And then if we've established after that that there are no further questions that are relevant to this topic, then we're happy to have a further discussion about it. But we haven't really even gotten through the authentication because we've been interrupted a few times.

So I would just ask if we could go ahead and continue that, and then if you guys feel like you don't want to let Mr. Hamilton or Mr. Hamilton doesn't want to answer any more questions about it and he wants to potentially come back again or talk about it at a different time, we're happy to have that discussion.

But I do think -- I guess I don't really see why we can't just continue to go through that verification that we had before and try to understand what this document is and where it came from.

Ms. Antell. So my first question is, there's no date on this. There's no email transmitting this. You've represented that it came in December.

Mr. Anello. So I don't know that to be the case, but we could ask the witness that. And we also have an article, an NBC News story, that states it comes from December 16, I think, 2017. But NBC News could be incorrect, and Mr. Hamilton may have different views on it, which he's obviously welcome to share with us.

If you'd like to see the article, we can introduce it as an exhibit. This is 9.

[Hamilton Exhibit No. 9

Was marked for identification.]

Mr. Anello. There may be information here about, you know, where they got the date. I don't know.

BY MR. ANELLO:

Q So I'll direct your attention to -- oh, I guess it depends on the copy. This one is the bottom of page 2, but I think on your copy it's the top of page 3.

It says: "In the draft memo, called 'Policy Options to Respond to Border Surge of Illegal Immigration' and dated Dec. 16, 2017, officials from the Departments of Justice and Homeland Security lay out a blueprint of options, some of which were later implemented and others that have not yet been put into effect."

Ms. Antell. So can I just note that the, I guess, exhibit 8, the "Policy Options to Respond to Border Surge of Illegal Immigration," has no date on it.

Mr. Anello. Noted.

Ms. Antell. So how do we know that it's the same?

Mr. Anello. That's the question that we posed.

Mr. Gardner. I'm not really quite understanding how he would know what NBC is referring to in this news article.

Ms. Sachsman Grooms. We're not asking him about --

Mr. Anello. We're not asking him about that. We're asking --

Mr. Gardner. If he knows the date of this document? I mean, if you want to ask that limited question, go for it.

Mr. Anello. Okay.

So do you -- could we start again? Because it's been a little bit interrupted. We didn't actually want to jump right to the date. Would it be okay if we start with the authentication again and just try to get this --

Mr. Gardner. Well, then why not just ask about the date first?

Mr. Anello. We're asking the questions. I'm not sure why we have to ask the question about the date first.

Mr. Gardner. Well, because I think we're having difficulty understanding the relevance of this to the questions about --

Mr. Anello. We have reason to believe -- what you're looking at, we have reason to believe it was on -- if this memo came out just 4 days after the December 12 memo. I think it's clear that we have reason to believe that. We don't know if it's true, and that's why we're posing the question. But that's one of questions we have.

Other questions would involve who wrote it, what role Mr. Hamilton played in it. Because to the extent, for example, that the same folks involved in this were involved in the citizenship question, that would be relevant information for us.

And so I think these are all fair questions. I take your point that we don't know for sure when the document was written; we only have what was published by NBC News. But I'm not sure why we can't just go in a straightforward way and ask our questions.

Ms. Antell. Well, Mr. Hamilton has said he didn't know who wrote that.

BY MR. ANELLO:

Q Mr. Hamilton, do you know who the author of this document is?

A No.

Q Do you know what agency this document came from?

A Department of Homeland Security.

Q Okay. And have you seen this document before?

A I can recall seeing this document before.

Q When did you see this document before?

A I don't know. Late 2017.

Q Late 2017?

A Early 2018. Somewhere in there.

Q Would you say it was before or after you left DHS and joined the

Department of Justice?

A After.

Q After you left. So you were at the Department of Justice at the time.

A Correct.

Q In your current role.

A Correct.

Q Okay. And do you recall who provided you a copy of this document or how you received the document?

A No.

Q Okay.

You said you don't know who at DHS wrote the document but you know that the document came from DHS. Is that correct?

A Yes.

Q How do you know that it came from DHS?

A Because I remember it came from DHS.

Q And the subject line -- the topic -- the title of the document -- there we go -- is "Policy Options to Respond to Border Surge of Illegal Immigration." Is that an issue that you were working on at the time at the Attorney General's Office?

Ms. Antell. So, again, I just -- I understand that you believe there is a nexus. I'm not --

Mr. Anello. No. I haven't gotten to the question yet.

Ms. Antell. But that is the question.

Mr. Anello. No, that's not the question.

Ms. Antell. And I --

Mr. Anello. The question is going to be --

Ms. Antell. If you'd like to ask this question in the context of the committee's other investigation, that is certainly a conversation we can have. I don't see how this relates.

Mr. Anello. Okay. The question that I was going ask was whether this is an issue he worked on, whether he worked at DHS on this issue at the time. Then I'd like to find out who the people at DHS were that he worked on this issue with. That's the question I have. I think that's a relevant question. I've already explained why it'd be relevant.

So could the witness please -- Mr. Hamilton, can you please tell us who at DHS was the point of contact for you on the issues discussed in this memo?

Ms. Antell. Mr. Hamilton has told you that -- from my recollection, from what we've talked about today, Mr. Hamilton has said that he didn't talk to anyone at DHS with respect to the citizenship question after coming over to the Department of Justice.

Mr. Anello. He told us he didn't recall that. We have reason to believe he may have. But he told us he didn't recall that.

You may have reason to believe that he did as well.

Ms. Sachsman Grooms. Yes. Mr. Gore came in and told us about a conversation.

Ms. Antell. It's not Mr. Gore's recollection. This is Mr. Hamilton's recollection.

Mr. Anello. That's correct, and we're trying to refresh it. Either Mr. Gore was entirely incorrect or perhaps Mr. Hamilton doesn't remember. And so part of this is understanding who his contacts were at DHS at the time on immigration issues. It's relevant.

Ms. Greer. You said you wanted to lay a foundation for the document.

Mr. Anello. Yes.

Ms. Greer. -- two different issues that are irrelevant to the foundation of this document.

Mr. Anello. I asked for the foundation of the document. I believe I was interrupted and not allowed to finish the question.

The question I had was -- Mr. Hamilton explained to us that he didn't know who drafted this document.

But I think you also told us that you did have contact with people at DHS at the time on immigration issues. I presume you had contact on issues involving the surge of illegal immigration and perhaps even policy options to respond to that. Is that correct?

Mr. Hamilton. I've had lots of discussions with DHS about immigration issues.

Mr. Anello. So, in late 2017, which I think is the time -- or early 2018 -- I think that was the time period you said you think you saw this document -- who were your primary points of contact on the issues described in the document, specific to the document, at DHS?

Ms. Antell. The document -- again, I'm sorry to interrupt, but the document

which is 100 percent related to a different topic based on its face.

Mr. Anello. You know what? I feel like we're getting different feedback from the other folks on the other side of the table. What I'm attempting to do is simply understand where this document came from and what Mr. Hamilton's role in the document is. That's really all I'm asking. I haven't asked a single question about the substance of the document.

Mr. Gardner. But he's answered both those questions. He said he doesn't know who the author was. He said he did see the document, and he doesn't recall whether these are his comments.

Mr. Anello. Why is this the hill to die on, who his contacts were at DHS on the issue of immigration? I don't understand why that is information he can't answer.

Ms. Greer. Because you're asking specifically about a different subject other than the topic that we're here to discuss today.

Mr. Anello. Immigration?

Ms. Greer. That's the issue. Yes. We're here --

Ms. Sachsman Grooms. That's your interpretation, that the citizenship question and immigration are totally unrelated. That is not the view of the committee. The committee is investigating whether the citizenship topic and the immigration topic are related.

We understand that, from Mr. Gore, not from this witness -- because this witness does not recall -- this witness set up conversations with Mr. Gore and individuals from DHS. And so if we want to know who his contacts at DHS were on different topics, I think that's directly relevant to the questions that we're asking.

And these are our -- we don't really have to explain the purposes for our investigation or why we ask any particular question. That's not the purpose of this.

We are conducting an investigation. We have questions. These are our questions. We'd like to move forward with them. I don't think they're going to take that much longer. And we can kind of finish them, which I think would be my suggestion.

I'm not sure what the -- I mean, I can't imagine that the people he spoke with at the Department of Homeland Security on this topic is, like, a secret. So we would like to inquire further.

Ms. Greer. To be clear, based on that description, anything that Mr. Hamilton worked on that touched immigration within the administration is certainly not our understanding of what the topic of today's interview is about.

So just because it's immigration and the committee is alleging that immigration is tied to the Census question does not open the door to the relevance of any immigration-related questions.

Ms. Sachsman Grooms. I mean, we have not asked any immigration-related questions. We've asked a pretty specific set of questions.

So if we could move forward on this topic. We haven't really gone into, like, what conversations he had with Jeff Sessions on any immigration-related topic. That would be, obviously, a very interesting conversation to have, and I'm happy to have a conversation about having that conversation. But that's not where we're at. We're just at a pretty basic level of understanding who his contacts were at the Department of Homeland Security on this topic.

Ms. Antell. On a completely separate topic than the topic we're here to discuss.

Mr. Anello. Again --

Ms. Antell. You're asking about a memo, and you'd like to know who he talked about on -- who his contacts were with respect this topic. This is a topic that you have an open investigation on, and we understand there's, frankly, a subpoena to the

Department of Justice on this very topic. And if that is something you'd like to take up at a later date or you want to talk about, then we certainly understand that there's an avenue for that.

Mr. Anello. We would like a reply to the subpoena, but that's not what we were here to talk today. Today we're here to talk to Mr. Hamilton about his role in the citizenship question. And we are very interested in the extent to which -- I mean, look, we started this interview by learning that Mr. Hamilton was the senior-most immigration advisor at DHS. And, in that capacity, he had conversations about the citizenship question.

He then became the senior-most immigration advisor to the Attorney General and, in that capacity, had multiple conversations within the Department and possibly with the White House and possibly with DHS, although there wasn't a recollection of that, on this topic.

Four days after the most significant event at DOJ happened regarding the citizenship question, this issue comes down. And we'd like to know whether there's a potential relationship here, and we just haven't been able to ask the questions to get that.

I understand Mr. Hamilton's perspective is that there is not a relationship, but we'd like to authenticate that by understanding the provenance of the document, and then we'll decide if we have more questions. These are legitimate questions we have.

And I guess the question is, when the Department is telling us, you know, they're saying you're not willing to answer the question, I don't really understand what the objection is. If there's an objection, tell us, and we can respond to it. But I'm not sure I understand what the objection is.

You're saying it's a different topic. I understand that's your view. Our view is

there's a potential relationship here. We'd like to ask the questions. If you guys are objecting, maybe just tell us what the objection is. "It's a different topic" is not really an objection.

Ms. Greer. Well, it is. And we're here voluntarily to discuss topic A, and you're asking about topic B. And I understand you're trying to probe a connection between topic A and topic B, but, to some extent, we have to rest with the witness's recollection that there is no -- that's his answer. And additional questions might waste a lot of time and committee energy, but that doesn't change what the witness's answer is.

Mr. Anello. It doesn't change the witness's answer to the question that was asked, but we haven't gotten an answer to the questions we haven't asked yet or we've not been able to get an answer to.

So I'm not sure what else to say here. If you guys are instructing the witness not to answer the questions, if that's the instruction -- I haven't heard the instruction. If not, I'd like to proceed with the questions.

Ms. Antell. Yeah. I think we'd like to just take a break to discuss this.

Mr. Anello. Five minutes?

Ms. Antell. Yeah, that's fine.

[Discussion off the record.]

Ms. Anderson. Back on the record.

Mr. Gardner. Let's take it question by question. We'll see where we go.

Mr. Anello. Okay.

BY MR. ANELLO:

Q I think you had told us before the break that you did not know who at DHS authored this document, the draft memorandum, but you did recall that it came from DHS, correct?

A Yes.

Q Okay. And the title of the memorandum is "Policy Options to Respond to Border Surge of Illegal Immigration."

Do you recall during roughly the period when you remember seeing this memorandum, which I think you said was late '17 to early '18, do you remember who at DHS were your points of contact on policy issues involving illegal immigration?

A I worked with a lot of people, and I continue today -- for example, just about everybody in the Secretary's office, to the General Counsel's office, to people in Policy, senior leadership at CBP, senior leadership at USCIS. So there's, I don't know, 30, 40 people that I worked with.

Q So this document appears to be a pretty comprehensive set of policy options. And it discusses DHS, it discusses ICE, it discusses CBP, DOJ. Given the comprehensive nature of this, do you have a sense of who -- which office, let's say, would have drafted it?

A No.

Q No idea?

A No.

Q Okay. Was there somebody at DHS that you had conversations with addressing the range of policy options, as opposed to specific options that might have been applicable to particular offices at DHS?

Mr. Gardner. I'm sorry. I didn't understand that question.

BY MR. ANELLO:

Q Right. So Mr. Hamilton said that he talked to many, many people in many, many offices at DHS. And I'm trying to narrow down the folks at DHS that you might have had conversations with on the subject matters described in this memorandum.

And the point I was making is that this memorandum describes a range of policy options at a fairly high level. So I'm asking whether that jogs your memory as to who you might have discussed these issues with.

A No. It's the same as what I just said. I coordinated -- it could've been with any number of folks.

Q Can you please look at comment number one?

A Okay.

Q Did you read it?

A Yep.

Q Okay. Did you write that comment?

A I don't remember.

Q Do you recall whether you shared those sentiments at the time that are expressed in that comment?

Mr. Gardner. Do you mean that he held them?

Mr. Anello. Correct.

Mr. Gardner. Okay.

Mr. Hamilton. Prosecuting people who smuggle aliens into the United States, that's a Federal crime. So, sure, that seems fine.

Mr. Anello. So do you agree with the comment?

Mr. Hamilton. I agree that it's a good idea to prosecute people who violate the laws of the United States.

Mr. Anello. Okay. But the comment says other things as well. Do you agree with everything in the comment?

Mr. Gardner. Objection. Over-broad.

Mr. Anello. Okay. We can go sentence by sentence.

Mr. Gardner. At this point, I want to be flexible and cooperative with you all, and, you know, we have in good faith let Mr. Hamilton answer some questions about this document. But, at this juncture, we're not prepared to have Mr. Hamilton go through each of these comments and express his views about these.

Mr. Anello. Yeah. I guess I still view this as laying a foundation. We're really trying to understand whether these comments are his.

Mr. Gardner. No, and I -- he testified that he doesn't recall if they were his. He expressly said that multiple times.

Mr. Anello. But to the extent he agrees with everything written in them, that'd be pretty helpful information for us to know.

Mr. Gardner. I understand that you think it would be helpful, but, again, there's no tether between that and the topics upon which Mr. Hamilton's here today.

Look, I'm not agency counsel for the litigation reflected in exhibit No. 7, and we're just not prepared today to have him talk substantively about this exhibit. I know you want to --

Mr. Anello. No. Again, I'm not -- my intention's not actually to talk about it. My intention is to understand whether, in reading these comments, it jogs Mr. Hamilton's recollection that he may have actually drafted these.

Mr. Gardner. If you ask him that question, I'll let him answer that. But that's not the question you've asked.

Mr. Anello. Well, I'll ask that question.

Have you read all of comment one?

Mr. Hamilton. Yes.

Mr. Anello. Okay. Does it jog your memory as to whether you wrote that comment?

Mr. Hamilton. No.

Mr. Anello. Why don't you take a look at comment two.

Ms. Antell. Is it your plan to go through all 16 of the comments?

Mr. Anello. Not necessarily, no.

Mr. Hamilton. Okay. Do you have a question?

BY MR. ANELLO:

Q Yes. Does this jog your memory as to whether you drafted this comment --

A No.

Q -- after you read it? So you don't recall if you drafted this?

A No.

Q All right.

Let's skip ahead to, I guess, the third page of the document, comment number 10.

Can you read that?

Actually, why don't I -- I'll just read that one out loud. This is in reference to item number six, it looks like, on the previous page, "Eliminate Abuses in the SIJ Program."

"This is all good to do -- and is something that should have been done all along. But it doesn't address the heart of SIJ visa abuse. I recall that we had discussed a number of options when I was still there -- including having the Secretary withhold her statutory consent in any case in which the minor was living with one parent or legal guardian." And then it goes on.

Does that comment jog your memory that you might have drafted this?

A It seems vaguely familiar, this comment.

Q In what way does it seem vaguely familiar?

A I mean, I know it's an issue that we've discussed in the past.

Q Okay.

I would also note, you know, the comment says that "I recall we had discussed a number of options when I was still there -- including having the Secretary withhold her statutory consent."

Now, you had previously been at the Department of Homeland Security, correct?

A Right. And so that line is what makes me -- I think I remember discussing this issue.

Q Okay. Do you remember you who discussed it with?

A Would've been the same range of folks.

Q Sorry, just to clarify, did you say you recall discussing it around the time of this memo at DOJ? Or you recall discussing it previously when you were at DHS?

A Previously.

Q Okay.

Let's take a look at comment 13. "I would suggest family detention capacity should be the priority, but perhaps somewhat modified from what we have now in terms of facilities that can handle family units on a short-term basis -- and that can eventually be converted to single adult facilities."

Do you know if you wrote that comment?

A No.

Q If you look at the next page, page 5, comment 15 on "Mandatory Detention of Arriving Aliens Who Claim Credible Fear," the comment says: "I know folks don't want to prejudge things, but 'could' isn't the word I would choose here."

That's referring to a comment that says DHS could rescind the memo thereafter, after a reference to a SCOTUS decision, pending SCOTUS decision.

A Okay.

Q Do you recall if you wrote that comment?

A No.

Q Do you recall if that was an issue that you discussed at the time?

A What issue? Rescinding the memo?

Q So, the issue of mandatory detention of arriving aliens who claim credible fear or any of the items discussed in the paragraph or the comment.

A Sure. Those are issues that have been discussed numerous times.

Q Let me just show you one more, number 16, this next comment. It's comment 16, and it's item 16.

It says, "This, too, is a legally binding requirement from an EO. But it won't have any effect on UACs, and likely a more limited effect on family units (but it could be helpful). We need to expand ER, but maybe after separating family units, prosecuting parents, and doing the other things first."

Is that your comment?

A I don't know.

Q You don't know. Okay.

Have you had a chance to look at this whole memo today or just the ones that I've taken you through?

A I think we've gone through almost everything here.

Q Well, why don't I give you a minute to look at the ones we haven't talked about, and you can let us know if that jogs -- let us know when you're finished. If you want to just focus on the comments, that's fine.

Ms. Greer. Is the question -- are you trying to jog the witness's memory as to whether he wrote specific portions or whether this document had any connection to the citizenship questions, the nexus?

Mr. Anello. Those are both good questions.

Ms. Greer. Okay. Well, I'm just trying to understand what he's --

Mr. Anello. There's not been a question asked yet.

Ms. Greer. Okay.

Mr. Hamilton. Do you have a question?

Mr. Anello. Yes. So, if you've read all the comments, do you now -- does it jog your memory as to whether you are the person who drafted those comments?

Mr. Hamilton. No.

Mr. Anello. Do you think somebody else -- do you think you drafted them? Do you think somebody else drafted them?

Mr. Hamilton. I might've been involved with some of them. I just -- I don't -- I don't recall.

Mr. Anello. Okay. Do you recall discussions about any of these topics in late 2017?

Ms. Antell. And are we talking about the memo or just generally the topics?

Mr. Anello. The topics described in the memo.

Mr. Gardner. And with whom? Just so I understand your question.

Mr. Anello. With others at the Department of Justice or the Department of Homeland Security.

Mr. Gardner. If you know, you can answer that.

Mr. Hamilton. Yes.

BY MR. ANELLO:

Q Did any of those discussions involve discussions about citizenship data?

A No.

Q Okay. Who did you discuss the issues with?

A Again, I have generally discussed a number of immigration issues with a

number of folks at DHS and DOJ.

Q So you said you recall discussions, but do you recall who those discussions were with specifically?

A No. I mean, I couldn't begin to try to recall every single discussion about -- the range of issues that are listed in this memo are pretty broad. So I couldn't begin to tell you who I talked with about the specific topics in this context.

Q You don't remember any, or you can't? I guess the question is, do you remember any such conversations during that time period and with whom?

A I do remember general discussions, but I can't remember any specific discussions.

Q I feel like there's a lack -- go ahead.

Mr. Gardner. I think the problem is, as you note, this memo covers a number of different topics, and so it's a very broad question the way it's phrased.

BY MR. ANELLO:

Q Do you remember any conversations during this time period -- and I think you said in late '17 or early '18 is when you remembered seeing this document. Do you remember conversations that encompassed either all or many of the topics that were covered in this, as opposed to, you know, one-off conversations or one that may have either covered each of these topics or covered many of the topics during that period?

A I don't recall -- again, I don't recall specific discussions, but suffice it to say that all these issues are immigration-related issues, and there are numerous discussions all the time about the range of issues related to any number of these topics. I just don't have any specifics to give you.

Q Okay. And just to be really clear -- I think you've answered this already, but I want to make sure. You don't remember any specific discussions about this

memorandum?

A No.

BY MS. ANDERSON:

Q When you were discussing these issues, would you primarily do that on the phone, like, by calling someone at DHS, or would you do it via email?

A It depends.

Q What would you say your default would be?

A I mean, there is no default. Sometimes you talk on the phone, sometimes you meet in person, sometimes we send an email. It just really depends.

Q Okay. But fair to say that some conversations happened via email and some happened on the phone?

A Probably all of the above. In-person meetings, phone calls, emails. I mean, this is a range of immigration-related topics, and, I mean, we have a general practice of talking about immigration-related topics.

Mr. Anello. Do you remember any conversations with anyone at the White House, again, from the same time period we're talking about, the period that you remembered seeing this memo, about the range of policy options to address the surge in illegal immigration?

Ms. Antell. So now we have really moved pretty far beyond the citizenship question. He has answered the question about with whom he spoke. And I understand your interest in this, I understand why you want to go down this, but I just don't think, at this point, we are prepared to have that kind of a conversation today.

Mr. Anello. Well, I guess I asked -- I appreciate that point. I asked the witness to respond, unless there's an instruction not to respond, about conversations he had with the White House on this.

Mr. Gardner. So you're asking if conversations occurred?

Mr. Anello. I asked if he had any conversations in late 2017 or early 2018, the time period when he remembers seeing this memo, that addressed the range of policy options to respond to the border surge of illegal immigration.

Mr. Gardner. You can answer that with a "yes" or "no."

Mr. Hamilton. Yes.

Mr. Anello. Okay. And who did you speak with?

Mr. Gardner. Let's go off for a second.

[Discussion off the record.]

Mr. Gardner. I appreciate your patience.

Look, I appreciate your view that you had foundational questions to ask about exhibit 7. Mr. Hamilton has answered all the foundational questions about who drafted this, who drafted the comments, the context behind this. We are getting further from that now, in terms of conversations with the White House about the substance of this. That's not why Mr. Hamilton voluntarily appeared today, and he's not prepared to answer those kind of questions.

So if you have questions about the citizenship question, about his role in that process, he's here today to answer those questions. He's been available all day to answer those questions. He has answered those questions. But if we're going to proceed down this path, being this far afield, then we're done today.

Mr. Anello. So, just to be clear, our goal is not to delve into the specific -- any of these -- you know, there's, like, 20 issues here. Our goal is not to delve into any specific issue. Our goal is to really -- we're trying to understand the document, where it fit in, and what was going on at the time.

And so the question was with whom Mr. Hamilton spoke at the White House

regarding the range of policy options described in this memo. That's what we're trying to understand.

Mr. Gardner. That's divorced from the memo. And, again --

Mr. Anello. It's not necessarily divorced from the memo.

Mr. Gardner. Well, the way your last question was phrased, it absolutely was divorced from the memo. You said, look, you know, who did you discuss, you know, these policy options with at the White House, whether they're in the memo or outside of the memo.

But more fundamental than that, I appreciate your view on these things, but we are now past the point where we are productively using Mr. Hamilton's time to discuss the topic on which he's here today voluntarily, which is the citizenship question.

If you have any additional questions about the citizenship question, let me be clear: Mr. Hamilton is here, and he's prepared to answer the questions to the best of his ability. If we're going down the path of talking about policy options related to border surge of illegal immigrants, that's not why Mr. Hamilton's here today and we're done.

Mr. Anello. We have just a handful of other questions on this topic, including the one I just asked, which we would like to ask. So if you're instructing the witness not to answer, then we'll go from there. But if you're not making the instruction, we would like to ask the question.

Mr. Gardner. I understand your preference, Russ, but he's not available today to talk about the contents of this document that has, on its face, nothing to do with the citizenship question and, as Mr. Hamilton clearly testified, has nothing to do with the citizenship question. I understand your view, but --

Mr. Anello. So the question -- just so we have it on the record, the question we

asked was: With whom at the White House did Mr. Hamilton speak about the range of policy options relating to the surge of illegal immigration around the time that this memo was received? And I think the answer we're getting back is, he's not permitted to answer that question.

Mr. Gardner. He's not available today to answer these questions that are clearly outside the scope of the reasons why Mr. Hamilton voluntarily appeared today, which is to discuss DOJ's involvement in the citizenship question.

Mr. Anello. The only other question that I wanted to ask then -- so I have that answer on the record. The only question was whether Mr. Hamilton is aware of the purpose of this memo or what this memo was used for at the time.

I think you said you remembered receiving it. You remembered reviewing it, I believe. You said you might have been involved with the comments. Do you know what the purpose of the memo was or what it was used for?

Mr. Gardner. You can answer that with a "yes" or "no."

Mr. Hamilton. Ask it again.

Mr. Anello. Do you recall what the purpose of this memo was?

Mr. Gardner. You can answer that with a "yes" or "no."

Mr. Hamilton. Yes.

Mr. Anello. Okay. What was the purpose of the memo?

Mr. Gardner. Again, we're far afield from the purpose by which Mr. Hamilton voluntarily appeared today.

Mr. Anello. Do you recall what the memo was used for?

Mr. Gardner. You can answer that with a "yes" or "no."

Mr. Hamilton. No.

Mr. Anello. You don't recall what it was used for.

Mr. Hamilton. It's not my memo. I don't know.

Mr. Anello. But it's a memo you saw at the time, correct?

Mr. Hamilton. Yes.

Mr. Anello. So you saw it at the time, but you don't know what it was used for?

Mr. Hamilton. No.

Mr. Anello. Do you know why you were asked to review it?

Mr. Gardner. You can answer with a "yes" or "no."

Mr. Hamilton. No, I don't know.

Mr. Anello. Okay. I mean, you or whoever wrote the comments marked "HG" appear to have spent a lot of time reviewing this and provided very detailed comments.

Do you have any idea why?

Mr. Gardner. Objection. Lack of foundation.

Ms. Antell. So I think we're done answering questions about this memo. If you have more questions about the citizenship question or if the Republicans have questions that you'd like to ask, we're happy to answer those questions, but we're done discussing this memo today. We're just not prepared to answer questions about it today.

Mr. Anello. I'm not going to ask a question if I'm not permitted to ask a question.

Does anybody else have questions that you'd like to ask that we're permitted to ask?

Mr. Castor. Just, if I may, you mentioned that there's other litigation going on concerning -- name some issues mentioned in the memo. And so if the Department's going bring in witnesses to talk about this topic voluntarily, you have to go through an analysis about what you can talk about, what you can't talk about, issues related thereto. Is that right?

Mr. Gardner. That's exactly correct.

Mr. Castor. Okay. I'm just concerned from a -- if you look at this transcript, it's going to seem like all of a sudden this memo's taking on an outsized -- the role of this memo's significance is sort of -- we're getting carried away with talking about the memo. And so if the Department needs to go back and, you know, think through these things, that might be the best way to proceed.

Ms. Sachsman Grooms. So you think they should come back another time?

Mr. Castor. What's that?

Ms. Sachsman Grooms. Have them come back another --

Mr. Castor. Come back with further, you know -- well, just what their position is on this. I mean, I don't know that Josh knows here today, you know, what the issues are involved with some of the other pieces of litigation.

[2:23 p.m.]

Mr. Gardner. I mean, you're exactly right. And I want to be very clear with this. I mean, we really did make Mr. Hamilton available today for discussing the citizenship question, and I think the record reflects that he answered every question that was in his ability to do that.

I recognize there's a difference of opinion about whether exhibit 7 falls within the scope of that or not, but, in our judgment, it clearly doesn't. And I'm just not prepared today to have Mr. Hamilton testify about a document that I think, in my judgment, is clearly out of scope.

Mr. Anello. I mean, we understand your position. This is a voluntary interview. And if you're not going to permit the witness to answer this question, then that's a position the Department has taken.

We disagree. We feel that the fact that he was involved in both of these issues at almost the exact same time and the fact that there are real significant questions out there as to the purpose behind the citizenship question and whether it related to immigration, I think it is absolutely fair to understand what else was going on on that front at the time.

And I believe the questions we asked were really pretty foundational as to who was involved in having discussions, who was involved in the document. We did not get into any, you know, detailed policy questions.

Mr. Gardner. Sure. And to be clear --

Mr. Anello. I understand your position, but that's why we're asking the question.

Mr. Gardner. And to be sure, our position is that we did allow Mr. Hamilton to answer what we considered foundational questions about exhibit 7, giving you the provenance of it, and based on the answers to those set of questions.

So, unless there are any further questions about the citizenship question, I think we're done.

Mr. Castor. Just so the record reflects, I mean, I think the witness did give us a lot of probative information about this memo. He looked at it. He provided some, you know, genuine testimony about what he remembers. And the record doesn't always reflect the body language of the witness, but he -- it looked like he was giving it a genuine effort to recall what's in the memo. And his testimony here today seems reflective of a genuine effort to answer these questions.

To the extent the Department has concerns about some other questions, that shouldn't be reflected negatively on the witness.

Mr. Anello. Do you have any questions on your side, Stephen?

Mr. Castor. No.

Mr. Anello. Susanne, anything else?

Ms. Sachsman Grooms. Nothing.

Mr. Anello. Anybody else have anything they want to say before we go off the record?

[Whereupon, at 2:30 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	Gene Hamilton
Date of Interview	May 30, 2019

PAGE	LINE	CORRECTION	APPROVED*
18	20	Change "many" to "census"	Y
27	2, 3, 4, 13,19,	Change "Rachel" to "Racheal"	Y
28	6	Change "Rachel" to "Racheal"	Y
29	9	Change "Rachel" to "Racheal"	Y
30	4, 5,15, 20	Change "Rachel" to "Racheal"	Y
31	7	Change "Rachel" to "Racheal"	Y
32	1, 14, 20	Change "Rachel" to "Racheal"	Y
33	2	Change "Rachel" to "Racheal"	Y
33	19	Change "passed" to "talked past"	Y
34	11	Change "Rachel" to "Racheal"	Y
44	11, 21, 24	Change "Rachel" to "Racheal"	Y
50	7, 10, 21, 23	Change "Rachel" to "Racheal"	Y
89	5	Add "US" before "CIS"	Y

* For COR Majority Staff use only.

