

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051

MINORITY (202) 225-5074

<http://oversight.house.gov>

June 18, 2019

Mr. Ken Nahigian  
Trustee and Executive Director  
Trump for America, Inc.  
c/o Statecraft PLLC  
649 North Fourth Avenue  
Phoenix, AZ 85003

Dear Mr. Nahigian:

I am writing to request documents from you, as custodian of documents for the Trump Transition Team, based on new information the Committee has recently obtained as part of its investigation into the Trump Administration's pretext for adding a citizenship question to the 2020 Census.

The Committee is investigating the Trump Administration's decision to add a citizenship question to the 2020 Census, despite warnings from the Census Bureau and other experts that it would harm the accuracy of the Census. Commerce Secretary Wilbur Ross testified before Congress that he added the citizenship question "solely" in response to a request that came from the Department of Justice (DOJ) in December 2017 in order to help enforce the Voting Rights Act.<sup>1</sup> However, evidence obtained by the Committee shows that this was a pretext. Documents and testimony obtained by the Committee demonstrate that the Trump Administration began a secret campaign to add the question months before any request from DOJ.

Several members of Donald Trump's Transition Team discussed adding a citizenship question before he was sworn in as President. For example, Mark Neuman, a member of the Transition Team, testified that he had direct communications during the transition with Thomas Hofeller, a Republican gerrymandering expert who is now deceased, about adding a citizenship question to the 2020 Census.<sup>2</sup> Before the 2016 election, Mr. Hofeller wrote a study concluding that adding a citizenship question to the Decennial Census "would be advantageous to Republicans and Non-Hispanic Whites."<sup>3</sup> Newly released documents show that Mr. Hofeller

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<sup>1</sup> House Committee on Appropriations, Subcommittee on Commerce, Justice, Science, and Related Agencies, *FY19 Budget Hearing: Department of Commerce*, 115th Cong. (Mar. 20, 2018); Committee on Oversight and Reform, *Hearing with Commerce Secretary Wilbur L. Ross, Jr.*, 116th Cong. (Mar. 14, 2019) (online at <https://oversight.house.gov/legislation/hearings/commerce-secretary-wilbur-l-ross-jr>).

<sup>2</sup> Deposition of A. Mark Neuman, Civ. No. 8:18-cv-01041-GJH (D. Md. Oct. 28, 2018).

<sup>3</sup> Thomas Hofeller, *The Use of Citizen Voting Age Population in Redistricting* (2015) (online at

also had direct communications about a citizenship question with a senior official at the Census Bureau using the official's personal email address.<sup>4</sup>

In addition, Gene Hamilton, another Transition Team member who later joined the Trump Administration, told Committee staff during a transcribed interview that he was contacted by another member of the Transition Team, then-Secretary of State of Kansas Kris Kobach, about adding a citizenship question to the Census. As he stated, "Kris Kobach had reached out to me at some point and mentioned some legislative proposals to something about citizenship."<sup>5</sup> Mr. Hamilton recalled that he received an email from Mr. Kobach on the citizenship question on his Transition Team email address.

After President Trump's inauguration, Mr. Neuman, Mr. Kobach, and Mr. Hamilton all communicated directly with other Trump Administration officials about adding a citizenship question. For example, Mr. Kobach told Committee staff during his transcribed interview that he met with President Trump and top advisors Steve Bannon and Reince Priebus within days of the President's inauguration and later communicated by phone and email with Secretary Ross.<sup>6</sup>

Mark Neuman communicated directly with Secretary Ross and other Department of Commerce officials.<sup>7</sup> He also met with John Gore, then-Acting Assistant Attorney General at

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<https://assets.documentcloud.org/documents/6111284/May-31-2019-Unredacted-Exhibits.pdf>); *Deceased G.O.P. Strategist's Hard Drives Reveal New Details on the Census Citizenship Question*, New York Times (May 30, 2019) (online at [www.nytimes.com/2019/05/30/us/census-citizenship-question-hofeller.html](http://www.nytimes.com/2019/05/30/us/census-citizenship-question-hofeller.html)).

<sup>4</sup> *GOP Strategist and Census Official Discussed Citizenship Question, New Documents Filed by Lawyers Suggest*, Washington Post (June 15, 2019) (online at [www.washingtonpost.com/dc-md-va/2019/06/15/new-documents-suggest-direct-connection-between-republican-redistricting-strategist-census-bureau-official-over-citizenship-question/?utm\\_term=.8922641434e2](http://www.washingtonpost.com/dc-md-va/2019/06/15/new-documents-suggest-direct-connection-between-republican-redistricting-strategist-census-bureau-official-over-citizenship-question/?utm_term=.8922641434e2)); Email from Christa Jones, Census Bureau, to Thomas Hofeller (Jan. 7, 2015) (online at <https://apps.npr.org/documents/document.html?id=6154258-January-2015-Emails-From-Christa-Jones-To-Thomas#document/p2/a507303>).

<sup>5</sup> Committee on Oversight and Reform, Transcribed Interview of Gene Hamilton (May 30, 2019).

<sup>6</sup> Committee on Oversight and Reform, Transcribed Interview of Kris Kobach (June 3, 2019).

<sup>7</sup> See e.g., Committee Oversight and Reform, *Hearing with Commerce Secretary Wilbur L. Ross, Jr.*, 116th Cong. (Mar. 14, 2019) (online at <https://oversight.house.gov/legislation/hearings/commerce-secretary-wilbur-l-ross-jr>); Email from Earl Comstock, Director, Office of Policy and Strategic Planning, Department of Commerce, to Mark Neuman (Apr. 13, 2017) (email asking Mr. Neuman when the Census Bureau needs to notify Congress of the questions that will appear on the Census, and reply from Mr. Neuman that the notification regarding "content additions for 2020 Census just took place" but that "there will be another opportunity next year"); Email from Wendy Teramoto, Chief of Staff, Department of Commerce, to Secretary Wilbur L. Ross, Jr., Department of Commerce (May 2, 2017) (Ms. Teramoto writes, "I continue to talk frequently with Marc Neumann [sic] and we often have dinner together. ... [redacted] Do you want me to set up another meeting? [redacted] Let me know if you want to have a drink or get together with him over the weekend;") Secretary Ross responds, "Let's try to stick him in there for a few days to fact find") (online at [www.documentcloud.org/documents/4616784-May-2-2017-Email-From-Wilbur-Ross.html#document/p1/a441438](http://www.documentcloud.org/documents/4616784-May-2-2017-Email-From-Wilbur-Ross.html#document/p1/a441438)); Email from James Uthmeier, Senior Counsel to the General Counsel, Department of Commerce, to Mark Neuman (Sept. 8, 2017) (email requesting a call with Mr. Neuman after Secretary Ross and Mr. Davidson asked Mr. Uthmeier to reach out to Mr. Neuman to discuss "some Census legal questions" that Mr. Uthmeier was researching); Email from Peter Davidson, General Counsel, Department of Commerce, to Secretary Wilbur L. Ross, Jr., Department of Commerce (Oct. 8, 2017) (email responding to Secretary Ross' request for a status update on the letter from the Department of Justice, stating that Mr. Davidson is "on the phone with Mark Neumann [sic] right now," noting that "he is giving me a readout of his meeting last

DOJ, who had been tasked with writing the letter from DOJ requesting the citizenship question.<sup>8</sup> In a transcribed interview with Committee staff, Mr. Gore said that Mr. Neuman provided him with a draft request letter addressed from DOJ to the Census Bureau.<sup>9</sup> The draft letter Mr. Neuman gave Mr. Gore contained language that matched verbatim a file on Mr. Hofeller's hard drive.<sup>10</sup>

For these reasons, the Committee requests that you, as custodian of Trump Transition Team documents, produce the following documents by July 2, 2019, covering the time period from to May 1, 2016, to January 20, 2017:

1. All documents and communications relating to the possible addition of a citizenship question to the Census, including but not limited to communications to or from:
  - a. Thomas Hofeller;
  - b. Wilbur Ross;
  - c. Earl Comstock;
  - d. Peter Davidson;
  - e. James Uthmeier;
  - f. John Gore;
  - g. Gene Hamilton;
  - h. Kris Kobach;
  - i. Mark Neuman;
  - j. Steve Bannon;
  - k. Reince Priebus;
  - l. Christa Jones;
  - m. any member of President Trump's Transition Team; or
  - n. any other individual.

The Committee on Oversight and Reform has both oversight and legislative jurisdiction over the Census.<sup>11</sup> The Committee is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. In addition, House Rule X, clause 3(i) specifically charges the Committee with conducting oversight of "the operation of Government activities at all levels, including the Executive Office of the President."

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week," and offering to give the Secretary "an update via phone"; Secretary Ross responds "Please call me").

<sup>8</sup> Committee on Oversight and Reform, Transcribed Interview of John Gore, 105-109 (Mar. 7, 2019).

<sup>9</sup> *Id.*; Draft Letter from Department of Justice, to John H. Thompson, Director, Census Bureau (online at [www.documentcloud.org/documents/6111284-May-31-2019-Unredacted-Exhibits.html](http://www.documentcloud.org/documents/6111284-May-31-2019-Unredacted-Exhibits.html)).

<sup>10</sup> *Deceased G.O.P. Strategist's Hard Drives Reveal New Details on the Census Citizenship Question*, New York Times (May 30, 2019) (online at [www.nytimes.com/2019/05/30/us/census-citizenship-question-hofeller.html](http://www.nytimes.com/2019/05/30/us/census-citizenship-question-hofeller.html)).

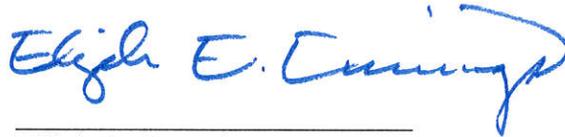
<sup>11</sup> House rule X, clause 1(n), clause 4(c).

Mr. Ken Nahigian  
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An attachment to this letter provides additional instructions for responding to this request. If you have any questions, please contact Committee staff at (202) 225-5051.

Thank you for your attention to this matter.

Sincerely,



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Elijah E. Cummings  
Chairman

Enclosure

cc: The Honorable Jim Jordan, Ranking Member

## Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
  - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - b. Document numbers in the load file should match document Bates numbers and TIF file names.
  - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:  
  
BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,  
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### **Definitions**

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.