

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

INTERVIEW OF: KRIS KOBACH [VIA TELEPHONE]

Monday, June 3, 2019

Washington, D.C.

The telephone interview in the above matter was held in 6200 O'Neill House
Office Building, commencing at 10:04 a.m.

Appearances:

For the COMMITTEE ON OVERSIGHT AND REFORM:

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For KRIS KOBACH:

J. CHRISTIAN ADAMS, ESQ. [VIA TELEPHONE]

KAYLAN PHILLIPS, ESQ. [VIA TELEPHONE]

Public Interest Legal Foundation

Ms. Anderson. So, I'm just going to read a short preamble and then ask a few questions, and then we'll get started with the interview. First of all, thank you guys for being --

Mr. Adams. Can we take a roll first?

Ms. Anderson. Sure, yes, absolutely. My name is Tori Anderson. I work for the House Oversight Committee on the majority staff.

Mr. Anello. Hi, everybody. I'm Russ Anello. I'm also on the majority staff of the committee.

[REDACTED] [REDACTED] [REDACTED]
[REDACTED]

Ms. Johnson. Ellen Johnson, Republican, committee staff.

Ms. Nabity. Caroline Nabity, Republican staff.

Mr. Castor. Steve Castor, Republicans.

Ms. Sachsman Grooms. Susanne Grooms, Democratic staff. And then we've got some stenographers.

Mr. Adams. Christian Adams for Mr. Kobach. With me is Kaylan Phillips, also for Mr. Kobach, and Mr. Kobach is on the line.

Ms. Anderson. Thank you. I'm just going to proceed with this is a transcribed interview of Kris Kobach 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 a citizenship question to the 2020 Census.

Mr. Kobach, if you could please state and spell your name for the record.

Mr. Kobach. Yes. Kris Kobach, K-r-i-s K-o-b-a-c-h.

Ms. Anderson. Mr. Kobach, again, my name is Tori Anderson. I work for majority counsel for the Committee on Oversight and Reform. I want to thank you again

for appearing by phone for the interview today. We appreciate you being willing and making the time to speak with us voluntarily.

I believe everyone else has introduced themselves, but just for the record, if we could go around again and put our names on.

Mr. Anello. Russell Anello, majority staff.

[REDACTED] [REDACTED]

Ms. Johnson. Ellen Johnson, Republicans.

Ms. Nabity. Caroline Nabity, Republicans.

Mr. Castor. Steve Castor, Republican staff.

Ms. Sachsman Grooms. Susanne Sachsman Grooms, majority.

Ms. Anderson. I'm just going to go through some ground rules really quickly for the transcribed interview. If you can't hear me or need me to repeat anything, just let me know.

The way this interview will proceed is as follows: The majority and minority staffs will alternate asking you questions, Mr. Kobach, 1 hour per side per round. The majority staff will begin and proceed for an hour, and the minority staff will then have an hour to ask questions. Thereafter, the majority staff may ask additional questions and so on. We'll alternate back and forth in this manner until there are no more questions from either side and the interview will be over.

During the interview, we will do our best to limit the number of people who are directing questions at you during any given hour. That said, from time to time, following up or clarifying questions may be useful, and if that's the case, you might hear from additional people around the table.

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

Mr. Kobach. Yes.

Ms. Anderson. Mr. Adams, will you identify yourself for the record, please.

Mr. Adams. Christian Adams.

Ms. Anderson. Thank you. There is a stenographer taking down everything I say and everything you say to make a written record of the interview. For the record, to be clear, please wait until I finish each question before you begin your answer, and I will wait until you finish your response before asking you the next question. This may seem obvious on the phone, but 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. Kobach. Yes.

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

Do you understand?

Mr. Kobach. Yes.

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 conversations that you do recall.

Do you understand?

Mr. Adams. Right. This is Christian Adams. I want to just inject here a second that he's not going to be speculating about best recollections. He's going to give you the

recollection he has if he recalls something. So, with a caveat there.

The other thing I wanted to mention is we didn't have any discussions about ground rules. So, I just want to make sure the transcription is clear that this 1 hour back and forth was not something that the parties had any discussion about. I foresee no problem with it right now, but if that circumstance or conclusion changes, I'll be sure to let you know.

Ms. Anderson. Okay. Do you understand that if -- okay. If you need to take 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 a break before then, just let us know. However, to the extent that there is a pending question, I would just ask that you finish answering the question before we take a break.

Do you understand?

Mr. Kobach. Yes.

Ms. Anderson. Although you are here voluntarily, Mr. Kobach, 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. Kobach. Yes.

Ms. Anderson. If at any time you knowingly make false statements, you may be subject to criminal prosecution.

Do you understand?

Mr. Kobach. Yes.

Ms. Anderson. Is there any reason today that you are unable to provide truthful answers in the interview?

Mr. Kobach. No.

Ms. Anderson. Please note that if you wish to assert a privilege over any statement, that the assertion must be compliant with the committee rules. Committee rule 16, subsection (C), subsection (1), states, quote: For the chair to consider assertions of privilege over testimony or statements, witnesses or entities must clearly state the specific privilege being asserted and the reason for the assertion on or before the scheduled date of testimony or appearance, end quote.

In addition, committee rule 16(C)(3) states, quote: The only assertions of executive privilege that a chair of the committee will consider are those made in writing by an executive branch official authorized to assert the privilege, end quote.

Do you understand?

Mr. Kobach. Yes.

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

Mr. Kobach. No.

Ms. Anderson. One other thing. I think someone stepped in the room since we started. Could you just identify yourself for the record?

Mr. Sanderson. I'm Tyler Sanderson. I'm a counsel for the minority staff.

Mr. Adams. That was not audible on the telephone. If somebody might relay that.

Mr. Anello. The name was Tyler Sanderson.

Ms. Anderson. He's a counsel for the minority.

Mr. Adams. Thank you.

Ms. Anderson. I will note for the record that it is now 10:10, and we will begin.

EXAMINATION

BY MS. ANDERSON:

Q Mr. Kobach, could you please tell us what your role was on President

Trump's campaign?

A I served as an informal adviser to the President throughout the campaign, starting roughly at the end of February 2016, and continued through the campaign, advising the President principally on issues of immigration, voting, and related matters.

Q And what was your role on the transition team? Was it the same, the informal adviser?

A No, it was more formal. I was a member of the transition team. I believe it was referred to as the policy branch of the immigration issue team. And, of course, I continued to informally advise the President, not in my capacity as a member of the transition team, continuing to provide policy advice during the transition period.

Q When did you first discuss adding a citizenship question to the Census?

Mr. Adams. Objection. Look, I don't want to do objections like we're in a deposition, but could you be more clear about that question? Because he's obviously been discussing this for quite some time.

You didn't ask -- I mean, are you asking a question about him writing about it? In what context?

Ms. Anderson. I think just when it first came up for you, Mr. Kobach. When did you first discuss the idea of adding a citizenship question to the Census?

Mr. Kobach. I'm assuming you are saying with the President, or are you saying --

Ms. Anderson. No, with anyone.

Mr. Adams. Well, that's not the question that was asked. So that's why I asked for some clarity about what the question is.

Ms. Anderson. Okay. Would you like me to repeat it?

Mr. Adams. Well, if you want to just repeat the same question.

Ms. Anderson. Mr. Kobach, when did you first speak or discuss the idea of

adding a citizenship question to the Census with anyone at any time?

Mr. Adams. Well, again, I'm going to instruct the witness not to answer the question unless there's clarity about who because his answer may violate various privileges. But if you have a particular person or if you're asking generally, I'd at least ask you to clarify that.

Ms. Anderson. So, when did the idea first come up?

Mr. Kobach. I've been very familiar with the Census practices and the issue of the absence of a citizenship question for years. So, if you're asking me when did I first discuss this topic with anyone, I cannot recall. It would have been a very long time ago.

Mr. Anello. Mr. Kobach, do you recall why you first became interested in it or whether there was an event that led you to first become interested?

Mr. Adams. I didn't realize we were going to have more than one person asking questions.

Mr. Anello. This is Russ Anello, also on the majority staff.

Mr. Adams. Look, this gets into the ground rule issue. We're happy to have one person ask questions. We didn't agree to a firing line.

Mr. Anello. We don't intend to have a firing line. There are just a couple of us here on the majority staff. Just the two of us, I believe, will be asking questions.

Mr. Adams. Maybe we need to have a discussion offline about how we're going to do this. I had assumed that this was going to be the sort of thing, like a deposition, where one represented interest is asking questions, not five or six people from the same represented interest.

BY MS. ANDERSON:

Q Okay. Mr. Kobach, what first brought up the idea of the citizenship question?

A Can you repeat that? What was the question?

Q Sure. So, what -- was there an event or a particular interest point that first brought up the idea of adding a citizenship question to the Census?

A No, there was no event or specific occurrence. And, of course, it's not adding; it's restoring the citizenship question to the Census after it's been dropped.

Q Was there a particular reason why you became interested?

A I can't recall other than to say, you know, generally much of my career for the last 20 years or so has been involved in issues of citizenship, immigration, elections, and related topics. So, this is -- and, of course, I was a professor of constitutional law for 15 years at the University of Missouri, Kansas City. And so, these issues frequently come up in cases involving voting rights and elections.

Q When did you first come to the conclusion that, I suppose in your records, restoring the citizenship question to the Census should be something that should be done?

Mr. Adams. Okay. Look, he asked -- you asked, and he answered that. He said about 20 years ago. But I'll let this go, but we'll all be happier if we don't repeat questions.

Ms. Anderson. I was just trying to clarify in the sense that we first discussed when he first became aware, and I think he identified that as a long time ago. And the question here was when did he first come to the conclusion that the question, in his words, should be reinstated.

Mr. Kobach. I don't recall the exact time. I would imagine it would be sometime between 10 and 20 years ago.

Mr. Adams. And I would instruct the witness not to speculate about things.

Ms. Anderson. During the campaign, President Trump's -- now President

Trump's campaign, did you ever discuss adding a citizenship question or restoring a citizenship question to the Census with anyone?

Mr. Kobach. With anyone, including the President?

Ms. Anderson. Yes.

Mr. Adams. Well, to clarify, the question was about the campaign.

Ms. Anderson. Yes.

Mr. Kobach. I'm sure I discussed it with someone. I don't know whether I -- well, I don't recall discussing it with the President during the campaign, but I certainly discussed the issue with people during the campaign.

BY MS. ANDERSON:

Q Who did you discuss the issue with during the campaign?

A I can't recall.

Q Were there any members of the campaign in particular or no recollection?

A Could you repeat that? You blacked out a second there.

Q Sure. Were there any particular members of the campaign that you spoke with about this issue?

Mr. Adams. Okay. You asked that, and he answered. He said he couldn't recall.

Ms. Anderson. Okay.

BY MS. ANDERSON:

Q During the transition, did you ever discuss the issue with anyone?

A It's possible, but I can't recall. The transition team -- if you're talking about discussions with other members of the transition team, I'm answering that question, and I'm saying I can't recall. We covered the waterfront of issues, and it's possible that this one was discussed. I just -- there were literally dozens of issues discussed.

Q During the campaign or the transition, did you ever contact Gene Hamilton about the possibility of adding a citizenship question to the 2020 Census?

A Gene Hamilton was a member of the transition team immigration subgroup, and if -- and he was on most of those phone calls and in most of those meetings. So, if the issue was brought up, he probably was aware of it, but beyond that, I don't know.

Q Do you recall ever specifically speaking with him about the issue?

A I don't have any specific recollection of speaking about it with Gene, but, again, my memory of all the communications during the transition period is pretty foggy at this point. That was more than 2 and a half years ago and there were so many issues being discussed, it's hard to remember specifically.

Q During the campaign or transition, did you ever discuss adding a citizenship question to the 2020 Census with a transition official named Mark Neuman, and I'm happy to spell that if that's helpful.

A I don't recall anybody named Mark Neuman. It's possible I met him and forgot him, but that name does not ring a bell at this time.

Q During the campaign or transition, did you ever discuss adding a citizenship question to the 2020 Census with Thomas Hofeller?

A I don't recall that name either, and I don't believe I've ever spoken to him.

Q It may also be pronounced Hofeller.

Mr. Adams. You're mispronouncing that name, by the way.

Ms. Anderson. Sure. How do you pronounce it? Mr. Adams, how do you pronounce it?

Mr. Adams. Yeah, it's Hofeller, if that's who I think you mean. So maybe you want to ask the question with a different pronunciation, just so the witness' recollection might be properly triggered if there is one.

Ms. Anderson. Sure.

BY MS. ANDERSON:

Q Mr. Kobach, during the campaign or transition, did you ever discuss adding a citizenship question to the 2020 Census with Thomas Hofeller?

A I don't recall ever meeting or talking with anyone by that name. I just read an article yesterday about -- I think it was that -- but -- and my recollection upon reading the article was that I've never heard of this guy.

Q During the campaign or transition, did you ever discuss adding a citizenship question to the 2020 Census with Steve Bannon?

A I spoke during the transition with Steve Bannon about a variety of issues. I don't recall whether or not we specifically talked about the citizenship question.

Q During the campaign or transition, did you ever discuss the issue with Stephen Miller?

A The same answer. Stephen Miller and I spoke about a variety of issues during both the campaign and the transition, and I don't recall whether or not we talked about the citizenship question.

Q During the campaign or transition, did you discuss the issue with candidate Trump and then-President-elect Trump?

A I don't recall specifically whether I spoke -- well, I can say, during the campaign, I don't believe we talked about it during the campaign. During the transition, I'm not certain.

Q Do you recall discussing the issue with anyone else on the campaign or transition teams?

A If you're speaking just during the campaign or transition period, I can't -- well, let me answer your question specifically. You say anyone else. I think it's

pretty likely that I spoke about it with people who were not on the campaign team and transition team. And, of course, I did say that I'm not sure about whether I spoke about it with transition team members. But if you're saying, did I speak about it with anyone at all, including any member of the private sector who's not involved, I would say it's probably -- I almost certainly did speak about it with other people.

Q Who did you discuss it with?

A I can't recall all the people that I discussed it with. I can think of a couple people that I routinely talk about these kind of issues with. One person is -- he's a person that I've had serve as an expert witness in some of the cases I've litigated. His name is Steven Camarota with the Center for Immigration Studies.

Q Sorry, I didn't quite catch the first name.

A Steven.

Mr. Adams. Steven Camarota.

Ms. Anderson. Okay.

BY MS. ANDERSON:

Q And who else?

A I've also -- I've also spoken about the issue with several attorneys that I litigate -- with whom I litigate. I think I have probably discussed it with Garrett Roe, R-o-e, who serves at the Kansas Secretary of State's Office.

There are probably others that I'm not recalling at the moment, but I'm sure I've spoken about it certainly with those two and probably with others. I just can't recall.

Q Do you recall when those conversations occurred?

A No. But, again, as I mentioned earlier, this -- the absence of a citizenship question after 2000 was dropped from the long form has been an issue that's been out there for quite a while and an issue that I have been aware of for quite a while.

Q During the campaign or transition, did you ever send or receive emails, text messages, or other written communications about the citizenship question?

A Could you repeat? You said during the campaign?

Q Or transition.

A I don't recall specifically sending an email, no.

Q Do you remember generally if you sent any communications about the issue during those times?

Mr. Adams. Okay, let me pause here a second. I let a couple of these slide. Is this an inquiry about his activity as a private citizen? I mean, if that's what the committee is interested in, this is a whole different can of worms if you're going to be investigating somebody's exercise of First Amendment associational and speech rights.

I didn't understand that that's what this interview was about was, what does a citizen do to exercise their constitutional rights? I let a couple of those slide, but I just want to caution this process that that's not what we're here for. And we'll be out of here in 5 minutes if that line of questioning continues about what a private citizen does on their own time.

Ms. Anderson. I think I've been fairly clear about restricting it to his time when he was part of the campaign and transition. I think he said --

Mr. Adams. Right, but the last question the transcript will clearly show was not.

Mr. Anello. This is Russ again. I think the question was whether Mr. Kobach sent or received written communications, either on the campaign or on the transition team, relating to the Census citizenship question.

I think his first answer was that he didn't have a specific recollection of such communication. And so then the second question was whether he has a general recollection of such a communication.

Mr. Adams. Well, the transcript will speak for itself. I thought we were going to have one person representing each party. If you'd like us to have a firing line, I can bring in Ms. Phillips from time to time to also raise her views on this.

So, look, we will answer questions about what you asked about in your written request, and that doesn't have anything to do with his role as a private citizen. And I've let this go, but you're getting perilously close to interrogating him about his exercise of First Amendment rights. Now, maybe that doesn't trouble you like it does us, but, nonetheless, it is something that would terminate this interview prematurely. So, I would just caution us to stay on focus on what you ask about for this interview.

Ms. Anderson. I'm going to repeat the question just so we're very clear about what the question is. Is that okay?

Mr. Adams. Go ahead.

BY MS. ANDERSON:

Q Okay. While -- during the campaign or transition, did you ever generally receive or send messages about the citizenship question?

A I do not recall doing so, but that's not to say I didn't. I don't recall. I used the term "specifically recall" earlier, but specifically or generally, no, I don't recall sending a message.

Q While you were on the transition team, what format would you send communications from? Was it primarily email or messages?

A The transition team had a number of conference calls -- or the transition team subgroup on immigration had a number of conference calls. And, principally, we would exchange ideas on conference calls, then sometimes there would be email communication.

Q Okay. Did you use a transition email address?

A I did not.

Q Did you use personal email as part of your role on the transition team?

A Yes, I used a personal email address.

Q Which email address did you use?

A [REDACTED]

Q After his inauguration, when did you first speak to President Trump about the citizenship question issue?

Mr. Adams. Well, and here we have arrived at the moment where the White House has informed us that he is not to answer questions related to discussions between the President, his advisers, the executive branch, and Mr. Kobach. So that the witness is being instructed not to answer that question.

Mr. Anello. This is Russ Anello again. Not a firing line, just another counsel.

Mr. Adams. I mean, look --

Mr. Anello. Sorry, can I just -- let me just respond.

Mr. Adams. We're not going to have a firing line here. There's one questioner.

Mr. Anello. This is a response to you, Mr. Adams. This is not a question.

Mr. Adams. We're not going to get into an argument. The witness is instructed not to answer that question.

Mr. Anello. I'd just like to -- this is not a question to Mr. Kobach. This is a response to you, Mr. Adams.

The White House's instruction which, as you know, we disagree with strongly, was that Mr. Kobach was not to discuss the substance of any conversations he had with the President or other senior White House advisers.

There is no instruction in here about discussing whether those conversations occurred, when they occurred, what happened before or after those conversations.

And there's really not an argument that the White House could make that any of those conversations -- that those other items I mentioned could be covered by any privilege.

Now, we disagree strongly with the White House's assertion that there could be a privilege of the communications themselves and the substance of those, but Ms. Anderson's question did not go to the substance of those conversations at all. It went to whether the conversations occurred and when they occurred, and those are different, and they are not covered by any letter or instruction from the White House.

Mr. Adams. Okay. I understand what you're saying, and we can perhaps revisit the question. We're not going to have a free for all about this today, a wheeling discussion with two, maybe three or four shortly, majority staff about this.

So, if you want to re-ask the question, go ahead and re-ask.

Ms. Anderson. Okay. After his inauguration, when did you first speak to President Trump about the addition of a citizenship question?

Mr. Adams. Okay. Look, that question presupposes a substance. And with all due respect to chair number two, when you ask a question about substance of a conversation and he gives you a time, you're confirming that the substance of the conversation occurred.

Ms. Anderson. Mr. Adams --

Mr. Adams. I understand your argument, chair number two, but you're still invading the privilege.

Ms. Anderson. Mr. Adams, did you receive the attachments I sent you this morning?

Mr. Adams. No.

Ms. Anderson. Okay. Well, there's an article that was published in The Kansas City Star on March 27, 2018, and in there, there is an interview that Mr. Kobach had given

and spoke about this issue. And I'm happy to read it to you. I'm happy to let you have a minute if you want to go look at those attachments because we did provide those this morning.

Mr. Adams. Well, what I would suggest we do regarding anything you've sent to me that we haven't seen is we schedule a time to go through them if you want to. We're not going to answer questions about something that was dumped on us. I still haven't seen it.

Ms. Anderson. Let me just -- I'll just --

Mr. Adams. I mean, I don't know how we can possibly do that. If you want to go ahead and ask, but he's obviously not going to speculate about things.

Ms. Anderson. Okay. Well, in that interview, Mr. Kobach is quoted as saying that he discussed this issue with the President shortly after he was inaugurated. So, I think we're simply asking about things that Mr. Kobach has already very publicly discussed, in fact, was quoted as discussing in a newspaper.

And so, I would just ask again, Mr. Kobach, to the best of your recollection, when do you remember discussing this issue with the President?

Mr. Adams. I'm instructing the witness not to answer. If you want to ask him questions about The Kansas City Star, even ask if the newspaper got it right, I don't even -- I mean, look, we haven't seen these documents. The time to provide these would have been last week, not this morning.

Ms. Anderson. Okay. I can definitely ask your question.

Mr. Kobach, would that be correct that you first discussed this issue with the President shortly after he was inaugurated, as quoted in The Kansas City Star?

Mr. Adams. Look, let's just -- let's not waste everybody's time here. He is not going to answer questions that invade a privilege that the White House has instructed us

and informed you that they are asserting here. And to ask a question about when he spoke about a substantive issue presupposes he spoke about a substantive issue.

Now, you can ask that question 10 times till Tuesday, but he's not going to answer questions that violate those instructions to us.

Ms. Anderson. And I just want to, for the record, just clearly sort of state the question that you had raised, Mr. Adams. The quote, just again for the record, says that Mr. Kobach said, quote: He may have been aware of it -- referring to the President -- and, quote, he absolutely was interested in this.

And my question now is, is that an accurate statement?

Mr. Adams. Are you asking if the newspaper quoted him correctly or is the substance of the quote accurate?

Ms. Anderson. Did the newspaper quote him correctly?

Mr. Adams. The witness can answer that.

Mr. Kobach. Yes, the newspaper quoted me correctly.

Ms. Anderson. Was there anyone else present when this issue first arose?

Mr. Kobach. Please explain what you mean when you say, "when the issue first arose."

Ms. Anderson. Sure. When the issue -- when the President expressed his interest in the citizenship question, was there anyone else present? I'm not asking about the substance of that conversation, just whether another person --

Mr. Adams. But you're asking -- that's a subterfuge to ask the question did the President express interest. And he's not going to answer a question that has a presupposition that gets to the privilege. That's exactly what you're doing when you ask a question like that.

Ms. Anderson. Okay. I'll do a different question, Mr. Adams.

BY MS. ANDERSON:

Q Mr. Kobach, the article also quoted you as saying, quote, "I won't get into exact detail, but I raised the issue with the President shortly after he was inaugurated." Is that an accurate quote?

A That is an accurate quote, yes.

Q It also quoted you as saying, quote: I wanted to make sure the President was well aware, end quote.

Is that an accurate statement?

A I think it probably is. I don't recall specifically saying that, but it sounds accurate.

Q Were these statements accurate when you told the newspaper, when you met with the newspaper journalist?

Mr. Adams. Objection. I'm sorry; he's not going to answer that because that is asking about the substance of his conversations.

Mr. Anello. I think it was just asking if the quote he gave to the newspaper was accurate.

Mr. Adams. Who is that?

Mr. Anello. Again, this is Russ Anello. We've spoken before.

Mr. Adams. Russ, look, I mean --

Mr. Anello. Mr. Adams, just to be clear, the rules do permit us to have more than one questioner. We did read that in the preamble and it's something we do routinely with interviews. We've done it --

Mr. Adams. Well, I'm sorry; we didn't have a discussion about that prior to us agreeing to do this. So maybe -- I mean, we'll go with this for a while, but realize you're testing our time and patience.

But he's not going to answer questions where the privilege has been asserted. I just got a note here that the White House sent a letter to Chairman Cummings, I guess it was this morning, that once again reasserts this privilege that Mr. Kobach's communications with the President and senior White House advisers are falling squarely within the scope of executive privilege. And he just can't answer these questions about that. I mean, he's not the one asserting this privilege. So, you know, it's not -- it's not him that -- that is deciding this. It's somebody else.

Ms. Anderson. I think you mentioned previously, Mr. Kobach, that you had perhaps had a conversation or conversations with Steve Bannon about this issue. Is that accurate?

Mr. Adams. Well, again, he said -- his testimony was it was prior to the inauguration he did.

Ms. Anderson. I'm sorry. Mr. Adams, I was clarifying what the witness said with the witness. So just like if he could say whether that was an accurate representation.

Mr. Adams. Well, it depends on -- I mean, if you're asking the same question again, he's not going to answer it twice. If you're asking a new question about a different time period, please specify.

Ms. Anderson. I apologize if my foundation was not something that was -- okay. Did you have any conversations after the transition with Steve Bannon about this issue?

Mr. Adams. After the transition is an area that Mr. Kobach is not going to testify about for the reasons we have stated. And I have a running instruction to the witness not to testify about questions that invade the privilege that the White House has asserted. And that instruction would apply to that question.

BY MS. ANDERSON:

Q Mr. Kobach, are you aware of members of the transition team or members of the White House taking any action about the citizenship question around the inauguration period?

A Could you repeat that question, please?

Q Sure. Are you aware of any members of the transition team or any members of the White House taking action around the citizenship question during the -- around the inauguration?

A Yes.

Q What actions were those?

A Setting up communication and meetings.

Q Meetings with who?

A As we just discussed, as I mentioned in the article in the Kansas City Star, I did meet with the President and this issue was a subject during a meeting with the President. And I also -- I also met with Steve Bannon, senior adviser to the President, as well.

Q Were there any actions that were taken after those meetings?

Mr. Adams. It wasn't clear what you said. We couldn't hear that.

BY MS. ANDERSON:

Q Were there any actions that you were aware of that took place after those meetings?

A There may have been actions taken by others that I'm not aware of, but all I'm aware of is subsequent communications. So, I had a phone call after those meetings. The only other person that I can recall in those communications was Reince Priebus, Chief of Staff to the President. And I don't know what actions they took other

than setting --

Q Sorry. Yeah, I wanted to be a little bit clear in my question. Were you aware of any actions that were taken after your meeting with the President?

A If by "actions" you mean including, you know, setting up a phone call or talking to other people?

Q Yes.

A I know that -- I know that, yeah, further communication was set up, but I don't know what other actions they took without my knowledge.

Q And who were those further communications with?

Mr. Adams. Okay. What -- further communications regarding what issue?

Ms. Anderson. The citizenship question.

Mr. Adams. Okay. Well, you're getting into the privilege again then.

Ms. Anderson. So, I wasn't asking about the substance of those conversations. I was just asking -- he said that further communications occurred. I was just asking who those further communications were with.

Mr. Adams. Right, but that presupposes the substance, and he's not going to testify whether or not the substance occurred.

Ms. Anderson. I believe that he already has. He said he met with the President about the issue and then met with Steve Bannon about the issue. And then, subsequent to those meetings, there were communications, including perhaps a phone call and then some further communications.

And so, the question was, after he answered those previous questions, who were those phone calls with, or those --

Mr. Adams. I don't think that was what his testimony was. I think his testimony was that a working group existed about immigration issues, not about the

Census question, because he would not have testified about privileged communications.

Mr. Kobach. Actually, Christian, I wasn't talking about during the working group, just to clarify my question. I was talking about after inauguration regarding those communications.

BY MS. ANDERSON:

Q So do you remember more specifically when those meetings occurred that you previously discussed?

A If you're talking about post inauguration, it would have been late January-early February of 2017.

Q Did you meet with the President and Steve Bannon on the same day, or were those separate days?

A I believe it was the same day, but I'm not certain.

Q Was it -- do you think it was two meetings or three meetings, or do you have any more specific recollection?

A I think it was two meetings, one with Steve Bannon and then -- and perhaps -- and then, again, the timing is unclear to me, but one with Steve Bannon and then a subsequent meeting -- I think it was subsequent -- with the President. Mr. Bannon may have been in the room, and Mr. Priebus may have also been in the room.

Q Were there meetings about this issue after that set of meetings?

Mr. Adams. Okay. He's not going to answer a question about this issue, meaning Census question discussion. That's privileged information.

Ms. Anderson. Do you recall -- I think the question, just to be very clear, is whether there were other meetings later, not the substance of those meetings, but whether there were other meetings after that first set of meetings.

Mr. Adams. Well, he may have had other meetings, but he's not going to reveal whether or not they involved the Census question. That's privileged. The White House has asserted a complete privilege over those issues.

Mr. Anello. I understand. This is Russ Anello again. Just to be clear, I think he told us that that meeting -- he had two meetings about the citizenship question: one with Mr. Bannon, one with the President and possibly Mr. Bannon and with Reince Priebus.

So, the question is just whether there were others that took place after that. That's the question.

Mr. Adams. Right. But, look, this is privileged. Asking the question "did you have a meeting to discuss with the President the addition of the Census question" invades the privilege. He's not going to discuss meetings with the White House about the Census question.

Ms. Anderson. So, Mr. Kobach --

Mr. Adams. He asserted a privilege.

BY MS. ANDERSON:

Q Mr. Kobach, did you have any other meetings with the President?

A Yes.

Q What were those meetings about?

A A whole variety of topics, and I continue to meet with the President on a variety of topics.

Q Do you have any -- can you be a little bit more specific, please?

A Without getting into the substance of our discussions, I routinely meet with the President on issues of immigration law, border security, citizenship issues, election issues. Sometimes we talk about constitutional issues, so -- and other issues.

But, again, my principal expertise in advising the President has been in

immigration-related and election-related issues.

Q And have you ever had any other meetings with Steve Bannon while he was still at the White House?

A Yes.

Q And what were those meetings about?

Mr. Adams. Okay, hold on there. There is a letter that Chairman Cummings received this morning that says: Contrary to claims in your letter, we have a well-established legal basis for instructing Mr. Kobach not to answer questions about his communications with the President or senior White House advisers. The White House is instructing Mr. Kobach not to answer questions about these discussions.

And you all have that letter, or at least your chairman does. Mr. Kobach should not answer any questions -- any questions -- during his interview about his communications with the President or senior White House advisers, and that would include whether or not they occurred or when they occurred.

BY MS. ANDERSON:

Q Mr. Kobach, did the meeting you previously describe lead to any other meetings?

A Which meeting are you referring to when you say the meeting I previously described?

Q Sure. The day of meetings that you had with the President and Steve Bannon, did that set of meetings -- and perhaps Mr. Priebus -- did those set of meetings lead to any other meetings?

A I don't recall them specifically leading to other meetings, no.

Q Did you ever have any meetings or discussions with anyone at the Department of Commerce about the citizenship question?

Mr. Adams. We're going to object. The letter from the White House today says the witness should not be answering that question.

Ms. Anderson. Sorry. I think it was about the Department of Commerce, and that has a whole host of people that aren't senior administrative or White House --

Mr. Anello. Yes. To be clear, the White House's instruction related to the White House and her question was about the Department of Commerce, so there's no overlap with the White House instruction at all.

Mr. Adams. The witness can answer, but senior advisers is going to include the Secretary.

Mr. Anello. The letter is about senior White House advisers. I mean, that's just quoting from the letter.

Mr. Adams. Go ahead and ask the question. I'm not going to argue with you. If you ask a privileged question, he's not going to answer.

Ms. Anderson. We just wanted to be really clear about kind of what we're discussing. The letter itself, I believe the one that you previously quoted to us fairly extensively, said that he's not allowed to discuss -- answer questions about his communications -- this is a quote -- "with the President or senior White House advisers."

BY MS. ANDERSON:

Q And so the question is, did you have any discussions or conversations with anyone about the citizenship question at the Department of Commerce?

A Yes.

Q Who at the Department of Commerce?

A Secretary Ross.

Q When do you first remember speaking with Secretary Ross about the citizenship question?

A I don't recall the exact date, but I would say it was in the first half of 2017.

Q Did you have a conversation with him before he was the Secretary, or was it after he was the Secretary?

A After he was the Secretary.

Q Did you speak with anyone else at the Department of Commerce about the addition of a citizenship question?

A I think I may have spoken with one of Secretary Ross' schedulers in arranging a phone call, and I do recall speaking with someone else at the Department of Commerce about -- I think they notified me that there was a notice and comment period if I should wish to make any formal comment on the issue. Those are the only other conversations I can recall.

Q Do you remember who the scheduler was?

A I don't specifically remember, no.

Q Do you remember who the person is who notified you about the notice and comment period?

A No. I remember it was a male. I think the scheduler was female, but I don't have a specific recollection.

Q Did those, I guess, conversations or communications, were those on the phone, on email, on text message, do you recall?

A I don't recall regarding the gentleman who alerted me that there was a, you know, opportunity for notice and comment, whether that was email or phone. I think with respect to the -- I think it was a lady who arranged or somehow facilitated the phone call between me and the Secretary, I would guess that it was probably both email --

Mr. Adams. I'm going to instruct the witness not to guess.

Mr. Kobach. Okay. I think there was an email. I would -- beyond that, I'm not

sure.

BY MS. ANDERSON:

Q Okay. Did you -- with the scheduler, did you discuss -- do you remember any specific discussions or communications with that person?

A No, I do not.

Q How about with the person that reached out to you about the notice and comment period?

A I don't recall the details. To my recollection, I think he was just generally letting me know that the Department was opening up a notice and comment period and that if I wished to participate in it, I could.

Q For the latter one, the notice and comment, was that something you received through your official role as secretary of state of Kansas or was that in a personal capacity?

A How would you define that, that distinction, I mean?

Q Sure. Did it come --

Mr. Adams. I mean, you are asking him to speculate about something he wouldn't know the answer to.

Ms. Anderson. Sure. Sorry, and I'll clarify.

BY MS. ANDERSON:

Q Did it come to your official email, your official Kansas government email, or did it come to your personal email?

A I think I said I wasn't sure whether my communication with him was email or phone.

Q Okay.

A So I don't even -- so since I can't recall whether it was an email or phone, I

certainly wouldn't be able to recall whether it was an official email or a personal email.

Q Okay. Do you recall having any discussions with anyone at the Department of Justice about the citizenship question?

A I don't specifically recall. However, that doesn't mean the answer is no. I did have -- I have discussed a variety of issues with people at the Department of Justice. I just don't have a specific recollection --

Q Sorry, the last bit of your answer cut out a little bit.

A I said I don't -- I had a variety of discussions with officials at the Department of Justice post inauguration. I can't recall all the topics that came up in those discussions.

Q Who did you have discussions with at the Department of Justice?

A I had discussions with at least one -- I think he was an Acting Assistant AG, Mr. Gore. And there was another Assistant AG, and I can't remember his name. I've also -- I also had a discussion with the Attorney General himself, Mr. Sessions. There were other people in the room when I had that discussion with Mr. Sessions, but I don't recall their names.

Q Do you -- I'll just start with the first one, Mr. Gore. Do you remember when that discussion or discussions occurred?

A I would say in the -- probably in the February or March of 2017 period.

Q How about the other Acting Assistant Attorney General?

A That would be --

Mr. Adams. Well, what's the question here? How about the other Acting Assistant Attorney General? That's -- if I was in a deposition, I'd say object to form.

Ms. Anderson. Okay.

BY MS. ANDERSON:

Q Mr. Kobach, when -- if you recall, when did the conversations that you had with the other Acting Assistant Attorney General, I believe you do not remember that person's name, when did those discussions occur?

A I believe it was in the February-March of 2017 period.

Q And do you recall when your conversation with Attorney General Jeff Sessions occurred?

A It would be roughly in that same time period.

Q Were those conversations following up on your conversations that you had with Mr. Bannon or President Trump?

Mr. Adams. Okay, I'm going to object there. First of all, the question, the form of the question is vague. "Following up on" could mean at least 50 things I can think of, some of which are going to invade the privilege.

So, if you want to refine that question to something that is unlikely to invade the privilege, he can answer it, but that one I'm going to instruct him not to answer, because its vagueness lends itself to violating the privilege.

Ms. Anderson. Mr. Kobach, were the discussions or conversations you had with Department of Justice officials related to the conversations that you had with White House officials?

Mr. Adams. Objection again to -- well, the question is vague. Related to. I mean, if you want to ask a more refined question, he can answer, but that's not the kind of question that can be answered.

Ms. Anderson. Mr. Kobach, did you have discussions or conversations with Department of Justice officials as a result of the discussions that you had with the White House?

Mr. Adams. And that would require him to speculate. He doesn't know why

they --

Mr. Kobach. I didn't perceive them as being related. In other words, I didn't receive a -- you know, a request for a meeting saying, "following up on such and such discussion in the White House," or anything like that.

BY MS. ANDERSON:

Q Mr. Kobach, those discussions that you had with DOJ officials, did you initiate those conversations or discussions?

A The one with Attorney General Sessions I initiated. The ones -- and, again, I can't remember if it was just one Assistant Attorney General or two, but I can recall specifically one, which I think it was Mr. Gore. I believe that one was more of a chance meeting where we were both at the same place, and we talked about a variety of issues.

Q The meeting that you initiated with the Attorney General, was that as a result of your meetings with the White House?

Mr. Adams. Again, you are invading the privilege through an unclear question. If you want to specifically ask, "Did the White House ask Mr. Sessions to talk to you," that's a different kind of question because it has clarity and specificity. As a result of, it calls for speculation and it's vague.

Ms. Anderson. Mr. Kobach, did the White House instruct you to meet with anyone at the Department of Justice?

Mr. Adams. That invades the privilege.

BY MS. ANDERSON:

Q And your conversation with Attorney General Sessions, was that about the Census?

A As I mentioned earlier, it was a variety of topics, and I can't recall whether the Census topic came up.

Q Mr. Kobach, did you ever discuss -- or did you ever have discussions or conversations with anybody at the Department of Homeland Security?

A Are you saying in general, ever?

Q About the citizenship question.

A I can't recall any such discussions at the time.

Q Did you ever have any discussions or conversations about the citizenship question with anyone else at any other agency?

Mr. Adams. Okay. You're getting into, once again, his capacity as a private citizen about his exercise of associational and speech rights under the First Amendment. We'll let this one go, but just a cautionary note about a previously raised concern.

Ms. Anderson. Mr. Kobach, would you like me to repeat the question?

Mr. Adams. He can answer the question.

Ms. Anderson. I was just asking whether he would like me --

Mr. Adams. The question is out there.

Ms. Anderson. Okay.

Mr. Kobach. Go ahead and repeat it, please.

BY MS. ANDERSON:

Q Okay. Mr. Kobach, did you have any discussions or conversations about the citizenship question with any other agencies?

A I don't recall doing so. Again, this was 2 and a half years ago, this time period we're talking about, so it is possible I'm forgetting something, but I don't recall any, no.

Q Mr. Kobach, you said that you discussed the citizenship question with Secretary Ross. Do you remember when you -- I believe that you -- yeah, you said you first discussed it the first half of 2017. What did you discuss with Secretary Ross?

A Well, other than the general subject matter -- I don't believe I agreed to answer the specifics, but the subject matter generally was, of course, the citizenship question.

Mr. Anello. I'm sorry. This is Russ Anello again. Just to be really clear, there is no instruction that I'm aware of from the White House or from anybody else that would restrict your ability to answer questions that relate --

Mr. Adams. -- want to get clarity --

Mr. Anello. I'm sorry, Mr. Adams, could I just finish? Mr. Adams, can I just finish real quick? I'm not aware of any instruction from the White House or from anybody else that would restrict Mr. Kobach's ability to answer questions about communications --

Mr. Adams. Did you read the letter from this morning?

Mr. Anello. Yes. And it relates to the President, conversations with the President and senior White House advisers. That distinction is very important from a legal perspective, which is I'm sure why the White House put it in there.

Mr. Adams. That's fine and dandy, but here's what I would suggest we do on this, is we need to get some more clarity about whether the Secretary of Commerce falls into that category. So why don't we carve out an availability once we can get some clarity about that?

Mr. Anello. So, let me just make a couple points there, Mr. Adams, first. This is the first I've ever heard that that communication could be covered by any kind of privilege.

Mr. Adams. Well, that's great. I don't really care if it's the first you ever heard. What I'm suggesting is we find a time to answer your questions once we can get some clarity on that. I'm saying that we'll be available on that, and would you give us the

courtesy of getting some instruction about that?

This is not our direction that's in play here. And it may be that you are not aware of anything, but we need to be comfortable about what our instructions are.

Mr. Anello. So, I think this is something we could certainly talk about after lunch, but our goal would be to complete it during this interview.

Mr. Adams. Well, we're going to be over before lunch. So, we can talk about it after lunch if you want, but I'm just saying let's make ourselves available at another time involving Secretary Ross. We just need some clarity about what the instruction is.

Mr. Anello. So, if you want to call -- if you'd like to take a break during lunch to call, and then we can continue the interview afterwards, I think that would be fine with us. But our goal is to be able to complete our questions today, and obviously, minority staff may have questions as well.

Mr. Adams. Well, that's your goal. Our goal is to respect the privilege and complete.

Mr. Anello. Yes. Yeah, I think we'd be able to do both. I'm sure you can handle this with a quick phone call because it's pretty clear from the text.

Mr. Kobach. This is Kris Kobach. A way we might proceed is we could proceed as if we believe the privilege does assert -- does include Secretary Ross, and then if we learn from the White House that it doesn't, then we can continue.

Mr. Adams. Right. And that's the option is we just do that and inform you that if we find that our assertion is misplaced, we can all reconvene. How's that sound?

Mr. Anello. So, I think these are very important questions, and I think you guys -- I'm pretty sure we all knew these were questions that were going to come up. They were discussed by Secretary Ross.

Mr. Adams. Well, you might be sure about that, but I'm not. We can have all

sorts of trim here. What about the suggestion that we do it that way?

Mr. Anello. Sorry, what is the suggestion?

Mr. Adams. Well, Mr. Kobach said that we proceed as if Secretary Ross' discussions are covered by the privilege assertion. If we're mistaken in that, we can make ourselves available to you once we get clarity.

Mr. Anello. That -- go ahead.

Ms. Sachsman Grooms. We proceed as if we just skip those questions for now, take a break. We check and then --

Mr. Adams. Sorry, we couldn't hear you.

Ms. Anderson. I believe we'll proceed now, and then when we take a break, we'll give you an opportunity to check with that, and then we'll return, and we can proceed from there.

Mr. Adams. Okay.

BY MS. ANDERSON:

Q Mr. Kobach, who initiated the conversation between you and Secretary Ross?

A I can't recall who set it up.

Q Did you talk on the phone or in person?

A On the phone.

Q Was anyone else present on the phone call?

A To my recollection, no one was present with me on my end of the phone call. I do not know who was present on Secretary Ross' end of the phone call.

Q How many other times did you discuss the citizenship question with Secretary Ross?

Mr. Adams. He's not going to answer that question until we sort this out. Next

question.

Mr. Anello. This is Russ. One thing I'd say -- so we're going to be switching shortly and taking a break in about 2 or 3 minutes. The one thing I would say is in addition --

Mr. Adams. We couldn't hear you. I'm sorry.

Mr. Anello. So, we're going to be taking a break, because our hour is almost up. We're going to be taking a break pretty shortly. The one thing I'd say is, in addition to resolving the issue that you'd like to resolve regarding the scope of your instruction, it would also be great if, when we reconvene, you're able -- you have the documents that we sent you because we would like to ask about those documents. There's a very small number of them.

Mr. Adams. Okay, I couldn't hear that, something about -- you must be further away from the phone.

Mr. Anello. What I said was when we reconvene, in addition to having a response regarding the scope of the instruction, it would be very helpful if you can pull up the emails or the small number of documents we sent you so that Mr. Kobach is able to answer questions about those.

Mr. Adams. Okay. What small number of documents you sent us, was this last week?

Mr. Anello. These were documents that we sent you in advance of the interview. Just so you know, our normal practice is to provide documents during an interview, but as a courtesy -- because Mr. Kobach did not want to travel here, we, as a courtesy, allowed you guys to do this on the phone, we emailed them to you in advance. And so there's not a need to study the documents in advance.

Mr. Adams. I have some time to take a look at those this afternoon, and we can

get back to you on that.

Mr. Anello. I just want to let you know before the break that we do have questions about them, so just wanted to give you one more heads-up about that. We can talk about that after the break.

Mr. Adams. Well, I just want to let you know we're not going to answer them because we haven't had time to look at them. So, you can waste everybody's time and ask them, but I would suggest we carve out another time to get to those because it's not going to be in the next couple of hours.

If you sent them to us last Friday, it would be a different discussion, but I don't have any idea what they are, and I need to discuss them with the client. And that's not going to happen during the break.

Mr. Castor. I don't know what I want to do with this. I mean, this is just --

Ms. Sachsman Grooms. Can we ask him to take a break and call the White House?

Mr. Castor. This is just extremely frustrating, so --

Mr. Adams. I'm sorry; we can't hear that on the phone.

Mr. Castor. Okay, so you can't hear it. You're not here. Is the hour up?

Mr. Anello. We've got about a minute left, so I think we're happy to --

Ms. Sachsman Grooms. So, the hour is up. The option at this point is that we could take a break and allow the witness' counsel to make a phone call to the White House to clarify the instruction and then reconvene in about 15 to 20 minutes after that's done, and then you guys can have your hour if you'd like it if you have questions to ask. Do you have questions?

Mr. Castor. We'll have to talk.

Ms. Sachsman Grooms. And if you don't have questions, then we will reconvene

with our hour.

Mr. Castor. Yes. So, we'll all take a break, maybe get some friendly pills.

Ms. Sachsman Grooms. Do you want to identify who you are?

Mr. Kobach. This is Kris Kobach. What time are we reconvening?

Ms. Sachsman Grooms. So, what we would like to do is give your attorney some time to call the White House. Assuming that he can reach someone there, let's reconvene in 20 minutes. So that would be at 11:30. And hopefully, we'll be able to pick back up with the clarification from the White House.

Mr. Kobach. Okay.

Mr. Adams. All right.

[Recess.]

[11:31 a.m.]

Ms. Anderson. You can now proceed.

Mr. Adams. All right. We had an opportunity to discuss with White House counsel what exactly they're asserting privilege over, and I would suggest you pick up your -- your questions. We're back on the record.

BY MS. ANDERSON:

Q Okay. For the record, I believe the Republican side has decided not to take their hour at this time. It is 11:32 a.m.

Mr. Kobach, I want to talk about the first time that you discussed the citizenship question with Secretary Ross. I believe you said it was in the first half of 2017. What did you discuss with Secretary Ross?

A Well, I thought it was -- hold on I had the phone on mute, sorry about that. Can you hear me?

Q Yes.

A I recall discussing the subject of adding the citizenship question to the Census. I don't recall the specific things that were said in the discussion, however.

Q Okay. Did you initiate that discussion, or did Secretary Ross?

A I can't recall whether his office reached out to me or I reached out to his office.

Q Why did you think the citizenship question should be added to the Census?

A Are you asking me generally, or are you asking me -- as I said, I don't recall what I said to Secretary Ross. I can tell you generally my -- my thoughts on the topic.

Q Okay. I'll rephrase.

Did you tell Secretary Ross you thought the question should be added to the Census, the 2020 Census?

A Yeah.

Q And do you recall whether he responded to that, whether he agreed with that?

A I don't recall his response.

Q Were you aware of any actions Secretary Ross took after that initial conversation regarding the citizenship question?

A When you say action Secretary Ross took, are you referring to actions taken by the entire Department of Commerce, or are you talking about him specifically doing something like -- something that he specifically did?

Q Why don't we start with him?

A I don't recall him taking specific action. I'm aware generally of the agency putting the issue up for notice and comment.

Q How many other times did you talk to Secretary Ross about the citizenship question?

A I know that I -- I emailed him once. I can't recall if we spoke a second time on the phone. I -- I have no recollection of speaking to him a second time on the phone, but it's possible, but I -- I know I certainly sent him an email.

Q So just to return to that first conversation briefly, was that call arranged by Steve Bannon?

A I don't recall who arranged it.

Q Do you recall the purpose of that particular phone call?

A I believe the purpose was to discuss the restoration of the citizenship question to the Census.

Q Did you discuss with Secretary Ross the steps that could or should be taken to have the citizenship question appear on the 2020 Census?

A Can you clarify what you mean by steps that could be taken?

Q Did you discuss with him any next steps that the Department or he or you should take or could take to have the question appear on the 2020 Census?

A I don't recall discussing any, you know, specific steps that an agency might take in restoring the question.

Q Did you discuss with or explain to Secretary Ross why you thought it should be added to the Census?

A I did say to Secretary Ross that it should be added. I can't -- as I said before, I can't recall specifically what I said to Secretary Ross.

Q So why did you think the question should be added?

A And again, is this question just in general terms, why -- why generally do I believe it should be added?

Q Yeah. Yes.

A I think there are multiple reasons why it should be added. I mean, one -- one reason is that the principle of one person, one vote is at stake if a State or a political jurisdiction does not know how many citizens it has.

I've laid this out in an article that I wrote, I -- I assume you probably have it, at Breitbart.com in I think January of 2018. But basically the idea is that if you have two representative districts, and let's say one district has 700,000 citizens and no illegal aliens and maybe -- well, let's just -- to make it simple, all citizens and no illegal aliens, and one district has 350,000 citizens and 350,000 illegal aliens. Then the citizens in that second district have twice as much voting power as the citizens in the first district.

So, it affects the -- it impairs the principle of one person, one vote that the Supreme Court laid out in 1964 in *Westbury v. Sanders* when you have unequal district size or unequal numbers of citizens in each district. That was one concern.

There are multiple other concerns that different agencies would have if they don't know the number of citizens. Obviously, the Department of Homeland Security has a concern, has multiple concerns about where -- how many aliens, both legal and illegal, are in the United States, where they're living.

The Department of Labor has concerns about the labor supply and the proportion of the labor supply that might fit into the various categories of U.S. citizens, alien lawfully present, alien unlawfully present.

The Department of Justice has concerns about the Voting Right Act -- Voting Rights Act. Specifically, one of -- one of the concerns is to ensure that all population groups with particular emphasis on -- on racial minorities are given the opportunity to register to vote, and you can't calculate a percentage of people registered to vote unless you know the denominator, and the denominator is the number of citizens. If you only know the number of persons in a district or you don't know which number of those-- which of those persons are U.S. citizens and which are not U.S. citizens, then you don't have the denominator.

You can't say that -- you can't say that a given percentage of eligible voters are registered because you haven't calculated -- since noncitizens aren't eligible voters, you have to know the percentage of citizens, and that's a fundamental concern of the Voting Rights Act.

Those are -- those are some of the, you know, the biggest questions, biggest issues that are affected by a country not knowing the number of citizens that it has, so those are generally my concerns on the issues.

Q With regards to the one person, one vote issue that you brought up, how would adding or including a citizenship question in the 2020 Census affect that concern?

Mr. Adams. Okay. He answered that question when he explained the

distribution of citizen voting power.

Ms. Anderson. So, I think the question is not what the concern is, Mr. Adams. The question is gathering this information, how would that affect or address that concern for Mr. Kobach's opinion or from his perspective. So, I think they're slightly different than the question that we answered previously, and I'm happy to ask it again if that helps you understand what my question is.

Mr. Adams. Right. I mean, we'll let this go, but once again, you're getting into his private capacity thoughts. And I didn't realize the committee had designs on interrogating a private citizen about their private-held thoughts about what is the best policy for government, but we'll let this one go, but realize you're on a short leash.

BY MS. ANDERSON:

Q Mr. Kobach, would you like me to repeat the question?

A No. I remember the question.

Q Okay. Thank you.

A Well, that information would assist whoever the -- the person or committee or commission, depending on the State, you know, drawing voting district lines. So if you have -- in the State of Kansas where I was secretary of state, if you have, you know, one representative district in one part of the state where -- to go back to the example I gave earlier, where half of the individuals in that represented district as currently drawn are unlawfully present in the country, then there would be a strong argument that the citizens in that district are actually twice as powerful in their votes. It's like one person, two votes. And so that would assist the State if they wanted to conform with the one person, one vote principle as articulated in *Westbury v. Sanders*.

Mr. Anello. This is Mr. Anello. I just wanted to make sure I understood it because -- I'm sure Tori got it, but it's a little complicated for me.

Mr. Kobach, it sounds like, if I'm getting this right, the goal of gathering the data with respect to apportionment would be that once you had this data, this citizenship data, a decision-making body could use it to draw district lines that would exclude certain noncitizens or maybe exclude all noncitizens for the purpose of apportionment. Is that right?

Mr. Adams. Okay. Wait a minute. First of all, he didn't testify to that.

Mr. Anello. That's why I'm asking for clarification.

Mr. Adams. He didn't use the word apportionment. He talked about redistricting, for one.

And secondly, this is now the third question that's delving into his own private views as a citizen, and that's not what the purpose of this interview was about.

Mr. Anello. Yeah. I'm just asking for a clarification of what he just said.

Mr. Adams. No. You asked -- you asked him about something he didn't testify about. Apportionment isn't what he testified about. You should go look up what that means, but that -- that is not what he testified about, and you are trying to put words in his mouth, and that's not what he testified about.

Mr. Anello. Okay. Well, maybe we can ask Mr. Kobach if that is what he meant, and if he -- if it's not, then he can certainly --

Mr. Adams. Look. I said earlier that we're not going to have a firing line with a series of people about his own private views, and then you -- it wouldn't be so bad if you didn't put words in his mouth. He never said anything about apportionment.

Mr. Anello. Okay. I'm not -- to be clear, I'm not trying to put words in his mouth. I just phrased it as a question because I want to understand if that's what he meant or not.

Mr. Adams. But that's what you did. It doesn't matter what you tried to, that's

what you did.

Mr. Anello. But if it is, he can certainly say that.

Mr. Adams. He never said anything about apportionment.

Ms. Anderson. I think we're just trying to clarify, and if Mr. Kobach does not agree with the phrasing that we used, we're happy to hear how he would phrase what Mr. Anello asked.

BY MS. ANDERSON:

Q Mr. Kobach, if you don't mind responding, does that adequately capture what your view was, or is there something you would like to clarify?

A My concern is that we should respect the principle of one person, one vote. And in determining voting districts, we should try as much as possible to ensure that there are an equal number of citizens voting in each district because if you don't do that -- and this is, of course, what the Supreme Court has told us for more than 50 years. If you don't do that, then some citizens have effectively more votes than others, and I think all of us as Americans want to ensure that our votes are equal.

Q And so -- sorry. Just to clarify to make sure that we are all on the same page, that would -- the mechanism for doing that would be removing noncitizens from those calculations. Is that --

Mr. Adams. Okay. Look. This is -- we're not going to get into a debate here about what a private citizen thinks is the best government policy. You asked for time to learn about what he said to people like Secretary Ross, but we're not going to have a running soliloquy between two people who disagree over the issue --

Ms. Anderson. Well, I think, Mr. Adams, you took --

Mr. Adams. -- about what his views are.

Ms. Anderson. Mr. Adams, you took issue with the way it was phrased. I was

rephrasing it in order to, you know, not work against the issue that you --

Mr. Adams. No. I took issue with your second chair calling it apportionment when -- it wasn't how it was phrased. It was misrepresenting what the testimony was.

Ms. Anderson. Okay. And Mr. Adams, I --

Mr. Adams. Apportionment and redistricting are two radically different things, and he never testified about apportionment. But he put words in his mouth when he said apportionment because he never testified about apportionment.

Ms. Anderson. And Mr. Adams, I appreciate --

Mr. Adams. That is not the same thing as drawing districts.

Ms. Anderson. I appreciate your concern, but I, as you put it, the first chair asked him a different question that did not use that word, and so I was asking him to answer that question. And so, I understand and am appreciating --

Mr. Adams. We're not going to have him answering questions about private citizen's views about -- about redistricting.

Ms. Anderson. Mr. Adams, I would just like to finish -- I would like to finish my point.

Mr. Adams. It's not going to happen.

Ms. Anderson. Mr. Adams, I just want to finish my point if you would allow.

Mr. Adams. Right.

Ms. Anderson. I was asking a separate question, and that question is whether Mr. Kobach agreed with what I said, and I would just like if he would be allowed to answer that question because understanding and appreciating your previous concerns --

Mr. Adams. Right. Well, he's not going to answer questions about his private views.

Ms. Anderson. Okay.

Mr. Kobach, did you --

Mr. Adams. This has gone on now -- this was supposed to be about a governmental policy, not about a private citizen's private views.

BY MS. ANDERSON:

Q Mr. Kobach, did you share your concerns or the reasons why you thought a citizenship question should appear on the 2020 Census with Secretary Ross?

A As I said earlier, I did share some reasoning, but I can't recall now what specific things I said to Secretary Ross.

Q Okay. At the time you had that conversation with Secretary Ross, the reasons that you shared with us, the three reasons why you thought the question should appear, were those views that you held at that time?

A Yes, but I would clarify that the second reason is actually multiple reasons. It's all the many reasons the government needs to know, you know, the number of citizens it has, and that includes labor calculations. That includes settling of immigrants into a society. That includes all kinds of things, so that second reason is really a plethora of reasons rolled into one.

Q And Mr. Kobach, sort of getting to that mechanism for the one person, one vote, and sharing in those discussions you had with Secretary Ross, would the mechanism of that be removing or excluding noncitizens from calculations of apportionment or redistricting?

Mr. Adams. Before he answers that question, what is the time? Does your -- whatever mechanism you have for transcription have the time that we're at?

Ms. Anderson. It's 11:48 a.m.

Mr. Adams. Okay. It seems to me you've run an hour and a half now.

Ms. Sachsman Grooms. Okay. So, the way our system works is that the

majority goes for an hour, and then the minority has the opportunity to go for an hour. In this instance, the minority waived that opportunity for now and reserved the right to go later, and so the majority is taking its second hour. So, we are now in the majority's second hour.

Mr. Adams. We need to wrap this up.

Mr. Anello. I'm sorry. Why do you need to wrap it up?

Mr. Adams. I said we need to wrap this up.

Mr. Anello. Yeah. I was just asking why do you need to wrap it up?

Mr. Adams. Because I said so.

Mr. Anello. Okay.

Ms. Sachsman Grooms. Okay. Well, so the committee continues to have questions for Mr. Kobach. Obviously, this is a voluntary interview, so if you choose to not answer questions or to get off the phone, that's certainly something that you can do, but we have not completed our questions at this time.

Mr. Adams. Okay. How much longer do you anticipate this taking?

Ms. Sachsman Grooms. It would take a lot less time if there were fewer interruptions, and we were permitted to ask the questions.

Mr. Adams. Well, it would take a lot less time if you would answer the question I asked and not criticize me for representing the client. But how long do you anticipate this taking?

Mr. Anello. Honestly, I think it depends on whether -- how quickly we can go through these. Some of these questions I think could be answered relatively rapidly, but at the pace we're going, it seems to be much more extended than I had anticipated.

We have a few documents that we'd like to go through and a few other issues we'd like to talk through. I think it could be another hour, maybe, maybe slightly more

on our end.

Mr. Adams. Well, that's not possible. We can't go another hour, so we'd have to -- we'd have to hold this over, and I told you earlier, we don't have documents. We don't have those documents.

Mr. Anello. You do have the documents. We sent them to you.

Mr. Adams. Yeah, I understand that, but we haven't had time to look at them and discuss them with counsel. I don't suspect that you're suggesting that we don't -- we should not exercise that right to have a discussion with our client about documents you sent us an hour or two ago.

Ms. Sachsman Grooms. So, we are moving forward with the interview. We would like to move forward with the interview. I'm not sure that-- I don't believe that you indicated that there were time constraints on the interview today before we scheduled it, but if you would permit us to continue moving forward, we will do that right now.

Mr. Adams. Okay. I don't believe that we did indicate there were time constraints, but you said it was going to take an hour of questioning, and we're now almost at two.

Ms. Anderson. Just to be very clear, when we first began this this morning, we said that the procedures were the majority counsel takes one hour, and then we switch, and the minority counsel takes an hour, and we go back so on and so forth until there are no more questions. I'm happy to read that directly to you again, but that is what I said this morning, and those are our procedures.

Mr. Adams. Okay. But you are now on your second hour.

Ms. Anderson. Correct, because the minority counsel did not want to take their hour at this time, and so we proceeded with our second hour.

Mr. Adams. All right. We'll go up to noon, and then we'll take a break.

Mr. Anello. That's 8 minutes from now. You'd like a break then?

Mr. Adams. Well, it would be easier to take a break --

Mr. Kobach. From my perspective, if we can -- I don't want to just keep going on and on and on all afternoon, so you know, let's go 15 minutes or whatever and then see how many more questions you have because I'd rather not take a lunch break and then come back if we don't have to.

Mr. Anello. Yeah. I think from our perspective, we're happy to keep going. It's just been a little bit -- it's been a bit tough sledding because we haven't been able to get through any of these questions, and so we have to go back and repeat them.

So, we're happy to try to be efficient with your time. Our goal is not to waste it at all. Our goal is just to get our questions answered and move on.

BY MS. ANDERSON:

Q Mr. Kobach, did you speak with anyone else about these concerns or the reasons why you thought the question should appear on the 2020 Census, anyone else in the administration?

A I can't recall speaking about it with anyone else in the administration other than the people we've already discussed.

Q So we provided your attorney with a copy of a document, and I'm going to talk through it if you do want to take a second to try to pull that up. However, if not, I will just -- I'll go through it on the phone.

Mr. Adams. Well, I mean, we've asked you -- we have asked specifically for the opportunity to look at these documents, and you said take a second. Well, that illustrates the problem. We're not going to take a second and then answer questions about something.

Ms. Anderson. Okay. Mr. Adams, I'm happy just to go through.

Mr. Adams. You sent us --

Ms. Anderson. I'm happy just to go through and describe the document and see if that triggers Mr. Kobach's recollection, and then we can go from there. Does that sound all right?

Mr. Adams. That sounds fine.

Ms. Anderson. Okay.

Mr. Kobach, I'm marking as exhibit 1 an email.

[Kobach Exhibit No. 1

Was marked for identification.]

BY MS. ANDERSON:

Q The top email is from Monday, July 24th, 2017. And the first email -- it's an email chain. The first email in the email chain is from Friday, July 14th, 2017. It's an email to you from Secretary -- to you -- to Secretary -- from you, excuse me, to Secretary Ross at his DOC email address.

And the email reads: Secretary Ross, Kansas Secretary of State Kris Kobach here. I'm following up on our phone discussion from a few months ago. As you may recall, we talked about the fact that the U.S. Census does not currently ask respondents their citizenship. This lack of information impairs the Federal Government's ability to do a number of things accurately. It also leads to the problem that aliens who do not actually, quote, "reside," end quote, in the United States are still counted for congressional apportionment purposes. It is essential that one simple question be added to the upcoming 2020 Census. That question already appears on the American Community Survey that is conducted by the Census Bureau, question number 8.

A slight variation of that question needs to be added to the Census. It would

read as follows: Is this person a citizenship -- a citizen of the United States, question, and then the answer says yes, born in the United States, yes, born in Puerto Rico, Guam, the U.S. Virgin Islands, or Northern Marianas, yes, born abroad of U.S. citizen parent or parents, yes, U.S. citizen by naturalization, parent, (year of naturalization.) No, not a U.S. citizen. This person is a lawful permanent resident, in parentheses, (green card holder,) end parenthesis. No, not a U.S. citizen, this person, citizen of another country who is not a green card holder, parentheticals, (for example, holds a temporary visa or falls in another category of non-citizens.)

The email then reads, quote, please let me know if there is any assistance that I can provide to accomplish the addition of this question. You may reach me at this email address or at my cell phone at -- the cell phone is redacted. Yours, Kris Kobach.

Mr. Kobach, do you recall sending this email?

A Yes.

Q Okay. Where did you get Secretary Ross' contact information?

A I don't recall who gave it to me. I -- I just don't recall.

Q Okay. And why did you decide to contact him?

A The Secretary of Commerce is the official in charge of the agency that includes the Census Bureau.

Q So the email said that you had spoken a few months prior. What prompted you to reach out to Secretary Ross again?

A I think I was just following up because I hadn't heard anything after our phone conversation.

Q Had anyone else from the administration asked you to follow up with Secretary Ross?

A I don't recall anyone asking me to follow up with Secretary Ross.

Q In that email, you said or you wrote, quote, as you may recall, we talked about the fact that the U.S. Census does not currently ask respondents their citizenship. This lack of information impairs the Federal Government's ability to do a number of things accurately. It also leads to the problem that aliens who do not actually reside in the United States are still counted for congressional apportionment purposes.

What did you mean by the lack of information leading to the, quote, problem that aliens who do not actually reside in the United States are still counted for congressional apportionment purposes?

Mr. Adams. Okay. Let me interject something here. We have stated numerous times that answers to these questions should occur after the witness and his attorneys have an opportunity to look at these.

You have indicated a desire to have complete answers. I would submit that you're probably going to get a lot of I do not recall answers unless we have an opportunity to review these documents, but if you want to proceed and ask questions that he hasn't had the time to look at -- about documents he hasn't had time to look at, you go right ahead.

BY MS. ANDERSON:

Q Okay. Thank you.

Mr. Kobach, would you like us to repeat the question?

A Yeah. Go ahead.

Q Okay. In that July 14th email you wrote, quote, as you may recall, we talked about the fact that the U.S. Census does not currently ask respondents their citizenship. This lack of information impairs the Federal Government's ability to do a number of things accurately. It also leads to the problem that aliens who do not actually reside in the United States are still counted for congressional apportionment purposes.

What did you mean when you wrote that the lack of information leads to, quote, the problem that aliens who do not actually reside in the United States are still counted for congressional apportionment purposes?

A So there are multiple categories of aliens. A lawful permanent resident or green card holder does reside in the United States, but I think anyone who studies this issue, both legally and as a matter of policy, would agree that an illegal alien or an alien unlawfully present in the United States does not reside in the United States in the eyes of the law. And so I was simply pointing out that you would have -- it could result in the potential problem of one person, one vote being violated.

And this goes back to the point I made earlier. If you had a district where 350,000 citizens and 350,000 illegal aliens were present, and you had a district somewhere else in the country where there was 700,000 citizens, people in that first district would have twice -- citizens in that first district will have twice the voting power of citizens in the other district. Again it's all about the desire to have equal voting power for citizens across the country.

Q How would the citizenship question, I guess, tackle that problem and address the issue that aliens who do not actually, as you said, reside in the United States are still counted for congressional apportionment purposes? How would it address the question for congressional apportionment purposes?

Mr. Adams. Okay. He answered this question.

Mr. Anello. Mr. Adams, this is Russ Anello. I don't believe he answered that specific question. I believe he explained why he -- I'm sorry. If you could just let me finish, Mr. Adams. Mr. Adams, if you could just let me finish, I think we'd have a more productive conversation. Thank you.

You indicated you thought that he didn't answer the question, that he already

answered it. He did not answer this.

Mr. Adams. Look. I have now -- this is the fifth time I've asserted a concern that a congressional committee is interrogating a private citizen and --

Mr. Anello. This is about an email he wrote to the Secretary of Commerce advising him to add a question to the Census --

Mr. Adams. Right.

Mr. Anello. -- which affects millions of people. So this is an issue of public policy and public concern, and it's an issue that we believe a reason to ask him about. So I appreciate that he is a private citizen.

Mr. Adams. You're interfering with his right to petition the government. I see.

Mr. Anello. We're not at all interfering with any right. We're simply asking to understand what he did.

Mr. Adams. Well, that's not what you're asking. You're asking about his private views.

Ms. Anderson. No, Mr. Adams. We're asking about an email that he has stated he sent to the Secretary of Commerce Mr. Adams, if I could finish.

Mr. Adams. But you're asking him about his private views.

Ms. Anderson. Mr. Adams, if I could finish -- we're asking what he meant when he sent an email to the Secretary of Commerce in the Secretary of Commerce's role as the Secretary of Commerce.

Mr. Adams. Right. But that's not what your question was.

Ms. Anderson. Mr. Adams, I'm not finished. I'm not finished. I'm asking what he meant when he said that they are still counted, people who he considers not actually residing in the United States. They're still counted for congressional apportionment purposes, and I'm asking how he thought the citizenship question would affect

congressional apportionment purposes. He did not answer it.

Mr. Adams. You can ask the question, what he said to Secretary Ross about that, but you are getting into some very tricky territory when you're asking about his personal views.

Ms. Anderson. Mr. Adams, are you instructing him not to answer my question?

Mr. Adams. Not yet, but it's getting close.

Ms. Anderson. Okay.

Mr. Kobach, would you like me to repeat my question --

Mr. Adams. If you want to ask what he said to Secretary Ross, that's one thing.

BY MS. ANDERSON:

Q I would like Mr. Kobach to answer the question that I previously asked.

Mr. Kobach, can you please answer that question?

A Yes. My view is that at a minimum, we just need to know the information.

In other words, we just need to know the number of citizens in the country and in specific parts of the country. We need to know the number of illegal aliens in the country and in specific parts of the country.

And ideally, we would know the number of legal permanent resident aliens and also the number of aliens here on temporary visas, although we -- the Department of Homeland Security has some knowledge of that, but it is not entirely accurate knowledge of that regarding the number of people here on temporary visas because we don't have exit control. So if you come in on a work visa, we don't know whether you're still here or not.

So it's just -- my concern is that we have the information, and then what each government entity does with that information is up to them, but right now, we as a country are in a position of willful ignorance.

So, you know, Congress would ultimately decide whether this would affect apportionment. A State would ultimately decide whether they want to ensure that citizens have one person, one vote and that some citizens aren't given more voting power than others. I would hope every State would want to do that, to ensure that citizens have equal voting power.

And, you know, you could look at departments. The Department of Transportation, for example, might say well, you know, we have X number of people living in this region. To the Department of Transportation, it probably doesn't matter whether a person is a citizen, a lawfully present alien, or an unlawfully present alien. They're all going to be using the highways, so from our perspective, the information doesn't matter. So my point is you need the information for government to be effective and for citizens to have equal voting power in our constitutional republic.

Q So my question, to be narrow and specific and so that we're all on the same page, is what is the mechanism you envisioned using the data for to affect congressional apportionment purposes as quoted in the email that you wrote to Secretary Ross?

A I don't envision a specific mechanism. I just want the United States Government to know this information so that Congress can decide what to do about it and also so States can decide, you know. With regard to States, I think the mechanism is quite clear, that whatever the entity is that draws up represented districts within the State, they should and, indeed, I believe they would have a constitutional obligation to insure there are equal numbers of citizens in each district. Otherwise, one person, one vote is offended and violated.

Q And the way to do that is to exclude non-citizens from that calculation?

Mr. Adams. Look. We're done. We're done. He's answered your questions three different times, okay. He's not going to answer that.

Ms. Anderson. And Mr. Kobach, just to be clear, the question was and the way to do that would be to exclude noncitizens from the calculations?

Mr. Adams. We're done. He's not going to answer that. He's already answered that question two different times, and you're interrogating him about his private views. He didn't propose anything to Secretary Ross was his testimony in that regard. He's not answering that.

BY MR. ANELLO:

Q Okay. I understand the witness -- this is Russ Anello. I understand the witness has been instructed not to answer that question.

In your email to Secretary Ross, again, you said that it, meaning the lack of a citizenship question, leads to the problem that aliens who do not actually, quote, reside in the United States are still counted for congressional apportionment purposes.

And so I'm trying to understand. Did you believe that adding the citizenship question would impact or could impact, let's say, congressional apportionment in a manner that would increase the political power of one political party?

A No, I did not believe or -- well, I mean, obviously any change in any apportionment potentially affects the balance of power, but no, that was not the --

Q Well, this is something -- go ahead.

A Go ahead.

Q This is something you talked about publicly, right, that doing what you suggest here, changing congressional apportionment, would reduce, for example, the number of seats that California has in Congress, right? That's something you've talked about publicly?

Mr. Adams. Does it say that in the letter, the email?

Mr. Anello. No.

That's something you said -- Mr. Kobach, that's something you've said publicly before, right?

Mr. Adams. Well, that's not what he said in the email.

Mr. Anello. Right. And I'm trying to provide additional context so I can understand --

Mr. Adams. Okay.

Mr. Anello. -- what he's getting at in his email. That's all.

Mr. Adams. We just need a break now, guys. If you want to reconvene at -- we're 8 minutes past our scheduled break.

Ms. Anderson. Just to be very clear, you asked for a break. We did not schedule a break because we were in our second hour which I believe still goes for another 20 minutes or so. If you're requesting a break, we would just ask that again, Mr. Anello be allowed to finish his question.

Mr. Anello. I think Mr. Kobach actually asked us to continue, if I'm remembering correctly, but I could be mistaken.

Mr. Kobach. Well, how many -- how many more minutes of questioning or how many more questions do you have? I would like to be concluded with all of this by 1:00 your time at the very latest.

Mr. Anello. We're obviously trying to go through these as quickly as we can. We do have a number of other questions, but we're getting bogged down because we've not been able to ask these, so I think I estimated last time --

Mr. Adams. Right.

Mr. Anello. Okay. Again, he can't answer the question.

Mr. Adams. Can we take a 5-minute break and hop back on?

Ms. Sachsman Grooms. I'm sorry. We didn't understand you.

Mr. Adams. Could we take a quick 5-minute break and hop back on?

Ms. Sachsman Grooms. Sure.

Mr. Adams. Okay. Thank you.

[Recess.]

BY MS. ANDERSON:

Q We can go back on the record. Thank you.

Mr. Kobach, you also wrote in that email, quote, it is essential that one simple question be added to the upcoming 2020 Census. You proposed language that you said was a, quote, light -- slight variation, end quote, on the language that already appears on the American Community Survey.

Who came up with the language for the question that you sent to Secretary Ross?

A I did.

Q Did you discuss that variation with anyone else?

A I'm not certain.

Q In the email, you also offered your assistance and said, quote, you would offer your assistance to, quote, accomplish the addition of this question, and you provided your cell phone number.

Did Secretary Ross respond to your email?

A Let me just amend my answer to the previous question. I believe I discussed it with Steven Camarota just to get some background on the phrasing, how the question had been in the past. I don't -- I didn't -- but my suggested phrasing of the question to Secretary Ross was my own.

Q Okay. Thank you for that clarification.

Did you want me to repeat my last question?

A Yes, please.

Q Okay. In the email, you offered your assistance, quote, to accomplish the addition of this question and provided your cell phone number.

Did Secretary Ross respond to that email?

A I don't recall Secretary Ross specifically saying I need your help and here's how or anything like that.

Q I'm sorry. Just to clarify my question, my question was did he respond to that email?

A Are you asking -- are you asking did he send me an email in response?

Q Yes.

A I do not believe he did.

Q Did he ever --

A I don't recall.

Q Okay. Did he ever call you on the numbers that you provided or otherwise?

A This is where my memory is unclear. I can't -- I do recall the one conversation that I had with Secretary Ross or recall having a conversation prior to that email. I can't recall whether I had a substantive conversation with him.

Q Okay. Was the email address you used to communicate that [REDACTED] address you gave us previously?

A Yes.

Q Okay. Did you use any other email address or any text messages or messaging app to communicate about the citizenship question?

A I may have used my secretary of state email when opining -- when making an official comment because, of course, the secretary of state of a State, in Kansas, anyway, is the chief election official.

So as I mentioned previously, in order to ensure one person, one vote within a State, that is, of course, a principal concern of the chief election official, and this information would be helpful, so it's possible that I used my secretary of state email --

Q Okay.

A -- for that official communication to the Department of Commerce, but I'm not certain.

Q Okay. Did you ever provide any other written materials to Secretary Ross or anyone else in the administration about the citizenship question?

A I did provide the official comment, for the notice and comment, and I assume you -- if you don't already have it, you could probably get it from the Department of Commerce.

Q Yes.

A I do recall providing that, that written material that I wrote.

Q Was there anything besides this email and that comment?

A I don't recall writing anything else, no.

Q In that email -- in an email that you sent to Wendy Teramoto who was Secretary Ross' chief of staff, on July 21st, 2017, you wrote, quote, Wendy, nice to meet you on the phone this afternoon. Below is the email that I sent to Secretary Ross. He and I spoke -- had spoken briefly on the phone about this issue at the direction of Steve Bannon a few months earlier. Let me know what time would work for you on Monday if you would like to schedule a short call. The issue is pretty straightforward, and the text of the question to be added is in the email below.

Do you recall writing that email?

A I don't recall writing the email, but I do -- but that does sound like what I would have written to her if I was trying to see if they wanted to schedule a follow up call.

Q And that email included the sample question or the slight variation that you had previously sent to Secretary Ross. Did Steve Bannon direct you to speak to Secretary Ross during that time?

Mr. Adams. You're in the privilege. Sorry. He's not going to answer that question.

Ms. Anderson. Mr. Kobach, is the email that I read to you, are the statements in that email correct?

Mr. Adams. Sorry. Once again, that's a subterfuge for the same -- the previous question. He's not going to answer that question.

Ms. Anderson. Mr. Kobach, Ms. Teramoto wrote back to you, quote, we can speak today at 2:30. Please let me know if that works, and then you wrote back, quote, that works for me. What number should I call, or would you like to call me? To which she replied, quote, Kris, can you do a call with the Secretary and Izzy tomorrow at 11 a.m. Thanks, Wendy, end quote, to which you responded, quote, yes, end quote.

Does that refresh your recollection of recalling a conversation you may or may not have had with the Secretary at that time?

Mr. Adams. Just so the record is clear on this, Mr. Kobach doesn't have this document in front of him because we have not had an opportunity to discuss with our client these documents were sent to us just before this interview took place. So with that -- with that note, he can answer.

Mr. Kobach. Assuming that what you are reading from that email chain is accurate, that sounds like me and Ms. Teramoto trying to schedule a time to talk with the Secretary, but what I don't recall is ever having such a conversation with the Secretary.

I do recall the earlier one that we previously discussed, but I don't recall actually having that second one. I have no recollection.

Ms. Anderson. Does the email that you wrote which said, quote, nice meeting you on the phone this afternoon directed at Wendy Teramoto, quote, below is the email that I sent to Secretary Ross. He and I had spoken briefly on the phone about the issue at the direction of Steve Bannon a few months earlier, end quote.

Does that refresh your recollection regarding how the meeting was set up or attempted to be set up?

Mr. Adams. Okay. Again, when you talk in terms of recollection refreshed, it normally refers to a document the witness is looking at. Just so it's clear, he is not looking at this email. He does not have this email. You are simply reading from a document to him.

Mr. Anello. And since we're making the record clear, this is Russ Anello again. For the record, we did provide this email to you, Mr. Adams. It has been mentioned several times --

Mr. Adams. You provided your --

Mr. Anello. I think it's hard for the stenographer.

Mr. Adams. Can I finish, please?

Mr. Anello. No. No. You cut me off, actually, and it's very difficult for the stenographer to keep the record if you cut me off. So how about I just get my sentence out, and then you'll have your chance to respond?

The point I was making is that we did send this email to you, Mr. Adams, with the intention that you would share with your client. You and/or your client have obviously made a decision not to look at it, and so we've been trying to accommodate that by reading it out loud on the phone. The reason this is necessary because we've also accommodated you in not coming here today.

Mr. Adams. We didn't choose not to look at it. Unlike perhaps your situation,

we have other matters, and you sent it to us with an unreasonable short duration for me to have the opportunity to look at it, much less share it and discuss it with my client. And so if you had sent it to us even a day in advance, even an evening in advance, it would have been more productive to having your questions answered.

Ms. Sachsman Grooms. Okay. Mr. Kobach, would you like us to email you this document right now?

Mr. Adams. You aren't suggesting having a direct communication with a represented party, I assume.

Ms. Sachsman Grooms. I am not. We would include you on that email. I'm merely asking whether you would like us to facilitate the providing of this document to your client so that he can look at it while we're asking him questions.

Mr. Adams. Right. And that's still a direct communication with a represented party by including him. Doesn't matter if you just happen to include us.

Mr. Kobach and I will have that discussion at another time. All I'm saying is had you sent this to us prior to one hour or thereabouts before this interview, this would be a different interview.

BY MS. ANDERSON:

Q Mr. Kobach, the email on July 21st sent from you to Wendy Teramoto says, quote, nice meeting you on the phone this afternoon. Below is the email that I sent to Secretary Ross. He and I had spoken briefly on the phone about this issue at the direction of Steve Bannon a few months earlier.

Does that refresh your recollection regarding how the meeting with Secretary Ross was set up or attempted to be set up?

A It does not refresh my recollection. In other words, I don't suddenly recall having a communication, but you know, if I -- whatever I wrote in the email was

presumably -- was truthful. I wouldn't write anything that was untrue.

Q Okay. And Wendy Teramoto wrote to you, quote, Kris, can you do a call with the Secretary and Izzy tomorrow at 11 a.m.? Thanks, Wendy, end quote, on July 24th, 2017.

Was Izzy referring to Israel Hernandez at the Department of Commerce?

A I don't know who that was referring to.

Q Okay. Do you recall any other conversations you had with Secretary Ross at any other time about the citizenship question besides the initial conversation you had in the first half of 2017?

A The only one I recall is the one from the first half of 2017. Obviously that chain of email refers to attempts to schedule a subsequent call, but I just don't remember if a subsequent call occurred or not. I don't have a recollection of it.

Q Okay. Did Secretary Ross ever express an opinion about the sample question that you included in your July 14th email with a slight variation or any comments on any of the options in the question?

And I'm happy to read the variation that you provided again, if that's helpful.

A That's okay. I remember it.

Q Okay.

A No, I don't recall -- the answer to your question is I do not recall what Secretary Ross said in response.

Q Did he reject the question?

A Well, I don't recall what he said. I could say this. If he had said flatly no, I don't, whatever, you know, I think that's a bad idea, I probably would have remembered that. So I think his -- I don't remember his specific response, but I'm pretty sure it wasn't, you know, absolutely no.

Q Okay. Did you ever speak with Earl Comstock at the Department of Commerce?

A What was the first name?

Q Earl, and his last name is Comstock.

A I don't recall ever speaking to that person. The name doesn't sound familiar.

Q Did you ever speak with Peter Davidson, the general counsel at the Department of Commerce?

A I don't specifically recall, but as I mentioned earlier, there was one -- there was one individual, a male, who informed me about the notice and comment period, that if I wanted to send an official letter, I could, and I don't remember that person's name.

Q Okay. Did you ever speak with James Uthmeier at the Department of Commerce, the Deputy General Counsel?

A I don't remember that name. It is certainly possible that one of those people was the one I spoke to on the phone, but I don't remember those names specifically.

Q Okay. After your July call with Secretary Ross, did you have any further contact or discussions with anyone in the administration about the citizenship question?

Mr. Adams. Well, I'll instruct the witness to answer to the extent he can without violating any of the privileges that have been asserted in this.

Mr. Kobach. I believe the subsequent phone call with someone, a male in the Secretary of -- or in the Department of Commerce about the opening of a comment period and the -- about my, you know, being able to formally submit a comment, I believe that occurred after that chain of email that you were just discussing. I don't recall exactly when, so -- and then, of course, I did write the formal -- you know, the formal

comment, and I believe that would have been subsequent to those emails in July of 2017. Certainly those few communications occurred.

[12:30 p.m.]

Ms. Anderson. Do you remember any other communication?

Mr. Kobach. No.

[Kobach Exhibit No. 2

Was marked for identification.]

Ms. Anderson. I'm going to mark as exhibit 2 a letter that was written by you in your capacity as secretary of state on February 12th, 2018. It's addressed to Secretary Ross at the Department of Commerce. The letter, I will read it in part, and then ask you if you remember writing this letter.

The letter says, quote:

"I am writing in support of the Department of Justice's request that, quote, 'a question regarding citizenship,' end quote, be added to the decennial Census of 2020. As you know, secretaries of state are the chief election officials of their respective states. There are a number of election-related reasons why it is essential that a citizenship question be added to the Census.

"Adding that question would be extremely helpful in ensuring that state and local jurisdictions are in compliance with the Voting Rights Act and are not discriminating through race-based vote dilution. In order to assess whether such vote dilution exists, it is necessary that a precise count of the number of citizens of voting age occur.

"Adding a citizenship question will also be extremely helpful to secretaries of state across the country in the administration of elections. We need to know the exact number of citizens in our states in order to administrate elections fairly and to collect accurate data within our states regarding the percentage of voting-age citizens who are registered to vote.

"A version of the citizenship question already appears on the American

Community Survey that is conducted by the Census Bureau (question #8). A slight variation of that question needs to be added to the Census. It is important that the question be phrased as follows:

"Is this person a citizen of the United States?

"Yes, born in the United States.

"Yes, born in Puerto Rico, Guam, the U.S. Virgin Islands, or Northern Marianas.

"Yes, born abroad of U.S. citizen parent or parents.

"Yes, U.S. citizen by naturalization -- Print year of naturalization ____.

"No, not a U.S. citizen -- this person is a lawful permanent resident (green card holder.)

"No, not a U.S. citizen -- this person citizen of another country who is not a green card holder (for example holds a temporary visa or falls into another category of non-citizens).

"This slight variation of ACS question #8 is absolutely essential if the new Census question is to be maximally useful to Federal, State, and local governments. The variation occurs in the final two categories, which serve to separate noncitizens into lawful permanent residents versus all other category of noncitizens. It is important to know the number of lawful permanent residents because these individuals are part of the population of continuous residents in a state, and are not temporarily present or illegally present. State governments (and the federal government) must have a reliable count of the number of citizens plus lawful permanent residents in order to fairly distribute public services and benefits.

"An equally important reason to know the number of lawful permanent residents is because these individuals are the ones who are on the cusp of becoming U.S. citizens. If a jurisdiction is experiencing lower-than-average naturalizations of lawful permanent

residents, that might indicate that discrimination against such noncitizens is occurring with the effect that they are discouraged from naturalizing. In addition, secretaries of state and county election officials need to know the number of lawful permanent residents in their jurisdictions in order to effectively plan for growth in the voting electorate (by purchasing election equipment, adding polling places, et cetera).

"For all of these reasons, I strongly support the Department of Justice request; and I specifically support the addition of the question as phrased above.

"Yours sincerely, Kris W. Kobach, Kansas Secretary of State."

Mr. Kobach, do you recall writing this letter?

Mr. Adams. And before the witness answers, just so the record is clear again, that the witness does not have this letter in front of him. And we're not disputing the long recitation of the letter, but the witness doesn't have this letter in front of him, just for the record.

BY MS. ANDERSON:

Q Okay.

Mr. Kobach, I think you said this, I just want to make it clear for the record, do you remember writing this letter?

A Yes, I do remember writing that letter and that sounds accurate. I don't have it in front of me, but that sounds like the letter I wrote, yes.

Q Okay. Thank you.

A And that was the subsequent communication I was referring to as far as the official comment.

Q Thank you for clarifying.

You proposed a question -- and that matched the question that you proposed in an email to Secretary Ross in July of 2017. Is that correct?

A Yes, I believe it's the same.

Q And that letter that you wrote, I guess the notice and comment letter, had some language that is similar to your email. In your July email -- July 2017 email -- you wrote, quote: "It is essential that one simple question be added to the upcoming 2020 Census. That question already appears on the American Community Survey that is conducted by the Census Bureau, question eight. A slight variation of that question needs to be added to the Census. It should read as follows."

And then in your February 12th, 2018, letter, or comment letter, you wrote, quote: "A version of the citizenship question already appears on the American Community Survey that is conducted by the Census Bureau, question #8. A slight variation of the question needs to be added to the Census. It is important that the question be phrased as follows."

Did you use your July 2017 email as a model for your February 2018 letter to Secretary Ross?

A I can't recall whether I, you know, cut and pasted it or used it as a model or not. I would imagine that I -- I would imagine that I probably looked at the question as I previously suggested it and made sure that I was consistent in my phrasing the second time.

Q There's --

Mr. Adams. But I'd instruct the witness -- excuse me -- I'd instruct the witness not to speculate and the witness' answer appeared to be speculation.

Mr. Kobach. Yeah. I don't know for sure how I created the official letter of January, what I had in front of me at the time.

Ms. Anderson. Okay. There's one issue in your July 2017 email that did not get mentioned in your February 2018 letter. Your email stated that the lack of citizenship

question, quote, "leads to the problem that aliens who do not actually reside in the United States are still counted for congressional apportionment purposes," and you did not discuss that in your letter. Is that correct?

Mr. Adams. Again, the witness doesn't have the letter in front of him. He can answer to the best of his recollection.

Mr. Kobach. To my recollection, as you just recited my January letter, I don't think I mentioned that issue.

As I mentioned earlier, there are so many issues that are affected by the ignorance of a country as to the number of its citizens, and so really you're talking about a whole host of reasons that could be mentioned. But, no, it doesn't sound like I mentioned that in the official letter.

BY MS. ANDERSON:

Q And, Mr. Kobach, you specifically cited the congressional apportionment purposes in your July 2017 email. Why did you not include it in your February 2018 letter?

A As I just said, there are a host of reasons, and they all are equally important. Although, I personally think -- I shouldn't say they're all equally important.

In my view, one person, one vote is the most important principle, but beyond that, there are many, many other reasons why. So I'm not certain why I chose one set of reasons in one email and another set of reasons -- well, some of them overlapped, obviously -- in a subsequent letter.

Q If it's one of the most important reasons, is it unusual that it was not included in your February 2018 email -- or letter?

A No. I think I said it to the chief election official and I spoke of the need to ensure that people are -- that they are registered. And I was speaking -- the main

reason would be the duties of the chief election official, and the chief election official is -- one of his or her responsibilities is to make sure that voter registration occurs and occurs easily, and to plan for upcoming elections with the -- with an adequate number of voting machines and polling places.

And so since I was writing on my official letterhead, I was probably selecting issues that the secretary of state as secretary of state would be most concerned about.

So the front and center ability is the administration of elections. So that is what -- that is -- again, I don't -- I told you, I don't have a specific recollection of what I had in front of me when I was putting together that official letter. But as secretary of state, the chief concerns are the administration of elections, and so I focused on those issues.

Q Had you been told by anyone that mentioning apportionment in the letter would be unhelpful?

A No, I'd never been told that by anyone.

Q Were you ever told by anyone that your letter should focus on the Voting Rights Act as a reason for adding the question?

A No, I was never told by anyone what my letter should look like. The letter was entirely my own creation without anyone telling me what to put in it.

Q Did you ever discuss the letter with anyone before sending it?

A No, I did not.

Q Did you ever speak with -- I think you mentioned that you spoke with Attorney General Sessions about the citizenship question, is that correct, on at least one occasion?

A No, I did not say I spoke to him about the citizenship question. I just said that I had a meeting with him in the first half of 2017 and that issue may have come up.

I am not sure whether it came up or not.

Q Okay. Do you have any recollection about whether you ever spoke with Attorney General Sessions about the citizenship question?

Mr. Adams. He just answered you.

Mr. Kobach. My previous --

BY MS. ANDERSON:

Q I'm sorry. My understanding of his answer is that he didn't recall if it came up in that meeting. I was just asking whether he -- if he remembered it ever coming up with the Attorney General. And I apologize if I don't remember the answer, but if you could just answer that, that would be great.

A If -- I believe that that meeting was the -- I'm not sure. I think that was the only meeting I had with Attorney General Sessions when he was serving as Attorney General. And I, like I say, I just -- I don't recall specifically whether that was one of the multiple topics we discussed.

Q Did you ever discuss the issue with him when he wasn't Attorney General?

A I don't recall.

Q I believe that you mentioned speaking with John Gore at the Department of Justice about the citizenship question.

Mr. Adams. He testified about that. The record -- the transcript will answer the question.

BY MS. ANDERSON:

Q Do you recall specifically what you discussed with John Gore or the Assistant Attorney General that you talked to at the Department of Justice?

A I don't recall the specifics of the discussion, no.

Q Did you ever discuss any specific documents or direct anyone to look at

particular documents at either the Department of Justice or the Department of Commerce?

A Not with respect to the citizenship question, no.

Q Okay. Did you ever become aware of conversations that occurred between the Attorney General -- at that point Attorney General Sessions -- and Secretary Ross about the citizenship question?

A No, I was not aware of any such discussions between Secretary Ross and Attorney General Sessions. And that doesn't mean that -- I'm not suggesting that they didn't occur, I'm just saying I don't know about them.

Q Understood. Did you ever talk to Gene Hamilton at the Department of Homeland Security or the Department of Justice? Yeah. Sorry. That was the end of the question.

A You want to (inaudible) Gene Hamilton?

Q Yes, about the addition of -- go ahead.

A Well, I've spoken with Gene Hamilton many times. I don't recall specifically whether I spoke with Gene Hamilton about the citizenship question on the Census.

Q Okay. Did you ever speak with a Rachel Tucker at the Department of Justice about the addition of a citizenship question?

A The name sounds vaguely familiar. It's possible that she was sitting in on my discussion with the Attorney General.

I don't recall the names of all the people who were -- he had, I would say, maybe three or four people on his staff sitting in on that discussion and I can't remember their names, so it's possible that she's one of them. But I don't recall specifically speaking with her, no.

Q Okay.

Mr. Adams. What's our time?

Ms. Anderson. It's 12:41.

Mr. Adams. Right. How much time were we going to go?

Mr. Anello. I think our hour -- I think we have another 10 minutes roughly in our hour. We may be able to finish in that time, but we may have a few more, and then the Republican staff will have an opportunity to ask questions, so --

Ms. Johnson. We started at 11:32.

Mr. Anello. Oh, we did? So we're over an hour?

Ms. Sachsman Grooms. We also took a break.

Mr. Anello. We have a few more -- we have a few more questions to complete. We then would probably want to regroup for a couple minutes and see if we anything more. But we're closer to the end than the beginning, so if you guys want to try to power through for another few minutes, we could then take a pause and see who has more questions after that.

Ms. Anderson. Mr. Kobach, were you aware of a 2015 study that Mr. Hofeller wrote about the citizenship question?

Mr. Kobach. No, I've never read any such study or heard of any such study. As I said, there was an article about that gentleman, I think I saw it yesterday, that alluded to a study, but I'd never heard of it until I read that article.

Ms. Anderson. Okay. The study says, quote:

A shift from a redistricting population base determined using total population to adult population is radical departure from the Federal, quote, '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 to 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. The proposal to use CVAP can be expected to provoke a high degree of resistance from Democrats and the majority/minority groups in the Nation.

Do you agree with that?

Mr. Adams. Wait. Hold on now. Before he answers that, are you reading from a document or a newspaper article? Because the witness doesn't have it in front of him.

Ms. Anderson. Sure. The document --

Mr. Adams. So --

Ms. Anderson. Would you like me to answer?

Mr. Adams. Please.

Ms. Anderson. The document was one that was provided this morning to you, Mr. Adams. It also appears referenced in the news article that Mr. Kobach already stated that he has read, I think he stated it a couple times now, and it's publicly available.

Mr. Adams. And it's your assertion that that entire thing you read was a news article?

Ms. Anderson. It's -- it's --

Mr. Anello. This is Russ Anello. It's been quoted heavily, but what we just did was we read the entire conclusion section, and I'm sure Tori could read it again, but we read the entire conclusion section from the document that we provided to you this

morning. It's pages 8 to 9 of the document.

Mr. Adams. And you didn't answer my question. Is what you read, was that in the news article? Because you created the inference that Mr. Kobach should be familiar with this when you revived the fact that he said he saw a news article. And so my question is, and it hasn't been answered, is what you just read into the record quoted in the news article?

Mr. Anello. Yes, it is quoted in the news article.

Mr. Adams. The entire thing you read is part of the new article?

Mr. Anello. It may not have every bullet that was read, but, yes, it was quoted heavily.

Mr. Adams. Oh, heavily? So it's not entirely quoted?

Mr. Anello. The somewhat long quote is from the New York Times story.

Why don't we read it again? It sounds like it would be helpful, Tori, to just read it one more time and that way there won't be any confusion as to what it says.

Mr. Adams. Well, look, if you want to read the whole thing over and over you're going to run out your own time. So I think it's a lot better when it comes to documents if we have a chance to have them in front of us when you ask these questions, and I've said that maybe five times throughout this interview and offered to be available for that at a future date. But you have consistently rejected that possibility and prefers to read long excerpts into the record and then ask the witness questions about things he doesn't have in front of him. But go ahead and do that.

Ms. Anderson. So --

Mr. Anello. Mr. Kobach, do you need us to read that a second time?

Mr. Kobach. Yeah, please do.

Ms. Anderson. So it says: A shift from a redistricting population-based

determination 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 in 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 to the 2020 Decennial Census questionnaire.

The chances of a U.S. Supreme Court 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 majority/minority groups in the Nation.

Mr. Kobach, do you agree with that?

Mr. Adams. Okay. I want to raise another point. If this is essentially -- if this were a deposition that would be a compound question because there's at least 10 different concepts in there that you're asking whether he agrees with.

We will stipulate -- we will stipulate that the addition of a citizenship question is going to engender a high degree of Democratic opposition or else we wouldn't be sitting here right now. There's a lot of other things --

Ms. Anderson. Okay. I'll go through point by point --

Mr. Adams. Can I please finish.

Ms. Anderson. Sure.

Mr. Adams. But if you want to ask him specific questions unrelated to the matter that we stipulated to, then that might be a better way of doing it. But you can't

just ask a blanket statement: Do you agree with a statement that contains 9 or 10 different discrete principles?

Ms. Anderson. Okay.

Mr. Kobach, I'll read the first point: A shift from a redistricting population base determined using total population to adult population is radical departure from the Federal 'One-Person One-Vote Rule' presently used in the United States?

Do you agree with that statement?

Mr. Kobach. To reiterate, I've never heard of this guy until yesterday and I've never read anything he's ever written. That sentence sounds a little bit convoluted to me. I'm not even sure what he means by that sentence. So I would not --

Mr. Adams. Right.

Mr. Kobach. I don't know what he means.

Mr. Adams. And, look, if you want to use your remaining 2 or 3 minutes to ask a private citizen if they agree with the views of another private citizen that's fine, but that's going to be the end of the line when it comes to interrogating him about his private views.

BY MR. ANELLO:

Q If you'd look at -- so the second -- this is Russ Anello -- the second point was: Without a question on citizenship being included on the 2020 Decennial Census questionnaire, the use of citizen voting-age population is functionally unworkable.

Mr. Kobach, do you know what citizen voting-age population means?

A I don't know exactly what he's referring to. I mean, I think what -- so I'm trying to read into what he -- what that written statement's saying. If he's saying that you won't know the exact number of people who are citizens of voting age, then I would agree with that statement. But if he's saying something else, then I don't know whether

I agree or not.

Q Okay. So would you agree -- let me phrase it as I understand it. You can tell me if you agree with this or not. And if you don't, that's totally okay. I'm not putting words in your mouth.

Would you agree that if one were to desire to change congressional apportionment from apportionment based on the total population of a State, let's say, or a district, and to change that to an apportionment that is based only on the use of citizen -- only on the citizen voting-age population within that State or district, would you agree that adding a citizenship question to the 2020 Decennial Census is important?

Mr. Kobach. What was your last word? Adding a citizenship question is what?

Mr. Anello. Would you agree that adding a citizenship question to the 2020 Census would be important for accomplishing the goal of moving from apportionment based on total population to apportionment based on citizen voting-age population? Do you agree with that statement?

Mr. Adams. What does this have to do with the addition of the Census question? You arranged this interview about what Mr. Kobach's role was in that, not what his beliefs are.

Mr. Anello. But, Mr. Adams, Mr. Kobach wrote about this issue. Okay.

Mr. Adams. (Inaudible) you're comfortable asking questions about his personal beliefs and whether he agrees with Tom Hofeller.

Mr. Anello. Okay. Are you instructing Mr. Kobach not to answer my question?

Mr. Adams. Did I? Did you hear me say that?

Mr. Anello. No, but you appeared to log an objection, which I -- and so the question to you is, are you instructing him not to answer? If not, I'd like him to answer. We've heard your objection.

Mr. Kobach, would you answer the question, please?

Mr. Kobach. Could you repeat the question?

BY MR. ANELLO:

Q Sure. So the question is this. And I might rephrase it a little differently, but you can just go with the new version.

If someone -- it doesn't have to be Tom Hofeller -- if somebody was trying to change the way that congressional seats or States -- legislative seats are apportioned in the following way, that they're no longer apportioned based on total population and are instead apportioned based on citizen voting-age population, if that was one's goal, would you agree that adding a 2020 -- adding a citizenship question on the 2020 Census would help to achieve that goal?

A Let me answer first by saying that would not -- I do not share Mr. Hofeller's goal. I think the way that the Constitution speaks of persons residing -- living in a district -- so I think -- this is just me throwing out my legal interpretation of the Constitution -- you probably would include citizens and lawful permanent residents.

Q I see.

A But that was my reading of the United States Constitution.

So I don't share what appears to be Hofeller's goal. Again, I've never heard of this guy and I'm just listening to you read something of what he says.

Do you need to know the number of citizens for Congress to decide which -- how to -- how apportionment should be done if it chooses to modify anything? Yeah, you would -- you need -- the government needs information. A country should know how many citizens it has.

Q Got it. Now, I heard -- it sounds like you just took issue with his use of citizen voting-age population and you noted that you think that legal permanent

residents would also be counted as residents for purposes of -- under the Constitution Enumeration Clause. Is that right?

A That's my reading of the clause. But, you know, again, then you look at what -- how a State -- once a State uses this information to apportion its own representative districts. We need to know how many citizens there are in each county in Kansas, for example, or even more specific, a Census box of population, so that we can draw our districts so that one person has one vote and we don't have unequal voting strength in Kansas.

So just having knowledge is essential to having a fair electoral system so that some people don't have higher voting strength than others.

Q Mr. Kobach, if I'm understanding, it sounds like there's a step between those things, right? There's a step of the 2020 Census question that you wanted to have added and then there's the redistricting in a way that there's the same number of citizens and legal permanent residents, let's say.

Am I right that the steps that would have to take place between those is that you have to exclude people who are not legal residents from congressional apportionment, right? Because if -- then you couldn't accomplish what you're trying to accomplish there, correct?

Mr. Adams. Okay, you've for the second time, you've confused congressional apportionment with redistricting.

Mr. Anello. No, I didn't confuse them. I'm saying that the apportionment is a necessary step to achieve the redistricting. I'm asking whether this change in apportionment would be a necessary step to achieve the redistricting and the fairness that Mr. Kobach is saying --

Mr. Adams. But if they're not even related, redistricting and apportionment are

not related.

Mr. Anello. Well, then can the witness tell me that? Let the witness tell me that if that's the case. This is a question for the witness.

Mr. Adams. Well, look, you're wasting our time in having a philosophical discussion --

Mr. Anello. I think you're filibustering. I've asked this question a number of times and every time I ask it you keep jumping in and refusing to let the witness answer. So my conclusion from that is you don't want him to answer the question.

Mr. Adams. Because this doesn't have anything to do with what we agreed to appear about.

Mr. Anello. Are you instructing Mr. Kobach not to answer this question?

Mr. Adams. You're getting real close to that.

Mr. Anello. I take that as a no.

Mr. Kobach, can you please answer the question?

Mr. Adams. But if you ask questions related to what you asked us to appear about that would be a different question.

Mr. Anello. It's very directly related, it's a very central issue, and that's why I'm trying to get an answer.

Mr. Adams. In your mind it is, but it's not related -- it's not related to any policy.

Mr. Anello. Okay. Mr. Kobach, would you please answer the question? And if you need me to restate it, I'm happy to do that.

Mr. Kobach. Yeah, please restate it.

Mr. Anello. Okay. The question is this. You stated in your -- you stated in your email to Mr. -- to Secretary Ross that the lack of a citizenship question leads to the problem that aliens who do not actually reside in the United States are still counted for

congressional apportionment purposes.

And you told us on the phone today that one of the reasons you wanted to add a citizenship question is so that we know how many citizens we have and that ultimately we can achieve One-Person One-Vote, where you have an equal number of voters in each district.

Is that all right?

Mr. Adams. It's not what his testimony was.

Mr. Anello. Okay. I'll let the witness -- Mr. Kobach, is that correct?

Mr. Adams. Well, I object to the mischaracterization of his testimony, and I'm entitled to raise that objection when you mischaracterize his testimony.

Mr. Anello. Mr. Kobach, if I mischaracterized that, please tell me. The question was whether I was accurate or not. So can you tell us whether that was accurate or not?

Mr. Kobach. The part that I remember is, is it accurate that having this information is necessary to uphold the principle of One-Person One-Vote? The answer is yes.

But bear in mind that asking -- just asking the question and having the information from asking the question is just the first step. And so it's incumbent upon States and Congress to act to preserve the principle of One-Person One-Vote, and I've described how a State can act when it draws its districts internally.

Mr. Anello. But in order to draw the districts the way suggested, where you would have an equal number of voters, would there have to be a step before that in which the apportionment method is changed?

Mr. Adams. No, you're mischaracterizing it again.

Mr. Anello. Again, I would love to hear the witness answer this question,

because I keep asking it, I've asked it 20 different ways, and you jump in every single time.

Mr. Adams. (Inaudible) but you can't mischaracterize his testimony.

Mr. Anello. Okay. But I'd like Mr. Kobach to explain if there's a mischaracterization. He has not said that. You've said that.

Mr. Adams. (Inaudible) difference between apportionment and redistricting.

Mr. Anello. Mr. Kobach, could you answer my question, please?

Mr. Kobach. The answer is no, technically, you wouldn't have to change apportionment. For example, Congress could leave apportionment exactly the way it is, but we still could have incredible benefits at the State level from knowing this information, even if it doesn't change the apportionment of congressional seats.

At least in Kansas, we have our four congressional seats, and we can now ensure that if we have this information we could now ensure that citizens have equal voting strengths and that there are an equal number of citizens in the four congressional districts and that there are an equal number of citizens in the 125 State representative districts and so on.

So one does not -- one does not necessarily imply the other. In other words, you know, it's ultimately up to Congress what they do with apportionment. But at the very least, we should allow States to ensure One-Person One-Vote when they draw up voting districts.

Mr. Anello. Your email to Secretary Ross, if I'm right, I don't believe it uses the phrase One-Person One-Vote, but it does say that adding the citizenship question would address the problem of aliens who do not actually reside in the United States still being counted for congressional apportionment purposes. Is that right?

Mr. Adams. Look, this is getting argumentative. What you're doing is nitpicking with his testimony and then throwing the word "right" with a question mark at

the end.

Mr. Anello. I'm reading his email.

Mr. Adams. I mean, this is so far beyond the pale of usefulness for anyone listening. You just want to argue with him about his beliefs and we're way off the topic.

Mr. Anello. Okay. Mr. Kobach?

Mr. Kobach. You have correctly stated my -- what the text of that email to Secretary Ross is.

I'll tell you, one other thing that I disagree with with the Hofeller letter, so we can just save time in going through, I mean, he makes multiple assertions. I don't agree with his assertion about what the Supreme Court may or may not do.

I don't agree with his assumption that when you count -- when you count accurately the number of citizens, that that necessarily helps one party or another party. We don't know. For example, people have suggested that Texas has a large number of noncitizens. As a country, we don't know which States have a lot of noncitizens, so one could argue -- we're just -- as a country we're in the dark right now as to which States have what percentage of citizens and what percentage of noncitizens.

So I don't know which party it would help or hurt whether you're talking -- in political power, whether it's Congress or anything else.

Mr. Adams. All right. We're wrapping up now.

Mr. Anello. Did you ever have a discussion with anyone in the Trump administration -- I'm sorry?

Mr. Adams. Do you want to take your last break in case there's anything left?

Mr. Anello. Have you ever -- I wanted to just ask this one question I was in the middle of.

Mr. Kobach, did you ever speak with anybody --

Mr. Adams. Whoa, whoa, whoa, whoa, whoa, whoa. Hold on.

Mr. Anello. Yeah?

Mr. Adams. It's 1 o'clock. You've gone about 10 minutes longer than you said you would and about an hour longer than you said you would before that. So my question is, do you want to take that final break to assess if you have anything else?

Mr. Anello. I think that would be fine. I would like to just ask this one question and then I'd be happy to do that. Would be that be okay with you?

Mr. Adams. Go ahead.

Mr. Anello. The question I had was, Mr. Kobach, whether you ever had any discussions with anybody in the Trump administration regarding whether the citizenship question, adding a citizenship question to the Census, would impact the political power of Democrats or Republicans?

Mr. Adams. Okay. The extent that the answer does not require the invasion of the privilege, the witness can answer.

Mr. Kobach. So I think you need to divide the question up, Department of Commerce, where I guess the White House is not asserting its privilege, and then White House, where the White House is asserting its privilege, because basically it's a compound question unless you divide it --

Mr. Anello. It's just a simple yes or no that I'd like on that and then I'm happy to ask further followups after that. This is just a general question about whether you've had any conversations with anybody in the administration?

Mr. Adams. We're done after this.

Mr. Kobach. What I'm saying is by definition, if you're encompassing White House, then I am, by answering your question yes or no, describing the substance of communications with the White House.

Mr. Anello. So I'm sorry. Are you saying you did have a conversation with the White House on this topic and you can't talk about it?

Mr. Kobach. I'm asking you to -- and I'll defer to my counsel -- but I'm asking you to divide your question because I can't -- the White House has said I can talk about the substance of my communications with the Department of Commerce but not with the White House.

Mr. Adams. Right. If you want to rephrase your question to nonprivileged areas, he will answer you.

Mr. Anello. Okay. Excluding the President and the President's senior White House advisers, have you ever had a discussion with anybody in the Trump administration about whether adding a Census citizenship question would impact the political power of Democrats or Republicans or any other political parties?

Mr. Kobach. I do not think I have had such a discussion. I don't recall having such a discussion.

Mr. Anello. And excluding your conversation with --

Mr. Adams. Sorry. That's the last one.

Mr. Anello. Okay. I don't think that's helpful, to cut me off with a scream, but if you'd like to do that we can come back.

Ms. Sachsman Grooms. Okay. So you wanted to take a break. How long of a break would you like?

Mr. Adams. Well, I think we're done entirely. If you have -- if the minority staff has questions, we'd be available to them.

Ms. Sachsman Grooms. Well, that's not the way this works. This works when we say that we're done with our questions.

Would you like to take a break right now? And if so, how long of a break?

Mr. Adams. Okay. Well, you have exceeded your -- we have accommodated you beyond what you indicated would be involved in time.

Mr. Anello. Not true. We did not give you a 1 o'clock timeframe.

Mr. Adams. And we are therefore done unless you want to change the rules and keep going longer than you said you would.

Ms. Sachsman Grooms. So I think you have mischaracterized that. But regardless, would you like to take a break right now? And if so, how long of a break would you like to take?

Mr. Adams. Well, it was your idea to take a break whenever you indicated you wanted to get together to see if we were done or not --

Ms. Sachsman Grooms. We have not indicated --

Mr. Adams. -- and if the minority had questions.

Ms. Sachsman Grooms. We have not indicated --

Mr. Adams. And it was your idea. And I said now is when you can do it.

Ms. Sachsman Grooms. We have not indicated that we are done with our questions such that we were ready to take that break to have a conversation about what the next steps are.

Mr. Adams. Right. We've been going for 3 hours, and when I asked a half hour ago how much longer this would go, the answer was 10 minutes. We let it go 30. So now's the time for us to see if the minority has questions.

Ms. Sachsman Grooms. So that's not an accurate characterization of the conversation. The question on the table right now is whether you would like to take a break right now or if you would like us to continue.

Mr. Adams. I'd like to hear if the minority has questions.

Ms. Nabity. This is Caroline Nabity with the Republican staff. We have no

questions at this time.

Mr. Adams. Well, then it sounds like we're done for the day.

Ms. Anderson. No.

Ms. Sachsman Grooms. No, that is not what has occurred. The majority staff continues to have questions on the table. We would like to continue to ask those questions. If you choose not to answer those questions --

Mr. Adams. But you indicated numerous times --

Ms. Sachsman Grooms. Can I speak?

Mr. Adams. -- and the transcript will show this, that this will go X amount of time, and you've exceeded that significantly.

Ms. Sachsman Grooms. May I speak?

Mr. Adams. And now if you're telling me that you have the expectation that we would acquiesce to contradicting the amount of time you thought it would be, then that's not accurate. We did not have that expectation.

Ms. Sachsman Grooms. May I speak?

So the majority staff continues to have questions on the table. We will ask those questions now or, if you choose to stop the interview, you may stop the interview and end questioning. You always have that option. Would you like to continue with the interview?

Mr. Adams. How many questions?

Ms. Sachsman Grooms. I cannot tell you that. We will continue with the interview or you can get off the phone and stop doing the interview. Those are your choices. If you'd like to take a break, we also are happy to give you a break.

Mr. Adams. Let's agree on a fixed amount of time and we'll continue.

Ms. Sachsman Grooms. Sure.

Mr. Kobach. I've got a maximum 30 minutes available, left to go. I really didn't expect this to go more than 3 hours. But if you can wrap it up in 20 minutes; otherwise, maybe we'll have to reschedule and continue later.

Mr. Adams. No. Well, look --

Ms. Sachsman Grooms. We can certainly attempt to --

Mr. Adams. What's the amount of time that you expect?

Ms. Anderson. Why don't we continue now and see if we can complete the questions in the 20 minutes?

Mr. Kobach, were you ever made aware --

Mr. Adams. No, no, no, no, no, no. We want a fixed amount of time and then we'll go forward.

Ms. Sachsman Grooms. Sorry. We can't agree to a fixed amount of time. What we can agree to is trying --

Mr. Adams. Okay. Well, then, you're obviously not interested in wrapping this up, because all I'm asking for is telling us how much longer.

Ms. Sachsman Grooms. So we are attempting to use the time allotted as quickly as possible.

Mr. Adams. Right.

Ms. Sachsman Grooms. If you will let Ms. Anderson ask the questions, we will try to do that. We are certainly trying to go as quickly as possible, and if you will let us do that, we will certainly make that attempt. But we cannot reassure you that we will be 100 percent done in 20 minutes. And so if Mr. Kobach has to get off at that point, we might need to reschedule at that point.

Mr. Adams. When you said the time allotted an hour ago, that time allotted kept changing. So --

Ms. Sachsman Grooms. If you would like to continue to discuss this, I'm sure we can eat up more of that 20 minutes. Would you like us to ask the questions?

BY MS. ANDERSON:

Q Mr. Kobach, were you ever made aware of any written materials that the Department of Commerce created about the citizenship question?

A I don't recall ever being told about any written materials, no.

Q Were you ever made aware of the contents of a memo -- or were you ever made aware of a memo that was written by James Uthmeier at the Department of Commerce in August of 2017 about the citizenship question?

A I don't have any knowledge of any such memo, no.

Q Were you ever made aware of a memo that was hand delivered from Department of Commerce to the Department of Justice about the citizenship question?

A I don't recall ever hearing about such a memo.

BY MR. ANELLO:

Q Have you ever had any conversations regarding the citizenship question with anybody at the Republican National Committee?

A No.

Q Have you had any conversations with any individual who was on the transition team since the administration began?

A Have I ever --

Q I'll make that more clear, Mr. Kobach. Sorry. That was a little bit unclear. Since January 20th, 2017, have you had any conversations about the citizenship question with former members of President Trump's transition team?

A I don't recall one way or the other.

Q Have you ever had any discussions with anybody in the Trump

administration discussing whether the Voting Rights Act rationale in the Department of Justice's December 2017 letter was indeed the sole reason why Secretary Ross decided to add the citizenship question?

A I have not had any discussions with anyone about why Secretary Ross made the ultimate determination to add a citizenship question -- which, by the way, is not the question that I recommended to him. It's similar, but it's not the same.

Q Did you ever have any conversations with anybody in the administration regarding the drafting of the December 12th, 2017, letter from the Department of Justice to the Census Bureau requesting a citizenship question?

A Well, as I mentioned, you have the email that I sent to Secretary Ross which suggests the version of the question that I thought would be best, which ultimately the Department of Commerce chose not to use.

It is possible that I reiterated what I thought the preferred phrasing of the question would be to someone on his staff, you know, maybe when they were asking about -- when they were inviting me or telling me about the opportunity to write an official comment letter. I just can't recall.

Q Sorry, Mr. Kobach, my question was a little bit different. It was about the letter that the Department of Justice wrote to the Department of Commerce, specifically to the Census Bureau, requesting a citizenship question. That letter had a Voting Rights Act at the core of it. That was the issue described in the letter.

My question was whether you ever had any conversation regarding the drafting of that letter, not about your wording of your citizenship question.

A Oh, I see. I see. I misunderstood your earlier questions.

No, I did not have any conversation with anyone about the Department of Justice's letter to the Department of Commerce.

Q When you spoke to Secretary Ross, or when you communicated with Secretary Ross, did he express a view regarding what I think you described as a problem of aliens who do not actually reside in the United States still being counted for congressional apportionment purposes?

A As I stated earlier, I don't recall Secretary Ross's statements in our phone call. I just can't remember exactly what he said.

Q Do you have -- understanding that -- but do you have a memory of whether Secretary Ross expressed an interest to you when you communicated with him about adding the -- regarding adding the citizenship question?

A In vague terms, as is obvious from the fact that he added it subsequently, I think he generally was appreciative that I made a phone call to him, or had made one to him. I think he was genuinely appreciative for my input, but beyond that I can't remember.

Q Sorry. You said he was appreciative of your input, but did he communicate to you in some way that he was interested in adding a citizenship question to the 2020 Census when you communicated with him?

A As I said before, I don't recall his -- what he said in that conversation. I just don't recall the specifics. It was 2 years ago.

Q Okay. Do you know, aside from what's been public, do you know who made the decision ultimately within the Trump administration, who made the decision to add the citizenship question?

Mr. Adams. That is a vague question: Ultimately who made? What do you mean by that? The Secretary of Commerce makes a decision. Do you mean something different than that?

BY MR. ANELLO:

Q Okay. Sure. I'll clarify.

Do you know whether Secretary Ross was instructed by anybody to add -- to make the decision that he made regarding the citizenship question?

A No, I have no knowledge of what other members of the administration ultimately said to Secretary Ross when the decision was made by the Department of Commerce.

Q Do you know whether the White House was involved in that decisionmaking process?

A I do not know.

Q Putting aside your meetings with folks at the White House, do you know who at the White House was involved in the citizenship question issue?

A The only ones I'm aware of are the ones I've already mentioned who were present in various meetings. So beyond those, no, I don't know.

Mr. Anello. I don't believe we have any further questions.

Minority staff?

Ms. Nabity. No further questions.

Mr. Anello. Mr. Kobach, anything else that you'd like to tell us while we're on the record?

Mr. Adams. No, we have nothing further.

Mr. Kobach. Nope.

Ms. Anderson. Okay. We can now go off the record.

[Discussion off the record.]

Mr. Anello. Mr. Kobach, thank you for your time today. We appreciate it.

[Whereupon, at 1:30 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.

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|---------------------------|----------------------|
| Investigation Name | Census Investigation |
| Witness Name | Kris Kobach |
| Date of Interview | June 3, 2019 |

| PAGE | LINE | CORRECTION | APPROVED* |
|-------------|-------------|---|------------------|
| 17 | 4-5 | Redact personal email | Y |
| 54 | 5 | Change “paren” to “parent” | Y |
| 56 | 11 | Change “maid” to “made” | Y |
| 61 | 17 | Change speaker from Mr. Adams to Mr. Kobach | Y |
| 98 | 11 | Change “he” to “had” | Y |
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* For COR Majority Staff use only.

PUBLIC INTEREST

— LEGAL FOUNDATION —

(via email: [REDACTED])

Ms. Tori Anderson
House Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, DC 20515

June 7, 2019

Re: June 3, 2019 Interview of Mr. Kobach

Dear Ms. Anderson,

A transcript of Mr. Kobach's interview from June 3, 2019 was made available to me yesterday at Representative Carson's office. Below are the errors I observed:

1. Page 17, line 4-5: Personal email address needs to be redacted
2. Page 56, line 11: "maid" should be "made"
3. Page 61, line 17: I recall the speaker as Mr. Kobach, not Mr. Adams
4. Page 98, line 11: there is an apparent typo – "or had made one to him"

Sincerely,



Kaylan Phillips
Public Interest Legal Foundation

cc: Mr. Russell Anello ([REDACTED]),