Second Production In Response to FOIA Requests DOC-FOS-2019-001629/DOC-OS-2019-001819 (in litigation as American Oversight v. Dep't of Treasury et al., 19-cv-2814)

L blieberman@doc.gov
Feb 19, 2021, 12:59 PM
To: foia@americanoversight.org
Cc: hart.wood@americanoversight.org
1 attachment - Expires: 1616299200000

Good afternoon. Attached please find the Department of Commerce's (Commerce) second interim production in response to FOIA Requests DOC-OS-2019-001629 and DOC-OS-2019-001819. This production consists of 5 documents totaling 14 pages, with applicable exemptions asserted as specified in the documents.

Since this matter is in litigation as *American Oversight v. Dep't of Treasury et al.,* D.D.C. Docket No. 19-cv-002814, please contact Commerce's counsel of record, Alexander Sverdlov, at alexander.v.sverdlov@usdoj.gov, with any questions or concerns,

Brian D. Lieberman
Senior Counsel
Information Law Division
Office of General Counsel
Department of Commerce
1401 Constitution Ave. NW, Room 5092
Washington, DC 20230
(202) 482-1634

File attachment expires: Mar 21, 2021

Name	Size	
AO-1_19-cv-02814 - Production 2 (2021.02.19) (1).pdf	2.1 MB	010c2103a72b0270fac854c6080d7a1f (MD5)

AMERICAN OVERSIGHT

From: Burnham, James M. (CIV) b(6)
Sent: 6/7/2019 6:57:01 PM
To: Dewhirst, David (Federal) [DDewhirst@doc.gov]
CC: Sue Bai b(6); Hull, Cordell (Federal) [CHull@doc.gov]; Walsh, Michael (Federal) [MWalsh@doc.gov]
Subject: Re: FYI kobach press release

b(5) - AC/AWP/DP

—
James Burnham
b(6)

On Jun 7, 2019, at 6:39 PM, Dewhirst, David (Federal) <DDewhirst@doc.gov> wrote:

PRIVILEGED | PRE-DECISIONAL | CONFIDENTIAL

b(5) - AC/AWP/DP

AMERICAN OVERSIGHT

b(5) - AC/AWP/DP

Cc: Sue Bai, James Burnham, Cordell Hull

--
David Dewhirst
Deputy General Counsel for Litigation
U.S. DEPARTMENT OF COMMERCE
ddewhirst@doc.gov
c. b(6)

From: "Glover, Rebecca (Federal)" <RGlover@doc.gov>
Date: Friday, June 7, 2019 at 4:04 PM
To: "Dewhirst, David (Federal)" <DDewhirst@doc.gov>, Michael Walsh <MWalsh@doc.gov>, "Hull, Cordell (Federal)" <CHull@doc.gov>
Cc: "Manning, Kevin (Federal)" <KManning@doc.gov>
Subject: FYI kobach press release

From: Oversight Committee Democrats Press Office
Sent: Friday, June 7, 2019 3:16 PM
To: Oversight Committee Democrats Press Office <OversightPress@mail.house.gov>
Subject: RELEASE: Committee Releases New Memo on Previously Undisclosed Interview of Kris Kobach on Census

<image001.png>

FOR IMMEDIATE RELEASE: June 7, 2019
CONTACT: Aryele Bradford, (202) 226-5181

Committee Releases New Memo on Previously Undisclosed Interview of Kris Kobach on Census

White House "Interfered Directly and Aggressively," Claimed Executive Privilege to Block Answers on White House Meetings

AMERICAN OVERSIGHT

Washington, D.C. (June 7, 2019)—Today, Rep. Elijah E. Cummings, the Chairman of the Committee on Oversight and Reform, released a memo with new information about a previously undisclosed transcribed interview conducted on Monday by Democratic and Republican Committee staff with Kris Kobach, the former Secretary of State of Kansas, regarding the Trump Administration's addition of a citizenship question to the 2020 Census.

The White House intervened repeatedly to block Kobach from answering the Committee's questions about his meetings with President Trump and other top White House officials, sending multiple letters purporting to assert Executive Privilege over Kobach, who was not an employee of the Executive Branch.

Cummings issued the following statement on the release of the memo:

"These aggressive efforts by the White House to block Mr. Kobach from cooperating with the Committee raise significant new questions about what the Trump Administration is concealing—and why. They also cast doubt on the Trump Administration's claims that the decision to add the citizenship question was 'made at the department level' rather than at the White House."

According to the memo's summary:

"This past Monday, on June 3, 2019, Democratic and Republican Committee staff conducted a private, previously-undisclosed interview with Kris Kobach, the former Secretary of State of Kansas, regarding the Trump Administration's efforts to add a citizenship question to the 2020 Census.

"The White House interfered directly and aggressively with the Committee's interview by instructing Mr. Kobach not to answer any questions about his communications with the President and White House advisors about the real reasons they added the citizenship question. The White House sent several letters, including on the day of the interview, vastly expanding its previous assertions of Executive Privilege to apply to Mr. Kobach—a private citizen who did not work for the Trump Administration when these communications took place.

"The Trump Administration's expansion of Executive Privilege to apply to anyone the President talks to—including those completely outside the government—is a vast departure from previous precedent and obstructs the Committee's constitutional responsibility to conduct oversight of the Census.

"Although Mr. Kobach followed the White House's orders for much of his interview, he did provide some new information. For example, he confirmed on the record certain elements of his conversations with the President and top White House aides. He also disclosed communications with the Trump campaign far earlier than previously known. However, he refused to answer questions about whether he had additional meetings with the President and his top aides other than those that have been previously disclosed. Finally, his description of his communications with Secretary Ross appeared inconsistent with Secretary Ross' testimony before the Committee in March."

The Committee is scheduling a vote next week to hold Attorney General William Barr and Commerce Secretary Wilbur Ross in contempt of Congress after both officials refused refusing to meet the Committee's deadline to produce documents in response to bipartisan subpoenas issued more than two months ago for documents relating to the addition of a citizenship question. The contempt vote would initiate the process of bringing a civil enforcement action to obtain compliance with the subpoena.

Click here to read today's memo.

The full transcript of Mr. Kobach's interview is on file with the Committee. The Committee made the transcript available to Mr. Kobach's attorneys on Wednesday to review it for typographical or other

AMERICAN OVERSIGHT

errors. The Committee will not release the full transcript at this time, based on assurances by Mr. Kobach's counsel that he will provide feedback in the near future.

###

Rebecca Glover
Director of Public Affairs
Department of Commerce
Cell: b(6)
Press: (202)482-4883
Direct: (202)482-0049
rglover@doc.gov
<image002.png>

AMERICAN OVERSIGHT



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AMERICAN OVERSIGHT

From: Colborn, Paul P (OLC) b(6)
Sent: 6/7/2019 11:18:58 PM
To: Dewhirst, David (Federal) [DDewhirst@doc.gov]
CC: Sue Bai b(6) Burnham, James M. (CIV) b(6) ; Hull, Cordell (Federal) [CHull@doc.gov]; Walsh, Michael (Federal) [MWalsh@doc.gov]
Subject: Re: PRIVILEGED b(5) - DP/AC

Yes, I can talk tomorrow. What's a good time?

Sent from my iPad

On Jun 7, 2019, at 9:00 PM, Dewhirst, David (Federal) <DDewhirst@doc.gov> wrote:

PRIVILEGED | PRE-DECISIONAL | CONFIDENTIAL

Paul,

b(5) - AC/AWP/DP

AMERICAN OVERSIGHT

b(5) - AC/AWP/DP

With preliminary apologies for the disruption to your weekend, would you be available for a conference call tomorrow (Saturday) to discuss this issue? b(5) - AC/AWP/DP

b(5) - AC/AWP/DP

Cc: Sue Bai, James Burnham, Cordell Hull, Michael Walsh

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U.S. DEPARTMENT OF COMMERCE
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c. b(6)

From: "Glover, Rebecca (Federal)" <RGlover@doc.gov>
Date: Friday, June 7, 2019 at 4:04 PM
To: "Dewhirst, David (Federal)" <DDewhirst@doc.gov>, Michael Walsh <MWalsh@doc.gov>, "Hull, Cordell (Federal)" <CHull@doc.gov>
Cc: "Manning, Kevin (Federal)" <KManning@doc.gov>
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FOR IMMEDIATE RELEASE: June 7, 2019
CONTACT: Aryele Bradford, (202) 226-5181

Committee Releases New Memo on Previously Undisclosed Interview of Kris Kobach on Census

White House "Interfered Directly and Aggressively,"

AMERICAN OVERSIGHT

Claimed Executive Privilege to Block Answers on White House Meetings

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Cummings issued the following statement on the release of the memo:

"These aggressive efforts by the White House to block Mr. Kobach from cooperating with the Committee raise significant new questions about what the Trump Administration is concealing—and why. They also cast doubt on the Trump Administration's claims that the decision to add the citizenship question was 'made at the department level' rather than at the White House."

According to the memo's summary:

"This past Monday, on June 3, 2019, Democratic and Republican Committee staff conducted a private, previously-undisclosed interview with Kris Kobach, the former Secretary of State of Kansas, regarding the Trump Administration's efforts to add a citizenship question to the 2020 Census.

"The White House interfered directly and aggressively with the Committee's interview by instructing Mr. Kobach not to answer any questions about his communications with the President and White House advisors about the real reasons they added the citizenship question. The White House sent several letters, including on the day of the interview, vastly expanding its previous assertions of Executive Privilege to apply to Mr. Kobach—a private citizen who did not work for the Trump Administration when these communications took place.

"The Trump Administration's expansion of Executive Privilege to apply to anyone the President talks to—including those completely outside the government—is a vast departure from previous precedent and obstructs the Committee's constitutional responsibility to conduct oversight of the Census.

"Although Mr. Kobach followed the White House's orders for much of his interview, he did provide some new information. For example, he confirmed on the record certain elements of his conversations with the President and top White House aides. He also disclosed communications with the Trump campaign far earlier than previously known. However, he refused to answer questions about whether he had additional meetings with the President and his top aides other than those that have been previously disclosed. Finally, his description of his communications with Secretary Ross appeared inconsistent with Secretary Ross' testimony before the Committee in March."

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Click here to read today's memo.

AMERICAN OVERSIGHT

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Rebecca Glover
Director of Public Affairs
Department of Commerce
Cell: b(6)
Press: (202)482-4883
Direct: (202)482-0049
rglover@doc.gov

AMERICAN OVERSIGHT

From: Colborn, Paul P (OLC) b(6)
Sent: 6/8/2019 8:40:04 AM
To: Dewhirst, David (Federal) [DDewhirst@doc.gov]
CC: Hull, Cordell (Federal) [CHull@doc.gov]; Sue Bai b(6); Burnham, James M. (CIV) b(6); Walsh, Michael (Federal) [MWalsh@doc.gov]
Subject: Re: PRIVILEGED b(5) - DP/AC

12:30 works for me.

Sent from my iPad

On Jun 7, 2019, at 11:45 PM, Dewhirst, David (Federal) <DDewhirst@doc.gov> wrote:

Paul, thank you very much for giving us time on your Saturday.

How about 12:30? I've sent a calendar invite, but I can adjust that if a different time works better for the rest of the crew.

David Dewhirst
Deputy General Counsel for Litigation
U.S. Department of Commerce
ddewhirst@doc.gov
c. b(6)

*Sent from my iPhone. Please excuse any typos.

From: Hull, Cordell (Federal)
Sent: Friday, June 7, 2019 11:21:55 PM
To: Colborn, Paul P (OLC)
Cc: Dewhirst, David (Federal); Sue Bai; Burnham, James M. (CIV); Walsh, Michael (Federal)
Subject: Re: PRIVILEGED b(5) - DP/AC

I am generally open, so whatever works for the collective works is fine with me.

On Jun 7, 2019, at 11:19 PM, Colborn, Paul P (OLC) <b(6)> wrote:

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Sent from my iPad

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b(5) - AC/AWP/DP

AMERICAN OVERSIGHT

b(5) - AC/AWP/DP

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b(5) - AC/AWP/DP

Cc: Sue Bai, James Burnham, Cordell Hull, Michael Walsh

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CONTACT: Aryele Bradford, (202) 226-5181

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<image002.png>

AMERICAN OVERSIGHT