

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CAMPAIGN LEGAL CENTER,

Plaintiff,

 \mathbf{V}_s

UNITED STATES DEPARTMENT OF JUSTICE,

Defendant.

No. 1:18-cv-01771

DECLARATION OF TINK COOPER

I, Tink Cooper, declare the following to be true and correct:

1. I am the Acting Chief of the Freedom of Information/Privacy Act Branch (FOI/PA Branch) of the Civil Rights Division of the United States Department of Justice (DOJ) in Washington, D.C. My duties include supervision of the Freedom of Information/Privacy Act Branch of the Civil Rights Division which is responsible for the processing of all records access requests pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Privacy Act (PA) § 552a, which are received by the Division. I make the statements herein on the basis of personal knowledge, as well as information acquired by me in the course of performing my official duties. I am responsible for processing the documents responsive to Plaintiff's FOIA request that is the subject of this lawsuit.

CRT Response to FOIA # 18-00145-F

2. By letter dated February 1, 2018, Plaintiff directed a FOI/PA request to the Civil Rights Division, which was received on the same day. The FOI/PA request sought access to “all records pertaining to [General Counsel of DOJ’s Justice Management Division] Arthur E. Gary’s December 12, 2017 request to the Census Bureau to add a Citizenship question to the 2020 Census Questionnaire.” As part of this request, Plaintiff asked the Civil Rights Division to search for all documents to, from, or mentioning Dr. Ron Jarmin or Dr. Enrique Lamas; and all documents containing the following phrases: “2020 Census,” “long form,” “citizenship question,” “question regarding citizenship,” “ACS,” “American Community Survey,” or “CVAP.” A copy of the FOI/PA request is attached as exhibit A.

3. By letter dated February 9, 2018, the Civil Rights Division acknowledged receipt of the FOI/PA request, assigned it FOI/PA No. 18-00145-F, and granted Plaintiff’s request for expedited treatment. A copy of this letter is attached as exhibit B.

4. On February 12, 2018, the Civil Rights Division began a search within the Division to locate any documents that would be responsive to Plaintiff’s request. The Civil Rights Division’s search was directed to the two offices likely to encompass all materials regarding Arthur Gary’s December 12, 2017 letter to the Census Bureau (Gary Census letter).

5. In accordance with the Civil Rights Division’s routine procedure, when the Division receives a request seeking access to specific documents, the Division will contact the Section that specializes in the enforcement of the particular Civil Rights Division statute or issues referenced in the request, or that otherwise is likely to have information relevant to the subject matter of the request. The Division forwards a memorandum which notifies the Section of the receipt of the

request and provides a copy of the request letter. Each Civil Rights Division Section has a Deputy Chief who serves as a contact point regarding issues related to public disclosures such as under the Freedom of Information Act. The Deputy Chief of the particular Section then ascertains all individual attorneys or personnel that may have been involved in developing the records related to a specific enforcement action and supervises a search designed to locate all responsive records. The Section staff searches both paper and electronic records as necessary to locate any existing records that might be responsive to the request. A search of an individual's computer files customarily includes a search of the email systems.

6. On February 12, 2018, the Division's FOI/PA Branch referred a copy of Plaintiff's FOIA request to the Division's Voting Section. The Voting Section is the primary user of census data in order to enforce various voting laws such as Section 2 and Section 203 of the Voting Rights Act, 52 U.S.C. 10310, among others. Chris Herren, Chief, Voting Section, Rebecca J. Wertz, Principal Deputy Chief, Robert S. Berman, Deputy Chief, and the designated FOIA contact for the Voting Section, are the personnel with personal knowledge of the Section and all matters, cases, or other law enforcement proceedings addressed by the Section. As the senior management and leadership of the Voting Section, Chris Herren, Rebecca J. Wertz, and Robert S. Berman, determined that there were no responsive records in the Division's case management system referred to as "ICM" (Interactive Case Management System) regarding Plaintiff's FOIA request. As the Division's official case management system, ICM tracks all matters and cases from their inception to conclusion. After further discussion and with knowledge of all matters and cases in the Voting Section, Chief Herren, Principal Deputy Wertz, and Deputy Berman determined the locations likely to contain responsive records would be in the electronic files of Chris Herren.

Thereafter, Mr. Herren undertook a search of his Outlook account and located responsive records of email exchanges between Mr. Herren and Acting Assistant Attorney General John Gore dated November 1, 2017 and November 3, 2017. Mr. Herren then forwarded copies of these responsive documents to the FOI/PA Branch on February 12, 2018.

7. The Voting Section was able to quickly respond to the FOI/PA Office because it had already searched for similar records in response to other FOIA requests regarding the Gary Census letter, the 2020 Census, and the addition of the citizenship question to the 2020 Census. For instance, on January 9, 2018 and January 10, 2018, CRT began a search within the Division to locate any documents that would be responsive to two FOIA requests similar to the Plaintiff's request pertaining to the 2020 Census and the addition of the citizenship question. The searches for these two other requests were initiated a month before the Plaintiff's request. In response to those two similar FOIA requests received in January 2018, on February 12, 2018, the Voting Section completed its search and forwarded responsive emails to the FOI/PA Branch. In response to the referral of Plaintiff's FOIA request, the Voting Section advised that the records forwarded for the two earlier requests were identical to the responsive records located for the Plaintiff's request and forwarded those records to the FOI/PA Branch on February 12, 2018.

8. On February 12, 2018, the Division's FOI/PA Branch referred a copy of Plaintiff's request to the Office of the Assistant Attorney General (OAAG) of the Civil Rights Division in accordance with the Civil Rights Division's routine procedure. The OAAG has senior management authority over the Civil Rights Division's twelve sections. As senior management within the Division, the OAAG staff is the informational source that can best identify the program areas of the Division which would be likely to possess responsive records and has the capacity to identify

any additional areas to be searched for responsive records, if any. The FOI/PA Branch forwards a memorandum which notifies the OAAG of the receipt of the request and provides a copy of the request letter. The Director of Operational Management, Kathleen Toomey, ascertains all individual attorneys or personnel within OAAG who are likely to maintain responsive records and supervises a search designed to locate all responsive records. The staff searches both electronic and paper files as necessary to locate any existing records that may be responsive to this request.

9. Since January 2017, OAAG has had four Deputy Assistant Attorneys General (DAAG). Each DAAG reviews specific enforcement sections. When the OAAG receives a FOIA request that relates clearly to the subject matter supervised by a specific DAAG, Ms. Toomey consults with that DAAG to determine which OAAG staff have worked on the issues identified in the FOIA request. From January 2017 to present, John M. Gore has been the DAAG responsible for reviewing the Division's Voting Section. Mr. Gore was the Acting AAG from late July 2017 to early November 2019 and continued to be the Voting Section reviewer during this period. Mr. Gore became the Principal Deputy AAG from November 2018 to date. On February 15, 2018, Ms. Toomey consulted with Mr. Gore about several pending FOIA requests for information about the Gary Census letter. Based on that conversation, Ms. Toomey determined that Mr. Gore was the only OAAG employee who had a substantive role in the preparation of the Gary Census letter or who had communications with individuals outside of OAAG about the Gary Census letter. A search of Mr. Gore's email for the term "census" on February 15, 2018 revealed only a small number of emails between Mr. Gore and other Department employees that contained internal, deliberative discussions and legal advice. These records were forwarded to the FOI/PA Branch.

10. In response to the referral to the OAAG, the FOI/PA Branch was advised that the OAAG had responsive records and that Acting Assistant Attorney General John M. Gore was the only member of the OAAG's office with information relevant to the subject matter of this request and who had responsive records, other than one email that was contained within both Mr. Gore's email and the email of Bethany Pickett. Because that one email was contained in both Mr. Gore's and Ms. Pickett's email, it was unnecessary to search both email accounts and only Mr. Gore's email was searched. The OAAG indicated that its responsive documents included internal email communications with attachments of draft documents circulated within the Departments' components and with other federal agencies were all internal, deliberative communications. Further, these communications discussed draft documents and forwarded intra-agency and inter-agency comments and internal draft documents for review, edits, revisions, further edits, and comments.

11. On February 28, 2018, the Civil Rights Division issued a final response to the FOI/PA request and denied access to the documents in full. A copy of the FOI/PA response is attached as exhibit C. The response letter explained that the Civil Rights Division had applied FOIA Exemption 5 to withhold the responsive materials under the deliberative process privilege.

12. On or about July 3, 2018, the Civil Rights Division conducted a further electronic search on Mr. Gore's Outlook account for the period January 23, 2017 through July 3, 2018, using the term "census." The Civil Rights Division also separately searched for emails where: 1) Arthur Gary was an addressee (to, from, cc or bcc); or, 2) where Bethany Pickett (to, from, cc or bcc) was an addressee. The search located approximately 25 emails between John Gore and other DOJ attorneys regarding the Gary Census letter. It located one email from Ms. Pickett to Mr. Gore.

Nearly all of the documents located through this electronic search were duplicative of the results of the initial searches conducted by the Voting Section and the OAAG's office.

13. Plaintiff's FOI/PA request sought access to "all records pertaining to [General Counsel of DOJ's Justice Management Division] Arthur E. Gary's December 12, 2017 request to the Census Bureau to add a Citizenship question to the 2020 Census Questionnaire." As part of this request for information about the December 12, 2017 letter, Plaintiff asked the Civil Rights Division to search for any documents to, from, or mentioning Dr. Ron Jarmin or Dr. Enrique Lamas; and to search for any documents containing the following phrases: "2020 Census," "long form," "citizenship question," "question regarding citizenship," "ACS," "American Community Survey," or "CVAP (i.e., citizen voting age population)." The Civil Rights Division searched for records responsive to the request using the most comprehensive search term and by reviewing emails involving relevant personnel. The search terms used were reasonably calculated to uncover the requested documents regarding the December 12, 2017 Gary Census letter and information regarding the 2020 Census Questionnaire.

14. On or about August 2, 2018, the Civil Rights Division conducted a further search for handwritten notes, drafts, or other hard copy documents for the period January 23, 2017 through August 2, 2018, relating to the process of developing the December 12, 2017 letter sent by Arthur Gary, General Counsel, JMD, to the Census Bureau requesting the addition of a citizenship question; communications between Division personnel and, to, from, or mentioning Dr. Ron Jarmin or Dr. Enrique Lamas regarding the addition of the citizenship question for the 2020 Census; and to search for any documents containing the following phrases: "2020 Census," "long form," "citizenship question," "question regarding citizenship," "ACS," "American Community Survey,"

or “CVAP (i.e., citizen voting age population).” Pursuant to the procedures described above, Kathy Toomey, Director of Operational Management, contacted Acting AAG Gore, Voting Chief Herren, Counsel Bethany Pickett, and Chief of Staff Ben Aguinaga, as those persons likely to have responsive records. Those individuals again searched their records to respond to this request for hard copy materials. After another supplemental search, Chief Herren, Counsel Pickett, and Chief of Staff Aguinaga, indicated that they did not have any responsive handwritten notes or hard copy documents. In his supplemental search, Acting AAG John Gore indicated he had hard copy documents and provided 114 pages to Director of Operations Toomey. These documents were inadvertently omitted in CRT’s response to the Plaintiff. CRT provided a supplemental release to the Plaintiff on May 8, 2019 regarding these documents.

15. The Division uses “ACS” (American Community Survey) data in many types of enforcement actions. The term “CVAP” is a legal term used routinely in Section 2 claims involving the Voting Rights Act. By themselves, the terms such as “ACS” or “CVAP” are too general and could potentially encompass a great many records unrelated to the 2020 Census and the December 12, 2017 letter. For example, the “ACS” data is widely used in the course of other Division enforcement actions such as in the Housing and Civil Enforcement Section and the Employment Litigation Section. The Division’s search efforts were reasonably and logically organized to uncover relevant documents and to search all locations likely to contain responsive documents.

16. On September 26, 2018, the Civil Rights Division provided a supplemental response letter to Plaintiff in FOIA Request No. 18-000145-F, which concerned the 56 pages referred from JMD and other Civil Rights Division records responsive to Plaintiff’s FOIA request to the Civil Rights Division for the same records regarding the 2020 census. The Civil Rights Division released

59 pages of responsive documents in full or in part. A copy of that response letter is attached hereto as exhibit D, and the released records are attached as exhibit E. The letter also explained that the Civil Rights Division was withholding 43 pages of documents in full. Division staff carefully reviewed the records in an effort to find documents or portions of documents that might be disclosed. As a result of the detailed review, the Civil Rights Division released all reasonably segregable portions of the responsive documents and determined that the withheld information is clearly exempt from access after conducting this line-by-line review. The Division applied Exemption 5 to the materials here protected by the deliberative process privilege and withheld those documents in full or in part. The Division also applied Exemption 6 for those materials the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

17. On November 19, 2018, the Civil Rights Division provided a supplemental response letter to Plaintiff in FOIA Request No. 18-00145-F and released 69 pages of responsive documents in full or in part with redactions pursuant to 5 U.S.C. § 552(b)(5) and 5 U.S.C. § 552(b)(6). Those 69 pages consist of a revised set of the 59 pages previously released with several Exemption 5 redactions removed and 1 blank page removed plus 11 additional pages. The 11 pages were email chains between Mr. Gore and Mr. Herren which were inadvertently overlooked in CRT's prior release. Nine of those pages are duplicative of material in the prior release. A copy of that response letter is attached hereto as exhibit F, and the released records are attached as exhibit G. The letter also explained that the Civil Rights Division was withholding 42 pages of documents in full, which consisted of the same 43 pages withheld in full in the September 26, 2018 response minus one duplicate page.

18. On May 8, 2019, CRT provided a supplemental release to the Plaintiff on May regarding these 114 pages of hard copy documents from Mr. Gore. CRT also identified additional documents during the course of this litigation, most of which were duplicative of already produced materials, and 31 pages of additional documents identified through the final search. This letter constitutes the Division's final response. A copy of that response letter is attached hereto as exhibit H and a copy of the released records are attached as exhibit I.

OIP Referral of 16 pages, CRT Request # 19-00054-F

19. By email dated November 16, 2018, the Civil Rights Division received a referral of sixteen pages from the Office of Information Policy concerning Plaintiff's FOIA request. The FOIA request sought access to the following: any documents to, from, or mentioning Dr. Ron Jarmin or Dr. Enrique Lamas; and any documents containing the phrases "2020 census," "long form," "citizenship question," "questions regarding citizenship," "ACS," "American Community Survey," "citizen voting age population," or "CVAP," from January 20, 2017 to the present. A copy of the referral is attached as exhibit J. The Civil Rights Division assigned it FOIA referral no. 19-00054-F.

20. On December 12, 2018, the Civil Rights Division issued a final response to the referred FOIA request. The Civil Rights Division released twelve pages in the entirety. Two pages were withheld in full pursuant to 5 U.S.C. § 552(b)(5). Additionally, the Civil Rights Division referred two pages to the Office of Justice Programs (OJP). A copy of that response letter is attached as exhibit K and a copy of the released records are attached as exhibit L. OJP informed the Civil Rights Division that OJP released the two referred pages in full to Plaintiff on December 28, 2018.

21. The Justice Management Division (JMD) sent a 56 page referral concerning Plaintiff's request to the Civil Rights Division on March 13, 2018, and resent it on September 18, 2018. The Civil Rights Division incorporated those referred pages in its response to FOIA Request No. 18-00145-F described above in paragraph no. 16.

Exemptions B5 and B6

22. Exemption 5 of the FOIA exempts from mandatory release "inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency, provided that the deliberative process privilege shall not apply to records created 25 years or more before the date on which the records were requested." 5 U.S.C. § 552(b)(5). The deliberative process privilege is intended to protect the decision-making processes of government agencies from public scrutiny in order to enhance the quality of agency decisions. The withholdings under Exemption 5 in this case relate to DOJ's deliberative, decision-making process to determine the contents of Arthur E. Gary's December 12, 2017 letter concerning the addition of a citizenship question on the 2020 census. Additionally, the Exemption 5 withholdings relate to two memorandums containing recommendations and legal authority concerning American Community Survey questions and Census questions.

23. In the supplemental release of 69 pages, the Civil Rights Division withheld portions of those records under Exemption 5. Those records consist of email exchanges between Arthur E. Gary, General Counsel for the Justice Management Division, U.S. Department of Justice, and John Gore, who was Acting Assistant Attorney General, Civil Rights Division, U.S. Department of Justice concerning the December 12, 2017 letter and a few emails with members of their staff. Exemption 5 has been applied here to information protected by the deliberative process privilege.

24. Certain of the emails forward a draft letter regarding the 2020 Census and the citizenship question and request review and advice from the OAAG. The draft letter is circulated within the Department for additional review and input, and they contain questions to elicit relevant information, comment bubbles, and edits. Multiple versions of the draft letters are forwarded between Arthur Gary and John Gore for further review, comments, and questions. These emails discuss the draft response, include comments and additional edits, exchange further revisions of the draft letter, contain questions for clarification, and formulation of additional questions to elicit relevant information. The emails are predecisional because they were drafted before determining the final contents of the letter. Portions of the emails are deliberative because they contain opinions, suggested edits, and recommendations.

25. Further, other internal Departmental communications and positions are summarized in some of these email exchanges between Arthur Gary and John Gore, including communications and positions relating to the addition of a citizenship question to the 2020 census. These emails are predecisional because they were drafted before a final decision had been made concerning the contents of the letter pertaining to the addition of a citizenship question to the 2020 census. The documents contain candid, frank discussion of vital enforcement interests, which, if released, would harm the Division's capacity to conduct future exchanges without chilling the staffs' exchange and presentation of views.

26. Some records consisted of email exchanges between John Gore and Robert Troester, Office of the Deputy Attorney General, or Rachel Tucker, Office of the Attorney General, U.S. Department of Justice. Certain of the emails forward a draft letter regarding the 2020 Census and the citizenship question and request review and advice among the leadership offices. The draft

letter is circulated within the Department for additional review and input, and they contain questions to elicit relevant information, comment bubbles, and edits. Multiple versions of the draft letters are forwarded among Robert Troester, Rachel Tucker, Art Gary and John Gore for further review, comments, and questions. These emails discuss the draft response, include comments and additional edits, exchange further revisions of the draft letter, contain questions for clarification, and formulation of additional questions to elicit relevant information. The emails are predecisional because they were drafted before determining the final contents of the letter. Portions of the emails are deliberative because they contain opinions, suggested edits, and recommendations. These discussions predate the final Gary Census letter.

27. The Civil Rights Division is withholding 2 pages in full under Exemption 5 pursuant to the deliberative process privilege. Specifically, the Civil Rights Division is withholding two cover memoranda from 2016 from the Civil Rights Division to the Justice Management Division containing recommendations pursuant to a legal authority review for American Community Survey questions and new census questions. The spreadsheets containing the review of legal authority have been released in full. One of the memoranda is in a draft form while the second memorandum is finalized. These two memoranda are predecisional because they were drafted before JMD made any decisions concerning whether to suggest new questions to the U.S. Census Bureau. They are deliberative because they contain recommendations and candid, frank discussion of vital enforcement interests. If released, this information would harm the Division's capacity to conduct future exchanges without chilling the staffs' exchange and presentation of views.

28. Additionally, certain documents are withheld pursuant to the attorney-client portion of Exemption 5 as Acting AAG Gore's legal advice was sought regarding a common enterprise

with Mr. Uthmeier concerning the 2020 census. Further, the hand written note from Mr. Uthmeier and the memorandum are subject to the attorney work-product doctrine as it contains Mr. Uthmeier's mental impressions in anticipation of litigation.

29. One document is withheld in full pursuant to the presidential communications privilege under Exemption 5. This privilege protects communications among the President or his White House advisors. There is one email chain between Department of Justice attorneys and an individual in the White House Office seeking advice and recommendations from the White House as to congressional notification of the Department's request for a citizenship question.

30. The Civil Rights Division is also withholding 46 pages in full under Exemption 5 pursuant to the deliberative process privilege. Specifically, the Civil Rights Division withheld 12 drafts of the letter from Arthur Gary to Dr. Ron Jarmin, Acting Director of the U.S. Census Bureau regarding the 2020 census and the citizenship question. The drafts were attached to the emails described above, which the Civil Rights Division partially released. The drafts were circulated within the Department for additional review and input, and they are deliberative because they contain questions to elicit relevant information, comment bubbles, and edits. The documents are predecisional because they were drafted before determining the final contents of the letter. The documents contain candid, frank discussion of vital enforcement interests, which, if released, would harm the Division's capacity to conduct future exchanges without chilling the staffs' exchange and presentation of views. These draft letters predate the final Gary Census letter.

31. The Civil Rights Division carefully reviewed the records discussed above and withheld from release pursuant to the deliberative process privilege of Exemption 5 only that information which would reveal the Department's decision-making process. The Civil Rights

Division conducted a line-by-line review of these records and determined that some non-exempt, factual information within them could be segregated for release. The Civil Rights Division only applied the deliberative process privilege to information consisting of pre-decisional, deliberative opinions, comments, edits, and recommendations. All reasonably segregable, nonexempt information from these records has been disclosed to Plaintiff.

32. Responsive documents include internal email communications with attachments of draft documents circulated within the Departments' components and with other federal agencies which were all internal, deliberative communications. Further, these communications discussed draft documents and forwarded intra-agency and inter-agency comments and internal draft documents for review, edits, revisions, further edits, and comments.

33. Exemption 6 exempts from mandatory release information about individuals in personnel, medical, and similar files, which, if released, would constitute a clearly unwarranted invasion of personal privacy. In the response and supplemental releases, portions of the documents were redacted pursuant to Exemption 6. In this case, the personal, direct telephone numbers, cell phone numbers, and email addresses of Department of Justice personnel have been redacted for privacy reasons. The personnel to whom the information pertains have a privacy interest in avoiding the disclosure of this information, as it could invite unwarranted intrusions. The Civil Rights Division determined that there was no public interest in the disclosure of this information, such that release of the information would constitute a clearly unwarranted invasion of personal privacy. All reasonably segregable, nonexempt information from these records has been disclosed to Plaintiff.

I declare under penalty of perjury that the foregoing is true and correct.



Tink Cooper, Acting Chief
FOI/PA Branch
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530

Executed on: May 8, 2019

Campaign Legal Center v. U.S. Dep't of Justice
Civil Action No. 18-cv-01771
 U.S. District Court for the District of Columbia

Civil Rights Division (CRT) *Vaughn* Index

Group Number	Date	Description	Nature of Withholding	Pages
1	Varied dates from September 2017 to December 2017 and January 3, 2018	<p>The majority of this group of documents contains emails between the Acting Assistant Attorney General (OAG) John Gore, Civil Rights Division, and Arthur Gary, General Counsel, Justice Management Division, scheduling meeting dates and calls to review and discuss draft response letters and comments relating to a citizenship question on the 2020 Census. A few emails discuss the logistics of transmitting the Gary Letter by fax and email.</p> <p>These emails discuss edits, comments and revisions to a draft letter. The emails also discuss draft versions of the letter, formulation of additional questions to elicit relevant information, and numerous edits and changes. These emails contain questions and responses. These documents contain attorney discussion, opinions, and analyses of the various draft versions. A few emails include Ron Jarmin's response discussing the Gary Letter.</p> <p>Division staff have carefully reviewed these records in an effort to find documents or portions of documents that</p>	<p>Exemption 5 (DPP) for portions of the email chains.</p> <p>Exemption 6 for privacy related information for portions of the email chains.</p>	55

Group Number	Date	Description	Nature of Withholding	Pages
		<p>might be disclosed as a matter of discretion. Division staff has also reviewed the materials for all portions that are reasonably segregable. Line-by-line review of these records has shown that portions of these records are clearly exempt from access. The majority of these documents were released in part or in full with redactions only for privacy reasons regarding email addresses and telephone numbers, the release of which would cause unwarranted intrusions.</p> <p>A smaller portion of these documents released in part have redactions under Exemption 5. The documents contain candid, frank discussions of opinions and analyses of various draft versions that, if released, would harm the Division's capacity to conduct future exchanges without chilling the staff's exchange and presentation of views. A discretionary disclosure of any records or portions thereof is not appropriate at this time. The Division reasonably foresees that any further disclosures would harm interests protected by exemptions 5 and 6.</p>		
2	Dates between November 1 to November 3, 2017	<p>The majority of this group of documents contains emails between the Acting Assistant Attorney General (OAG) John Gore, Civil Rights Division, and Bethany Pickett, Counsel in OAG's office, and between Chris Herren, Chief, Voting Section reviewing and discussing a draft response letter and comments relating to a citizenship question on the 2020 Census. These documents predate the final Gary Letter.</p>	Exemption 6 for privacy related information.	5

Group Number	Date	Description	Nature of Withholding	Pages
		<p>Division staff have carefully reviewed these records in an effort to find documents or portions of documents that might be disclosed as a matter of discretion. Division staff has also reviewed the materials for all portions that are reasonably segregable. Line-by-line review of these records has shown that portions of these records are clearly exempt from access for personal privacy reasons. The majority of these documents have been released in part or in full with redactions only for privacy reasons regarding email addresses, telephone numbers, and private cell numbers, the release of which would cause unwarranted intrusions.</p>		
3	<p>Varied dates in November and December 2017</p>	<p>This group of documents contains emails between the Acting Assistant Attorney General (OAG) John Gore, Civil Rights Division, and Rachel Tucker, Office of the Attorney General (OAG), and Robert Troester, with the Deputy Attorney General's office (ODAG).</p> <p>These emails discuss edits, comments and revisions to non-final drafts of the Gary Letter. The emails also discuss draft versions of the letter, formulation of additional questions to elicit relevant information, and numerous edits and changes. These emails contain questions and responses. These documents contain the participants' discussion, opinions, and analyses of the various draft versions. The emails pre-date the final Gary Letter.</p>	<p>Exemption 5 (DPP) for portions of the email chains.</p> <p>Exemption 6 for privacy related information.</p>	9

Group Number	Date	Description	Nature of Withholding	Pages
		<p>Division staff have carefully reviewed these records in an effort to find documents or portions of documents that might be disclosed as a matter of discretion. Division staff has also reviewed the materials for all portions that are reasonably segregable. Line-by-line review of these records has shown that portions of these records are clearly exempt from access. The majority of these documents were released in part or in full with redactions only for privacy reasons regarding email addresses and telephone numbers, the release of which would cause unwarranted intrusions.</p> <p>A smaller portion of these documents released in part have redactions under Exemption 5. The documents contain candid, frank discussions of opinions and analyses of various draft versions that, if released, would harm the Division's capacity to conduct future exchanges without chilling the staff's exchange and presentation of views. A discretionary disclosure of any records or portions thereof is not appropriate at this time. The Division reasonably foresees that any further disclosures would harm interests protected by exemptions 5 and 6. These documents predate the Gary census letter.</p>		
4	Varied dates in November and December 2017	These documents comprise 12 non-final drafts of the Gary Letter. These documents were transmitted as attachments to the emails discussed above which contain various draft letters with edits, comments, and revisions	Exemption 5 (DPP) for the entire draft documents.	46

Group Number	Date	Description	Nature of Withholding	Pages
		<p>between the Acting Assistant Attorney General (OAG) John Gore, Civil Rights Division, and Arthur Gary, General Counsel, Justice Management Division; between Mr. Gore and Rachel Tucker (OAG) and Robert Troester (ODAG); and Mr. Gore and Voting Section Chief Chris Herren and Bethany Pickett, Counsel in OAG's office. These draft response letters and comments relate to a citizenship question on the 2020 Census. This group of documents contains emails among the Acting Assistant Attorney General (OAG) John Gore, Civil Rights Division, and</p> <p>These draft documents contain edits, comments, questions, and revisions to prepare a final draft letter. These documents are various draft versions of the letter, formulation of additional questions to elicit relevant information, and numerous edits and changes. These documents contain attorney discussion, opinions, and analyses of the various draft versions. Division staff reviewed the materials for reasonably segregable information. The Division reasonably foresees that disclosure would harm interests protected by exemption 5. These draft documents predate the final Gary census letter.</p> <p>Division staff reviewed the materials for reasonably segregable information. The Division reasonably foresees that disclosure would harm interests protected by exemption 5.</p>		

Group Number	Date	Description	Nature of Withholding	Pages
5	2016	<p>Two cover memoranda from 2016 from the Civil Rights Division to the Justice Management Division containing recommendations pursuant to a legal authority review for American Community Survey questions and new census questions. The spreadsheets containing the review of legal authority have been released in full. One memorandum is in draft form while the second memorandum was finalized. These two memoranda are predecisional and deliberative, containing recommendations and opinions concerning a decision yet to be made.</p> <p>Division staff reviewed the materials for reasonably segregable information. The Division reasonably foresees that disclosure would harm interests protected by exemption 5.</p>	Exemption 5 (DPP)	2
6	2017	<p>One document is a handwritten cover note from Janes Uthmeier, an attorney in the Office of General Counsel, Department of Commerce to Acting AAG John Gore. The handwritten note accompanies a memorandum.</p> <p>The note and memorandum are withheld pursuant to the deliberative process portion of Exemption 5. Both pre-date the final Gary Letter, and, accordingly, DOJ's final decision concerning whether and how to request the reinstatement of a citizenship question on the 2020 decennial census questionnaire, and also contain intra-agency discussion on that topic.</p> <p>The note and memorandum are also withheld pursuant to the attorney-client privilege portion of Exemption 5</p>	Withheld in full pursuant to Exemption 5 (DPP, AWP, and ACP).	17

Group Number	Date	Description	Nature of Withholding	Pages
		<p>because the note sought Acting AAG Gore's legal advice concerning a common enterprise between Mr. Uthmeier and Mr. Gore regarding the 2020 census..</p> <p>Further, the note and memorandum are subject to the attorney work-product doctrine as it contains Mr. Uthmeier's mental impressions in anticipation of litigation.</p> <p>Division staff reviewed the materials for reasonably segregable information. The Division reasonably foresees that disclosure would harm interests protected by Exemption 5 as described above.</p>		
7		<p>This document is an email chain between DOJ attorneys and individuals in the White House office seeking advice and decision from White House as to congressional notification of DOJ's request for citizenship question.</p> <p>Division staff reviewed the materials for reasonably segregable information. The Division reasonably foresees that disclosure would harm interests protected by the deliberative process portion of Exemption 5, including by chilling the free exchange of ideas within the Division and discouraging candid discussion of concerns and thoughts on controversial topics.</p> <p>Personal information is also withheld to protect email addresses and telephone numbers for privacy reasons, the release of which would cause unwarranted intrusions.</p>	<p>Withheld in full pursuant to Exemption 5 (DPP), and the Presidential Communications privileges; and withheld in part pursuant to Exemption 6 (privacy related information).</p>	23

Group Number	Date	Description	Nature of Withholding	Pages
8	Dates in December 2017	<p>Two email chains between the Acting Assistant Attorney General (OAG) John Gore, Civil Rights Division, and Rachael Tucker, Office of the Attorney General (OAG). These emails discuss comments and proposals about the logistics of transmitting the Gary Letter. These emails contain questions and responses.</p> <p>Division staff have carefully reviewed these records in an effort to find documents or portions of documents that might be disclosed as a matter of discretion. Division staff has also reviewed the materials for all portions that are reasonably segregable. Line-by-line review of these records has shown that portions of these records are clearly exempt from access. The majority of these documents were released in part or in full with redactions only for privacy reasons regarding email addresses and telephone numbers, the release of which would cause unwarranted intrusions.</p> <p>A smaller portion of these documents released in part have redactions under the deliberative process portion of Exemption 5. The documents contain candid, frank discussions of opinions and that, if released, would harm the Division's capacity to conduct future exchanges without chilling the staff's exchange and presentation of views. A discretionary disclosure of any records or portions thereof is not appropriate at this time. The Division</p>	Withheld in part pursuant to Exemption 5 (DPP) and withheld in part pursuant to Exemption 6 (privacy related information).	3

Group Number	Date	Description	Nature of Withholding	Pages
9	December 19, 2017	One email from Arthur Gary (JMD) to Acting AAG John Gore for future discussion about the Gary Letter. This document was released in part with redactions for privacy reasons.	Exemption 6 (privacy related information).	1
			TOTAL	161