

# United States Senate

WASHINGTON, DC 20510

March 15, 2018

The Honorable John Gore  
Acting Assistant Attorney General  
U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Ave., NW  
Washington, D.C. 20530

Dear Acting Assistant Attorney General Gore:

We write to request information about the Civil Rights Division's role in asking the United States Census Bureau to add a question on citizenship to the 2020 Census.

On December 29, 2017, ProPublica first reported that the Department of Justice (Department) had urged the Census Bureau to include a citizenship question on the upcoming census. The Department's letter stated that adding a citizenship question to the census was "critical to the Department's enforcement of Section 2 of the *Voting Rights Act* and its important protections against racial discrimination in voting."<sup>1</sup>

Since then, emails obtained through a Freedom of Information Act (FOIA) request suggest that you were personally involved in making this request. Specifically, on November 3, 2017, you wrote: "The draft letter that we discussed earlier this week is attached. Let's touch base early next week once you've had a chance to review it."<sup>2</sup> On December 12 — the same day the Department's letter was sent to the Census Bureau — you received an email alerting you that the letter would go out that afternoon.<sup>3</sup> Then on December 29, you received an email referencing your role. It stated in relevant part that the letter was sent "on behalf of the Department at the request of leadership, working with John."<sup>4</sup>

In light of this, we respectfully ask that you respond to the following questions by March 26, 2018:

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<sup>1</sup> Letter from Arthur E. Gary, General Counsel, Justice Management Division, to Dr. Ron Jarmin, Performing the Non-Exclusive Functions and Duties of Director, U.S. Census Bureau (Dec. 12, 2017), *available at* <https://www.documentcloud.org/documents/4340651-Text-of-Dec-2017-DOJ-letter-to-Census.html>.

<sup>2</sup> Email from John Gore to Arthur Gary re: "Close Hold: Draft Letter" (Nov. 3, 2017), page 25: <https://assets.documentcloud.org/documents/4403719/JMD-Response-Documents.pdf>.

<sup>3</sup> Email from Arthur Gary to John Gore re: "FW: U.S. Census Bureau Dr. Jarmin (Revised Dec. 12th).pdf" (Dec. 12, 2017), page 34: <https://assets.documentcloud.org/documents/4403719/JMD-Response-Documents.pdf>.

<sup>4</sup> Email from Arthur Gary to John Gore & Sarah Isgur Flores re: "FW: DOJ / Census story (Deadline 2:45pm)" (Dec. 29, 2017), pages 49-53: <https://assets.documentcloud.org/documents/4403719/JMD-Response-Documents.pdf>.

1. Who initiated or originated the request to the Census Bureau to add a question on citizenship to the 2020 Census? Please provide names, titles, and agency or departmental affiliations.
2. What role did the White House, White House Counsel's Office, Commerce Department, Department of Homeland Security (or any components thereof), or the Census Bureau itself play in initiating or originating the request to add a question on citizenship to the 2020 Census?
3. Did any individual in the White House, White House Counsel's Office, Commerce Department, Department of Homeland Security (or any components thereof), or the Census Bureau itself direct the Department to send the request to the Census Bureau to add a question on citizenship to the 2020 Census?
4. What role did Department and/or Civil Rights Division leadership play in initiating, originating, or executing the request to the Census Bureau to add a question on citizenship to the 2020 Census?
5. Who within Department and/or Civil Rights Division leadership commented on, advised on, contributed to, was consulted on, or otherwise worked on the Department's request to the Census Bureau to add a question on citizenship to the 2020 Census? Please provide names and titles.
6. Apart from you, did any individual in Department and/or Civil Rights Division leadership direct the Department to send the request to the Census Bureau to add a question on citizenship to the 2020 Census?
7. What role did you personally play in your capacity as Acting Assistant Attorney General in initiating, originating, or executing the request to the Census Bureau to add a question on citizenship to the 2020 Census?
8. What communications did Department or Civil Rights Division leadership have with the White House, White House Counsel's Office, Commerce Department, Department of Homeland Security (or any components thereof), or the Census Bureau regarding the addition of a question on citizenship to the 2020 Census, both before and after the Department sent the letter? Please include any relevant documents or records of any such communications in your response, and describe the process by which such documents were searched for and collected.
9. What communications have Department or Civil Rights Division leadership had with state officials, academics, and others outside the federal government regarding the addition of a question on citizenship to the 2020 Census, both before and after the Department sent the letter? Please include any relevant documents or records of any such communications in your response, and describe the process by which such documents were searched for and collected.

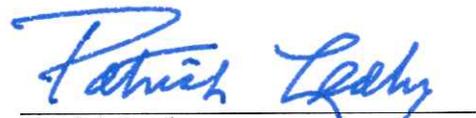
10. Has anyone within the Department consulted with or communicated with anyone in the White House, White House Counsel's Office, Commerce Department, Department of Homeland Security (or any components thereof), or the Census Bureau about how citizenship data collected through the 2020 Census would be used by federal agencies for purposes other than the enforcement of voting rights laws? Please include any relevant documents or records of any such communications in your response, and describe the process by which such documents were searched for and collected.
11. On what basis did the Department and/or the Civil Rights Division conclude that the addition of a citizenship question to the 2020 Census was "critical to the Department's enforcement of Section 2 of the *Voting Rights Act* and its important protections against racial discrimination in voting"?

We are deeply troubled not just by the request to add a citizenship question, but by the impact that such a question would have on the accuracy of the 2020 Census. The census is already underfunded, and the Census Bureau is currently operating without key personnel, including a permanent director. We are concerned that the addition of a citizenship question will depress participation among immigrants and those who live in mixed-status households. And we have serious doubts about the need to add such a question to the census.

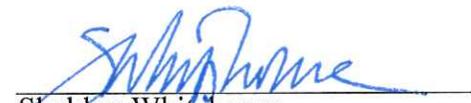
The Census Bureau is required to provide the 2020 Census questions to Congress by March 31, 2018. Given this impending deadline, and the need to understand the role that the Civil Rights Division played in pushing to ask about respondents' citizenship status, we respectfully ask that you answer our questions in full, and provide any relevant documents or communications, no later than March 26, 2018.

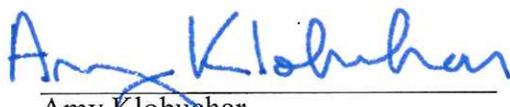
Sincerely,

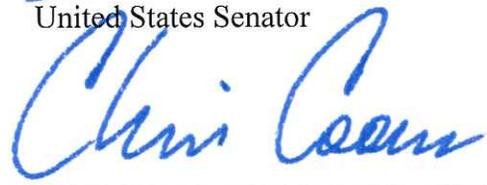
  
Dianne Feinstein  
United States Senator

  
Patrick Leahy  
United States Senator

  
Richard J. Durbin  
United States Senator

  
Sheldon Whitehouse  
United States Senator

  
Amy Klobuchar  
United States Senator

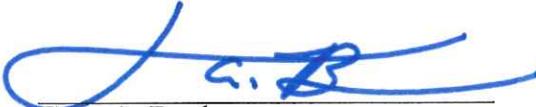
  
Christopher A. Coons  
United States Senator



Richard Blumenthal  
United States Senator



Mazie K. Hirono  
United States Senator



Cory A. Booker  
United States Senator



Kamala D. Harris  
United States Senator

cc: Charles E. Grassley, Chairman  
Senate Judiciary Committee