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EXAMINING FOIA COMPLIANCE AT THE DEPARTMENT OF STATE

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

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CONTENTS

	Page
Hearing held on September 8, 2016	1

WITNESSES

Mr. Patrick F. Kennedy, Under Secretary for Management, U.S. Department of State, Accompanied by Janice Jacobs, Transparency Coordinator, U.S. Department of State, Karin Lang, Director, Executive Secretariat, U.S. Department of State, and Mr. Clarence N. Finney, Jr., Deputy Director for Correspondence, Records, and Staffing Division, Executive Secretariat, U.S. Department of State	
Oral Statement	5
Written Statement	9

APPENDIX

Letter of November 12, 2014, from Mr. Kennedy submitted by Mr. Lynch	80
Letter of October 21, 2015, from Mr. Kennedy submitted by Mr. Lynch	82
Letter of November 6, 2015, from Mr. Kennedy submitted by Mr. Lynch	83
Letter of January 19, 2016, to Mr. Kerry submitted by Mr. Chaffetz	87
Letter of November 24, 2015, from Ms. Frifield submitted by Mr. Cummings	90
Email of March 2, 2012, from H submitted by Ms. Maloney	94

EXAMINING FOIA COMPLIANCE AT THE DEPARTMENT OF STATE

Thursday, September 8, 2016

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, D.C.

The committee met, pursuant to call, at 10:03 a.m., in Room 2154, Rayburn House Office Building, Hon. Jason Chaffetz [chairman of the committee] presiding.

Present: Representatives Chaffetz, Mica, Duncan, Jordan, Walberg, Amash, Gosar, Gowdy, Farenthold, Massie, Meadows, DeSantis, Buck, Walker, Blum, Hice, Russell, Carter, Grothman, Hurd, Palmer, Cummings, Maloney, Norton, Clay, Lynch, Cooper, Cartwright, Lawrence, Lieu, Watson Coleman, Plaskett, DeSaulnier, and Lujan Grisham.

Chairman CHAFFETZ. The Committee on Oversight and Government Reform will come to order. And without objection, the chair is authorized to declare a recess at any time.

We have a very important hearing today. As you know, the committee has jurisdiction. We have jurisdiction on Federal records, jurisdiction on the Freedom of Information Act, have jurisdiction on the National Archives. It is a very important part of our process. We are unique in our nation. We are open. We are transparent. We do provide access to the American people for what they paid for.

As you also know, Secretary Clinton served as the Secretary of State from early 2009 through early 2013, but here is the problem. Since 2009 there have been thousands of congressional inquiries, thousands of FOIA requests, subpoenas, media inquiries, and if any of those required Secretary Clinton's Federal records, i.e., her emails, there was not a way for those requests to be fulfilled.

This has created a mess and a disaster for the people in the front line who have to deal with this. And we are thankful for the four people that serve the United States. They serve in the State Department. We appreciate them being on this panel and having to deal with this mess that Hillary Clinton conveniently created for the State Department on her way out the door.

Remember, when she left in early 2013, it wasn't until December 5 of 2014, closing in on 2 years later, that Secretary Clinton returned 55,000 pages in hard copy format to the State Department. Roughly 6 months later, this prompted Ambassador Kennedy to ask for the electronic copies of these records.

But later, the FBI swooped in because they had been given by the inspector general—the inspector general had highlighted that there was classified information residing in a non-classified situa-

tion with people who do not have the proper security clearance. The inspector general found this. They did what they were supposed to do. They contacted the FBI. The FBI swoops in and they find thousands and thousands of additional emails, many of which were classified. Most were not. Most were unclassified, but they nevertheless found Federal records, not just her emails, Federal records.

And it is important to note the severity of this because the classification ranges everything from confidential to secret, top secret. You even have special access programs that require a code word access. This information was found in there. I am sure there will be discussion about how few they were, but there is a reason in this nation why we go to such great lengths to classify this information and make sure that the adversaries do not have access to it.

To address this nightmare, the State Department had allocated roughly 2008 $12.6 million to fulfill the FOIA requests. That has now soared to $33 million that the State Department is having to use. Unfortunately, they are using millions of dollars in lawsuits. Now, keep in mind what the State Department is doing. They are using this taxpayer money to make sure that this information ever gets out to the public. The public paid for this information, they have access to this information, and the Federal Government is suing to make sure that they don't get that. Now, fortunately, the State Department keeps losing these lawsuits. That is why we start to get—and have this revealed.

Congressional inquiries sometimes are feckless because State and others—and it is not just the State Department; I want to be fair—but State Department is one of the worst from my vantage point in terms of providing documentation that we ask for in congressional inquiries. It is very frustrating.

And now, we are starting to realize why this information is so incomplete, because even the State Department themselves didn't have Hillary Clinton's Federal records during the 4 years that she served, and here we are in 2016 still trying to untangle this mess, and these people have to deal with this.

You have people like the Judicial Watch and the Associated Press and others. You shouldn't have to go to court and sue in order to get access to information that should be readily available. Under the Freedom of Information Act, you are supposed to have a response within 20 days, but look at the case of the Associated Press. The Associated Press—I believe it was 2010—just asked for a simple thing. Show us Hillary Clinton's calendars, her calendars. They wait years for a response. They get a trickling of a little bit. They finally go to court, and even with the court, State Department is saying we can't produce these. Are you kidding me? Her calendars? I would like to see Hillary Clinton's calendars. You are telling me you can't produce those? What is going on?

So we have a duty, we have an obligation. Hillary Clinton created this mess. Hillary Clinton set up this convenient arrangement with herself. Hillary Clinton picked this timeline. I know people are going to say, oh, it is the political season. I just got this information from the FBI. We are days, legislative days after this has happened. I flew in to go see and read the documents downstairs, and I tell you, we are going to move in a rapid pace no matter the

political calendar, and we would be derelict in our duty if we didn't do it. That is what we do in the Oversight Committee. It was founded in 1814. That is what we do. We oversee what happens in the executive branch.

I do appreciate the four people that are here today. They have served this country and served honorably. We appreciate their service to their country. You have been left a mess. We are trying to untangle it. All we ask that you do is share with us the truth and perspective as you see it, and that is what we are seeking. No matter what it is, we just want to get to the truth.

Chairman CHAFFETZ. So let's recognize the ranking member, Mr. Cummings, for his opening statement.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

I want to make sure, Mr. Kennedy and witnesses, that as we address this mess and as we address this disaster, as the chairman has described it, and as we enter this hearing entitled "Examining FOIA Compliance at the Department of State" that we make sure that we look at the entire problem. I want to know how far back it goes. And we are about the integrity of this committee and truly addressing FOIA compliance. We will take a look and see what happened even before Hillary Clinton and what happened afterwards.

Integrity of the committee, integrity of what we are supposed to be about, integrity of using the taxpayers' dollars wisely so that we might be effective and efficient in what we do.

I wish I could say that I support today's hearing, but I think everyone in this room knows what is really going on here. This hearing is not about an effort to improve FOIA or Federal record-keeping. This is an attack, an attack on Hillary Clinton's candidacy for President of the United States of America and just the latest in a series of attacks.

The Republicans started with their discredited Benghazi investigation, accusing Secretary Clinton of all kinds of unsubstantiated conspiracies. When they turned up nothing, they just made up new accusations against her. Then, when the FBI director, Mr. Comey, sat in that very seat in that witness chair and debunked those allegations, the Republicans responded by attacking the FBI director and then making up more accusations against Secretary Clinton.

When Mr. Comey came before us, I told him that unfortunately, while at one time he was the darling of the Republican Party, now he was being placed on trial. The chairman sent a perjury referral to the Justice Department that is ludicrous on its face. Then, he sent another referral accusing Secretary Clinton of obstructing justice. These actions had their desired effect. They kept repeating the headline that Hillary Clinton is under investigation.

Over the next 5 days, this committee will hold three hearings focused directly on Hillary Clinton, one today, one Monday, and one Tuesday. This frantic pre-election fervor is an egregious abuse of taxpayer dollars for political purposes. Today, this hearing is supposed to be, supposed to be focused on a report issued by the State Department inspector general that highlighted long-standing challenges, long-standing challenges with FOIA across five different Secretaries of State. Yet the Republicans splash only one picture

across the advisory they sent to the press, a picture of Secretary Clinton.

The IG identified FOIA challenges under Secretaries Albright, Powell, Rice, Clinton, and Kerry. The Republican memo for today focused only on one. You guessed it, Secretary Clinton.

Last night, we obtained an email in which Secretary Powell back in 2009 provided advice to Secretary Clinton on how to skirt security rules and bypass requirements to preserve Federal records. Although Secretary Clinton has made clear that she did not rely on this advice, in this email Secretary Powell appears to admit that he did this himself. He also says that he disregarded security warnings and used his personal mobile device inside the State Department's secure space.

Now, let me make it very clear. Secretary Powell is a man I admire greatly, and I have tremendous respect for Secretary Powell and his decades of service to our nation despite the poor judgment shown in this email.

However, rather than responding like Republicans have done by making a series of frivolous criminal referrals just to generate headlines to help Donald Trump, our goal as a committee should be to ensure that the historical record is complete, not limited to Secretary Clinton but the other Secretaries: Albright, Powell, Kerry, Rice.

Secretary Powell used his personal email account and sent emails from nongovernmental servers at AOL and did not preserve these records, yet the Republican memo focused only on the period between 2009 and 2013 when Hillary Clinton was Secretary. This memo says the Department "lost an untold number of Federal records due to inappropriate record-keeping practices by Secretary Hillary Clinton and her senior staff." Yet Secretary Clinton produced some 55,000 pages of emails while Secretary Powell has produced none.

If we truly are concerned with preserving the entire historical record, why hasn't the committee sent a letter asking AOL to see if any of Secretary Powell's emails are recoverable? The IG also reported that Secretary Powell sent classified information from his AOL account, yet the committee has never asked AOL to scan its systems, sequester national security information, or identify employees who may have had access to that information.

On this final issue, classification, I do believe our committee could play a constructive, a very constructive role, and I want you to shed light on this, Mr. Kennedy, but only if we do it in a bipartisan way, this whole idea of classification.

As part of our review so far, we have seen all kinds of ridiculous outcomes. We have seen agencies disagree on classification decisions. We have seen one agency say a document is classified and another agency say a document is not classified. We have seen unclassified documents suddenly become retroactively classified. We have seen documents with classification markings that were completely wrong. And we have seen documents that are explicitly marked unclassified, become classified after the fact.

I do not know how anyone can decipher this broken system, and there is no independent arbiter within the executive branch to handle these kinds of issues. This is exactly the type of cross-agency

issue that our committee was intended to address, and I hope we can do so together in a bipartisan way or we are going to find ourselves in these predicaments again and again and again where one agency says it is classified, another one says it is not, retroactive today, wasn't before. In some kind of way we need to address that.

Mr. Kennedy, you have been around long enough that hopefully you and the others here can shed some light as to how we as a government oversight committee—after all, we oversee State and intelligence and others—trying to figure out how we can make sure that we avoid those clashes in the future. With that, Mr. Chairman, I thank you and I yield back.

Chairman CHAFFETZ. I thank the gentleman.

We will hold the record open for 5 legislative days for any members who would like to submit a written statement.

I will now recognize our witnesses. We are pleased to welcome the Honorable Patrick F. Kennedy, Under Secretary for Management at the United States Department of State. It is proper to address him, I believe, as Ambassador, and my apologies that your nameplate doesn't say that, but it should.

The Honorable Janice Jacobs is the transparency coordinator at the United States Department of State. Ambassador, we thank you for being here as well.

Ms. Karin Lang is the director of the Executive Secretariat at the United States Department of State.

And Mr. Clarence Finney, Jr., deputy director for Correspondence, Records, and Staffing Division of the Executive Secretariat at the United States Department Of State. We welcome you here as well and thank you. I believe you have been in this role since 2006, correct?

[Nonverbal response.]

Chairman CHAFFETZ. We welcome you all and thank you for being here. Pursuant to committee rules, all witnesses are to be sworn before they testify, so if you will please rise and raise your right hands. Thank you.

[Witnesses sworn.]

Chairman CHAFFETZ. Thank you. Let the record reflect that all witnesses answered in the affirmative.

It is my understanding that you are all representatives from the Department of State, and that rather than giving individual statements that Ambassador Kennedy will give one statement.

We are very generous with our time here, Ambassador, so please feel free. The time is yours.

WITNESS STATEMENT

STATEMENT OF PATRICK F. KENNEDY

Mr. KENNEDY. Thank you very much. Chairman Chaffetz, Ranking Member Cummings, committee members, good morning. Thank you for your invitation and your interest in FOIA. I appreciate the opportunity to discuss the State Department's ongoing efforts to improve our FOIA process.

I am joined today by my colleagues, Ambassador Janice Jacobs, Director Karin Lang, and Deputy Director Clarence Finney. Ambassador Jacobs returned to the State Department in 2015 to serve

as the Secretary's transparency coordinator. Karin Lang is the director of the Executive Secretariat staff, and among many responsibilities, she is responsible for coordinating the Executive Secretariat's response to FOIA requests. And Clarence Finney is one of Ms. Lang's deputies particularly responsible for FOIA matters.

The State Department is committed to openness and to encouraging public interest in U.S. foreign policy. Two important efforts underscore our commitment to openness: first, our efforts to preserve a complete record of U.S. foreign policy under the Federal Records Act; and second, our efforts to ensure that the American public can gain access to that record using the Freedom of Information Act.

It is clear to the committee, to us, and to anyone reading the news that the State Department struggles with the volume of FOIA materia. Since fiscal year 2008, our new FOIA requests have risen 300 percent from 6,000 to over 24,000 requests per year. We face a FOIA backlog approximately of 30,000 requests, 17,000 direct requests to the State Department and about 13,000 referrals from other agencies to the State Department that need our response or contribution as well. I want to make clear that this backlog is not acceptable and we are working to reduce it.

The rate of incoming cases is increasing, and many of these cases are increasingly complex. It is our experience that requesters come first to the State Department to request information on any and all national security issues. These requests are often a mixture of complex subject matters, including terrorism, arms conflict, foreign government relations, security, and diplomacy. These complex requests require multiple searches throughout the State Department and throughout often any of our 275 embassies, missions, and consulates around the globe, often involving the review of highly classified or highly sensitive material, as well as in-depth coordination with other Federal agencies.

The most common complaint we receive from the public is delays in receiving timely responses. Our goal is to do everything we can to complete each request as quickly as possible with as much responsive information as we can, and our FOIA staff works diligently to make this happen.

To address these challenges, the Department has undertaken a number of steps recently to improve records management, including our response to FOIA requests. We are working closely with the National Archives and Records Administration. Secretary Kerry has focused attention on FOIA and asked the inspector general to review these issues. And we have directed more resources towards FOIA processing.

Working with NARA, we have ensured that we are capturing records appropriately. In 2014, the State Department adopted the NARA-approved approach to preserving emails, which captures all senior emails. And we started that in 2015. This program has been expanded to over 688 senior State Department officials, including Secretary Kerry, and we will deploy a tool to search these captured materials by the end of this calendar year.

The increased use of email, however, strains our decades-old records management systems, but we are on schedule, with the additional resources we have deployed and through the assistance of

all the work Ambassador Jacobs has done, to meet NARA's December 2016 deadline to be able to manage our email records electronically.

Efforts by Secretary Kerry: Earlier this year, the Secretary sent a department-wide notice reminding employees about their FOIA responsibilities and the need for transparency. We are training in enhanced ways our employees on records preservation.

In order to focus a dedicated, high-level review on these issues, last September the Secretary appointed Ambassador Janice Jacobs, as I have mentioned, as our transparency coordinator. She is focused solely on records management improvements, including FOIA processing, by moving from a 20th-century paper-based system to a modern electronic system. Ambassador Jacobs can, in response to any of your questions, describe her efforts to identify procedural, bureaucratic, and technological solutions.

The Inspector General's Review: Last year, Secretary Kerry asked the State Department's inspector general to explore those issues. The State Department IG has issued four reports with recommendations for improved records management, including FOIA, and all of the OIG's recommendations are resolved and we have implemented the majority of them. The others are still in process because of time and resource constraints.

In January 2016 the OIG found weaknesses in the FOIA processing by the Executive Secretariat, which the Executive Secretariat has acknowledged. Improvements have been made so far, including establishing written procedures for FOIA searches, including emails; increased training; better oversight by senior staff; and the establishment of metrics.

The inspector general's May 2016 report concerned email practices of five Secretaries of State and shortcomings and how emails were preserved in the past. It is clear that the Department should have done a better job in preserving emails of Secretaries of State and their senior staff going back several administrations.

The Department is much better situated today than during the historical periods reviewed by the OIG. By early 2015 we had already taken a number of important steps. For instance, as noted, NARA and IG both agree the past preservation problems of Secretary Clinton and her immediate staff were mitigated by the production of emails to the Department. We then worked diligently from May 2015 to February 2016 to release more than 52,000 pages of former Secretary Clinton's emails. These emails are now a part of the Department's permanent records and are available on our FOIA website for the public to see.

We recently reviewed—received additional Clinton emails from the Federal Bureau of Investigation, which we have begun processing. And as noted, State is automatically archiving Secretary Kerry's emails through the NARA-approved Capstone program, along with 687 other senior officials.

Increased Resources for the FOIA Office: The Department has reallocated and reprogrammed from $18 million in 2014 to $26.2 million in 2015 and $32.5 million this year. Over the past year, the FOIA office has added 25 additional full-time positions and converted another 25 positions from part-time to full-time. This comes at a time when the Department's operation—operational funding

has increased 25 percent in constant dollar terms over the last 5 years.

While we have had a dedicated FOIA requester service team to answer questions about specific status requests, a new FOIA public liaison officer joined the State Department in May to enhance our abilities to be responsive to the American public.

Have these steps made a difference? Yes. We are beginning to see results. In fiscal year 2014, we achieved a 23 percent reduction in our appeals backlogged by streamlining our case processing. In fiscal year 2015, the Department closed 9 out of 10 of its oldest FOIA requests. Later this year, we plan to start posting nearly all of the documents released through FOIA, no matter who the requester was, on our public website. This will result in more material on broader ranges of topics, potentially reducing the need for anyone to file a new request for information that has in fact already been reviewed.

The Department is committed to finding more ways to streamline the FOIA process and to reduce our backlog. We look forward to exploring this issue with you today.

Mr. Chairman, that concludes my statement. I have a written statement that I would ask to be included in the record.

Chairman CHAFFETZ. Absolutely.

[Prepared statement of Mr. Kennedy follows:]

Statement of
U.S. Department of State

Hearing Before the
House Committee on Oversight and Government Reform
on
Examining FOIA Compliance at the Department of State

September 8, 2016

Chairman Chaffetz, Ranking Member Cummings, and Members of the Committee – Good Morning.

Thank you for the invitation to appear before you today. As Under Secretary for Management, I oversee the Department's budget, facilities, security, information technology, consular affairs, and other management functions, including records management and Freedom of Information Act (FOIA) activities. Thank you for your interest in FOIA and advocacy for improving transparency to the public. We share that goal at the Department and work every day to achieve it. I appreciate the opportunity to provide an overview of the State Department's continuing efforts to improve our FOIA processing and administration.

The State Department is committed to openness. Openness is critical to keeping the public informed of the activities of their government. We realize that many U.S. citizens will have little direct contact with the Department except when they apply for a passport. But many Americans have a strong interest in world affairs – from efforts to combat Da'esh, to trade deals with foreign countries, to climate change, and humanitarian efforts in the aftermath of natural disasters. As the lead foreign affairs agency, by sharing information on our programs and policies, we promote public participation in and collaboration with the U.S. Government. We are always seeking ways to improve our openness to the public and encourage the public to participate in the business of U.S. foreign policy.

I look forward to discussing with the Committee two important efforts that undergird our commitment to openness. First, the Department's efforts to preserve a full and complete record of U.S. foreign policy -- the touchstone for preservation is the Federal Records Act. Second, our efforts to ensure that the American public can gain access to that record using the Freedom of Information Act or FOIA.

I. PRESERVATION

A. Capturing Email

The Federal Records Act establishes broad rules for preserving records that reflect official business. The Department works closely with the National Archives and Records Administration (NARA) to ensure that we are capturing records appropriately.

In recent years, the Department has been engaged in an effort to modernize our records systems to reflect changes in technology, and in particular email. Email has fundamentally challenged the systems we have had in place for decades. In August 2012, the Office of Management and Budget (OMB) and the National Archives and Records Administration (NARA) mandated Federal agencies to manage all email records in an electronic format by December 31, 2016. I am pleased to say that we are on track to meet that mandate.

In 2013, the Department formed the Electronic Records Management Working Group to address issues with the growth of electronic records and to seek solutions to manage this information. This group is specifically tasked with overseeing the Department's efforts to meet the OMB and NARA mandate for federal agencies to manage records electronically. I am pleased to note that we are on schedule to meet the December 2016 deadline for managing email records electronically. In 2014, for example, the Department announced that it was adopting the NARA-approved Capstone approach to preserving emails. Under this approach, we began capturing the emails of senior leadership in early 2015 and have since expanded the program to over 688 senior officials. We anticipate deploying a tool to search these captured materials by the end of this year.

Over the past two years, I have issued a number of Department-wide reminders related to records management. In August 2014, I reminded senior officials about their records management responsibilities. A similar reminder to all employees went out two months later reiterating and underscoring each employee's responsibilities for records management. In 2015, I reminded employees of policies regarding the use of non-official email accounts. Early this year, the Secretary sent a Department-wide notice reminding employees about their FOIA-related responsibilities and need for transparency. These reminders are in addition to the standing rules and regulations contained in our Foreign Affairs Manual and Handbook. We take these obligations seriously.

Email remains a popular form of communication, I would like to note that it is not the only way the Department records its business – we have always had an extensive process to record senior Departmental decisions including memoranda and cables. For instance, all official policy memos are formally archived – these documents record the Department's formal decisions, recommendations, interagency policy discussions, and senior meetings with foreign leaders. They have been and will continue to be a critically important part of our FOIA searches.

B. Training

The Department is also taking additional steps to train our employees on how to preserve records properly.

The Department has had an online records management training course since 2009, and the Bureau of Administration website contains a significant amount of reference material including contact information for questions or briefing requests.

We constantly reevaluate our training and guidance to incorporate evolving best practices and in light of revised Government-wide laws, regulations, and guidance. For example, NARA has issued some of its most relevant guidance on email in just the last three years. The Department has worked to incorporate NARA guidance into our records management practices and to keep employees informed on their record-keeping responsibilities.

C. Transparency Coordinator

Additionally, in order to focus a dedicated, high-level review on these issues, in September 2015, Secretary Kerry appointed Ambassador Janice Jacobs as State's Transparency Coordinator. The Secretary created the Transparency Coordinator position to examine and improve records preservation and transparency systems, including FOIA processing, within the Department.

Specifically, the Transparency Coordinator was charged with leading the Department's efforts to meet deadlines set by OMB and NARA to manage records electronically, and to oversee implementation of the OIG recommendations issued earlier this year.

Historically, information is managed by individuals, embassies and consulates, or bureaus in the Department. Individuals create, file, search, retrieve and archive the data they create. Ambassador Jacobs is helping the Department transition from a 20th century paper-based system to an electronic records management system where as many records management functions are automated as possible.

To further improve our FOIA process, as recommended by the Inspector General, Ambassador Jacobs is preparing a Quality Assurance Plan that looks at enhancing staffing, performance standards, technology, and training issues. She has examined resource issues and advocated on behalf of FOIA Office resource requests. The Ambassador is also looking at our FOIA litigation and the most efficient ways possible to handle this growing workload with the resources we have. The combination of an increased number of FOIA requests and expanding number of FOIA litigation cases requires the Department to address current demand while also planning for the future.

The Ambassador is actively engaged with the Department's Electronic Records Management Working Group to make sure that we meet the December 2016 deadline for managing emails electronically, and the December 2019 deadline for managing all permanent records electronically.

She has worked to raise visibility of records management and FOIA Department-wide, including issuing Department-wide guidance. Ambassador Jacobs issued notices on Managing Information and Records in March, and Managing Email in July 2016.

As Transparency Coordinator, her work has focused on four major areas -- governance, technology, training and best practices. I'd like to highlight that she is working with the Bureau of Administration to update our FOIA technology and leading a task force looking at modernizing the Department's information management system. She has contacted 19 federal agencies to discuss their Records Management best practices.

D. Inspector General Reviews

In 2015, Secretary Kerry asked our Inspector General to explore these issues to ensure we are doing everything we can to improve and to recommend concrete steps that we can take to do so. The OIG has completed its work, issuing four reports with recommendations to improve our records management and FOIA processes.[1] All of the OIG's recommendations are resolved and we have implemented the majority of them. We are committed to continuing efforts to improve. We look forward to discussing the steps we are taking to address these recommendations.

E. Case Study: Former Secretaries' Emails

As you know, in May 2016, the Inspector General released a report on the email practices of five Secretaries of State and, in particular, shortcomings in how emails were preserved in the past. It is clear that the Department could have done

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[1] July 2015: *Potential Issues Identified by the OIG of the IC Concerning the Department of State's Process for the Review of Former Secretary Clinton's Emails under FOIA (ESP-15-04);*
January 2016: *Evaluation of the Department of State's FOIA Processes for Requests Involving the Office of the Secretary (ESP-16-01);*
March 2016: *Classified Material Discovered in Unclassified Archival Material ESP-16-02; and*
May 2016: *Office of the Secretary: Evaluation of Email Records Management Cybersecurity Requirements ESP-16-03*

a better job preserving emails of Secretaries of State and their senior staff going back several administrations. We also acknowledge the report's finding that compliance with email and records management guidance has been inconsistent across several administrations. As the report notes, the OIG considers all eight recommendations resolved – meaning that the OIG concurs with the Department's current activities and plans to address the recommendations.

That being said, as a result of concerted efforts to improve, the Department is much better situated today than during the historical periods described in this OIG report. By early 2015, the Department had already taken a number of important steps. For instance:

- As noted in the report, NARA and the State Inspector General agree that past preservation problems of former Secretary Clinton and her immediate staff were "mitigated" by the production of emails to the State Department.

- The Department then worked diligently from May 2015 to February 2016 to release more than 52,000 pages of former Secretary Clinton's emails through monthly Freedom of Information Act (FOIA) releases. Those emails are now a part of the Department's permanent records and available online. We recently received additional Clinton emails from the Federal Bureau of Investigation which we have begun processing.

- As noted above, the Department is automatically archiving Secretary Kerry's emails through Capstone, along with 688 other senior officials.

- We are purchasing new technology for records management to meet the OMB/NARA directed deadline for U.S. Government agencies to manage email records electronically by the end of 2016. We expect the technology will improve our ability to archive email consistent with the Federal Records Act and search email in response to FOIA requests.

II. Freedom of Information Act

The Freedom of Information Act is a critical component of our commitment to openness. Although we have made great strides in recent years to improve our FOIA record, the State Department faces significant challenges in doing so.

Since Fiscal Year 2008, the Department's FOIA annual caseload has increased by over 300 percent, with new requests rising from 6,000 to over 24,000 per year. As a result, the Department faces a significant FOIA backlog of approximately 30,000 requests – about 17,000 direct requests to the Department and about 13,000 referrals from other agencies to the Department to provide direct responses. I want to be clear: the Department recognizes that this backlog is not acceptable. We do not accept it, and we are working to reduce it.

A. Tangible Increases to FOIA Commitments

We have increased resources for our FOIA office. The Department allotted $18 million for these activities in Fiscal Year 2014, $26.2 million in Fiscal Year 2015, and $32.5 million was dedicated in Fiscal Year 2016. We are seeing results: In Fiscal Year 2014, we achieved a nearly 23 percent reduction in our appeals backlog by finding ways to streamline our case processing. In Fiscal Year 2015, the Department closed nine of its ten oldest FOIA requests, and the ten oldest FOIA consultations. Over the past year, the FOIA Office added 25 full-time positions and converted 25 part-time positions to full time. This comes at a time when the Department's operations funding has decreased 25% in constant dollar terms since FY-2012.

We are also making a concerted effort to post online the results of many FOIA requests, potentially reducing the need to file new requests for information that is already available. To assist in addressing both current FOIA requests and questions about older and pending requests, the State Department has a dedicated FOIA Requester Service team working hard to answer questions and respond to queries about the status of specific requests. Additionally, a new FOIA public liaison jointed the Department in May; contact information for both the Requester Service Center and the Public Liaison is provided on our FOIA website. The most common complaint we receive from the public is related to delays in receiving

timely responses. Not surprisingly, as the number of FOIA requests has increased, so has the number of public inquiries regarding the status of those requests, and we receive such inquiries on a daily basis. Our goal is to do everything we can to complete each request as quickly as possible, with as much responsive information as possible.

Senior Leadership has also emphasized the importance of FOIA. Ambassador Jacobs has worked closely with the Bureau of Administration, which handles FOIA, to identify procedural, bureaucratic, and technological solutions to the challenges we face.

B. Inherent FOIA Challenges

Notwithstanding our increased efforts, we expect it will take time for the Department to overcome its FOIA backlog. The rate of incoming cases shows no signs of decreasing. In addition, many of these cases are increasingly complex, in the scope of the request and volume of potentially responsive documents that need to be reviewed. The State Department is often the public's first stop for information and documents relating to national security interests. It is our experience that requesters first often come to the Department to request information on any and all national security issues. These requests are often a mixture of complex subject matters regarding terrorism, armed conflicts, foreign government relations, security, and diplomacy.

The complexity is compounded by changes in how we communicate. Until relatively recently, the Department communicated overwhelmingly by official cable and memoranda all of which are organized and easily searchable. Today, the vast majority of Department communications are emails – with over 1 billion messages exchanged per year. Thus, a request for "all" communications on a given topic often captures exponentially more records than prior to the advent of email, and these records must be processed to ensure their release will not harm the many important interests protected by the exemptions to FOIA in 5 U.S.C. § 552(b), including national security concerns. As I will describe, the Department is developing technologies to assist us with this reality.

Finally, the FOIA review process itself is complicated. Especially in light of our national security mission, the Department cannot simply print documents and provide them to the public. Documents must be reviewed and processed. While the overall FOIA process is managed by our FOIA office in the Bureau of Administration, responding to a FOIA request involves other offices. FOIA requests on complex subject matters require multiple searches throughout many of our 275 embassies and consulates across the globe, often involving the review of classified or highly sensitive materials, as well as coordination with other federal agencies. In many of these cases, searches locate voluminous amounts of paper and electronic materials that must be reviewed by State and interagency subject matter experts at various agencies in the U.S. Government. It is the Department's experience that many FOIA requesters of recent years are seeking documents that often relate to contemporary topics (unlike most FOIA requesters of years past who were more focused on historical materials); thus, our FOIA team must consult within State and with other interagency subject matter experts, as well as foreign governments at times, regarding current sensitivities and whether the release of the information would harm U.S. national security, potentially damage relations with a foreign country, or otherwise harm the other important interests protected by the exemptions to FOIA disclosure.

C. Case Study: Efforts by the Executive Secretariat

The Executive Secretariat is responsible for coordinating the work of the Department internally, communicating between the Department's bureaus and the offices of the Secretary, Deputy Secretary, and Under Secretaries. The Staff of the Executive Secretariat is responsible for records management, tracking and tasking correspondence for the Secretary and other Department of State Principals. Given its place in the Department, the Executive Secretariat provides a useful window into our FOIA challenges: the Executive Secretariat has experienced a significant increase in FOIA and other document requests. For example, the number of search requests it has received in 2016 to date is more than double the number it received in all of 2015. Moreover, an increasing number of FOIA litigation cases have involved extensive and complex searches, which take precedence over routine FOIA searches due to court ordered search and production deadlines.

The OIG's January 2016 report found weaknesses in FOIA processing by the Executive Secretariat; the Executive Secretariat has acknowledged these weaknesses, accepted all the IG's recommendations, and made changes to promote improved FOIA responsiveness.

Steps taken so far include establishing written procedures for FOIA searches, including email searches, increased training of staff by the FOIA Office, and better oversight of the FOIA process including senior review of all FOIA searches, more intensive checking for accuracy, and establishment of metrics and best practices.

Following the OIG's January report, the Executive Secretariat Staff created two new Government Information Specialist positions to manage FOIA and other document searches. Both positions were filled effective June 27, 2016.

The Executive Secretariat has instituted email searches as a standard operating procedure (SOP) in all FOIA searches, with additional training, guidance, and oversight.

- **Training** has been provided to staff of the Office of the Secretary and other 7th floor offices including information and instruction on conducting email searches. Six FOIA-specific training sessions have been held by the Executive Secretariat for the Office of the Secretary and other Department Principals in the past year, between November 2015 and August 2016. The Executive Secretariat also provides individual assistance as needed to staff conducting email searches.
- **Written policies and procedures** - SOPs for FOIA searches have been developed for Executive Secretariat managers, government information specialists, and for offices conducting searches. These SOPs contain detailed instructions for searching email records.
- **Oversight** - The Director of the Executive Secretariat Staff oversees all FOIA searches conducted by its staff and reviews and approves all responses to the A Bureau FOIA office. Each search is reviewed by Executive Secretariat managers; a minimum standard was established of 5% of completed searches to

be audited by managers, but in practice, managers spot check approximately 25% of searches.

III. OTHER DOCUMENT RELEASE PROGRAMS AND INITIATIVES

I would like to also take this opportunity to share with the Committee some of the unique State Department activities, in addition to FOIA, that inform the public about foreign policy, diplomatic relations, and State operations through the release of literally millions of pages of documents. These efforts are also carried out by staff in the Bureau of Administration.

A. Website

We urge everyone to visit FOIA.state.gov. Over the past few years, we have posted over 140,000 documents including documents for which we have received more than one request for the same information. The site is searchable by key word, date, region, etc.

We have continuously striven to enhance our FOIA website, working with constituency requester groups to continuously enhance our site to provide what they need and want. In fact, the National Security Archive has publicly noted that the State Department has one of the best FOIA websites of all federal agencies.[2] Today, we have an interactive site that provides a wealth of information to the public, including the ability to search and access thousands of previously released documents. Later this year, we plan to start posting nearly all of the documents released through FOIA on the website. This will result in a larger volume of posted material on broader ranges of topics than in the past.

B. Opening the Historical Record of U.S. Foreign Policy

Decades before the Executive Order 13526 mandate, the Department established a program for the declassification review of its most sensitive permanent historical records, transferring them to the National Archives where

[2] *See* http://nsarchive.gwu.edu/NSAEBB/NSAEBB505/

they are available to the public. During the past five years alone, we have declassified nearly 26 million pages, bringing the long term total to literally hundreds of millions of pages of declassified foreign policy records available to the public at the National Archives. More than 95 percent of the entire collection was declassified for public access, with the remaining percentage representing mostly the equities of other agencies.

There are approximately 2.3 million permanent historical records available online from State's corporate electronic archive. It is the oldest (dating back to 1973) and only enterprise-wide collection of substantive electronic records documenting a cabinet agency's mission and activities in the Federal government. Millions of cables, diplomatic notes, and other important foreign policy documentation are available online. These actions are consistent with the Department's commitment to openness, as well as its objective to make available to the American taxpayer, the maximum amount of documents related to our country's foreign policy activities.

C. Foreign Relations of the United States (FRUS)

The FRUS series is the official documentary historical story of major U.S. foreign policy events and significant diplomatic activities - and the decision making surrounding them. FRUS volumes contain documents compiled by the Office of the Historian not only from the State Department's archives, but from the Presidential Libraries, the Department of Defense, the National Security Council, the intelligence community, and USAID. The series also provides insightful documentary editing. Since the inception of the FRUS in 1861 under Secretary Seward, the State Department has been informing citizens about formerly classified operations and events in our foreign relations - and doing so proactively long before any other entity in the Federal government was releasing such information. Since its inception, the Department has published 526 volumes; with 40 volumes published in the last five years.

D. Presidential Libraries

There are13 Presidential Libraries open to the public that not only provide unique insight into the personal lives of our presidents, but also serve as a

collection of the records related to an administration. The public can request access to these records. The State Department is one of the largest equity holders of records in the Presidential Library system. During the past five years we have processed over 3,600 requests from the Libraries, reviewing over 51,000 pages for release.

E. Special Access under Executive Order 13526 and Pre-Publication Review

Executive Order 13526 provides former presidential appointees access to records originated, reviewed, signed or received during their tenure in office. It also allows for them to designate research assistants for this purpose. Many of the Department's former principal officers, including former secretaries, request access to publish books covering their respective tenure in office, thus providing unique insights into events, decision making, people, and diplomacy. As a condition of this access, the State Department reviews manuscripts produced as the result of this access to ensure that there is no classified information in the published product.

IV. CONCLUSION

The Department steadfastly operates on the principle of releasing as much information as possible. With all FOIA requests, staff in the FOIA office work tirelessly to process these documents, reviewing them for sensitive information, making redactions as needed, and consulting with other agencies.

The Department is committed to finding ways to streamline the FOIA process to help overcome these challenges. As I said, we are increasing resources and seeking solutions. We look forward to exploring this issue with you today.

Mr. KENNEDY. And I and my colleagues are open to your and the committee's questions. Thank you, sir.

Chairman CHAFFETZ. Thank you. I now recognize myself.

Let me address the Secretary Powell issue. There are some important differences. First of all, the inspector general, who we rely on heavily, was able to go back and speak with the former Secretaries of State except Hillary Clinton, who refused to be engaged with the Inspector General.

In Secretary Clinton's case, this is the only case that I am aware of where there has been an accusation of a destruction of documents that were under subpoena.

Mr. Comey, the FBI director, came and testified before this committee that they didn't look at any of the comments that Secretary Clinton gave under oath. And I would also point back to the January letter of this year where we asked the State Department to look back 15 years, not just picking on one, but 15 years, which is a long—I think exceptionally long time, but looking back. And certainly emails have changed.

And finally, I would just suggest that I think there are legitimate concerns about retroactive classifications, over-redactions, those types of things. And I am pleased to report to the committee, because I think Mr. Cummings has some legitimate concerns, that we are going to get a chance to question those people on Monday. That is why we are doing the hearing.

It is an embarrassment that the unclassified, unclassified documents that are residing in the skiff, unclassified, are only able to be reviewed by members of this committee, the Appropriations, and Judicial Committee. If you reside in another committee and are a Member of Congress, you are prohibited by this administration from looking at unclassified documents. I don't know how to explain that, and I think it is absolutely wrong.

Mr. Finney, you are on the front lines. I know the management team at the State Department didn't want you to be here because we had to issue a subpoena to be here, and I don't take that as you in your personal capacity making that decision. But nevertheless, we are glad that you are here.

You have been in this position since 2006. You didn't ask for this. I am very sympathetic to the—you haven't testified before Congress. All I ask you to do is just be truthful. Tell us the way you saw it, what happened, and we will do everything we can to make sure that you get your story and your version of what happened out there.

When did you first know that there was a problem? Just go ahead and move this microphone up close and—there you go.

Mr. FINNEY. First of all, sir, I want to thank you for giving me the opportunity to come forward. I have always wanted to speak the truth. This particular situation and the comfort zone of this area is different ——

Chairman CHAFFETZ. Sure. Sure. So go ahead. When did you first know there was a problem?

Mr. FINNEY. I noticed a problem as far with records?

Chairman CHAFFETZ. Yes, with Secretary Clinton, yes, and her records.

Mr. FINNEY. The first time I noticed a problem when you look at that is basically when we noted that we had received some documents. There was initially a letter that went out, and once we had started receiving documents from Secretary Clinton, that's when we realized ——

Chairman CHAFFETZ. When was that?

Mr. FINNEY. I couldn't tell you the specific date.

Chairman CHAFFETZ. Yes, I mean, I don't expect to get the exact day of the week, but roughly when was that?

Mr. FINNEY. I couldn't tell you the exact time. I just know that when we had actually started receiving the actual documents ——

Chairman CHAFFETZ. Was that after she had left?

Mr. FINNEY. Yes.

Chairman CHAFFETZ. Did you raise any concerns prior to that, any questions about did she have a .gov account? Ms. Lang evidently said in a deposition that you did. You raised concerns.

Mr. FINNEY. Yes, sir. The concern was—and basically was—when she came on board, you know, they asked the question will she have a State.gov account? And I was told she would not. And also what—that was something that was not uncommon because the Secretary prior to her did not have a State.gov account and also the Secretary prior to that, previous Secretary, did not have a State.gov account.

Chairman CHAFFETZ. So the fact that you weren't getting records from Hillary Clinton, did you ever raise that question, that concern? Were you told to—what did they tell you to say or not say about that?

Mr. FINNEY. No one told me anything to say or not say. Again because she did not have a State.gov account, that was something that was not abnormal because previous Secretaries did not have State.gov accounts. The records that we were receiving were placed into a repository, which is the Secretariat Tracking and Retrieval System.

Chairman CHAFFETZ. But you got the Secretary Clinton dump of 55,000 pages almost 2 years after she left, correct?

Mr. FINNEY. Say that—not knowing the exact time frame, sir, I would just say, yes, we did receive them.

Chairman CHAFFETZ. Okay. I believe that was December 5 of 2014 when Mrs. Clinton—Secretary Clinton returned 55,000 pages of emails.

Has the State Department—after December 5, 2014, has the Department received any additional Hillary Clinton work emails that were Federal records?

Mr. FINNEY. After the 55,000, that's what you're saying specifically?

Chairman CHAFFETZ. Yes. Yes.

Mr. FINNEY. Recently, my office was involved in some records they had just recently received, but in that particular case, the only purpose that I was involved with was really just looking at the records, seeing if they were personal or work-related, and that was the reason why we got involved in that process because the Department was receiving so many records and the staffing was lacking so ——

Chairman CHAFFETZ. So, Ms. Lang, how many records did the State Department receive after December 5, 2014?

Ms. LANG. I'm sorry. Can you be more specific? Are you talking about from Secretary Clinton, from other former employees?

Chairman CHAFFETZ. No, I am talking specifically about Hillary Clinton work emails that were Federal records. How many did you get after December 5?

Ms. LANG. The Federal Bureau of Investigation has transferred a number of documents to the State Department, which are still ——

Chairman CHAFFETZ. And what is that number? Do you know the number?

Ms. LANG. Those are still undergoing a records review.

Chairman CHAFFETZ. Was it 17,448?

Ms. LANG. My office in the Executive Secretariat staff is not leading that effort. I would ——

Chairman CHAFFETZ. So who is? Who knows this number? Ambassador Kennedy?

Mr. KENNEDY. Mr. Chairman, to the—we received a number of disks from the FBI. We are in the process of inputting them into our classified analysis system and counting them. And we know of 14,900-odd documents, and the FBI has mentioned that there could be tens of thousands of others in the string of disks that we're processing now.

Chairman CHAFFETZ. And all of those came after December 5, 2014?

Mr. KENNEDY. All of those, Mr. Chairman, were received within the last month.

Chairman CHAFFETZ. Ambassador Kennedy, on May 22, 2015, you asked, as the representative of the State Department, you asked Secretary Clinton's attorney David Kendall for an electronic copy of the 55,000 pages of emails. When did Secretary Clinton provide the electronic copy to you?

Mr. KENNEDY. Intervening in that thing, Mr. Chairman, the FBI then took possession of all the electronic material that Mr. Kendall had to the best of my knowledge.

Chairman CHAFFETZ. So did Secretary Clinton fulfill your request to return the Federal records via electronic format?

Mr. KENNEDY. The—Secretary Clinton's attorney, to the best of my knowledge, provided that electronic material to the FBI.

Chairman CHAFFETZ. Or it was seized, one of the two. But I am asking, it is kind of embarrassing that you had to ask them to return it in electronic format. They went and printed all this stuff out and gave you a hard copy. So did they ever give you an electronic copy per your request?

Mr. KENNEDY. To the best of my understanding, Mr. Chairman, they do—they no longer have an electronic copy because it's in the possession of the FBI.

Chairman CHAFFETZ. Because it was seized, right? Yes. And you have since asked the FBI to turn over that?

Mr. KENNEDY. We have asked the FBI to provide us with any material that they have in their possession that may be Federal records. As I mentioned a moment ago, Mr. Chairman, they have provided us with a number of disks. We are loading that system—

those disks into our electronic system so then we—that we can, first of all, disaggregate the time periods because there are potentially records there prior to when she was Secretary of State and after when she was Secretary of State; secondly, because this is their recoveries from her servers, there could be material in there which are Federal records and material which are not Federal records so we have to disaggregate those. And then we will process all the Federal records, as we would do for any Federal record.

Chairman CHAFFETZ. So what number are you up to now? Do you know?

Mr. KENNEDY. As I said, we are—with—right now, we're up to 14,900 documents that we are reviewing in both the two stages of disaggregation first.

Chairman CHAFFETZ. Okay. Last question—I have exceeded my time—but how do I get Hillary Clinton's calendars? Why does that take so long? The original FOIA request came in 2010, and you are arguing in court that you still can't get it done by the end of the year. A judge has had to intervene to force you to produce the calendars. How difficult is a calendar? Who is in charge of that, by the way?

Mr. KENNEDY. Mr. Chairman, when we have 30,000 FOIA requests pending, we also have requirements under statute to do what is called historical declassification in which we have moved 26 million pages in the last 5 years ——

Chairman CHAFFETZ. Okay. Wait, wait. All I am trying to talk about is Hillary Clinton's emails—or Hillary Clinton's calendars. I would like to see—as chairman of the Oversight Committee, I would like to see Hillary Clinton's calendars. When can you provide that to me?

Mr. KENNEDY. I will find the time and get back—I will find when that is and get back to you. We have—we ——

Chairman CHAFFETZ. When will you get back to me by, by Tuesday?

Mr. KENNEDY. By Tuesday I can give you an idea when that information might be available. If I might, sir, the AP request was—for the calendars was actually part of a larger swath of six FOIA requests that we're engaged in ——

Chairman CHAFFETZ. Okay. Okay.

Mr. KENNEDY.—and if I might, one other thing, the point that I think is relevant here and also addresses a point that Ranking Member Cummings made is that the way the law is constructed now, we are required to produce in response to a FOIA request within 20 days. Given the volume of requests, given the complexity of requests, given the classified material, given our other statutory document requests for the foreign relations series, historical declassification, there is simply no way, Mr. Chairman, that I can deal with every government agency and 275 posts within 20 days. That is simply a physical impossibility.

That is why we are being sued, because I cannot literally unless I turn the entire State Department off of every national security mission it had and put it exclusively on FOIA. Now, eventually, I would produce no new documents and I wouldn't have a FOIA problem, but there is a true resource, time, and other issues that have to be dealt with here, sir.

Chairman CHAFFETZ. To be clear, I would like to know how many different versions of calendars Hillary Clinton has, and I would like to know when you can provide to this committee all calendars while she was serving as Secretary of State, and you will get back to me in roughly a week. Is that fair?

Mr. KENNEDY. I can get back to you with a report on how our processing is coming, yes, sir, because what we were doing for all these FOIA requests that we were treating ——

Chairman CHAFFETZ. My request is not a ——

Mr. KENNEDY.—them all equally.

Chairman CHAFFETZ.—FOIA request, okay?

Mr. KENNEDY. I ——

Chairman CHAFFETZ. I don't understand the FOIA part, but I am just asking you ——

Mr. KENNEDY. Mr.—I understand fully. I think this becomes the 24th request that this committee has made of us in the last year, and we've already produced ——

Chairman CHAFFETZ. That is not bad. We ——

Mr. KENNEDY.—like 108—we've already provided this committee with 185,000 pages of documents, and we will continue to work with this committee to provide more.

Chairman CHAFFETZ. Thank you.

I now recognize the gentleman from Massachusetts, Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chairman. I do want to point out that you went over a little bit on your time, and I just pray for equal time. Thank you.

Mr. Kennedy—first of all, I want to thank the witnesses for cooperating with the committee and helping us with our work. I want to ask you about former Secretary Powell's emails from his AOL account. And I want to point out that he served between 2001 and 2005 as Secretary of State. And during his tenure, there were 92 million data breaches at AOL.

So as Secretary Powell laid out in his own book here—and, look, I have enormous respect and admiration for Secretary Powell, and we remain as a country thankful for his courageous service. But what I am trying to point out is the disparate nature of this inquiry and how we are completely ignoring what Secretary Rice did and Secretary Powell did, and instead, the committee, with nine separate investigations and counting, has targeted Hillary Clinton for her conduct under similar circumstances.

So Secretary Powell on page 109 of his book—I might as well plug it, It Worked for Me: In Life and Leadership: Colin Powell—he says, "To complement the official State Department computer in my office, I installed a laptop computer on a private line with an AOL account. My personal email account on the laptop allowed me direct access to anyone online, so I started shooting emails to my principal assistants, to individual Ambassadors, and increasingly to my Foreign Minister colleagues who, like me, were trying to bring their ministries into the 186,000-mile-per-second world," referring to the speed of light, I guess.

So a lot of communications, Ambassadors, Foreign Ministers, arguably some classified information in there, but it is being done on a completely private line. And the problem is that unlike Secretary

Clinton, Secretary Powell apparently did not save or print out any emails.

I have a letter that you sent on November 12, 2014, I ask unanimous consent to submit in the record.

Mr. LYNCH. In your letter you ask Secretary Powell's representative to provide all of Secretary Powell's records that were not in the State Department record-keeping system, is that correct?

Mr. KENNEDY. Yes, sir.

Mr. LYNCH. Okay. That would have included emails from his AOL account that were work-related, right?

Mr. KENNEDY. Yes, sir.

Mr. LYNCH. Okay. Did Secretary Powell—well, let me ask you. How many emails did he produce pursuant to your request?

Mr. KENNEDY. Secretary Powell responded that he did not have access any more to any of those records, sir.

Mr. LYNCH. He didn't have access to them?

Mr. KENNEDY. Yes, sir.

Mr. LYNCH. So the number would be zero?

Mr. KENNEDY. Yes, sir.

Mr. LYNCH. Okay. I have another letter from you dated October 21, 2015.

Mr. LYNCH. In this letter you ask Secretary Powell's representative to contact AOL to determine whether any of his emails were still on their system, is that correct?

Mr. KENNEDY. Yes, sir.

Mr. LYNCH. Okay. To the best of your knowledge, did Secretary Powell follow up to do this?

Mr. KENNEDY. We never received a response to that request, sir.

Mr. LYNCH. Okay. I got another letter from you, Ambassador Kennedy, dated November 6, 2015.

Mr. LYNCH. And in this letter you inform the National Archives that Secretary Powell never contacted AOL. Isn't that right?

Mr. KENNEDY. That is correct, sir.

Mr. LYNCH. Okay. And again, Ambassador Kennedy, in July 2015 the Chief Records Officer for the National Archives asked the State Department to contact AOL directly to determine "whether it is still possible to retrieve the email records that may still be present." Mr. Kennedy, did you ever contact AOL?

Mr. KENNEDY. Our lawyers advised, sir, that we are not a party to ——

Mr. LYNCH. Would that answer be a no? Did you contact AOL?

Mr. KENNEDY. No, sir, we did not contact AOL.

Mr. LYNCH. Okay. So you got the Chief Records Officer asking you to contact AOL and you are saying no and your attorneys are telling you no?

Mr. KENNEDY. Telling—that we cannot make a request for someone else's records from their provider. That request has to be made by them, sir.

Mr. LYNCH. Now, at some point the inspector general informed you that Secretary Powell sent classified information from his AOL account. Did you contact AOL then?

Mr. KENNEDY. Again, it's the same answer, sir. We asked that ——

Mr. LYNCH. Let me ——

Mr. KENNEDY. We asked that Secretary Powell contact AOL.

Mr. LYNCH. So that answer would be no? I mean, but you have a responsibility here, though—you admit that—by virtue of your position?

Mr. KENNEDY. We—I—yes. We contacted Secretary Powell ——

Mr. LYNCH. Let me ask you. How many documents have you given to this committee pursuant to investigation of Secretary Clinton? What is the number there?

Mr. KENNEDY. I know that it is somewhere probably in the neighborhood of 50,000.

Mr. LYNCH. Just 50,000?

Mr. KENNEDY. So far.

Mr. LYNCH. Given to this committee pursuant to an investigation of Secretary Clinton? I thought we said earlier there were about 168,000?

Mr. KENNEDY. That—those were—that's not—those—we have 23 different requests from this committee ——

Mr. LYNCH. Okay. Let me ask you. How many documents have you provided to this committee pursuant to our investigation of Colin Powell?

Mr. KENNEDY. I believe that—we provided this committee the three documents that the ——

Mr. LYNCH. Great. Okay.

Mr. KENNEDY.—FBI ——

Mr. LYNCH. All right, 50,000 to 3. I think it shows you the lopsided focus here.

To your knowledge, has anybody in State Department ever picked up the phone and called AOL about these questions?

Mr. KENNEDY. As I said in response to your earlier question, sir, it is—we cannot get records of another individual from a—their provider. They have to do it.

Mr. LYNCH. I don't get this. This is ridiculous. This is the National Archives asking you to contact AOL, but you didn't do that. You ask Secretary Powell to contact AOL; he didn't do that.

Now, you remember Secretary Powell served at a very critical time. There was dubious information provided about weapons of mass destruction in Iraq that led this country to war. There were some very important decisions of enormous consequence in this country at that time. And yet we are totally silent on that inquiry.

Meanwhile, we have got nine investigations and counting on Secretary Clinton. This is not how this is supposed to work. This committee is supposed to be pursuing the truth, and I have to say that your noncooperation here—even though it is at the advice of counsel—is I think putting the country at a particular point of vulnerability with respect to this investigation.

I just think if we are going to do this and we are going to put our Secretaries of State and our national leaders under the microscope, it shouldn't be just, you know, half—it shouldn't be just the Democrats under investigation. And that is what I feel is going on right here. That is what I feel is going on right here and that we have got tens of thousands of documents produced as a result of an investigation of Secretary Clinton and we have got zero—well, three, three, three documents that you say you have provided with respect to Secretary Powell.

This is a sham. This is a sham. And I think the comments of the Republican leader earlier indicated that this whole attempt was to rip down Hillary Clinton and ruin her reputation. That is what this is all about. And we are spending—look, I didn't have to spend any taxpayer money to get Colin Powell's admission that he used a private email, an unclassified system to go on AOL that was hacked 92 million times during his tenure. I didn't have to spend taxpayer money to find out what he did. All I had to do was read his book in his own words.

And here we are, like I said, the ninth investigation. Now, we are going to have another one, I expect, just to rip down Hillary Clinton. And the only reason that we are doing it is because she is running for President of the United States. That is the plain and God-awful truth. That is what this is about, and it is a shame. It is a shame.

I yield back the balance of my time.

Chairman CHAFFETZ. I thank the gentleman. I would highlight that the letter that we sent in January of this year asked the State Department for the current and past four Secretaries of State, and I would ask unanimous consent to enter this record dated January 19, 2015—I am sorry; I said this year—2015 into the record.

Mr. CUMMINGS. Mr. Chairman?

Mr. LYNCH. Would that be '16 or '15?

Mr. CUMMINGS. Does the chairman yield?

Chairman CHAFFETZ. Sure.

Mr. CUMMINGS. I am wondering, what was the follow up on that from these folks?

Chairman CHAFFETZ. It is incomplete. We don't have all the information yet. We have some but we don't have ——

Mr. CUMMINGS. On Colin Powell and Rice and ——

Chairman CHAFFETZ. We asked for the current and past four Secretaries of State.

Mr. CUMMINGS. I just want to know what we have got. I mean ——

Chairman CHAFFETZ. Well, let me get that from the staff. It is a very appropriate question, and we will follow up, but it is incomplete. We did ask for it not just of this current one, not of the past one, but the past four so ——

Mr. CUMMINGS. What about AOL? Can we ask them to get us that information? I mean, the fervor of which we are going after Hillary Clinton just seems like we have so much power over the subpoena, it seems like we would want to get those records. Is the chairman willing to go to AOL and try to get ——

Chairman CHAFFETZ. First order of business, I ask unanimous consent to enter this into the record. Without objection, so ordered.

Chairman CHAFFETZ. And I will work with you to recover those emails. I just want the Federal records. I just ——

Mr. CUMMINGS. All of them.

Chairman CHAFFETZ. All ——

Mr. CUMMINGS. All of them.

Chairman CHAFFETZ. All of them.

Mr. CUMMINGS. Yes.

Chairman CHAFFETZ. If we have to use the power of the committee to extract them and using subpoenas, I am willing to do that.

Mr. CUMMINGS. You hear that, Mr. Kennedy? We are going to be working with you to get that done.

Mr. KENNEDY. Yes, sir, Mr. Ranking Member. Could I add one thing?

Chairman CHAFFETZ. Sure.

Mr. KENNEDY. In consultations with representatives of the four prior Secretaries of State, neither Secretary Albright nor Secretary Rice used email, not—they have certified that to us.

Chairman CHAFFETZ. Yes. And that is my understanding. I would also note that we rely heavily on the inspectors general, and there is an inspector general report on this. And it is very frustrating that the inspector general, impartial, in there to do their job, the only person that refuses to interact is Hillary Clinton. And that is just a fact. That is not political. That is not—it is just a fact. She won't cooperate with the inspector general. Even the State Department asks for an electronic copy that was never provided.

There is but one investigation, one investigation that we are conducting relating to what is happening here and these Federal records and the potential destruction. We have other inquiries of the State Department, Art in Embassies, embassy security, things that we are doing in very much a bipartisan way. But let's be careful on how we represent this. There is one investigation.

Mr. CUMMINGS. And that is of Hillary Clinton.

Chairman CHAFFETZ. If we were quiet until the FBI—and when the FBI testified they didn't ask these questions, it begs the question and we have a job to do and we are going to do it.

Mr. CUMMINGS. Mr. Chairman ——

Chairman CHAFFETZ. Yes?

Mr. CUMMINGS.—just—I know we want to move on ——

Chairman CHAFFETZ. Sure.

Mr. CUMMINGS.—I am looking forward to working with you to get all the records. I think the American people deserve that.

Chairman CHAFFETZ. I agree.

Mr. CUMMINGS. And I don't want it to be a one-sided single investigation of Hillary Clinton because I do think it goes against the integrity of the committee.

Chairman CHAFFETZ. I hear you. I hear you.

Mr. LYNCH. Mr. Chairman ——

Chairman CHAFFETZ. Mr. Lynch, yes?

Mr. LYNCH.—just in terms of Ambassador Kennedy's last comment that he reached out to Secretary Albright and Secretary Rice. Secretary Rice served between 2005 and 2009. That was well into the era of email. Have you checked, did she have a personal account or any—I mean, they certify they didn't use email. I find that very hard to believe.

Mr. KENNEDY. I have spoken personally with Secretary Rice's attorney, and he—that was his response, sir.

Mr. LYNCH. Okay. Thank you.

Chairman CHAFFETZ. But I believe he was asking about Secretary Albright, too.

Mr. LYNCH. No, I was asking about Secretary Rice ——

Chairman CHAFFETZ. But both, yes.

Mr. LYNCH.—2005 to 2009.

Chairman CHAFFETZ. Right. I will now recognize the gentleman from Florida, Mr. Mica, for 5 minutes.

Mr. MICA. Well, again, for the record, Ambassador Kennedy, you did say that they did not use—the two previous did not use email, is that correct?

Mr. KENNEDY. That is what their—we have—we have no records ——

Mr. MICA. Okay. Well ——

Mr. KENNEDY.—and we have talked to their representatives, Mr. Mica, and—to confirm that.

Mr. MICA. Okay. So, again, the way we got into this, folks, is we had a legitimate investigation into what took place in Benghazi, and actually all of this was discovered sort of by accident. But the fact is, Mr. Finney, how long have you been in your position with State over Correspondence and Records?

Mr. FINNEY. Yes, sir. I came to the State Department.

Mr. MICA. I can't hear you. Real loud.

Chairman CHAFFETZ. Real close. There you go.

Mr. FINNEY. Yes, sir. I ——

Mr. MICA. What year?

Mr. FINNEY. Yes, sir. I came to the State Department in July of 2006.

Mr. MICA. And the fact is in 2011 actually you were first alerted to the use of the Secretary—here is a picture of the Secretary. This is an article from a publication that said you identified in 2011 or raised questions about how the Secretary was operating. And I guess did you go to Lang and Lang made you aware that she was using a private server? How did you find out she was using a private server? You asked the question was she using a government account, and the response came back no. Who told you that?

Mr. FINNEY. That was told to me by individuals within S/ES–IRM. A specific person, I couldn't remember.

Mr. MICA. But that goes back some time ago.

Now, you have an important responsibility. You are supposed to keep the records and correspondence when they leave office, and then you meet with folks. I mean, these are Members of Congress. We all have the same obligation. We are custodians or trustees of information, and some of that we cannot take with us. You are not supposed to. In fact, I think it is against the law. Isn't there a statute prohibiting taking that with you? Is that ——

Mr. FINNEY. Yes.

Mr. MICA. I am not an attorney. Okay. Yes.

Mr. FINNEY. Yes, sir.

Mr. MICA. You met with Secretary Clinton's staff, did you not? Did you meet with the Secretary or just her staff?

Mr. FINNEY. I met with her staff, sir.

Mr. MICA. And is it Abedin? Was she there and you told them the obligations of what they had to turn over? Did you provide them with that information?

Mr. FINNEY. First of all, exactly who was in that meeting, I'll have to go back and ——

Mr. MICA. Okay. But Abedin, was she there?

Mr. FINNEY. Again ——

Mr. MICA. Yes. Okay. But you told them what the obligation under the law and requirements of the State Department are returning information?

Mr. FINNEY. Yes, sir, myself and the agency records officer.

Mr. MICA. At the time did you mention anything about what was on a private server of business that may have been conducted in an official capacity?

Mr. FINNEY. Again, had no idea of ——

Mr. MICA. But you told them anything dealing with public information that should be part of State Department documents that you are the custodian for should be turned over to you, correct?

Mr. FINNEY. We briefed them about what their responsibilities are, sir, but ——

Mr. MICA. And then how long did it take—we heard—again, this request within—as they left. I am told it took 2–1/2 years for the first so-called data dump. Is that correct, Ambassador Kennedy?

Mr. KENNEDY. Could you ——

Mr. MICA. How long before—when did you get the first dump of information from the Clintons?

Mr. KENNEDY. In December, sir.

Mr. MICA. Of last year?

Mr. KENNEDY. December 14.

Mr. MICA. Fourteen? But was sometime after they left?

Mr. KENNEDY. That is correct, sir.

Mr. MICA. Two years after they left. I had 2–1/2 years.

Ms. LANG. Sir, if I may?

Mr. MICA. No, I have a limited amount of time.

And were told at the time that that was all the information? Did anyone tell you that that is all the information they had in data and emails?

Mr. KENNEDY. If we're talking about the delivery in December ——

Mr. MICA. Yes.

Mr. KENNEDY.—of 2014 of the 55,000 pages ——

Mr. MICA. Was there a transmittal document?

Mr. KENNEDY. We—we ——

Mr. MICA. Did the transmittal document say this is all we have or this is everything we found?

Mr. KENNEDY. The—I believe something ——

Mr. MICA. I would like to see that transmittal document, too.

But then, you tell me the FBI has been dumping additional data to you all, records that they found that they did not provide, right?

Mr. KENNEDY. What the FBI essentially did to the best of my understanding, sir, is use forensics to go ——

Mr. MICA. I know, but my point is that there is a requirement under law to turn over the documents, and this gentleman is responsible—he told them what to do ——

Mr. KENNEDY. Right.

Mr. MICA.—and the terms of the law or the regulations, and they were to comply. They did not.

Mr. KENNEDY. They—according to their attorney ——

Mr. MICA. I want to see the documents.

Mr. KENNEDY.—they provided ——

Mr. MICA. They obviously didn't, and we have gotten dumps of additional information according to the testimony you gave here today.

I want to know about the destruction of the—the hammering of the BlackBerrys. Those were personal BlackBerrys that the Secretary owned, is that what I am told? That was not Federal property? Do you know? You are the custodian of the properties or the data. Should they have turned the BlackBerrys over if they were government BlackBerrys?

Mr. FINNEY. First of all, sir, I'm responsible for the records of the individual who are ——

Mr. MICA. But they also have to give over property. You don't know anything about the hammering of the ——

Mr. FINNEY. No, sir.

Mr. MICA.—BlackBerrys or whether they were personal. And I also want to—I would like to know for the record, too, the staff BlackBerrys that were turned over, if any of those were not turned over, if they were destroyed, too, Mr. Chairman. I request that information.

Mr. MICA. I yield back.

Chairman CHAFFETZ. I thank the gentleman.

I would now recognize the ranking member, Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Ambassador Kennedy, I am extremely concerned, as I have said before, about this whole issue of classification. You got people being accused of crimes and a lot of it and it has become very significant what is classified and what is not classified. I think you—would you agree with that? It is significant?

Mr. KENNEDY. Classification is always significant ——

Mr. CUMMINGS. Yes.

Mr. KENNEDY.—yes, sir, Mr. Ranking Member.

Mr. CUMMINGS. So, Mr. Kennedy, I want to ask you about the instances when experts from different agencies disagree about whether information is classified. I have an email here dated April 10, 2011. It was written by someone from the State Department operations center based on a phone call with Christopher Stevens, who was a special envoy to Libya. It is up on the screen.

[Slide.]

Mr. CUMMINGS. In the first line of the email it says "SBU per Special Envoy Stevens." What does SBU mean?

Mr. KENNEDY. It means sensitive but unclassified, sir, unclassified.

Mr. CUMMINGS. So this email was explicitly marked unclassified, is that right?

Mr. KENNEDY. Yes, sir.

Mr. CUMMINGS. And it appears that the Special Envoy Stevens considered this information unclassified, is that correct?

Mr. KENNEDY. That is correct, sir.

Mr. CUMMINGS. So anyone reading this email would assume that it was not classified, is that correct?

Mr. KENNEDY. That is correct, sir.

Mr. CUMMINGS. The problem is that at some point after the email was sent, the intelligence community came in and claimed that it was classified. On September 15, 2015, the State Depart-

ment sent a letter to Senator Corker explaining that the intelligence community was wrong. The letter stated, "Someone within the intelligence community later, subsequent to his posting, claimed should have been redacted as secret." The letter from the State Department goes on to say that the suggestion that the email should have been treated as classified was "surprising and, in the Department's judgment, incorrect." Ambassador, why was it surprising that someone in the intelligence community claimed that this email was classified?

Mr. KENNEDY. Mr. Chairman—sorry, Mr. Ranking Member, there is a common discussion, a common thread that runs between the State Department and the intelligence community constantly, and it's called in our parlance parallel reporting. The State Department officer, in the course of his or her responsibility, goes out and talks to people, receives information.

The—there was no classification attached to that information. In other words, the foreign government did not provide us classified information, so it was an unclassified discussion between a State Department officer and a private citizen, a foreign government official, or whatsoever. We file that report unclassified, sensitive but unclassified at times. We do not classify it.

As this is going on, the intelligence community, through either human intelligence or national technical means, in effect steals the same information or something very close to it, and they classify it. And they're classifying it because of the sources and methods involved in maintaining it.

So we often see parallel reporting, State Department unclassified reporting and intelligence community reporting talking to the same matter. And therefore, you can have a document that is very close. We looked at this very carefully and we were surprised—which is why we used that term in that letter—is because a number of the data points in this letter—excuse me, in this email reporting Ambassador Stevens' conversation are different, and therefore, these are separate.

And so we—but the problem, Mr. Ranking Member, of parallel reporting is something we see all the time but is actually a good thing because no government wants to operate on a single thread.

Mr. CUMMINGS. It is a bad thing, though, when the FBI could possibly bring charges against somebody for disclosing documents that they claim to be classified when, in fact, they weren't classified.

Mr. KENNEDY. That ——

Mr. CUMMINGS. So, I mean, you could call it healthy all you want.

Mr. KENNEDY. But, Mr. Ranking Member, what I'm saying is we did not classify it. This is our information in this email that you are referencing, Mr. Ranking Member. This is also information that parallels public press briefings from the NATO press office in Brussels. And so this is unclassified. If the FBI came to us and said we want to take this as a court action, we would say this information is unclassified. We would so certify it, as we have.

Mr. CUMMINGS. So just the last question, unfortunately, this gets even more confusing because when the FBI issued its report to Congress, they told us that this email was classified at the time

that it was sent. Did the FBI ask the State Department whether you consider this specific email to be classified?

Mr. KENNEDY. I can't give you a particular answer. I know we provided information to the FBI, and this was one of the documents we certified as unclassified.

Mr. CUMMINGS. And, sir, do you have any suggestions as to how we go forward with regard to trying to clear up these kind—because there is no arbiter, is that right? Is there an arbiter? In other words, if you got intelligence saying it is classified, you have got State saying it is unclassified, I mean, who arbitrates this? I mean, how do we come up to a conclusion?

Mr. KENNEDY. As I understand the rules, Mr. Ranking Member, that each agency is the authority over the documents that it produced. The State Department produced this document, the State Department has said it's unclassified, and therefore de facto, de jure, it is unclassified.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Mr. KENNEDY. Mr. Ranking Member, could I ask, since you made reference to the letter to Senator Corker, could I ask that that letter be entered into the record?

Mr. CUMMINGS. I certainly—I thank you. I meant to do that. And I ask that the letter dated November 24, 2015, to Senator Corker be made a part of the record.

Chairman CHAFFETZ. Without objection, so ordered.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Chairman CHAFFETZ. I thank the gentleman.

I now recognize the gentleman from Ohio, Mr. Jordan, for 5 minutes.

Mr. JORDAN. Ambassador Kennedy, how long have you worked at the State Department?

Mr. KENNEDY. A little over 42 years, sir.

Mr. JORDAN. And you are the guy at State Department currently responsible for record retention, maintaining the records, and complying with all appropriate records laws and archive laws, is that right?

Mr. KENNEDY. I am the senior agency official. I have a number of people who assist me in that responsibility.

Mr. JORDAN. You sent a letter to four former Secretaries of State about records and getting information from those previous Secretaries of State. Is that accurate?

Mr. KENNEDY. Yes, sir.

Mr. JORDAN. Actually, you sent it to their designees if I remember correctly?

Mr. KENNEDY. Yes, sir. They were designees ——

Mr. JORDAN. Their lawyer, their ——

Mr. KENNEDY. Attorneys or their ——

Mr. JORDAN. Yes. Yes. Yes.

Mr. KENNEDY.—senior staff representative.

Mr. JORDAN. When did you send that letter?

Mr. KENNEDY. I believe it was sent in July, August of '14 ——

Mr. JORDAN. I thought it was ——

Mr. KENNEDY.—October '14.

Mr. JORDAN. Okay. That is what I thought. I had October 28, 2014. And why did you send that letter? What prompted you to de-

cide that you needed to send that letter to the four previous Secretaries of State?

Mr. KENNEDY. Basically, we had been reviewing thousands of pages of documents in response to a number of requests, including requests from this committee regarding the Benghazi temporary special mission attacks. And as we worked through all the documents, all the volume of material involved in that process, we noticed that there was the use of a non-State email address that apparently may have come from Secretary Clinton.

Mr. JORDAN. Well, that is not what you told us when we deposed you in February this year. You said you did it because of NARA concerns.

Mr. KENNEDY. Well, because—yes.

Mr. JORDAN. Is that the same difference?

Mr. KENNEDY. It's the same difference.

Mr. JORDAN. All right.

Mr. KENNEDY. We saw a potential Federal record, and therefore, that ——

Mr. JORDAN. So what prompted you was the Benghazi Committee request and requests from this committee and FOIA requests, and you weren't complying with the NARA law, is that right?

Mr. KENNEDY. We—no, we were—we—we were looking through documents in response to a committee request.

Mr. JORDAN. Okay. Okay.

Mr. KENNEDY. We saw evidence that there might be a Federal record from a non-Federal source ——

Mr. JORDAN. Got it.

Mr. KENNEDY.—and that then trips our requirements to provide ——

Mr. JORDAN. Between the time you knew ——

Mr. KENNEDY.—the Federal Records Act.

Mr. JORDAN. When all this prompted you, the request and the NARA law and everything else, when all this prompted you, between the time you knew you had to do something different and when you actually sent the letter, did you talk to any of the former Secretaries of State, any of those four or any of their four designees?

Mr. KENNEDY. Not to the best of my recollection.

Mr. JORDAN. Did you communicate with any of them?

Mr. KENNEDY. Not to the best of my recollection.

Mr. JORDAN. Did you meet with any of them or talk to any of them about any subject?

Mr. KENNEDY. I regularly am in communication with former—one of the responsibilities of the position of the Under Secretary for Management is to be in contact with former Secretaries of State on managerial, administrative, support ——

Mr. JORDAN. Did you ——

Mr. KENNEDY.—issues so ——

Mr. JORDAN. Did you ——

Mr. KENNEDY.—the answer to that is yes.

Mr. JORDAN. Well, let me just get specific. Did you talk to Cheryl Mills between the time you knew you had to do something different with record retention and when you sent the letter?

Mr. KENNEDY. I don't remember doing so, sir.

Mr. JORDAN. You don't remember talking to her at all?

Mr. KENNEDY. No, I don't remember talking to her about the records.

Mr. JORDAN. Did you meet with her at all in that time frame?

Mr. KENNEDY. Cheryl Mills was and remained beyond the departure of Secretary Clinton as the special representative for Haiti, and I had a number —because of the importance of Haitian issues ——

Mr. JORDAN. So you told us in February you had lunch with her in this time frame ——

Mr. KENNEDY. Yes.

Mr. JORDAN.—and you met with her on numerous occasions. Is that accurate?

Mr. KENNEDY. That is—that is what I'm saying, sir.

Mr. JORDAN. Okay. You also said when we asked you, I asked you—I said between the time you learned that you needed to do something different as far as record retention goes and when you actually sent the letter, you had numerous conversations with Cheryl Mills, but you are saying none of them dealt with this issue?

Mr. KENNEDY. That is correct because ——

Mr. JORDAN. In fact, you answered me and you said this: "I never tipped her off." Is that accurate?

Mr. KENNEDY. If I—could I ——

Mr. JORDAN. I am just quoting ——

Mr. KENNEDY.—answer ——

Mr. JORDAN.—back what you said to us in that deposition.

Mr. KENNEDY. Oh. I am not changing my deposition one iota, but two things, sir. One is I was not brought up to date immediately on the fact that my colleagues and staff had come across this one email thing and then were researching through the material. That was not brought to my attention ——

Mr. JORDAN. Here is ——

Mr. KENNEDY.—until much later.

Mr. JORDAN. Here is what I want to get to. The FBI released their report last Friday. They say on page 15, "During the summer of 2014, State Department indicated to Cheryl Mills a request for Clinton's work-related emails would be forthcoming. And in October of 2014 the State Department followed up by sending an official request to Clinton asking for her work-related emails."

Now, you just said in February when you were under oath and you were deposed in front of the Benghazi Committee that you never tipped her off, but somebody tipped her off because during the summer of 2014 she got a heads up that this letter was coming. Do you know who tipped her off?

Mr. KENNEDY. No, sir, I do not.

Mr. JORDAN. And it wasn't you, Ambassador Kennedy?

Mr. KENNEDY. Not—not to the best of my knowledge, no, sir.

Mr. JORDAN. Ambassador Kennedy, were you interviewed by the FBI?

Mr. KENNEDY. Yes, sir.

Mr. JORDAN. Ambassador Jacobs, did you tip Hillary Clinton off in the summer of 2014 before this letter ——

Ms. JACOBS. No, sir, I did not.

Mr. JORDAN. Were you interviewed by the FBI?

Ms. JACOBS. No, I was not.

Mr. JORDAN. Ms. Lang, did you tip Hillary Clinton off or Cheryl Mills off in the summer of 2014?

Ms. LANG. No, I did not, sir.

Mr. JORDAN. Were you interviewed by the FBI?

Ms. LANG. No, I was not, sir.

Mr. JORDAN. Mr. Finney, did you tip Cheryl Mills off?

Mr. FINNEY. No, sir.

Mr. JORDAN. Did you tip Hillary Clinton off?

Mr. FINNEY. No, sir.

Mr. JORDAN. Were you interviewed by the FBI?

Mr. FINNEY. No, sir.

Mr. JORDAN. So somebody who was interviewed by the FBI told the FBI we tipped her off. Have you done an investigation, Ambassador Kennedy, on who might have tipped off—I mean, here is what this gets to. Once again, Hillary Clinton gets treated different than anybody else. She got tipped off. I don't think Ambassador Powell got tipped off—have you started an investigation, Ambassador Kennedy, on who might have tipped Hillary Clinton off before she got the letter requesting ——

Mr. KENNEDY. No, sir, I did not.

Mr. JORDAN.—these documents?

Mr. KENNEDY. I have not.

Mr. JORDAN. Any idea who did tip her off?

Mr. KENNEDY. No, sir.

Mr. JORDAN. I yield back.

Chairman CHAFFETZ. I thank the gentleman.

I will now recognize the gentleman from Pennsylvania, Mr. Cartwright, for 5 minutes.

Mr. CARTWRIGHT. Thank you, Mr. Chairman.

Ambassador Kennedy, I want to ask you some questions about the three emails out of the 30,000 that FBI Director Comey referenced that supposedly had some kind of classification markings on them. And of course if anyone is scoring along at home, that means 29,997 emails produced with no markings whatsoever, not even defective or incorrect classification markings.

I want to talk about the manual on how you properly mark a classified document. Executive Order 13526 and the directive implementing it require classified documents to be marked in a certain way. The document must identify the original classifier, correct, Ambassador Kennedy?

Mr. KENNEDY. That is correct, sir. There is, in effect, a four-line marking that must go ——

Mr. CARTWRIGHT. It must identify ——

Mr. KENNEDY.—on all classified documents.

Mr. CARTWRIGHT.—the agency of the office of origin, correct?

Mr. KENNEDY. Yes, sir.

Mr. CARTWRIGHT. It must identify the reason for classification, correct?

Mr. KENNEDY. Yes, sir.

Mr. CARTWRIGHT. It must identify the date for declassification, right?

Mr. KENNEDY. Yes, sir.

Mr. CARTWRIGHT. And classified documents typically have to have a banner or a header at the top and bottom that say classified along with the level of classification, am I correct in that?

Mr. KENNEDY. Yes, sir.

Mr. CARTWRIGHT. Okay. So five different requirements in the manual, and the three emails that Director Comey testified about had none of these indicators. Am I correct in that?

Mr. KENNEDY. That is correct, sir.

Mr. CARTWRIGHT. Not one of the five required marking requirements, am I correct in that?

Mr. KENNEDY. That is correct, sir.

Mr. CARTWRIGHT. Okay. The three emails had none of them. As a result, Director Comey, sitting where you are sitting right now, testified that it would be reasonable for somebody looking at a document with none of these required markings immediately to infer that they were not classified. Are you aware of that testimony?

Mr. KENNEDY. I am aware of it, sir.

Mr. CARTWRIGHT. And do you agree with Director Comey that someone who was familiar with properly marking classified documents would reasonably consider such documents without any of these five requirements not classified?

Mr. KENNEDY. I fully agree with the director.

Mr. CARTWRIGHT. Now, State Department spokesman John Kirby said that the parentheses "C" markings, the one that referred to confidential, the lowest level of classifications, on those three emails John Kirby said those markings themselves were in error and they were not "necessary or appropriate at the time they were sent as an actual email." Is that your understanding as well?

Mr. KENNEDY. Yes, sir.

Mr. CARTWRIGHT. Well, I want to show you one of these emails, and it is dated August 2, 2012. The marking—and we have that up on the screen for you as well.

[Slide.]

Mr. CARTWRIGHT. Do you have that, Ambassador?

Mr. KENNEDY. I do, sir.

Mr. CARTWRIGHT. All right. The marking that Director Comey referred to is the C in parentheses at the beginning of the email, and that is the marking that the State Department said was a mistake. Do you see that?

Mr. KENNEDY. Yes, sir.

Mr. CARTWRIGHT. And then four paragraphs follow. Do you see them?

Mr. KENNEDY. Yes, sir.

Mr. CARTWRIGHT. Each of the paragraphs says SBU and we have covered that in today's hearing. SBU means sensitive but unclassified, right?

Mr. KENNEDY. That means—yes, sir, and that means it does not have to be moved in classified channels.

Mr. CARTWRIGHT. So every one of these four paragraphs in the bulk of this email are sensitive but unclassified, right?

Mr. KENNEDY. Yes, sir.

Mr. CARTWRIGHT. Okay. So this email is, in fact unclassified and it always has been, hasn't it?

Mr. KENNEDY. Yes, sir.

Mr. CARTWRIGHT. Now, did the FBI consult with you about the classification status of this email?

Mr. KENNEDY. They did not consult with me personally. I know the State Department did provide some input to the FBI, but their decisions are their decisions—their writings are their writings.

Mr. CARTWRIGHT. When you say "their," who do you mean?

Mr. KENNEDY. The FBI, sir.

Mr. CARTWRIGHT. All right. Do you know why the FBI did not consult with you about the classification status of this email?

Mr. KENNEDY. I would have to check, Congressman, to see if they consulted with someone else at the State Department. I know they did not consult with me. But the—but as you correctly point out, the subject line there is—does not have any classified material in it, nor does the text of the—of that. And even the redactions that are there, the redaction B–5 is a redaction for deliberative process, not for classification. So this document is unclassified.

Mr. CARTWRIGHT. I thank you, Ambassador, and I yield back.

Chairman CHAFFETZ. I thank the gentleman.

I will now recognize the gentleman from Michigan, Mr. Walberg, for 5 minutes.

Mr. WALBERG. Thank you, Mr. Chairman, and thanks to the panel for being here.

Mr. Finney, when did you first become aware of the extent to which Secretary Clinton relied on private server emails to address her conduct, her responsibilities in State Department business?

Mr. FINNEY. Sir, I couldn't give you the actual date and time frame, but I do know that when we had started receiving the actual documents at the State Department, that's when I came to realize that she was using another device other than ——

Mr. WALBERG. Do you recall a January 2009 FOIA request for correspondence related to Secretary Clinton?

Mr. FINNEY. Sir, without looking at the case, I couldn't specifically know.

Mr. WALBERG. But you would identify the fact that you have logs, so if you can't recall it right here, there is a January 9 of '09 request for information and correspondence from Secretary Clinton. So you would be able to go back, whether you recall it right now.

Mr. FINNEY. Yes, sir. If we've received it in the Executive Secretariat, then we could go back.

Mr. WALBERG. On the basis of that, did you review email correspondence from the Secretary in putting together the response to this January 2009 request?

Mr. FINNEY. No, sir, because we did not have emails—she did not have a State.gov account, so all we could search was our records that we had, sir.

Mr. WALBERG. So you then, as I understand it, did not realize the extent to which the Secretary was using her private email server, and on the basis of that, you couldn't do anything about it?

Mr. FINNEY. Again, sir, did not know that she had a server or other email accounts that she was using until we received it in the Department.

Mr. WALBERG. Well, if this request was made in 2009, how was the Department able to close a request for correspondence covering

Secretary Clinton when the Department did not have access to all of the email correspondence from the Secretary?

Mr. FINNEY. Again, sir, I would have to see the specific request and see what they're asking and see if it, in fact ——

Mr. WALBERG. But they did ask. You have got a log of that.

Mr. FINNEY. Again, sir, I would have to see if we in the Executive Secretariat received it because when FOIAs come in, they do not come directly to the Executive Secretariat. They come to a bureau ——

Mr. WALBERG. Now that you know, is the Department reopening requests that would encompass the Secretary's emails that were closed prior to disclosure that she was using her private server, private emails for conducting official business?

Mr. FINNEY. I'm not able to answer that question, sir, because I'm only responsible for the Executive Secretariat ——

Mr. WALBERG. Who would be responsible for that? Mr. Kennedy, now that you know it?

Mr. KENNEDY. Now—that is why, Congressman, that we have posted all of the 52,000 emails we received on the State Department's public Web site so that if there was an email that we now have but we did not have then, and therefore, since we did not have it, we were telling the truth in response at that moment. If anyone thinks that one of their inquiries did not get a full response, we have posted all that material, all the 52,000-odd documents to our public FOIA Web site in a searchable form so that we can be, in effect, retroactively responsive to any earlier inquiries that we did not have records of then.

Mr. WALBERG. Wow.

Mr. KENNEDY. So we are at—anyone who had made a request, they can now go to the—our Web site and they—all the 52,000 ——

Mr. WALBERG. So we got the requests?

Mr. KENNEDY. Pardon me, sir?

Mr. WALBERG. We have the requests, then, on the Web site? That is what you are saying?

Mr. KENNEDY. No, we have the documents on the Web site.

Mr. WALBERG. Okay.

Mr. KENNEDY. All 52,000 documents are on the Web site, and therefore, if we did not respond before because we did not have the record then and we have the record now, the 52,000, we put all 52,000 of them up on the State Department public Web site, accessible to every member of the public.

Mr. WALBERG. Again, Mr. Chairman, I think this the reason for this hearing, isn't it? The sloppiness, the messiness, and the ability for a Secretary of State to do something that shouldn't have been done.

Mr. Finney, do you recall a FOIA request from August 27, 2010, that specifically requested emails sent to Hillary Clinton?

Mr. FINNEY. Not right offhand, sir.

Mr. WALBERG. As of January 25, 2011, this request had been marked pending. Given that this FOIA request specifically asked for records related to email sent to the Secretary, your processing should have, as I understand it, included review of the Secretary's inbox. Did that processing take place?

Mr. FINNEY. Again, sir, I'll have to see if in fact the Executive Secretariat actually received the request.

Mr. WALBERG. Mr. Chairman, I yield back.

Chairman CHAFFETZ. I thank the gentleman.

Before he does that, if he would yield for a second.

There was a choice. The Secretary had a choice. She chose to not abide by the rules of the State Department, and she went off and for her own convenience created her own account, her own server, and her own mess.

Mr. WALBERG. Federal records.

Chairman CHAFFETZ. Federal records. There was a choice. This was not a mistake. A mistake is when you accidentally put the letter E at the end of potato. This is a conscious decision to go a different route. And if you want to protect yourself and make sure that there is not a reclassification problem or something else, then use the .gov account. That is why it is there. It is safe and secure.

And by the way, there are two systems at the State Department. You can't just take classified information and hit forward. That doesn't work like that. So we have got to get into the depths of this. It is in part why we have the hearings next week. But this was a very conscious choice and she chose not to use the safety, the security, the expertise of the State Department. She put the country and her Federal records in jeopardy and created this mess that these poor people are going to have to clean up for years to come.

I will now recognize Mr. Lieu of California.

Mr. LIEU. Thank you, Mr. Chair.

Ambassador Kennedy, it is true, isn't it, that the Freedom of Information Act does not apply to Members of Congress?

Mr. KENNEDY. To the best of my knowledge, sir, that is true.

Mr. LIEU. So let me just let that sink in for a moment. We in Congress have passed this law asking other Federal agencies to meet these standards that we ourselves are unwilling to meet. It is pure hypocrisy. It is a double standard.

But it gets worse in this case. Did you know, Ambassador, that all Members of Congress get security clearances?

Mr. KENNEDY. I believe so, yes, sir.

Mr. LIEU. And we get it not because we go through a background check but because we happen to win the most number of votes in our district. And as Members with security clearances, we get to have private email servers. We can have one private email server. We can have five. We can have 27. We could have private email accounts. We can conduct official business on our private email server on our private email account.

So I am not going to continue to participate in the hypocrisy of today's hearing. Instead, I would like to use the remainder of my time to talk about an issue that actually matters, and that is the slaughter of children and civilians in the country of Yemen being enabled by the U.S. Department of State.

And, Ambassador, as a principal advisor to John Kerry and as Under Secretary, I am sure that you know that last year the State Department started providing material assistance to a Saudi Arabia-led military coalition in the country of Yemen. Are you aware that numerous human rights groups such as Amnesty International, Human Rights Watch, as well as reporters on the ground

have documented numerous war crimes being committed by this Saudi Arabia-led military coalition?

Mr. KENNEDY. Congressman, I have seen references to that in the press, but if I might, not an attempt to avoid your question because I would be glad to arrange for someone to—there are six Under Secretaries at the State Department. I am the Under Secretary for Management.

Mr. LIEU. Right.

Mr. KENNEDY. My writ is rather large but it does not encompass political military ——

Mr. LIEU. I ——

Mr. KENNEDY.—activities ——

Mr. LIEU. I ——

Mr. KENNEDY.—foreign military assistance, or others.

Mr. LIEU. I understand and ——

Mr. KENNEDY. I will be glad to work with you, though.

Mr. LIEU. I understand. And as a member in the minority party, I do not get to set the agenda, but I have four State Department officials here so I am going to ask these questions.

Are you aware that Amnesty International published a report documenting at least 33 cases where the Saudi Arabia coalition, with assistance of the United States, targeted and killed civilians, many of them nowhere near military targets? And you can just answer yes or no.

Mr. KENNEDY. I have not seen that report, sir.

Mr. LIEU. Okay. All right. Are you aware that just last month, this Saudi Arabia-led coalition targeted and killed children at a school? There were 28 kids, 18 were injured, 10 were killed. Some were as young as 6, 7, 8 years old. Are you aware of that?

Mr. KENNEDY. No, sir, I am not.

Mr. LIEU. Are you aware that this Saudi Arabia-led military coalition struck a fourth hospital facility last month, this time a Doctors Without Borders hospital, killing numerous patients, doctors, and hospital staff? Are you aware of that?

Mr. KENNEDY. I think I may have seen that in the newspapers, sir.

Mr. LIEU. You would agree with me, wouldn't you, that it is a war crime if you target and kill civilians nowhere near military targets?

Mr. KENNEDY. I am not a lawyer, sir, but obviously the direct and—the direct and—targeting of civilians without any other justification is certainly not ——

Mr. LIEU. Thank you.

Mr. KENNEDY.—not acceptable.

Mr. LIEU. Thank you. And you are aware that the United States is providing refueling of Saudi Arabia jets, logistical support, intelligence, and other assistance, correct?

Mr. KENNEDY. I am aware that we are assisting the Saudi Arabians to—forces to combat terrorist activities in Yemen, yes, sir.

Mr. LIEU. And the State Department has now proposed yet another sale of billions of dollars of arms and munitions to Saudi Arabia that the State Department noticed when Congress was in recess so that we would have very little time to act on it. Is that correct?

Mr. KENNEDY. I am not aware of that congressional notification, sir, but I do—aware that the work with the government of Saudi Arabia to help combat terrorism in the Middle East.

Mr. LIEU. Combating terrorism is fine. Using war crimes to do it is not fine.

Are you aware that a person who aids and abets someone who is committing war crimes can also be guilty of war crimes?

Mr. KENNEDY. I—no, sir, I am not a lawyer.

Mr. LIEU. Okay. So my recommendation is that you check with the lawyers of the State Department and you ask them the question why is the State Department looking like it is aiding and abetting the commission of war crimes in Yemen.

And with that, I yield back.

Mr. KENNEDY. I promise you, sir, that I will arrange for the appropriate senior official of the State Department to be in touch with you.

Chairman CHAFFETZ. And to Mr. Lieu, I would also ——

Mr. LIEU. Thank you.

Chairman CHAFFETZ. To Mr. Lieu, I would also add that we have, for a couple months, been trying to get Secretary Kerry to come appear before this committee, sensitive to his schedule, but we are at the point where we may have to step it up a notch. But it is the intention of the committee to have the Secretary come to answer. So hone those questions, and hopefully, that will happen in the next week or two.

Mr. LIEU. Thank you, Mr. Chairman.

Chairman CHAFFETZ. Thank you. I will now recognize the gentleman from South Carolina, Mr. Gowdy.

Mr. GOWDY. Thank you, Mr. Chairman.

Mr. Finney, I had a series of questions for you that I will submit to you in writing. I am going to have to deviate from what I had planned to do because of the ranking member's opening statement, which I found instructive, if not predictable.

So I want us to summarize for just a second. Secretary Clinton said she followed all State Department rules and regulations, but the truth is she did not. Secretary Clinton said her unique email arrangement was approved by the State Department, but it was not. Secretary Clinton said she used one device for convenience, but she did not. Secretary Clinton said she did not send or receive classified material, but she did. She said she turned over all of her work-related emails, but she did not. She said her attorneys personally reviewed each email, but they did not.

So when faced with a series of demonstrably false statements, utterly impeached by both fact and logic, the ranking member did what lots of criminal defense attorneys do, which is blame the investigator. And when that didn't work, they throw the Hail Mary pass of all criminal defense attorneys. Other people did it, too.

Which brings me to General Colin Powell, one of the most respected people in our country's history, you know, Secretary Clinton told the FBI—and I will concede she says different things to the public than she says to the FBI—but she told the FBI that Colin Powell's advice had nothing to do with her decision to set up her unique email arrangement with herself. Now, I am going to say that again in case anybody missed it. Secretary Clinton told the

FBI under penalty of not telling the truth, that Colin Powell's advice, email, had nothing to do with her decision to set up that unique email arrangement with herself.

Now, I will say this in defense of Mr. Cummings. I understand why he may not believe her. I understand that. I understand why he may have credibility issues with anything that the Secretary said. I get that. But I think it would have been fair when you are using your opening to criticize Colin Powell to at least point out the person you are trying to defend doesn't even say Colin Powell was the impetus behind her decision to have that unique email arrangement with herself.

So let me ask you this. Secretary Clinton was asked—because she frequently says 90 to 95 percent of her emails were in the State Department's system. Have you heard her say that?

Mr. FINNEY. Sir, I can't recall.

Mr. GOWDY. Well, it won't take you long to find it. She says it a lot. Or she said it a lot and then she was asked, who told you that? Who told you that 90 to 95 percent of your emails were in the State Department's system? And you may find her answer interesting. We learned that from the State Department and their analysis of the emails that were already on the system. We were trying to help them close some gaps. I like the word gaps. I guess if you consider the Grand Canyon to be a gap, then yes, there were some gaps in her email.

Did you have 90 or 95 percent of her emails on your system?

Mr. FINNEY. Again, sir, the only emails we would have is what has been provided recently, which was that 55,000 that we got ——

Mr. GOWDY. Well, no, I am going back before that, Mr. Finney. She said you already had them before she gave them to you. You already had 90 to 95 percent. Was that true?

Mr. FINNEY. Again, sir, the emails that we're looking at, talking about the State.gov emails, she did not have a State.gov account, and as far as the emails that we received from her came at that time frame when it was turned to the Department and it was processed by a bureau.

Mr. GOWDY. But she made this contention before she ever returned them. She said you already had 90 to 95 percent. She was just helping you fill in some gaps. If you had 90 to 95 percent, why weren't you complying with FOIA?

Mr. FINNEY. Again, sir, what I have in our system is what—received by a bureau ——

Mr. GOWDY. Well, let me see if ——

Mr. FINNEY.—and not just the ——

Mr. GOWDY.—I can put that in South Carolina terms that I can understand. If she said that you already had 90 to 95 percent of her emails before she ever returned them, that ain't true.

Mr. FINNEY. Sir, if I may say this, unless she's talking about the files that were sent to other individuals within the State Department, sent to their State.gov account.

Mr. GOWDY. Well, how does that capture personal-to-personal emails? And how about the 14,000 that she didn't turn over. Did you have those?

Mr. FINNEY. Again, sir, what you're talking about here ——

Mr. GOWDY. Oh, I understand her position. The fact that I didn't keep them doesn't mean that whoever I sent it to didn't keep it. I get that. What if it is private to private? How are you supposed to have Sidney Blumenthal's emails if it is private account to private account? How do you have that?

Mr. FINNEY. Sir, if you look at what we're doing today in accordance to the Federal Records Act of 2014 that was amended, it requires that if an employee uses their Gmail account or private-issued account, they are required by law to send that email to their State.gov account. That was amended in 2014, and that is what I'm briefing and the State Department briefs today.

Mr. GOWDY. It sounds like it was a couple years too late, but I am out of time.

Chairman CHAFFETZ. I thank the gentleman.

I now recognize the gentlewoman from the Virgin Islands, Ms. Plaskett, for 5 minutes.

Ms. PLASKETT. Thank you very much, Mr. Chairman. And good morning to you all. Thank you for being here.

I believe that the ranking member—and I don't want to get into his head—was pointing out the disparity between the two Secretaries not to absolve Secretary Clinton of her responsibility because as we have all seen in testimony that she has given that she has taken full responsibility for her own emails—but to point out the disparity and the bias in this own committee in how it treats different Secretaries of State.

I want to ask you about some emails that I hope you have received from other Secretaries. Ambassador Kennedy, do you have any emails from the Secretary of State who was the Secretary of State in December 2002 or January of 2003?

Mr. KENNEDY. No. No, I do not.

Ms. PLASKETT. And that would be Secretary Colin Powell, would that not?

Mr. KENNEDY. Yes, ma'am.

Ms. PLASKETT. Those are very interesting emails, I would think, because that would be the 2 months before he gave testimony on February 5, 2003, before the United Nations saying that there were weapons of mass destruction, which has resulted in the death of almost tens of thousands of Americans with the Iraq war. But this committee, which says that it is investigating these breaches and these emails because they are concerned with the lives of Americans, don't seem to be concerned with the email traffic that went on that precipitated that testimony, which led us to war. They are not concerned at all with those emails, but they are concerned with Secretary Clinton's emails.

How many emails have you received from Secretary Colin Powell?

Mr. KENNEDY. The only ones that I'm aware of that are in our possession are the documents that you just handed out that we received via the FBI in an interchange between Secretary Clinton and then-former Secretary Powell.

Ms. PLASKETT. I have got a great one from that exchange, which is an email exchange between Secretary Clinton and former Secretary Colin Powell from January 23, 2009. And we can put that up there. And I would ask unanimous consent to submit that into

the record. This is 2 days after Secretary Clinton was sworn in when she asked Secretary Powell for advice on how he used his personal mobile device in his office at the State Department, which is a secure space for classified information called a SCIF.

So, Ambassador Kennedy, can you explain why Diplomatic Security does not permit anyone to bring a Blackberry or cell phone, an iPhone into a Secretary's office at the Department?

Mr. KENNEDY. We operate under the—under rules laid out by the—by the former director of the CIA, now the director of the Office of National Intelligence, in that you do not ingest certain documents into a secure compartment information facility because they may pick up signals and transmit them out.

Ms. PLASKETT. Now, Secretary Powell, who everyone I believe in the House would admit is an amazing American, a patriot to this country, describes in this email with Secretary Clinton that he used a personal phone line to set up "to communicate with a wide range of friends directly without it going through the State Department servers." He said he also used that account to do business with foreign leaders and other State Department officials who were using their personal email accounts.

Now, this is not to say that Secretary Clinton should have done this. What I am pointing this out to say is that Secretary Powell, by his own admission in this email, says that he did this as well. And we know that some very, very serious matters were discussed during his time frame, which this committee does not seem to be interested in at all.

And Secretary Powell has given how much of his AOL email accounts to you all during your FOIA requests?

Mr. KENNEDY. We have received no documents from Secretary Powell.

Ms. PLASKETT. And I heard Mr. Finney say that there is a directive that if an email is sent from a personal email that is related to State Department matters, it should be sent then to a State Department email account?

Mr. KENNEDY. That is something that was put into effect in 2014 prior to the—after the amendments to the Federal Records Act. The earlier requirement was that if you sent an email from your personal account, you could either copy it to yourself or provide a paper copy.

Ms. PLASKETT. And was a paper copy provided from Secretary Powell?

Mr. KENNEDY. I am aware of no paper copies.

Ms. PLASKETT. No paper copy? And when is this committee going to receive that? And where is the urgency that we seem to have for Secretary Clinton, giving us this - going to, in fact be given across the board to the other Secretary? Secretary Powell explained that he disregarded Diplomatic Security, the NSA, and the CIA and used his personal mobile device in secure State Department spaces. He says, "And the issue was DS would not allow them into the secure space especially up your way. When I asked why not, they gave me all kinds of nonsense about how they gave out signals and could be read by spies, et cetera, same reason they tried to keep mobile phones out of the suite. They never satisfied me and NSA/CIA wouldn't back off. So we just went about our business

and stopped asking. I had an ancient version of a PDA and used it."

Mr. Kennedy, were you aware that Secretary Powell used his PDA in the SCIF?

Mr. KENNEDY. No, I was not. I was not in this position at that time.

Ms. PLASKETT. Are you aware of that now?

Mr. KENNEDY. I am aware of it from having read ——

Ms. PLASKETT. Would the ——

Mr. KENNEDY.—the email.

Ms. PLASKETT. Would the Secretary who was in your position at that time have allowed that to have occurred?

Mr. KENNEDY. He would not have.

Mr. AMASH. [Presiding] The gentlewoman's time has expired.

Ms. PLASKETT. Thank you.

Mr. AMASH. I now recognize the gentleman from North Carolina, Mr. Meadows.

Mr. MEADOWS. Thank you, Mr. Chairman. Thank each of you for your testimony.

I think part of what my colleague opposite is talking about is a double standard, and so certainly if Colin Powell has emails that belong and should belong to the Federal Government and the people of this great country, they need to go—you need to go after them, you need to request them official, and you need to get them. I am with her on that. Whether it is Colin Powell or Hillary Clinton, they do not belong to those individuals. They belong to the American people.

But let's talk about a double standard because the very email that my colleague opposite just put up actually is an email that she obtained from the State Department in the last couple of days, isn't that, correct, Ambassador Kennedy?

Mr. KENNEDY. We received a request from the ranking member signed by ——

Mr. MEADOWS. Seven members, right?

Mr. KENNEDY. The seven-member rule, yes, sir.

Mr. MEADOWS. Yes. So let me ask you how this happens because the double standard that I am seeing here is an incredibly quick response by the State Department when it is responded to the ranking member in defense of this particular hearing and a slow walk when it comes from the chairman.

And let me give you some examples because in January of this year the chairman requested information as it related to Hillary Clinton's FOIA requests and so forth, and it took 40 days to get a performance evaluation on Ms. Lang. That was the only response in 40 days, all right? Do you find that troubling, Ambassador Kennedy?

Mr. KENNEDY. No.

Mr. MEADOWS. Oh, you don't find that troubling?

Mr. KENNEDY. No, sir. If I could explain ——

Mr. MEADOWS. No, just—that is good enough. You have responded. So you don't find it troubling. So let me ask, the ranking member Mr. Cummings asked for information on Condoleezza Rice and Colin Powell on February the 4th. You got a full response to him in less than 30 days, isn't that correct?

Mr. KENNEDY. The difference is you asked for one ——

Mr. MEADOWS. I didn't ask for the difference. Did you ——

Mr. KENNEDY. You asked for one—you asked for one document ——

Mr. MEADOWS. All right. Well, we will go there.

Mr. KENNEDY. It is very easy to find one document ——

Mr. MEADOWS. All right. But ——

Mr. KENNEDY.—it produced 186,000 documents ——

Mr. MEADOWS. Fair enough, Ambassador Kennedy. So let's go to the specifics. On September 2 you get a letter from the ranking member asking for Colin Powell's emails between he and Hillary Clinton—I mean, between Hillary Clinton and Colin Powell, the supposedly seven-member request, on September 2, and 5 days later he gets the emails. Do you find that extraordinarily fast in that there was a FOIA request for that same information that has been outstanding since 2014? So the public asked for it in 2014, the ranking member asked for it 5 days ago, and you got it to him before this hearing. Do you not see a double standard there?

Mr. KENNEDY. I see two things, Mr. Congressman. One is we—in—we did—this is part of the material we just received from the FBI, so we did not have it until ——

Mr. MEADOWS. So the ——

Mr. KENNEDY.—in the past month.

Mr. MEADOWS. The FOIA request—you sent this information to the person who requested the FOIA as well?

Mr. KENNEDY. That FOIA—I don't—I would have to find out where ——

Mr. MEADOWS. All right, because here is the interesting other aspect. You made a caution, "The Department has concerns about the public release of these documents. FOIA markings and redactions reflect the fact that the documents are currently being processed for FOIA and have undergone an initial review. However, the preparation of these documents for the public release has not yet been completed." But yet they released them. Di you not see a problem with that?

Mr. KENNEDY. Mr. Meadows, we try, to the best of our ability, to respond to committees of Congress.

Mr. MEADOWS. I ——

Mr. KENNEDY. That is a priority—there is ——

Mr. MEADOWS. But it is with unbelievable ——

Mr. KENNEDY. You're ——

Mr. MEADOWS.—speed when it fits the narrative that you want to do. So here is my request of you, Ambassador. I have got two. The chairman asked for a very simple request that has been outstanding from the AP about a calendar. It shouldn't be a hard request. It is not 137,000 pages. Can you respond in the same length of time that you responded to the ranking member in 5 days?

Mr. KENNEDY. The answer that—to that, sir, is whether or not there is any information that we have to call out on those calendars ——

Mr. MEADOWS. You have been looking at it since the 2010 for the AP. I would think that eventually you would be able to do it, 5 days.

Mr. KENNEDY. Sir ——

Mr. MEADOWS. All right, here is the last one ——

Mr. KENNEDY.—we can get ——

Mr. MEADOWS.—because I am running out of time. Two years ago I asked you a question in Foreign Affairs under sworn testimony, was it you or Hillary Rodham Clinton who decided to not publish the bonuses for State Department? Because it has to be one or the other, either you or Hillary Rodham Clinton. Two years later, I am still waiting for a response. I want a direct response. Was it your decision to make sure that bonuses are not public and not transparent or was it hers?

I will yield back.

Chairman CHAFFETZ. We would like you to answer the question.

Mr. KENNEDY. Sorry. The time—the answer is, sir, that I—I do not recall the question from you, and therefore, I humbly apologize. I will get you an answer. My general recollection is that it was a decision made government-wide not to publish documents—not to publish bonuses, but I will ——

Mr. MEADOWS. Mr. Chairman ——

Mr. KENNEDY. I will research that.

Mr. MEADOWS.—to clarify, there is only one of two people who could have made that decision, either you or Hillary Rodham Clinton. Who was it? That is what I want to know.

Mr. KENNEDY. It definitely wasn't Secretary Clinton. That kind of decision did not go up to her.

Chairman CHAFFETZ. Wait a second. You just said you didn't ——

Mr. MEADOWS. So you said you don't know but yet you know it wasn't her? That is the answer ——

Mr. KENNEDY. Yes, because I would never send an issue of that nature to the Secretary of State because the Secretary of State, no matter whether it's George Shultz, Colin Powell, or Hillary Rodham Clinton or John Kerry does not need to deal with an issue of that stature.

Chairman CHAFFETZ. All right, thank you. I will now recognize the gentlewoman from the District of Columbia, Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman. You know, the words "government reform" are in the title to this committee, so I grow weary when we play gotcha all the time and no reform comes out of the system. I am very interested in what happened here because I think it does illustrate probably the kind of confusion one might expect in a system that has classified and unclassified. So I am really looking for what the reform we can get out of this system and asking you, Ambassador Kennedy, to help me out.

Director Comey, for example, testified that there were 30,000 emails that the Secretary provided to the State Department. Two thousands were later determined to be classified. Now, let me tell you the danger I see in that. This is after-the-fact classification. Now, you know, we always complain about over-classification. This isn't that. It is after the fact. This is something that should be secret so it shouldn't be shared, but by that time, who knows how many people have had it shared with them.

So I am trying to come to grips with after-the-fact classification. Do you see a systemic problem when so many members—2,000; it is a larger number there, so they would be senior foreign service

members—could have been writing information they believe to be unclassified just to be overturned, God knows when, by FOIA in which case everybody would say whoops, I just didn't know?

And apparently, for those 2,000, at least 1,000 people were on these emails. Could I ask you what advice does the State Department give its employees about the possibility of retroactive classification? Does it warn them that these emails are not classified now but don't share them because they are subject to being reclassified as classified?

Mr. KENNEDY. Congressman, you've posed a very, very salient question, and if I could address it two ways. First of all, there is a large amount of information that the State Department receives in the course of its business that we call foreign government information. This is information we get from a foreign government in the course of our diplomatic activities around the world.

Ms. NORTON. You mean all of that wouldn't be classified?

Mr. KENNEDY. Not all of it would be classified. Much of it is not given to us in confidence and there is not a risk of loss of life if the information came out that is given to us and we treat it as unclassified foreign ——

Ms. NORTON. Loss of life, I'm not familiar with that standard.

Mr. KENNEDY. Well ——

Ms. NORTON. What about loss of face?

Mr. KENNEDY. I mean, that's what I'm getting to, ma'am. This information is given to us and we treat it as sensitive but unclassified.

Ms. NORTON. Now, as sensitive, does that mean ——

Mr. KENNEDY. Sensitive ——

Ms. NORTON.—don't share this information ——

Mr. KENNEDY. Don't share this information ——

Ms. NORTON.—it could be classified later?

Mr. KENNEDY. No, it's just sensitive information because it was received often from a foreign source.

Ms. NORTON. And we are only talking about ——

Mr. KENNEDY. There are two ——

Ms. NORTON. Are we only talking about foreign source? Were all 2,000 foreign source?

Mr. KENNEDY. No. To the best—we did a little calculation and it's rough. Two thousand of the 2,100 emails were—are confidential. We believe it's 70 percent of those 2,000, some more or less 1,400 information were classified because they contained foreign government information.

If you went to the Department of Defense or to the Department of Energy, they have by statute—and the State Department has been asking for a change in the law for several years—that we have asked for the ability to declare that material restricted so we can—do not have to release it to the public because as you rightly pointed out, ma'am, it can be an embarrassment. A foreign government gives us an ——

Ms. NORTON. So sensitive versus restricted, what is the difference?

Mr. KENNEDY. It—the restricted means we would have the authority under the FOIA to not provide that information to the public.

Ms. NORTON. Does that mean subject to possible classification?

Mr. KENNEDY. No, it just means that it would be exempt from FOIA. And the reason why we have to retroactively ——

Ms. NORTON. Yes, I am worried about there being ——

Mr. KENNEDY. The reason we have to ——

Ms. NORTON. Yes.

Mr. KENNEDY.—retroactively classify it is we do not have the same abilities and authorities that the Department of Defense and the Department of Energy can do. They have an ability to say this is exempt from FOIA. We don't have that—if we had that, my ballpark back-of-the-envelope guess is 1,400 of the 2,100 classifications would have disappeared and they would have been available to the Congress because they—because of the sensitive nature of foreign government exchange, they would not have been available to anyone who reads it. And you obviously all realize that a FOIA request doesn't only go to American citizens. Anybody can make a FOIA request.

Ms. NORTON. So this is very important as far as I am concerned. So the reform here I would take it would be that—what you are doing—you are being forced to use the classification label ——

Mr. KENNEDY. Exactly. We need the authority to have a foreign government information exemption, and we have asked for that from the Congress ——

Ms. NORTON. Would this require a statutory change?

Mr. KENNEDY. It does require a statutory change.

Ms. NORTON. Mr. Chairman, please note that because I do think that is important to know. I am not sure the committee knew that. That testimony is important for me, and I think it comes out, I think, at a good time when we are trying to find out not only what happened but what to do about it.

Let me ask you finally, have you directed these thousand people to do anything about like, for example, deleting this classified information? Remember ——

Mr. KENNEDY. We're ——

Ms. NORTON.—retroactively classified from their systems. Have you asked them, since it is now classified, to make sure it is gone from your system? And indeed, what can you do about it if it is retroactive?

Mr. KENNEDY. We take certain steps with the highly classified, but from the—for the FGI material we have not taken that step ——

Ms. NORTON. Don't you think you should?

Mr. KENNEDY.—because those are within our system and we ——

Ms. NORTON. You mean those cannot be shared anyway?

Mr. KENNEDY. We have now marked them so they were not going to be released to ——

Ms. NORTON. Could I just ask one—should they be deleted or not?

Mr. KENNEDY. We would not delete them. We would transfer them to another system because we do not delete Federal records.

Ms. NORTON. Thank you, Mr. Chairman.

Chairman CHAFFETZ. Thank you. And it is a good takeaway. I appreciate, Ambassador, your sharing that perspective and driving that home with us, so thank you again.

I will now recognize the gentleman from Georgia, Mr. Hice, for 5 minutes.

Mr. HICE. Thank you, Mr. Chairman.

Ambassador Jacobs, when responding to a FOIA request, who in the State Department is responsible for determining what is redacted?

Ms. JACOBS. Thank you for the question. It is the responsibility of the people who work in our FOIA office, which is in our Bureau of Administration, to determine what is redacted.

Mr. HICE. Who is the lead person? Where does the buck stop?

Ms. JACOBS. It's a number of people who are trained and skilled in the FOIA law who do this. There's not one particular person.

Mr. HICE. Could you provide the names of those individuals for us?

Ms. JACOBS. I can.

Mr. HICE. Okay. Is there a specific criteria that they use to determine what is redacted and what is not?

Ms. JACOBS. Yes, sir. It's basically the FOIA law, the exemptions that exist under the FOIA law.

Mr. HICE. Okay. When responding to a request from Congress, who is responsible for determine what is redacted?

Ms. JACOBS. There are different standards that are used for Congress, sir. I think that you get more information than we would release to the public ordinarily.

Mr. HICE. I am not so sure that we do. How is the process different between a FOIA request and a congressional request when it comes to what is redacted and what is not?

Ms. JACOBS. I think we are guided by the different agreements, arrangements that we have with Congress. Certainly for releases to the general public, we follow the FOIA law, and I think with Congress perhaps there are different procedures that we follow.

Mr. HICE. Do you know what those different procedures are? That is my question.

Ms. JACOBS. I'm not exactly sure of all of them. I'd have to get back to you, sir?

Mr. HICE. Well, would you get back with me and clarify that issue?

Ms. JACOBS. I will do that.

Mr. HICE. You have been really in charge, your role as transparency coordinator in the State Department. Do you believe the State Department is being transparent?

Ms. JACOBS. Yes, sir, I do. I think to the best of our ability we are committed to openness and to—especially under FOIA to releasing whatever we can.

Mr. HICE. Okay. But the question goes beyond FOIA. It goes to congressional requests as well, and it is extremely frustrating. You know, just for example I noticed with the FBI but they just released a 58-page summary to the public, publically released the other day. I was scanning through it. In fact, I have a copy of it right here.

And listen, I understand—Mr. Chairman, I understand fully when there are potential compromises in our national security, I understand the need for redacted material. That is not even in question, I don't believe, with anyone. But the current process

seems so arbitrary and just all over the map where and how redactions take place. And frankly, this is an issue that goes across the entire executive branch. And the questions out there are multiple.

I am looking right now with the summary that came out the other day, Ms. Clinton's birthday is redacted. I mean, what is the potential national security threat of that? You can go in Wikipedia and find it. In fact, I did.

Mr. KENNEDY. Congressman, if I ——

Mr. HICE. That is—no, sir. If I ——

Mr. KENNEDY. If I could just ask just ——

Mr. HICE. No, I am not asking you a question right now. I am expressing frustration in the whole process. You know, the very next sentence it mentions Ms. Clinton's five attorneys, four of them by name but one of them is redacted. We seem to be all over the map, and quite frankly, the end result appearance at least—and I am not making an accusation—but the absolute appearance is that obstruction is involved many times when it comes to what is redacted and what is not.

And how in the world can we do our job of oversight when we are not given the requested information that we need to do our job or when what is received is so redacted it is difficult to determine what has been really given us and what has not been given.

So, Mr. Chairman, I think any reasonable person would frequently look at the material, whether it is through a FOIA request or a congressional request, and have great concerns that information that is needed for whatever requested purpose is not being provided accurately. And this, Ambassador Jacobs, raises a question as to transparency at State, as well as other departments.

And so, Mr. Chairman, I would just hope that we can not only get the material that we have requested, all of it, but I hope also that transparency can occur. It is America that is suffering when we are not allowed to do the job that we have been tasked to do here in Oversight.

And with that, Mr. Chairman, I yield back.

Chairman CHAFFETZ. Before he yields if the gentleman would yield to me.

Mr. HICE. Yes, sir.

Chairman CHAFFETZ. Ambassador Jacobs, you are heading up the transparency—or you are the transparency coordinator. What is it that you believe Congress should not be able to see?

Ms. JACOBS. Sir, thank you for the question. I am not completely familiar with all of the agreements and arrangements that we have. I do know that in general ——

Chairman CHAFFETZ. But why should there be any agreements and arrangements?

Ms. JACOBS. Well ——

Chairman CHAFFETZ. What could Congress not see? You were brought in by Secretary Kerry, right ——

Ms. JACOBS. Yes.

Chairman CHAFFETZ.—to be the transparency person.

Ms. JACOBS. Yes.

Chairman CHAFFETZ. So you are champion of transparency. What is it that Congress should not be able to see?

Ms. JACOBS. I think that Congress should have access to all of the information that they are entitled to. I believe that there are certain restrictions that—to privacy ——

Chairman CHAFFETZ. Give me an example. You have been in foreign service for 33 years, so give me an example of something that I as the chairman of the Oversight Committee or Mr. Hice should not be able to see.

Ms. JACOBS. Highly classified compartmented information perhaps if you don't have ——

Chairman CHAFFETZ. Like ——

Ms. JACOBS.—the proper clearance.

Chairman CHAFFETZ. SAP information?

Ms. JACOBS. I assume so, unless you have the proper clearance.

Chairman CHAFFETZ. What else?

Ms. JACOBS. Information related to privacy—you know, personally identifiable ——

Chairman CHAFFETZ. No, sorry ——

Ms. JACOBS.—information.

Chairman CHAFFETZ.—got that one wrong. Sorry. Congress is exempt from the Privacy Act. So try again. What else?

Ms. JACOBS. Sir, I really believe that you should have access to whatever information ——

Chairman CHAFFETZ. But when you get this thing, it is sent to us and it is chock full of redactions. Why?

Ms. JACOBS. Is this—are you referring to ——

Chairman CHAFFETZ. No, we don't ——

Ms. JACOBS.—information that we sent or the FBI?

Chairman CHAFFETZ.—the whispering. We will allow you all to do it. You don't need to kind of whisper in her ear and tell her ——

Ms. JACOBS. No.

Chairman CHAFFETZ.—what the right answer it.

Ms. JACOBS. The question was whether this was information from the FBI or from the State Department?

Chairman CHAFFETZ. I am asking from the State Department.

Ms. JACOBS. Okay. I—what I can do is offer to come up and ——

Chairman CHAFFETZ. You are here right now.

Ms. JACOBS. I understand, sir, but this is ——

Chairman CHAFFETZ. Ambassador Kennedy, come on, you have got probably the most experience here. Give me an example. What is it that Congress should not see?

Mr. KENNEDY. I think that not every member of the congressional staff should be entitled to ——

Chairman CHAFFETZ. I didn't ask about staff. I said Members of Congress.

Mr. KENNEDY. Okay. Then, Mr. Chairman, the only thing that I believe is valid is executive—internal executive branch deliberations leading to a decision.

Chairman CHAFFETZ. And that has ——

Mr. KENNEDY. I think that is a prerogative of the Congress to have its deliberations secret, and it's a prerogative of the executive branch to arrive at a position and then come up and defend that position wholly and fully before the Congress but not necessarily all the internal puts and takes that went into it ——

Chairman CHAFFETZ. And ——

Mr. KENNEDY.—before an executive branch decision was made, sir.

Chairman CHAFFETZ. And there is—the President can claim executive privilege. There is a process to do that where the President actually has to sign a document invoking that executive privilege.

Mr. Cummings, if ——

Mr. CUMMINGS. Yes, just real quick.

Chairman CHAFFETZ. Yes.

Mr. CUMMINGS. Ambassador Kennedy, I am just curious about something Mr. Hice just asked. Why would a birthday be redacted? I am just curious.

Mr. KENNEDY. Privacy ——

Mr. CUMMINGS. You were trying to answer it and I was just ——

Mr. KENNEDY. Yes, sir.

Mr. CUMMINGS.—wondering what you were going to say?

Mr. KENNEDY. We think that names of spouses, names of children, birth dates, Social Security numbers, that information is not necessary for the conduct of any business, and there is always the possibility of spillage. I am not accusing any Member of Congress or any staff member, but we desperately try to make sure that information that is protected under the Privacy Act is used only on an absolute need-to-know. And ——

Chairman CHAFFETZ. The Privacy Act does not apply to Congress, and what you are doing is you are conflating FOIA with congressional requests. We have a SCIF. We deal with classified information.

We have exhausted this for right now. Let's now recognize the gentlewoman from New York, Mrs. Maloney.

Mrs. MALONEY. Thank you, Mr. Chairman and Mr. Ranking Member.

I would say that what this hearing shows very clearly is that the classification system is broken, and it needs to be reformed. This is something we could work together on in a bipartisan way, and in fact, I will introduce this week a sense of Congress that the classification system needs to be reviewed and needs to be reformed.

I have here an email that the State Department marks as sensitive but unclassified, clearly calls is unclassified, calls it unclassified at the top and at the bottom, and yet the FBI called it classified. Now, there is clearly something wrong here.

Now, this memo was a memo written by a senior diplomat, a Jeffrey Feltman, and he was the assistant secretary for the Bureau of Near Eastern Affairs, a senior diplomat. It is his personal email. And he calls each paragraph that he wrote SBU, which stands for sensitive but unclassified. Now, if you look at the State Department's foreign affairs manual, it clearly says sensitive but unclassified information is "not classified."

So I would like to ask you, Mr. Kennedy, if you received this from a senior diplomat whose judgment you trust and he marks unclassified at the top, and the bottom, and four other times in the body of the document, would you think the document is unclassified?

Mr. KENNEDY. I think the document is unclassified, but, Congresswoman, if I received a FOIA request and the text contained

foreign government information that had been shared with us in confidence, I would not wish it releasable to the ——

Mrs. MALONEY. We heard that.

Mr. KENNEDY.—to the world. So that's ——

Mrs. MALONEY. We heard that.

Mr. KENNEDY. That is the underpinning of our discussion, ma'am.

Mrs. MALONEY. We hear that. The chairman hears that. We are going to work on it. But my point is there is something clearly wrong with the system where an individual is charged with criminal activity because they have received a document that is marked unclassified, unclassified, unclassified and then the FBI comes in and says, oh, it is classified. So the whole system of classification in my opinion needs desperately to be reformed.

And I would say that every member of this panel on the Republican and Democratic side, if we received this memo, we would think it is unclassified because that is what it is stamped. But this was part of what the FBI called classified at the time, and I see this as something that needs to be corrected and it needs to be reformed ——

Mr. KENNEDY. I—if I could, I fully, fully and absolutely agree with you, and that is why we have been for years seeking the ability for a FOIA exemption that would permit us to make foreign government information exempted ——

Mrs. MALONEY. We heard what you have said, but my point that I am making right now, although that is an important one, is that this system is fundamentally flawed when an individual—in this case, Secretary Clinton—received an email like this one and is accused of criminal activity for relying on the judgment of an experienced diplomat that is trusted by the State Department.

Mr. KENNEDY. I fully agree with you on that.

Mrs. MALONEY. And I feel that that is really outrageous. I would say it is an abuse of power, it is wrong, and it needs to be changed. And we are the Government Reform Committee. We should start working on it right now. Is it explicitly designated in, let's see, one, two, three, four, five, six places as unclassified, and now the FBI is saying that is classified.

Mr. Chairman, I ask unanimous consent to place this document in the record. I think it is a strong example of a system that is broken, is not working, is hurting our government, misleading people, inappropriate, and just plain wrong. My question is why haven't you reformed this before?

Mr. KENNEDY. Because we have been seeking—we've been seeking for multiple years a statutory change that would give us the same authorities that the Department of Defense and the Department of Energy have so this would not have been classified. It would have been marked exempt from public release under a new legal ——

Mrs. MALONEY. But clearly, right now, it is marked as classified by the FBI. The ——

Mr. KENNEDY. No ——

Mrs. MALONEY.—State Department is marking it unclassified.

Mr. KENNEDY. No, no, we—the State Department was forced, was forced to mark this classified in order to preclude public release to the ——

Mrs. MALONEY. But, sir ——

Mr. KENNEDY.—entire world.

Mrs. MALONEY. Sir, my point is it is marked one, two, three, four, five, six times as unclassified.

Mr. KENNEDY. It's marked ——

Mrs. MALONEY. If I was working for Secretary Clinton, I would have handed her this document and said, Madam Secretary, it is marked unclassified. See, it is unclassified, unclassified, unclassified. And now, because of this court, which needs to be corrected, it is now "criminal activity."

Mr. KENNEDY. The State Department ——

Mrs. MALONEY. There is something terribly wrong with this system, and I believe that you should have worked in the most earnest way to have changed this and stopped—I consider this abuse ——

Mr. KENNEDY. I fully agree with you ——

Mrs. MALONEY. It is a flawed ——

Mr. KENNEDY.—and that is why ——

Mrs. MALONEY.—system that ——

Chairman CHAFFETZ. The gentlewoman's ——

Mrs. MALONEY.—that claims that this is ——

Chairman CHAFFETZ. The gentlewoman's time ——

Mrs. MALONEY.—a criminal activity. It is wrong.

Chairman CHAFFETZ. The gentlewoman's time is expired.

Mr. KENNEDY. May I finish my ——

Chairman CHAFFETZ. Let's move on. You asked for unanimous consent. Without objection, so ordered. That will be entered into the record.

Chairman CHAFFETZ. Let's now recognize the gentleman from Texas, Mr. Farenthold.

Mr. FARENTHOLD. Thank you very much.

Ambassador Kennedy, Secretary Clinton said she had only had convenience in mind when choosing to use a personal email account. Has this been convenient for State to respond to the FBI?

Mr. KENNEDY. I'm sorry. I don't quite understand the question.

Mr. FARENTHOLD. Okay. Was it convenient—because of Secretary Clinton's use of a private email account for her email, she said she used it for convenience. It may have been her convenience. Was it convenient for the State Department to comply with the FBI inquiries because she did this?

Mr. KENNEDY. Well, we would have had to review her documents for public release under FOIA whether or not she had used one server or another server.

Mr. FARENTHOLD. So how did Secretary Clinton's emails from her private server get delivered to the State Department? Did she send you a copy of the PDF file? Did she send you—or the PST files from Outlook? How did they come to the State Department?

Mr. KENNEDY. We received approximately 55,000 pages in hard copy, sir.

Mr. FARENTHOLD. So the fact that she didn't—they weren't on any of your servers, they came on hard copy, so you had to scan them, I guess?

Mr. KENNEDY. We have a system that we use for processing documents. It uploads some ——

Mr. FARENTHOLD. So it certainly would have been a whole lot more convenient and less expensive for the taxpayer had she been on the State Department server. Would you agree with that?

Mr. KENNEDY. If they had been available to us electronically, we would not have had to scan, yes, sir.

Mr. FARENTHOLD. And the State Department uses something called SMART. Can you tell me about the State Messaging Archive and Retrieval Toolset?

Mr. KENNEDY. Yes, sir. SMART is a tool that we had developed. It was a—it's—was an early attempt to come up with a system that would make archiving and retrieval easier. It had—it was something that was never fully adopted because it has significant flaws to it. That is one of the things that Ambassador Jacobs and a team that works for me have been working on to put into place a new system that would replace SMART because it didn't—it was good but it was not successful.

Mr. FARENTHOLD. But now because Secretary Clinton's emails were not on SMART, it ended up taking more time, being less convenient, and was more expensive, is that not ——

Mr. KENNEDY. That ——

Mr. FARENTHOLD.—correct?

Mr. KENNEDY. No—no, sir. The Executive Secretariat did not adopt SMART and did not adopt it before Secretary Clinton's tenure so that the decision of not having her emails—her emails would not have been on SMART even if they were on our system because of the ——

Mr. FARENTHOLD. So what ——

Mr. KENNEDY.—inadequacies of the SMART system. And that was not her choice. It was the previous Executive Secretariat.

Mr. FARENTHOLD. All right. So let's go to Ambassador Jacobs. We have heard lots of testimony today about how much time and money responding to all these requests have taken. It seems like coming up with a system to do that efficiently would be a priority. Where are we in that? I mean, it sounds like you all's budget has gone up, your production has gone down. I mean, it seems like we are in a lose-lose position right now.

Ms. JACOBS. Thank you, sir. Thank you for the question. Thank you for giving me an opportunity to talk a little bit about some of the changes that we are making that I think are going to make us much more efficient and effective.

One is the whole email. The use of email is something that not just the State Department but I think other Federal agencies have struggled with as to the amount of emails and how to capture them and store them. We are—we, the State Department, all Federal agencies are under a mandate issued by the National Archives and OMB to capture and manage all of our email traffic by the end of this year, December 31, 2016. To do that we are—first of all, you heard earlier about the Capstone approach, which was approved by NARA for capturing all of the emails ——

Mr. FARENTHOLD. Okay. So, again, I have limited time. Where are you all in implementing it?

Ms. JACOBS. Okay. So we ——

Mr. FARENTHOLD. Are you going to get there and ——

Ms. JACOBS. We are, sir.

Mr. FARENTHOLD.—when is this going to get better?

Ms. JACOBS. We are, sir. We are going to meet the December 2016 deadline, I'm happy to say. We are capturing all those emails.

Mr. FARENTHOLD. Okay.

Ms. JACOBS. We're going to capture the emails of other people, and we're acquiring new technology that will allow us to search said email.

Mr. FARENTHOLD. All right. And finally, have we learned the lesson that we are not going to let future Secretaries of State or high-ranking officials use private email servers? Are we going to keep them on a government server where we can manage them?

Ms. JACOBS. Sir, we have taken several measures to make sure that that happens.

Mr. FARENTHOLD. And do you agree with that, Ambassador Kennedy?

Mr. KENNEDY. Absolutely, sir.

Mr. FARENTHOLD. All right. And I will yield back the remainder of my time.

Mr. KENNEDY. Could I answer one other point that—you are absolutely correct, sir, that we have managed to squeeze additional funds and place them in FOIA, including for the—some of the equipment that Ambassador Jacobs is talking about. However, as we have been increasing the budget, the demand is up over 200 percent. We are now receiving 30,000 FOIA—we have 30,000 FOIA requests pending, and just—the number of people asking for material keeps going up. So we—that's why—that is another reason why we are very committed to getting this done.

Mr. FARENTHOLD. And it is actually reassuring that that number is going up. It makes me glad more people are concerned about how their government operates and the increased transparency throughout our nation's capital and our government is a good thing.

Chairman CHAFFETZ. As the gentleman yields back, I would point out, though, that in 2008 the State Department was spending about $400,000 in lawsuits. Now, they are spending about $4 million in lawsuits. So it is duplicitous to say we are trying to save—hey, we are trying to open up the openness and transparency. At the same time, you are in Federal court fighting, arguing not to release information that is owned by the public.

Mr. KENNEDY. Mr. Chairman ——

Chairman CHAFFETZ. No, we are going to recognize the gentleman from Oklahoma, Mr. Russell, now for 5 minutes.

Mr. RUSSELL. Thank you, Mr. Chairman. And thank all four of you for being here today. We do appreciate your long service to our country.

Ambassador Kennedy, do you believe that Congress has a responsibility to hold the government accountable?

Mr. KENNEDY. Absolutely.

Mr. RUSSELL. Okay. Do you believe that government agencies should withhold information from Congress, either classified or handled secretly in our classified vaults, or unclassified information that would be handled by our committees?

Mr. KENNEDY. I am not in control of special ——

Mr. RUSSELL. But it is important that someone with your dedicated decades of service, ambassadorial level, you have handled a lot of classified information so ——

Mr. KENNEDY. I am always prepared to share classified information with Congress, but ——

Mr. RUSSELL. And we appreciate that.

Mr. KENNEDY.—I know that under the rules of the House and Senate, it is House and Senate rules that give the Senate Select Committee and the House Permanent Select Committee on Intelligence privileges that are not available to others. And so I ——

Mr. RUSSELL. Sure.

Mr. KENNEDY.—cannot jump over House and Senate rules.

Mr. RUSSELL. And I think we are all in violent agreement on that, but it is important that those Select Committees have information.

If what I have read in the vaults regarding Mrs. Clinton's mishandling of classified information were known to the American people, as I have been in the vaults to peruse them, the American public would be absolutely appalled. But we can't talk about that. Instead of focusing on this mishandling and its subsequent obfuscation by Mrs. Clinton by members of her personal staff, the Department of State, and by her attorneys, we are now seeing a typical play: admit nothing, deny everything, make counter accusation.

Take the case of Secretary Powell. Listening today, one would think that he was somehow doing what was just normal for Secretaries of State in the State Department by not securing things or not being in a proper closed loop with State Department communication when reality is General Powell said the truth is—and I am quoting—"she was using the private email server a year before I even sent her a memo." He also states in statements that he had no recollection of a dinner conversation advising her to take such actions to circumvent anything.

But it does bring up some questions, so let me ask them. Ambassador Kennedy, did Secretary Powell use a dozen-and-a-half devices and make nearly all of them disappear and destroy some with hammers?

Mr. KENNEDY. I am—I do not—I'm not aware, sir ——

Mr. RUSSELL. Okay.

Mr. KENNEDY.—of Secretary Powell's—what Secretary Powell did or did not do with his private ——

Mr. RUSSELL. Okay. Did Secretary Powell or his proxies use bleaching software to eliminate any trace of Federal records on separate servers after they had been requested?

Mr. KENNEDY. I am aware—I'm not aware of Secretary Powell's practices ——

Mr. RUSSELL. I'm not either. As to classified information, well, did Secretary Powell keep or provide private servers for any email communication?

Mr. KENNEDY. I do—I know that Secretary Powell ——

Mr. RUSSELL. Not a private email account like Yahoo or AOL. We are talking private servers.

Mr. KENNEDY. I do not see a difference and ——

Mr. RUSSELL. Okay. I don't ——

Mr. KENNEDY.—distinction there, sir.

Mr. RUSSELL.—either. I think we are in the same conclusions.

As to classified information, how is it that the Department of State's staff, which are very able, and the FBI, which are also very able, were able to determine what top secret special access program information was enough so to withhold it from Congress and yet somehow we are to believe that Mrs. Clinton was somehow not intelligent enough to discern the difference between special access program information or not? How is it that the State Department with all of their experience and the FBI with all of theirs were somehow better qualified than someone who had been a United States Senator, someone who had been, say, a Secretary of State? How is that possible?

Mr. KENNEDY. To answer that question, sir, we would have to be in another forum.

Mr. RUSSELL. And we will, and so we will get to ask it again.

And let me ask you, in your experience, which I greatly admire, by the way, sir, administration to administration—I served decades in the military. I held a top-secret special compartmentalized classification in the military. I know how to handle sensitive information. I know you do, too.

Did you ever in your career or experience think it was appropriate to cut and paste from a classified setting whether it was marked anything, but to cut and paste from a classified setting and to paste that information to an unclassified setting? Would that be a practice that the State Department under any set of rules would be appropriate?

Mr. KENNEDY. It is not, sir, but I have seen in all the material that I reviewed, no evidence, nor did the inspector general or the FBI find that the Secretary of State—former Secretary Clinton did so.

Mr. RUSSELL. Well, then we will have in the classified setting maybe some further questions to ask.

This is what is exasperating. Since 1814, we the people empower the government, which we draw our power from the consent of the governed, to uphold the Constitution of the United States. I have been doing this since I was 18, now in a different capacity. We have a responsibility for oversight, and we must not exasperate the American people. They can see what is clearly understood, and yet we play these delay games: admit nothing, deny everything, make counter accusations, put hurdle after hurdle so that the clock will somehow run out, and we must provide that information.

And with that, Mr. Chairman, I will yield back.

Mr. KENNEDY. And may I respond, sir?

Chairman CHAFFETZ. No. We have got to keep the pace going here.

I will now recognize the gentleman from Alabama, Mr. Palmer.

Mr. PALMER. Thank you, Mr. Chairman.

Ambassador Kennedy, a FOIA requires—and this is according to the Office of Inspector General—a FOIA requires a response within 20 days, but the Secretary of State's office on multiple occasions has taken more than 500 days to respond. While the average response for Federal agencies across the government for a simple request is 20.5 days, the State Department's average is 91 days. For

a complex request, the government-wide average was 119 days. The State Department average is 535 days. What do you believe is a reasonable amount of time to respond to these FOIA requests?

Mr. KENNEDY. Sir, obviously, we want to go faster, but

Mr. PALMER. Well, what ——

Mr. KENNEDY.—there is a significant problem here. We have—we used to get maybe 10,000 FOIA requests a year. We are—now this year will have a backlog of 30,000. I have poured additional resources into it. I—we have gone from some 64 people to 93, and depending on the budget for fiscal year 2017, I'll push it under—to 118.

Mr. PALMER. Do you prioritize requests? For instance, when you received a request for producing a calendar, is that a simple or a complex case? I mean ——

Mr. KENNEDY. No—we—in order ——

Mr. PALMER.—how ——

Mr. KENNEDY.—to be responsive to the Freedom of Information Act as we interpret it, we use FIFO, first in, first out.

Mr. PALMER. So—but ——

Mr. KENNEDY. And so ——

Mr. PALMER.—this wouldn't have been—would this have been a Freedom of Information request for the calendars? If we request the calendars, would that ——

Mr. KENNEDY. No. There ——

Mr. PALMER.—how long would it take you to produce ——

Mr. KENNEDY. There are two ——

Mr. PALMER.—the calendar?

Mr. KENNEDY. There are two separate strains. There is congressional document requests and the requests under the Freedom of Information Act or the Privacy Act. One are public requests, one are for—from the—from the Congress. And as I responded earlier to the chairman, we will engage as soon as I get back this afternoon ——

Mr. PALMER. So ——

Mr. KENNEDY.—on the subject. We have ——

Mr. PALMER. How long do you think that will take?

Mr. KENNEDY. I have to—I do not—I know we are partially through the Associated Press request ——

Mr. PALMER. I just asked a ——

Mr. KENNEDY.—and ——

Mr. PALMER.—request. If the chairman asks for the calendars, how long will it take to get the calendars?

Mr. KENNEDY. I have to find out how many more have to be processed.

Mr. PALMER. How many more what?

Mr. KENNEDY. Because we at least as a courtesy as part of the agreement, we mark documents to the Congress about whether or not their public release would be detrimental to ——

Mr. PALMER. This is just a calendar.

Mr. KENNEDY.—national security. If the Secretary of State was having a meeting—a sensitive meeting with a foreign government ——

Mr. PALMER. She is not there anymore.

Mr. KENNEDY. The existence of that meeting, sir, could be dispositive of—along the lines of activities that Secretary Kerry is carrying on. I'm not talking about, sir, to be clear, withholding information from you, but we have to process it so that you know what we consider sensitive as opposed to ——

Mr. PALMER. Let me ——

Mr. KENNEDY.—classified.

Mr. PALMER.—move to something else. According to the Inspector General's Office, the State Department has previously reported that certain records did not exist only to later report that they actually do. Mr. Finney, it is your responsibility to ensure that the historical record is complete. Is that an accurate assessment?

Mr. FINNEY. Yes, sir, for the Office of the Secretary.

Mr. PALMER. And I believe that you do a good job at that. I believe that you make a professional and honest effort to do that. Does it concern you that you don't have all of Secretary Clinton's records?

Mr. FINNEY. Sir, it always concerns me as far as making sure that we're taking care of getting the records for the Archives for the State Department.

Mr. PALMER. Do you think you have all of her records?

Mr. FINNEY. Sir, I have all that has been given to us, and that's what we're processing.

Mr. PALMER. Are you aware that records have not been given to you?

Mr. FINNEY. Sir, all I have is what we have been given.

Mr. PALMER. I am asking, though, are you aware that there are records that have not been given to you?

Mr. FINNEY. No, sir. All I have is what we've been given.

Mr. PALMER. Are you aware that there is a missing laptop and an external storage device?

Mr. FINNEY. No, sir.

Mr. PALMER. Well, there is, and the response that I believe—that came from the Secretary's office—is this correct, Mr. Chairman? If this is incorrect, you can correct me. But they said it was lost in the mail. Now, I would assume that this laptop contains information that should be in the record. It was a State Department laptop, State Department external drive. What I would like to know is if it was lost in the mail, did anyone make any attempt to file a lost parcel claim with the post office?

Mr. FINNEY. Sir, I don't have any information on that at all.

Mr. PALMER. Well, I would like to find out if—Mr. Kennedy.

Mr. KENNEDY. If I might, Mr. Palmer, to the best of my recollection, piecing your question to my knowledge, is the laptop in question was not a State Department laptop. It was not State Department property, and therefore, we don't know—we don't know what was personal information on it or not. And ——

Mr. PALMER. But that ——

Mr. KENNEDY. But also in response to ——

Mr. PALMER. But here is the reason we are here is because she was using non-State Department software, non-State Department servers, non-State Department communications devices, many of which was destroyed. Some of the electronic documents were bleached so that they are not recoverable. And you have got a

laptop and an external storage device that is missing they claim is lost in the mail, and I would just like to know if there was any effort made to recover it because it fits a pattern. And I can't help but be a little bit skeptical about what is coming from the State Department and from former Secretary Clinton about their willingness to provide the information that has been requested.

Mr. KENNEDY. If I might, sir, the FBI has been turning over additional information that we—they have recovered from servers, from duplicates. We are in the process now of going through that material. We are now in the process of the first disk, which we understand contained about 14,900 pages. So we are going through that. We are committed to making sure that the Federal archives are whole, and we will process the 14,900 and then the FBI has given us additional disk material that they have recovered from backups, and we will do those as well and then make the records available.

Mr. PALMER. My time is expired, but the last thing that I want to ask you to do is I would like for you—even though it was not a State Department laptop and not a State Department external storage device, I would like for you to do the due diligence necessary and this—Mr. Finney, if you have a role in this as well—to try to find out what happened to that laptop and whether or not there was an effort to recover it from the post office if, in fact it was actually lost in the mail.

I yield back.

Chairman CHAFFETZ. I thank the gentleman.

I will now recognize Mr. Carter of Georgia.

Mr. CARTER. Thank you, Mr. Chairman, and thank all of you for being here today.

Mr. Finney, I want to start with you, and I just want to make sure I understand exactly your title and your role. Your title is deputy director for Correspondence, Records, and Staffing Division? Is that correct?

Mr. FINNEY. That is correct, sir.

Mr. CARTER. And you have the responsibility of conducting and coordinating FOIA searches in response to FOIA requests?

Mr. FINNEY. That is correct, for the Office of the Secretary, yes, sir.

Mr. CARTER. For the office for the Secretary of State. Mr. Finney, according to a deposition that was given by Karin Lang by Judicial Watch, your office was under the belief that then-Secretary Hillary Clinton didn't use email for work-related purposes, and your office was not aware of this email use until, according to sworn testimony, 2013. Is that pretty much right?

Mr. FINNEY. I don't know the specific dates, but if that is what my director said, that is correct, sir.

Mr. CARTER. Okay. During Secretary Clinton's tenure as Secretary of State, did you know if she was using private email for work-related purposes?

Mr. FINNEY. No, sir.

Mr. CARTER. You did not know that?

Mr. FINNEY. No, sir.

Mr. CARTER. According to the State Department IG report, there were dozens of people who knew about it. They knew that Sec-

retary Clinton was using a personal email account and they knew that she was using a personal server for work, but you didn't know? And according to your title, it would appear to me that you should have known. Why do you think they didn't tell you?

Mr. FINNEY. Sir, I couldn't give you any information on the reason why, sir. I just don't have that information.

Mr. CARTER. Did you ever ask if Secretary Clinton was using a personal email?

Mr. FINNEY. No, sir. The question I asked was when she came on board and even after we saw the picture on the news was does she have a State.gov account? And when they told me she did not, that's where it stopped, sir.

Mr. CARTER. So what does it mean that she doesn't have a State.gov account?

Mr. FINNEY. When she doesn't have a State.gov account, basically we're just looking at as far as the accounts that'll be able to do emails that are assigned to the actual S/ES–IRM, which is our information resource management shop who creates those accounts.

Mr. CARTER. Did that concern you, the fact that she didn't have one?

Mr. FINNEY. No, sir, and the reason why is because when I asked a question and I said—and I was told that not only that she did not have a State.gov account but her prior Secretary did not have a State.gov account as well as the previous one as well. So you're looking at Secretary Rice, Secretary Powell, and Secretary Clinton did not have a State.gov account. So when they told me ——

Mr. CARTER. Okay.

Mr. FINNEY.—that, that's when I said okay. I understand.

Mr. CARTER. Okay. It has been established that obviously Secretary Clinton was using a personal email account to conduct official business. Did you know this?

Mr. FINNEY. No, sir.

Mr. CARTER. Did anyone else know it?

Mr. FINNEY. I can't answer that question, sir. I only know what I know and I didn't know.

Mr. CARTER. The fact that she was using that personal email, should you have known it? Should you have been made aware by your superiors?

Mr. FINNEY. Can I refer that to our director?

Mr. CARTER. No.

Mr. FINNEY. Okay.

Mr. CARTER. I want to know from you. I want to know in your position that you accepted, did you feel like you should have known?

Mr. FINNEY. If she's using a State.gov account or a Gmail account?

Mr. CARTER. A Gmail account.

Mr. FINNEY. Okay. I would say what we do today and is standard is basically as we brief folks as we do today based on the Federal Records Act of 2014, if you're using your personal device, you're required by law to make sure that it's sent to your State.gov account, and that's what we would share.

Mr. CARTER. So you do believe that you should have known. And you are the deputy director for Correspondence, Records, and Staffing Division. When FOIA requests come in, it is your responsibility. You should have known that, correct?

Mr. FINNEY. What I'm supposed to be known is making sure that I've captured all the records for the Secretary. So again, when I conduct our briefing with the agency records officer, we're making sure that we get all the records. So that's where we stand.

Mr. CARTER. So you—and in order to fulfill your responsibilities, you would have had to have known, isn't that correct?

Now, Ms. Lang, I am asking Mr. Finney. Isn't that the way you understand your responsibility?

Mr. FINNEY. To fulfill my responsibilities, I'm responsible for making sure that I get the records for the Office of the Secretary, and so that's one of the things when we brief we're making sure that we get those records, sir.

Mr. CARTER. Okay. Mr. Finney, it is obvious to me that you take great pride in your work, and I think you are an exemplary public servant, but it has got to concern you that you weren't given all the tools to perform your responsibility. It would me if I weren't given all my tools that I needed to perform my responsibility. Does that concern you at all? Do you feel like they were hiding something from you?

Mr. FINNEY. Sir, all I can say is this, is that what my job is to make sure I collect all those records, and so when I was going to process ——

Mr. CARTER. But in order to do that job, you have got to know and you didn't know because they didn't tell you even though they did know.

Mr. FINNEY. Again, I can state what other folks know. I can only tell you what I knew, and I didn't know that. So again, it's me going forth doing my job. My job ——

Mr. CARTER. Okay. And one last question, okay, Mr. Finney. Do you think that they purposefully didn't tell you?

Mr. FINNEY. No, sir.

Mr. CARTER. You don't?

Mr. FINNEY. No, sir.

Mr. CARTER. You know, it is just bothersome to me that you in this responsibility as being deputy director for Correspondence, Records, and Staffing and having the responsibility of filling FOIA requests, yet you didn't know. How can you perform your responsibility? And yet others did know, and they knew that that was your responsibility.

Mr. FINNEY. Again, sir, I can't tell you what they knew. I only can tell you what I knew, and when they knew about that, I couldn't ——

Mr. CARTER. Okay. Mr. Chairman, I have run out of time. Thank you again, Mr. Finney for your service.

Chairman CHAFFETZ. I thank the gentleman.

I will now recognize the gentleman from Wisconsin, Mr. Grothman, for 5 minutes.

Mr. GROTHMAN. Sure, a couple questions for Mr. Kennedy there. Did you ever have a chance to talk ——

Chairman CHAFFETZ. Your mic ——

Mr. GROTHMAN. Did you ever have a chance to talk to Secretary Clinton about Freedom of Information requests regarding other things? Did this ever come up at all during your tenure?

Mr. KENNEDY. No, sir, nor did it come up under Secretary Rice's tenure or when I was executive director of the Secretariat for Secretaries Baker and Shultz. This is handled by a special office who is led by very competent people.

Mr. GROTHMAN. Never talked about?

Mr. KENNEDY. No, sir.

Mr. GROTHMAN. Did you ever meet Ms. Clinton?

Mr. KENNEDY. Every morning, sir, when she was in town.

Mr. GROTHMAN. So all those times and there was never some other Freedom of Information request that you felt was interesting enough that it should even be mentioned?

Mr. KENNEDY. Sir, I did not handle daily Freedom of Information Act requests. We have very, very professional staffs who do that. I responded—I received Freedom of Information Act requests that were brought to me about records I might have. I responded to them.

Mr. GROTHMAN. Okay. Any one of the other three of you, be it Secretary Clinton or Secretary Kerry, have any discussion at all with regard to Freedom of Information requests?

Mr. KENNEDY. I—we certainly have had a number of them of general subjects ——

Mr. GROTHMAN. Not you, I mean the other three. You said you have never talked about it.

Mr. KENNEDY. You added Secretary Kerry, and I so I was ——

Mr. GROTHMAN. The other three of you?

Ms. JACOBS. Sir, I did have a conversation with Secretary Kerry about records preservation and FOIA processing when I was asked to do this job and certainly can tell you that he has a great interest in looking into our procedures and practices to try to improve them ——

Mr. GROTHMAN. Any of the other—and I am not sure. How long were the others of you in your current office when Ms. Clinton was Secretary of State or in the Department?

Ms. LANG. I was in the Department, sir, but I was not in my current position when Secretary Clinton was in office.

Mr. GROTHMAN. Did you ever have any interactions with her about Freedom of Information requests?

Ms. LANG. No, sir.

Mr. GROTHMAN. Okay. Mr. Finney?

Mr. FINNEY. No, sir.

Mr. GROTHMAN. Okay. In Ms. Lang's—this is for Mr. Kennedy again. In Ms. Lang's deposition, she states "The only way that State would have known if Secretary Clinton turned over her emails in response to their request would be their statements on the topic." Is that true? You are kind of just at the mercy of her own statements as to whether everything was turned over?

Mr. KENNEDY. For—currently, sir, there's three kinds of records in the State Department. There are what we call paper records, memorandums. There are telegraphic records and there are email records. The telegraphic records and the paper records are maintained centrally, and that is what we are doing now, as Ambas-

sador Jacobs has outlined, both with the Capstone program and the other new program we're going to have in place by December 31. We will have all records captured.

Mr. GROTHMAN. Okay. Well, obviously, you don't know if you have all records captured because a lot of these records were destroyed, correct?

Mr. KENNEDY. I'm talking about—I thought your question was about the present time. By putting this system in, you will not be ——

Mr. GROTHMAN. The question ——

Mr. KENNEDY. You will not be able to destroy an email record because the—it goes to your machine and it goes to a central repository and it's—and you cannot ——

Mr. GROTHMAN. It was ——

Mr. KENNEDY.—extract it.

Mr. GROTHMAN. There was nothing at the time, though, nothing in place to make sure that these records were maintained at the time Secretary Clinton was Secretary?

Mr. KENNEDY. Prior to 2014 and the change of the Federal Records Act and the new NARA standards, that was not a requirement then. But we—as I said, if I might quickly, sir, I know your time is ——

Mr. GROTHMAN. Sure.

Mr. KENNEDY. The—there—we have not ever talked in this hearing today about there are really two major sources of records in the State Department. That ——

Mr. GROTHMAN. Well ——

Mr. KENNEDY.—the memorandum records and the telegraphic records, those are centrally archived and they are always locked in ——

Mr. GROTHMAN. Well ——

Mr. KENNEDY.—locked down.

Mr. GROTHMAN. I think given, you know, our concerns, our special concerns with regard to Secretary Clinton, I think the most important records are the records that show correspondence with her and people outside the building or outside the Department, right? And ——

Mr. KENNEDY. Many of those, sir, are in our telegraphic and our paper archives. And I say paper archives ——

Mr. GROTHMAN. I ——

Mr. KENNEDY.—they're electronically maintained.

Mr. GROTHMAN. I mean the emails that ——

Mr. KENNEDY. Oh.

Mr. GROTHMAN.—she would have had going back and forth with people outside the building.

Mr. GROTHMAN. There is no question, sir, that we needed to improve our records maintenance. We're now up to 1 billion, 1 billion ——

Mr. GROTHMAN. Okay.

Mr. KENNEDY.—emails per year, and that is a huge challenge and we are meeting it.

Mr. GROTHMAN. I will give you one more question, and—it would seem to me that some FOIA requests are more important than others. I don't mean to say that but it is just true. And obviously when

it deals with the Secretary themselves and particularly a Secretary who, it turns out, had such huge financial dealings or financial dealings that concern her and her immediately family, don't you feel that maybe in responding to these requests you ought to make sure that requests directly affecting the Secretary should bubble to the top?

Mr. KENNEDY. That is very hard to do, sir, when, per statute, I have to respond to every single FOIA request within 20 days. And so in order to avoid more lawsuits, we treat these things as first in and first out, and then we're at least able to assert to the courts that we are trying to move through this in a logical and measured progression.

Mr. GROTHMAN. Thank you.

Chairman CHAFFETZ. Thank you. We are almost done, so I have just a few more questions.

Ambassador Kennedy, when was the first time you knew that Secretary Clinton used a personal email address?

Mr. KENNEDY. I think that ——

Chairman CHAFFETZ. Your microphone, please.

Mr. KENNEDY. That came very, very late in the process, Mr. Chairman. I think it came to me probably in 2014.

Chairman CHAFFETZ. The State Department inspector general report says that in August of 2011 you discussed in an email with Cheryl Mills and others that the Secretary's BlackBerry wasn't functioning "possibly because her personal email server is down." Does that raise any red flags for you?

Mr. KENNEDY. None whatsoever. I knew that Secretary Clinton had a BlackBerry. In fact, I had been asked. She - they had asked about personal BlackBerrys and she—I was told that she had a personal BlackBerry for keeping in touch with her family. So I was aware she had a personal BlackBerry.

Chairman CHAFFETZ. What about a personal email server?

Mr. KENNEDY. I—that—if I remember the exact email you're referring to, Mr. Chairman, that was a—that was in there but the main reason I was on that was regarding a failure of the—her telephone system. I had been working on the telephone system, and this email came back talking about the telephone system and something about the server. And I admittedly never focused on that because I was desperately working to make sure that her classified and unclassified phone systems were restored.

Chairman CHAFFETZ. You received emails from her personal account.

Mr. KENNEDY. Sure.

Chairman CHAFFETZ. You never noticed that during her entire tenure that she was in the State?

Mr. KENNEDY. I received over a 4-year period, you know, a few—a few—there were a few dozen exchanges with Secretary. That was a very, very small number. And since I had never received an email from Secretary Albright, Secretary ——

Chairman CHAFFETZ. I am not talking about anybody but Secretary Clinton ——

Mr. KENNEDY. I ——

Chairman CHAFFETZ.—at this moment.

Mr. KENNEDY. But for context, Mr. Chairman, receiving a few emails, many of them related to things that she was asked at a cocktail party or asked on a weekend, including how to—who can I put someone in contact with ——

Chairman CHAFFETZ. Okay. So let's go ——

Mr. KENNEDY.—for consular services, it did not strike me as abnormal to get an email from the Secretary of State in the evening or on a weekend from her personal BlackBerry.

Chairman CHAFFETZ. From her personal email or personal BlackBerry?

Mr. KENNEDY. I knew she had a BlackBerry.

Chairman CHAFFETZ. I asked about her email.

Mr. KENNEDY. The BlackBerry, she would—that's how she sent emails ——

Chairman CHAFFETZ. I understand that's ——

Mr. KENNEDY.—on her BlackBerry.

Chairman CHAFFETZ.—the device. I am talking about the email and the email address. This is a .com.

Mr. KENNEDY. That's—that comes on a BlackBerry, sir, too. You can get ——

Chairman CHAFFETZ. No, but you are ——

Mr. KENNEDY.—.com on a BlackBerry.

Chairman CHAFFETZ. I want to be precise here. You can have a BlackBerry that had a .gov account.

Mr. KENNEDY. And you can have a BlackBerry that has a .com or a .org or a .edu, sir.

Chairman CHAFFETZ. Yes. And so the question I am asking you isn't about the BlackBerry, even though that was problematic. I am asking you about her—you sending and receiving emails, interacting with the Secretary of State on official business—I have one here, for instance, from December 22 from HDR22@clintonemail.com to you and a couple others. I mean, I have got chock full of examples where you are going back and forth on official business, her using a .com and you never noticed that?

Mr. KENNEDY. No, I didn't say that, Mr. Chairman, at all. I said ——

Chairman CHAFFETZ. You said you were first aware ——

Mr. KENNEDY.—over the ——

Chairman CHAFFETZ.—in 2014. She had already left office.

Mr. KENNEDY. When she had a personal email server.

Chairman CHAFFETZ. There are servers, there are devices and there is email. I am talking about her email address.

Mr. KENNEDY. As I said ——

Chairman CHAFFETZ. Don't conflate them.

Mr. KENNEDY. As I said a minute ago, Mr. Chairman, I said that I had probably three dozen exchanges with the Secretary over 48 months that were with a personal. I have admitted to that.

Chairman CHAFFETZ. Her personal what?

Mr. KENNEDY. Her personal email address, her personal BlackBerry.

Chairman CHAFFETZ. And that didn't raise any flags? You never noticed that?

Mr. KENNEDY. I admitted I noticed it, but I did not find it consequential, the small number of emails over 48 months when I

never received any emails—if I had gotten hundreds and hundreds of emails from her, I would have taken notice ——

Chairman CHAFFETZ. So what is the threshold where you raise the flag? Don't you know that on official business you are not supposed to be using a .com address?

Mr. KENNEDY. That—the rules in place during Secretary's tenure is that you could either print off a copy of it or you could send it to your personal storage device somewhere. And so she was—I had no reason to know that these were not being recorded somewhere. I had no reason to know.

Chairman CHAFFETZ. I think you did. I think this is one of the big errors in all this is because nobody spoke up and said anything. In fact, let me go back. There were some people that spoke up and said this. There were some people that questioned it and they were told not to question it again. And that is in the record.

My time is short here. Let me ask you, Ambassador. Monica Hanley, explain to me the role that—Monica Hanley's role played with Secretary Clinton?

Mr. KENNEDY. Monica Hanley was part of—sort of a cross between scheduling and advance, worked on the Secretary's travel and moved with her when she went to events outside the building.

Chairman CHAFFETZ. She was a personal assistant to the Secretary?

Mr. KENNEDY. A variety of responsibilities.

Chairman CHAFFETZ. Does she still work at the State Department?

Mr. KENNEDY. No, sir, she does not.

Chairman CHAFFETZ. Do you recall when she left the State Department?

Mr. KENNEDY. When Secretary Clinton left. She was a non-career employee.

Chairman CHAFFETZ. And let me ask you, switching gears here, is it legal or illegal to share classified information with somebody who does not have a security clearance?

Mr. KENNEDY. It is inappropriate, I believe. It may be illegal as well. I am not a lawyer.

Chairman CHAFFETZ. Would it concern you that if somebody had access to classified information who did not have a proper security clearance?

Mr. KENNEDY. Yes.

Chairman CHAFFETZ. Did Monica Hanley lose her security clearance when she left the employment of the State Department?

Mr. KENNEDY. Yes.

Chairman CHAFFETZ. Is that the regular routine? When people leave the employment of the State Department, they should lose their security clearances?

Mr. KENNEDY. They don't—if I could say, sir, the security clearances are not lost.

Chairman CHAFFETZ. They don't have them anymore?

Mr. KENNEDY. They no longer have one.

Chairman CHAFFETZ. Fair enough. Fair enough.

Mr. KENNEDY. A loss is ——

Chairman CHAFFETZ. Yes.

Mr. KENNEDY.—an administrative action.

Chairman CHAFFETZ. Agreed.

Mr. KENNEDY. Termination of your employment terminates your access to classified information with some exceptions.

Chairman CHAFFETZ. Do you recall what level of clearance Monica Hanley had while she was at the State Department?

Mr. KENNEDY. Top secret, sir.

Chairman CHAFFETZ. Could you provide to this committee the time that she had the security clearance and when she—her security clearance was taken away? Is that fair?

Mr. KENNEDY. Her security clearance was never taken away. It ended with her employment.

Chairman CHAFFETZ. Sorry, security—and the time that her security clearance ended.

Mr. KENNEDY. I can—we can provide that.

Chairman CHAFFETZ. I would just like to know what level of security clearance that she had along the way.

Did the State Department have any official relationship with the Clinton Foundation?

Mr. KENNEDY. Official—I don't believe it—I would have to check, and I would have to—I don't think it had an official relationship. We don't usually have official relationships with foundations. We deal extensively with huge numbers of charitable foundations, though ——

Chairman CHAFFETZ. But there ——

Mr. KENNEDY.—extensively.

Chairman CHAFFETZ. There is no relationship in your understanding between the Clinton Foundation and the State Department to provide services or products or personnel for the Secretary to do her official business while at the State Department?

Mr. KENNEDY. I am not aware of any.

Chairman CHAFFETZ. Okay. Let me now yield and—or recognize the ranking member, Mr. Cummings.

Mr. CUMMINGS. What would be the—just following up on the chairman's questions. You said that there are exceptions when a person is no longer employed at State that they would maintain, I guess, their ——

Mr. KENNEDY. We ——

Mr. CUMMINGS. What kind of exemptions are there?

Mr. KENNEDY. There is a Presidential Executive order that permits former Presidential appointees to retain a security clearance for the purposes of reviewing materials that they saw, generated, or handled during the—only during their tenure. So I was trying to be very precise ——

Mr. CUMMINGS. Yes, well, thank you.

Mr. KENNEDY.—in response to the chairman's question.

Mr. CUMMINGS. You know, one of the things that is interesting about all of this is that there seems to be a belief by many on this committee that there has been intentional stalling, if not obstruction with regard to providing documents. Can you talk about that, Mr. Kennedy?

Because, you know, I listened to you carefully and you talk about—I am not accusing you of that, but you talk about all the documents, all the emails you have to deal with. You ratcheted up your budget, transferred money so you could deal with more. You

talked about the priorities. You talked about the FOIA 20-day rule. Talk about that, too, because I don't want the American people—I want you to have an opportunity to say how you feel about your office, your employees, and what you are trying to do. I don't want that just hanging out there.

Mr. KENNEDY. Certainly. Thank you very much, sir. Look, we take our FOIA responsibilities very seriously. We're very, very pleased in 2013, for example, where we managed to close more cases than we received. In 2014, then we almost did the same thing. We got in 20,000 cases and closed 18,000. In 2015, though, the curve just started to take off. We got 24,837 requests, which was up 5,000 from the year before, 6,000 from the year before that, up 10,000 from 3 years before that.

The volume of FOIA requests they're receiving are growing exponentially. We have put additional resources into it, but the—it keeps growing. The State Department's operating budget during that same period—and we get great support from the Committees of Appropriations, but they operate under caps. So the State Department's operating budget is down 25 percent in constant dollar terms from 5 years ago. The workload is up maybe 300 percent.

And so we keep putting resources into it, but I cannot yet find a way to keep up. That's why I have teams working with Ambassador Jacobs, new technologies, more personnel. We have an obligation under the law and I believe to the American people, as I believe was Mr. Russell talked about. We believe that this is our responsibility. We are carrying it out to the maximum extent possible. But with these many documents under request—and then one last thing if I might say, Mr. Ranking Member, is that a request to a government agency that does not handle classified information, does not operate in 275 locations around the world with multiple bureaus and responsibilities, that's an easy, easy push.

I believe it was Mr. Grothman's question about, you know—I'm sorry, it was Mr. Palmer's question about timing. They can churn those out very quickly. We get very, very complex national security document requests, and that—those materials contain our material, references to other agencies. We have to coordinate with the intelligence community, with the Defense Department, potentially the Department of Energy, the Department of Justice, Department of Homeland Security. It simply takes a long time to do those. And then we breach the 20-day rule, and then we get sued, which, as the chairman points out, causes us even more—I can—I will never, I don't think—and I hate to admit that because I don't like to admit failure—ever be—think we'll be able to admit that we're going to be able to turn out complex documents ——

Mr. CUMMINGS. It's not because you don't want to ——

Mr. KENNEDY.—in 20 days.

Mr. CUMMINGS.—or you're trying to obstruct or ——

Mr. KENNEDY. No, sir, absolutely not. We have put more and more people, as I mentioned. We were working with 64 people, pushed it to 81, then to 93. Depending on the budget for fiscal year 2017, we pushed up to 118. And we're deploying new technologies and additional, better training for our personnel. When we can automate this process better, especially on the emails, as I mentioned to the chairman a few minutes ago, our telegraphic records

and our memorandum records are much more easily searchable because they are already—they're in a searchable format.

Mr. CUMMINGS. I'm almost ——

Mr. KENNEDY. The emails need a lot of work, and that is what Ambassador Jacobs is directing.

Mr. CUMMINGS. You know, I was sitting here listening to you and I was trying to figure out what makes you guys happy. In other words, when do you say, boy, we really did a great thing, let's go out and have a beer and celebrate ——

Mr. KENNEDY. I'll ——

Mr. CUMMINGS.—because it doesn't sound like sexy work, by the way.

Mr. KENNEDY. Well, I take incredible pride in the competence and the dedication. In order to get those 55—53,000 pages of Secretary Clinton's records out, we had people working, you know, 10, 12 hours a day, 7 days a week, you know, impinging on holidays.

We have an obligation to the American people. We will do everything we can to meet it, but there are certain structural, mechanical, software limitations that we're facing.

There's also the colloquy that I had with Congresswoman Norton about our requirement to protect foreign government information, but yet I don't have the exemption that the Department of Defense, the Department of Energy has. That means we have to classify every one of those documents. That is a specific and time-consuming action, yet if you just marked it with the correct B designation for foreign government information, I think that would take a huge burden off the State Department in terms of responding to routine requests because we have to deal with them as they come in. But it would also take away the misimpression that, oh my God, there were 2,000 emails that were classified confidential, and it's really about somewhere between 60, 70 percent of them were classified confidential only because that was the only way that I have under current statute to protect foreign government information, unlike the Departments of Energy and Department of Defense.

Mr. CUMMINGS. Let me just close up. First of all, thank you for your response. And although I said it jokingly about sexy work, I really—I said it to emphasize that we are grateful for what you all do. I know sometimes you think it is thankless and you hear a lot of complaints, but we do appreciate it.

Mr. KENNEDY. No, it's an honor, sir, to serve.

Mr. CUMMINGS. Mr. Chairman, I just wanted to close by pointing out that we have heard today about a broken and a flawed classification system, and I think if we don't do anything else, we can try to help with the system of classification because it is so serious and can create all kinds of problems. And I am looking forward to working with you in an effort to try to address these issues as best we can.

And with that, I want to thank you all.

Chairman CHAFFETZ. I thank the ranking member.

I do think we need to work collaboratively on not only the classification process but also security clearances because, my goodness, you have millions of people with security clearances. And I still hearken back to what Senator Patrick Moynihan spearheaded some 20, 25 years ago—I can't remember the date—but when he basi-

cally issued a report, a good bipartisan report that said "When everything is classified, nothing is classified. When everybody has a security clearance, nobody has a security clearance." So I do think that is a long-term project that I would love this committee to engage in.

I need to ask one last thing because it does impact the four of you that are sitting here. You have this trove; it is by the tens of thousands. You look at these Federal records that are now suddenly dumped on your lap that you didn't know were there, and then you also look at all the requests, congressional requests, subpoenas, FOIA requests. Media requests sometimes come in as FOIA, sometimes don't.

How do you take those four sets of requests and cross reference it with probably information from Secretary Clinton's Federal records that should have been included? Is the idea that you are just going to throw them all up on the Internet and everybody is going to have to go hunt and peck through the 55,000, or are you going to go back to a subpoena and say, all right, that was actually not as responsive as it probably could have been? This FOIA request was incomplete because it should have included this particular email or her calendar, whatever it might be. How do you take this set of the 55,000—or the pages and now it is tens of thousands more than that. How do you do that and cross reference it with the thousands of requests that had been peppered into the State Department over the last—you know, since 2009?

Mr. KENNEDY. I think there are two ways to do that, Mr. Chairman. We could go back and go through every single previous FOIA request, and that I think would grind to a halt the requests and the efforts we're making now.

I believe the right solution is what we are doing. We are putting all of the emails up on our searchable Web site. So if you ask about Xanadu and we told you we didn't have any records, you could go to this—a special portion of our Web site which has all of the 53,000 Clinton records and you could put in Xanadu and it would find Xanadu for you.

Chairman CHAFFETZ. You are not talking about the album from back in the '70s, are you? I am just teasing. Keep going, yes.

Mr. KENNEDY. Xanadu is my favorite country ——

Chairman CHAFFETZ. Okay.

Mr. KENNEDY.—because it's not a country and I can use it as an example without ever offending anyone.

Chairman CHAFFETZ. I thought you were a big music fan of a particular artist from the '70s.

Mr. KENNEDY. No, I get ——

Chairman CHAFFETZ. It is okay. Keep going.

Mr. KENNEDY.—Shangri La.

Chairman CHAFFETZ. Yes.

Mr. KENNEDY. I think that that is the way for us to best be good stewards of the taxpayers' dollars but also be most and quickest responders to the American people.

Chairman CHAFFETZ. So why not just do that all the time? Forget about FOIA. Forget about subpoenas. If you get stuff, oh, we will just put it on the Internet.

Mr. KENNEDY. Because ——

Chairman CHAFFETZ. Good luck.

Mr. KENNEDY. Because there is foreign government information, Privacy Act information, National Security Act information in the material, and ——

Chairman CHAFFETZ. So you have no plans to go back and redo—what about subpoenas?

Mr. KENNEDY. If someone—we respond to subpoenas. We work very, very closely ——

Chairman CHAFFETZ. No, but if you responded to a subpoena, and I don't have an exact one case and it came across in 2011 and you just got the record here in 2016, are you going to go back and look at that subpoena?

Mr. KENNEDY. We would—for subpoenas, which we would consult with the Department of Justice about what we needed to do ——

Chairman CHAFFETZ. Okay.

Mr. KENNEDY.—to be in compliance with the court ——

Chairman CHAFFETZ. I think I can ——

Mr. KENNEDY.—or the Congress.

Chairman CHAFFETZ. Okay. So that is what I am saying. There is this universe of sort of four areas ——

Mr. KENNEDY. Yes.

Chairman CHAFFETZ.—four buckets, and I hope I am not missing one, but you have FOIA requests, you have subpoenas, you have congressional inquiries, and you finally have media requests, which come in a variety of different formats. So I would appreciate—what is your game plan to deal with this—you didn't ask for this, but this is the consequence of Hillary Clinton's convenience was is you have to deal with it.

So what are you going to do? How are you going to prioritize it? And what is the expectation? If somebody has a subpoena—if a company or an individual or an attorney or whatever it is, there is a subpoena out there, will you be going back and cross referencing that ——

Mr. KENNEDY. Let me take ——

Chairman CHAFFETZ.—for each of those four? And I am not expecting you to do it off the cuff.

Mr. KENNEDY. No.

Chairman CHAFFETZ. I would just appreciate if the State Department would say this is how we are going to deal with it. And if it is not those four buckets, tell me what it is, but at least off the top of my head, that is what ——

Mr. KENNEDY. Well ——

Chairman CHAFFETZ. All I am asking for here is a game plan to deal with that. I don't think it is good enough to just say we are throwing everything up on the Internet and everybody, good luck.

Mr. KENNEDY. That was in response, Mr. Chairman ——

Chairman CHAFFETZ. And the FOIAs ——

Mr. KENNEDY.—to your ——

Chairman CHAFFETZ.—is so—yes.

Mr. KENNEDY. We will review congressional document requests as we continually review them. As you know, Mr. Chairman, we have sent you 186,000 pages, and if it has to be 187,000 or 197,000, we are—we will work with you, as we talked about when I met in your office. For subpoenas, we will talk with the Department of

Justice to see what steps we may have to take and have our lawyers work on that. For the media, I leave the media to take care of themselves.

Chairman CHAFFETZ. They will be so glad to hear that. But if there was a media request ——

Mr. KENNEDY. The media request would be a FOIA request, and therefore, we would—we have ——

Chairman CHAFFETZ. Okay.

Mr. KENNEDY.—made it very clear to the media ——

Chairman CHAFFETZ. At least for those four just what is a reasonable time that you are going to get the committee a game plan on how you are going to deal with this?

Mr. KENNEDY. It will—given the—that the legal question about subpoenas is a complex one, I think it'll have to be a couple of weeks because we have to ——

Chairman CHAFFETZ. End of the month, is that fair, today's date?

Mr. KENNEDY. I can certainly try, but I have to talk to my legal advisor and I have to talk to ——

Chairman CHAFFETZ. Okay. We are going to start ——

Mr. KENNEDY.—the Department of Justice ——

Chairman CHAFFETZ.—waving the red flag saying, hey, you are not being responsive if I don't hear from you by the end of the month. Fair enough?

Mr. KENNEDY. When I have to go outside the State Department, I make no guarantees, Mr. Chairman.

Chairman CHAFFETZ. What do you mean outside the State Department?

Mr. KENNEDY. Talk to the Department of Justice, that's outside the State Department. They're not under my control.

Chairman CHAFFETZ. I just need a good-faith effort because I think you have thousands of people waiting and wondering how this affects these four categories from subpoenas, congressional, Members of Congress, all that.

Mr. KENNEDY. But ——

Chairman CHAFFETZ. That is all I am asking.

Mr. KENNEDY.—on FOIA ——

Chairman CHAFFETZ. I think you get it, okay? I just need you responsive and I need a game plan, and I understand the need to interact at the Department of Justice.

I appreciate the work that you and so many people do at the State Department. We appreciate your attendance here today. And the committee stands adjourned.

[Whereupon, at 1:13 p.m., the committee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON

12

Dear Ms. Cifrino:

The Department of State has a longstanding and continuing commitment to preserving the history of U.S. diplomacy, established in authorities under the Federal Records Act of 1950. I am writing to you, the representative of Secretary of State Colin Powell, as well as to representatives of other former Secretaries (principals), to request your assistance in further meeting this requirement.

The Federal Records Act of 1950, as amended, 44 U.S.C. chapters 29, 31 and 33, seeks to ensure the preservation of an authoritative record of official correspondence, communications, and documentation. Last year, in *Bulletin 2013-03*, the National Archives and Records Administration (NARA) clarified records management responsibilities regarding the use of personal email accounts for official government business. NARA recommended that agencies refer to its guidance when advising incoming and departing agency employees about their records management responsibilities. This bulletin was followed by additional NARA guidance on managing email issued on September 15, 2014. See enclosed.

We recognize that some period of time has passed since your principal served as Secretary of State and that the NARA guidance post-dates that service. Nevertheless, we bring the NARA guidance to your attention in order to ensure that the Department's records are as complete as possible. Accordingly, we ask that should your principal or his or her authorized representative be aware or become aware in the future of a federal record, such as an email sent or received on a personal email account while serving as Secretary of State, that a copy of this record be made available to the Department. In this regard, please note that diverse Department records are subject to various disposition schedules, with most

Enclosures - 3

Ms. Peggy Cifrino,
Principal Assistant to General Colin Powell,
909 North Washington Street, Suite 700,
Alexandria, Virginia 22314.

Secretary of State records retained permanently. We ask that a record be provided to the Department if there is reason to believe that it may not otherwise be preserved in the Department's recordkeeping system.

The Department is willing to provide assistance to you in this effort. In the meantime, should you have any questions regarding this request, please do not hesitate to contact William Fischer, A/GIS/IPS/RA, Agency Records Officer, at (202) 261-8369.

We greatly appreciate your consideration of and assistance with this matter.

Sincerely,

Patrick F. Kennedy

UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON

OCT 21

Peggy Cifrino
Principal Assistant to General Colin Powell
Office of General Colin L. Powell, USA (Ret)
909 North Washington Street, Suite 700
Alexandria, Virginia 22314

Dear Ms. Cifrino:

I am writing regarding the Department's November 12, 2014 request that former Secretary of State Colin Powell provide it with any federal records in his possession, such as an email sent or received on a personal email account while serving as Secretary of State, if there is reason to believe that it may not otherwise be preserved in the Department's recordkeeping system.

You previously advised, with respect to official emails sent on Secretary Powell's private account during his time in office, that the account he used has been closed for a number of years. Based on advice we have received from the National Archives and Records Administration, the Department would nevertheless encourage you – if you have not already done so – to check with the internet service or email provider for the former account to see if it is still possible to retrieve any official emails from Secretary Powell's tenure at the Department. If you do recover any such emails, we would appreciate your forwarding them to the Department.

Thank you for considering this request.

Sincerely,

Patrick F. Kennedy

UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON

November 6, 2015

Laurence Brewer
Acting Chief Records Officer
National Archives and Records Administration
700 Pennsylvania Avenue, NW
Washington, DC 20408

Dear Mr. Brewer,

The Department of State has been working these past months with the National Archives and Records Administration (NARA) regarding the emails of former Secretary of State Hillary Clinton. I am writing to provide NARA additional information regarding the Department's efforts, including information relevant to Paul M. Wester, Jr.'s July 2 letter to Margaret P. Grafeld, Deputy Assistant Secretary for Global Information Services.

Mr. Wester inquired as to steps the Department is taking to implement records management directives it issued in 2014 with respect to senior Department officials. As you know, in March of this year, Secretary Kerry asked the Department's Office of Inspector General ("OIG") to review and make recommendations for improving the Department's recordkeeping practices. Although OIG has not yet issued recommendations, Secretary Kerry appointed a Transparency Coordinator in September to work with Department bureaus and offices on improving Department records systems. It is expected that the Transparency Coordinator will be able to build on the work of the OIG as well as on the ongoing efforts of the Department's records management program, which has been instrumental in reminding all Department employees, including senior officials, of their records management responsibilities, including those regarding email.

The Department is reviewing email management options for the Department through an Electronic Records Management Working Group (ERMWG) that was established in order to meet the requirements for email management by December 31, 2016, as mandated by the President's Managing Government Records Directive. Although a long-term solution will be in place by the end of 2016, the

Department is working on several short-term steps to preserve senior officials' email. In February 2015, the Department's Executive Secretariat began journaling the email of 85 senior officials; as of October, the Executive Secretariat was journaling 112 senior officials. This includes the Deputy Secretaries, Under Secretaries, several senior advisers, as well as the Secretary's staff ranging from his chief of staff to staff assistants. The Department is also automatically journaling Secretary Kerry's email. Any email sent or received on Secretary Kerry's state.gov account is automatically copied and remotely saved electronically. In addition to the above listed officials, the Department began journaling the email accounts of Assistant Secretaries, Principal Deputy Assistant Secretaries, and a limited number of other senior officials in October 2015.

The Department updated its email policy in the Foreign Affairs Manual in October reminding employees that personal email accounts should only be used for official work in very limited circumstances and that under the Presidential and Federal Records Act Amendments of 2014, employees are prohibited from creating or sending a record using a non-official email account unless the employee (1) copies the employee's official email account in the original creation or transmission, or (2) forwards a complete copy of the record (including any attachments) to the employee's official email account not later than 20 days after the original creation or transmission. In addition, the Department's Foreign Service Institute (FSI) provides a variety of training courses, both classroom and online, that include records management. These courses include records management training for Office Management Specialists, Information Management Officers, and orientation courses for new employees. FSI also offers a specialized records management course for all levels of employees and training for State Messaging and Archive Retrieval Toolset (SMART) users.

The Secretary's Executive Secretariat regularly hosts record-keeping workshops for all Seventh Floor Department Principals' offices and employees, including five sessions in 2015. Representatives from the Office of Information Programs and Services (A/GIS/IPS) and the Correspondence, Records and Staffing Division of the Executive Secretariat Staff review senior officials' responsibilities for creating records necessary to document their activities and for the proper management and preservation of their records regardless of physical format or media. They also discuss departing senior officials' responsibility to identify their records prior to departure and to take with them only personal papers and non-record materials, subject to review by records officers to ensure compliance with federal records laws and regulations. Adherence to Department email

requirements in accordance with the Presidential and Federal Records Act Amendments of 2014 is also emphasized at these workshops.

The Executive Secretariat also requires a briefing for all incoming and departing employees assigned to Seventh Floor Department Principals' offices on their record keeping requirements and responsibilities. Upon notification of a senior official's departure, the Executive Secretariat Staff briefs and assists each departing Principal's office with the proper preservation of official records.

In his letter, Mr. Wester also requested that the Department contact former Secretary Clinton's representatives to request the native electronic version with the associated metadata of the approximately 55,000 pages of emails provided to the Department. As set forth in the Department's and NARA's September 17 motion to dismiss in the consolidated cases of *Judicial Watch v. Kerry*, No. 1:15-cv-00785-JEB and *Cause of Action Institute v. Kerry*, No. 1:15-cv-01068-JEB, the Department requested on May 22 that former Secretary Clinton provide an electronic copy of the approximately 55,000 pages of emails, and Secretary Clinton's attorney responded that they would do so. The electronic copy was not, however, provided; Secretary Clinton's counsel advised on August 12 that the email server that was used to store Secretary Clinton's emails while she was Secretary of State and the thumb drives that included electronic copies of the documents she had provided to the Department had been turned over to the Federal Bureau of Investigation (FBI). On September 14, 2015, the Department sent a letter to the FBI requesting an electronic copy of the approximately 55,000 pages. We have not yet received such a copy.

Mr. Wester also advised that the Department may want to reach out to both former Secretary Clinton and former Secretary Colin Powell to see if Department emails could be recovered from any internet service and email providers that they used. On October 2, 2015, the Department requested Secretary Clinton's counsel to confirm that "with regard to her tenure as Secretary of State, former Secretary Clinton has provided the Department with all federal records in her possession, regardless of their format or the domain on which they were stored or created, that may not otherwise be preserved in the Department's recordkeeping system. To the extent her emails might be found on any internet service and email providers, we encourage you to contact them." (Attachment A). On October 8, former Secretary Clinton's counsel wrote to:

> confirm that, with regard to her tenure as Secretary of State, former Secretary Clinton has provided the Department on December 5, 2014, with

all federal e-mail records in her custody, regardless of their format or the domain on which they were stored or created, that may not otherwise be preserved, to our knowledge, in the Department's recordkeeping system. She does not have custody of e-mails sent or received in the first few weeks of her tenure, as she was transitioning to a new address, and we have been unable to obtain these. In the event we do, we will immediately provide the Department with federal record e-mails in this collection. (Attachment B).

On October 21, the Department sent a letter to Secretary Powell's principal assistant similarly encouraging them to check with the internet service or email provider for Secretary Powell's former account to see if it is still possible to retrieve any official emails from his tenure at the Department. (Attachment C). The Department has not as yet received a response.

Finally, please be advised that in letters of March 11, 2015, the Department also requested of former aides to former Secretary Clinton -- Cheryl Mills, Huma Abedin, Jacob Sullivan, and Philippe Reines -- that should any of them be aware or become aware of a federal record in his or her possession, such as an email sent or received on a personal email account while serving in an official capacity at the Department, that such record be made available to the Department. We also advised them of NARA's records management guidance *Bulletin 2013-03* and the additional NARA guidance on managing email issued on September 15, 2014, some or all of which post-dated their service to the Department. The Department has received over one hundred thousand pages of documents from Ms. Mills, Ms. Abedin, Mr. Sullivan, and Mr. Reines collectively, through their representatives in response to the Department's request.

We hope that this information assists in NARA's understanding of this matter. As always, thank you for our continued close collaboration.

Sincerely,

Patrick F. Kennedy

Enclosures

JASON CHAFFETZ, UTAH
CHAIRMAN

ONE HUNDRED FOURTEENTH CONGRESS

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

Congress of the United States
House of Representatives
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6143
MAJORITY (202) 225-5074
MINORITY (202) 225-5051
http://oversight.house.gov

January 19, 2016

The Honorable John F. Kerry
Secretary
U.S. Department of State
2201 C Street NW
Washington, D.C. 20520

Dear Mr. Secretary:

The volume of high profile Freedom of Information Act (FOIA) litigation involving the Department of State has increased sharply in recent years. In fiscal year 2010, the Department experienced a seventy percent increase in litigation costs over the prior year.[1] In 2012, FOIA-related litigation drained the Department's resources to such an extent that the number of requests that were processed decreased by more than 10,000 compared to the prior year.[2] In fiscal year 2014, the Department spent more than two million dollars on FOIA litigation (more than double what the Department spent in 2013), and experienced a sixty percent increase in lawsuits for failing to meet statutory obligations with respect to FOIA.[3]

On January 7, 2016, the Department of State Office of Inspector General (OIG) released a report that may explain why more and more FOIA requesters are turning to an expensive litigation process to get responses to their FOIA requests. The report, titled "Evaluation of the Department of State's FOIA Processes for Requests Involving the Office of the Secretary," described a blatant disregard for FOIA compliance within the Office of the Secretary's Executive Secretariat (S/ES).[4]

The OIG found that searches conducted by S/ES do not meet statutory and regulatory requirements for completeness because "S/ES currently searches Department email accounts only if a FOIA request mentions emails or asks for 'all records,' or if S/ES is requested to do so during the course of litigation."[5] Despite Department-wide policy that requires email searches, the FOIA analyst responsible for S/ES record searches "described the decision to search email accounts to be a discretionary one that is only exercised periodically."[6]

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[1] U.S. Dep't of State, *Freedom of Information Act Annual Report Fiscal Year 2009;* U.S. Dep't of State, *Freedom of Information Act Annual Report Fiscal Year 2010.*
[2] U.S. Dep't of State, *Freedom of Information Act Annual Report Fiscal Year 2012.*
[3] U.S. Dep't of State, *Freedom of Information Act Annual Report Fiscal Year 2013;* U.S. Dep't of State, *Freedom of Information Act Annual Report Fiscal Year 2014.*
[4] Office of Inspector Gen., U.S. Dep't of State, *Evaluation of the Department of State's FOIA Processes for Requests Involving the Office of the Secretary*, ESP-16-01 (Jan. 2016).
[5] *Id.* at *i; see also id.* at 9.
[6] *Id.* at 9.

Attorneys who represent the Department in FOIA litigation stated that FOIA requesters have indeed produced evidence that S/ES falsely attested that no responsive records existed in cases where such records did in fact exist.[7] The OIG report further details multiple other failures at S/ES that directly resulted in litigation, including providing nonresponsive records and withholding responsive records until the Department is forced to litigate.[8]

The Department's repeated failure to comply with the FOIA statute—as detailed in the OIG report—demonstrates either incompetence or purposeful obstruction of the requesters' right to access agency records, or both.[9] The Department's posture with respect to FOIA compliance has resulted in a dramatic increase in costly litigation,[10] and it directly contributes to the Department's inability to meet statutory deadlines, as well as increased backlogs.[11] Further, S/ES's inadequate FOIA operation drains the resources of the Department's entire FOIA program by causing staff to run repeated searches, respond to unnecessary appeals requests, and handle increased inquiries from the requesters.[12]

The Committee's jurisdiction includes FOIA and it is a long-standing Committee priority to ensure that it is implemented effectively. Towards that end, please assist the Committee by producing the following documents and information as soon as possible, but by no later than February 1, 2016:

1. The performance standards for the current Director of Secretariat Staff;

2. A list of names, titles, and dates of employment of all employees with FOIA responsibilities at the Office of Information Programs and Services and at S/ES;

3. For each employee with S/ES FOIA responsibilities within the last ten years:

    a. All performance evaluations, and

    b. A list of all training received and a description of the training;

4. State Department policies and guidance on FOIA search and response procedures;

5. For each of the 417 FOIA requests tasked to S/ES that involved the current and past four Secretaries of State:

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[7] *Id.* at 13.
[8] *Id.* at 13-16.
[9] *Id.*
[10] *Id.; see also* U.S. Dep't of State, *Freedom of Information Act Annual Report Fiscal Year 2014*, at 37.
[11] Office of Inspector Gen., U.S. Dep't of State, *Evaluation of the Department of State's FOIA Processes for Requests Involving the Office of the Secretary*, ESP-16-01 (Jan. 2016), at 6-8; *see also* U.S. Dep't of State, *Freedom of Information Act Annual Report Fiscal Year 2014*, at 43.
[12] Office of Inspector Gen., U.S. Dep't of State, *Evaluation of the Department of State's FOIA Processes for Requests Involving the Office of the Secretary*, ESP-16-01 (Jan. 2016), at 13-16.

b. The documents produced, or a link to the documents in the FOIA reading room; and

c. All records and communications related to each request;

6. A list of all lawsuits filed against the State Department involving FOIA requests in the past fifteen years;

7. A list of all lawsuits filed against the State Department involving FOIA requests tasked to S/ES in the past fifteen years and costs attributable to each lawsuit; and

8. The Department's procedures for certifying to requesters when a request is closed.

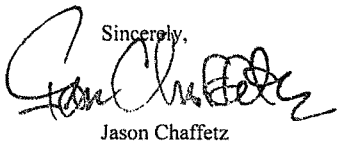
In addition, please make the Department's Transparency Coordinator available for a briefing no later than Tuesday, January 26, 2016.

Please deliver your responses to the Committee on Oversight and Government Reform Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X.

Should you have any questions regarding this request, please contact Katy Rother or Tristan Leavitt of the House Oversight and Government Reform Committee staff at (202) 225-5074. Thank you for your prompt attention to this matter.

Sincerely,



Jason Chaffetz
Chairman

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member
The Honorable Steve A. Linick, Inspector General, U.S. Department of State

United States Department of State

Washington, D.C. 20520

NOV 2 4 2015

The Honorable
Bob Corker, Chairman
Committee on Foreign Relations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Thank you for your letter of October 6 concerning former Secretary Clinton's email practices and the handling of classified information. We hope the information below is helpful.

The primary focus of your letter is an April 10, 2011, email involving Secretary Clinton. In May, the Department posted the email to our FOIA website. Subsequently, through a process not entirely clear to us, the Inspector General for the Intelligence Community (ICIG) apparently was advised by an element of the IC that a portion of the email contained unredacted classified IC information drawn from specific IC intelligence products. The ICIG adopted this conclusion without consultation with the Department. After carefully reviewing the email and the apparent basis for the IC claim, however, we are satisfied that the conclusion was wrong and that the email was properly made public.

The alleged IC source for some information in the email in fact includes information different from the information in the email. Moreover, as we have explained, information contained in classified intelligence products often is also available from unclassified sources. With respect to the email in question, during our July briefing with your staff and in our September 21 letter to you, we described several contemporaneous open source reports that contained the same or similar information as the intelligence product from which the email's content allegedly was drawn. There are other sources, as well.[1] There are also clear examples of U.S. officials publicly briefing similar information that was even more detailed than the information in the email. Thus we cannot agree that the

[1] For example, as reported on CNN.com on April 9, 2011, opposition spokesman Shamsiddin Abdulmolah told CNN "There were some 50 regime pickup trucks with machine guns and rocket launchers that attempted to enter Ajdabiya... ". http://www.cnn.com/2011/WORLD/africa/04/09/libya.war/

information in the email necessarily came from the claimed IC source or that the email released sensitive IC information, including about sources and methods.

To be clear, the Department is not in a position to say that any of these open source reports were, in fact, the basis on which the email was drafted. However, they do confirm the information in the email was discussed and reported publicly at the time. Given the broad availability of these facts at the time (as well as differences between the email and the claimed IC source), one cannot conclude that the information in the email could only have come from a particular classified intelligence product that also contained similar facts.

Unfortunately, the only person who could have clarified the exact provenance of the information in question was Ambassador Chris Stevens, who lost his life in 2012. He may have learned the information through conversations with Department of Defense counterparts, from classified or unclassified briefings, or from unclassified or classified reporting. For example, while posted to Benghazi in April 2011, Ambassador Stevens had regular telephone contact with AFRICOM in addition to access to intelligence products. Given these facts, we cannot conclude that the information came from a specific classified intelligence product; however, given the nature of the widely-reported information itself, we can conclude that the email does not reveal any classified sources and methods.

We also understand that you continue to have questions about what assessments have been made about the April 10, 2011, email. The email originally was provided to the House Select Committee on Benghazi (Benghazi Committee) on February 13, 2015. Pursuant to the terms of an agreement designed to protect sensitive information, the Benghazi Committee committed to considering any redactions requested by the Department prior to publicly releasing the email. The production process for the Benghazi Committee included an interagency review, which included the CIA. During that process, no one from the Department or the interagency identified the April 10, 2011, email as having an IC equity or containing classified information. To be clear, nor did anyone at the Department or in the interagency conclude the email did <u>not</u> contain classified information. The review did not call for that determination, especially since the document would be subject to a thorough review prior to any public release.

In your letters of August 21 and October 6, you refer to this process as a "contradictory classification determination," i.e., a determination that, contrary to the ICIG's later conclusion, the email was <u>not</u> classified. As we have explained, this email was not referred to the interagency for a formal classification

determination prior to its production to Congress. As with our references to open source reporting, we referenced the original interagency process to convey that the information in question is not clearly classified on its face.

Your October 6 letter also references a second "classification determination" regarding the April 10, 2011, email that occurred after the email was released on our FOIA website in May. On August 13, 2015, Mark Ewing in the Office of the Director for National Intelligence (ODNI) informed the State Department that "the email has been declassified and publicly released in its entirety as part of the FOIA process in the spring of 2015." ODNI also stated that the intelligence product on which the IC believes the email was based remains classified. Again, the conclusion that the information in the email was drawn from that intelligence product is unsubstantiated and on its face wrong, given the differences between the information in the email and the information in the product. In any event, however, we are satisfied that its release could not have compromised IC sources and methods and that it was properly made public, and are not taking further action or review with respect to the email.

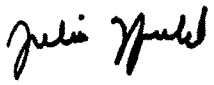
As you know, we have taken several steps to address concerns raised by you and the ICIG. Under our normal FOIA process, Department FOIA staff identify interagency equities for referral to their respective agencies, including the IC. Our approach mirrors other agencies' practices under the FOIA with respect to potentially classified material: the Department engages in an interagency process detailed within Executive Order 13526. In recent months, for purposes of the Clinton FOIA review, the Department has added another layer, by incorporating representatives from the IC into our ongoing review of the former Secretary's emails. These individuals screen documents and identify potential equities for further consideration by their respective agencies.

Finally, with respect to your questions regarding other emails involving former Secretary Clinton, as you know, the FOIA review of former Secretary Clinton's emails is ongoing. We have made clear publicly and otherwise that it is not uncommon for potentially classified information to be identified, and for upgrades to occur during the Department's FOIA review process. At this time, all of the upgrade decisions regarding the documents that have been made public have been made by Department officials pursuant to our classification authorities. We will of course consider IC upgrade proposals as they are made during the ongoing FOIA review and interagency process. We will continue to discuss any interagency equities, including IC equities, with the responsible agencies throughout this FOIA review process. These discussions will include a subset of

two emails, initially notified to Congress by the ICIG as potentially containing classified information, which are now in the appropriate interagency FOIA process.

I hope that this response has been helpful to you. Please let us know if we can provide the Committee with additional information about the ongoing review process.

Sincerely,



Julia Frifield
Assistant Secretary
Legislative Affairs

Cc: The Honorable Benjamin L. Cardin

UNCLASSIFIED U.S. Department of State Case No. F-2014-20439 Doc No. C05793961 Date: 01/29/2016

RELEASE IN PART
1.4(B),B1,B5,1.4(D),B6

From: H <hrod17@clintonemail.com>
Sent: Friday, March 2, 2012 7:47 PM
To: 'sullivanjj@state.gov'
Subject: Re: (SBU) [redacted]

Classified by DAS, A/GIS, DoS on 05/05/2014 ~ Class: SECRET ~
Reason: 1.4(B), 1.4(D) ~ Declassify on: 03/02/2022

1.4(B)
1.4(D)
B1

Wow--not good.

From: Sullivan, Jacob J [mailto:SullivanJJ@state.gov]
Sent: Friday, March 02, 2012 06:15 PM
To: H
Subject: FW: (SBU) [redacted]

1.4(B)
1.4(D)
B1

FYI

From: Feltman, Jeffrey D
Sent: Friday, March 02, 2012 6:14 PM
To: Rice, Susan E (USUN); Ryu, Rexon Y; DiCarlo, Rosemary A (USUN); Brimmer, Esther D; Dibble, Elizabeth L; Walles, Jacob; Hof, Frederic C; Conlon, Steven M; Carle, Lisa M; Irwin, Matthew T; Djerassi, Alexander M; Seche, Stephen A; Bondy, Steven C; Ford, Robert S; Sullivan, Jacob J; Zeya, Uzra S; Sherman, Wendy R; 'ssimon[redacted]; 'Samantha_J._Power[redacted]; 'PTalwar[redacted]; Ziadeh, Susan L; Ried, Curtis R (USUN); Grant, William K (USUN)
Subject: (SBU) [redacted]

B6

1.4(B)
1.4(D)
B1

(SBU) [redacted]

(SBU) [redacted]

(SBU) [redacted]

(SBU) [redacted]

1.4(D)
B1
B5

UNCLASSIFIED U.S. Department of State Case No. F-2014-20439 Doc No. C05793961 Date: 01/29/2016

UNCLASSIFIED U.S. Department of State Case No. F-2014-20439 Doc No. C05793961 Date: 01/29/2016

Jeffrey Feltman
Assistant Secretary
Bureau of Near Eastern Affairs
Department of State
202-647-7209

SBU
This email is UNCLASSIFIED.

UNCLASSIFIED U.S. Department of State Case No. F-2014-20439 Doc No. C05793961 Date: 01/29/2016