

**DOCUMENT PRODUCTION STATUS UPDATE:  
OPM, FBI AND GSA**

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**HEARING**

BEFORE THE  
SUBCOMMITTEE ON GOVERNMENT OPERATIONS  
OF THE  
COMMITTEE ON OVERSIGHT  
AND REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

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## DOCUMENT PRODUCTION STATUS UPDATE: OPM, FBI AND GSA

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Thursday, June 27, 2019

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

The subcommittee met, pursuant to notice, at 10:03 a.m., in room 2154, Rayburn House Office Building, Hon. Gerald E. Connolly (chairman of the subcommittee) presiding.

Present: Representatives Connolly, Raskin, Cummings, Meadows, Hice, and Jordan.

Mr. CONNOLLY. The subcommittee will come to order. Without objection, the chair is authorized to declare a recess of the committee at any time.

The subcommittee is convening a hearing on the document production efforts on the Office of Personnel Management, the Federal Bureau of Investigation, and the General Services Administration in response to various committees' and subcommittee document requests.

I now recognize myself for an opening statement.

I want to thank the witnesses for being here, although I know there could be more comfortable hearings to attend. I regret we need to have this hearing. We're here because OPM, the FBI, and GSA have not substantially complied with the committee's request for documents from several months ago. We've witnessed a stunning lack of cooperation across the administration in response to multiple congressional investigations. For this committee to perform its important constitutional oversight mission, we must have documents and information requested from agencies and that, in turn, requires cooperation.

When the committee or a subcommittee sends a request for documents or a written response for answers, we expect meaningful and timely compliance and not stall tactics and obfuscation. It is because of a breakdown in that process, you three are here today.

Today, we'll be asking each of you to justify your respective agency's troublesome production track record and to identify those hurdles preventing full compliance and to offer tangible solutions so the committee can fulfill its constitutionally mandated oversight duty.

This morning, we will examine the status of responses to three committee and subcommittee investigations. First, the committee is investigating the administration's plan to abolish the Office of Personnel Management. We believe, on our side, certainly, it's a reck-

less proposal that lacks merit, justification, or a coherent rationale. Frankly, doubts have been raised about it on a bipartisan basis.

The subcommittee has requested basic documents from OPM, an agency that runs programs that serve our Federal Government's 2.7 million active employees, more than 2.5 million Federal retirees, and more than 8 million family members who receive healthcare benefits. We requested documents that any project manager would have required for even a simple restructuring of an organization. We asked for a legal analysis of the administration's authority to eliminate OPM, a cost-benefit analysis, and a timeline.

These aren't intrusive requests. We wanted to know whether this would work and whether the administration had done its homework such that it could persuade us as to the merits. We've concluded it won't and they haven't. We've received next to nothing in response to this straightforward document request, and no information provided adequately demonstrates how this plan would improve services to current Federal or former Federal employees and their families.

If we've been unclear thus far, let me take the opportunity to clarify that, from our point of view, this half-baked proposal is going to be dead on arrival here in Capitol Hill.

The administration's intention to dismantle OPM is reckless. OPM's acting director has reportedly boasted about, quote, planning to play chicken with Congress, unquote, by furloughing or taking hostage 150 employees of OPM if Congress did not provide the administration with authority to eliminate the agency by October 1.

This is not a game. These are real lives at stake. OPM's blanket refusal to provide the information the committee has requested is unacceptable. OPM offered additional records just this week. It's ironic that the new records make reference to the documents we've been asking for without providing them.

The latest documents convince us even more that the administration is attempting an end run in order to eliminate more than 130 years of merit-based nonpartisan civil service.

Second, the committee is investigating the abrupt decision to abandon the long-term plan to move the FBI headquarters to a suburban location and replace it with a more costly plan to keep Pennsylvania Avenue location, demolish the existing J. Edgar Hoover Building, and construct a new facility on the same site. Now, in order to make that pivot, the administration had to abandon some of the compelling criteria that had dominated this RFP for well over eight years, and they included consolidation of the work force, they included modernization taking cognizance of 21st century forensics and DNA research, and getting safe setbacks which cannot be achieved at the current location, which has inherently urban setbacks that are inherently insecure.

In February 2018, I wrote the GSA Inspector General and requested that she investigate the GSA's decisionmaking role and the role of the White House, if any, in influencing this decision. In August 2018, the inspector general issued a report that noted inaccuracies in the cost estimates presented to Congress to the tune of more than a half a billion dollars, and revealed that the President

was personally participating in discussions regarding this revised plan, and there are pictures to prove it.

Yet despite all parties within the administration claiming the FBI alone made the decision, the FBI has turned over just 1,300 pages in the last 3-1/2 months, and that includes a last-minute production last night. I might add, in talking to the FBI, I was assured that they have gone through and filtered 1.5 million documents. And when we had that conversation, we were in possession of 490 of them. Some of them redacted; some of them redundant.

While we can admire the production going on at the FBI, we're not so sure we admire the responsiveness to this committee's request. To say that Congress continues to have questions about the abrupt and rushed reversal in the FBI's years' long plan and that the change of heart involved direct communications with the chief executive of the country is an understatement.

Third, the committee is actively investigating the Federal lease of the old post office building between GSA and the Trump Organization. Because President Trump refused to completely divest himself of his global web of business interests, he's currently both the landlord and the tenant, technically, of what is now called the Trump International Hotel.

To date, GSA has refused to turn over financial documents relevant to the committee's investigation that would shed light on any potential conflicts of interest or constitutional concerns with respect to the emolument clause.

Finally, I want to address a troubling development across several committee and subcommittee investigations. All three agencies represented here today—OPM, GSA, and the FBI—have suggested that they are withholding many documents because they are draft documents regarding decisionmaking.

There's a problem. That decisionmaking is exactly the focus of the committee and subcommittee's investigations. It's not a new thing to this Congress. Whether it's the decision to abolish a Federal agency that serves the Federal work force, a multibillion dollar construction decision affecting thousands of FBI staff and, frankly, the security and safety of the country, or the decision to allow our President to serve as both landlord and tenant of his own hotel, which is on government-owned property, such decisionmaking documents are critical to our examination and investigation.

Last week, as I said, the FBI Deputy Director David Bowdich called me personally to discuss the agency's compliance or lack thereof. And, as I said, while I thanked him for the outreach and the 1.5 million documents he said that have been examined, I did give him specific directions in terms of what would satisfy the committee's inquiry and, unfortunately, those conditions have not been met.

It's my hope that today's hearing will provide some answers and prod our fellow Federal employees to cooperate with the committee of jurisdiction so that we don't have to resort to methods of compulsion.

And with that, I turn to my distinguished ranking member, my friend, Mr. Meadows.

Mr. MEADOWS. Thank you, Mr. Chairman. Thank you for your leadership.

I thank all of you for being here this morning. Candidly, document production is something that I know a little bit about, and I guess I've expressed more than a little frustration with some document production. So let me just—instead of doing prepared remarks, let me perhaps get into where the chairman and I agree.

If any of you are here today to say that it's part of a deliberative process that somehow Congress can't see the documents, I would urge you strongly not to go there. You will find the full force of both Republicans and Democrats coming together to acknowledge that that is not a legitimate reason for you to withhold documents.

Second, if you think that somehow the lack of giving documents to this committee is serving a greater purpose, I would assure you that it is not.

Ms. Tyson, you've been very helpful, and I want to just say thank you for your help in trying to get through some of the documents to address some of the concerns. And certainly, as with regards to the FBI building, in working with Mr. Borden and GSA, guys, let me just tell you, I don't agree that we should be building the FBI building and tearing it down and doing it there, and I can tell you that I have been vocal about that. I think it's the wrong decision from a real estate perspective. I think it's a wrong decision in terms of efficiency.

That being said, it's not my call. What is my call is understanding the parameters that went into that decision. I can tell you, in talking to the administration at the highest levels, they're agnostic on whether it gets built in D.C. or Virginia or Maryland or wherever it needs to go. I think most of this, from what I understand, Ms. Tyson, was more of an FBI decision than it was an executive branch decision at 1600 Pennsylvania Avenue, and so keeping documents would allude to nefarious purposes that don't exist.

And so the more that you can be transparent in that, I think on the Democrat side, they will have a divided concern on whether the FBI goes in D.C. or somewhere else, in Maryland or Virginia. I'm not divided, and on our side, I think what you do is keep a small footprint for the FBI headquarters to allow them to work with DOJ and you move the majority of the FBI folks to a more efficient location. That's my take, but again, we have to have the documents to do that.

As it relates to the Trump Hotel and some of those documents that are in the custody of GSA or others, guys, let me just tell you, everybody would have had to have believed that this President was going to get elected when he started those negotiations, and nobody believed it. And so holding back documents on potentially nefarious purposes for the Trump Hotel, I mean, we were all celebrating the fact that the old post office was going to be renovated and used for something other than a food court and a museum. Everybody was applauding that, including the Mayor of D.C., until the President became the President.

So giving us documents that allow us to get to the bottom of this and that they're not fully redacted is key.

From an OPM standpoint, here's one of the areas that I'm very troubled. I don't agree with the decision to take the security clearances and move them to DOD. I think I've been very open about that.



Here's the problem. Congress voted for that, and now what we've got is we've got a situation where, over the objection of Mr. Connolly and I, they voted to move the security clearances to DOD, now we're implementing that and we're coming up with all kinds of problems.

I was very troubled at the IT capacity of OPM, and we have got to do something, whether that's consolidation, whether that's moving the GSA, but let me just tell you, we have a Third World computing system for OPM. No wonder we got hacked, and maybe we're not as vulnerable to hacks because we have a Third World computing system, because all the hackers are on a much more complicated system. So in going there, I just want to say, thank you to the OPM folks for allowing me to really see firsthand what is there.

We've got to find a solution, and this is not about downsizing jobs or getting rid of jobs. In fact, I want the OPM folks to know that that is very, very clear, from my standpoint. We want to make sure that their jobs are protected. At the same time, we cannot continue to do business the way we're doing business from a computing standpoint at OPM, and so I'm using that to say, the more documents that you give us in a transparent fashion, even if you think that it gives the wrong impression, it is better than the impression of us not getting the documents believing that there are bad things that you're keeping from us. Does that make sense?

And so as you have your testimony today, if you do not go to the deliberative process and that we don't have a right to it, because you will find a very unified pushback.

And with that, I will yield back.

Mr. CONNOLLY. I thank my distinguished ranking member, and also thank him, he is consistent, and I really want to thank him and express my admiration.

I mean, look, whether it's a Democratic administration or a Republican administration, all of us have a stake in the integrity of a document request, and all of us need to be consistent in insisting on compliance with those requests. What we end up doing with it, that's a different matter. We may part ways on some decisions, but—

Mr. MEADOWS. Do say.

Mr. CONNOLLY [continuing]. but although, I would agree with almost everything you said, both about the FBI and OPM. I mean, no one's denying there's a problem, but how we get at the solution, has to be examined, and that's really what we're trying to do.

I see the distinguished chairman of the full committee is here, and I want to give Mr. Cummings an opportunity to make whatever statement he wishes to make with respect to the subject.

Welcome, Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. And I want to commend you, Chairman Connolly, for holding this hearing, and I want to commend Mr. Meadows, our ranking member, for—not only for his statement that he just made, but for his spirit of cooperation.

Under this administration, we're witnessing simply a stunning lack of cooperation that is hampering multiple congressional investigations, and appears to be a part of a large scale coordinated pat-

tern of obstruction. I do not say that lightly. It is frustrating when you cannot get documents. It hampers us in doing our job, and it literally takes away power from the Congress of the United States of America. It takes away our power, clear and simple.

The documents that we seek in the investigations we will discuss today are documents that we would have received in previous administrations, many of them without any redactions and without a fight. Some of them are even the types of documents that we did receive in the beginning of the Trump administration before the President declared that he and his administration were, and I quote, fighting all subpoenas.

Come on now. This is the United States of America. Fighting all subpoenas? Congress has a constitutional duty. We have a duty to conduct oversight over decisions that have been made in the executive branch, especially regarding leases or contracts that impact taxpayers. It is our job to ensure that these decisions are being made in the most cost-effective and efficient fashion without favoritism or abuse.

The committee is conducting two separate investigations involving GSA. One of its role in the decision to cancel the plan to move the FBI headquarters to a new site, suburban campus, and the other of GSA's management of the lease for the Trump Hotel in the District of Columbia.

My interest in these topics is not new and should not be a surprise to GSA. I wrote my first letter on the Trump Hotel and questions about a possible breach of the lease shortly after the President was elected in the fall of 2016. Along with several Members of Congress, I first wrote to Administrator Emily Murphy, raising questions about the FBI headquarters eight months ago. Eight months ago.

After becoming the committee chairman, Chairman Connolly, in his great wisdom, and I and others sent new request letters on these topics. One category of documents we have sought are monthly reports that the Trump Organization is required to file to GSA about the Trump Hotel in the District of Columbia.

At the beginning of the administration, we received those reports, but then something worrisome happened. Without explanation, GSA reversed course and just stopped producing them. It is now two years later.

After Democrats were voted into the majority, we again requested that these monthly financial reports be done, but now, instead of producing these documents, GSA questioned the committee, and I quote, legitimate legislative purpose, end of quote. And I got to tell you, at some point—again, this is the kind of language that becomes very frustrating, and the courts have ruled on this very issue.

If that language sounds familiar, it is because it is the same language and the same baseless line of obstruction that the President's personal attorneys had been using to challenge Congress' authority to conduct oversight in other areas. A Federal district court has already rejected this argument decisively. I mean it was an ace, slam dunk, airtight case. I told my staff, I've been practicing law for 40 years, and I've never seen a case this tight, in Missouri. And he wrote this, he says, as long—and this is a quote: As long

as Congress investigates on a subject matter on which legislation could be had, Congress acts as contemplated by Article I of the Constitution, end of quote.

To our witnesses here today, as I close, any other executive branch agency that may be watching, we want the message to be abundantly clear and I have no doubt about it: Congress must obtain the documents necessary to fulfill our constitutional responsibilities. Stop obstructing us. Stop blocking us from doing the job that the voters sent us here to do and to do the job that we swore we would do. If you will not provide those documents willfully, willingly, we will issue subpoenas to compel them.

In closing, let me say this: Today's hearing is not the end of the story. I appreciate that the agencies have made some movement toward compliance in anticipation of today's hearing, but what you have offered is simply not enough. You have not committed to provide us with the unredacted documents that actually explain your decisions.

And to Mr. Chairman and to Mr. Meadows, again, I thank you for the cooperative spirit that we have on this subcommittee. I got to tell you, when I listen to Meadows and I listen to Connolly, they're bending over backward to work with you all, but at some point, you know, you feel like you're getting slapped in the face. I don't know how they feel, but that's how I feel. And it's as if you're thumbing your nose at us, say, we don't care. Well, we got to do better than that.

Last point. You know, a lot of times, people do things and they assume—they'll say, oh, Congress, I did this. I sent you a million pieces. Well, you're supposed to do that. I mean, that's what you are paid to do. You don't get any brownie points for doing what you're supposed to do. If any Member of Congress—if our employees are not doing the things that they're supposed to do, they're fired, period. And we have got to get back to what is normal.

I know there are going to be debates, but as Mr. Meadows said, don't throw stuff out there that just goes against court decisions, I mean, things that you know is basically rope-a-doping.

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

Mr. CONNOLLY. I thank the distinguished chairman, and thank him very much for his guidance on the subject, because I think it's a widely shared view, certainly on this subcommittee, as expressed by my distinguished ranking member and myself.

I want to now turn to the testimony of our witnesses. We have three witnesses: Mr. Stephen Billy, who's the deputy chief of staff of the Office of Personnel Management; Jill Tyson, who's the assistant director of the Office of congressional Affairs for the Federal Bureau of Investigation; Robert Borden, the chief of staff of the General Services Administration.

If the three of you would rise and raise your right hand; it is the tradition of our committee to swear in witnesses.

Do you swear or affirm that the testimony you're about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Let the record show that all three answered in the affirmative. And I thank you, and if you would be seated.

Without objection, your written statements will be entered into the record in full, and we now are going to give you 5 minutes to summarize that testimony. And we'll begin with you, Mr. Billy.

**STATEMENT OF STEPHEN BILLY, DEPUTY CHIEF OF STAFF,  
U.S. OFFICE OF PERSONNEL MANAGEMENT**

Mr. BILLY. Thank you, Mr. Chairman.

Chairman Connolly, Ranking Member Meadows, and members of the subcommittee, thank you for the opportunity to discuss with you today the administration's plan to modernize the infrastructure that supports our merits-based civil service system in the entire Federal work force.

I appear before you today just weeks after Acting Director Margaret Weichert testified before this subcommittee. At that hearing, the committee expressed the need for additional information to help provide clarity behind the proposed reform. In our effort to further accommodate the committee and be as transparent as possible, OPM has redoubled their efforts and is in the process of continuing to gather and provide additional responsive documents to this committee.

The discussion during the recent hearing clarified that broad and bipartisan agreement exists, that fundamental changes are needed to ensure we are capable of meeting the responsibility entrusted to us under the Civil Service Reform Act of 1978 to promote an efficient civil service.

There's reason for optimism that now, possibly for the first time in decades, Congress seems willing to acknowledge root causes in a way that will further the ability of the executive branch to manage the Federal personnel system and advance merit system principles through improving hiring, reskilling, performance management, and the processing of retirement and healthcare benefits.

OPM is committed to working with the subcommittee in providing you information. As the acting director expressed last month, OPM leadership fully respects the oversight function of Congress and this committee.

In line with Chairman Connolly's desire for a reset on the OPM reorganization discussions, OPM is committed to continuing to engage with members of the committee and committee staff. In fact, the agency has already invited multiple Members of Congress to visit our offices for a briefing on the OPM office of the chief information officer and retirement operations, and would look forward to having the Chairman and any other interested members of the subcommittee participate in that briefing.

Acting Director Weichert was pleased to host Ranking Member Meadows just last week for this briefing, and his staff conveyed to us that the visit really highlighted the operational challenges facing OPM and they were highly impressed by the commitment to service of OPM employees. OPM leadership also holds this high regard for our employees.

OPM leadership shares that there's no substitute for seeing first-hand the hard work of our Federal employees as they overcome technological barriers to serve the American people, and we see this briefing as a critical way to continue the dialog between Congress and OPM.

Additionally, we are compiling thousands of pages of information to share with the committee. While we must strive to respect executive branch interests, we are also committed to continuing to engage with the subcommittee members and staff to provide information and receive constructive feedback on the reorganization proposal.

As you are aware, the transfer of OPM background investigations' functions and related staff and resources to the Department of Defense derives from a congressional mandate. This transfer will create a funding gap for OPM that compounds existing structural challenges that the agency faces.

On June 13, OPM and DOD held a tollgate meeting to finalize the DOD buyback of general services OPM would continue to provide to support background investigation operations during Fiscal Year 2020 after the transfer of those functions. That same afternoon, OPM staff briefed staff of this subcommittee and committees from appropriations and the Senate on those deliberations. This is an example of our commitment to transparency and engagement with Congress and what we will continue to display moving forward.

Thank you for having me here today. OPM leadership is heartened that Congress has acknowledged the fundamental issues facing our agency, and we are optimistic that together we can work toward solutions. I look forward to answering your questions and continuing to engage with the committee as we work together toward reforms that best serve the American people.

Thank you, Chairman.

Mr. CONNOLLY. Thank you, Mr. Billy.

I had the opportunity to go to a demonstration outside of OPM earlier this week, and I'm sure it would come as a reassuring message to know how committed leadership is to its work force at OPM, because morale was pretty low.

Mr. BORDEN.

**STATEMENT OF ROBERT BORDEN, CHIEF OF STAFF, U.S.  
GENERAL SERVICES ADMINISTRATION**

Mr. BORDEN. Chairman Connolly, Chairman Cummings, members of the subcommittee, good morning, and thank you for the opportunity to answer your questions about GSA's ongoing efforts to assist the committee.

I joined GSA as its chief of staff in June of last year. Before joining the agency, I spent 23 years working in the House of Representatives, including eight at this committee. Most of my career in the House—

Mr. CONNOLLY. Mr. Borden, excuse me, but I think you also worked for my predecessor, did you not?

Mr. BORDEN. Yes, sir.

Mr. CONNOLLY. Yes.

Mr. BORDEN. Much of my career in the House was dedicated to—and I'm glad his portrait is now hanging back there.

Mr. CONNOLLY. Well, you can thank Mr. Cummings. It took a Democrat to put the Republican chairman's pictures back on the wall. Sorry.

Mr. BORDEN. Much of my career in the House was dedicated to oversight and investigations. In addition to this committee, I worked on significant investigations at the Education and Labor Committee as well as two select investigative committees. I've had the honor of serving two majority leaders as director of oversight. I've also had firsthand experience conducting oversight over four different administrations.

I believe no one has a greater respect for the value of congressional oversight or this committee's role as the House's principal investigator. Administrator Murphy, herself a former congressional staffer, shares my respect.

In the last seven months, GSA has provided more than 34,000 pages of documents to Congress. We have created working groups to coordinate our efforts to respond to each of your requests and committed considerable resources to those efforts.

We have provided more than 17,000 pages of documents to this committee regarding the revised FBI headquarters plan, and nearly 16,000 pages of documents regarding the old post office outlease. Finally, our staff have stayed in regular communication with the committee, offering to focus production efforts on your priorities, sharing our search terms, and at your request, broadening the scope of document searches.

While I understand I am not here today because you are satisfied with our efforts, I do hope my testimony will convey the sincerity of our interests in complying with your requests. We do want to work with you to accommodate the legislative branch's oversight interests, while safeguarding the executive branch's legitimate confidentiality interests.

I thank you for your time and look forward to your questions.

Mr. CONNOLLY. Thank you, Mr. Borden.

Ms. TYSON.

**STATEMENT OF JILL C. TYSON, ASSISTANT DIRECTOR, OFFICE OF CONGRESSIONAL AFFAIRS, ON BEHALF OF FEDERAL BUREAU OF INVESTIGATION**

Ms. TYSON. Good morning, Chairman Connolly, Chairman Cummings, Ranking Member Meadows, and other members of the committee. My name is Jill Tyson. I'm an assistant director of the FBI. I oversee the Office of congressional Affairs and I manage an outstanding team of special agents, professional staff, and attorneys. I'm honored to be here today representing the FBI's 37,000 dedicated men and women.

As a career DOJ employee, I've worked with many members of this committee and also with your staff; however, this is a new vantage point for me as it's my first time testifying. My comfort zone is definitely sitting behind the witness.

I'm here today to discuss the FBI's significant ongoing efforts to provide information to this committee regarding the FBI headquarters project. We've taken a number of steps to respond to the committee, including producing documents on a rolling basis, providing a briefing by a subject matter expert, and offering a second subject matter expert to brief the committee. Before I get into the specifics of those efforts, I'd like to briefly discuss the FBI's need for a new headquarters facility.

The FBI appreciates the committee's interest in FBI headquarters because, as you know, the building has been deteriorating for some time. The FBI headquarters project really began to take shape in 2013. The procurement was canceled in July 2017, however, due to a lack of dedicated appropriated funding. This gave the newly confirmed Director, Christopher Wray, an opportunity to take a fresh look at the project.

As Director Wray has said repeatedly, it is the FBI's strong preference to remain at our current location at 935 Pennsylvania Avenue. This is in order to balance overall mission requirements, including improved security, optimal transportation options for FBI employees, close proximity to our partners and public visitors, and a consolidation of the FBI's national capitol region footprint.

Now turning to oversight. The FBI values the important role of congressional oversight. As Director Wray and Attorney General Barr have stated, the FBI and the Department of Justice are committed to accommodating the committee's informational needs. In every instance, we strive to provide Congress as much information as possible. We must do so without compromising our law enforcement and national security efforts as well as our investigative and prosecutorial responsibilities.

We are committed to working in good faith to accommodate this committee's legitimate oversight interests. We hope the committee will in turn continue to engage in good faith with the FBI and recognize the importance of our law enforcement and confidentiality interests.

The FBI has found the committee's March 6 letter to present some unique challenges, given its breadth and the multiagency, multiyear complexity of the headquarters project itself. Due to the nature of the search for FBI headquarters and renovation in similar terms, our initial collection yielded an exceptionally broad return. We are actively working through it and taking a surgical approach based on what we believe the committee has articulated it is seeking.

Consistent with longstanding and well-accepted accommodations process, the FBI has already taken significant steps to respond to the committee's request for information. Those include: The FBI has surged resources. We have assigned additional agents, attorneys, and professional staff to work on the committee's requests and support the document review. Second, the FBI has provided a briefing by a subject matter expert. Third, the FBI has offered the committee an opportunity to interview the most senior official who oversaw the FBI headquarters project. And fourth, the FBI has produced approximately 1,300 pages of relevant documents. These documents include substantive agency communications, information about relevant meetings, and documents pertaining to the decision to demolish and rebuild the FBI headquarters.

We appreciate the committee's efforts, particularly in the last week, to focus some aspects of its requests. In fact, because of your input, FBI and GSA were able to make a large production of dozens of reports yesterday totaling approximately 800 pages. We believe these are directly responsive to the committee's interests. Such input from the committee will help us be more efficient in our processing of documents and more targeted in the information that

we produce of interest to the committee. This is the type of collaboration that the FBI welcomes and hopes the committee will continue.

In conclusion, the FBI and the Department of Justice recognize that congressional oversight is an important part of our system of government. We remain optimistic that by working together cooperatively, we'll be able to satisfy the committee's oversight interests. We can do this while safeguarding the independence, integrity, and effectiveness of the FBI's vital law enforcement and national security responsibilities. I would be happy to answer the committee's questions.

Thank you.

Mr. CONNOLLY. Thank you.

I would just say, before I call on the distinguished Chairman for his questioning, two points. One is, the use of the word legitimate inquiry. One needs to be very careful. The legislative branch will not be lectured by the executive branch as to what constitutes a legitimate inquiry. That's our business. We decide what's a legitimate inquiry, not you.

We will not be delimited by the executive branch in our inquiries, and I will point out that court rulings uphold this. I'll turn to my professor friend, Mr. Raskin, a little bit later to confirm this, but every court that's ruled on this has said it's an inherent function of the legislative branch and it's up to them to decide the nature of an inquiry, not you.

And I don't know if that's what you meant, Ms. Tyson, in the use of the word "legitimate," and we'll get into that, but I just want to assert that. And second, while I appreciate your version of history in terms of the RFP for the FBI headquarters, unfortunately for you, there's an eight-year history that goes before Mr. Wray's decision or somebody's decision to abruptly change the terms of reference and actually pull the plug on what was about to be an award, and that has more than our curiosity.

So we have different versions of history, and we'll certainly explore that.

The chair now calls upon the distinguished chairman of the full committee, my friend, Mr. Cummings from Maryland.

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

First of all, let me go back, Mr. Chairman, to what you just said. I agree with you a million percent with regard to a legitimate interest and what we investigate. We are blessed on this committee to have broad jurisdiction, and as was stated in Mazars, the Mazars case, I mean, we—they reiterated what you just said. So I want to thank you for saying that.

Now, Ms. Tyson, this committee has asked the FBI to produce documents that memorialize the administration's decision to reverse the longstanding plan to move FBI headquarters to a suburban location. We have been told that no final documents exist.

Ms. Tyson, is that correct?

I can't hear you.

Ms. TYSON. Congressman, as you're aware, the FBI's in the process of reviewing and processing and producing documents. I can only speak to the 1,300 pages or so that we've produced thus far.



Mr. CUMMINGS. So are there really no formal decision documents related to this project?

Ms. TYSON. I believe in the course of our production, sir, you will find a number of documents that do, in fact, indicate the direction and decisions of the FBI headquarters project.

Mr. CUMMINGS. So if true, I find it highly troubling that a decision, you know, relocating thousands of FBI staff and costing billions of taxpayer dollars would be made without significant paperwork explaining that decision. And, Ms. Tyson, we've also requested all of the other documents relating to these discussions and this decision.

Ms. Tyson, will you commit to provide that material to the committee?

Ms. TYSON. Sir, again, we are absolutely committed to pulling, reviewing, processing, and producing documents to the committee.

Mr. CUMMINGS. How many people are working on that particularly production?

Ms. TYSON. Sir, we have multiple divisions working on it. I believe there are at least three or four at this point. We also surge resources in recent weeks in terms of taking agents, professional staff, and attorneys off of other projects in order to expedite the production.

Mr. CUMMINGS. Yesterday, you provided drafts of a joint presentation that was made to the Senate. This was a welcome first step, but you did not produce the communications around the presentations, as we have requested.

Now, Ms. Tyson and Mr. Borden, will you commit to providing the communications related to the development of this presentation soon?

Mr. BORDEN. Chairman Cummings, we've had discussions with your staff regarding the email communications that surround these draft reports that were put together, my understanding, and I could be mistaken, but we'd asked for a date range of those emails and haven't received that yet.

Mr. CUMMINGS. I promise you, we will get them immediately to you. So we get you that date range, you will work within that date range to get us what we want?

Mr. BORDEN. We haven't put eyeballs on those emails yet, so we don't see any reason why we wouldn't be able to turn them over, but we do need to look at them first.

Mr. CUMMINGS. We'll give you the date range.

Ms. Tyson and Mr. Borden, the committee is specifically requesting your decisionmaking materials in draft and final. We have worked with your staff to prioritize those of highest interests and will continue to do so. These documents are key to our investigation as we're trying to understand how the decisions were made, what factors were considered, and who influenced the decision.

Have your agencies decided not to provide the committee with the documents, certain documents?

Ms. TYSON. No, sir, I've not received such instructions.

Mr. CUMMINGS. Can you commit today to provide the committee with these documents?

Ms. TYSON. As my colleague, Mr. Borden, said, we are in the process of pulling and reviewing documents. I can't make a blanket

commitment without having seen the documents, but we are certainly committed to working with the committee and providing as much information as we can.

Mr. CUMMINGS. I understand that many of the documents have gotten stuck in an interagency group that has not decided to produce the documents to us yet. How long have those discussions been going on? What is taking so long? And why has the decision not been made?

First of all, is there a spat in the interagency?

Go ahead, Mr. Borden.

Mr. BORDEN. I'm not aware of any disagreement between the agencies. It does definitely draw out the time it takes to be responsive when we have a lot of agencies to coordinate with, but I'm not aware of any disagreement there, no, sir.

Mr. CUMMINGS. You may go on.

Ms. TYSON. Likewise, Mr. Chairman, I'm not aware of any disagreements. In fact, I think our agencies are working exceptionally well. We've both surged resources and have great lines of communication that are open as a part of this production.

Mr. CUMMINGS. Mr. Chairman, my last question.

Finally, Ms. Tyson, I understand that the FBI has agreed to provide Mr. Richard Haley for a transcribed interview in mid-July in response to our requests. We accept your offer and thank you for agreeing to make him available; however, I want to make one additional comment. Will you commit today to producing Mr. Haley's documents before the interview?

It really works against us, it works against us when we get documents after the interview.

Ms. TYSON. Yes, sir. I understand. I believe that we are trying to process Mr. Haley's documents as quickly as possible. We have been waiting for several weeks to get a date for his interview, and I certainly appreciate that the committee is going to be willing to do that with us.

Mr. CUMMINGS. Very well.

Mr. Chairman, thank you so much for your courtesy.

Mr. CONNOLLY. Absolutely. Thank you, Mr. Chairman.

The gentleman from Georgia, Mr. Hice.

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

Mr. Billy, how many documents—I don't believe in your opening statement that you gave a figure of how many documents have been produced to the committee.

Mr. BILLY. To date, I believe we've produced around 400. We've got a few thousand more that we are finalizing the production of to turn over to this committee.

Mr. HICE. What's taking so long?

Mr. BILLY. So a lot of the documents, as the acting director testified to a few weeks ago, are data and public documents that stretch back decades that we used in our—you know, to analyze the proposal. We're putting those together. We're working to categorize them that would be most helpful the way GAO is looking for them and this committee from the chairman's request, and so—another piece of this is that we're in ongoing process right now through our tollgate meetings, so we don't have a defined set of documents that we're working through.

Mr. HICE. How many people are working to get that job done?

Mr. BILLY. We have multiple people from our general counsel's office, congressional affairs office—

Mr. HICE. And multiple people, it doesn't take multiple people to get 400 pages. That's not a whole lot of pages. It sounds like there's a stall taking place.

Mr. BILLY. Absolutely not, sir. We're committed to providing information and compiling it and getting it to you as quickly as—

Mr. HICE. Any idea of the 400 that have been submitted how much, percentagewise, have been redacted?

Mr. BILLY. Not off the top of my head, sir.

Mr. CONNOLLY. Would my friend yield and—

Mr. HICE. Sure.

Mr. CONNOLLY [continuing]. I'll freeze your time, because you're making such a good point.

We have a total of 524 pages, almost none of them responsive to the direct request we've made. 461 from OPM, 63 from OMB.

But to the point you just made, so we asked for, just tell us, cite the legal authority that you say you have to go forward. That's it. Redacted. The reference the legal authority makes to the meeting they had on the rationale, also redacted.

Now, how the committee can do an inquiry as dispassionately as possible for people to make up their own minds, when that's—that's called responsive. That's part of that just voluminous 400 pages that they broke sweats over to give us. I think any reasonable Member of Congress can look at that and realize—

Mr. HICE. We have a problem.

Mr. CONNOLLY [continuing]. that we have a problem.

I thank the gentleman.

Mr. HICE. Thank you, Mr. Chairman.

And your point is right in line with what the concern is. Mr. Billy, you're not doing your job. There is a stall. It does not take multiple people to get 400 pages, particularly—or 500, whatever it is, particularly when those pages are filled with redactions to questions that have no reason to be redacted.

What is the legal basis for redacting basic answers to questions?

Mr. BILLY. So I'm not an attorney. I'm not able to talk to the specific about that. I know that we are—our attorneys are working to provide as much information as we can. There are some things that, where the legal analysis hasn't been completed, we don't have a legal analysis to provide at this time.

Mr. HICE. Mr. Billy, that's totally unacceptable, your answer, and we expect to get the information that we request. Is that understood?

Mr. BILLY. Yes, Congressman.

Mr. HICE. A couple of weeks ago, Acting Director Weichert was here, and there was a bipartisan call for documents relating to the OPM-GSA merger, specifically the legal analysis for the merger. Do you have any idea when that analysis will be provided to this committee?

Mr. BILLY. So attorneys are working across the agencies that are involved in this to finalize the legal authorities that currently exist, and as soon as that is done, we will provide that.

Mr. HICE. Do you have any idea when that will be done?

Mr. BILLY. I don't have an exact timeline, no, sir.

Mr. HICE. Do you have an estimate?

Mr. BILLY. We are hoping to have it as soon as they're completed. The attorneys are working daily on this.

Mr. HICE. Mr. Billy, frankly, you seem quite ill-prepared for answers to questions that you should anticipate would come from this committee.

What about the \$70 million funding gap? We discussed a little bit of that where that money's going to come from.

Mr. BILLY. So the \$70 million is caused by the mandate from Congress to transition NBIB operations to DOD. We have been able to mitigate that number from \$70 million down to \$23 million. Just two weeks ago, we were in a tollgate meeting with the Department of Defense where we were finalizing the buyback numbers that would cement what our final funding gap would be for next year. We left that tollgate meeting with those numbers and came straight to the Hill to brief the committee staff from this committee, the appropriations, and the Senate committee, so that everybody knew, as soon as we had the information, what that final funding gap would be.

I know that's information that this committee has asked for, as have other committees, and as soon as we had it, we brought it to this committee in an effort to continue engagement and be as transparent as possible.

Mr. HICE. Mr. Borden, you've mentioned some 34,000 documents that have been submitted. Do you have any idea what, percentage-wise, has been redacted and what you have submitted?

Mr. BORDEN. I should know better. To be clear, 34,000 pages of documents. I could probably get a document count for you as well. It's a little—happy to do that if that's helpful.

I don't believe we've made significant redactions in what we've produced to this committee.

Mr. HICE. Okay.

Mr. BORDEN. I'll double check and happy to get you a count on how many redactions there are, but I think they've very minimal, if any, at all.

Mr. HICE. Okay. My time's almost gone. Ms. Tyson, I just want clarification. Was the decision from the FBI location 100 percent made within the FBI?

Ms. TYSON. Sir, although the decision-making predates my tenure in the FBI, my understanding is that the decision was, in fact, made by Director Wray, certainly in close consultation with the Administrator of GSA.

Mr. HICE. So no outside opinions or thoughts or discussions were taken into consideration?

Ms. TYSON. Sir, I believe, as the Director has said repeatedly, that the decision was his.

Mr. HICE. Thank you.

Thank you, Mr. Chairman. I yield.

Mr. CONNOLLY. Thank you, Mr. Hice. And thank you for your commitment to, on a bipartisan basis, to the presentation of documents and the need for unredacted documents.

The chair now calls upon the gentleman from Maryland, my friend, Mr. Raskin.

Mr. RASKIN. Mr. Chair, thank you for calling this urgently important meeting. And I also want to salute Mr. Meadows and Mr. Hice for their thoughtful comments and support for a broad and robust congressional investigatory power and the central importance of document production in the exercise of that power.

I want to welcome all of our witnesses today, especially Mr. Borden, who's a distinguished former student of mine, a prized pupil from the late 20th century. And I can't tell you his grades because of the privacy laws, Mr. Chairman, but maybe another member in the committee will ask him for some more document production on that.

Mr. BORDEN. It's for the best.

Mr. CONNOLLY. If I can interrupt the distinguished gentleman and freezing his time. The one thing Mr. Borden didn't fess up to was that he was a former student of yours.

Mr. RASKIN. I noted he gave a very detailed autobiography, but he excluded that point. I don't want to compromise his objectivity. We never agreed politically, but I always found him to be intellectually very engaged and astute.

So, Mr. Chairman, you and the chairman of the full committee and Mr. Meadows, I think, have made the central point about these hearings, which is that Congress has a broad robust and comprehensive power that's been recognized by the Supreme Court and all the courts to investigate, and that is essential to representative democracy.

I think it was James Madison who made the crucial point when he said, those who mean to be their own Governors must arm themselves with the power that knowledge gives. And that power which belongs to the American people has been vested in the Congress of the United States through the Constitution. We exercise the power of the people to obtain knowledge about whatever it is we want to legislate about. And so it is indeed up to us to determine what we're going to legislate about, and so it's up to us to determine what information we're going to get. And that demonstrates the absolute importance of complete compliance with the document requests of Congress.

Now, I want to tell you a story about our Constitution, and I could proceed Socratically, Mr. Borden, if you want to answer the questions or else I could do it as a little lecture, but there are two provisions in the Constitution I want to focus on.

One is the Foreign Emoluments Clause, which is in Article I, section 9, clause 8, which simply says that everybody in this room and everybody on the floor of Congress and the President of the United States may not collect a present, an emolument, which means a payment, an office or a title from a king, a prince, a foreign government of any kind whatever, of any kind whatever, without the consent of Congress, okay?

And we went for more than two centuries with anybody coming close to creating a problem under the Foreign Emoluments Clause. You know, there were Presidents who got saddles for horses, there were Presidents who were given a Persian rug. All of them came directly to Congress and said, can I keep this or not? And Congress either said, yes, you can keep it, or no, it's a little bit too value.

Turn it over to the State Department or make a deposit with the U.S. Treasury.

There's another clause called the Domestic Emoluments Clause, which is Article II, section 1, clause 17, which says that the President may not receive any emolument from the United States or any of the states beyond his salary compensation. And we can't increase the President's salary and we can't decrease the President's salary, and he can't get a dollar more from a Federal Government or agency.

Now, the story all changes with the Presidential election of 2016 and the inauguration of President Trump, who made a decision not to divest himself of any of his businesses and not to put anything into a blind trust. And since then, there have been reports that 24 different foreign governments have spent money at different Trump enterprises—hotels, office tower, golf courses, and so on.

In 2019 alone, 17 officials of foreign governments stayed at the Trump Hotel just in Washington, DC, from 13 different nations, including Eduardo Bolsonaro, a Brazilian Congressman and the son of the Brazilian President Jair Bolsonaro. Also, the engineer of Brexit and the leader of the British UK party, Nigel Farage, and an official from the administration of Filipino President Duterte. Kuwait, the Kuwaiti Embassy spent between \$50,000 and \$60,000 there on a national day celebration, and so on.

So the money is flowing in from foreign governments to the Trump Hotel, and President Trump continues to collect money from the Trump Hotel, as well as the office tower and the other hotels.

Now, that hotel has a deal with the U.S. Government, through the General Services Administration, for the old post office building, which is Federal property, and they've got a lease. In the lease is a provision which I hope is boilerplate. It should be, if it's not, but I assume it is boilerplate, which just says that no government official, no matter how high U.S. Government or local in the District of Columbia, can derive any value or benefit from the lease. That's an echo of the constitutional prohibition on foreign and domestic emoluments, and yet we know all of this money has been flowing into the administration.

Mr. Borden, is it GSA's position that any of the committee's requests about the lease with the Trump Organization do not serve a legitimate legislative purpose?

Mr. BORDEN. No, sir.

Mr. RASKIN. Well, why is the GSA making arguments, that are also being advanced by the President's personal attorneys, that we can't obtain information about a government lease, a very valuable property which is controlled, owned by the U.S. taxpayers, the old post office building?

Mr. BORDEN. Yes, sir. I believe we're talking about the financial summaries and all the documents and so forth that are produced to GSA under the lease. And the top line message I want to leave with you on that is that there are no documents that we're not willing to talk about producing to the committee working through the accommodation process.

With regards to those financial documents, as in many of our arrangements with our business partners, there's a confidentiality

provision, and the confidentiality provision says that these documents aren't to be produced outside of GSA without—

Mr. RASKIN. It says they may not be turned over to the United States Congress?

Mr. CONNOLLY. I'm going to have to interrupt the gentleman. You may finish, Mr. Borden.

Mr. BORDEN. It doesn't reference the Congress at all. It does reference FOIA, and it's probably a weakness in that provision that's not in there. What it does say is that, with the consent of the tenant, we can do it or if it's required by law. And we are trying to work through the process of figuring out whether we can—and under what terms we can provide those to the committee in reference to the legitimate legislative purpose, when we sought the tenant's consent. That was a question that was posed to us, and we were bringing it back to the committee. It's not our place to answer for you. For this committee, I know very well rule X, clause 4(c), I believe, is quite broad and should be an easy question to answer.

Mr. CONNOLLY. Right. Knowing of your history of this committee, we would assume that your default is to give us more, not less.

Mr. BORDEN. Yes, sir.

Mr. CONNOLLY. Yes. That's what I thought.

Votes have been called. That is to say one vote has been called with respect to the rule. There are about 10 minutes left.

We have time, Mr. Meadows, if you want to—

Mr. MEADOWS. Yes, let me go ahead and go. And maybe—

Mr. CONNOLLY. And then we will recess and return.

Mr. MEADOWS. All right.

So, Ms. Tyson, let me come to you. I think it would be prudent for the FBI and maybe even Director Wray to come in and meet with the chairman and a few others that are very interested, I think would be the best word, in where we go with this.

It is very clear to me, having talked with the President directly, it is very clear with me in talking with a number of people at the White House, that the FBI's location, whether it be in D.C. or anywhere else, they're agnostic. All they want to make sure is that Director Wray and some of the FBI agents can work very closely with DOJ in the proximity.

If you would take the message back, if they're not tuning in, that really revisiting this situation with Mr. Borden's team and your team. I know that everybody feels like the decision has been made. It's going to get more complicated than that, I'm afraid.

But I want to take one thing off the table. If you can get us as many documents as you can to be as transparent as possible with my Democrat colleagues to assure them that the President could care less on whether the location is there or anywhere else, if you would personally go back and look for those documents. And then if you get pushback from the Director or from the Attorney General on giving those documents, will you let this committee know if you're getting pushback on the—delivering those types of documents?

Ms. TYSON. Yes, Congressman. Let me try to answer your questions.

No. 1, I'll be happy to take the message back. No. 2, yes, we're absolutely committed to getting the committee as many documents as possible as quickly as possible.

I'll reiterate a request to the chairman that we've made several times to your staff, which is the more that we can narrow and focus the committee's request, the more expeditiously we can provide those documents.

Mr. MEADOWS. So what they're looking for—and so I'll cut to the chase. What they're looking for is anything that has—they're going to keep their request broad, Ms. Tyson. What they're really looking for is where there was undue influence on the decision to move the headquarters. So I'm not going to speak for the chairman, but I'm going to tell you, I bet that's what he's looking for. So if you will focus that request on that, I think the more you do that, the less pressure you'll get from the chairman. Okay? And that's—

Mr. CONNOLLY. Would my friend yield?

Mr. MEADOWS. Yes, sure.

Mr. CONNOLLY. Not prejudice to his time.

I think he makes a really good point. Two things. One is, aside from even suspicious thinking, and I freely confess we have some of that, it is a complete puzzlement that the FBI could, with a straight face, walk away from a rationale it had been propounding for eight years. I've been to many, many meetings and briefings. And I'm particularly struck by both the consolidation abandonment argument and the urban setback problem, which remains a problem in the current site.

And the second point, and then I'll shut up. I think impliedly what my friend is saying is assume there's nothing there, assume this is as innocent as a newborn babe. The more FBI holds back on documents, the more it does a disservice to the President, given the suspicious nature of this town. And so maybe it's protecting FBI prerogatives, but it's not helping the President.

And I restore my friend's time, and I thank him for allowing my intervention.

Mr. MEADOWS. So, Ms. Tyson, without forcing you to answer. So let me just say, the reason why they're broad is because—not just because of you, because you have been very honest and direct, and you have great credentials from someone I respect very highly at DOJ.

And so in saying that, the reason why it's broad is because we have—time and time again, we have witnesses that come in here and they say, oh, you didn't ask for that, when they knew full well that that's really what we were asking for. And so that's why you get these broad requests. And so you're some—in some ways, it's a function of the games that get played between the executive branch and the legislative branch. And so I don't see you getting that in there.

That being said, I don't tell the FBI how to do law enforcement. And I think it would serve Director Wray well to not tell this Member of Congress how to do real estate well. You know, he's not a real estate guy. And I'm telling you, I fundamentally so disagree with the decision that's made that—and I'm trying to be—but it is wrong. It just is wrong. There is no way it is efficient use of the taxpayers' dollars. Not to say that you shouldn't have a presence



there. I believe you're going to have to have a presence there. But the majority of the campus being outside the city will be cheaper. There's just no way. And I know GSA has all these different studies. But when you compare apples to apples, there's no way that it could be—that it just would not be cheaper.

That being said, we want to balance that function. And so, Mr. Borden, as you all look at that, the documents—I just want to say, GSA has been pretty good on some of the document requests. I will also say that you've got staffers that work with you and that I trust. And yet they worked with me, they didn't work with the chairman.

And so in doing that, we've really got to get to the bottom of some of these documents as it relates specifically to the Trump Hotel. It's a big deal for him, less so for me. And yet I don't think—in fact, I know there's nothing to hide. So I guess what I'm saying, help us get the documents so we can take the political side of this out and start to make legislative questions.

So, Mr. Billy, let me come to you at the end. Ms. Weichert and I—I have high respect for her, and I believe she's trying to do the very best for our Federal Government. In this reorganization, while we may disagree on that, we do agree on the fact that no Federal employee should be—it shouldn't be a slippery slope when Federal employees having to worry about their job. They have that commitment from the chairman, they have that commitment from me.

Some of the lack of information that even in the re-org that we had made—the day I'm at OPM—a headline come out saying that we're furloughing people. And it caught me by surprise. So I'm having a great visit at OPM. You were there and some of your colleagues were there. And I come back to have to answer reporters' questions about furloughing employees. It embarrassed me because I felt like some of those OPM employees may have thought that I knew about that, and I didn't. And yet it's inconsistent with where I am philosophically.

So the more information, Mr. Billy, you can get us as it relates to what you need, the better off we'll be. That make—

Mr. BILLY. Absolutely, Congressman. We're going to work—you know, we're redoubling our efforts to get the information for you and the chairman on this.

Mr. MEADOWS. All right. And we may end up prioritizing some stuff. And so as the chairman prioritizes it, just assume that we're speaking from, you know, the same voice. Okay?

Mr. BILLY. Absolutely.

Mr. MEADOWS. I thank you all for your testimony.

Mr. CONNOLLY. I thank the gentleman.

We're going to have to go into recess because we have one vote, procedural vote, and we will come back as soon as possible.

If Mr. Raskin comes back before us, he is authorized to take the chair and gavel us back into session.

We stand in recess.

[Recess.]

Mr. RASKIN.

[Presiding.] Welcome back to the hearing.

I want to thank the witnesses for their patience. And I will now recognize myself for a second round of questioning.

Let's see. I want to go back to the question of the Domestic Emoluments Clause, Mr. Borden. We talked about the Foreign Emoluments Clause, which was an attempt to guarantee the undivided loyalty of the President and all Members of Congress to the American people and not to foreign powers. And that's why there was this absolute prohibition on payments of any kind whatever coming from foreign governments.

And so that's why we're very concerned to get as much information from the GSA about whatever you know and whatever you can find out about foreign governments using the Trump Hotel for business because of the President's continuing business ownership interest in the Trump Hotel.

But the Domestic Emoluments Clause limits the President to his salary in office. And we can't increase it, we can't reduce it. But also it says that the President cannot receive any other payments from the U.S. Government or from any of the individual United States. And yet we have reports that the GSA gave the hotel \$534,000 in Federal credit for maintaining the historic clock tour. Is that correct? Can I confirm that with you?

Mr. BORDEN. I'd have to get an answer to you in writing on that. I don't know the numbers. I know there is an arrangement where they provide some services for the clock tower, like cleaning services. But I'm speaking off of—

Mr. RASKIN. Okay.

Mr. BORDEN [continuing]. dim memory on this. But I'll get you an answer in writing.

Mr. RASKIN. So without pinning you down right now—although I would love the accurate information later. But without pinning you right down on the number, you can confirm that the GSA does have some arrangement in which it makes a payment to the hotel for keeping up the clock tower which is on the building?

Mr. BORDEN. I'm working off of dim memory here, so I will get that answer to you in writing. But my recollection is there was an arrangement where some services, like cleaning, are provided to the clock tower.

Mr. RASKIN. Gotcha.

Mr. BORDEN. And we're paying for that.

Mr. RASKIN. And in the first few months of the Trump administration, which is the only period in which we have any detailed accurate information at all from the Federal Government, taxpayers funded massive payments to the Trump properties such as the Trump Hotel in D.C. The Department of Defense spent \$147,379.50 on Trump properties, including the Trump Hotel in Washington. The Commerce Department spent almost \$4,000 primarily at the Trump Hotel in the first few months alone. We don't know how much the Department of Commerce spent after that period of time.

The American people have a right to know how much is being spent there. And Congress, on behalf of the American people, has a right to obtain this information because we have to defend the integrity of the business practices of the government.

NBC has reported that \$56,000 has been spent by the Department of Defense, the Department of Agriculture, and the GSA itself at the hotel.

Does the GSA actually occupy rooms at the hotel for business purposes?

Mr. BORDEN. I'd have to check on the facts on that. But we often get tagged for spending that's not ours because it's going through one of our programs like FedRooms—

Mr. RASKIN. I see.

Mr. BORDEN [continuing]. and so forth. Just in general on Federal employees staying at the hotel, as long as fits within the per diem, there's no prohibition on that.

Mr. RASKIN. Well, what legal authority or opinion are you relying on at GSA for continuing to allow Federal agencies and departments to spend money at the hotel or foreign governments to spend money at the hotel?

Mr. BORDEN. I don't believe we have any authority over other agencies or foreign governments where they choose to—

Mr. RASKIN. No, no. I'm sorry. I meant legal authority in the sense of what precedent or what opinion—what legal opinion are you basing your acquiescence to these practices on?

Mr. BORDEN. I'm not aware of a provision in the lease beyond the one that you mentioned in your previous statement that we've already—sort of been discussed, you know. But the agency has made a determination that the tenant is in compliance with that provision.

Mr. RASKIN. Wait. That provision says that no government official can profit and benefit in any way from the hotel. Is that not right?

Mr. BORDEN. I don't want to characterize what the provision does or doesn't mean, but it was a legal opinion—

Mr. RASKIN. Well, you discussed—can you read it to us? Do you have it?

Mr. BORDEN. It might take me a few minutes to—

Mr. RASKIN. Okay.

Mr. BORDEN. Actually, I don't even think I have that one in my binder.

Mr. RASKIN. Maybe I can have someone hand it to me.

But I understood it to be completely clear and unambiguous, crystal clear, that neither an official of the U.S. Government, an elected official of the U.S. Government, nor an elected official in the District of Columbia could benefit in any way from the lease. The GSA's position, I think during the Obama Administration, was that this would prevent the President or any other elected official from deriving profits from the hotel. And that position apparently changed with the new administration. Is that right?

Mr. BORDEN. To my knowledge, there wasn't any official GSA position on that provision in the lease. The legal analysis that was done on that provision in the lease, and as discussed in the Inspector General's report, hinged on the admit to language in that provision. So it was a distinction between a continuing lease versus being entered into a lease, hence the admit to language, I believe, in that provision.

I'm a lawyer by education, but I'm not serving as a lawyer for the agency.

Mr. RASKIN. I gotcha. Well, the inspector general of the GSA raised profound questions about this. In other words, he saw it as

a prohibition on the President being able to collect money from the Trump lease.

I mean, look, the commonsense perception of this is simply that the President as President of the United States, who oversees GSA, is acting as the landlord. But then on the other side, the President is acting as the tenant, so—look, the purpose of the Domestic Emoluments Clause was to say that the President has one way to make money off of his tenure as President, which is his salary. That's it. You're not going to get extra money from the Defense Department and the Commerce Department and the GSA and the State Department. And yet it appears that we're violating that.

The purpose of the Foreign Emoluments Clause was to guarantee the independence of the President so he would be zealously devoted to the American people, not to the United Arab Emirates or Saudi Arabia or Turkey or Azerbaijan or somebody else who comes and decides to spend \$50,000 or \$100,000 at the hotel.

So I guess what I'm troubled about is that we have a sense of urgency about getting to the bottom of this. The chairman of the committee sent on April 12, 2019, to Emily Murphy, the administrator at GSA, a letter asking for a whole lot of stuff that we haven't gotten back yet. For example, all documents referring or relating to Mazars USA LLP related to the old post office. Why? Because when the President acting as a businessman made his deal for the old post office, Mazars had to present all of the documents reflecting the financial condition of his company and where he's getting his money from, who he's doing his business with and so on. We want those documents, but we haven't gotten them.

Do you know why those haven't been produced?

Mr. BORDEN. So you're referring to the documents that—before the lease was initiated establishing sort of financial wherewithal and so forth?

Mr. RASKIN. Exactly.

Mr. BORDEN. We have that request from the committee. There are also some confidentiality provisions regarding those provisions, but we are willing to work with the committee and see how we can accommodate that.

Mr. RASKIN. Yes. I mean, you understand that when Congress makes a request for documents from anybody in the country, everybody's first instinct is to say, oh, we stamped it confidential. We got a rubber stamp, one of those blue ones, and we put it in the ink and then we stamped it confidential.

What does that mean to us? We're the Congress of the United States. We're representing the American people. So everybody has a duty to present documents and witnesses that are being requested by Congress, unless there is a some kind of legal immunity that's been recognized by the Supreme Court.

So I think that stamping a document confidential is beside the point from the standpoint of our wanting to see it. This is a lease that relates to the U.S. Government and it relates to the Constitutional powers of Congress and it relates to prohibitions on money going to the President of the United States.

So, you know, I'm not detecting in your answer any intention to give us this stuff. Is that right?

Mr. BORDEN. I think—I think that's wrong. The first thing I want to say, just in general, about \$55 billion in contracts flow through GSA, and we have a lot of confidential financial information where we make arrangements to protect that information for our business partners, and that's one of the reasons they're willing to do business with us.

However, we're not hiding behind this, and we are actively working with the committee and working our way as we can accommodate the committee's interest. And I would point out the—it's been mentioned that—I believe some of the monthly financial summaries had been produced earlier, and they showed up in *The New York Times* shortly thereafter.

Mr. RASKIN. Okay. Well, when you said you want to work with the committee, what exactly does that mean? In other words, that you do want to produce those financial documents or—I mean, I guess what I'm saying is, where is the blockade? Where's the blockade happening? Because GSA had no problem turning over materials like that before, and now there's a problem turning it over. And is it a problem in GSA? Is it a problem at the White House? Is it a problem with—is it a problem with Trump, the President? Is it a problem with Trump, the businessman? Is it a problem with the Trump Hotel? Like, where is the blockade coming from us obtaining the Mazars document?

Mr. BORDEN. These are agency decisions, and we are trying to treat them. And it's obviously a unique situation, but we're trying to treat them the way we treat any other confidential business documents that the agency holds.

And to answer your earlier question—

Mr. RASKIN. Yes.

Mr. BORDEN [continuing]. which I don't think I got to is it's—the accommodation process, which a number of cases have referred to, is a process where the two coequal branches of government work through, legitimate interests that they're both trying to protect.

Mr. RASKIN. Yes. I see it a little bit differently. We are the law-making branch of government. We represent the people. The President's job is to take care that the laws are faithfully executed, not thwarted, not circumvented, not violated.

And as the district court found in the Mazars case, upholding this committee's power to obtain documents. If this body has the power to impeach the President, which we do, we have, by definition, all of the subsidiary power to get any information that we need in order to investigate the President. And I think that that—that logical syllogism is just inescapable. The President doesn't have the power to impeach Congress. We have the power to impeach the President. So we are not coequal in that sense. We are the people's branch of government. We are the lawmaking authority. We pass the laws. The President's job is to take care that the laws are faithfully executed.

So, you know, I wish there were some way we could break the logjam, because, you know, I've seen this process, and I think it's frustrating to members on both sides of the aisle where people will come from an agency or department and say, well, we're working on it, and so on. And then you don't hear anything from them for 2 or three months. They get called back and they say we're working

on it. We're cooperating. And it looks like a shell game to everybody else.

And so, you know, can you just tell me—this is going to be my final question along this line. What is the legal authority for GSA saying this is—that a government lease, a U.S. Government lease for the taxpayers is confidential and the representatives of the American people in the U.S. Congress can't obtain access to it? Well, what's the legal authority for that? Is there a Supreme Court case? Is there a D.C. Circuit Court case? Is there a U.S. District Court case? Where is that coming from?

Mr. BORDEN. Sir, we're not making a legal assertion about these documents. We're, like I said, willing to work with the committee and try to accommodate the interest. As you know, there isn't Federal rules of oversight procedure. There's not a third-party magistrate calling balls and strikes, you know. But there's not—it's not something where you have motions and assertions and so forth. We are a—

Mr. RASKIN. All right. So you do advance no legal claim that you've got an immunity from us obtaining that document?

Mr. BORDEN. I'm not sitting here advancing that. That would be something for our lawyers to do.

Mr. RASKIN. Okay. Well, but on behalf of the agency—I mean, I thought you just said you're not making a legal argument?

Mr. BORDEN. The point I was trying to make is that the interaction between Congress, a committee of Congress, and agencies of the—entities of the executive branch in this accommodation process isn't taking place in a legal forum. It's a negotiation between equal branches of government.

Mr. RASKIN. Okay. All right. Well, you know, I would love to do whatever we can to sit down and go through the documents, if you could give us a list of the documents that are—

Mr. BORDEN. One thing I would like to emphasize—

Mr. RASKIN. Yes.

Mr. BORDEN [continuing]. is simply I'm not trying to not answer your questions or just keep saying accommodation over and over again, which I recognize that I have, that we are sincerely interested in working through ways to provide these documents to the committee. And we stay in regular communication with the committee, and we know these are a priority for you, and—

Mr. RASKIN. Yes.

Mr. BORDEN. So that makes them a priority for us.

Mr. RASKIN. I mean, I would just say, it is an absolute constitutional imperative for us to do our jobs, having taken an oath to uphold and defend the Constitution of the United States. And we represent the people. And there are very serious reports that are in the media that have come out in different cases that the Domestic Emoluments Clause is being violated frequently. The foreign government emoluments clause is being violated on an almost daily basis.

We have an absolute responsibility to stop that if it's the case. You hold Federal office in America, it's not a money-making operation. America is a great country. If you want to go out and make money, just go out and make money. But if you want to be President of the United States, be President of the United States. Your

job is to collect your salary and do the people's business, not your business. But our job is to make sure that the Constitution is being respected, and the rule of law.

I believe, based on what I've seen, which is not enough, which is why we're here today, but I believe, based on what I've seen, that the Trump Hotel and President Trump are in violation of the lease and the provision, which says that no elected official can be deriving any benefit from the lease, the old post office lease, with the Trump Hotel. I believe the President is in absolute and repeat violation of the foreign government emoluments clause, which provides that the President cannot collect a payment of any kind whatever from a prince, a king, or a foreign government. And I think he's in violation of the Domestic Emoluments Clause, which says that he's limited to his salary and he can't be pocketing money from agencies and Federal departments that spend money at the Trump Hotel or the Trump office tower or Mar-a-Lago or all of these other places.

And what we're getting here, perhaps unsurprisingly but certainly unfortunately, is a stonewalling of the committee.

So we are available 24/7. We will meet day, evening, night, whatever we need to do to convince you that this is information that we've got to get. And obviously, you know, we're in the process where we have been rendering subpoenas. We've been holding people in contempt. We know that President Trump ordered everybody in the executive branch to stop cooperating with congressional investigations. And I think what you saw today was a bipartisan expression of frustration with that attitude. There is nothing illegitimate about the representatives of the people obtaining documents that go to our constitutional duty.

Let me turn for a second to Mr. Billy. Apparently, you testified—I just want to give you a chance to clear this up quickly. You testified that you were not a lawyer, under oath. According to the information the committee has, you do have a JD. It's just that you have a JD but you're not a lawyer. You've not taken the bar. Is that it or—

Mr. BILLY. Correct.

Mr. RASKIN. I gotcha. Okay.

So the—I want to go to the legal underpinnings for the closure of OPM. And so let me come to you, Ms. Tyson, if I could—or, no, Mr. Billy, I'll come to you.

How many formal legal opinions, which would all be responsive to our request, did OPM create or use that assessed the administration's authority to dismantle OPM?

Mr. BILLY. So the administration's proposal is about merging the mission of OPM and the mission of GSA, right, to make sure we have a stable and sustainable platform to deliver on those missions into the future. The legal analysis of what statutory authorities exist today to enact parts of the transaction are still undergoing.

Mr. RASKIN. So are there no existing formal legal opinions that you could hand to us that assessed the administration's authority to engage in this reorganization, as you describe it?

Mr. BILLY. I don't believe that there's any final documents that, you know, are ongoing—part of ongoing analysis.

Mr. RASKIN. Okay. Well, what was the legal analysis or guidance of the administration's authority to order this reorganization before the decision was made? In other words, did you just not consider it a matter for the lawyers?

Mr. BILLY. So the proposal came out at a high level in June 2018, right? And that put forward kind of the view of what we believed as the possible, and we're continuing to now go through a tollgate process, which is a Six Sigma process. It's a best practice in the private sector for transformational change of this kind. And as part of that, we address the legal analysis.

And so that is one workstream within the tollgate process. Additional workstreams include understanding what the impacts to our customers and stakeholders would be, impacts to our work force, how we can mitigate different things, how we can create more efficiency and effectiveness and service delivery. And so we—

Mr. RASKIN. So those were all the policy considerations you looked at. But why is the legal authority redacted in the documents that OPM provided yesterday?

Can we put that back up on the screen? I just want everybody to take a look at them.

So legal authority, that whole—that whole section is redacted out, which is the one part you think it would be the easiest to turn over because it's an interpretation of the law, right? So can you tell us why the legal authority is redacted in these documents that we received yesterday?

Mr. BILLY. Yes. So it's an ongoing process. The legal analysis is ongoing. And at this time, we don't have a final analysis to share.

Mr. RASKIN. Oh, okay. But why does that give you the authority to redact that? In other words, you're saying that the legal analysis might change or there might be more information given, but why is that justification for blacking out what the legal authority was when that memo was written?

Mr. BILLY. So our acting director has instructed us to provide as much information as we can to this committee, that we fully respect the oversight authority of this committee and want to continue working with you. Our attorneys are providing us, you know, guidance right now as we're going through interagency workings to determine what we're able to present and when. We're not withholding anything, you know, at this time. We're just going through the process of releasing it all.

Mr. RASKIN. Gotcha.

All right. Mr. Billy, so if I'm reading the last several responses correctly together, there was no detailed legal analysis—or there was no legal analysis at all done of the proposed merger before it was accomplished. In other words, there was just an assumption that it was lawful. But how do you know that OPM has not been the subject of an illegal scheme? How do you know that you're not violating the law?

Mr. BILLY. So we know that—as you said, there's an assumption that some parts likely are able to be executed under current statutory authority. We are going through that analysis, and there are different authorities that could potentially move different pieces, how they would affect people versus resources. And so we are going through that full analysis together with our inner agency partners



in this. And we provided a legislative proposal to this Congress to work with us to engage in the legislative process, because we believe it would be the most effective and efficient way to carry out the entirety of the transformation that we critically need for the agency to help us deliver on merit system principles moving into the future.

Mr. RASKIN. Okay. Well, look, in closing out this part of the hearing, I just want to say that OPM made a very significant decision, essentially, to dismantle itself or to dissolve itself without first obtaining any formal opinion as to the legality of this decision. And my first take on it, having looked at some of the legal authorities, is that the proposal is likely illegal.

The administration came up with a plan and never took care to vet it or to assess its lawfulness. And there are obviously dramatic implications for this. So we will have to, you know, proceed there.

I would just say generally, and I'll offer Mr. Meadows a chance to close if he has anything to say, but that I hope that all of the witnesses heard a very strong bipartisan sense that our ability to get documents is essential to our lawmaking function. And we will never allow that to become a partisan football. We are all committed that when Congress seeks documents, it gets the documents, because the lawmaking function is integral to what we do.

Mr. Meadows.

Mr. MEADOWS. Yes. So I would just agree with that. We just need the documents. This is not my first request for documents. When we were in the majority, Mr. Borden knows that I'm there. And when we talk about—Ms. Tyson knows that. Mr. Billy, maybe less so. But I can assure you that getting—and pages does not equal quality.

And I guess what I would rather have is quality—I know it's real good to come here and be able to say, well, we gave you 30,000 documents or 30,000 pages. And I appreciate you making the difference, Mr. Borden, because you know it all too well. But enough said. I think you all have gotten the message.

Here's the only other thing I would say. For the people who produce—that actually do your production, I would encourage all three of you to check in with them, because sometimes they act like they're making great progress, only to find out that they're not making as much progress as they would indicate. Oh, we're making great progress, and yet when you look at it, it's—and so if you would just check with the people who do the production, because I think some of that can be streamlined.

Listen, this is not your first rodeo for any of the three of you. So if you'll just do that, I think we'll all be happy.

And I have nothing further to add, so I'll yield back.

Mr. RASKIN. Mr. Meadows, thank you very much.

Thank all of you for coming. And we look forward to working with you to complete the production process. Many thanks.

The meeting is adjourned.

[Whereupon, at 12:01 p.m., the subcommittee was adjourned.]