



Transcript of **Stephen D. Mull**

Date: June 3, 2016

Case: Judicial Watch, Inc. -v- U.S. Department of State

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1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF COLUMBIA

3 - - - - - x

4 JUDICIAL WATCH, INC., :

5 Plaintiff, :

6 v. : Civil Action No.

7 U.S. DEPARTMENT OF STATE, : 13-cv-1363(EGS)

8 Defendant. :

9 - - - - - X

10
11 Videotaped Deposition of STEPHEN D. MULL

12 Washington, DC

13 Friday, June 3, 2016

14 10:05 a.m.

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19
20 Job No.: 111881

21 Pages 1 - 140

22 Reported by: Debra A. Whitehead

Videotaped Deposition of Stephen D. Mull
Conducted on June 3, 2016

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1 Videotaped Deposition of STEPHEN D. MULL, held at
2 the offices of:

3

4

U.S. DEPARTMENT OF JUSTICE

5

20 Massachusetts Avenue, NW

6

Washington, DC 20035

7

(202) 514-3319

8

9

10

11 Pursuant to notice, before Debra A. Whitehead, an
12 Approved Reporter of the United States District Court
13 and Notary Public of the District of Columbia.

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A P P E A R A N C E S

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A P P E A R A N C E S C O N T I N U E D

ALSO PRESENT:

- MELISSA CALL, Department of Justice
- DEREK FOX, Video Specialist
- THOMAS J. FITTON, President, Judicial Watch
- GREGORY LAUDADIO, Judicial Watch
- CAROLINE WOLVERTON, Department of Justice

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By Mr. Bekesha	9

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1	P R O C E E D I N G S	10:04:49
2	VIDEO SPECIALIST: Here begins Tape Number	10:04:49
3	1 in the videotaped deposition of Stephen D. Mull in	10:04:57
4	the matter of Judicial Watch, Inc., versus U.S.	10:05:03
5	Department of State, in the United States District	10:05:07
6	Court for the District of Columbia; Civil Action	10:05:10
7	Number 13-CV-1363.	10:05:14
8	Today's date is June 3rd, 2016. The time	10:05:21
9	on the video monitor is 10:05. The videographer	10:05:25
10	today is Derek Fox, representing Planet Depos.	10:05:30
11	This video deposition is taking place at	10:05:35
12	20 Massachusetts Avenue, Northwest, Washington, DC.	10:05:39
13	Would counsel please voice-identify	10:05:44
14	themselves and state whom they represent.	10:05:46
15	MR. BEKESHA: Michael Bekesha, on behalf	10:05:49
16	of Judicial Watch.	10:05:50
17	MR. ORFANEDES: Paul Orfanedes, on behalf	10:05:50
18	of Judicial Watch.	10:05:50
19	MS. COTCA: Ramona Cotca, on behalf of	10:05:53
20	Judicial Watch.	10:05:53
21	MR. PETERSON: James Peterson, on behalf	10:05:53
22	of Judicial Watch.	10:05:53

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1	MS. SHAPIRO: Elizabeth Shapiro, on behalf	10:05:53
2	of the Department of State.	10:06:01
3	MS. WOLVERTON: Caroline Wolverton, on	10:06:01
4	behalf of the Department of State.	10:06:05
5	MS. BERLIN: Lara Berlin, Department of	10:06:06
6	State.	10:06:07
7	MS. BERMAN: Marcy Berman, Department of	10:06:09
8	State.	10:06:11
9	MR. MYERS: Steven Myers, for the	10:06:11
10	Department of State.	10:06:12
11	MR. FITTON: Tom Fitton, President of	10:06:17
12	Judicial Watch.	10:06:17
13	MR. LAUDADIO: Gregory Laudadio, Judicial	10:06:21
14	Watch.	10:06:24
15	VIDEO SPECIALIST: The court reporter	10:06:25
16	today is Debbie Whitehead, representing Planet	10:06:25
17	Depos.	10:06:25
18	Would the reporter please swear in the	10:06:25
19	witness.	10:06:25
20	STEPHEN D. MULL,	10:06:25
21	having been duly sworn, testified as follows:	10:06:36
22	MR. MYERS: And Ambassador Mull reserves	10:06:36

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1 the right to read and sign at the end of the 10:06:38
2 deposition. 10:06:40

3 EXAMINATION BY COUNSEL FOR PLAINTIFF 10:06:43

4 BY MR. BEKESHA: 10:06:43

5 Q Good morning, Mr. Mull. My name is 10:06:43
6 Michael Bekesha. I'm an attorney with Judicial 10:06:45
7 Watch. I'm here to ask you a few questions about 10:06:48
8 one of Judicial Watch's Freedom of Information Act 10:06:51
9 lawsuits against the Department of State, 10:06:54
10 specifically questions surrounding the creation, 10:06:56
11 purpose, and use of the Clintonemail.com system by 10:06:59
12 then Secretary of State Hillary Clinton and Huma 10:06:59
13 Abedin, to conduct official government business. 10:07:02

14 Before we begin, could you please state 10:07:05
15 and spell your name, for the record. 10:07:07

16 A Sure. It is Stephen, S-T-E-P-H-E-N, Mull, 10:07:09
17 M-U-L-L. 10:07:13

18 Q Thank you. Also, before we begin, I would 10:07:15
19 like to go over a few ground rules. Your counsel 10:07:17
20 may have already talked to you about them, but it 10:07:19
21 will hopefully help the deposition go more smoothly. 10:07:21

22 If you don't hear one of my questions or 10:07:24

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1 don't understand one of my questions, please let me 10:07:26
2 know. Happy to repeat the question or rephrase the 10:07:29
3 question. 10:07:31

4 Also, it's important that you respond out 10:07:32
5 loud. If you shake your hand -- head or make any 10:07:34
6 hand gestures, the court reporter can't record that. 10:07:37

7 Also, things will go a lot more smoothly 10:07:40
8 if you wait until I'm done answering the questions 10:07:43
9 or your counsel is done objecting. It's a lot 10:07:45
10 easier for the court reporter to record if we're not 10:07:47
11 speaking over each other. 10:07:50

12 With that, could you just give me a brief 10:07:52
13 background about your tenure at the State 10:07:55
14 Department? 10:07:57

15 A Yes. I'm a Foreign Service Officer since 10:07:57
16 1982. I have served a variety of overseas posts and 10:08:00
17 domestic assignments. I currently serve as the U.S. 10:08:07
18 government's lead coordinator for the implementation 10:08:07
19 of the Iran nuclear deal. 10:08:11

20 Q Thank you. We're primarily going to focus 10:08:13
21 on your time as Executive Secretary. But before we 10:08:17
22 get there, just had a couple of questions about some 10:08:19

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1 of your previous posts. 10:08:22

2 Between 1998 and 2000, you were a Deputy 10:08:23

3 Executive Secretary of the State Department? 10:08:28

4 A Yes. 10:08:29

5 Q And what were your responsibilities in 10:08:30

6 that role? 10:08:32

7 A I was responsible for coordinating 10:08:34

8 Secretary Albright's travel to Europe and to 10:08:37

9 international organization events, as well as events 10:08:43

10 in the former Soviet Union; coordinating the policy 10:08:46

11 support for her engagement in issues involving those 10:08:52

12 areas; and supervising subcomponents of the 10:08:56

13 Executive Secretariat. 10:09:01

14 Q Did any of those subcomponents include 10:09:02

15 responding to FOIA requests or document requests? 10:09:05

16 A There were people in the Executive 10:09:10

17 Secretariat responsible for handling the processing 10:09:13

18 of those. I did not have immediate responsibility 10:09:16

19 for that. 10:09:19

20 Q It was another Deputy Secretary that had 10:09:20

21 that responsibility, if you recall? 10:09:22

22 A Well, the responsibility for FOIA requests 10:09:25

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1 typically rests with what later came to be known as 10:09:31
2 the Office for Correspondence and Records. One of 10:09:35
3 the Deputy's executive secretaries would have been 10:09:41
4 responsible for supervising that office. 10:09:42

5 Q Okay. But that wasn't you. 10:09:43

6 A I think part of the time -- I can't 10:09:45
7 remember. Part of the time I had -- I had 10:09:51
8 supervised it. 10:09:53

9 Q Okay. And then from 2009 -- I'm sorry, 10:09:55
10 from about August 2008 to June 2009, you were the 10:10:00
11 senior advisor to the Undersecretary of State for 10:10:03
12 Political Affairs? Is that -- 10:10:06

13 A Yes, I was that for those dates. But I 10:10:09
14 continued in that role until June of 2010. 10:10:12

15 Q Okay. All right. And you were working 10:10:14
16 the Undersecretary for Political Affairs, Bill 10:10:22
17 Burns, at the time? 10:10:25

18 A That's right, yes. 10:10:26

19 Q Okay. So you were in that position when 10:10:26
20 Mrs. Clinton became Secretary of State. 10:10:29

21 A Yes. 10:10:32

22 Q Okay. Did you, while you were in that 10:10:33

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1	position, did you ever e-mail, correspond with	10:10:38
2	Mrs. Clinton via e-mail?	10:10:42
3	A Not that I recall.	10:10:43
4	Q Okay. Did you know her e-mail address	10:10:43
5	during that time period?	10:10:46
6	A No.	10:10:47
7	Q Okay. And then, as you said, after you	10:10:47
8	were -- after that position you became the Executive	10:10:50
9	Secretary?	10:10:55
10	A Yes.	10:10:56
11	Q And when did that start?	10:10:56
12	A In June of 2010.	10:10:59
13	Q And how did that come about? Is that a	10:11:00
14	Senate-confirmed position?	10:11:04
15	A No.	10:11:06
16	Q Okay. So who appoints that position?	10:11:06
17	A The Secretary of State.	10:11:13
18	Q Is that a position you applied for or -- I	10:11:14
19	mean, how -- how do you come about being that	10:11:17
20	position?	10:11:19
21	A Well, I recall in the spring of 2010 the	10:11:22
22	Secretary's chief of staff, Cheryl Mills, had asked	10:11:30

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1 if I would be interested in being considered for the 10:11:33
2 job. I said yes. I interviewed with her, and some 10:11:37
3 time after that was offered the appointment. 10:11:42

4 Q And did you know Cheryl Mills before that 10:11:44
5 time period? When did you first know Cheryl Mills 10:11:48
6 or have an opportunity to meet Ms. Mills? 10:11:51

7 MR. MYERS: Objection. Beyond the scope 10:11:53
8 of discovery. 10:11:55

9 Q You can answer the question. 10:11:56

10 A I suppose our offices were -- were not 10:12:03
11 that far from each other. I suppose I may have met 10:12:05
12 her towards the end of 2009, early 2010. I -- I 10:12:08
13 can't recall exactly. 10:12:12

14 Q Okay. Did you know Mrs. Clinton prior to 10:12:13
15 her becoming Secretary of State? 10:12:16

16 MR. MYERS: Objection. Beyond the scope 10:12:17
17 of authorized discovery. 10:12:19

18 Q You may answer the question. 10:12:21

19 A Can you clarify what you mean by "know"? 10:12:22

20 Q Sure. Not know of her, but had you had an 10:12:25
21 opportunity to meet her prior or did you ever work 10:12:29
22 with her prior to she becoming Secretary of State? 10:12:33

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1 A I served as her control officer when she 10:12:37
2 visited the American Embassy in Poland when I worked 10:12:41
3 there in the mid -- in the mid '90s. 10:12:46

4 Q Okay. So let's -- prior to you becoming 10:12:47
5 Executive Secretary, who was the Executive 10:12:52
6 Secretary? 10:12:55

7 A Daniel Smith. 10:12:55

8 Q Okay. And he held that position until 10:12:56
9 June of 2010? 10:12:59

10 A Yes. 10:13:00

11 Q Okay. Let's talk a little bit more 10:13:00
12 generally about the Executive Secretariat. 10:13:04

13 What's the general purpose of the 10:13:07
14 Executive Secretariat? 10:13:10

15 A It serves as a link between the Secretary, 10:13:11
16 the Deputy Secretaries of State, the 10:13:14
17 undersecretaries of the State Department, with the 10:13:17
18 rest of the building, in providing administrative, 10:13:20
19 logistics, communications, and policy formulation 10:13:23
20 support. 10:13:29

21 Q Okay. And the Executive Secretary is the 10:13:29
22 head of that office? 10:13:31

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1	A	Yes.	10:13:33
2	Q	Okay. And approximately how many people	10:13:33
3		work within the Office of the Executive Secretariat?	10:13:36
4	A	I can't recall exactly, but I think it's	10:13:40
5		200, 250 people, perhaps.	10:13:43
6	Q	Okay. And then under the Executive	10:13:44
7		Secretary, you had, was it four deputies reporting	10:13:47
8		to you at that time?	10:13:50
9	A	Yes.	10:13:51
10	Q	Okay. And did each of them have different	10:13:51
11		responsibilities?	10:13:54
12	A	Yes.	10:13:55
13	Q	Okay. Did one of those deputies have	10:13:56
14		responsibility in overseeing what -- I guess it's	10:14:01
15		the Office of Correspondence and Records?	10:14:05
16	A	Yes.	10:14:08
17	Q	Who was that deputy when you started in	10:14:08
18		2010?	10:14:11
19	A	I can't recall which of the -- which of	10:14:17
20		the four had line responsibility my first year.	10:14:20
21	Q	Okay. Do you recall the subsequent years?	10:14:23
22	A	Yes.	10:14:26

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1 Q Okay. When do you first recall who the 10:14:27
2 deputy was, and what was the time period? 10:14:30

3 A My second year, from the summer of 2011 10:14:31
4 until I left the position in 2012, the deputy 10:14:37
5 responsible for overseeing that office was Pamela 10:14:43
6 Quanrud. 10:14:46

7 Q Could you spell her last name, please? 10:14:46

8 A Yes. Q-U-A-N-R-U-D. 10:14:48

9 Q Okay. So you don't recall -- I think you 10:14:51
10 already did answer this. But you didn't recall who 10:14:56
11 had that position before -- 10:14:58

12 MR. MYERS: Objection. 10:15:00

13 Q -- before she came? 10:15:00

14 MR. MYERS: Asked and answered. 10:15:01

15 Q Was she a deputy -- was she a Deputy 10:15:05
16 Secretary before the summer of 2011? 10:15:08

17 A She started as Deputy Executive Secretary 10:15:10
18 in summer of 2011. 10:15:12

19 Q Where was she before that; do you recall? 10:15:13

20 MR. MYERS: Objection. Beyond the scope 10:15:18
21 of authorized discovery. 10:15:19

22 Q You may answer the question. 10:15:20

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1	A I seem to recall she was a Deputy	10:15:23
2	Assistant Secretary in the Bureau of European and	10:15:26
3	Eurasian Affairs.	10:15:29

4	Q	Okay. Thank you.	10:15:30
---	---	------------------	----------

5	What did -- what's the basic role and	10:15:32
6	purpose of the Office of Correspondence and Records?	10:15:34

7	A It provides archiving responsibilities and	10:15:38
8	retrieval responsibilities for official documents	10:15:42
9	that are produced as either the briefing or policy	10:15:47
10	formulation process in the State Department.	10:15:50

11	It has responsibility for responding to	10:15:54
12	FOIA requests that are routed to the Executive	10:15:58
13	Secretariat from -- for handling from the Bureau of	10:16:03
14	Administration.	10:16:06

15	Q	Okay. And --	10:16:07
----	---	--------------	----------

16	A And for tracking receipt of and responses	10:16:08
17	to correspondence to the Secretary and other State	10:16:14
18	Department principals.	10:16:18

19	Q I guess that leads me to the next	10:16:20
20	question: Does -- is that -- is that office the	10:16:22
21	records -- the archival and retrieval for the entire	10:16:25
22	State Department or just for what falls within the	10:16:28

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1 Office of the Secretary or the Executive 10:16:32

2 Secretariats? 10:16:35

3 MR. MYERS: Objection. Vague and 10:16:35

4 compound. 10:16:36

5 Q You may answer the question. 10:16:37

6 A For the -- the Office of Correspondence 10:16:39

7 and Records performed that function for the offices 10:16:44

8 the Executive Secretariat supported. 10:16:46

9 Q Okay. And what offices were those, if you 10:16:48

10 recall? 10:16:51

11 A Well, as I said earlier, the Office of the 10:16:55

12 Secretary, the deputy secretaries, the 10:16:57

13 undersecretaries of the State Department, as well as 10:17:00

14 a number of smaller offices that reported directly 10:17:02

15 to the Secretary of State. 10:17:05

16 Q Okay. And how much interaction would you 10:17:06

17 have -- I guess who was the director of the Office 10:17:10

18 of Correspondence and Records during your time 10:17:14

19 period? 10:17:15

20 A Mr. Clarence Finney. 10:17:16

21 Q Did he change -- was he consistent from 10:17:17

22 2010 through 2012 when you left? 10:17:21

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1	MR. MYERS: Objection. Vague.	10:17:23
2	Q Was it just one person, or did that	10:17:25
3	change, did that office change hands at some point	10:17:28
4	during your tenure?	10:17:30
5	A He was the director of that office during	10:17:31
6	my tenure. Towards the end of my tenure we began	10:17:33
7	moving to merge that office with the Office of	10:17:38
8	Secretariat staff.	10:17:42
9	Q Okay. And when did that merger take	10:17:42
10	place?	10:17:44
11	A I think it was -- I can't remember	10:17:44
12	exactly. I think it formally took place after my	10:17:46
13	departure.	10:17:48
14	Q Okay. Do you know approximately how many	10:17:49
15	employees worked for Mr. Finney?	10:17:52
16	A I can't recall exactly.	10:17:54
17	Q Okay. How much interaction did you have	10:17:57
18	with Mr. Finney during your two years as Executive	10:17:59
19	Secretary?	10:18:06
20	A Usually once, once a day.	10:18:06
21	Q Okay. And he -- he reported directly	10:18:07
22	to -- I'm not going to pronounce Pamela's last name	10:18:15

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1	correctly. Could you remind me how you pronounce	10:18:19
2	that?	10:18:22
3	A Quanrud.	10:18:23
4	Q Quanrud. He reported directly to -- to	10:18:23
5	her?	10:18:26
6	A Yes, during the --	10:18:26
7	Q During the --	10:18:26
8	A -- time that she had, yes.	10:18:27
9	Q Okay. And how frequently would you talk	10:18:28
10	to Ms. Quanrud about issues within the Office of	10:18:30
11	Correspondence and Records?	10:18:37
12	A Not very often. I couldn't quantify it.	10:18:38
13	Q Okay. Would you -- if you had questions	10:18:42
14	or if there were issues within that office, would	10:18:45
15	you talk to Mr. Finney, or would you talk to	10:18:48
16	Ms. Quanrud first? I'm just trying to get a sense,	10:18:50
17	was a bureaucracy involved or a hierarchy?	10:18:53
18	MR. MYERS: Objection. Vague and	10:18:56
19	compound.	10:18:57
20	Q If you understand the question, you may	10:18:57
21	answer.	10:18:59
22	A Well, it -- we would have a daily staff	10:19:02

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1 meeting in -- in the Executive Secretariat, of all 10:19:06
2 of the deputies and office directors within the 10:19:08
3 Executive Secretariat. Those meetings typically 10:19:15
4 lasted for 15 minutes. 10:19:19

5 We -- so if there were issues relating to 10:19:20
6 that office and its operations, it would typically 10:19:23
7 come up in those meetings. 10:19:26

8 Q Okay. And those meetings would be you and 10:19:28
9 the four Deputy Executive Secretaries? 10:19:30

10 MR. MYERS: Objection. Assumes facts not 10:19:32
11 in evidence. Mischaracterizes prior testimony. 10:19:34

12 Q You may answer the question. 10:19:36

13 A Yes. And the office directors. 10:19:38

14 Q Okay. How many office director -- I'm 10:19:40
15 just trying to get a sense of lay of the land. How 10:19:42
16 many office directors would have been a part of that 10:19:45
17 meeting, as well? 10:19:47

18 A Usually four. 10:19:59

19 Q Okay. And I guess probably would have 10:20:00
20 been easier, what were those four offices that they 10:20:03
21 were directors for? 10:20:05

22 A Well, there -- one of the Deputy Executive 10:20:07

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1 Secretaries was dual-hatted as the Executive 10:20:10
2 Director of the Executive Office of the Executive 10:20:13
3 Secretariat. So he was both a deputy and an office 10:20:15
4 director. He would have been there. 10:20:18

5 The director of the operations center, 10:20:20
6 State Department operations center, the director of 10:20:23
7 the Secretariat staff, the director of 10:20:28
8 correspondence and records, and the director of 10:20:31
9 the -- our information management section, S/ES-IRM, 10:20:36
10 information resources management. 10:20:40

11 Q Okay. And during your tenure was the 10:20:43
12 director of S/ES-IRM, was that John Bentel? 10:20:46

13 A Yes. 10:20:51

14 Q Okay. Was he the director your whole time 10:20:51
15 as -- when you were Executive Secretary? 10:20:54

16 A Yes. 10:20:56

17 Q Okay. Thank you. 10:20:56

18 You mentioned the office of the 10:20:59
19 Secretariat staff. What is it? What is that? 10:21:02

20 A Secretariat staff is also known as the 10:21:05
21 line. It's an office of 20 to 30 personnel 10:21:07
22 responsible for both advancing and managing the 10:21:12

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1 Secretary of State's overseas travel, as well as 10:21:15
2 managing the paper flow of official memoranda and 10:21:19
3 briefing material from the State Department to the 10:21:24
4 Secretary and other principals of the State 10:21:27
5 Department. 10:21:32

6 Q Would that paper flow include issues 10:21:32
7 related to e-mail, or was that just official memos? 10:21:35

8 A Could you -- when you say "paper flow," 10:21:43
9 relating to e-mail? 10:21:46

10 Q Yeah. I mean, you were just talking about 10:21:47
11 paper flow, and I just wasn't sure if some of that 10:21:50
12 paper, some of that -- some of those issues included 10:21:52
13 e-mail correspondence. 10:21:54

14 A Typically not. These were memoranda, 10:21:57
15 decision memoranda, policy memoranda, background 10:22:02
16 papers, talking points for meetings, and -- and so 10:22:05
17 forth. 10:22:10

18 During the course of my assignment we 10:22:10
19 transitioned to an electronic system for entering 10:22:13
20 those memoranda. But it wouldn't normally fit into 10:22:17
21 the definition of e-mail. 10:22:20

22 Q Okay. What -- what system was that that 10:22:21

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1	was -- you transitioned -- transitioned into using?	10:22:24
2	MR. MYERS: Objection. Beyond the scope	10:22:26
3	of authorized discovery.	10:22:27
4	Q You may answer the question.	10:22:29
5	A The Everest system.	10:22:30
6	Q Could you just briefly describe what the	10:22:32
7	Everest system is?	10:22:37
8	MR. MYERS: Objection. Beyond the scope	10:22:37
9	of authorized discovery.	10:22:38
10	Q You may answer the question.	10:22:39
11	A It was an electronic channel for creating	10:22:41
12	decision briefing memoranda, talking points for	10:22:48
13	meetings, in terms of getting clearance within the	10:22:51
14	State Department and submitting it up to the	10:22:56
15	Secretary's office.	10:22:59
16	Q Was the Everest system also an archival	10:23:00
17	system for those records, as well?	10:23:04
18	MR. MYERS: Objection. Beyond the scope	10:23:06
19	of authorized discovery.	10:23:07
20	Q You may answer the question.	10:23:08
21	A The Everest system is -- was and is	10:23:10
22	searchable.	10:23:14

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1	Q	Okay. Thank you.	10:23:15
2	A	But it was not the official record	10:23:16
3		function of -- of the department.	10:23:20
4	Q	Okay. Was there another system that would	10:23:22
5		have had that official record-keeping archival	10:23:26
6		system?	10:23:30
7		MR. MYERS: Objection. Beyond the scope	10:23:30
8		of authorized discovery.	10:23:32
9	Q	You may answer the question.	10:23:33
10	A	Yeah. I mean, the correspondence and	10:23:36
11		records unit would capture those documents in a	10:23:37
12		system called, at the time, STARS.	10:23:42
13	Q	Could you talk a little bit about STARS,	10:23:47
14		please?	10:23:50
15		MR. MYERS: Objection. Beyond the scope	10:23:50
16		of authorized discovery.	10:23:51
17		And I'm going to instruct the witness not	10:23:53
18		to answer the question. This has nothing to do with	10:23:54
19		the discovery that's been authorized by the court.	10:23:57
20	Q	Did the STARS system -- if a FOIA request	10:24:01
21		came in to the office, would the STARS system be	10:24:04
22		searched?	10:24:07

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1	A	I don't know.	10:24:09
2	Q	Okay.	10:24:10
3	A	Or can't recall, I guess.	10:24:13
4	Q	Sure. We -- we can come back to that.	10:24:15
5		So we talked a little bit about -- I keep	10:24:19
6		forgetting the name of that office, Office of	10:24:22
7		Correspondence and Records. That's S/ES-CR.	10:24:26
8		Is that correct?	10:24:28
9	A	S/ES-CR.	10:24:30
10	Q	Okay. And that office was in charge of	10:24:33
11		responding to FOIA requests? FOIA requests for	10:24:37
12		records within the Office of the Secretary.	10:24:43
13	A	Yes.	10:24:46
14	Q	Okay.	10:24:46
15	A	Or responsible for channeling it to the	10:24:48
16		responsible individuals.	10:24:53
17	Q	Okay. So I guess we'll take a step back,	10:24:54
18		also.	10:25:09
19		You're aware of the Freedom of Information	10:25:09
20		Act?	10:25:12
21	A	Yes.	10:25:12
22	Q	Okay. While -- when you were Executive	10:25:12

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1 Secretary, were you trained or provided guidance 10:25:16
2 about the Freedom of Information Act? 10:25:19

3 A I don't recall formal training. I do 10:25:23
4 recall getting briefed on the function as I assumed 10:25:26
5 the responsibilities. 10:25:30

6 Q Okay. And what specific responsibilities 10:25:31
7 did you have when it came to Freedom of Information 10:25:34
8 Act? 10:25:38

9 A In terms of my immediate work 10:25:39
10 requirements, I don't believe I had any specific 10:25:42
11 within my work requirements. 10:25:45

12 However, I was ultimately responsible for 10:25:46
13 everyone in the Executive Secretariat, including 10:25:49
14 those who had line responsibility, for performing 10:25:51
15 Freedom of Information Act activities. 10:25:56

16 Q Okay. Thank you. 10:25:58

17 If there was a -- did any staff ever come 10:26:00
18 to you with questions about the Freedom of 10:26:04
19 Information Act? 10:26:08

20 A Not that I recall. 10:26:08

21 Q Okay. Were you involved in 10:26:09
22 troubleshooting issues when it came to the Freedom 10:26:10

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1 of Information Act? 10:26:13

2 A I can't recall exactly any particular case 10:26:17
3 in which someone would have come to me. It's 10:26:23
4 possible that if the person conducting a search, 10:26:26
5 that the management of that office may have asked 10:26:33
6 for help, but I can't -- in terms of directing 10:26:37
7 people to be responsible. But I can't remember any 10:26:40
8 specific such case. 10:26:43

9 Q Okay. Thank you. 10:26:44

10 During your, I think you call it the 10:26:45
11 deputy meeting, deputy and director meetings that 10:26:49
12 you said were daily, did the Freedom of Information 10:26:53
13 Act -- was it discussed during those meetings? 10:26:57

14 A I can't recall a specific circumstance, 10:26:59
15 no. 10:27:01

16 Q Okay. If FOIA requests came in concerning 10:27:01
17 e-mails or records of Mrs. Clinton while you were 10:27:06
18 Executive Secretary, do you know who would have been 10:27:09
19 responsible for processing those FOIA requests? 10:27:11

20 A All FOIA requests that were directed to 10:27:16
21 the Executive Secretariat by the Bureau of 10:27:19
22 Administration would go to the working-level 10:27:21

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1 contacts within the Office of Correspondence and 10:27:25
2 Records. 10:27:28

3 They would then be responsible for 10:27:28
4 contacting individual offices for whom the Executive 10:27:31
5 Secretariat is responsible, to convey the -- those 10:27:37
6 requests. 10:27:41

7 Q Okay. Do you know who those contacts 10:27:42
8 would have been for the office -- for Mrs. Clinton, 10:27:44
9 for the Secretary? 10:27:46

10 A I can't recall. 10:27:48

11 Q Okay. And those would have been 10:27:49
12 individuals that would have reported to Mr. -- 10:27:51
13 ultimately reported to Mr. Finney? 10:27:53

14 MR. MYERS: Objection. Mischaracterizes 10:27:57
15 prior testimony. 10:27:59

16 A When you say report to, do you mean be 10:28:00
17 super -- 10:28:02

18 Q Within his office. They would have 10:28:03
19 been -- he was the director of CM, or CR. So would 10:28:04
20 they have been within the -- the contacts, would 10:28:07
21 they have been -- the point of contacts that would 10:28:10
22 have initially received -- the work -- I think you 10:28:13

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1	called them the working level contacts?	10:28:15
2	A Uh-huh.	10:28:17
3	Q Would they -- they were in the office that	10:28:17
4	Mr. Finney was director of?	10:28:18
5	MR. MYERS: Objection. Vague and	10:28:21
6	compound.	10:28:22
7	A So you're saying the people -- did the	10:28:23
8	people -- who do you mean by "they"?	10:28:25
9	Q Sure. Sure. No, not a -- you know, I	10:28:27
10	guess I'm just trying to get -- I know it's -- the	10:28:30
11	FOIA requests start with IPS, and then it comes in	10:28:32
12	to -- in to the Executive Secretariat. So I'm	10:28:36
13	wondering if you knew who the first point of contact	10:28:39
14	was within the Executive Secretariat when a FOIA	10:28:42
15	request came in for records related to Mrs. Clinton.	10:28:47
16	A It would have been somebody in the Office	10:28:52
17	of Correspondence and Records.	10:28:55
18	Q Okay. And then once somebody in the	10:28:55
19	Office of Correspondence and Records received that	10:28:57
20	FOIA request, there would be another point of	10:28:59
21	contact, depending on which specific office within	10:29:03
22	the Executive Secretariat?	10:29:05

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1 A So the Executive Secretariat was 10:29:09
2 responsible for performing such functions for a 10:29:12
3 range -- the range of all of its clientele, the 10:29:16
4 Office of the Secretary, the deputy secretaries, the 10:29:19
5 undersecretaries, and a number of other smaller 10:29:21
6 offices. 10:29:24

7 The Office of Correspondence and Records, 10:29:24
8 as the procedure was explained to me, when they 10:29:28
9 received such requests, they would then contact each 10:29:31
10 of those offices that the Executive Secretariat 10:29:35
11 supported, to perform followup searches. 10:29:38

12 Q Okay. Do you know who the point of 10:29:45
13 contact it would have been within the Office of the 10:29:46
14 Secretary? 10:29:48

15 MR. MYERS: Objection. Asked and 10:29:48
16 answered. 10:29:49

17 Q You can answer the question. 10:29:51

18 A I -- I don't remember. 10:29:52

19 Q Okay. Thank you. 10:29:52

20 We talked a little bit about archival, or 10:29:58
21 archiving. What about inventorying records when an 10:30:01
22 individual left? 10:30:06

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1 MR. MYERS: Objection. Beyond the -- 10:30:07
2 well, objection, beyond the scope of discovery, and 10:30:09
3 it's vague and ambiguous. I don't know what the 10:30:11
4 question is. 10:30:14

5 Q Did the office of the Executive 10:30:14
6 Secretariat have any responsibility for inventorying 10:30:17
7 records when a senior official was leaving? 10:30:23

8 MR. MYERS: Objection. It's beyond the 10:30:25
9 scope of authorized discovery. And for that reason 10:30:27
10 I'm going to instruct the witness not to answer the 10:30:29
11 question. 10:30:30

12 Q The Office of the Executive Secretariat 10:30:36
13 was responsible to -- for responding to FOIA 10:30:38
14 requests for certain offices within -- within the 10:30:41
15 Office of Executive Secretariat. Correct? 10:30:46

16 A Yes. 10:30:53

17 Q Strike -- 10:30:53

18 A But also for those other offices supported 10:30:54
19 by the Executive Secretariat. 10:30:56

20 Q Okay. The -- and I can go through the -- 10:30:58
21 I just want to go through the offices. The Office 10:31:02
22 of the Secretary of State, is that correct, is one 10:31:05

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1	of them?	10:31:07
2	A Yes.	10:31:08
3	Q The Office of the Deputy Secretary of	10:31:08
4	State?	10:31:12
5	A Well, there were two departments. But,	10:31:13
6	yes, both -- both of the deputies.	10:31:15
7	Q Okay. The Office of the Deputy Secretary	10:31:17
8	for Management Resources?	10:31:21
9	A Yes.	10:31:22
10	Q The -- what about the Office of the	10:31:22
11	Undersecretary for Political Affairs?	10:31:24
12	A Yes.	10:31:26
13	Q And then I think the last one is the	10:31:26
14	office of the counselor of the department?	10:31:29
15	A Well, there are a number of other	10:31:34
16	undersecretaries as well that the Executive	10:31:36
17	Secretariat supported.	10:31:38
18	Q Okay.	10:31:39
19	A Both of those, but also others.	10:31:40
20	Q What are -- what are the other ones?	10:31:42
21	A Well, they've gone through name changes.	10:31:46
22	When I was there it was the Undersecretary for	10:31:49

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1 Economic and Business Affairs, the Undersecretary 10:31:52
2 for International Security Affairs and Arms Control, 10:31:57
3 the Undersecretary for, I believe it was called 10:32:02
4 Global Affairs, the Undersecretary for Management, 10:32:07
5 the Undersecretary for Public -- Public Diplomacy. 10:32:16

6 Q Okay. Thank you. 10:32:19

7 A And there were other additional offices 10:32:24
8 attached immediately to the Office of the Secretary 10:32:26
9 of State, satellite offices, for which we also 10:32:31
10 provided support. 10:32:33

11 Q Okay. And if a FOIA request came in 10:32:33
12 during that time period for records -- let me 10:32:50
13 rephrase that. 10:32:57

14 If a FOIA request came in for records of a 10:33:07
15 prior -- either a prior Secretary of State or prior, 10:33:10
16 you know, Deputy Secretary of State or Deputy 10:33:16
17 Secretary for Management Resources, would those 10:33:19
18 records, if it was in the recent future, would those 10:33:21
19 records be within the records of correspondence? 10:33:24

20 MR. MYERS: Objection. Vague, ambiguous, 10:33:27
21 and beyond the scope of authorized discovery. 10:33:29

22 Q You can answer the question. 10:33:32

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1 A I'm not sure under -- "the recent future"? 10:33:34

2 Q Sure. Record -- while you were there, if 10:33:36

3 a FOIA request came in for records of Secretary 10:33:39

4 Rice, would those records fall within the scope of 10:33:44

5 the Executive Secretariat's responsibilities? 10:33:47

6 MR. MYERS: Objection. Vague, and beyond 10:33:51

7 the scope of authorized discovery. 10:33:52

8 A And I -- I don't -- either can't recall or 10:33:54

9 I -- I don't know the answer to that. 10:33:58

10 Q Okay. While you were in -- while you were 10:33:59

11 in that position, the Undersecretary for Political 10:34:03

12 Affairs, Bill Burns, left in approximately 2011. 10:34:10

13 Correct? 10:34:13

14 MR. MYERS: Objection. Beyond the scope 10:34:16

15 of authorized discovery. 10:34:18

16 Q You may answer the question. 10:34:19

17 A I -- I can't remember exactly when, but 10:34:20

18 2011 sounds about right. 10:34:23

19 Q Okay. And, you know, just generally the 10:34:24

20 Deputy Secretary for Management Resources, Jack Lew, 10:34:28

21 he left sometime during your tenure? 10:34:32

22 MR. MYERS: Objection. Foundation, beyond 10:34:34

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1 the scope of authorized discovery. 10:34:35

2 Q You may answer the question. 10:34:37

3 A Yes. 10:34:39

4 Q Okay. Do you know if either of their -- 10:34:39

5 their records were inventoried when they left 10:34:42

6 office? 10:34:45

7 MR. MYERS: Objection. It's beyond the 10:34:45

8 scope of authorized discovery. It doesn't have to 10:34:47

9 do with FOIA processing of Huma Abedin or Hillary 10:34:48

10 Clinton's e-mails. 10:34:52

11 And for that reason I'm going to instruct 10:34:53

12 the witness not to answer the question. 10:34:55

13 MR. BEKESHA: You know, it -- it does fall 10:34:57

14 within the scope. We're looking, you know, whether 10:34:58

15 or not -- how records were processed, were they 10:35:01

16 processed differently from Mrs. Clinton and 10:35:04

17 Ms. Abedin, where their records were, how they were 10:35:06

18 stored, how they were inventoried, how they were 10:35:09

19 archived. All of these issues fall directly within 10:35:12

20 the scope and are relevant to the processing of the 10:35:14

21 FOIA requests at issue in this case. 10:35:16

22 MR. MYERS: Your question not only doesn't 10:35:18

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1 mention FOIA, it doesn't mention Mrs. Clinton or 10:35:19
2 Ms. Abedin. It has nothing to do with the discovery 10:35:22
3 that's been authorized in this case. If you want to 10:35:25
4 ask a question about the FOIA processing of those 10:35:26
5 individuals, you should ask that question. 10:35:28

6 MR. BEKESHA: Sure. 10:35:30

7 Q After Mr. Lew left office, how would his 10:35:31
8 records -- if a FOIA request came in for those 10:35:37
9 records, how would they have been processed? 10:35:40

10 MR. MYERS: Objection. It's beyond the 10:35:42
11 scope of authorized discovery. 10:35:43

12 Q You may answer the question. 10:35:45

13 MR. MYERS: And -- and I'm going to 10:35:46
14 instruct you not to answer the question. 10:35:47

15 Again, we're here to talk about Ms. Abedin 10:35:55
16 and Ms. Clinton's e-mails. 10:35:57

17 MR. BEKESHA: Sure. Could we take a 10:35:59
18 two-minute break? 10:36:20

19 MR. MYERS: Sure. 10:36:22

20 VIDEO SPECIALIST: We are going off the 10:36:22
21 record. The time is 10:36. 10:36:23

22 (A recess was taken.) 10:36:25

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1	VIDEO SPECIALIST: We are back on the	10:43:12
2	record. The time is 10:43.	10:43:13
3	BY MR. BEKESHA:	10:43:16
4	Q Okay. Thank you. I'm going to move on	10:43:16
5	from where we were before and just talk about FOIA a	10:43:18
6	little bit more before we move on.	10:43:21
7	Do you know if the Executive Secretariat	10:43:24
8	had its own FOIA guidance or operating procedures	10:43:26
9	while you were there?	10:43:30
10	A In terms of an established document or ...	10:43:40
11	Q Probably a document. Some type of	10:43:45
12	guidance.	10:43:46
13	A I -- I can't recall. I know that	10:43:48
14	Mr. Finney was aware of his responsibilities, based	10:43:51
15	on his assurances. But I don't -- can't recall if	10:43:54
16	there was a specific document.	10:43:58
17	Q Okay. Okay. Thank you.	10:43:59
18	Do you know if the Executive Secretariat	10:44:03
19	searched electronic e-mails -- sorry about that --	10:44:05
20	searched electronic e-mail accounts when you were	10:44:11
21	Executive Secretary? In response to FOIA requests,	10:44:14
22	I'm sorry.	10:44:18

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1 MR. MYERS: Objection. Is this specific 10:44:19
2 to Huma Abedin and the former Secretary, or is that 10:44:20
3 a general question? 10:44:23

4 MR. BEKESHA: It's a general question. 10:44:24

5 MR. MYERS: Objection. To that extent it 10:44:25
6 exceeds those two individuals, it's beyond the scope 10:44:27
7 of authorized discovery. 10:44:29

8 Q You may answer the question. 10:44:30

9 A I'm sorry. Could you repeat the question? 10:44:34

10 Q Sure. Did the office of the Executive 10:44:35
11 Secretary search electronic e-mail accounts in 10:44:38
12 response to FOIA requests -- 10:44:41

13 MR. MYERS: Same -- 10:44:42

14 Q -- while you were Executive Secretary? 10:44:43

15 MR. MYERS: Same objection. 10:44:44

16 Q You may answer the question. 10:44:45

17 A The immediate office, my immediate office? 10:44:46

18 Q The offices, the Executive Secretariat as 10:44:48
19 a whole. So I guess it would have been Mr. Finney's 10:44:54
20 office. 10:44:56

21 MR. MYERS: Objection. Vague and 10:44:56
22 compound. 10:44:58

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1	A	I -- I can't recall specific -- specific	10:45:01
2		case.	10:45:06
3	Q	Okay. Do you know how many employees	10:45:06
4		within the office of the Executive Secretariat were	10:45:11
5		trained on FOIA-related issues?	10:45:14
6	A	What do you mean by "trained"?	10:45:20
7	Q	Either provided guidance or went to a	10:45:21
8		one-day seminar. Training could have many different	10:45:25
9		terms. So do you know if they -- I think you	10:45:29
10		mentioned you don't know if they were provided	10:45:32
11		memorandum about processing FOIA requests.	10:45:35
12	A	I don't --	10:45:38
13		MR. MYERS: Objection. Compound.	10:45:38
14	A	I don't recall such a memorandum.	10:45:40
15	Q	Do you recall any seminars being held	10:45:42
16		about FOIA obligations within -- for the -- for	10:45:44
17		employees within the office of the Executive	10:45:48
18		Secretariat?	10:45:51
19	A	No, I don't recall.	10:45:54
20	Q	Are you aware of a March 2010 Associated	10:45:56
21		Press FOIA request for records of Mrs. Clinton?	10:46:03
22	A	I don't believe so, no.	10:46:10

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1	Q	Okay. We're going to move on for now from	10:46:11
2		FOIA-related issues and talk a little bit about the	10:46:15
3		S/ES-IRM department.	10:46:19
4	A	Uh-huh.	10:46:22
5	Q	And you said that -- could you talk a	10:46:22
6		little bit about what the purpose of that office is?	10:46:27
7		MR. MYERS: Objection. Calls for a	10:46:29
8		narrative response.	10:46:30
9	Q	You may answer the question.	10:46:32
10	A	Responsible for providing information	10:46:34
11		management support for State Department principals,	10:46:36
12		principally through the POEMS electronic mail	10:46:39
13		system.	10:46:42
14	Q	And what does POEMS stand for, if you	10:46:42
15		recall?	10:46:45
16	A	Principal officers electronic mail system.	10:46:47
17	Q	Okay. And that's a separate office from a	10:46:51
18		general IT office within the Department of State?	10:46:57
19	A	Yes.	10:47:00
20	Q	Okay. And that office, there's an IRM	10:47:00
21		office for the State Department generally?	10:47:04
22		Is that correct?	10:47:06

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1	A	In which office?	10:47:07
2	Q	I guess there is a IRM office within the	10:47:08
3		office of the Executive Secretariat, and then	10:47:13
4		there's an IRM office I guess that falls under the	10:47:15
5		office -- Undersecretary for Management?	10:47:19
6	A	Yes.	10:47:21
7		MR. MYERS: Objection.	10:47:21
8		THE WITNESS: Sorry.	10:47:22
9		MR. MYERS: You can answer the question.	10:47:23
10	A	Yes. There's a Bureau for Information	10:47:24
11		Resource Management that reports to Undersecretary	10:47:27
12		Kennedy.	10:47:31
13	Q	Okay. Thank you.	10:47:31
14		And what type of interaction occurs	10:47:32
15		between the two IRM offices?	10:47:35
16		MR. MYERS: Objection. Foundation and	10:47:36
17		vague.	10:47:37
18	Q	You may answer the question.	10:47:37
19	A	The POEMS system, as far as I understand	10:47:41
20		it -- I'm not a systems expert -- was built on the	10:47:43
21		general -- the State Department's general	10:47:48
22		information resource management architecture.	10:47:51

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1	Q	Okay. And diplomatic security, there's	10:47:53
2		another division -- there's a division or an office	10:48:01
3		called Diplomatic Security. Is that correct?	10:48:03
4	MR. MYERS:	Objection. Beyond the scope	10:48:05
5		of authorized discovery.	10:48:06
6	Q	You may answer the question.	10:48:09
7	A	There's a Bureau of Diplomatic Security.	10:48:11
8	Q	And that falls within -- underneath the	10:48:13
9		Undersecretary for Management, as well?	10:48:18
10	MR. MYERS:	Objection. Beyond the scope	10:48:19
11		of authorized discovery.	10:48:21
12	Q	You may answer the question.	10:48:21
13	A	Yes.	10:48:23
14	Q	Okay.	10:48:23
15	MR. BEKESHA:	Would you mark this as	10:48:49
16		Exhibit 1.	10:48:50
17		(Deposition Exhibit 1 marked for	10:48:51
18		identification and is attached to the transcript.)	10:49:02
19		(A discussion was held off the record.)	10:49:07
20	BY MR. BEKESHA:		10:49:07
21	Q	If you want to take a moment, Mr. Mull,	10:49:13
22		and review the document.	10:49:16

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1 Have you had a chance to review the 10:50:06
2 document? 10:50:07

3 A Yes. 10:50:07

4 Q Could you just briefly describe what this 10:50:07
5 document is, or what it appears to be? 10:50:10

6 A It appears to be an e-mail from someone 10:50:15
7 named Donald Reid. 10:50:19

8 Q Okay. Have you ever seen this e-mail 10:50:22
9 before? 10:50:24

10 A I don't recall it, no. 10:50:25

11 Q Okay. If you could look down towards the 10:50:26
12 bottom of the first page, it says, "S/ES management 10:50:29
13 does not need to respond point for point on any of 10:50:33
14 this." 10:50:37

15 Would S/ES management, would that be your 10:50:39
16 office? 10:50:41

17 A I don't know. I don't know who they 10:50:43
18 meant. 10:50:45

19 Q Okay. Do you know who Donald Reid is? 10:50:46

20 A I seem to recall he was an official in the 10:50:53
21 Diplomatic Security Bureau. 10:50:56

22 Q Okay. Did you ever speak to Mr. Reid 10:50:58

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1	about BlackBerry devices for the Office of the	10:51:01
2	Secretary?	10:51:05
3	A I don't recall any such conversation.	10:51:06
4	Q Okay.	10:51:08
5	MR. BEKESHA: Let's mark this as Exhibit	10:51:14
6	2.	10:51:16
7	(Deposition Exhibit 2 marked for	10:51:16
8	identification and is attached to the transcript.)	10:51:33
9	Q Have you had a chance to read the --	10:51:33
10	A Yes.	10:52:14
11	Q -- read the record?	10:52:14
12	Is it fair to say this appears to be an	10:52:16
13	e-mail chain with -- between Donald Reid and Gentry	10:52:18
14	Smith about electronic devices on the 7th floor?	10:52:24
15	A Yes.	10:52:29
16	Q Okay. If you could take a look at the top	10:52:29
17	e-mail of the chain. In it, the second sentence, it	10:52:31
18	says, "Ambassador Boswell would like to use it to	10:52:41
19	approach M and Ambassador Mull about setting up this	10:52:44
20	briefing for seniors and key staff."	10:52:49
21	Do you see that?	10:52:51
22	A Yes.	10:52:52

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1	Q	Okay. Are you Ambassador Mull?	10:52:52
2	A	Yes.	10:52:56
3	Q	Do you know who M is?	10:52:56
4	A	I have not seen this e-mail before, so	10:53:03
5		I -- I don't know who.	10:53:07
6	Q	Okay.	10:53:09
7	A	It ...	10:53:10
8	Q	Who is Ambassador Boswell?	10:53:11
9	A	Eric Boswell was the Assistant Secretary	10:53:14
10		for Diplomatic Security.	10:53:19
11	Q	Okay. Do you know who Gentry Smith is?	10:53:20
12	A	No.	10:53:23
13	Q	Okay. In March of 2011, do you recall a	10:53:23
14		briefing about electronic devices in the 7th floor?	10:53:32
15	A	Yes.	10:53:37
16	Q	Okay. And what were those briefings	10:53:37
17		about?	10:53:40
18		MR. MYERS: Objection. It's vague. It	10:53:40
19		calls for a narrative response.	10:53:42
20	Q	You may answer the question.	10:53:44
21	A	I recall we set up a session for -- that	10:53:48
22		allowed security people to brief our -- the	10:53:51

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1 executive secretaries -- Secretariat's 10:53:56
2 information-management clientele on security of 10:54:02
3 communications. 10:54:05

4 Q Okay. And you said "we set up." Who was 10:54:06
5 "we"? Just generally the office, or were there 10:54:10
6 specific individuals within your office that set up 10:54:12
7 the briefings? 10:54:14

8 A The -- it -- we -- it was -- the action 10:54:16
9 officer on this would have been the security officer 10:54:22
10 within the Executive Secretariat. 10:54:26

11 Q And who is that individual? Do you recall 10:54:27
12 who that individual was? 10:54:30

13 A Lou Nardi, his name was. 10:54:37

14 Q Was Mrs. Clinton -- was Mrs. Clinton one 10:54:39
15 of the seniors and key staff that was briefed on 10:54:46
16 these issues? 10:54:49

17 A Briefed at this session, I'm recalling, 10:54:55
18 or -- 10:54:58

19 Q At any session related -- I guess I -- was 10:54:58
20 there more than one briefing session? 10:55:00

21 A I can only recall one session. 10:55:03

22 Q Do you know if Mrs. Clinton was part of 10:55:05

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1	that briefing session?	10:55:06
2	A I don't recall that she was there.	10:55:09
3	Q Do you recall if Ms. Abedin was part of	10:55:10
4	that briefing session?	10:55:13
5	A I don't recall.	10:55:15
6	Q Do you recall if Ms. Mills was part of	10:55:16
7	that briefing session?	10:55:19
8	MR. MYERS: Objection. That's beyond the	10:55:21
9	scope of authorized discovery. And to the extent	10:55:23
10	that we're wading into cyber security issues, that	10:55:25
11	is specifically exempted from the scope of	10:55:28
12	discovery. And so I would ask you observe the	10:55:28
13	Court's order in that regard.	10:55:28
14	MR. BEKESHA: Sure.	10:55:31
15	Q You may answer the question.	10:55:31
16	A I don't recall.	10:55:32
17	Q Okay. Turning now to Clintonemail.com.	10:55:33
18	When did you first become aware of	10:55:43
19	Mrs. Clinton -- the e-mail address Mrs. Clinton was	10:55:45
20	using to conduct official government business?	10:55:48
21	MR. MYERS: Objection. Vague. It's	10:55:51
22	vague, and it's ambiguous.	10:55:55

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1	Q	You may answer the question.	10:55:57
2	A	I -- it's a difficult question to answer	10:56:03
3		because I -- you're asking when did I become aware	10:56:04
4		she was using a private e-mail address for official	10:56:07
5		government business?	10:56:12
6	Q	Yes.	10:56:12
7	A	I -- I don't know that I've ever really	10:56:17
8		become aware of that. I certainly am aware of the	10:56:19
9		news articles and the allegations that have been	10:56:22
10		made to that effect. But I -- I -- you know, I'm	10:56:24
11		not in a position to judge what -- whether it was	10:56:28
12		official government business or not.	10:56:31
13	Q	Sure. Did you ever have -- did you ever	10:56:33
14		communicate via e-mail with Mrs. Clinton while you	10:56:36
15		were Executive Secretary?	10:56:38
16	A	No, not that I can recall.	10:56:39
17	Q	Did you ever communicate with Ms. Abedin	10:56:40
18		while you were Executive Secretary?	10:56:44
19	A	Yes.	10:56:47
20	Q	Do you recall what e-mail addresses you	10:56:48
21		used to communicate with Ms. Abedin?	10:56:51
22		MR. MYERS: Objection. Mischaracterizes	10:56:53

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1	prior testimony. You asked if he communicated with	10:56:54
2	Ms. Abedin.	10:56:56
3	MR. BEKESHA: I'll rephrase the question.	10:56:58
4	Q Did you communicate via e-mail with	10:56:59
5	Ms. Abedin while you were Executive Secretary?	10:57:01
6	A Yes.	10:57:04
7	Q Do you know what e-mail addresses you used	10:57:04
8	to conduct those communications?	10:57:06
9	A I -- I can't recall. Typically I would	10:57:13
10	type her name into the e-mail form, and -- I don't	10:57:15
11	know what the exact e-mail address was.	10:57:20
12	Q Did you know what Mrs. Clinton's e-mail	10:57:22
13	address was while you were Executive Secretary?	10:57:26
14	A No.	10:57:28
15	MR. BEKESHA: Exhibit -- we can mark this	10:57:38
16	as Exhibit 3.	10:57:40
17	(Deposition Exhibit 3 marked for	10:57:41
18	identification and is attached to the transcript.)	10:57:57
19	MR. BEKESHA: Can you also mark this as	10:57:57
20	Exhibit 4.	10:57:58
21	(Deposition Exhibit 4 marked for	10:57:59
22	identification and is attached to the transcript.)	10:57:59

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1	MR. BEKESHA: Thank you.	10:58:33
2	Q We can look at Exhibit 3 first.	10:58:33
3	Do you recall this e-mail?	10:58:36
4	A Yes.	10:58:46
5	Q Okay. So you recall seeing -- sorry. I	10:58:46
6	should have asked, do you recall seeing this e-mail	10:58:53
7	at this time, at the time it was sent?	10:58:55
8	A I don't specifically remember it from --	10:58:58
9	from the time it was sent, no.	10:59:01
10	Q In the "to" line of the e-mail, it says	10:59:02
11	"H."	10:59:07
12	Do you know who H is?	10:59:07
13	A Definitively, no.	10:59:10
14	Q Okay. Based on the body of the e-mail,	10:59:11
15	does it -- it appears as though H would refer to	10:59:14
16	Mrs. Clinton?	10:59:17
17	MR. MYERS: Objection. Is there a	10:59:19
18	question?	10:59:20
19	Q Based -- after reviewing the entire	10:59:22
20	e-mail, do you think that the H refers to	10:59:26
21	Mrs. Clinton?	10:59:28
22	MR. MYERS: Objection. Calls for	10:59:29

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1	speculation.	10:59:31
2	Q You may answer the question.	10:59:31
3	A I -- I don't know. That's a reasonable	10:59:34
4	assumption, but I -- I don't know for a fact who	10:59:37
5	would have received something at the H e-mail	10:59:40
6	address.	10:59:45
7	Q Okay. Let's look at Exhibit 4.	10:59:45
8	You -- do you recall receiving the first	10:59:54
9	e-mail of the chain, or the bottom e-mail of the	10:59:57
10	chain?	11:00:00
11	MR. MYERS: Thank you.	11:00:00
12	A No.	11:00:01
13	Q Okay. Based on the "to" line, it looks as	11:00:02
14	though you received this e-mail. Correct? Or at	11:00:10
15	least the e-mail was sent to you?	11:00:12
16	A Yes.	11:00:14
17	Q Okay. Also, this e-mail was sent to	11:00:14
18	HDR22@Clintonemail.com.	11:00:20
19	Do you see that?	11:00:24
20	A Yes.	11:00:25
21	Q Do you recall seeing this e-mail address	11:00:25
22	while you were Executive Secretary?	11:00:30

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1	A	Not that I can recall.	11:00:33
2	Q	When you receive e-mails, do you usually	11:00:33
3		look at who else receives the e-mails along with	11:00:39
4		you? Do you look at the -- the "from" line, the	11:00:41
5		"to" line, the "cc" line when reviewing e-mails?	11:00:44
6	A	It depends on when -- when I receive it.	11:00:49
7		The Executive Secretariat was a very fast-paced	11:00:52
8		operation. I, of course, concentrated on the "from"	11:00:56
9		line. Sometimes I would look at who was copied;	11:00:59
10		sometimes not.	11:01:04
11	Q	Okay. Do you know who Harold Koh is?	11:01:05
12	A	Yes.	11:01:08
13	Q	Who is Harold Koh?	11:01:08
14	A	Well, Harold Koh was the State	11:01:12
15		Department's legal advisor. I -- I can't recall	11:01:14
16		what he does now. But he was the State Department	11:01:16
17		legal advisor while I was Executive Secretary.	11:01:18
18	Q	Thank you. So this e-mail was an e-mail	11:01:20
19		from the State Department's legal advisor.	11:01:24
20		Is that correct?	11:01:26
21	MR. MYERS:	Objection. The document	11:01:27
22		speaks for itself. And I also object for lack of	11:01:28

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1	personal knowledge and foundation.	11:01:31
2	Q You may answer the question.	11:01:34
3	A It appears so, yes.	11:01:35
4	Q Okay. Would e-mail sent by the legal --	11:01:37
5	the legal advisor to the State Department usually	11:01:41
6	get lost? Are those e-mails you would usually read?	11:01:43
7	MR. MYERS: Objection. Vague. It calls	11:01:47
8	for speculation.	11:01:48
9	Q You may answer the question.	11:01:51
10	A The question was would I lose them or -- I	11:01:55
11	don't understand the question.	11:01:59
12	Q Would you read the e-mails? You said the	11:01:59
13	Executive Secretariat was fast-paced, you may have	11:02:02
14	received a lot of e-mails. And I just want to know,	11:02:04
15	if you received an e-mail from the legal advisor, is	11:02:06
16	that an e-mail that you would tend to read?	11:02:09
17	MR. MYERS: Objection. Vague.	11:02:11
18	A If I knew -- I mean, I can't exclude what	11:02:16
19	I didn't see -- I don't know what I didn't see.	11:02:22
20	But certainly if I knew that I had	11:02:24
21	received an e-mail from the legal advisor, I would	11:02:26
22	make an effort to read it.	11:02:29

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1	Q	Okay. But you don't recall seeing this	11:02:31
2		specific e-mail when it came in.	11:02:33
3		MR. MYERS: Objection. Asked and	11:02:36
4		answered.	11:02:37
5	Q	You may answer the question.	11:02:38
6	A	No.	11:02:39
7	Q	Okay. And you don't recall seeing	11:02:40
8		HDR22@Clintonemail.com on the e-mail when you	11:02:47
9		received it?	11:02:49
10		MR. MYERS: Objection. Also asked and	11:02:49
11		answered.	11:02:50
12	A	I don't recall.	11:02:50
13	Q	Were there -- did you ever have any	11:02:50
14		discussions within the Executive Secretariat about	11:02:55
15		Mrs. Clinton's use of e-mail?	11:02:58
16	A	None that I recall.	11:03:01
17	Q	Okay. When you first arrived as Executive	11:03:02
18		Secretariat, did Daniel Smith or -- sorry, Executive	11:03:08
19		Secretary, did Daniel Smith or anyone else discuss	11:03:12
20		with you Mrs. Clinton's use of a BlackBerry?	11:03:15
21	A	Yes.	11:03:25
22	Q	What were those discussions?	11:03:25

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1 A They focused on whether or not a 11:03:32
2 BlackBerry could be used within the Office of the 11:03:39
3 Secretary, in the physical space of the office of 11:03:42
4 the Secretary. 11:03:44

5 Q And at the time you started, was a 11:03:45
6 BlackBerry able to be used within the physical space 11:03:49
7 of the office of the Secretary? 11:03:51

8 A The office of the Secretary, which was 11:03:54
9 contiguous to mine, the electronic devices were not 11:03:56
10 permitted to -- to be in there. 11:04:00

11 Q Okay. Do you know if Mrs. Clinton was 11:04:03
12 using a State-Department-issued or assigned 11:04:07
13 BlackBerry? 11:04:10

14 A I -- during the time -- 11:04:14

15 Q When you started, was that part of the 11:04:15
16 discussions, the type of BlackBerry Mrs. Clinton was 11:04:18
17 using? 11:04:20

18 A No. 11:04:21

19 Q Did you ever -- during your tenure, did 11:04:21
20 you ever see Mrs. Clinton use a BlackBerry? 11:04:27

21 A Physically, no. 11:04:31

22 Q Okay. Do you know if she, when she used 11:04:32

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1 her BlackBerry, where she would use it, when she was 11:04:37
2 at the State Department? 11:04:40

3 MR. MYERS: Objection. Foundation. 11:04:41

4 A I don't have personal knowledge of where 11:04:47
5 she might have used it. 11:04:48

6 Q Did you have any discussions with 11:04:49
7 individuals when you first started about where 11:04:52
8 Mrs. Clinton could use her BlackBerry? 11:04:54

9 A Not that I recall, no. 11:05:00

10 Q Okay. Did Mrs. Clinton have a 11:05:01
11 State-Department-issued computer on her desk? 11:05:02

12 A Not that I recall. 11:05:07

13 Q Do you know if there was an office set up 11:05:07
14 somewhere else for Mrs. Clinton to use her 11:05:12
15 BlackBerry? 11:05:14

16 A I have seen reports of that in the press. 11:05:17
17 I don't recall that I knew that at the time. 11:05:21

18 Q Okay. Did you ever speak with 11:05:23
19 Mrs. Clinton about her use of a BlackBerry? 11:05:27

20 A No. Not that I can recall, no. 11:05:32

21 Q Okay. Did you ever speak with Ms. Mills 11:05:35
22 about a use -- Mrs. Clinton's use of a BlackBerry? 11:05:37

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1 A Not that -- I don't recall speaking with 11:05:43
2 Ms. Mills about it, no. 11:05:50

3 Q Did you communicate with her in other ways 11:05:51
4 about Mrs. Clinton's use of a BlackBerry? 11:05:53

5 A Yes. In preparing for our meeting today, 11:05:56
6 I reviewed a -- an e-mail that was attributed to me 11:05:59
7 in the press on this, among other subjects. 11:06:02

8 Q Okay. Besides what, this document that 11:06:06
9 you're referring to, do you recall any other 11:06:10
10 communications with Ms. Mills about Mrs. Clinton's 11:06:12
11 use of a BlackBerry? 11:06:14

12 A I don't, no. 11:06:17

13 Q Okay. What about communications with 11:06:18
14 Ms. Abedin about Mrs. Clinton's use of a BlackBerry? 11:06:20

15 A Again, I remember the document that I saw 11:06:28
16 in -- in the press, which that, among other 11:06:31
17 subjects, was covered. 11:06:35

18 Q Okay. To the extent you had any 11:06:36
19 discussions with anyone else within the State 11:06:40
20 Department about Mrs. Clinton's use of a BlackBerry, 11:06:42
21 who were those discussions with? 11:06:45

22 MR. MYERS: Objection. Vague. 11:06:48

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1	Q	You may answer the question.	11:06:54
2	A	I -- I can't recall such discussions. In	11:06:55
3		general if the subject ever came up, I would most	11:06:59
4		likely speak with the systems experts.	11:07:02
5	Q	Okay. And who were those individuals?	11:07:05
6	A	The people who worked in the Office of	11:07:08
7		S/ES-IRM.	11:07:10
8	Q	Okay. Would that have been Mr. Bentel?	11:07:13
9		MR. MYERS: Objection. Asked and	11:07:17
10		answered.	11:07:18
11	Q	You may answer the question.	11:07:19
12	A	Yes. Among others.	11:07:20
13	Q	Okay. Did you ever talk to Clarence	11:07:22
14		Finney about the use of Mrs. -- about Mrs. Clinton	11:07:25
15		using a BlackBerry?	11:07:27
16	A	I don't recall.	11:07:28
17	Q	Do you recall ever communicating with	11:07:28
18		Ms. Abedin on a non-State.gov e-mail account?	11:07:40
19	A	I -- I can't recall.	11:07:53
20	Q	Are you aware that Ms. Abedin used a	11:07:53
21		non-State.gov e-mail account to conduct official	11:08:00
22		government business?	11:08:03

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1	A	I am aware of allegations to that effect	11:08:07
2		in the press, but I'm -- I don't have personal	11:08:09
3		knowledge.	11:08:14
4	MR. BEKESHA:	Mark this as Exhibit 5.	11:08:29
5		(Deposition Exhibit 5 marked for	11:08:31
6		identification and is attached to the transcript.)	11:08:40
7	Q	Have you had a chance to review --	11:08:40
8	A	Yes.	11:09:13
9	Q	Great. Thank you.	11:09:13
10		Do you know who Christopher Butzgy is?	11:09:14
11	A	I seem to recall he was a staffer in	11:09:17
12		S/ES-IRM.	11:09:20
13	Q	Okay. And he would have reported to	11:09:22
14		Mr. Bentel? Is that correct?	11:09:25
15	A	I can't recall who his immediate boss was,	11:09:30
16		but Mr. Bentel was the director of the office.	11:09:32
17	Q	Okay. Have you ever seen this e-mail	11:09:34
18		chain before?	11:09:37
19	A	I seem to recall seeing it somewhere in	11:09:42
20		the -- in the press.	11:09:45
21	Q	Okay.	11:09:46
22	A	In the --	11:09:47

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1	Q	So that would have been within the past	11:09:48
2		year?	11:09:49
3	A	I don't know if it was -- would have	11:09:53
4		been -- I can't remember when exactly this came in	11:09:55
5		to the press. But --	11:09:57
6	Q	But after --	11:09:59
7	A	-- it was definitely in the press.	11:10:00
8	Q	Okay. But after you were Executive	11:10:01
9		Secretary -- after your tenure as Executive	11:10:02
10		Secretary?	11:10:04
11	A	Yes. Yes. Uh-huh.	11:10:04
12	Q	Did you ever have any conversations with	11:10:05
13		Mr. Butzgy about Mrs. Clinton's use of a BlackBerry	11:10:15
14		or e-mail?	11:10:17
15	A	No, not that I recall.	11:10:18
16	Q	Do you recall having any conversations	11:10:20
17		with Mr. Bentel about Mrs. Clinton -- difficulty	11:10:24
18		Mrs. Clinton was having receiving e-mails?	11:10:28
19	A	I don't recall any such conversation.	11:10:32
20	Q	Do you know if issues like that were ever	11:10:34
21		raised during your deputy -- your daily deputy	11:10:36
22		meeting?	11:10:42

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1	A	I don't recall.	11:10:42
2		MR. MYERS: Objection. Vague.	11:10:42
3		THE WITNESS: I'm sorry.	11:10:43
4	Q	If Mrs. Clinton -- if the -- if	11:10:45
5		Mrs. Clinton was having trouble with communications,	11:10:48
6		would that be an issue that would raise -- would	11:10:50
7		rise to your level?	11:10:54
8	A	Occasionally the Secretary's	11:10:59
9		communications issues would come to me.	11:11:02
10	Q	Did any of those communication issues come	11:11:05
11		to you during your tenure as Executive Secretary?	11:11:08
12		MR. MYERS: Objection. Vague.	11:11:11
13	Q	You may answer the question.	11:11:13
14	A	Communications in general?	11:11:15
15	Q	Communications in general.	11:11:15
16	A	Yes.	11:11:17
17	Q	Okay. And what were those communications	11:11:17
18		issues?	11:11:20
19	A	Typically the challenges in providing	11:11:21
20		secure telephone communications with the Secretary	11:11:25
21		while she was away from the State Department.	11:11:27
22	Q	Okay. Did it ever involve her ability to	11:11:29

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1	send -- communicate via e-mail?	11:11:34
2	A Not that I recall, no.	11:11:36
3	MR. BEKESHA: Exhibit 6, if this could be	11:11:57
4	marked.	11:12:01
5	(Deposition Exhibit 6 marked for	11:12:01
6	identification and is attached to the transcript.)	11:12:10
7	Q Have you had a chance to review this	11:12:10
8	e-mail?	11:12:32
9	A Yes.	11:12:33
10	Q Is this the e-mail that you were	11:12:33
11	discussing before --	11:12:34
12	MR. MYERS: Objection.	11:12:36
13	Q -- that you had previous -- that you had	11:12:36
14	reviewed in preparation for today?	11:12:39
15	A Yes.	11:12:41
16	Q Okay. Do you recall this e-mail chain?	11:12:41
17	Besides -- prior to your review, did you recall this	11:12:45
18	e-mail, do you recall this e-mail? Do you recall	11:12:49
19	sending the e-mail?	11:12:51
20	MR. MYERS: Objection. Compound.	11:12:52
21	Q Do you recall sending the e-mail?	11:12:54
22	A Well, prior to its appearance in the press	11:12:56

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1 earlier this year, I had not recalled it. 11:12:59

2 Q Okay. And do you recall what press you 11:13:03
3 saw about this e-mail? 11:13:06

4 A I -- I think there was an article in The 11:13:13
5 Washington Post earlier this year. 11:13:16

6 Q Okay. When you read the article, that 11:13:17
7 helped re -- what did you think when you read the 11:13:23
8 article about this e-mail? 11:13:26

9 MR. MYERS: Objection. Vague, and calls 11:13:27
10 for a narrative response. 11:13:29

11 Q You may answer the question. 11:13:30

12 A What did I think? I -- I don't recall 11:13:33
13 what I thought. I thought it was interesting. 11:13:36

14 Q Why did you think it was interesting? 11:13:39

15 MR. MYERS: Objection. Vague, and calls 11:13:41
16 for a narrative response. 11:13:43

17 Q You may answer the question. 11:13:44

18 MR. MYERS: And beyond the scope of 11:13:48
19 authorized discovery, as well. 11:13:49

20 Q You may answer the question. 11:13:50

21 A Well, I -- I think whenever something 11:13:51
22 appears in The Washington Post with your name on it, 11:13:55

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1	by its nature is interesting.	11:13:58
2	Q Did you think it was a good thing? Did	11:13:59
3	you like seeing your name in The Washington Post?	11:14:03
4	MR. MYERS: Objection. Beyond the scope	11:14:06
5	of authorized discovery.	11:14:07
6	A Usually not.	11:14:08
7	Q Did you talk to anybody outside your	11:14:09
8	counsel in preparation for today, have you talked to	11:14:11
9	anybody about this e-mail?	11:14:15
10	MR. MYERS: Objection. I just want to	11:14:17
11	observe the court's order that scopes out a number	11:14:18
12	of topics. So if you could rephrase your question	11:14:20
13	to exclude the other things that are excluded by the	11:14:22
14	court's order.	11:14:24
15	Q Excluding counsel, as well as any law	11:14:25
16	enforcement that currently have active	11:14:28
17	law-enforcement proceedings going on, did you speak	11:14:31
18	to anyone about this e-mail?	11:14:36
19	A Yes.	11:14:41
20	Q Who did you speak with?	11:14:41
21	A I spoke with the Inspector General's	11:14:47
22	office of the State Department. I spoke with	11:14:52

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1 individuals in the Office of the Legal Advisor. And 11:14:57

2 I suppose colleagues of mine may have mentioned to 11:15:06

3 me, Hey, I saw your name in The Washington Post. 11:15:09

4 Q Do you recall who those colleagues were? 11:15:13

5 MR. MYERS: Objection. Beyond the scope 11:15:15

6 of authorized discovery. 11:15:16

7 A No, not today I can't. No. 11:15:18

8 Q Okay. And you mentioned you spoke with 11:15:20

9 the Office of Legal Advisor. Was that in 11:15:24

10 preparation -- was that in preparation for today? 11:15:25

11 A No. 11:15:28

12 Q Okay. 11:15:29

13 A Well, I have spoken with someone in 11:15:29

14 preparation for today. But the first time I had the 11:15:33

15 discussion it was not -- I did not know this would 11:15:36

16 be happening. 11:15:39

17 MR. MYERS: I'm going to preemptively 11:15:40

18 instruct the witness not to reveal the content of 11:15:42

19 conversations with a legal advisor in any context. 11:15:44

20 I hope we can agree on that. 11:15:47

21 MR. BEKESHA: Sure. 11:15:48

22 MR. MYERS: Thank you. 11:15:49

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1	Q	So looking at the e-mail itself, the	11:15:49
2		bottom e-mail, so the bottom e-mail of the chain,	11:15:55
3		appears to be an e-mail from you to Ms. Mills.	11:15:59
4		Is that correct?	11:16:03
5	A	Yes.	11:16:04
6	Q	Also on the e-mail is Ms. Abedin, Patrick	11:16:06
7		Kennedy, and Monica Hanley. Is that correct?	11:16:09
8	A	Yes.	11:16:12
9	Q	Do you know if you bcc'd anyone on this	11:16:12
10		e-mail?	11:16:16
11	A	I don't recall.	11:16:17
12	Q	Who is -- who -- at that time who was	11:16:17
13		Ms. Abedin?	11:16:23
14	A	Ms. Abedin was the deputy chief of staff	11:16:25
15		of Secretary Clinton for operations.	11:16:29
16	Q	And Mr. Kennedy was the Undersecretary for	11:16:31
17		Management. Is that correct?	11:16:35
18	A	Yes.	11:16:37
19	Q	Okay. And do you know who Monica Hanley	11:16:37
20		is?	11:16:40
21	A	Monica Hanley was at that time on the --	11:16:41
22		an employee of the Office of the Secretary.	11:16:48

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1 Q Do you know what her specific title was? 11:16:49

2 A I don't remember. 11:16:53

3 Q Do you know what her basic general 11:16:53
4 responsibilities were? 11:16:56

5 A She generally provided immediate support 11:16:58
6 to Secretary Clinton on traveling, carrying her 11:17:01
7 briefing books, providing, you know, immediate 11:17:07
8 personal support to the Secretary. 11:17:11

9 Q Okay. Looking at the e-mail, it starts 11:17:13
10 off, "Cheryl, thanks again for alerting me to the 11:17:19
11 communication issues the Secretary has been having." 11:17:23

12 Those communication issues, was that what 11:17:26
13 you were discussing, talked about before, about 11:17:28
14 secure telephone calls? 11:17:33

15 A I don't recall the circumstances that 11:17:36
16 resulted in this e-mail. But I very often did speak 11:17:39
17 with Cheryl Mills about secure communications 11:17:42
18 difficulties. 11:17:46

19 Q Okay. Turning the page and looking at the 11:17:48
20 second-to-last paragraph. It starts off, 11:17:56
21 "Separately, we are working to provide the Secretary 11:18:02
22 per her request a department-issued BlackBerry to 11:18:04

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1	replace her unit, which is malfunctioning."	11:18:08
2	Do you see that?	11:18:10
3	A Yes.	11:18:11
4	MR. MYERS: Objection. I think you	11:18:12
5	misread the text just a little bit.	11:18:13
6	MR. BEKESHA: I'm sorry. I don't know	11:18:16
7	what I -- I apologize.	11:18:18
8	MR. MYERS: We can agree that the document	11:18:21
9	speaks for itself.	11:18:23
10	MR. BEKESHA: Yes. We can move on.	11:18:24
11	MR. MYERS: Yeah.	11:18:26
12	Q Do you recall, prior to this e-mail do you	11:18:27
13	recall having any communications with Ms. Mills	11:18:30
14	about issuing -- the department issuing a BlackBerry	11:18:33
15	to Mrs. Clinton?	11:18:36
16	A I don't recall, no.	11:18:39
17	Q Do you recall having any conversations	11:18:40
18	with anyone at the State Department prior to this	11:18:42
19	e-mail about issuing Mrs. Clinton a BlackBerry?	11:18:46
20	A I don't recall, no.	11:18:50
21	Q Okay. So you don't recall why you wrote	11:18:51
22	this sentence?	11:18:54

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1	A	Today I don't, no.	11:18:56
2	Q	Okay. Do you know who you would have	11:18:57
3		spoken with about issuing Mrs. Clinton a BlackBerry?	11:19:00
4		MR. MYERS: Objection. Foundation.	11:19:05
5	Q	You may answer the question.	11:19:07
6	A	Typically if I ever received a request	11:19:09
7		from any of our senior clientele, including the	11:19:12
8		Secretary, on systems-related,	11:19:15
9		communications-related support, I would typically	11:19:20
10		refer those questions to our systems support staff.	11:19:22
11	Q	Okay. And who would be the contact there?	11:19:25
12		Who would you specifically refer it to?	11:19:28
13		MR. MYERS: Objection. Compound.	11:19:30
14	Q	Who -- who would you specifically refer	11:19:32
15		such issue to?	11:19:35
16		MR. MYERS: Objection. Foundation.	11:19:36
17	Q	You may answer the question.	11:19:38
18	A	To the systems support staff who	11:19:40
19		individually -- it -- it depended on the case. It	11:19:44
20		could be anybody who worked in that office who I	11:19:50
21		happened to see.	11:19:52
22	Q	Was there one person within that staff	11:19:52

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1 that was responsible for issuing BlackBerrys to the 11:19:54
2 office of the Secretary? 11:19:57

3 A We had -- there was an office, it was 11:20:07
4 called -- I think it was called mobile solutions, 11:20:08
5 that provided BlackBerry support to our full range 11:20:12
6 of clientele in the Executive Secretariat. 11:20:17

7 Q Okay. Do you know how someone within the 11:20:19
8 Office of the Secretary would receive -- would be 11:20:23
9 issued a BlackBerry from the State Department? 11:20:27

10 A They would make the request to the mobile 11:20:32
11 solutions office. 11:20:35

12 Q Did any -- was it -- during your time as 11:20:37
13 Executive Secretary, were there any new hires within 11:20:40
14 the Office of the Secretary? 11:20:44

15 A I can't -- I can't recall. 11:20:51

16 Q Okay. Do you -- do you know, if there was 11:20:52
17 a new hire, if that individual would have to request 11:20:54
18 a BlackBerry or if the BlackBerry would have just 11:20:58
19 been issued on their first day? 11:21:00

20 A I -- I can't say. I -- I don't know. 11:21:10

21 Q Do you know who was responsible for 11:21:12
22 issuing e-mail addresses to employees within the 11:21:15

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1	Office of the Secretary?	11:21:17
2	A No.	11:21:23
3	Q Okay. Do you know what that -- do you	11:21:23
4	know what the process was for issuing an e-mail	11:21:24
5	address to employees within the Office of the	11:21:25
6	Secretary?	11:21:27
7	A I -- no. I -- I -- generally speaking,	11:21:34
8	when you start in an office, you fill out a form	11:21:37
9	that is acted upon in granting an e-mail address.	11:21:44
10	But I'm not sure who approves it or who comes up	11:21:49
11	with the address.	11:21:50
12	Q Okay. Do you know if the Secretary of	11:21:51
13	State would be required to fill out that form?	11:21:55
14	A I don't know.	11:21:59
15	Q Either her -- either the Secretary	11:22:00
16	personally or somebody on her behalf.	11:22:01
17	A I don't know.	11:22:04
18	Q Looking back at the e-mail, you continue,	11:22:04
19	"Possibly because of her personal e-mail server is	11:22:16
20	down."	11:22:20
21	Do you see that?	11:22:21
22	A Yes.	11:22:22

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1	Q	Do you recall having any conversations	11:22:22
2		with anybody within the State Department about	11:22:26
3		Mrs. Clinton's personal e-mail server being down?	11:22:29
4	A	I don't recall conversations.	11:22:33
5	Q	At this point is it fair to say that you	11:22:34
6		knew that Mrs. Clinton was using a personal e-mail	11:22:39
7		server?	11:22:42
8	A	Yes, I suppose you could say that, uh-huh.	11:22:48
9	Q	Do you know how you learned that?	11:22:51
10	A	I -- I can't recall, no.	11:22:56
11	Q	Do you recall when you learned that?	11:22:58
12	A	No. I can't recall.	11:23:01
13	Q	Okay. Do you recall any conversations	11:23:01
14		about Mrs. Clinton's personal e-mail server?	11:23:05
15	A	During my time as Executive Secretary?	11:23:13
16	Q	During your time as Executive Secretary.	11:23:15
17		Yes. Sorry about that.	11:23:17
18	A	No, I can't -- I can't recall, no.	11:23:20
19	Q	We're going to continue with the e-mail.	11:23:22
20		You next say, "We will prepare two versions for her	11:23:25
21		to use, one with an operating State Department	11:23:28
22		e-mail account."	11:23:32

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1	Do you see that?	11:23:34
2	A Yes. Uh-huh.	11:23:35
3	Q What do you mean by "prepare two	11:23:37
4	versions"?	11:23:39
5	A Well, again, I -- I can't recall the exact	11:23:46
6	circumstances that led me to write this e-mail.	11:23:49
7	Reading it now, I understand it to mean that there	11:23:55
8	would be two version -- two different kinds of	11:23:58
9	BlackBerry, one with e-mail support and one without.	11:24:03
10	Q Okay. When you were at the -- when you	11:24:05
11	were Executive Secretary, did you have two	11:24:12
12	State-Department-issued BlackBerrys?	11:24:14
13	A Did I have?	11:24:19
14	Q Did you, yes.	11:24:20
15	A I -- I can't recall, no. No.	11:24:23
16	Q Do you know if employees within the Office	11:24:25
17	of the Secretary had two State-Department-issued	11:24:27
18	BlackBerrys, one for access to an e-mail account,	11:24:30
19	and another one to phone and Internet capability?	11:24:35
20	A I -- I don't know.	11:24:41
21	Q Do you recall if this would have been an	11:24:42
22	unusual request?	11:24:45

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1	MR. MYERS: Objection. Vague.	11:24:46
2	Q You may answer the question.	11:24:48
3	A What -- what do you mean by the term	11:24:52
4	"request"? Who -- whose request?	11:24:53
5	Q Would this have been -- the State	11:24:55
6	Department preparing two versions of a BlackBerry	11:24:58
7	for Mrs. Clinton, would that preparation of two	11:24:59
8	BlackBerrys be unusual?	11:25:02
9	MR. MYERS: Objection. Vague.	11:25:04
10	Q You may answer the question.	11:25:07
11	A I -- I -- I just don't recall. I	11:25:11
12	typically was not involved in issuing BlackBerrys to	11:25:13
13	employees.	11:25:16
14	Q Okay. Do you know why there -- why she	11:25:17
15	required two versions of the BlackBerry?	11:25:21
16	MR. MYERS: Objection. Mischaracterizes	11:25:24
17	prior testimony.	11:25:25
18	Q You may answer the question.	11:25:27
19	A I don't know that she required two.	11:25:29
20	Q Okay. Do you recall why you suggested you	11:25:30
21	would prepare two versions of the BlackBerry?	11:25:35
22	A I -- I don't recall why, no.	11:25:38

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1 Q Why were you -- why were you involved with 11:25:41
2 the discussions at this time? 11:25:48

3 MR. MYERS: Objection. Foundation. 11:25:50

4 A Again, I can't remember the circumstances 11:25:53
5 that led me to write this e-mail today. 11:25:56

6 I suppose I can infer it came to my 11:26:02
7 attention that the Secretary was interested in 11:26:04
8 acquiring an e-mail -- or interested in acquiring a 11:26:08
9 BlackBerry. 11:26:11

10 Q Do you recall if Mrs. Clinton was 11:26:12
11 interested in acquiring an e-mail account at that 11:26:15
12 time? 11:26:18

13 A I don't recall that, no. 11:26:20

14 Q Okay. Looking further in the e-mail, it 11:26:21
15 says, "one with an operating State Department e-mail 11:26:26
16 account," and then in parentheses, "which would mask 11:26:28
17 her identity, but which would also be subject to 11:26:31
18 FOIA requests." 11:26:35

19 Do you see that? 11:26:35

20 A Yes. Uh-huh. 11:26:36

21 Q Okay. Let's take the first part, the 11:26:38
22 masking her identity. 11:26:40

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1 Why would she need her e-mail address 11:26:42
2 masked? 11:26:46

3 MR. MYERS: Objection. Mischaracterizes 11:26:46
4 prior testimony. 11:26:48

5 Q You may answer the question. 11:26:48

6 A Well, I -- I don't know that she needed it 11:26:55
7 masked. Typically the -- again, this is 11:27:00
8 speculation -- this is speculation on my part. But 11:27:13
9 typically we probably would not, as an Executive 11:27:15
10 Secretariat, support establishing a e-mail address 11:27:21
11 that was commonly available to every employee in the 11:27:26
12 State Department. 11:27:29

13 Q Okay. Is that the reason why you 11:27:30
14 proposed -- or why you commented that it would mask 11:27:35
15 her identity? 11:27:37

16 MR. MYERS: Objection. Foundation. 11:27:38

17 Q You may answer the question. 11:27:39

18 A Again, I -- I can't recall the 11:27:41
19 circumstances that led me to write this. But I do 11:27:45
20 speculate it would have been to ensure that it was 11:27:49
21 clear that Secretary Clinton's name would not appear 11:27:53
22 on the State Department's directory. 11:27:57

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1	Q	Okay. If Mrs. Clinton's name did not	11:27:59
2		appear on the directory, how would employees	11:28:04
3		communicate with her? How would employees know her	11:28:08
4		e-mail address?	11:28:11
5	MR. MYERS:	Objection. Foundation. Calls	11:28:12
6		for speculation.	11:28:13
7	Q	You may answer the question.	11:28:14
8	A	I -- I don't know.	11:28:18
9	Q	Okay. The next part of the e-mail says,	11:28:20
10		"but which would also be subject to FOIA requests."	11:28:23
11		Is that correct?	11:28:27
12	A	It says that, yes. Uh-huh.	11:28:29
13	Q	Do you recall why you wrote that?	11:28:30
14	MR. MYERS:	Objection. Asked and	11:28:33
15		answered.	11:28:34
16	A	Yeah, again, I -- I don't recall the	11:28:35
17		circumstances that led me to -- to write that.	11:28:38
18	Q	Prior to writing this e-mail, did you have	11:28:41
19		any communications with anyone at the State	11:28:44
20		Department about FOIA -- Mrs. Clinton's e-mail and	11:28:47
21		FOIA requests?	11:28:51
22	A	Not that I recall, no.	11:28:54

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1	Q	Did you have any -- did you have any	11:28:55
2		conversations with anyone in which you or the other	11:28:59
3		individual raised a concern that Mrs. Clinton's	11:29:04
4		e-mail was currently not being subject to FOIA	11:29:06
5		requests?	11:29:09
6	A	No, I don't recall any conversation like	11:29:13
7		that.	11:29:15
8	Q	Do you recall ever hearing that there were	11:29:15
9		concerns that Mrs. Clinton's e-mails were not being	11:29:19
10		subject to FOIA requests?	11:29:22
11	A	No, I don't.	11:29:26
12	Q	Going back to the first page. The e-mail	11:29:27
13		above the one we were just discussing is a response	11:29:38
14		from Ms. Abedin to you. And it starts off, "Steve,	11:29:42
15		let's discuss the State BlackBerry. Doesn't make a	11:29:46
16		whole lot of sense."	11:29:50
17		Do you see that?	11:29:51
18	A	Yes.	11:29:52
19	Q	Okay. Do you recall receiving that e-mail	11:29:52
20		from Ms. Abedin?	11:29:54
21	A	No.	11:29:56
22	Q	Do you recall ever discussing with	11:29:56

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1	Ms. Abedin the e-mail and a State Department	11:29:59
2	BlackBerry after the receipt of this e-mail?	11:30:03
3	A No.	11:30:05
4	Q Do you know if you had any conversation	11:30:06
5	with Ms. Abedin after this e-mail?	11:30:10
6	MR. MYERS: Objection. Asked and	11:30:12
7	answered.	11:30:15
8	Q You can answer the question.	11:30:15
9	A Did I have any conversations with her?	11:30:16
10	Q Any conversations about a State Department	11:30:18
11	BlackBerry, I'm sorry.	11:30:20
12	A Not that I recall, no.	11:30:21
13	Q Okay. The e-mail up from that appears to	11:30:21
14	be a response from you to Ms. Abedin.	11:30:26
15	Is that correct?	11:30:30
16	A Yes.	11:30:31
17	Q It says, Thanks for reminding all of --	11:30:31
18	"Thanks for reminding all of this very helpful	11:30:35
19	context," three exclamation marks maybe -- yes, and	11:30:40
20	a smiley face.	11:30:44
21	A Yes.	11:30:45
22	Q Is that correct?	11:30:45

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1	A	Yes.	11:30:46
2	Q	Do you recall if you had a conversation	11:30:46
3		before sending that e-mail?	11:30:48
4		MR. MYERS: Objection. Vague.	11:30:52
5	Q	Do you recall having a conversation about	11:30:55
6		contact -- providing -- where Ms. Abedin provided	11:30:59
7		you with helpful context?	11:31:02
8		MR. MYERS: Objection. Vague.	11:31:04
9	A	No, I don't recall.	11:31:06
10	Q	Do you recall why you sent this response?	11:31:07
11	A	I don't recall why, no.	11:31:11
12	Q	The -- the e-mail above that appears to be	11:31:12
13		a response from Ms. Abedin to you. Ms. Abedin	11:31:19
14		states, "It's pretty silly and she knows it."	11:31:23
15		Do you know what that was in reference to?	11:31:27
16		MR. MYERS: Objection. Vague.	11:31:29
17	Q	You may answer the question.	11:31:31
18	A	Well, again, I -- I don't recall receiving	11:31:35
19		this e-mail at the time. In looking at it now, I	11:31:38
20		would understand it to be talking about the concerns	11:31:43
21		about the equipment installed for while she was	11:31:45
22		traveling.	11:31:49

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1	Q	Besides -- have you spoken with Ms. Abedin	11:31:51
2		about this e-mail chain since you learned of it in	11:31:55
3		the media?	11:32:00
4	A	No.	11:32:01
5	Q	Have you talked about this e-mail chain	11:32:01
6		with Mr. Kennedy since you read about it in the	11:32:04
7		media?	11:32:06
8	A	No.	11:32:07
9	Q	Have you talked about this e-mail with	11:32:07
10		Ms. Mills since you read about it in the media?	11:32:11
11	A	No.	11:32:14
12	Q	And then last, Ms. Hanley. Have you	11:32:14
13		talked to her about this e-mail chain since you read	11:32:17
14		it in the media?	11:32:19
15	A	No.	11:32:20
16	Q	Did you speak with the Inspector General	11:32:21
17		about this e-mail within the past year?	11:32:28
18	A	I -- I don't recall. My meetings with the	11:32:45
19		Inspector General, one was a telephone conversation	11:32:48
20		last summer, and then there was a meeting in my	11:32:53
21		office in September, before this was in the media.	11:32:56
22		I don't recall that, that we discussed this.	11:33:00

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1 Q Have you spoken to the Inspector General 11:33:08
2 since this was in the media? 11:33:11

3 MR. MYERS: So I'm going to object to this 11:33:12
4 line of questioning. There is a statute that 11:33:13
5 specifically protects -- protects the 11:33:15
6 confidentiality of the IG investigation and the 11:33:19
7 communications that the IG has. If you have 11:33:21
8 questions about the substance of what he knows, you 11:33:23
9 should ask those questions. 11:33:25

10 MR. BEKESHA: Sure. 11:33:27

11 Q Do you know who Bryan Pagliano is? 11:33:30

12 A I have read his name in the media 11:33:39
13 recently, yes. 11:33:43

14 Q Okay. Did you know who Bryan Pagliano was 11:33:43
15 while you were Executive Secretary? 11:33:47

16 MR. MYERS: Objection. That's ambiguous. 11:33:49
17 Which part are you asking about, the "while"? 11:33:52

18 MR. BEKESHA: About Mr. Pagliano. 11:33:55

19 Q Did you know who Mr. Pagliano was while 11:33:56
20 you were Executive Secretary? 11:33:59

21 A I don't recall that I did, no. 11:34:01

22 Q Do you recall ever speaking with 11:34:02

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1	Mr. Pagliano while you were Executive Secretary?	11:34:06
2	A No.	11:34:08
3	Q Have you spoken to anyone besides counsel	11:34:08
4	and any law enforcement where there's an active	11:34:14
5	investigation going about Mr. Pagliano?	11:34:17
6	Have you spoken to anyone else?	11:34:20
7	A I seem to recall I have. Again, when his	11:34:25
8	name appeared in the media, I vaguely remember	11:34:29
9	people asking me if I knew who he was.	11:34:33
10	Q Who were those individuals? Were any of	11:34:38
11	them at the State Department?	11:34:41
12	A Some may have been. I can't remember	11:34:46
13	specific conversations. But friends, colleagues.	11:34:47
14	Q Do you recall generally what you told them	11:34:51
15	when they asked?	11:34:54
16	A That I did not know him.	11:34:56
17	Q Do you know if any other State -- do you	11:34:58
18	know of any State Department officials or employees	11:35:03
19	that used an e-mail account on Clintonemail.com to	11:35:06
20	conduct official government business?	11:35:10
21	A Well, your question is based on the	11:35:17
22	assumption that I knew that someone was conducting	11:35:20

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1 government business, and I -- I don't have a basis 11:35:22
2 to make such a judgment. 11:35:24

3 Q Do you know if any State Department 11:35:25
4 monies, resources, or personnel were used to create 11:35:30
5 or operate Clintonemail.com? 11:35:35

6 A I don't know. 11:35:37

7 Q Do you know if Mrs. Clinton at any point 11:35:38
8 was advised not -- or was advised to use a State.gov 11:35:42
9 e-mail account to conduct official government 11:35:47
10 business? 11:35:48

11 A I'm not aware that she was. 11:35:49

12 Q Do you know if Ms. Abedin was ever advised 11:35:50
13 to use a State.gov e-mail account to conduct 11:35:55
14 official government business? 11:35:58

15 A No, I'm not aware of that. 11:36:01

16 Q Okay. Do you know if anybody authorized 11:36:03
17 Mrs. Clinton to use a non-State.gov e-mail account 11:36:06
18 to conduct official government business? 11:36:10

19 A I don't know. 11:36:12

20 Q Do you know if Mrs. Clinton's use of 11:36:12
21 Clinton e-mail dot -- a non-State Department e-mail 11:36:17
22 address was in conflict with State Department's 11:36:21

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1	policies, practices, or procedures?	11:36:23
2	MR. MYERS: Objection to the extent that	11:36:25
3	it calls for a legal conclusion.	11:36:26
4	Q You may answer the question.	11:36:27
5	A I -- I don't know the law on it.	11:36:29
6	Q Do you know if a memorandum exists that	11:36:31
7	talks about Mrs. Clinton's use of a non-State.gov	11:36:35
8	e-mail account?	11:36:39
9	A Do I know -- I'm sorry, could you repeat	11:36:41
10	that question?	11:36:44
11	Q That a memorandum exists that discusses	11:36:44
12	Mrs. Clinton's use of a non-State.gov e-mail	11:36:46
13	account.	11:36:50
14	A I am vaguely aware. I think there was	11:36:58
15	some reference of that in the -- in the press	11:37:00
16	accounts of this issue.	11:37:03
17	Q Okay.	11:37:05
18	MR. BEKESHA: Let's take a five-minute --	11:37:10
19	ten-minute break.	11:37:12
20	VIDEO SPECIALIST: This marks the end of	11:37:13
21	Tape Number 1 in the deposition of Stephen D. Mull.	11:37:16
22	We are off the record at 11:37.	11:37:20

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1	(A recess was taken.)	11:37:50
2	VIDEO SPECIALIST: Here begins Tape Number	11:53:18
3	2 in the deposition of Stephen D. Mull. We are back	11:53:25
4	on the record at 11:53.	11:53:28
5	MR. BEKESHA: Great. Thank you.	11:53:31
6	We're going to mark this as Exhibit 7.	11:53:32
7	(Deposition Exhibit 7 marked for	11:53:34
8	identification and is attached to the transcript.)	11:53:34
9	MR. BEKESHA: Thank you.	11:54:22
10	Q Have you had a chance to look at the	11:54:22
11	record?	11:54:23
12	A I've -- I've looked at it but, obviously,	11:54:25
13	not read the whole thing, so ...	11:54:26
14	Q Okay. Have you -- this is the January	11:54:28
15	2016 OIG report entitled "Evaluation of the	11:54:31
16	Department of State's FOIA processes for requests	11:54:36
17	involving the Office of the Secretary."	11:54:40
18	Have you seen this before?	11:54:42
19	A Yes.	11:54:44
20	Q When did you see this?	11:54:44
21	A When it was released earlier this year.	11:54:47
22	Q Okay. Have you discussed this report with	11:54:49

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1	anyone, excluding counsel and any law-enforcement	11:54:52
2	officers that are currently engaging in an active	11:54:57
3	law-enforcement investigation?	11:55:01
4	A Not that I recall, no.	11:55:03
5	Q Okay. Did you speak with the Office of	11:55:04
6	Inspector General with respect to this report?	11:55:10
7	A Not that I recall, no.	11:55:16
8	Q Okay. I'm going to point your attention	11:55:17
9	to a couple of the pages.	11:55:21
10	A All right.	11:55:26
11	Q Let's first go to Page 5.	11:55:26
12	And either if you want to take a moment to	11:55:28
13	look at it now, or I can ask the question and then	11:55:33
14	you can have an opportunity to look at the page.	11:55:36
15	Whatever works best for you, Mr. Mull.	11:55:38
16	A Okay. The -- the entire page?	11:55:40
17	Q Yeah. I mean, if you can take a look.	11:55:42
18	A Okay. I've read it.	11:56:50
19	Q Thank you. Does this page properly	11:56:51
20	reflect what you recall to be the FOIA process for	11:56:53
21	requests involving the Office of the Secretary while	11:56:57
22	you were Executive Secretary?	11:56:58

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1	MR. MYERS: Objection. Vague. Sorry.	11:57:00
2	MS. BERMAN: What page were you on?	11:57:08
3	MR. BEKESHA: Five.	11:57:10
4	THE WITNESS: Oh, I was on six. I'm so	11:57:13
5	sorry. I'm sorry. My mistake.	11:57:15
6	MR. BEKESHA: Not a problem.	11:57:20
7	A Okay. Yes.	11:58:57
8	Q Great. Thank you.	11:58:57
9	Does this -- I'll ask my question again.	11:58:58
10	Does this properly reflect what you recall to be the	11:59:00
11	FOIA process for requests involving the Office of	11:59:02
12	the Secretary while you were Executive Secretary?	11:59:05
13	MR. MYERS: Objection. Vague.	11:59:07
14	Q You may answer the question.	11:59:09
15	A As -- as far as I recall. I -- I don't	11:59:11
16	recall the very specific process, but this seems	11:59:13
17	consistent with what I recall.	11:59:18
18	Q Okay. In it it refers to a FOIA -- FOIA	11:59:19
19	analyst.	11:59:23
20	Do you recall who the FOIA analyst was	11:59:24
21	while you were Executive Secretary?	11:59:27
22	A I don't, no.	11:59:29

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1	Q	Okay. It also discusses a Deputy Director	11:59:29
2		of Correspondence, Records and Staffing. Do you	11:59:34
3		recall who that individual was while you were	11:59:36
4		Executive Secretary?	11:59:38
5	A	I don't recall, no.	11:59:43
6	Q	Moving on to Page 9. The paragraph that	11:59:50
7		starts on Page 8 and ends on Page 9, I want to	11:59:57
8		direct your attention to.	12:00:01
9	A	Okay.	12:00:02
10	Q	I'll give you a minute to read that over.	12:00:02
11		MR. MYERS: Michael, is this the paragraph	12:00:05
12		that starts, "In addition"?	12:00:06
13		MR. BEKESHA: Yes.	12:00:08
14		MR. MYERS: Thanks.	12:00:08
15	A	Okay.	12:01:01
16	Q	Okay. In that paragraph it reads, "S/ES	12:01:01
17		rarely searched electronic e-mail accounts prior to	12:01:05
18		2011 and still does not consistently search these	12:01:08
19		accounts even when relevant records are likely to be	12:01:11
20		uncovered through such a search."	12:01:14
21		Do you see that?	12:01:17
22	A	Yes.	12:01:17

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1 Q Do you recall whether or not while you 12:01:18
2 were Executive Secretary the Executive Secretariat 12:01:23
3 searched electronic e-mail accounts? 12:01:27

4 MR. MYERS: To the extent that your 12:01:29
5 question goes beyond former Secretary Clinton and 12:01:30
6 Huma Abedin, I object that it's beyond the scope of 12:01:33
7 discovery. 12:01:35

8 Q You may answer the question. 12:01:36

9 A I typically as Executive Secretary was not 12:01:37
10 personally involved in conducting searches, so I 12:01:41
11 can't -- I can't recall. 12:01:45

12 Q Okay. 12:01:47

13 A -- when it was or when it wasn't done. 12:01:48

14 Q Sure. Okay. Thank you. 12:01:49

15 The last sentence says, "The FOIA analyst 12:01:52
16 described the decision to search e-mail accounts to 12:01:55
17 be discretionary, one that is only exercised 12:01:58
18 periodically." 12:02:00

19 Do you see that? 12:02:01

20 A Yes. 12:02:05

21 Q While you were Executive Secretary, did 12:02:06
22 you have any conversations with anyone within the 12:02:07

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1	Office of Executive Secretariat about whether or not	12:02:09
2	e-mail accounts should be searched regularly?	12:02:12
3	MR. MYERS: Again. Same objection, to the	12:02:15
4	extent your question isn't limited to the	12:02:17
5	individuals identified in the court's order setting	12:02:20
6	the scope of permissible discovery.	12:02:22
7	Q You may answer the question.	12:02:23
8	A I -- I don't recall any such	12:02:25
9	conversations.	12:02:26
10	Q Are you surprised with these findings by	12:02:26
11	the Inspector General?	12:02:29
12	MR. MYERS: Objection. It's beyond the	12:02:31
13	scope of permissible discovery.	12:02:34
14	Q You may answer the question.	12:02:35
15	A Am I surprised with all of the findings	12:02:37
16	or --	12:02:39
17	Q With the findings specifically, those two	12:02:39
18	sentences that we were just discussing.	12:02:42
19	MR. MYERS: Same objection.	12:02:43
20	Q You may answer the question.	12:02:44
21	A I'm sorry. Just -- so one is the last	12:02:49
22	sentence of that paragraph?	12:02:52

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1	Q	Yes. "The S/ES rarely searched electronic	12:02:53
2		e-mail accounts prior to 2011," and then the	12:02:55
3		sentence, "The FOIA analyst described the decision	12:02:58
4		to search."	12:03:00
5	MR. MYERS:	Same objection as to -- as to	12:03:01
6		scope of discovery, and also as to foundation.	12:03:04
7	A	I don't have a basis to be surprised or	12:03:08
8		not surprised.	12:03:12
9	Q	Do you know why the change was made in	12:03:14
10		2011 about how electronic e-mail accounts were to be	12:03:22
11		searched subject to FOIA requests?	12:03:26
12	MR. MYERS:	Objection. Vague. Assumes	12:03:27
13		facts not in evidence.	12:03:29
14	Q	You may answer the question.	12:03:30
15	A	Which change in 2011?	12:03:31
16	Q	The -- it talks about, the report says,	12:03:32
17		S/ES rarely searched electronic e-mail accounts	12:03:37
18		prior to 2011.	12:03:39
19	A	Oh.	12:03:41
20	Q	So our question is, do you know why --	12:03:41
21		what changed or why it changed between --	12:03:44
22	A	Yeah.	12:03:47

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1	Q	-- prior to 2011?	12:03:47
2		MR. MYERS: Same objection. And your	12:03:49
3		question is also now compound.	12:03:50
4	Q	You may answer the question.	12:03:51
5	A	I -- I don't know why, no.	12:03:52
6	Q	If you could turn to Page 11.	12:03:54
7		Specifically the paragraph of, "Lack of written	12:04:05
8		policies and procedures."	12:04:10
9	A	Okay.	12:04:13
10		Okay.	12:04:56
11	Q	Great. The first sentence, "Although	12:04:57
12		other department components, such as the Bureaus of	12:05:00
13		Diplomatic Security and International Narcotics and	12:05:04
14		Law Enforcement Affairs, have their own written FOIA	12:05:07
15		guidance or standard operating procedures, S/ES does	12:05:10
16		not."	12:05:14
17		Do you see that sentence?	12:05:14
18	A	Yes.	12:05:15
19	Q	Does that help refresh your recollection	12:05:16
20		as to whether or not S/ES had specific written FOIA	12:05:17
21		guidance when you were Executive Secretary?	12:05:22
22	A	I don't remember any -- any such guidance.	12:05:26

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1 Q If there were such guidance, who would be 12:05:28
2 responsible for writing such guidance? 12:05:30

3 MR. MYERS: Objection. Foundation. Calls 12:05:32
4 for speculation. 12:05:33

5 A Well, I -- again, I don't know. But I 12:05:39
6 would speculate that the office responsible for that 12:05:41
7 function, the office of -- then the Office of 12:05:45
8 Correspondence and Records. 12:05:50

9 Q Okay. Turning to Page 13, the paragraph 12:05:50
10 entitled, Insufficient Training. 12:05:58

11 A Yes. 12:06:30

12 Q I just had a quick question of, do you 12:06:30
13 recall training occurring within the Office of the 12:06:34
14 Executive Secretariat while you were Executive 12:06:37
15 Secretary? 12:06:39

16 MR. MYERS: Objection. Vague, and it goes 12:06:39
17 beyond the scope of authorized discovery. 12:06:41

18 Q You may answer the question. 12:06:43

19 A I do not recall such training. 12:06:45

20 Q Turning to Page 14. 12:06:51

21 Actually, strike that. Let's turn to Page 12:07:04

22 20. 12:07:13

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1	If you could take a look at Page 20, as	12:07:22
2	well as 21 --	12:07:24
3	A Okay.	12:07:26
4	Q -- that would be great. Thank you.	12:07:26
5	A Okay.	12:09:25
6	Q Great. Thank you.	12:09:25
7	This appears to be a letter from MaryKary	12:09:27
8	Carlson to the Inspector General?	12:09:30
9	A Yes. Uh-huh.	12:09:34
10	Q And MaryKary Carlson at the time was the	12:09:35
11	Acting Executive Secretary?	12:09:38
12	MR. MYERS: Objection. Foundation.	12:09:41
13	A I don't know that as a fact, but that's	12:09:43
14	what it says on the ...	12:09:47
15	Q Did you ever speak with Ms. Carlson about	12:09:49
16	the IG investigation?	12:09:51
17	A No.	12:09:53
18	Q Okay. Looking at Recommendation 2. It	12:09:53
19	states, "The Executive Secretariat further agrees	12:09:59
20	with the OIG recommendation that S/ES employees	12:10:02
21	should be reminded that federal records contained in	12:10:05
22	personal e-mails may be subject to FOIA and should	12:10:08

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1 be preserved in the department's record-keeping 12:10:11
2 systems. All department employees received this 12:10:14
3 guidance and instruction from the Undersecretary for 12:10:19
4 Management October 17, 2014." 12:10:22

5 Do you know if any instructions were 12:10:25
6 provided to S/ES employees prior to October 17th, 12:10:27
7 2014? 12:10:32

8 MR. MYERS: Objection. It goes beyond the 12:10:33
9 scope of authorized discovery. 12:10:35

10 Q You may answer the question. 12:10:36

11 A I don't -- I don't recall any, no. 12:10:38

12 Q There is also, farther down in that 12:10:39
13 paragraph it states, "All employees are required to 12:10:44
14 copy or forward any personal message containing a 12:10:48
15 federal record to their official department e-mail 12:10:51
16 accounts for appropriate retention and archiving." 12:10:54

17 While you were Executive Secretary, do you 12:10:58
18 know if any such guidance or -- any such guidance 12:11:00
19 was provided to that effect to employees within the 12:11:06
20 office of the Secretary? 12:11:09

21 MR. MYERS: Objection. It goes beyond the 12:11:10
22 scope of authorized discovery, which concerns FOIA 12:11:12

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1	processing, not records management as a general	12:11:14
2	matter.	12:11:16
3	MR. BEKESHA: Sure.	12:11:17
4	Q You may answer the question.	12:11:17
5	A I don't recall any.	12:11:18
6	Q Okay. Let's move on. We're going to move	12:11:19
7	on to what we're going to mark as Exhibit 8.	12:11:24
8	(Deposition Exhibit 8 marked for	12:11:27
9	identification and is attached to the transcript.)	12:11:54
10	MR. MYERS: Now I have a color copy of	12:11:54
11	this.	12:11:56
12	Q Have you seen this report before?	12:12:09
13	A I've seen mention of it in the press	12:12:17
14	recently.	12:12:19
15	Q Okay. But you haven't read the report?	12:12:20
16	A I have not, no.	12:12:22
17	Q Okay. And I think you answered this	12:12:23
18	before, but did you speak with the Office of	12:12:26
19	Inspector General with respect to this report?	12:12:30
20	MR. MYERS: Objection. The IG	12:12:32
21	investigation is not relevant to the scope of	12:12:37
22	discovery. If you have substantive questions, you	12:12:39

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1	should ask him.	12:12:41
2	MR. BEKESHA: Sure.	12:12:41
3	Q You may answer the question.	12:12:42
4	A I spoke with the Office of the Inspector	12:12:46
5	General on two occasions last summer. I can't	12:12:50
6	recall that they -- it was about the general	12:12:58
7	question of e-mail practices. I don't specifically	12:13:01
8	remember that they -- that they said it was for the	12:13:10
9	title of this inspection.	12:13:11
10	Q Okay. Thank you.	12:13:13
11	If we could turn to Page 2, Footnote 7.	12:13:15
12	The report states, "An individual based in New York	12:13:29
13	who provided technical support for Secretary	12:13:33
14	Clinton's personal e-mail system but who was never	12:13:36
15	employed by the department."	12:13:40
16	Do you know who that individual is?	12:13:41
17	MR. MYERS: Objection. It goes beyond the	12:13:42
18	scope of authorized discovery.	12:13:44
19	Q You may answer the question.	12:13:46
20	A No, I don't.	12:13:47
21	Q On Page 3, Footnote 14. It talks about --	12:13:48
22	it states, "A March 17, 2009, memorandum prepared by	12:14:12

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1	S/ES-IRM staff regarding communications equipment in	12:14:16
2	the Secretary's New York residence identified a	12:14:22
3	server located in the basement."	12:14:26
4	Do you see that?	12:14:27
5	A Yes. Uh-huh.	12:14:28
6	Q When you became Executive Secretary, were	12:14:29
7	you shown this memorandum?	12:14:32
8	A No, not that I recall.	12:14:34
9	Q Have you ever seen the memorandum	12:14:41
10	identified in this footnote?	12:14:42
11	A No, I don't remember ever seeing a	12:14:43
12	memorandum like that.	12:14:46
13	Q Have you ever discussed with anybody	12:14:46
14	within the office of the Executive Secretariat this	12:14:48
15	memorandum -- the memorandum identified in this	12:14:51
16	footnote?	12:14:54
17	A No, not that I recall.	12:14:55
18	Q Moving on to Page 8.	12:14:56
19	I'm interested in the first paragraph that	12:15:10
20	starts, "In 2009." If you could take a look at that	12:15:12
21	paragraph for a moment, please.	12:15:16
22	A Okay.	12:15:42

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1	Q	Great. Do you know what the SMART system	12:15:42
2		is?	12:15:44
3	A	I know it is a information processing	12:15:45
4		system within the department, but I'm not completely	12:15:53
5		familiar with the details.	12:15:55
6	Q	Okay. The report states, "In 2009 IRM	12:15:56
7		introduced SMART throughout the department, enabling	12:16:02
8		employees to preserve a record copy of e-mails	12:16:05
9		through their department e-mail accounts without	12:16:07
10		having to print and file them."	12:16:09
11		Is IRM -- do you know if IRM in that	12:16:11
12		instance was the general IRM for the State	12:16:14
13		Department or the specific S/ES-IRM?	12:16:18
14	MR. MYERS:	I'm going to object. This is	12:16:20
15		beyond the scope of discovery. This concerns	12:16:23
16		records management and preservations, not FOIA	12:16:27
17		processing.	12:16:28
18	MR. BEKESHA:	Sure.	12:16:29
19	Q	You may answer the question.	12:16:29
20	A	I don't know. But I'm assuming from the	12:16:31
21		context that this would be the department's overall	12:16:34
22		IRM.	12:16:37

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103

1	Q	Okay. Thank you.	12:16:38
2		The next sentence is, "However, the Office	12:16:39
3		of the Secretary elected not to use SMART to	12:16:41
4		preserve e-mails."	12:16:44
5		My question is, were you -- did you have	12:16:47
6		any conversations with anyone within the Office of	12:16:50
7		the Secretary about electing to not use SMART to	12:16:53
8		preserve e-mails?	12:16:55
9		MR. MYERS: Same objection as to scope.	12:16:56
10	Q	You may answer the question.	12:16:59
11	A	I don't recall any such conversations with	12:17:01
12		the Office of the Secretary.	12:17:04
13	Q	Okay. Do you recall any conversations	12:17:05
14		with anyone within the State Department about the	12:17:07
15		Office of the Secretary electing not to use SMART to	12:17:09
16		preserve e-mails?	12:17:13
17		MR. MYERS: Same objection as to scope.	12:17:13
18	A	No, I don't remember.	12:17:16
19	Q	Moving on to Page 11. The paragraph that	12:17:17
20		starts, "Since 2004."	12:17:35
21	A	Okay.	12:18:20
22	Q	Great. In it, in that paragraph, it	12:18:20

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1	states there is an August 2004 memorandum from the	12:18:23
2	Executive Secretary that reminded departing	12:18:27
3	officials not to remove any document -- documentary	12:18:30
4	materials, whether personal or official, and whether	12:18:34
5	in written or electronic form, until such materials	12:18:36
6	have been reviewed by records and security officers.	12:18:41
7	My question is, have you seen that August	12:18:43
8	2004 memorandum?	12:18:45
9	MR. MYERS: Same objection. This exceeds	12:18:46
10	the scope of discovery as authorized by the court's	12:18:47
11	order.	12:18:50
12	MR. BEKESHA: Sure.	12:18:50
13	Q You may answer the question.	12:18:51
14	A I -- sitting here today, I don't recall	12:18:53
15	that memorandum.	12:18:55
16	Q Okay. Farther down in the paragraph it	12:18:55
17	says the department reiterated this guidance in	12:18:58
18	April, June, and October of 2008.	12:19:00
19	Did you see any memorandum that may have	12:19:04
20	been issued in April, June, or October of 2008 about	12:19:08
21	this issue?	12:19:11
22	MR. MYERS: Same objection. And the	12:19:11

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105

1	question is compound.	12:19:12
2	MR. BEKESHA: Sure.	12:19:14
3	Q You may answer the question.	12:19:14
4	A I don't recall.	12:19:15
5	Q Okay. Farther down in the paragraph it	12:19:17
6	states, "S/ES conducts annual workshops with the"	12:19:22
7	agency -- "agency records officer on records	12:19:26
8	management for departing senior officials and their	12:19:31
9	staffs. Such workshops were held in February 2007,	12:19:33
10	September 2008, June 2009, April 2010, October 2011,	12:19:37
11	October 2012, and October 2013."	12:19:43
12	Did you attend the -- did you attend	12:19:47
13	either of the workshops in October 2011 or October	12:19:49
14	2012?	12:19:55
15	MR. MYERS: Objection. Scope, and	12:19:56
16	compound.	12:19:57
17	Q You may answer the question.	12:19:59
18	A No.	12:20:00
19	Q Do you know if Mrs. Clinton attended	12:20:00
20	either of those workshops?	12:20:07
21	MR. MYERS: Objection. Scope.	12:20:09
22	Q You may answer the question.	12:20:11

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1	A	I -- I don't know. Though I would be	12:20:15
2		surprised. This is normally targeted at clerical	12:20:18
3		staff.	12:20:21
4	Q	Okay. Do you know who the agency records	12:20:21
5		officer is?	12:20:33
6	A	At the State Department?	12:20:35
7	Q	At the State -- yes. At the time -- at	12:20:36
8		the time you were Executive Secretary, do you know	12:20:39
9		who the agency records officer was?	12:20:40
10	A	During my time as Executive Secretary?	12:20:46
11	Q	Yes.	12:20:48
12	A	I -- I can't remember.	12:20:52
13	Q	Did you update the 2004 Executive	12:20:53
14		Secretary memorandum identified in this paragraph	12:21:00
15		while you were Executive Secretary?	12:21:02
16		MR. MYERS: Objection. It exceeds the	12:21:04
17		scope of authorized discovery.	12:21:05
18	Q	You may answer the question.	12:21:07
19	A	Did I update the paragraph?	12:21:09
20	Q	Update the memorandum.	12:21:10
21	A	I don't recall doing so, no.	12:21:15
22	Q	Okay. Did you provide any guidance based	12:21:17

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1	on the August 2004 memorandum?	12:21:18
2	MR. MYERS: Same objection.	12:21:22
3	Q You may answer.	12:21:23
4	A Not that I recall, no.	12:21:24
5	Q Let's turn to Page 38.	12:21:25
6	Looking specifically now at the paragraph	12:21:58
7	that starts, "In November 2010."	12:22:00
8	A Okay. Okay.	12:22:03
9	Q Great. In this paragraph it says that,	12:22:18
10	"The Deputy Chief of Staff e-mailed the Secretary	12:22:21
11	that we should talk about putting you on a State	12:22:23
12	e-mail or releasing your e-mail address to the	12:22:26
13	department so" you -- "so you are not going to	12:22:28
14	spam."	12:22:32
15	First, the Deputy Chief of Staff, was that	12:22:33
16	Ms. Abedin?	12:22:35
17	MR. MYERS: Objection. Foundation.	12:22:37
18	A I believe the Deputy Chief of Staff for	12:22:40
19	Operations, that was Ms. Abedin's title at the time,	12:22:42
20	yes.	12:22:45
21	Q Did you ever see this e-mail referenced in	12:22:45
22	this paragraph?	12:22:48

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1	A	No, I don't recall it.	12:22:50
2	Q	Okay. Did you ever have a discussion with	12:22:51
3		Ms. Abedin in November 2010 about getting	12:22:55
4		Mrs. Clinton an e-mail address -- a State Department	12:23:00
5		e-mail address?	12:23:03
6	A	No, not that I recall.	12:23:04
7	Q	Did you ever talk to Ms. Abedin in	12:23:05
8		November 2010 about releasing Mrs. Clinton's e-mail	12:23:07
9		address to the department?	12:23:12
10	A	No, not that I recall.	12:23:14
11	Q	Okay. The next sentence states that	12:23:15
12		Mrs. -- the Secretary wrote, "Let's get separate	12:23:20
13		address or device, but I don't want any risk of the	12:23:23
14		personal being accessible."	12:23:26
15		Did you see this -- have you seen this	12:23:30
16		e-mail from Mrs. Clinton?	12:23:31
17	A	I believe I saw an account of it in the	12:23:36
18		press accompanying this report, but I don't -- have	12:23:38
19		no recollection of seeing any such e-mail at the	12:23:41
20		time.	12:23:44
21	Q	Do you know if Mrs. Clinton ever received	12:23:44
22		a separate address or device while you were	12:23:47

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1	Executive Secretary?	12:23:50
2	A No. Not that I'm aware of.	12:23:52
3	Q Okay. You mentioned before your	12:23:53
4	familiar -- familiarity with FOIA. Is it your	12:23:59
5	understanding that personal materials are subject to	12:24:02
6	the Freedom of Information Act?	12:24:05
7	MR. MYERS: Objection. It calls for a	12:24:06
8	legal conclusion.	12:24:08
9	Q You may answer the question.	12:24:09
10	A I don't have a formal legal understanding	12:24:11
11	of it, but my understanding is that personal	12:24:14
12	materials are -- are not subject to FOIA.	12:24:17
13	Q On -- also on Page 38, at the bottom of	12:24:18
14	the page and carrying over to the next page, the	12:24:31
15	sentence starts, "In another e-mail exchange."	12:24:34
16	A Uh-huh.	12:24:37
17	Q It states, "In another e-mail exchange,	12:24:37
18	the director of S/ES-IRM noted that an e-mail	12:24:40
19	account and address had already been set up for the	12:24:44
20	Secretary and also stated that you should be aware	12:24:47
21	that any e-mail would go through the department's	12:24:50
22	infrastructure and subject to FOIA searches."	12:24:52

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1	Have you seen that e-mail -- that e-mail?	12:24:57
2	MS. BERMAN: Read the whole paragraph.	12:25:06
3	A I don't -- I don't recall that e-mail.	12:25:40
4	Q Okay. Do you know if that e-mail was part	12:25:42
5	of the chain of the e-mail ...	12:25:51
6	(A discussion was held off the record.)	12:26:18
7	BY MR. BEKESHA:	12:26:26
8	Q Sorry about that.	12:26:27
9	Do you still have the exhibits in front of	12:26:29
10	you?	12:26:31
11	A Yes, I do.	12:26:32
12	Q Okay.	12:26:32
13	A These are them.	12:26:33
14	Q Do you know -- do you know if the e-mail	12:26:34
15	referenced in this paragraph was a continuation or	12:26:35
16	part of the e-mail chain that is marked Exhibit 6?	12:26:38
17	MR. MYERS: Objection. Foundation.	12:26:43
18	A I -- I don't know.	12:26:49
19	Q On Page 39, Footnote 158. I'll give you a	12:26:52
20	minute to read that.	12:27:10
21	A Okay.	12:28:00
22	Q Great. In this footnote it states that,	12:28:00

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1	"On December 21st, 2010, S/ES-IRM staff sent senior	12:28:02
2	S/ES staffers an e-mail describing the issue and	12:28:07
3	summarizing the activities undertaken to resolve	12:28:10
4	it."	12:28:13
5	Do you recall seeing this December 21st,	12:28:14
6	2010, e-mail?	12:28:19
7	A No, I don't.	12:28:24
8	Q Have you seen this e-mail even since that	12:28:24
9	date?	12:28:28
10	A No, not that I can recall.	12:28:29
11	Q Okay. Who would -- it's -- in it it says	12:28:30
12	the e-mail was sent to senior S/ES staffers.	12:28:37
13	Do you know who senior S/ES staffers would	12:28:40
14	be?	12:28:42
15	MR. MYERS: Objection. Foundation. Calls	12:28:42
16	for speculation.	12:28:43
17	A I -- I don't know.	12:28:46
18	Q Okay. In the sentence above that it	12:28:47
19	states, "At that time S/ES-IRM staff met with the	12:28:59
20	senior advisor."	12:29:02
21	Do you know who the senior advisor is?	12:29:04
22	MR. MYERS: Objection. Foundation, and	12:29:06

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1	calls for speculation.	12:29:07
2	A No.	12:29:09
3	Q Do you recall being apprised of the	12:29:10
4	situation in December 21st, 2010?	12:29:22
5	MR. MYERS: Objection. Vague.	12:29:24
6	Q You may answer.	12:29:25
7	A Which situation?	12:29:26
8	Q Discussions about difficulties with	12:29:27
9	Mrs. Clinton's -- the Secretary's e-mail system.	12:29:31
10	A I'm -- I'm sorry, I -- I don't remember	12:29:41
11	discussions on December 21st, 2010, about the	12:29:44
12	Secretary's e-mail.	12:29:48
13	Q Okay. Let's turn to Page 40, the first	12:29:49
14	paragraph, the first bullet point on that page that	12:29:53
15	starts, To Staff.	12:29:55
16	A Uh-huh.	12:29:56
17	Q If you want to take a chance to look that	12:29:56
18	over.	12:29:59
19	A Sure.	12:30:28
20	Okay.	12:30:34
21	Q Great. In this paragraph it states that	12:30:34
22	"The director stated that the Secretary's personal	12:30:36

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1	system had been reviewed and approved by department	12:30:40
2	legal staff and that the matter was not to be	12:30:43
3	discussed any further."	12:30:45
4	Did you ever speak to the director of	12:30:49
5	S/ES-IRM about Mrs. Clinton's personal system having	12:30:52
6	been reviewed and approved by department legal	12:30:57
7	staff?	12:31:00
8	A Not that I recall, no.	12:31:01
9	Q Did you speak to anybody within the	12:31:02
10	department about whether Mrs. Clinton's personal	12:31:04
11	system had been reviewed and approved by the	12:31:07
12	department legal staff?	12:31:09
13	A Not that I recall.	12:31:11
14	Q Do you know if Mrs. Clinton's personal	12:31:12
15	system had been reviewed and approved by department	12:31:15
16	legal staff?	12:31:18
17	A I don't know.	12:31:19
18	Q Okay. Did you -- do you know, did you	12:31:19
19	have any discussions with the director about his	12:31:24
20	instructions to staff not to discuss the matter any	12:31:27
21	further?	12:31:30
22	MR. MYERS: Objection. Assumes facts not	12:31:31

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1	in evidence.	12:31:32
2	Q You may answer the question.	12:31:32
3	A I -- I'm not aware.	12:31:34
4	Q Did you have any discussions with anyone	12:31:35
5	within the State Department about not discussing	12:31:37
6	Mrs. Clinton's personal system?	12:31:40
7	A I'm not aware. I don't recall any such	12:31:43
8	conversation.	12:31:46
9	Q And -- and just to confirm, the director	12:31:46
10	of S/ES-IRM was Mr. Bentel?	12:31:52
11	MR. MYERS: Objection. Asked and	12:31:55
12	answered.	12:31:55
13	Q You may answer the question.	12:31:57
14	A Yes. At that time.	12:31:58
15	Q Thank you.	12:31:59
16	Let's turn to Page 73 and 74. If you want	12:32:11
17	to take a moment to review those two pages.	12:32:28
18	A Okay.	12:32:30
19	Okay.	12:33:55
20	Q Thank you. Would you agree that this	12:33:55
21	appears to be a letter from Joseph E. Macmanus to	12:33:57
22	the Inspector General?	12:34:02

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1	A	Yes.	12:34:04
2	Q	And Mr. Macmanus, at least as of May 16,	12:34:04
3		2010 -- 2016 was the Executive Secretary of the	12:34:06
4		State Department?	12:34:10
5	A	Yes.	12:34:11
6	Q	And that's the position you previously	12:34:12
7		held. Correct?	12:34:14
8	A	Yes.	12:34:16
9	Q	Okay. Have you spoken with Mr. Macmanus	12:34:16
10		recently? When was the last time you spoke to	12:34:21
11		Mr. Macmanus?	12:34:24
12	A	I greeted him in the hallway three or four	12:34:30
13		weeks ago.	12:34:33
14	Q	Okay. Have you ever talked to	12:34:33
15		Mr. Macmanus about the Office of the Secretary's	12:34:35
16		evaluation of e-mail records management?	12:34:40
17	A	No.	12:34:42
18		MR. MYERS: Objection. Exceeds the scope	12:34:42
19		of authorized discovery.	12:34:43
20	Q	Have you -- have you ever spoken to	12:34:45
21		Mr. Macmanus about Mrs. Clinton's use of a	12:34:46
22		non-State.gov e-mail account?	12:34:50

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1	A	No.	12:34:53
2	Q	Have you ever spoken to Mr. Macmanus about	12:34:53
3		Ms. Abedin's use of a non-State.gov e-mail account	12:34:56
4		to conduct official government business?	12:35:00
5	A	No, not that I recall.	12:35:02
6	Q	Okay. Looking on Page 74, the	12:35:03
7		department's response, it states, "The Executive	12:35:10
8		Secretariat agrees with the OIG recommendation that	12:35:14
9		it should ensure all departing officials within its	12:35:17
10		purview, including the Secretary of State, sign a	12:35:21
11		separation agreement form and that all incoming	12:35:23
12		staff clearly understand their records preservation	12:35:26
13		and retention responsibilities."	12:35:29
14		My question is, do you know if	12:35:33
15		Mrs. Clinton was informed of her preservation and	12:35:34
16		retention responsibilities when she became Secretary	12:35:38
17		of State?	12:35:43
18	MR. MYERS:	Objection. Exceeds the scope	12:35:43
19		of authorized discovery, which concerns FOIA	12:35:45
20		processing.	12:35:47
21	MR. BEKESHA:	Yes.	12:35:48
22	Q	You may answer the question.	12:35:48

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1 A I'm not aware. I was not Executive 12:35:50
2 Secretary at the time. 12:35:52

3 Q Of individuals that onboarded into those 12:35:52
4 senior-level positions that the Executive 12:35:58
5 Secretariat assists with, did any senior-level 12:36:03
6 individuals onboard while you were Executive 12:36:07
7 Secretary, and were they -- were they provided 12:36:11
8 guidance about the preservation and retention 12:36:14
9 responsibilities? 12:36:17

10 MR. MYERS: Objection. Vague and 12:36:17
11 compound. I think it exceeds the scope of 12:36:19
12 authorized discovery. 12:36:21

13 Q You may answer the question. 12:36:22

14 A I -- I don't recall any such individual 12:36:23
15 case. 12:36:26

16 Q At any point did you take any actions to 12:36:27
17 ensure that Mrs. Clinton understood her records 12:36:33
18 preservation and retention responsibilities? 12:36:37

19 MR. MYERS: Objection. Exceeds the scope 12:36:39
20 of authorized discovery. 12:36:41

21 Q You may answer the question. 12:36:42

22 A I don't recall doing so, no. 12:36:42

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1	Q	Did you ever -- I guess the same question	12:36:43
2		for Ms. Abedin: Did you take any actions to ensure	12:36:46
3		that Ms. Abedin understood her records preservation	12:36:49
4		and retention responsibilities?	12:36:53
5	MR. MYERS:	Objection. Exceeds the scope	12:36:54
6		of authorized discovery.	12:36:55
7	A	Not that I recall, no.	12:36:57
8	Q	Would that thought -- would that have	12:36:58
9		fallen within the purview of the -- of the Executive	12:37:01
10		Secretary?	12:37:04
11	MR. MYERS:	Objection. Exceeds the scope	12:37:04
12		of authorized discovery.	12:37:06
13	A	Within the purview of the Executive	12:37:08
14		Secretary to brief Ms. Abedin and Secretary Clinton	12:37:11
15		on their records preservation?	12:37:14
16	Q	To ensure -- to ensure that they were	12:37:16
17		briefed and they -- they did understand their	12:37:18
18		responsibilities and requirements.	12:37:20
19	MR. MYERS:	Objection. Exceeds the scope	12:37:21
20		of authorized discovery.	12:37:23
21	Q	You may answer the question.	12:37:24
22	A	I would consider that to be a	12:37:26

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1 responsibility of the Executive Secretariat in 12:37:29
2 orienting new employees, as well as prior to their 12:37:32
3 departure. 12:37:36

4 Q Would that include providing them with 12:37:37
5 information about what -- what would occur when they 12:37:44
6 were leaving the office? 12:37:47

7 MR. MYERS: Objection. Vague, and exceeds 12:37:48
8 the scope of authorized discovery. 12:37:50

9 Q You may answer the question. 12:37:52

10 A Would briefing them on their 12:37:55
11 responsibilities include what they needed to do, 12:37:56
12 I -- 12:37:58

13 Q Yes. To include what they needed to do 12:37:58
14 when they were leaving their position. 12:38:02

15 MR. MYERS: Same vagueness and scope 12:38:03
16 objection. 12:38:05

17 Q You may answer the question. 12:38:05

18 A I had not worked as Executive Secretary 12:38:07
19 either during their onboarding or immediately prior 12:38:10
20 to their departure. So I -- I couldn't speak to it. 12:38:13

21 Q If it fell within the purview of the 12:38:17
22 Executive Secretariat, why didn't you make sure, 12:38:25

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1 ensure that Mrs. Clinton and Ms. Abedin understood 12:38:28
2 their records management requirements? 12:38:32

3 MR. MYERS: Objection. Vague. Calls for 12:38:34
4 speculation, and it's beyond the scope of authorized 12:38:36
5 discovery. 12:38:38

6 Q You may answer the question. 12:38:39

7 A Because I would anticipate, when orienting 12:38:42
8 a new government official, that is a responsibility 12:38:45
9 that -- conversation that would take place at the 12:38:50
10 beginning, as well as at the end of the tenure of 12:38:52
11 such an official. Or if there were ever occasion to 12:38:54
12 suspect that such procedures were not being followed 12:38:58
13 correctly. 12:39:03

14 Q So you -- is it my understanding that you 12:39:03
15 didn't -- you didn't -- you didn't think you had to 12:39:14
16 ensure their compliance or their understanding of 12:39:17
17 their responsibilities? 12:39:20

18 MR. MYERS: Objection. Objection. Vague. 12:39:20
19 Calls for speculation, and it's beyond the scope. 12:39:22

20 Q You may answer the question. 12:39:26

21 A All right. I'm sorry, could you repeat it 12:39:27
22 again, please? 12:39:29

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1 Q Did -- I guess the followup is, did you 12:39:30
2 not think you needed to -- need to provide guidance 12:39:35
3 to Mrs. Clinton and Ms. Abedin about their 12:39:41
4 document-retention responsibilities? 12:39:44

5 MR. MYERS: Objection. Vague, and beyond 12:39:45
6 the scope. 12:39:46

7 A I had no reason to believe that they had 12:39:48
8 not been provided that information when they assumed 12:39:49
9 office and was not there immediately prior to their 12:39:53
10 departure. I had no reason to suspect they were 12:39:59
11 unaware. 12:40:01

12 Q Did you think about any of these issues in 12:40:02
13 August of 2011 when you sent Exhibit -- e-mail 12:40:07
14 identified in Exhibit 6? 12:40:14

15 MR. MYERS: Objection. Vague, and beyond 12:40:15
16 the scope. 12:40:16

17 Q You may answer the question. 12:40:20

18 A I don't recall the circumstances that led 12:40:22
19 me to write what I did in that memo. 12:40:24

20 Q Why didn't you make sure they understood 12:40:27
21 their requirements while you were Executive 12:40:29
22 Secretary? 12:40:31

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1	MR. MYERS: Objection. Asked and	12:40:31
2	answered, and beyond the scope.	12:40:32
3	Q You may answer the question.	12:40:36
4	A Again, I had no reason to believe that	12:40:37
5	they were unaware or were not complying.	12:40:41
6	MR. BEKESHA: Let's mark this as Exhibit	12:40:46
7	9.	12:40:49
8	(Deposition Exhibit 9 marked for	12:40:49
9	identification and is attached to the transcript.)	12:41:08
10	MR. MYERS: This is Exhibit 9, Michael?	12:41:08
11	MR. BEKESHA: Exhibit 9. Yes. Sorry.	12:41:10
12	MR. MYERS: Thank you.	12:41:12
13	Q Did you have reason to believe -- before	12:41:13
14	we get to Exhibit 9, did you have reason to believe	12:41:15
15	that Mrs. Clinton and Ms. Abedin were made aware of	12:41:17
16	their responsibilities to preserve federal records?	12:41:21
17	MR. MYERS: Objection. Asked and	12:41:25
18	answered. Calls for speculation, and beyond the	12:41:26
19	scope.	12:41:28
20	A I had no basis of -- of knowing, because	12:41:29
21	they became government officials before I was in the	12:41:31
22	position of Executive Secretary.	12:41:34

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1	Q	If you could take a look at what's been	12:41:36
2		marked as Exhibit 9.	12:41:38
3	A	Uh-huh.	12:41:42
4	Q	Have you seen this document before?	12:41:42
5	A	I don't recall seeing it before.	12:41:44
6	Q	Is it fair to say that this is a -- this	12:41:48
7		is a document that was provided as transition	12:41:50
8		background materials in 1996 to the Office of the	12:41:54
9		Secretary?	12:41:57
10		MR. MYERS: Objection. Foundation. The	12:41:58
11		document speaks for itself.	12:42:05
12	A	Yeah, I don't know to whom it would have	12:42:06
13		been provided.	12:42:08
14	Q	Sure. Do you know if a similar document	12:42:08
15		was provided to Mrs. Clinton --	12:42:11
16		MR. MYERS: Objection. Vague.	12:42:13
17	Q	-- when she became Secretary of State?	12:42:14
18	A	I don't know.	12:42:17
19	Q	Okay. Have you seen an updated version of	12:42:18
20		this document while you were Executive Secretary?	12:42:21
21		MR. MYERS: Objection. Vague.	12:42:29
22	A	I don't recall seeing a document like	12:42:31

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1	this.	12:42:32
2	Q Okay. Do you know if such a document was	12:42:32
3	created exists for the transition of Secretaries?	12:42:35
4	MR. MYERS: Objection. Vague.	12:42:40
5	A I -- I don't know.	12:42:43
6	Q Okay. I want to turn -- all right. I	12:42:43
7	thought they were numbered. Ten -- roughly ten	12:43:09
8	pages from the back. It starts off, it's identified	12:43:19
9	as Number 96-009 S/S-EX - Administrative Procedure,	12:43:23
10	Subject Records Management.	12:43:32
11	MR. MYERS: Just for the record, is this a	12:43:41
12	page that has a bullet Annual Retirement of Records,	12:43:42
13	about halfway down?	12:43:45
14	MR. BEKESHA: Yes.	12:43:47
15	MR. MYERS: Okay.	12:43:47
16	MR. BEKESHA: Further down, "As outlined	12:43:48
17	below are procedures for retiring front office	12:43:50
18	records."	12:43:53
19	Is Mr. Mull able --	12:43:57
20	A Ten pages back.	12:43:59
21	MS. BERMAN: We're not finding it in ours.	12:44:05
22	A Okay.	12:44:07

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1	Q	If you can just take a minute to review	12:44:08
2		those two pages.	12:44:16
3	A	Okay.	12:44:18
4		MR. BEKESHA: Steve, just confirm it is	12:44:22
5		that. Yeah. Okay.	12:44:23
6		MS. BERMAN: That's what he's looking at?	12:44:24
7		MR. MYERS: Yes.	12:44:27
8	A	Okay.	12:45:53
9	Q	Great. Is it fair to say that this is a	12:45:53
10		memorandum about records management within the	12:45:56
11		Office of the Secretary?	12:46:01
12		MR. MYERS: Objection. Foundation, and	12:46:04
13		beyond the scope of authorized discovery.	12:46:06
14	A	It appears to address records management	12:46:13
15		processes for all department principals.	12:46:18
16	Q	Okay. And that would include --	12:46:22
17	A	And that would include the Secretary, yes.	12:46:24
18	Q	Thank you.	12:46:25
19		Do you know if a current version of this	12:46:26
20		document -- was there a current version of this	12:46:29
21		document when you were Executive Secretary?	12:46:32
22		MR. MYERS: Objection. Beyond the scope	12:46:34

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1 of authorized discovery. 12:46:35

2 A I -- I don't recall. 12:46:39

3 Q Okay. Do you know if Mrs. Clinton was 12:46:40

4 provided an updated version of this document when 12:46:43

5 she took office? 12:46:46

6 MR. MYERS: Objection. Beyond the scope. 12:46:47

7 Q You may answer the question. 12:46:49

8 A I -- I don't know. 12:46:50

9 Q Do you know who would know about what 12:46:51

10 information was provided to Mrs. Clinton regarding 12:46:56

11 requirements for records retention when she became 12:46:59

12 Secretary -- when she took office? 12:47:02

13 MR. MYERS: Objection. Beyond the scope. 12:47:04

14 A I -- I can speculate who might know. I 12:47:10

15 mean, certainly anybody who received information 12:47:14

16 would -- would be in a position to know. Who might 12:47:16

17 have given it, it could have been the transition 12:47:20

18 team, it could have been the Executive Secretary. 12:47:24

19 I -- I really don't know. I couldn't speculate. 12:47:27

20 Q Is it -- is it your testimony that you 12:47:28

21 don't know today whether Mrs. Clinton used a 12:47:42

22 personal e-mail account to conduct official 12:47:45

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1	government business?	12:47:48
2	A I -- is it my position today that ...	12:47:55
3	Q Yes. Is that your testimony today, that	12:47:57
4	you -- that you don't know that Mrs. Clinton used a	12:47:59
5	non-State.gov e-mail account to conduct official	12:48:02
6	government business.	12:48:06
7	MS. BERMAN: Do you want to direct that to	12:48:08
8	the time that he was Executive Secretary?	12:48:09
9	MR. BEKESHA: No. Just generally.	12:48:12
10	Q Sitting here today, in your testimony, do	12:48:14
11	you know if Mrs. Clinton --	12:48:17
12	A Well, I -- I know that certainly those	12:48:21
13	allegations have been made. They've been very well	12:48:24
14	publicized in the press. I -- you know, I don't	12:48:27
15	feel comfortable expressing a judgment about the	12:48:32
16	character of -- of those e-mails.	12:48:35
17	Q Okay. Did you use a personal e-mail	12:48:37
18	account to conduct official government business when	12:48:39
19	you were Executive Secretary?	12:48:42
20	MR. MYERS: Objection. Beyond the scope	12:48:43
21	of authorized discovery.	12:48:44
22	Q You may answer the question.	12:48:46

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1 A Not -- not that I recall. Well, 12:48:49
2 occasionally. For example, if I were writing my 12:48:51
3 work requirements on a department form, sometimes to 12:48:56
4 make it easier to do it at home, I would have 12:49:01
5 forwarded that. So occasionally I -- I might have, 12:49:04
6 yes. But principally I conducted government 12:49:08
7 business through my government account. 12:49:10

8 Q And why did you do that? 12:49:11

9 MR. MYERS: Objection. Beyond the scope 12:49:13
10 of authorized discovery. And I'm going to instruct 12:49:15
11 the witness not to answer. This has absolutely 12:49:17
12 nothing to do with the use of Clintonemail.com nor 12:49:19
13 with processing of FOIA requests. 12:49:22

14 Q Did you have an e-mail account on 12:49:23
15 Clintonemail.com? 12:49:25

16 A No. 12:49:26

17 Q Have you -- have you read or heard about 12:49:26
18 or talked about Mr. Lukens' testimony in this case? 12:49:31

19 A I saw in the press that he had been 12:49:35
20 deposed, but I'm not familiar with the details of 12:49:38
21 his testimony. 12:49:41

22 Q Okay. Are you aware that Ms. Mills also 12:49:42

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1 provided testimony in this case? 12:49:45

2 A Yes. I saw an article in the press that 12:49:47
3 she had been deposed. 12:49:50

4 Q Have you read or heard or talked about 12:49:51
5 the -- her -- what she testified to? 12:49:56

6 A I read an article in The New York Times. 12:49:58

7 Q Okay. 12:50:01

8 A Earlier -- earlier this week. 12:50:02

9 Q Besides reviewing the one e-mail that's 12:50:04
10 identified as Exhibit 6, did you look at or review 12:50:07
11 any other documents in preparation for your 12:50:11
12 testimony today? 12:50:14

13 A Yes. 12:50:15

14 Q What other -- what other documents did you 12:50:16
15 review? You may answer that question. 12:50:18

16 MR. MYERS: So I'm going to object to the 12:50:23
17 extent that it calls for privileged information and 12:50:24
18 instruct the witness not to divulge any documents or 12:50:26
19 work product of counsel that you were shown in the 12:50:28
20 course of preparing for today's deposition. 12:50:30

21 Q Are there any -- did you review any 12:50:33
22 documents that were not provided to you by counsel? 12:50:35

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1	A	No.	12:50:43
2	Q	Did you talk to anybody -- besides	12:50:43
3		counsel, did you speak to any -- and I guess any	12:50:47
4		ongoing law-enforcement proceeding, did you speak to	12:50:50
5		anyone else, did you speak to anyone about your	12:50:53
6		testimony today?	12:50:56
7	A	My wife, my son, my office mates, a	12:51:01
8		friend. Yeah, that's about it.	12:51:17
9	Q	Okay. And your office mates, are those at	12:51:18
10		the State Department?	12:51:21
11	A	Yes. Uh-huh.	12:51:22
12	Q	And what did you tell -- what did you talk	12:51:22
13		to them about? What were those conversations?	12:51:24
14	A	I told them that I would not be in the	12:51:26
15		office for a big part of today because I would be	12:51:28
16		providing this deposition.	12:51:30
17	Q	Did you talk to them about anything else	12:51:32
18		about this case or about your testimony today?	12:51:33
19	A	No.	12:51:36
20	Q	Okay.	12:51:36
21		MR. BEKESHA: Why don't we take another	12:51:41
22		short break, five minutes or so.	12:51:43

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1	MR. MYERS: Okay.	12:51:49
2	VIDEO SPECIALIST: This marks the end of	12:51:50
3	Tape Number 2 in the deposition of Stephen D. Mull.	12:51:52
4	We are off the record at 12:51.	12:51:55
5	(A recess was taken.)	13:02:15
6	VIDEO SPECIALIST: Here begins Tape Number	13:02:18
7	3 in the deposition of Stephen D. Mull. We are back	13:02:19
8	on the record at 1:02.	13:02:22
9	BY MR. BEKESHA:	13:02:25
10	Q Great. I just have a few more questions,	13:02:26
11	Mr. Mull. But before we do that, I want you to take	13:02:28
12	a look at these three pages. They were pulled from	13:02:31
13	what was Exhibit 9. We'd like to mark those as	13:02:35
14	Exhibit 9A.	13:02:38
15	A Okay.	13:02:39
16	Q I just want you to confirm that those were	13:02:40
17	the three pages that we were discussing before.	13:02:44
18	A Yes.	13:02:47
19	(Deposition Exhibit 9A marked for	13:02:47
20	identification and is attached to the transcript.)	13:02:48
21	MR. MYERS: Look at the exhibit.	13:02:48
22	(A discussion was held off the record.)	13:03:04

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1	BY MR. BEKESHA:	13:03:06
2	Q I just need you to confirm --	13:03:07
3	A Yes, that's correct.	13:03:09
4	Q -- that those are the three pages.	13:03:09
5	Okay. Thank you.	13:03:13
6	As I said, I just have a few more	13:03:13
7	questions.	13:03:15
8	When you e-mailed Ms. Mills in late August	13:03:15
9	2011, did you have an understanding of how	13:03:18
10	Mrs. Clinton was using her BlackBerry for e-mail?	13:03:20
11	MR. MYERS: Objection. Vague. Assumes	13:03:24
12	facts not in evidence.	13:03:26
13	Q You may answer the question.	13:03:28
14	A Are you -- are you referring to Exhibit 6?	13:03:29
15	Q Yeah. Exhibit 6. During that -- during	13:03:32
16	that time frame when that e-mail was sent, did you	13:03:34
17	have an understanding of how Mrs. Clinton was using	13:03:37
18	her BlackBerry for e-mail?	13:03:39
19	A No.	13:03:41
20	Q Okay. Did you understand that	13:03:42
21	Mrs. Clinton -- did you think Mrs. Clinton was using	13:03:45
22	her BlackBerry to conduct personal business?	13:03:48

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1	A	No. I have no basis or knowledge of what	13:03:53
2		she was using the BlackBerry for.	13:03:58
3	Q	And you didn't know if she was using the	13:04:00
4		BlackBerry to conduct official government business?	13:04:02
5	A	No.	13:04:04
6	Q	Is it your testimony that you assumed that	13:04:05
7		Mrs. Clinton understood her record-preservation	13:04:07
8		obligations?	13:04:09
9		MR. MYERS: Objection. Beyond the scope	13:04:11
10		of authorized discovery.	13:04:12
11	Q	You may answer the question.	13:04:14
12	A	No, that's not my testimony. I -- I was	13:04:16
13		not part of the process of her appointment being	13:04:19
14		brought on board when -- which would have been the	13:04:23
15		logical time of her being briefed. So -- so I'm	13:04:25
16		unaware.	13:04:28
17	Q	While you were Executive Secretary, would	13:04:28
18		it have been in your purview to ensure that	13:04:31
19		employees such as the office -- such as the	13:04:34
20		Secretary was properly trained when they were	13:04:36
21		onboarded?	13:04:39
22		MR. MYERS: Objection. Beyond the scope	13:04:40

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1 of authorized discovery, and asked and answered. 13:04:41

2 Q You may answer the question. 13:04:44

3 A If I had believed reasonably she was 13:04:46
4 unaware, it would have been my responsibility to 13:04:50
5 make her aware of it. 13:04:52

6 Q Do you believe -- to this day do you 13:04:57
7 believe it was a mistake to not discuss -- oh, I 13:05:00
8 can't read your writing. Sorry about that. 13:05:07

9 Just to confirm, did you -- did you take 13:05:11
10 any steps to ensure that -- to ensure that 13:05:14
11 Mrs. Clinton understood her record-preservation 13:05:21
12 duties? 13:05:23

13 MR. MYERS: Objection. Asked and 13:05:23
14 answered, and beyond the scope of authorized 13:05:25
15 discovery. 13:05:26

16 A No. Because I had no reason to believe 13:05:28
17 that it needed to be done. 13:05:30

18 Q Sitting here today, do you believe it was 13:05:32
19 a mistake not to confirm with Mrs. Clinton that she 13:05:34
20 understood her record-preservation requirements? 13:05:39

21 MR. MYERS: Objection. Beyond the scope 13:05:41
22 of authorized discovery, and calls for speculation. 13:05:42

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1	Q	You may answer the question.	13:05:45
2	A	Yeah, I -- I -- I think it's difficult	13:05:49
3		with hindsight to say something was a mistake, if a	13:05:52
4		person didn't have the knowledge at the time of what	13:05:56
5		was going on. So I'm afraid I can't answer the	13:06:00
6		question.	13:06:02
7	Q	Okay. Do you regret the fact you did not	13:06:02
8		have knowledge that Mrs. Clinton was using a	13:06:05
9		non-State.gov e-mail account?	13:06:08
10		MR. MYERS: Objection. Argumentative, and	13:06:10
11		goes beyond the scope of authorized discovery.	13:06:12
12	Q	You may answer the question.	13:06:14
13	A	Do I regret that I --	13:06:15
14	Q	Yeah. That you didn't know. Or strike	13:06:17
15		that. I'll ask another question.	13:06:19
16		Sorry. I just lost my train of thought.	13:06:20
17		Do you wish that you knew -- that you asked	13:06:36
18		Mrs. Clinton how she was conducting official	13:06:41
19		government business while she was Secretary of	13:06:44
20		State?	13:06:46
21		MR. MYERS: Objection. It's	13:06:46
22		argumentative.	13:06:47

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1	A	Do I wish I knew?	13:06:55
2		MS. BERMAN: That wasn't the question.	13:06:59
3	A	I'm sorry, I -- I -- no. It's hard to say	13:07:01
4		what I -- I should have, would have done, based on	13:07:05
5		knowledge I have today. Basically I have a	13:07:07
6		difficult --	13:07:10
7	Q	Sure.	13:07:10
8	A	-- answer -- time answering the way that	13:07:11
9		question is framed.	13:07:13
10	Q	If you had known that Mrs. Clinton was	13:07:14
11		using non-State.gov e-mail account to conduct	13:07:16
12		official government business, would you have	13:07:20
13		instructed her not to do so?	13:07:21
14		MR. MYERS: Objection. Vague, calls for	13:07:23
15		speculation.	13:07:25
16	Q	You may answer the question.	13:07:26
17	A	I typically avoided instructing	13:07:29
18		Secretaries of State to do anything. But if I had	13:07:33
19		become aware, if I were aware that any Secretary of	13:07:36
20		State while I was serving as Executive Secretary	13:07:41
21		were not aware of responsibilities, I -- I would	13:07:44
22		have taken steps within my power to inform them of	13:07:48

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1 that. 13:07:53

2 Q If you had known that Ms. Abedin was using 13:07:53
3 a non-State.gov e-mail account to conduct official 13:07:56
4 government business, would you have instructed her 13:07:59
5 not to? 13:08:00

6 MR. MYERS: Objection. Calls for 13:08:01
7 speculation. 13:08:02

8 Q You can answer the question. 13:08:03

9 A It's -- it's an analogous -- an analogous 13:08:07
10 answer. 13:08:11

11 I -- if I were aware that she was either 13:08:11
12 not aware of her requirements or not complying with 13:08:14
13 them, I think I would have alerted her, yes. 13:08:18

14 Q How frequently did you engage with 13:08:22
15 Mrs. Clinton? 13:08:25

16 A When she was in Washington, usually every 13:08:29
17 business day. And when I was at work. 13:08:32

18 Q Okay. 13:08:34

19 MR. BEKESHA: No other questions. 13:08:38

20 MR. MYERS: Okay. Let's just take two 13:08:40
21 minutes, if you don't mind. 13:08:42

22 MR. BEKESHA: Sure. 13:08:43

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1	MR. MYERS: Thanks.	13:08:44
2	VIDEO SPECIALIST: We are going off the	13:08:45
3	record. The time is 1:08.	13:08:46
4	(A recess was taken.)	13:08:48
5	VIDEO SPECIALIST: We are back on the	13:16:32
6	record. The time is 1:16.	13:16:36
7	MR. MYERS: We have no questions for the	13:16:39
8	witness.	13:16:40
9	MR. BEKESHA: Great. Thank you.	13:16:41
10	VIDEO SPECIALIST: This marks the end of	13:16:43
11	the deposition of Stephen D. Mull. We are going off	13:16:46
12	the record at 1:16.	13:16:48
13	(Off the record at 1:16 p.m.)	
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ACKNOWLEDGMENT OF DEPONENT

I, STEPHEN D. MULL, do hereby acknowledge
that I have read and examined the foregoing testimony,
and the same is a true, correct and complete transcription
of the testimony given by me and any corrections appear
on the attached Errata sheet signed by me.

(DATE)

(SIGNATURE)

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1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, Debra Ann Whitehead, the officer before whom
3 the foregoing deposition was taken, do hereby
4 certify that the foregoing transcript is a true and
5 correct record of the testimony given; that said
6 testimony was taken by me stenographically and
7 thereafter reduced to typewriting under my
8 direction; that reading and signing was requested;
9 and that I am neither counsel for, related to, nor
10 employed by any of the parties to this case and have
11 no interest, financial or otherwise, in its outcome.

12 IN WITNESS WHEREOF, I have hereunto set my hand and
13 affixed my notarial seal this 5th day of June, 2016.

14

15 My commission expires:

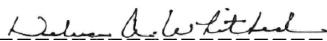
16 September 14, 2018

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NOTARY PUBLIC IN AND FOR THE

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DISTRICT OF COLUMBIA

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DS024

RELEASE IN PART
B5, B7(C)

Reid, Donald R

From: Reid, Donald R
Sent: Wednesday, February 09, 2011 12:50 PM
To: [REDACTED]
Subject: FW: (SBU) Electronic Devices and the 7th Floor

REVIEW AUTHORITY: Barbara Nielsen, Senior
Reviewer

Note ☐ caveats

Certainly, any discussion of the vulnerabilities of portable devices could use some context in terms of the real threats here at State, so I suspect there's a likely (brief) role for you [REDACTED] Does ST have someone who could provide a dynamic briefing? [REDACTED]

I'll get with Gentry. Certainly, we need to verify or correct the urban myths Cheryl believes re other agencies. I would also assume the S/IRM folks have verbalized something back to [REDACTED] but don't know what that might be...

From: [REDACTED]
Sent: Wednesday, February 09, 2011 11:48 AM
To: Smith, Gentry O; Reid, Donald R
Cc: [REDACTED]
Subject: (SBU) Electronic Devices and the 7th Floor

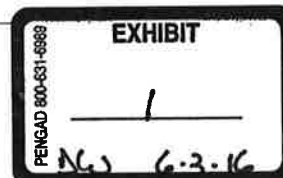
E.O. 13526: UNCLASSIFIED

SENSITIVE - PLEASE LIMIT DISTRIBUTION

Sirs,

I wanted to share with you, back-channel, a little insight into current thinking in the Secretary's inner circle on technology issues and request your help. [REDACTED]

S/ES management does not see a need to respond point-for-point on any of this; however, [REDACTED]



I would greatly appreciate your guidance on how [redacted] to coordinate on this project. [redacted]

B5

Thank you and best regards,

B7(C)

SENSITIVE BUT UNCLASSIFIED – PLEASE LIMIT DISTRIBUTION

DS025

REVIEW
AUTHORITY:
Barbara Nielsen,
Senior Reviewer,

RELEASE IN PART
B5, B7(C)

Reid, Donald R

From: Reid, Donald R
Sent: Wednesday, March 02, 2011 5:22 PM
To: [REDACTED]
Cc: [REDACTED]

B7(C)

Subject: RE: (SBU) Electronic Devices and the 7th Floor
Attachments: FW: (S/REL FVEY): FINAL version of Info Memo for S

I discussed this subject with Gentry this morning...we have a DS Memo to S re malicious cyber activity directed toward Dept seniors that is circulating in final clearance (Atch)...Amb Boswell would like to use it to approach M and Amb Mull about setting up this briefing for seniors and key staff...I agree the timing might be perfect but we likely need to meet to harmonize a message and discuss our approach...Don

From: [REDACTED]
Sent: Wednesday, March 02, 2011 5:11 PM
To: Smith, Gentry O; Reid, Donald R
Cc: [REDACTED]

B7(C)

B7(C)

Subject: RE: (SBU) Electronic Devices and the 7th Floor

Sirs,

I am sorry to bother you, but I wanted to pass on that we are entering a period, until the end of March, when there is no S travel on the immediate horizon. As April promises to be a very busy month on the 7th Floor, I believe we have an excellent window in the coming weeks to catch much of our ideal target audience in the office.

As always, I stand ready to assist in facilitating the below-mentioned presentation in any way I can.

Thank you and best regards,

From: Smith, Gentry O
Sent: Thursday, February 10, 2011 8:46 AM
To: [REDACTED] Reid, Donald R
Cc: [REDACTED]

B7(C)

B7(C)

Subject: RE: (SBU) Electronic Devices and the 7th Floor

[REDACTED] - C would love to participate. Don and I spoke yesterday and are both interested. We'll talk some more about presenters and timing. Gentry

B7(C)

From: [REDACTED]
Sent: Wednesday, February 09, 2011 11:48 AM
To: Smith, Gentry O; Reid, Donald R
Cc: [REDACTED]

B7(C)

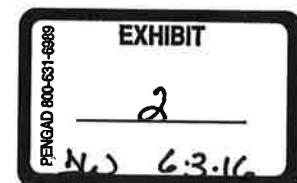
B7(C)

Subject: (SBU) Electronic Devices and the 7th Floor

E.O. 13526: UNCLASSIFIED

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Sirs,



I wanted to share with you, back-channel, a little insight into current thinking in the Secretary's inner circle on technology issues and request your help. [REDACTED]

B5

S/ES management does not see a need to respond point-for-point on any of this; however, [REDACTED]

B5

I would greatly appreciate your guidance on how [REDACTED] want to coordinate on this project. [REDACTED]

B5

Thank you and best regards,



B7(C)

SENSITIVE BUT UNCLASSIFIED – PLEASE LIMIT DISTRIBUTION

RELEASE IN FULL

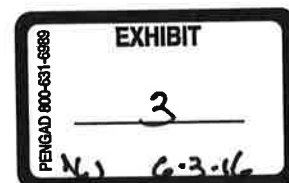
From: Crowley, Philip J <CrowleyPJ@state.gov>
Sent: Friday, January 28, 2011 8:08 PM
To: H
Cc: Mills, Cheryl D; Sullivan, Jacob J; Koh, Harold Hongju; Mull, Stephen D; Reines, Philippe I; McHale, Judith A; Verma, Richard R; Goldberg, Philip S; Abedin, Huma; Steinberg, James B; Nides, Thomas R; Burns, William J
Subject: 60 Minutes Sunday

Madame Secretary, a very quick update. I just received confirmation from 60 Minutes that a piece on Julian Assange will air Sunday night. He will be the only person featured. We had made a number of suggestions for outside experts and former diplomats to interview to "balance" the piece. 60 Minutes assures me that they raised a number of questions and concerns we planted with them during the course of the interview. We will be prepared to respond to the narrative Assange presents during the program.

PJ

SBU

This email is UNCLASSIFIED.



RELEASE IN PART B5

From: Sullivan, Jacob J <SullivanJJ@state.gov>
Sent: Wednesday, July 6, 2011 8:10 AM
To: H
Subject: Fw: Leal case

Fyi

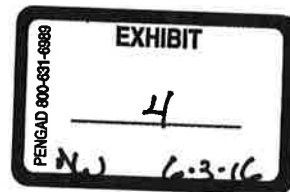
----- Original Message -----

From: Koh, Harold Hongju
Sent: Wednesday, July 06, 2011 06:58 AM
To: Burns, William J; Nides, Thomas R; Sullivan, Jacob J; Kennedy, Patrick F; Mull, Stephen D; Hammer, Michael A; Nuland, Victoria J; Wells, Alice G; Scanlon, Amy B; Adams, David S; Crocker, Bathsheba N; 'HDR22@clintonemail.com' <HDR22@clintonemail.com>; Mills, Cheryl D; McLeod, Mary
Subject: Leal case

As expected, the Texas Board of Pardons and Paroles voted 4:1 against a reprieve for Leal yesterday afternoon and 5:0 against clemency. The Governor could still grant a 30 day stay on his own

B5B5

The execution is scheduled to take place Thursday (tomw) at 7 pm est, so we may get news from the Court tonite. Stay tuned.



From: Abedin, Huma <AbedinH@state.gov>
Sent: Saturday, February 27, 2010 6:34 PM
To: H
Subject: Re: E-mail test

Nothing.

----- Original Message -----

From: H <HDR22@clintonemail.com>
To: Abedin, Huma
Sent: Sat Feb 27 18:30:41 2010
Subject: Re: E-mail test

I've gotten some messages from yesterday--how about you?

----- Original Message -----

From: Abedin, Huma <AbedinH@state.gov>
To: H
Sent: Sat Feb 27 18:29:50 2010
Subject: Re: E-mail test

Ur email must be back up!!

What happened is Judith sent you an email. It bounced back. She called the email help desk at state (I guess assuming u had state email) and told them that. They had no idea it was YOU, just some random address so they emailed. Sorry about that. But regardless, means ur email must be back! R u getting other messages?

----- Original Message -----

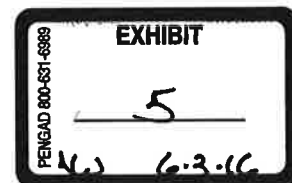
From: H <HDR22@clintonemail.com>
To: Abedin, Huma
Sent: Sat Feb 27 18:13:28 2010
Subject: Fw: E-mail test

Do you know what this is?

----- Original Message -----

From: Butzgy, Christopher H <ButzgyCH2@state.gov>
To: H
Sent: Sat Feb 27 17:59:37 2010
Subject: E-mail test

Good Afternoon,



I work as a Help Desk Analyst and it has come to my attention that one of our customers has been receiving permanent fatal errors from this address, can you please confirm if you receive this message.

Thank you for your assistance,

Christopher

Christopher Butzgy

S/ES-IRM (POEMS)

202-647-8700

This e-mail is Unclassified based on the criteria of E.O. 12958

From: Abedin, Huma
To: Mull, Stephen D
Subject: Re: S Communications
Date: Tuesday, August 30, 2011 5:34:07 PM

RELEASE IN PART
B7(E)

Its pretty silly and she knows it.

From: Mull, Stephen D
Sent: Tuesday, August 30, 2011 05:18 PM
To: Abedin, Huma
Subject: RE: S Communications

Thanks for reminding all of this very helpful context!!! ☺

From: Abedin, Huma
Sent: Tuesday, August 30, 2011 17:17 PM
To: Mull, Stephen D; Mills, Cheryl D
Cc: Kennedy, Patrick F; Hanley, Monica R
Subject: Re: S Communications

REVIEW AUTHORITY: Barbara
Nielsen, Senior Reviewer

Steve - let's discuss the state blackberry, doesn't make a whole lot of sense.
As for the equipment, the commo team was limited in some capacity because we did not have authorization from owners of residence to install equipment. We did it regardless. Additionally, as S knows, the team didn't have access to the property until a couple of hours before S arrived.
Finally, as even the white house attested, this was a pretty wide spread problem, not just affecting us. So we should bear that in mind.

From: Mull, Stephen D
Sent: Tuesday, August 30, 2011 01:39 PM
To: Mills, Cheryl D
Cc: Abedin, Huma; Kennedy, Patrick F; Hanley, Monica R
Subject: S Communications

Cheryl,

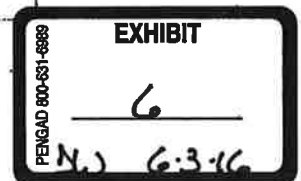
Thanks again for alerting me to the communications issues the Secretary has been having.
Here's a status report:

- On the immediate problem of the Secretary's not being able to have her calls transferred, [REDACTED]

B7(E)

[REDACTED]
The technicians are onsite now [REDACTED]
[REDACTED]

- On the more long term issue, I've asked our team to develop an enhanced



package of capabilities and equipment that we would propose deploying with the Secretary to be as closely co-located as possible with her when she is on travel away from her usual residences. The package will include things that anticipate the normally unexpected such as hurricanes, power outages, earthquakes, locusts, etc, such as generators, uninterrupted power supplies, supplementary satellite capabilities, including satellite phones for when local infrastructure fails (as it did in NY over the weekend).

Separately, we are working to provide the Secretary per her request a Department issued Blackberry to replace her personal unit which is malfunctioning (possibly because of her personal email server is down). We will prepare two versions for her to use - one with an operating State Department email account (which would mask her identity, but which would also be subject to FOIA requests), and another which would just have phone and internet capability. We're working with Monica to hammer out the details of what will best meet the Secretary's needs.

Please let me know if you need anything more for now, and I'll be in touch with the above longer term options soon.

Thanks,

Steve

January 2016

OFFICE OF EVALUATIONS AND SPECIAL PROJECTS

Evaluation of the Department of State's FOIA Processes for Requests Involving the Office of the Secretary

What OIG Found

S/ES is responsible for coordinating searches for FOIA requests for records held by the Office of the Secretary. When a FOIA request of that nature is received by the Department, the Office of Information Programs and Services (IPS) within the Bureau of Administration notifies S/ES. S/ES reports its findings to IPS, which then communicates with the FOIA requester.

OIG's past and current work demonstrates that Department leadership has not played a meaningful role in overseeing or reviewing the quality of FOIA responses. The searches performed by S/ES do not consistently meet statutory and regulatory requirements for completeness and rarely meet requirements for timeliness. 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. However, FOIA and Department guidance require searching email accounts when relevant records are likely maintained in these accounts. In addition, although FOIA requires agencies to respond to requests within 20 working days, some requests involving the Office of the Secretary have taken more than 500 days to process. These delays are due, in part, to the Department's insufficient provision of personnel to IPS to handle its caseload.

These problems are compounded by the fact that S/ES FOIA responses are sometimes inaccurate. Officials in IPS and attorneys for the Department identified instances in which S/ES reported that records did not exist, even though it was later revealed that such records did exist. Procedural weaknesses in S/ES FOIA processes appear to be contributing to these deficiencies. For example, S/ES management is not monitoring search results for accuracy, and IPS has limited ability to conduct oversight. S/ES also lacks written policies and procedures for responding to FOIA requests. Finally, staff in S/ES and other components in the Office of the Secretary have not taken training offered by IPS to better understand their FOIA responsibilities.

In September 2015, the Department appointed a Transparency Coordinator to improve the Department's FOIA process, among other things.



OIG HIGHLIGHTS

[View Report](#)

What OIG Reviewed

As part of ongoing efforts to respond to requests from the current Secretary of State and several Members of Congress, the Office of Inspector General (OIG) evaluated efforts undertaken by the Department of State (Department) to ensure that records are properly produced in response to Freedom of Information Act (FOIA) requests involving past and current Secretaries of State. This report addresses (1) the Department's compliance with FOIA statutory and regulatory requirements and (2) the effectiveness of the processes used by the Office of the Secretary's Executive Secretariat (S/ES) to respond to FOIA requests.

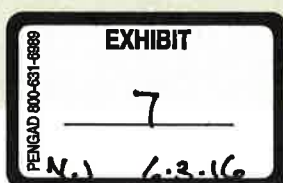
What OIG Recommends

OIG recommends that the Bureau of Administration identify personnel needed to improve the timeliness of FOIA responses and to quickly acquire those resources.

OIG recommends further that the Department develop a quality assurance plan to identify and address vulnerabilities in the FOIA process.

OIG also makes two recommendations to S/ES to ensure that its FOIA searches are complete and accurate.

Based on the Department's responses to a draft of this report, OIG considers all of these recommendations to be resolved, pending further action.





OIG

Office of Inspector General

U.S. Department of State • Broadcasting Board of Governors

ESP-16-01

Office of Evaluations and Special Projects

January 2016

Evaluation of the Department of State's FOIA Processes for Requests Involving the Office of the Secretary

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OBJECTIVES AND METHODOLOGY

In April 2015, the Office of Inspector General (OIG) initiated an evaluation to address concerns identified during recent audits and inspections¹ and to respond to requests from the current Secretary of State and several Members of Congress involving a variety of issues, including the use of non-Departmental systems² to conduct official business, records preservation requirements, and Freedom of Information Act (FOIA) compliance. This report, which is one of several documenting OIG's findings in these areas, addresses efforts undertaken by the Department of State (Department) to ensure that government records are properly produced in response to FOIA requests involving past and current Secretaries of State. Specifically, this report assesses (1) the Department's compliance with FOIA statutory and regulatory requirements and (2) the effectiveness of the processes used by the Office of the Secretary, Executive Secretariat (S/ES), to respond to FOIA requests. OIG has already issued findings related to one aspect of the FOIA process used to review and release 55,000 pages of emails that former Secretary of State Hillary Rodham Clinton provided to the Department in December 2014.³ OIG will report separately on issues associated with the use of non-Departmental systems to conduct official business and records preservation requirements.

In planning this work, OIG drew on FOIA, and related regulations and guidance issued by the Department, and *Standards for Internal Control in the Federal Government*.⁴ To gain an understanding of the Department's FOIA processes, controls, and policies and procedures, OIG interviewed the Under Secretary for Management, the Assistant Secretary for the Bureau of

¹ OIG has identified the following issues: inconsistencies across the Department in identifying and preserving records, hacking incidents and other issues affecting the security of Department electronic communication, delays and other problems related to processing FOIA requests, and concerns about an Ambassador's use of private email to conduct official business. See OIG, *Review of State Messaging and Archive Retrieval Toolset and Record Email* (ISP-I-15-15, March 2015); OIG, *Audit of the Department of State Information Security Program* (AUD-IT-15-17, October 2014); OIG, *Management Alert: OIG Findings of Significant and Recurring Weaknesses in the Department of State Information System Security Program* (AUD-IT-14-04, November 2013); OIG, *Inspection of the Bureau of Administration, Global Information Services, Office of Information Programs and Services* (ISP-I-12-54, September 2012); and OIG, *Inspection of Embassy Nairobi, Kenya* (ISP-I-12-38A, August 2012).

² For purposes of this work, OIG uses the term "non-Departmental systems" to mean hardware and software that is not owned, provided, monitored, or certified by the Department of State.

³ OIG, *Potential Issues Identified by the Office of the Inspector General of the Intelligence Community Concerning the Department of State's Process for the Review of Former Secretary Clinton's Emails under the Freedom of Information Act* (ESP-15-04, July 17, 2015). This report made four recommendations to strengthen the Department's review of records prior to release: (1) requesting staff support from intelligence community FOIA offices to assist in the identification of IC equities, (2) facilitating a review of records by IC FOIA officials to ensure that the Department's Classified Network is appropriate for storage of FOIA material, (3) seeking classification expertise from the interagency to act as a final arbiter if there is a question regarding potentially classified material, and (4) incorporating the Department of Justice into the FOIA process to ensure the legal sufficiency review of the FOIA exemptions and redactions. In response, the Department agreed with recommendations 1 and 4, but did not agree with recommendations 2 and 3.

⁴ Government Accountability Office (GAO), *Standards for Internal Control in the Federal Government* (GAO-14-704G, September 2014).

Administration (A), and various officials in the Office of Global Information Services (A/GIS) and S/ES. In addition, OIG reviewed the Department's annual FOIA reports and obtained and analyzed a list of all FOIA requests tasked to the Office of the Secretary from 1996 to 2015. OIG also consulted with the National Archives and Records Administration's Office of Government Information Services and reviewed the FOIA procedures of other Federal agencies. OIG conducted this work in accordance with quality standards for evaluations as set forth by the Council of the Inspectors General on Integrity and Efficiency.

BACKGROUND

Enacted in 1966, FOIA provides that any person has a right, enforceable in court, to obtain access to Federal agency records, except to the extent that such records (or portions of them) are protected from public disclosure by one of the Act's exemptions or exclusions.⁵ The Act defines "record" broadly and covers "any information that would be an agency record subject to the requirements of [FOIA] when maintained by an agency in any format, including an electronic format."⁶

Upon receipt of a request for records, the agency is required to determine whether to comply and to notify the requester of its determination and the justification for it within 20 working days.⁷ The notification of an adverse determination could be a denial of the request in whole or in part based on the statutory exemptions or a determination that no such records exist. The exemptions include, for example, classified information, privileged communications, and law enforcement information.⁸

In an adverse determination, the agency must notify the requester that he or she has a right to appeal the determination to the head of the agency. An administrative appeal shall be decided within 20 working days.⁹ If the appeal is not favorable, the requester may then file a complaint in Federal district court to enjoin the agency from withholding agency records and to order the

⁵ FOIA, 5 U.S.C. § 552. If an exemption applies, the agency must notify the requester that a record exists but is exempt from disclosure. If an exclusion applies, the agency may notify the requester that no responsive records subject to FOIA exist. Exclusions relate to the existence of an ongoing criminal investigation, the names of informants, and classified foreign intelligence or counterintelligence or international terrorism records.

⁶ 5 U.S.C. § 552(f)(2)(A).

⁷ 5 U.S.C. § 552(a)(6)(A)(i). In unusual circumstances, the time limit for responding to a request or an appeal may be extended by up to ten working days. 5 U.S.C. § 552(a)(6)(B).

⁸ 5 U.S.C. § 552(b). The nine exemptions are (1) information that is classified to protect national security, (2) information related solely to the internal personnel rules and practices of an agency, (3) information that is prohibited from disclosure by another Federal law, (4) trade secrets or commercial or financial information that is confidential or privileged, (5) privileged communications within or between agencies, (6) information that if disclosed would unwarrantedly invade another individual's personal privacy, (7) certain information compiled for law enforcement purposes, (8) information that concerns the supervision of financial institutions, and (9) geological information on wells.

⁹ 5 U.S.C. § 552(a)(6)(A). This includes a determination that no responsive records exist.

production of any agency records the requester believes the agency improperly withheld.¹⁰ In addition, a requester who receives no response within 20 days has a right to file a complaint in district court immediately.¹¹

At the Department, the *Foreign Affairs Manual* (FAM) designates the Office of Information Programs and Services (IPS) as responsible for the Department's compliance with FOIA.¹² IPS is a part of the Office of Global Information Services, a subcomponent of the Bureau of Administration. The FAM also designates the Assistant Secretary for Administration as the Chief FOIA Officer, responsible for Department-wide FOIA compliance.¹³ The Assistant Secretary for Administration reports to the Under Secretary for Management.¹⁴

IPS administers the Department's Information Access Program, which includes administering all requests for FOIA records. IPS coordinates, tracks, and reports on responses to all FOIA requests for Department records—including administrative appeals made in connection with such requests—and is supposed to ensure that responses are timely, accurate, and complete.¹⁵ The Department's FOIA regulations specify that FOIA requests be sent to IPS.¹⁶ The request must reasonably describe the records sought, should be specific, and should include all pertinent details about the request, including the subject, timeframe, any individuals involved, and reasons why the Department is believed to have records on the subject of the request.¹⁷

Once a FOIA request is received, IPS logs it into the case-tracking system—the Freedom of Information Document Management System (FREEDOMS)—and acknowledges the request. IPS then determines which Department bureaus, offices, or overseas posts would possess the requested records and sends a search/review request transmittal (Form DS-1748) to each office FOIA coordinator. The form requires each office to provide information on the files searched and their location, the search terms used, and the time period searched, among other information.

In 2010, the Department issued guidance to offices that describes in general terms how a search is to take place.

Offices must undertake searches that are reasonably calculated to uncover all relevant materials. Unless otherwise noted in a given request, offices should conduct a search for records in any form, including paper records, email

¹⁰ 5 U.S.C. § 552(a)(4)(B). As an alternative to litigation, a requester may request mediation with the agency, which is conducted by the Office of Government Information Services in the National Archives and Records Administration. 5 U.S.C. § 552(h)(3).

¹¹ 5 U.S.C. § 552 (a)(6)(C)(i).

¹² 1 FAM 214.2.

¹³ 1 FAM 211.2(ee). Executive Order 13392 requires the designation of a Chief FOIA Officer.

¹⁴ 1 FAM 211.2(a)

¹⁵ U.S. Department of State, *FOIA Guidance For State Department Employees* (2010), at 3.

¹⁶ 22 C.F.R. § 171.5(a).

¹⁷ 22 C.F.R. § 171.5(c).

(including email in personal folders and attachments to email), and other electronic records on servers, on workstations, or in Department databases. Offices do not, however, need to search where there is no reasonable possibility of finding responsive records.¹⁸

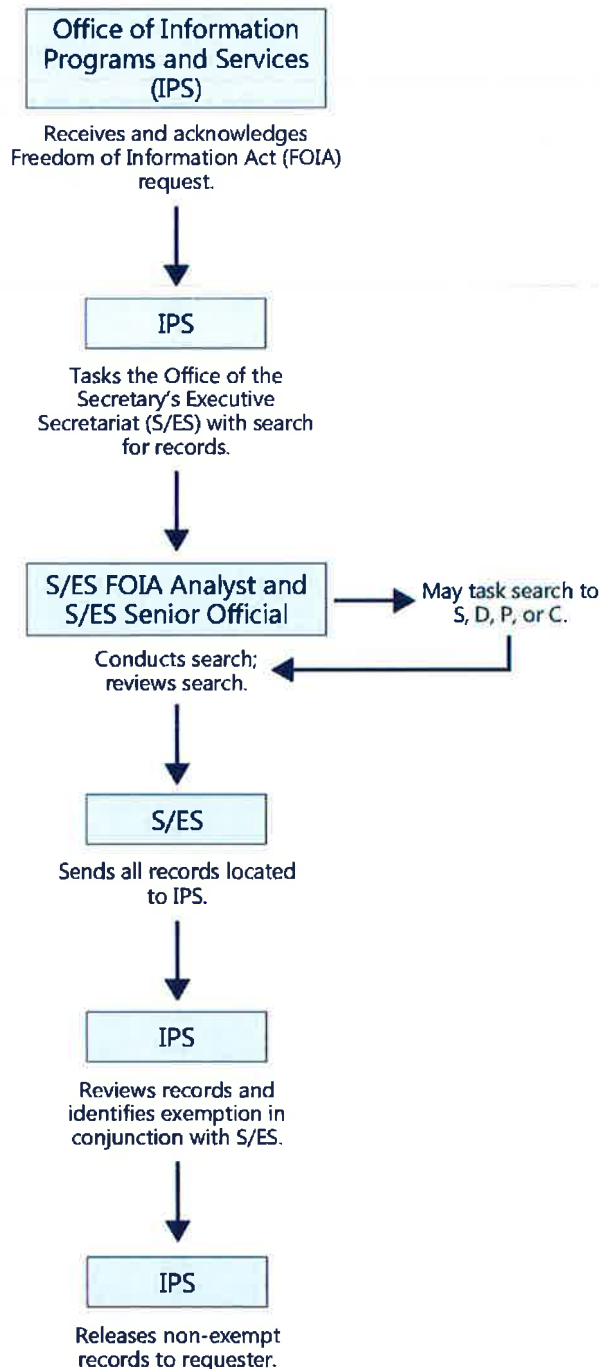
Once the search office returns responsive records to IPS, IPS determines their relevance to the request and whether any part of them may be released to the requester or whether they are subject to one of FOIA's exemptions.¹⁹ IPS then prepares the formal response to the requester and includes any responsive records that are subject to release. If a requester files an administrative appeal of an adverse determination, it is adjudicated by the Appeals Review Panel, consisting of retired Foreign Service Officers.²⁰

¹⁸ *FOIA Guidance For State Department Employees*, at 8.

¹⁹ Certain offices, including the Bureau of Diplomatic Security and the Office of Medical Services, are referred to as "decentralized offices" and review their own documents for exemptions. However, these offices must still forward a copy of their response to the request to IPS.

²⁰ 22 C.F.R. § 171.52.

Figure 1: FOIA Process for Requests Involving the Office of the Secretary



As shown in Figure 1, when a FOIA request involves documents produced by a Secretary of State or other officials in the Office of the Secretary (S), the two Deputy Secretaries of State (D), the Under Secretary for Political Affairs (P), or the Counselor of the Department (C), IPS tasks S/ES with performing a search for relevant documents. S/ES is responsible for the coordination of material presented to the Secretary, Deputy Secretary, and Under Secretaries; the implementation of decisions made by these officials; and the Department's relations with the White House, National Security Council, and other Cabinet agencies.²¹ S/ES employs one FOIA Analyst, who reports to the GS-14 Deputy Director of Correspondence, Records, & Staffing (Deputy Director).²² The Deputy Director serves as the S/ES FOIA coordinator and reports to the Director of Secretariat Staff.

According to information provided by S/ES, the FOIA Analyst searches for relevant documents in several databases or tasks the relevant office (S, D, P, or C) with performing the search. After the search is completed, the Deputy Director conducts a review of the FOIA Analyst's search and the records identified. Finally, all identified records are sent to IPS for processing, along with a signed form DS-1748 identifying the databases searched and the time expended in conducting the search. If the request is in litigation or if legal guidance is sought regarding the search, an attorney from the Office of the Legal Adviser (L) may review the proposed response before it is released to the requester.

²¹ 1 FAM 022.2.

²² A second S/ES employee occasionally assists with FOIA searches in addition to his regular duties.

In September 2015, Secretary of State John Kerry named a former career Senior Foreign Service Officer as the Department's Transparency Coordinator. The Transparency Coordinator will lead the Department's efforts to meet the President's *Managing Government Records* directive, respond to OIG's recommendations, and work with other agencies and the private sector to explore best practices and new technologies. Secretary Kerry also tasked the Transparency Coordinator with improving the efficiency of the Department's systems for responding to FOIA and congressional requests.

THE DEPARTMENT DOES NOT CONSISTENTLY MEET FOIA LEGAL AND REGULATORY REQUIREMENTS

Statutory Deadlines for Processing Requests Are Not Met

FOIA requires agencies to respond to FOIA requests within 20 working days. However, the Department rarely meets this statutory deadline, even for simple requests. Although few agencies are able to meet the 20-day deadline for complex requests,²³ overall compliance is much greater across the Federal Government than at the Department. In FY 2014, the average processing time for simple requests across the Federal Government was 20.5 days, and the Government-wide average for complex requests was slightly less than 119 days.²⁴ In contrast, the Department took four and one-half times as long—an average of 91 days to process simple requests and almost 535 days to process complex requests.²⁵

The Department has been particularly late in meeting FOIA's timelines for requests involving the Office of the Secretary. Table 1, which is based on IPS data provided to OIG, shows the processing time for FOIA requests that were tasked to S/ES and involved the current and past

²³ The Department of Justice, which is required by FOIA to develop reporting and performance guidelines, defines a complex request as one that involves a high volume of material or requires additional steps to process, such as the need to search for records in multiple locations. An example of a simple request is a single individual's visa record. An example of a complex request is one for all records relating to the attacks on U.S. diplomatic facilities in Benghazi, Libya, which covers multiple bureaus and offices of the Department. See U.S. Department of Justice, *Guide to the Freedom of Information Act* (2009).

²⁴ U.S. Department of Justice, *Summary of Annual FOIA Reports For Fiscal Year 2014*, pp. 12–14.

²⁵ U.S. Department of State, *Freedom of Information Act Annual Report, Fiscal Year 2014*, p. 28. In its 2015 analysis of the performance of the 15 Federal agencies that consistently receive the most FOIA requests, the Center for Effective Government rated the Department as the lowest scoring agency by far. Its analysis demonstrated that the Department processed only 17 percent of the FOIA requests it received in 2013. Center for Effective Government, *Making the Grade: Access to Information Scorecard 2015* (March 2015), p. 2. The Department's Chief FOIA Officer attributed these delays to (1) a large increase in requests and (2) an increase in complex requests. The Department's requests have increased in recent years; however, this increase in requests exists across the Federal Government and is not unique to the Department.

four Secretaries of State.²⁶ Only 14 of the 417 FOIA requests were completed within the statutory timeframe. Fifty-five of the requests took more than 500 days to process. The majority of the requests, 243 of 417, are still pending; several of these pending requests were received years ago. For example, 10 of the 23 pending requests relating to former Secretary of State Colin Powell are at least 5 years old.

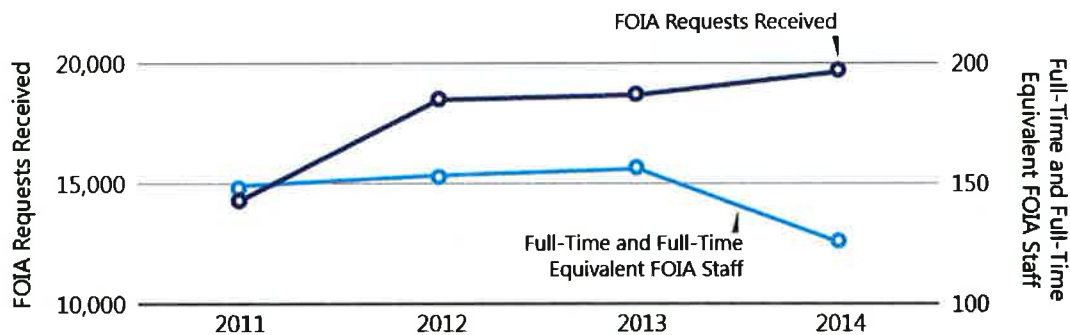
Table 1: Processing Time for FOIA Requests Related to Recent Secretaries of State

Secretary	Requests Completed Within Listed Times				Still Pending	Total Number of FOIA Requests
	Up to 20 Days	21–100 Days	101–500 Days	500+ Days		
Albright	1	0	2	4	2	9
Powell	8	4	37	27	23	99
Rice	1	3	7	9	20	40
Clinton	3	19	27	14	177	240
Kerry	1	2	4	1	21	29
Total	14	28	77	55	243	417

Source: OIG analysis of IPS data, as of June 2015.

In 2012, OIG reported that one of the key reasons for the timeliness problem was that a relatively small number of IPS staff were processing the heavy volume of Department-wide requests.²⁷ Since then, as shown in Figure 2, FOIA requests have increased, yet the Department has allocated fewer employees to handle them. According to IPS, some of these employees have been assigned hundreds of requests each and face severe challenges in properly managing their caseloads.

Figure 2: IPS Staff Devoted to Processing Department-wide FOIA Requests



Source: OIG Analysis of IPS data.

²⁶ S/ES told OIG that its statistics differ from IPS data, but agreed to work with IPS to reconcile the inconsistencies. The FOIA process has several steps, and IPS often tasks multiple offices with responding to requests. Thus, the delays noted in this chart could have occurred at multiple steps in the process and are not necessarily attributable to S/ES search delays.

²⁷ OIG, *Inspection of the Bureau of Administration, Global Information Services, Office of Information Programs and Services* (ISP-I-12-54, September 2012). GAO also stressed the importance of redirecting or acquiring resources to clear backlogs in a 2012 report on FOIA compliance across the Government. See GAO, *Freedom of Information Act: Additional Actions Can Strengthen Agency Efforts to Improve Management* (GAO-12-828, July 2012).

Furthermore, approximately one-third of IPS staff have been assigned to work on one FOIA case in litigation, *Leopold v. Department of State*, in which the court ordered a rolling production of the approximately 55,000 pages of former Secretary Clinton's emails that she provided to the Department in December 2014, while other FOIA work is understaffed.²⁸

In each of the past 3 years, IPS has attempted to address this issue by requesting additional personnel to meet the rising caseload, including its most recent request to the Bureau of Administration for 27 additional staff, which it estimated would result in a 10-percent reduction in the FOIA backlog. However, the Department has not provided any additional permanent personnel.

In late September 2015, the Under Secretary for Management decided to detail staff already within the Department to IPS. However, little progress has been made to date to resolve the personnel shortage. On September 2, 2015, the Department solicited expressions of interest from current and retired Department employees in a 9 to 12 month detail to IPS. As of the beginning of November, 7 temporary employees had started work.

S/ES Does Not Routinely Follow Requirements To Search Email

As a general rule, an agency must undertake a FOIA search that is "reasonably calculated to uncover all relevant documents."²⁹ Since 1997, FOIA has specified that agencies must make a reasonable effort to search for requested documents in electronic form or format, except when such efforts would "significantly interfere" with the operation of an agency's information system.³⁰ In 2010, the Department issued more explicit requirements for FOIA compliance:

Unless otherwise noted in a given request, offices should conduct a search for records in any form, including paper records, email (including email in personal folders and attachments to email), and other electronic records on servers, on workstations, or in Department databases.³¹

In addition to searching paper records, S/ES typically searches for relevant documents in several electronic databases, including classified files, the Department's cable and telegram systems, the Secretariat Tracking and Retrieval System (STARS), and EVEREST (which replaced STARS).³² None

²⁸ The Department anticipates completing the court-ordered production in January 2016.

²⁹ *Weisberg v. U.S. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C.Cir. 1983).

³⁰ 5 U.S.C. § 552(a)(3)(C).

³¹ *FOIA Guidance For State Department Employees*, at 8.

³² According to information provided by S/ES, EVEREST is a web-based application that provides the Secretary of State and other senior Department principals the ability to receive foreign policy memoranda and correspondence from Department bureaus and offices electronically, as well as task and track the paperless submission of most memoranda. Correspondence and memoranda can include internal and external letters, action memos, information memos, briefing checklists, and telephone talking points, as well as documents received from other agencies. Incoming documents are uploaded (in their native format) by originating offices into EVEREST, submitted to the Executive Secretary for review, and forwarded electronically to the relevant Department principal. EVEREST replaced

of these databases are intended to archive email files. STARS and EVEREST are systems used to route foreign policy memoranda and other documents to the Office of the Secretary. S/ES rarely searched electronic email accounts prior to 2011 and still does not consistently search these accounts, even when relevant records are likely to be uncovered through such a search. For example, S/ES has not searched email accounts for requests seeking all "correspondence" between the Secretary of State and another party. The FOIA Analyst described the decision to search email accounts to be a discretionary one that is only exercised periodically.

According to the Deputy Director's explanation of current practices, S/ES initiates a search of email accounts only if a FOIA request mentions emails or explicitly refers to "all records." S/ES will also search email if it is requested to do so by an L attorney during the course of litigation arising over FOIA issues. If a FOIA request specifically asks for emails of a current employee, the FOIA Analyst tasks S, D, P, or C with searching for the records but does not review the search methodology or approve the results. It appears that current S, D, P, and C employees search through their own email accounts for responsive records.³³ If the FOIA request specifically asks for emails of a former employee, the FOIA Analyst requests the applicable stored electronic file from the S/ES Office of Information Resources Management (S/ES-IRM), the office that handles information technology for the Office of the Secretary.³⁴ S/ES-IRM reported to OIG that it has maintained files numbering in the thousands for selected senior officials³⁵ dating back at least as far as Secretary Powell's tenure, though OIG has determined that many of these are not easily accessible.³⁶ Moreover, as the Deputy Director noted, searching these files is difficult because searches are limited to those that can be undertaken using Microsoft Outlook.³⁷

FOIA neither authorizes nor requires agencies to search for Federal records in personal email accounts maintained on private servers or through commercial providers (for example, Gmail, Yahoo, and Hotmail).³⁸ Furthermore, the FOIA Analyst has no way to independently locate Federal records from such accounts unless employees take steps to preserve official emails in

STARS on January 1, 2015, and serves as a permanent, searchable record for the Secretary of State and other senior Department principals memoranda. STARS is a legacy system that was designed to manage the flow of foreign policy memoranda and correspondence both to and from the Secretary of State and other senior Department principals. Incoming and outgoing documents were scanned into STARS, manually indexed (through use of a brief abstract summarizing the substance of the document and identifying document-specific key words), and stored as document images. Searches are limited to retrieval of material based on index terms attached to the document; the document images themselves cannot be searched using text-based search methods. New entries into STARS ended January 1, 2015, but it continues to be used to locate and retrieve documents.

³³ OIG did not evaluate the practices used by S, D, P, and C.

³⁴ S/ES-IRM stores the files in Personal Storage Table (.pst) files, a format used to store copies of email messages, calendar events, and other items within Microsoft software.

³⁵ S/ES-IRM does not maintain an index or inventory of these files.

³⁶ In 2015, the Department began permanently retaining the emails of 102 senior officials.

³⁷ S/ES has begun testing software intended to enhance its ability to search and retrieve email records.

³⁸ Records subject to FOIA are those that are (1) either created or obtained by an agency and (2) under agency control at the time of the FOIA request. *U.S. Dept. of Justice v. Tax Analysts*, 492 U.S. 136 (1989). See also *Competitive Enter. Inst. v. Office of Sci. and Tech. Policy*, No. 14-765, 2015 WL 967549 (D.D.C. March 3, 2015).

Department recordkeeping systems. OIG will report separately on preservation requirements applicable to past and current Secretaries of State and the Department's efforts to recover Federal records from personal accounts. However, under current law and Department policy, employees who use personal email to conduct official business are required to forward or copy email from a personal account to their respective Department accounts within 20 days.³⁹ The Deputy Director, who has handled FOIA responsibilities for S/ES since 2006, could not recall any instances of emails from personal accounts being provided to him in response to a search tasked to an S/ES component.⁴⁰

PROCEDURAL WEAKNESSES CONTRIBUTE TO DEFICIENT FOIA SEARCHES AND RESPONSES

Current S/ES FOIA Processes Are Inadequate

Although specific details of processes for handling FOIA requests vary among agencies, the major steps in processing a request are similar across the Federal Government. Recent assessments of the Department's processes revealed poor practices. In 2012, OIG's inspection of A/GIS found, among other deficiencies, that FOIA requests are prone to delay and that IPS lacked a sound process to develop its information systems.⁴¹ A 2015 report by the Center for Effective Government found that, among 15 agencies that receive a large volume of public records requests, the Department ranked last, in part because of increased processing times and outdated regulations.⁴² According to the report, the Department was the only agency whose rules do not require staff to notify requesters when processing is delayed, even though this is mandated by law. Furthermore, little attention has been paid to the accuracy and completeness of responses to FOIA requests. The Department has not sent out a notice or memorandum reminding employees of their FOIA responsibilities since March 2009, when former Secretary Clinton sent a message commemorating Freedom of Information Day.

Although OIG focused on procedural weaknesses in the Office of the Secretary for this evaluation, the issues OIG identified have broader implications. *Standards for Internal Control in the Federal Government* stresses that the tone at the top—management's philosophy and operating style—is fundamental to an effective internal control system.⁴³ OIG's past and current

³⁹ 44 U.S.C. 2911; Department of State, *A Message from Under Secretary for Management Patrick F. Kennedy regarding State Department Records Responsibilities and Policy*, Announcement No. 2014_10_115, October 17, 2014.

⁴⁰ In November 2014, the Department sent a request to former Secretaries of State for any Federal records that were housed on personal email. In March 2015, the Department sent similar requests to several staff members who worked for former Secretary Clinton. The Department has and continues to produce some of the records received from these requests in response to FOIA requests.

⁴¹ OIG, *Inspection of the Bureau of Administration, Global Information Services, Office of Information Programs and Services* (ISP-I-12-54, September 2012).

⁴² Center for Effective Government, *Making the Grade: Access to Information Scorecard 2015* (March 2015).

⁴³ GAO-14-704G, §§ 1.02 to 1.05.

work demonstrates that Department leadership has not played a meaningful role in overseeing or reviewing the quality of FOIA responses. On September 8, 2015, Secretary Kerry announced the appointment of a new Transparency Coordinator, charged with improving document preservation and transparency systems.⁴⁴ This is a positive step, but the following areas, in addition to the lack of compliance with legal and regulatory requirements, need immediate attention:

Lack of Written Policies and Procedures. Although other Department components, such as the Bureaus of Diplomatic Security and International Narcotics and Law Enforcement Affairs, have their own written FOIA guidance or standard operating procedures, S/ES does not. S/ES does use guides on how to search its own databases, EVEREST and STARS, but these are not FOIA specific and no criteria for conducting database searches have been developed. The FOIA Analyst for S/ES reported learning how to perform a FOIA search from on-the-job training. *Standards for Internal Control in the Federal Government* emphasizes the importance of documenting policies and procedures to provide a reasonable assurance that activities comply with applicable laws and regulations.⁴⁵ Written policies and procedures are also important for continuity because they increase the likelihood that, when organizational changes occur, institutional knowledge is shared with new staff.⁴⁶ Other agencies have recommended written policies and procedures as a best practice. For example, the Office of Inspector General for the Environmental Protection Agency recommends that all regional and program offices responsible for FOIA responses adopt written standard operating procedures to ensure quality control.⁴⁷ The Office of Inspector General for the Department of Energy has made a similar recommendation, noting, “without formalized policy and procedures, it could be difficult for an individual unfamiliar with the process to take an active role in filling FOIA requests, possibly leading to delays or inefficiencies in responding to requests.”⁴⁸

Inconsistent S/ES Monitoring Efforts: *Standards for Internal Control in the Federal Government* also emphasizes the importance of ongoing monitoring that is built into an entity’s operations. Other agencies’ monitoring activities vary widely. At some agencies, senior attorneys or career members of the Senior Executive Service are responsible for approving FOIA responses; at others, administrative staff handle the entire FOIA search and review process.⁴⁹ Nonetheless, standards emphasize that monitoring should include regular management and supervisory

⁴⁴ U.S. Department of State Press Statement, *Transparency Coordinator* (Sept. 8, 2015), available at <http://www.state.gov/secretary/remarks/2015/09/246691.htm>.

⁴⁵ GAO-14-704G.

⁴⁶ See, e.g., GAO, *Social Security Disability: Management Controls Needed to Strengthen Demonstration Projects* (GAO-08-1053, September 2008).

⁴⁷ EPA, Office of Inspector General, *EPA Has Improved Its Response to Freedom of Information Act Requests But Further Improvement Is Needed* (09-P-0127, March 2009).

⁴⁸ DOE, Office of Inspector General, *Department’s Freedom of Information Act Request Process* (OAS-SR-10-03, Sept. 2010).

⁴⁹ See, e.g., Nuclear Regulatory Commission, Office of Inspector General, *Evaluation of Involvement of Political Appointees in NRC’s FOIA Process* (OIG-15-A-18, August 2015) and Social Security Administration, Office of the Inspector General, *Freedom of Information Act Response Process* (A-03-15-50107, August 2015).

activities, comparisons, reconciliations, and other routine actions.⁵⁰ Such actions may include assessing employee performance with FOIA compliance, conducting spot checks, and establishing and reviewing metrics. Performance standards within S/ES for handling FOIA matters are incomplete. In 2012, OIG recommended that the Department place responsibility at all stages of the process and update performance standards, position descriptions, and work commitments to reflect FOIA responsibilities.⁵¹ While the Deputy Director's performance standards have consistently contained multiple references to that individual's responsibilities as FOIA coordinator, the performance standards for the Deputy Director's former supervisors⁵² in the Director of Secretariat Staff position have not mentioned FOIA at all.

Other oversight activities have also been inconsistent. The Deputy Director reviews the FOIA Analyst's search and the records identified. However, the past two Directors of Secretariat Staff reported minimal involvement in the FOIA process, other than providing occasional briefings to supervisors on high-profile or sensitive requests. The past two Directors did not review actual FOIA searches and responses, even on a spot-check basis, for quality, timeliness, thoroughness, or consistency. They also did not gather or review any metrics or other tracking information on S/ES FOIA activities. The current Director, who has been in the position since July 2015, told OIG that, while she periodically reviews FOIA responses, depending on the scope and nature of the FOIA request, she does not carry out any spot checks for accuracy. The current Director also reviews status reports that contain basic information on the date of the request and the offices tasked with conducting searches. No one in S/ES reviews the methodology of FOIA searches tasked to the other components in the Office of the Secretary (S, D, P and C).

Limited IPS Review Capability: The FAM designates IPS as responsible for the Department's compliance with FOIA,⁵³ and Department guidance specifically requires IPS to ensure that responses are timely, accurate, and complete.⁵⁴ However, IPS is almost completely dependent on FOIA coordinators in individual bureaus and offices to ensure that search results meet FOIA requirements. IPS does not have the ability to do independent spot checks in part because it does not have access to the unique databases used to conduct the searches, such as the EVEREST system used by the Office of the Secretary. According to IPS, the quality of responses to requests for FOIA searches varies across the Department. For example, IPS reported that the form documenting the search result (Form DS-1748) the FOIA coordinators submit is sometimes missing key information, such as the files searched and the search terms used. If this information is missing or if IPS identifies another inconsistency, it may ask for a search to be redone. IPS reported that its reviewers have at times spent weeks working with FOIA coordinators to obtain complete responses. In some cases, IPS will contact the FOIA coordinator's supervisor or executive-level staff within the office to resolve an issue. IPS's engagement with S/ES has been

⁵⁰ GAO-14-704G, at §§ 16.04, 16.05.

⁵¹ The Department agreed with these recommendations but has yet to take action.

⁵² The performance standards for the current Director of Secretariat Staff were not yet available for review at the close of OIG's work.

⁵³ 1 FAM 214.2.

⁵⁴ U.S. Department of State, *FOIA Guidance For State Department Employees* (2010).

limited, with its only contact typically being the Deputy Director. IPS also reports that it has contacted L attorneys for assistance when it has had difficulty obtaining complete responses from S/ES. In one case regarding a request for emails, correspondence, memos, internal notes, and other pertinent documents and records relating to a former S staff member, IPS tasked S/ES with a search in November 2013, but S/ES did not complete the search until December 2014 after the involvement of L. One L attorney characterized routine S/ES searches as frequently deficient, except in instances when FOIA litigation has commenced.

Insufficient Training: During OIG's 2012 inspection of A/GIS, IPS reported to OIG that most Department employees are poorly informed about FOIA principles and procedures, as well as about the importance of providing information to the public. IPS has since provided two Department-wide annual training courses on FOIA, recordkeeping, and classification issues. Records maintained by IPS show that no more than two S/ES employees have attended trainings, open houses, or workshops offered by IPS, and no one from S, D, P, or C has attended.⁵⁵ In addition to the annual training sessions, IPS has trained specific offices on FOIA at their request. Twelve bureaus, offices, or embassies have requested and completed this training since 2014, but S/ES is not among them.

S/ES FOIA Searches and Responses Are Sometimes Inaccurate and Incomplete

These procedural weaknesses, coupled with the lack of oversight by leadership and failure to routinely search emails, appear to contribute to inaccurate and incomplete responses. L attorneys and officials in IPS recalled several instances when S/ES searches have yielded inaccurate or incomplete results, though they were unable to determine the magnitude of this problem. The attorneys also noted that FOIA requesters have been able to produce evidence of the existence of records responsive to a FOIA request despite the attestation by S/ES that no responsive records existed.⁵⁶

S/ES has not taken any corrective actions to ensure the accuracy and completeness of FOIA searches. *Standards for Internal Control in the Federal Government* notes that management should remediate identified deficiencies in controls and determine appropriate corrective actions on a timely basis.⁵⁷ Implementing such corrective actions could protect the Department from sanctions. For example, in litigated cases, incomplete searches by S/ES can expose the Department to financial liability, including attorney fees and other litigation costs.⁵⁸ The Department and its leadership could also be subject to contempt citations if they were found to

⁵⁵ According to S/ES, the FOIA Analyst also attended workshops at the Department of Justice.

⁵⁶ Department attorneys noted that these instances do not necessarily indicate that the search for records was inadequate. Not all documents created by the Department are Federal records. It is also possible that a document existed at one time but was subsequently destroyed either in compliance with the records disposition schedules or because of poor recordkeeping practices.

⁵⁷ GAO-14-704G, at §§ 17.01, 17.05.

⁵⁸ 5 U.S.C. § 552(a)(4)(E).

have violated rules requiring candor to the court.⁵⁹ Although L attorneys are not aware of an instance where such sanctions were imposed, it is not uncommon for courts to order the Department to conduct additional searches or provide additional information explaining the adequacy of the searches conducted.⁶⁰

OIG has been unable to determine the extent of these inaccuracies, but recent examples of incomplete searches and responses to FOIA queries involving the Office of the Secretary include the following:

- In March 2010, the Associated Press (AP) filed a FOIA request for copies of all of former Secretary Clinton's public and private calendars and schedules. IPS tasked S/ES with searching for responsive records. In November 2010, S/ES provided IPS with records that were non-responsive. IPS then contacted the Office of the Secretary directly and also contacted L for guidance. IPS has no record of receiving responses and the FOIA request sat dormant for several years. In August 2013, AP resubmitted its FOIA request and updated it to include a request for all of the calendars from Secretary Clinton's tenure. In June 2014, December 2014, and again in July 2015, S/ES provided IPS with information regarding the location of these records, which had been retired. In March 2015, after failing to receive responses to multiple FOIA requests, AP filed suit against the Department.⁶¹ In a July 2015 court filing, the Department disclosed that it had finally conducted a search and located at least 4,440 paper and electronic records related to Secretary Clinton's calendars and schedules, which were created by various personnel in the Office of the Secretary.
- In December 2012, the nonprofit organization Citizens for Responsibility and Ethics in Washington (CREW) sent a FOIA request to the Department seeking records "sufficient to show the number of email accounts of, or associated with, Secretary Hillary Rodham Clinton, and the extent to which those email accounts are identifiable as those of or associated with Secretary Clinton."⁶² On May 10, 2013, IPS replied to CREW, stating that "no records responsive to your request were located."⁶³ At the time the request was

⁵⁹ See, e.g., *Judicial Watch v. Internal Revenue Service*, Civil Action No. 13-1559 (D.D.C.), where contempt of court citations have been threatened against the IRS in a FOIA lawsuit.

⁶⁰ See e.g., *Tarzia v. Clinton*, Civil Action No. 1:10-cv-05654-FM (S.D.N.Y. January 30, 2012); *Beltranena v. Clinton*, Civil Action No. 1:09-cv-01457-BJR (D.D.C. March 17, 2011).

⁶¹ *The Associated Press v. U.S. Dept. of State*, Civil Action No. 1:15-cv-00345-RJL (D.D.C.).

⁶² Later in the letter as part of its request to waive processing fees, CREW stated its belief that the records it was requesting were "likely to contribute to greater public awareness of the extent to which Secretary Clinton, like the administrator of the Environmental Protection Agency (EPA), use[s] email accounts not readily identifiable as her accounts." CREW also noted: "[r]ecently it was reported that [EPA] Administrator Jackson established alias email accounts to conduct official government business, including an account under the name 'Richard Windson' which is not publicly attributable to her. . . Through this FOIA, CREW seeks to learn how widespread this practice is, and to evaluate the extent to which it has led to under-inclusive responses to FOIA, discovery, and congressional requests, and a failure to preserve records in a way that complies with the Federal Records Act."

⁶³ The response also noted:

received, dozens of senior officials throughout the Department, including members of Secretary Clinton's immediate staff, exchanged emails with the Secretary using the personal accounts she used to conduct official business. OIG found evidence that the Secretary's then-Chief of Staff was informed of the request at the time it was received and subsequently tasked staff to follow up. However, OIG found no evidence to indicate that any of these senior officials reviewed the search results or approved the response to CREW. OIG also found no evidence that the S/ES, L, and IPS staff involved in responding to requests for information, searching for records, or drafting the response had knowledge of the Secretary's email usage.⁶⁴ Furthermore, it does not appear that S/ES searched any email records, even though the request clearly encompassed emails.⁶⁵

- In May 2013, the nonprofit organization Judicial Watch filed a FOIA request for records related to the authorization of a former adviser to Secretary Clinton to undertake employment outside the Department. IPS tasked S/ES with performing the search, which returned 23 documents. In August 2013, AP filed a FOIA request seeking the same information, but S/ES only returned five documents for a nearly identical request.
- In May 2014, Judicial Watch filed a FOIA request seeking records related to talking points given to Ambassador to the United Nations Susan Rice concerning the September 11, 2012, attack on the U.S. diplomatic facilities in Benghazi, Libya. In July 2014, Judicial Watch filed suit in district court because the Department had not responded to the request. In September 2014, IPS tasked S/ES with conducting the search. S/ES initially identified five documents but only returned four documents to IPS because it did not view the fifth document, an email, as responsive. IPS provided the four documents to Judicial Watch in November 2014. In June 2015, pursuant to an earlier request, several former officials provided the Department with copies of records that were in their possession. One of these records included the fifth document identified in the September 2014 search by S/ES as part of a longer email chain. S/ES reviewed this

It may be helpful for you to know that messages from the Secretary are occasionally transmitted to the Department via email. However, these messages are transmitted from a "dummy" email address that is not capable of receiving replies, rather than from a functioning email account.

⁶⁴ On August 11, 2014, the Department produced to the House Select Committee on Benghazi documents related to the 2012 attack on U.S. facilities in Benghazi. The production included a number of emails revealing that Secretary Clinton used a personal email account to conduct official business. OIG discovered four instances, between July and September 2014, in which staff from L, A, or the Bureau of Legislative Affairs reviewed the CREW request and the Department's May 2013 response, but the Department did not amend its response. L and A staff also told OIG that the Department does not customarily revise responses to closed FOIA requests. Nevertheless, during the course of this review, Department staff advised OIG of their belief that the Department's response to CREW was incorrect and that it should have been revised to include the former Secretary's personal email account used to conduct official government business. OIG notes that the issue may have been resolved insofar as the Department is now engaged in the process of publishing on its FOIA website the 55,000 pages of personal emails produced by Secretary Clinton.

⁶⁵ According to a February 26, 2013, memorandum to IPS, S/ES stated that its FOIA Analyst spent an hour searching through the Department cable and telegram system and STARS and did not discover any responsive records. The Deputy Director reviewed the search and results, but no other official within S/ES conducted a review.

document and determined that it was in fact responsive to the FOIA request, which the Department disclosed to the court in July 2015.

RECOMMENDATIONS

To ensure that FOIA requests involving the Office of the Secretary generate timely, accurate, and complete searches and responses, OIG has issued the following recommendations to the Bureau of Administration, the Office of the Secretary, and the Department's Transparency Coordinator. Their responses can be found in Appendix A.

Recommendation 1: The Bureau of Administration should identify necessary permanent personnel as part of FOIA workforce planning efforts and quickly acquire those resources so the Department can comply with applicable law and improve the timeliness of FOIA searches and responses.

Management Response: In its November 30, 2015, response, the Bureau of Administration concurred with this recommendation. It noted that its fiscal year 2017 budget request includes funding for two additional permanent positions for FOIA and continued funding of 50 temporary positions (eligible family members and rehired annuitants).

OIG Reply: OIG considers the recommendation resolved. The recommendation can be closed when OIG receives and accepts documentation showing that these 52 positions have been filled. However, OIG strongly encourages the Bureau of Administration to continue to monitor its staffing levels to determine whether additional permanent personnel are needed to process FOIA requests.

Recommendation 2: The Office of the Secretary, Executive Secretariat, should fully comply with FOIA requirements and Department guidance by (a) searching email records for all FOIA requests in which relevant records are likely maintained in email accounts; and (b) reminding S/ES employees that Federal records contained in personal emails may be subject to FOIA when in the Department's control and should be preserved in the Department's recordkeeping systems.

Management Response: In its November 30, 2015, response, the Executive Secretariat concurred with this recommendation. It noted that its current practice is to search email records for all FOIA requests in which responsive records are likely to be located.

OIG Reply: OIG considers the recommendation resolved. This recommendation can be closed when OIG receives a copy of S/ES FOIA policies and procedures that require a search of email records for all FOIA requests in which relevant records are likely maintained in email accounts and a reminder to S/ES employees that Federal records contained in personal email may be subject to FOIA and must be preserved in the Department's recordkeeping systems.

Recommendation 3: The Office of the Secretary, Executive Secretariat should address weaknesses in its FOIA processes by:

- Developing written policies and procedures for performing FOIA searches addressed to the Office of the Secretary.
- Including FOIA duties as part of the performance standards for the Director of Secretariat Staff.
- Ensuring that executive-level staff members rigorously oversee the FOIA process, to include regular monitoring activities and implementing corrective actions as needed.
- Coordinating FOIA training for all S/ES, Office of the Secretary, Deputy Secretaries, Under Secretary for Political Affairs, and Counselor of the Department staff.

Management Response: In its November 30, 2015, response, the Executive Secretariat concurred with this recommendation. It noted that S/ES is currently drafting FOIA policies and procedures and metrics for timeliness and completeness of FOIA responses. S/ES also noted that the work requirements for the current Director of the Executive Secretariat include FOIA responsibilities and that FOIA training for S/ES staff is in progress.

OIG Reply: OIG considers the recommendation resolved. This recommendation can be closed when OIG receives copies of S/ES FOIA policies and procedures that include monitoring activities and the development of metrics that are reviewed by executive-level staff; a copy of the work requirements for the current Director that include FOIA responsibilities; and FOIA training records for S/ES employees.

Recommendation 4: The Department's Transparency Coordinator should work with IPS to develop a quality assurance plan to identify and address Department-wide vulnerabilities in the FOIA process, including lack of monitoring of FOIA searches and responses, technological challenges, and the sufficiency of staffing and training.

Management Response: In her response, the Transparency Coordinator concurred with this recommendation. She endorsed an accountability framework for the Department that includes processes, roles, standards, and metrics to help ensure that important legal, administrative, evidential, and historical information requirements of the Department are met.

OIG Reply: OIG considers the recommendation resolved. This recommendation can be closed when OIG receives a copy of the quality assurance plan.

APPENDIX A: MANAGEMENT RESPONSES



United States Department of State


*Assistant Secretary of State
for Administration*

Washington, D.C. 20520

November 30, 2015

UNCLASSIFIED

TO: Inspector General - Steve Linick

FROM: Bureau of Administration - Joyce A. Barr 

SUBJECT: Draft report - Review of the Department of State's FOIA Processes for Requests Involving the Office of the Secretary (ESP-16-01 dated November 13, 2015)

The Bureau of Administration thanks the OIG for the opportunity to respond to the subject draft report and provides the following in response to the single recommendation for this bureau's action.

Recommendation 1: The Bureau of Administration should identify necessary permanent personnel as part of the FOIA workforce planning efforts and quickly acquire those resources so the Department can comply with applicable law and improve the timeliness of FOIA searches and responses.

The Bureau of Administration concurs with this recommendation. As the OIG is aware, increasing the number of A/GIS/IPS FOIA staff is one part of the solution for improving Department response time to FOIA cases that are often broad and extremely complex. To date, A Bureau has taken the following steps to increase our FOIA staffing/resources in Fiscal Year 2016 and our request for Fiscal Year 2017.

The A/GIS approved budget request for FY 2016, which includes FOIA, was \$13,932,000. The A Bureau recently requested an additional \$8.3M for FY 2016 to cover the cost of salaries, support, information technology (IT), and other necessities for 50 new positions dedicated to FOIA operations ("FOIA 50"). Hiring is currently under way for 10 Eligible Family Members (EFMs) and 40 subject matter expert Foreign Service annuitants. A minimum Top Secret

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clearance is required for each of these positions and hiring eligible family members and annuitants helps to expedite that clearance requirement. The FY 2016 funding level for these activities is subject to the availability of FY 2016 appropriations which are currently pending with Congress.

A Bureau's FY 2017 request to OMB includes two FTE and additional support costs including resources to improve FOIA systems. It is our understanding the OMB pass-back for FY 2017 is expected later this week. If provided, the resources requested for FY 2017 should allow the A Bureau to fund, at least partially, the recurring costs to maintain the FOIA 50 positions in FY 2017 (i.e. salaries, support, IT, etc.).

The A Bureau appreciates the OIG's support of our ongoing efforts to improve the Department's FOIA program.

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United States Department of State

Washington, D.C. 20520

November 30, 2015

UNCLASSIFIED

TO: Steve Linick, Inspector General

FROM: MaryKary Carlson, Acting Executive Secretary 

SUBJECT: Response to Draft OIG Review of the Department of State's FOIA Processes for Requests Involving the Office of the Secretary

The Executive Secretariat thanks the OIG for the opportunity to respond to this review and values the OIG's study of the Department's FOIA process. The Secretariat has the following specific responses to the recommendations contained in the report.

Recommendation 1: While this recommendation is directed to the A Bureau, the Executive Secretariat notes that it has experienced a commensurate increase in the number of FOIA requests and also needs more staff dedicated to FOIA-related work. S/ES-S is currently in the process of reprogramming one FTE position to work on FOIA. While the growing FOIA workload has affected response times, S/ES-S records do not match the number of pending FOIA requests cited in the draft report. S/ES-S and A/GIS/IPS have agreed to work together to review and reconcile the number of outstanding FOIA cases involving the Office of the Secretary.

Recommendation 2: The Executive Secretariat strongly agrees with the OIG recommendation that it should fully comply with FOIA requirements and Department guidance by searching email records for all FOIA requests in which relevant records are likely maintained in email accounts. This is the current practice of the Executive Secretariat staff (S/ES-S) and is the instruction provided to all offices engaged in FOIA searches involving the Office of the Secretary and comports with the instruction provided to all offices in the Department.

The Executive Secretariat further agrees with the OIG recommendation that S/ES employees should be reminded that Federal records contained in personal emails may be subject to FOIA and should be preserved in the Department's record-keeping systems. All Department employees received this guidance and

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instruction from the Under Secretary for Management on October 17, 2014 and it is reiterated to all S/ES and S bureau employees in their check-in, periodic training, and check-out briefings on records management. As instructed in the above-referenced guidance from the Under Secretary for Management, to ensure Federal records contained in personal emails are preserved in the Department's recordkeeping systems, all employees are required to copy or forward any personal message containing a Federal record to their official Department email accounts for appropriate retention and archiving.

Recommendation 3: The Executive Secretariat welcomes the OIG's suggestions for improvement in its FOIA processes and concurs with all four elements of the recommendation. The Executive Secretariat has already taken steps to implement these recommendations, specifically:

1. Written policies and procedures (SOPs) are currently being drafted for all involved in the FOIA search process in the S bureau. These SOPs will be cleared with A/GIS/IPS and others in the Department, as appropriate.
2. The work requirements of the current Director of the Executive Secretariat Staff (S/ES-S) include oversight and management of the FOIA process for S/ES.
3. The Director of the Executive Secretariat Staff oversees all FOIA searches conducted by S/ES-S staff and reviews and approves all responses to A Bureau. S/ES-S management is developing metrics for timeliness of response and completeness of searches.
4. The Acting Executive Secretary and other senior Executive Secretariat managers have recently completed FOIA training conducted by A/GIS, and training sessions are being arranged for staff of the office of the Secretary, the Deputy Secretaries, the Under Secretary for Political Affairs, and the Counselor.

The Secretariat notes (p. 9 of draft report) the OIG comment on the fact that S/ES tasks current S, D, D-MR, P, and C employees to search through their own email accounts for responsive records in FOIA cases. The Executive Secretariat would like to clarify for OIG that this is standard practice Department-wide per guidance from A Bureau. The Executive Secretariat would further like to clarify for OIG that S/ES-S does review the results of all such searches.

Recommendation 4: The Executive Secretariat looks forward to continuing ongoing collaboration with the Transparency Coordinator to improve the FOIA process. In particular, the Secretariat strongly supports the recommendation to focus on technological challenges to conducting successful FOIA searches.

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TO: Steve Linick, Inspector General

FROM: Janice L. Jacobs, Transparency Coordinator

SUBJECT: Response to Draft OIG Review of the Department of State's FOIA Processes for Requests Involving the Office of the Secretary

I appreciate the work by your Special Projects team to identify needed improvements to processes and procedures related to the Department's handling of requests under the Freedom of Information Act (FOIA). I will take the opportunity in the Quality Assurance Plan (QAP) to address FOIA-related issues (Recommendation 4) within the context of information management within the Department.

As Transparency Coordinator, my overall vision is a 21st century enterprise-wide information management system that advances the Department's goals of increased efficiency, transparency, and accountability. Under this vision, records management is less an independent arm in the information landscape and a more integrated process and functional system within a whole-of-enterprise information and knowledge management environment.

Information is one of the Department's most valuable assets requiring careful management, thoughtful governance and strategic consideration in its use and control. The IG report recommends a stronger focus on information governance, technological challenges and sufficient staffing and training. Specifically, the Department needs an accountability framework that covers the processes, roles, standards, and metrics to help ensure that important legal, administrative, evidential and historical information requirements of the Department are met. Creating this framework is the goal of the QAP I will prepare, in concert with A/GIS/IPS, S/ES and other pertinent offices.

The Department is not alone in dealing with the information management challenges associated with today's fast changing, data-driven world. Many agencies have the same issues: records management/FOIA traditionally have not been a high priority; a new norm of a high volume of requests and litigation cases; staffing and funding shortfalls; outdated technology or technology silos; insufficient records-related internal controls; and insufficient training/education on

the importance of effective management of information/records. Secretary Kerry recognizes these challenges and my appointment was one step towards trying to address these matters holistically.

My plan will address all these issues, again with a view towards finding Department-wide solutions. I will start with a communications strategy that begins to talk about information management in new ways to highlight the important role that all Department employees play in preserving records. This will begin with a message from the top followed up by periodic messages to domestic and overseas employees.

Thank you for the opportunity to provide comments to the report on FOIA-related processes. I look forward to helping to implement your recommendations both on FOIA and on records preservation in general.

ABBREVIATIONS

A	Bureau of Administration
A/GIS	Office of Global Information Services
AP	Associated Press
C	Counselor of the Department
CREW	Citizens for Responsibility and Ethics in Washington
D	Deputy Secretary
Department	Department of State
Deputy Director	S/ES Deputy Director of Correspondence, Records, and Staffing
FAM	<i>Foreign Affairs Manual</i>
FOIA	Freedom of Information Act
GAO	Government Accountability Office
IPS	Office of Information Programs and Services
FREEDOMS	Freedom of Information Document Management System
L	Office of the Legal Adviser
OIG	Office of Inspector General
P	Under Secretary for Political Affairs
S	Office of the Secretary
S/ES	Office of the Secretary, Executive Secretariat
S/ES-IRM	S/ES Office of Information Resources Management
STARS	Secretariat Tracking and Retrieval System

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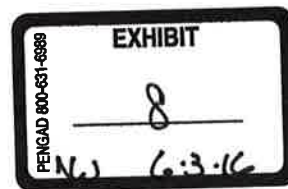
Office of Evaluations and Special Projects

May 2016

Office of the Secretary: Evaluation of Email Records Management and Cybersecurity Requirements

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OIG HIGHLIGHTS

ESP-16-03

What OIG Evaluated

As part of ongoing efforts to respond to requests from the current Secretary of State and several Members of Congress, the Office of Inspector General (OIG) reviewed records management requirements and policies regarding the use of non-Departmental communications systems. The scope of this evaluation covers the Office of the Secretary, specifically the tenures of Secretaries of State Madeleine Albright, Colin Powell, Condoleezza Rice, Hillary Clinton, and John Kerry.

This report (1) provides an overview of laws, regulations, and policies related to the management of email records; (2) assesses the effectiveness of electronic records management practices involving the Office of the Secretary; (3) evaluates compliance with records management requirements; and (4) examines information security requirements related to the use of non-Departmental systems.

What OIG Recommends

OIG makes eight recommendations. They include issuing enhanced and more frequent guidance on the permissible use of personal email accounts to conduct official business, amending Departmental policies to provide for administrative penalties for failure to comply with records preservation and cybersecurity requirements, and developing a quality assurance plan to address vulnerabilities in records management and preservation. The Department concurred with all of OIG's recommendations.

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OFFICE OF EVALUATIONS AND SPECIAL PROJECTS

Office of the Secretary: Evaluation of Email Records Management and Cybersecurity Requirements

What OIG Found

The Federal Records Act requires appropriate management and preservation of Federal Government records, regardless of physical form or characteristics, that document the organization, functions, policies, decisions, procedures, and essential transactions of an agency. For the last two decades, both Department of State (Department) policy and Federal regulations have explicitly stated that emails may qualify as Federal records.

As is the case throughout the Federal Government, management weaknesses at the Department have contributed to the loss or removal of email records, particularly records created by the Office of the Secretary. These weaknesses include a limited ability to retrieve email records, inaccessibility of electronic files, failure to comply with requirements for departing employees, and a general lack of oversight.

OIG's ability to evaluate the Office of the Secretary's compliance with policies regarding records preservation and use of non-Departmental communications systems was, at times, hampered by these weaknesses. However, based on its review of records, questionnaires, and interviews, OIG determined that email usage and preservation practices varied across the tenures of the five most recent Secretaries and that, accordingly, compliance with statutory, regulatory, and internal requirements varied as well.

OIG also examined Department cybersecurity regulations and policies that apply to the use of non-Departmental systems to conduct official business. Although there were few such requirements 20 years ago, over time the Department has implemented numerous policies directing the use of authorized systems for day-to-day operations. In assessing these policies, OIG examined the facts and circumstances surrounding three cases where individuals exclusively used non-Departmental systems to conduct official business.

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OBJECTIVES AND METHODOLOGY

In April 2015, the Office of Inspector General (OIG) initiated an evaluation to address concerns identified during recent audits and inspections¹ and to respond to requests from the current Secretary of State and several Members of Congress involving a variety of issues, including the use of non-Departmental systems² to conduct official business, records preservation requirements, and Freedom of Information Act (FOIA) compliance. This report, which is the fourth and final to document OIG's findings in these areas,³ addresses efforts undertaken by the Department of State (Department) to preserve and secure electronic records and communications involving the Office of the Secretary. Specifically, this report (1) provides an overview of laws, regulations, and policies related to the management of email records; (2) assesses the effectiveness of electronic records management practices involving the Office of the Secretary; (3) evaluates staff compliance with records management requirements; and (4) examines information security requirements related to the use of non-Departmental systems.

As part of the current evaluation, OIG reviewed laws, policies, and practices from (and, in some cases, prior to) 1997 through the present, covering the tenures of five Secretaries: Madeleine Albright (January 23, 1997–January 20, 2001); Colin Powell (January 20, 2001–January 26, 2005); Condoleezza Rice (January 26, 2005–January 20, 2009); Hillary Clinton (January 21, 2009–February 1, 2013); and John Kerry (February 1, 2013–Present).

OIG reviewed the requirements of the Federal Records Act⁴ and the Federal Information Security Management Act (FISMA)⁵ and related regulations; circulars and directives issued by the President, the National Archives and Records Administration (NARA), the National Institute of Standards and Technology (NIST), and the Office of Management and Budget (OMB); applicable

¹ OIG has identified the following issues: inconsistencies across the Department in identifying and preserving records, hacking incidents and other issues affecting the security of Department electronic communication, delays and other processing problems related to FOIA requests, and concerns about an Ambassador's use of private email to conduct official business. See OIG, *Review of State Messaging and Archive Retrieval Toolset and Record Email* (ISP-I-15-15, March 2015); OIG, *Audit of the Department of State Information Security Program* (AUD-IT-15-17, October 2014); OIG, *Management Alert: OIG Findings of Significant and Recurring Weaknesses in the Department of State Information System Security Program* (AUD-IT-14-03, November 2013); OIG, *Inspection of the Bureau of Administration, Global Information Services, Office of Information Programs and Services* (ISP-I-12-54, September 2012); and OIG, *Inspection of Embassy Nairobi, Kenya* (ISP-I-12-38A, August 2012).

² For purposes of this work, OIG uses the term "non-Departmental systems" to mean hardware and software that is not owned, provided, monitored, or certified by the Department of State.

³ Previous reports include the following: OIG, *Potential Issues Identified by the Office of the Inspector General of the Intelligence Community Concerning the Department of State's Process for the Review of Former Secretary Clinton's Emails under the Freedom of Information Act* (ESP-15-04, July 2015), OIG, *Evaluation of the Department of State's FOIA Processes for Requests Involving the Office of the Secretary* (ESP-16-01, January 2016), and OIG, *Classified Material Discovered in Unclassified Archival Material* (ESP-16-02, March 2016).

⁴ 44 U.S.C. chapters 21, 29, 31, and 33.

⁵ Pub. L. No. 107-347, title III, 116 Stat. 2946 (2002). In 2014, FISMA was replaced by the Federal Information Security Modernization Act, 44 U.S.C. § 3551 (2014).

Department directives issued in the *Foreign Affairs Manual* (FAM) and the *Foreign Affairs Handbook* (FAH);⁶ and guidance and policies in cables and memoranda. Appendix A summarizes the relevant laws and policies that OIG reviewed during this evaluation.

OIG employed a number of strategies to test compliance with email records preservation requirements applicable to each Secretary's tenure, including (1) sending questionnaires to current and former staff of the Office of the Secretary requesting information about email usage and preservation practices; (2) reviewing records and public statements related to email usage; (3) comparing stated practices against applicable laws and policies; and (4) searching available hard-copy and electronic files to identify and analyze email records and assess staff practices. OIG faced a number of challenges in conducting this testing, which will be discussed in greater detail throughout the report.

OIG also interviewed dozens of former and current Department employees, including the Deputy Secretary for Management and Resources (D-MR); the Under Secretary for Management (M); the Assistant Secretary and other staff in the Bureau of Administration (A); and various staff in the Office of the Secretary and its Executive Secretariat (S/ES), the Office of the Legal Adviser (L), the Bureau of Information Resource Management (IRM), and the Bureau of Diplomatic Security (DS). In conjunction with the interviews, OIG reviewed paper and electronic records and documents associated with these offices. OIG also consulted with NARA officials. Finally, OIG interviewed Secretary Kerry and former Secretaries Albright, Powell, and Rice. Through her counsel, Secretary Clinton declined OIG's request for an interview.⁷

OIG conducted this work in accordance with quality standards for evaluations as set forth by the Council of the Inspectors General on Integrity and Efficiency.

BACKGROUND

The Federal Records Act requires the head of each agency to "make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the

⁶ The Department articulates official guidance, including procedures and policies, on matters relating to Department management and personnel in the *Foreign Affairs Manual* and *Handbook*. 2 FAM 1111.1 (July 3, 2013).

⁷ In addition to Secretary Clinton, eight former Department employees declined OIG requests for interviews: (1) the Chief of Staff to Secretary Powell (2002-05); (2) the Counselor and Chief of Staff to Secretary Clinton (2009-13); (3) the Deputy Chief of Staff for Policy to Secretary Clinton (2009-11) and the Director of Policy Planning (2011-13); (4) the Deputy Chief of Staff for Operations to Secretary Clinton (2009-13); (5) the Deputy Assistant Secretary for Strategic Communication (2009-13); (6) the Director of the S/ES Office of Information Resources Management (2008-13); (7) a Special Advisor to the Deputy Chief Information Officer (2009-13) who provided technical support for Secretary Clinton's personal email system; and (8) a Senior Advisor to the Department, who supervised responses to Congressional inquiries (2014-15). Two additional individuals did not respond to OIG interview requests: the Deputy Secretary of State for Management and Resources (2011-13) and an individual based in New York who provided technical support for Secretary Clinton's personal email system but who was never employed by the Department.

information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities."⁸ Effective records management is critical for ensuring that sufficient documentation of an agency's business is created, that an agency can efficiently locate and retrieve records needed in the daily performance of its mission, and that records of historical significance are identified, preserved, and made available to the public.⁹

Citing its responsibilities under the Federal Records Act, the Department sent letters in October and November 2014 to the representatives of former Secretaries Albright, Powell, Rice, and Clinton requesting that they make available copies of any Federal records in their possession, such as emails sent or received on a personal email account while serving as Secretary of State. In response, Secretary Albright's representative advised that Secretary Albright did not use a Department or personal email account during her tenure, and Secretary Rice's representative advised that Secretary Rice did not use a personal email account to conduct official business.¹⁰ Representatives for Secretaries Powell and Clinton acknowledged that the Secretaries used personal email accounts to conduct official business.

Secretary Powell has publicly stated that, during his tenure as Secretary, he "installed a laptop computer on a private line" and that he used the laptop to send emails via his personal email account to his "principal assistants, individual ambassadors, and foreign minister colleagues."¹¹ Secretary Powell's representative advised the Department in 2015 that he did not retain those emails or make printed copies.¹² Secretary Powell has also publicly stated that he generally sent emails to his staff via their State Department email addresses but that he personally does not know whether the Department captured those emails on its servers.¹³

Secretary Clinton employed a personal email system to conduct business during her tenure in the United States Senate and her 2008 Presidential campaign. She continued to use personal email throughout her term as Secretary, relying on an account maintained on a private server, predominantly through mobile devices. Throughout Secretary Clinton's tenure, the server was located in her New York residence.¹⁴

⁸ 44 U.S.C. § 3101. The FAM assigns these recordkeeping responsibilities to officials within the Bureau of Administration. 1 FAM 214 (May 1, 2009); 1 FAM 214.2 (November 25, 1998); 1 FAM 216.4 (January 17, 1997).

⁹ GAO, *National Archives and Records Administration: Oversight and Management Improvements Initiated, but More Action Needed* (GAO-11-15, October 5, 2010).

¹⁰ Letter from Margaret P. Grafeld, Deputy Assistant Secretary for Global Information Systems, Bureau of Administration, U.S. Department of State, to Paul M. Wester, Jr., Chief Records Officer for the U.S. Government, NARA (April 2, 2015) [hereinafter Grafeld Letter].

¹¹ Colin Powell, *It Worked For Me: In Life and Leadership* 109 (2012).

¹² Grafeld Letter. Secretary Powell did not provide his emails to the Department in any form.

¹³ ABC News, *This Week Transcript: Former Secretary of State Colin Powell* (March 5, 2015), available at <http://abcnews.go.com/Politics/week-transcript-secretary-state-colin-powell/story?id=29463658>.

¹⁴ A March 17, 2009 memorandum prepared by S/ES-IRM staff regarding communications equipment in the Secretary's New York residence identified a server located in the basement.

In December 2014, in response to Department requests, Secretary Clinton produced to the Department from her personal email account approximately 55,000 hard-copy pages, representing approximately 30,000 emails that she believed related to official business. In a letter to the Department, her representative stated that it was the Secretary's practice to email Department officials at their government email accounts on matters pertaining to the conduct of government business. Accordingly, the representative asserted, to the extent that the Department retained records of government email accounts, the Department already had records of the Secretary's email preserved within its recordkeeping systems.¹⁵

PRESERVATION REQUIREMENTS HAVE GENERALLY REMAINED CONSISTENT AS LAWS AND POLICIES RELATED TO THE USE OF EMAILS HAVE EVOLVED

The requirement to manage and preserve emails containing Federal records has remained consistent since at least 1995, though specific policies and guidance related to retention methods have evolved over time. In general, the Federal Records Act requires appropriate management, including preservation, of records containing adequate and proper documentation of the "organization, functions, policies, decisions, procedures, and essential transactions of the agency."¹⁶ Although emails were not explicitly mentioned in the Federal Records Act or FAM until the mid-1990s, the law has stated since 1943 that a document can constitute a record "regardless of physical form or characteristics."¹⁷

NARA promulgates regulations providing guidance to agencies on implementation of the Federal Records Act and recordkeeping obligations more generally.¹⁸ Since 1990, the regulations issued by NARA have explained that the medium of the record may be "paper, film, disk, or other physical type or form" and that the method of recording may be "manual, mechanical, photographic, electronic, or any other combination of these or other technologies."¹⁹ These regulations also have stated that a record can be made "by agency personnel in the course of their official duties, regardless of the method(s) or the medium involved."²⁰ See Appendix A for a compilation of preservation laws and policies that were in effect during the tenures of each Secretary, from Secretary Albright through Secretary Kerry. Figure 1 shows the evolution of management and preservation requirements related to emails containing Federal records.

¹⁵ Letter from Cheryl Mills, cdmills Group, to Patrick F. Kennedy, Under Secretary of State for Management (December 5, 2014).

¹⁶ 44 U.S.C. § 3101.

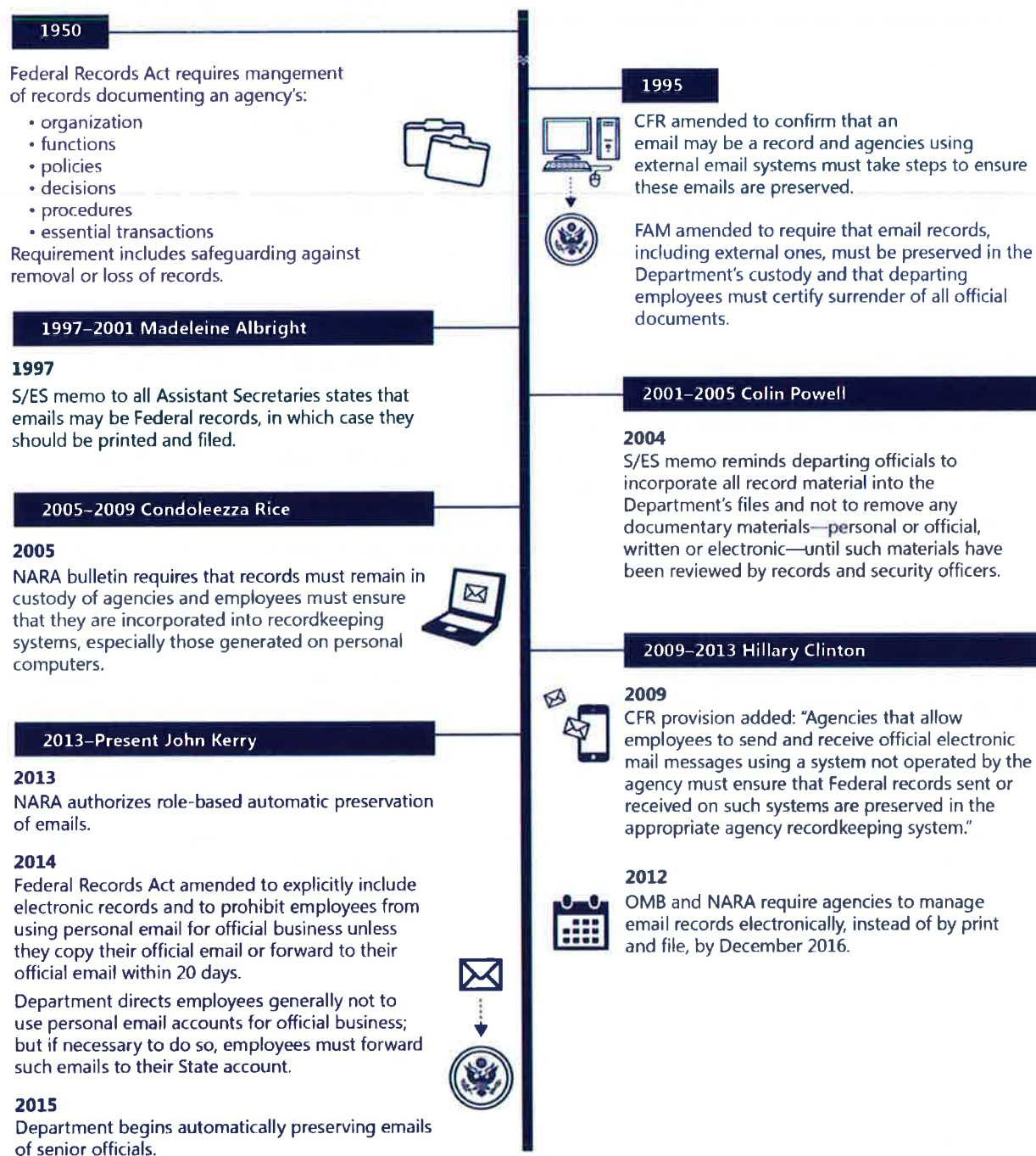
¹⁷ H.R. 2943, Records Disposal Act of 1943, 57 Stat. 380 (July 7, 1943).

¹⁸ 44 U.S.C. § 2904.

¹⁹ 36 C.F.R. § 1222.12(b)(2) (1990).

²⁰ 36 C.F.R. § 1222.12(b)(3) (1990).

Figure 1: Timeline of Selected Records Management Requirements and Policies



Source: OIG analysis of laws and policies.

Email Records Equivalent to Other Records: In 1995, NARA amended the Code of Federal Regulations to confirm that “messages created or received on electronic mail systems may meet the definition of record.”²¹ The regulations also referenced the use of electronic communications systems external to the Government, indicating that “agencies with access to external electronic mail systems shall ensure that Federal records sent or received on these systems are preserved in the appropriate recordkeeping system.”²² A recordkeeping system is a manual or electronic system that captures, organizes, and categorizes records to facilitate their preservation, retrieval, use, and disposition.²³ The FAM adopted similar requirements in 1995, by providing in pertinent part that:

all employees must be aware that some of the variety of the messages being exchanged on email are important to the Department and must be preserved; such messages are considered Federal records under the law.²⁴

The FAM also included examples of emails that could constitute Federal records, including those providing key substantive comments on a draft action memorandum, documenting significant Department decisions and commitments reached orally, and conveying information of value on important Department activities.²⁵ The Department has frequently reminded employees of this requirement, including through a November 2009 announcement to all employees that noted that Federal records can be found in “any media, including email, instant messages, social media, etc.”²⁶ However, the Department believes that the majority of the millions of emails sent to and from Department employees each year are non-permanent records with no long-term value.

In 2014, Congress amended the Federal Records Act explicitly to define Federal records to include “information created, manipulated, communicated, or stored in digital or electronic form.”²⁷

Methods of Preservation: According to NARA regulations, an agency “must ensure that procedures, directives and other issuances ... include recordkeeping requirements for records in all media, including those records created or received on electronic mail systems.”²⁸ These recordkeeping requirements include identifying specific categories of records to be maintained

²¹ 36 C.F.R. § 1222.34(e) (1995).

²² 36 C.F.R. § 1222.24(a)(4) (1995).

²³ 36 C.F.R. § 1220.18 (2009).

²⁴ 5 FAM 443.1(c) (October 30, 1995).

²⁵ 5 FAM 443.2(d) (October 30, 1995).

²⁶ *See, e.g.*, 09 STATE 120561; Department of State, Records Management Responsibilities, Announcement No. 2009_11_125, November 23, 2009.

²⁷ Presidential and Federal Records Act Amendments of 2014, Pub. L. No: 113-187, 128 Stat. 2003 (November 26, 2014) (amending 44 U.S.C. § 3301(a)).

²⁸ 36 C.F.R. § 1222.24 (October 2, 2009).

by agency personnel. Such maintenance includes ensuring that complete records are filed or otherwise identified and preserved, records can be readily found when needed, and permanent and temporary records are physically segregated from each other (or, for electronic records, segregable). Guidance issued by both NARA and the Department emphasize that every employee has records management responsibilities and must make and preserve records according to the law and Department policy.²⁹

At the Department, compliance with this regulation and preservation of emails that constitute Federal records can be accomplished in one of three ways: print and file; incorporation into the State Messaging and Archive Retrieval Toolset (SMART); or the use of the NARA-approved Capstone program for capturing the emails of designated senior officials. Since 1995, the FAM has instructed employees, "until technology allowing archival capabilities for long-term electronic storage and retrieval of E-mail messages is available and installed," emails warranting preservation as records must be printed out and filed with related Department records.³⁰ NARA regulations codified in 2009 also specified that agencies must not use an electronic mail system to store the recordkeeping copy of electronic mail messages identified as Federal records unless that system contains specific features.³¹ However, according to the Department, its technology has "lagged behind" this mandate.

²⁹ 5 FAM 414.8 (September 17, 2004). The prior version was located in 5 FAM 413.10 (October 30, 1995). *See also*, NARA, Frequently Asked Questions about Records Management in General, available at: <http://www.archives.gov/records-mgmt/faqs/general.html#responsibility> (January 20, 2001) (stating that "Federal employees are responsible for making and keeping records of their work.").

³⁰ 5 FAM 443.3 (October 30, 1995). S/ES-IRM reported to OIG that it has preserved email files numbering in the thousands for selected senior officials dating back at least as far as Secretary Powell's administration, although OIG found that these files are maintained in a format that makes them almost impossible to review or use.

³¹ 36 C.F.R. § 1236.22 (2009). These required features are specified in 36 C.F.R. § 1236.20(b) as follows:

- (a) General. Agencies must use electronic or paper recordkeeping systems or a combination of those systems, depending on their business needs, for managing their records. Transitory email may be managed as specified in § 1236.22(c).
- (b) Electronic recordkeeping. Recordkeeping functionality may be built into the electronic information system or records can be transferred to an electronic recordkeeping repository, such as a DoD-5015.2 STD-certified product. The following functionalities are necessary for electronic recordkeeping:
 - (1) Declare records. Assign unique identifiers to records.
 - (2) Capture records. Import records from other sources, manually enter records into the system, or link records to other systems.
 - (3) Organize records. Associate with an approved records schedule and disposition instruction.
 - (4) Maintain records security. Prevent the unauthorized access, modification, or deletion of declared records, and ensure that appropriate audit trails are in place to track use of the records.
 - (5) Manage access and retrieval. Establish the appropriate rights for users to access the records and facilitate the search and retrieval of records.
 - (6) Preserve records. Ensure that all records in the system are retrievable and usable for as long as needed to conduct agency business and to meet NARA-approved dispositions. Agencies must develop procedures to enable the migration of records and their associated metadata to new storage media or formats in order to avoid loss due to media decay or technology obsolescence.

In 2009, IRM introduced SMART throughout the Department, enabling employees to preserve a record copy of emails through their Department email accounts without having to print and file them.³² However, the Office of the Secretary elected not to use SMART to preserve emails, in part because of concerns that the system would allow overly broad access to sensitive materials. As a result, printing and filing remained the only method by which emails could properly be preserved within the Office of the Secretary in full compliance with existing FAM guidance.

In August 2012, OMB and NARA issued a memorandum requiring agencies to eliminate paper recordkeeping and manage all email records in an electronic format by December 31, 2016.³³ Subsequently, in August 2013, NARA published a bulletin authorizing agencies to use the Capstone approach to manage emails based upon the sender or recipient's role within the agency (rather than the content of the email), which "allows for the capture of records that should be preserved as permanent from the accounts of officials at or near the top of an agency or an organizational subcomponent."³⁴ In February 2015, S/ES began retaining the emails of senior Department officials within its purview using the Capstone approach, a practice that was broadened to approximately 200 senior officials across the Department in September 2015.³⁵ However, if an employee is not a senior official under Capstone, he or she would still be responsible for preserving emails in an appropriate agency recordkeeping system, such as through the use of SMART or printing and filing.

Requirements for Email Records in Personal Accounts: As previously stated, documents can qualify as Federal records regardless of the location, method of creation, or the medium involved. Consequently, records management requirements have always applied to emails

(7) Execute disposition. Identify and effect the transfer of permanent records to NARA based on approved records schedules. Identify and delete temporary records that are eligible for disposal. Apply records hold or freeze on disposition when required.

(c) Backup systems. System and file backup processes and media do not provide the appropriate recordkeeping functionalities and must not be used as the agency electronic recordkeeping system.

³² Prior OIG reports have observed that that use of the SMART system to create record emails has varied widely across Department offices. OIG, *Review of State Messaging and Archive Retrieval Toolset and Record Email* (ISP-I-15-15, March 2015) and OIG, *Inspection of the Bureau of Administration, Global Information Services, Office of Information Programs and Services* (ISP-I-12-54, September 2012).

³³ OMB and NARA, *Memorandum for The Heads of Executive Departments and Agencies and Independent Agencies: Managing Government Records Directive* (OMB Memorandum M-12-18) (August 24, 2012).

³⁴ NARA, *Guidance on a New Approach to Managing Email Records*, Bulletin No. 2013-02 (August 29, 2013), available at <https://www.archives.gov/records-mgmt/bulletins/2013/2013-02.html>.

³⁵ On January 29, 2015, the Executive Secretary notified the covered officials in the offices of the Secretary (S), the Deputy Secretaries of State (D), the Under Secretary for Political Affairs (P), and the Counselor of the Department (C) that on February 1, 2015, S/ES-IRM would begin permanently retaining all email activity in their State Department accounts. This notice also stated: "You should not use your private email accounts (e.g., Gmail) for official business." Later in 2015, the Under Secretary for Management notified all Assistant Secretaries and equivalents and Principal Deputies that all their email will be permanently stored and indexed beginning September 1, 2015. See *Memorandum To All Assistant Secretaries, Assistant Secretary Equivalents, And Principal Deputies: Email Retention* (July 29, 2015).

exchanged on personal email accounts, provided their content meets the definition of a record. In 2004, NARA issued a bulletin noting that officials and employees "must know how to ensure that records are incorporated into files or electronic recordkeeping systems, especially records that were generated electronically on personal computers." In 2009, NARA amended its regulations explicitly to address official emails on personal accounts:

Agencies that allow employees to send and receive official electronic mail messages using a system not operated by the agency must ensure that Federal records sent or received on such systems are preserved in the appropriate agency recordkeeping system.³⁶

In the 2014 amendments to the Federal Records Act, Congress added a provision prohibiting agency employees from creating or sending a record using "a non-official electronic messaging account" unless they copy their official electronic messaging account in the original creation or transmission of the record or forward a complete copy of the record to their official electronic messaging account within 20 days.³⁷ Shortly before the enactment of the 2014 amendments, the Department issued an interim directive with similar requirements³⁸ and subsequently updated the FAM in October 2015 as follows:

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 record (including any attachments) to the employee's official email account not later than 20 days after the original creation or transmission....The U.S. National Archives and Records Administration has advised that "personal accounts should only be used in exceptional circumstances." Therefore, Department employees are discouraged from using private email accounts (e.g., Gmail, AOL, Hotmail, etc.) for official business. However, in those very limited circumstances when it becomes necessary to do so, the email messages covering official business sent from or received in a personal account must be captured and managed in a Department email system in a manner described above in accordance with the Presidential and Federal Records Act Amendments of 2014. If an employee has any emails (regardless of age) on his or her private email account(s) that have not already been forwarded to the employee's official email account, then such emails need to be forwarded to the employee's state.gov account as soon as possible. Employees are reminded that private email accounts should not be used to transmit or receive classified information.³⁹

³⁶ 36 C.F.R. § 1236.22(b).

³⁷ 44 U.S.C. § 2911(a).

³⁸ Department of State, *A Message from Under Secretary for Management Patrick F. Kennedy regarding State Department Records Responsibilities and Policy*, Announcement No. 2014_10_115, October 17, 2014.

³⁹ 5 FAM 443.7 (October 23, 2015). Furthermore, the Consolidated Appropriations Act of 2016, which became Public Law 114-113 on December 18, 2015, requires, at Section 7077, that the Department update policies and directives needed to comply with Federal statutes, regulations, and presidential executive orders and memoranda concerning

However, forwarding to or copying an employee's official email account alone is not sufficient to fully meet records management requirements unless an employee's email is being captured under the Capstone approach. If such an email qualifies as a record, employees are still responsible for preserving it in an appropriate agency recordkeeping system, such as through the use of SMART or printing and filing.

Safeguards for Loss or Removal of Records: Both the Federal Records Act and NARA regulations also focus on preventing the removal, loss, or alienation of Federal records. The Act requires the head of each agency to establish safeguards against the removal or loss of records, including making it known to officials and employees of the agency (1) that records in the custody of the agency are not to be alienated or destroyed and (2) the penalties provided by law for the unlawful removal or destruction of records.⁴⁰ Although the FAM itself does not contain any explicit administrative penalties for removal or destruction of records, it does advise employees that such penalties exist and cites the Federal Records Act for this assertion.⁴¹

NARA regulations require each agency to have procedures to ensure that departing officials and employees do not remove Federal records from agency custody.⁴² The Department has implemented these requirements through various FAM and FAH provisions that prohibit employees from removing, retiring, transferring, or destroying Department records; prohibit departing employees from removing any records; require each departing employee to sign a separation statement certifying that he or she has surrendered all documentation related to the official business of the Government; and require a review of documents proposed for removal by a departing employee.⁴³ For example, since 1982, the Department has given the

the preservation of all records made or received in the conduct of official business, including record emails, instant messaging, and other online tools. The Act also required the Department to direct departing employees that their records belong to the Federal government and to report within 30 days on the steps required to implement the recommendations issued by OIG in the March 2015 Review of State Messaging and Archive Retrieval Toolset and Record Email (ISP-1-15-15) and any recommendations from the OIG review of the records management practices of the Department of State. Section 7077 also contains a prohibition from the use of certain appropriated funds to support the use or establishment of email accounts or email servers created outside the .gov domain or not fitted for automated records management as part of a Federal government records management program in contravention of the Presidential and Federal Records Act Amendments of 2014 and a provision for withholding \$10,000,000 from the Capital Investment Fund until the records management reports required under Section 7077 are submitted to Congress.

⁴⁰ 44 U.S.C. § 3105.

⁴¹ 5 FAM 413(a)(6) (September 17, 2004). NARA's regulations interpreting the Federal Records Act refer to the criminal penalties in 18 U.S.C. §§ 641, 2071, but do not cite to any administrative penalties. 36 C.F.R. § 1230.12.

⁴² 36 C.F.R. § 1222.24(a)(6) (October 2, 2009).

⁴³ 5 FAM 431.5(d) (July 31, 2012); 5 FAM 432.4(d) (July 31, 2012); 5 FAM 414.7 (June 19, 2015); 12 FAM 564.4 (July 10, 2015); 5 FAH-4 H-217.2 (August 13, 2008). These are the most current versions of these provisions, but the requirements have existed at least since 1995. *See also* 5 FAH-4 H-218a (April 15, 1997). For related discussions of agency responsibilities concerning removal of agency documents by senior officials upon departure, see also GAO, *Federal Records: Removal of Agency Documents by Senior Officials Upon Leaving Office* (GAO/GGD-89-91, July 1989), and GAO, *Document Removal by Agency Heads Needs Independent Oversight* (GAO/GGD-91-117, August 1991).

responsibility to the management section of each bureau, office, or post to ensure that every departing employee has signed a separation statement (form DS-109) that includes the following certification: "I have surrendered to responsible officials all unclassified documents and papers relating to the official business of the Government acquired by me while in the employ of the Department."⁴⁴ Numerous Department cables and announcements have emphasized the responsibility of every employee to sign a separation statement before she or he departs.⁴⁵

Since 2004, both the Department and NARA have issued multiple notices emphasizing the need to preserve emails that constitute Federal records and to surrender all Federal records prior to departing government employment.⁴⁶ These include an August 2004 memorandum from the Executive Secretary that reminded departing officials not to remove any documentary materials, whether personal or official and whether in written or electronic form, until such materials have been reviewed by records and security officers. The memorandum also required departing officials to ensure that all record material they possess is incorporated in the Department's official files. The Department reiterated this guidance in April, June, and October 2008.⁴⁷ S/ES conducts annual workshops with the Agency Records Officer on records management for departing senior officials and their staffs. Such workshops were held in February 2007, September 2008, June 2009, April 2010, October 2011, October 2012, October 2013, October 2014, and June 2015.

⁴⁴ 5 FAM 417.2 (March 16, 1982); 5 FAM 413.9 (October 30, 1995); 5 FAM 414.7 (September 17, 2004).

⁴⁵ See, e.g., *Procedures for the Removal of Personal Papers and Non-Record Material – 5 FAM 400, 5 FAH-4*, Announcement No. 2000_01_021, January 14, 2000; *Procedures for the Removal of Personal Papers and Non-Record Material*, Announcement No. 2005_02_017, February 3, 2005; 05 STATE 00018818 (February 1, 2005); 14 STATE 56010 (May 09, 2014).

⁴⁶ See, e.g., NARA, *Protecting Federal records and other documentary materials from unauthorized removal*, Bulletin No. 2005-03 (December 22, 2004); NARA, *NARA Guidance for Implementing Section 207(e) of the E-Government Act of 2002*, Bulletin No. 2006-02 (December 15, 2005); Department of State, Records Management Procedures, Announcement No. 2007_02_147, February 28, 2007; Department of State, Preserving Electronic Message (E-mail) Records, Announcement No. 2009_06_090, June 17, 2009; 14 STATE 111506 (September 15, 2014); Department of State, *Departing Officials: Procedures for the Removal of Personal Papers and Non-Record Material*, Announcement No. 2008_04_089, April 17, 2008; Department of State, *Reminder – Departing Officials: Procedures for the Removal of Personal Papers and Non-Record Material*, Announcement No. 2008_06_095, June 16, 2008; Department of State, *Reminder – Departing Officials: Procedures for the Removal of Personal Papers and Non-Record Material*, Announcement No. 2008_10_087, October 16, 2008 ("The willful and unlawful removal or destruction of records is punishable by a fine or imprisonment of up to three years, or both (18 U.S.C. § 2071)."); 09 STATE 120561 (November 23, 2009); Department of State, *Records Management Responsibilities*, Announcement No. 2009_11_125, November 23, 2009; NARA, *Continuing Agency Responsibilities for Scheduling Electronic Records*, Bulletin No. 2010-02 (February 5, 2010); Department of State, *A Message from Under Secretary for Management Patrick F. Kennedy regarding State Department Records Responsibilities and Policy*, Announcement No. 2014_10_115, October 17, 2014.

⁴⁷ Memorandum from Karl Hoffman, Executive Secretary, to all Under Secretaries and Assistant Secretaries, *Refresher on Records Responsibilities and Review* (August 9, 2004).

MANAGEMENT WEAKNESSES CONTRIBUTE TO LOSS OF EMAIL RECORDS

As discussed above, the Federal Records Act and related NARA regulations impose records management responsibilities on both Federal agencies and individual employees. For agencies, these responsibilities include establishing "effective controls" to manage the creation, maintenance, use, and disposition of records in order to achieve adequate and proper documentation of the policies and transactions of the Federal Government.⁴⁸ According to NARA, an effective records disposition program depends on scheduling⁴⁹ all records, regardless of location and regardless of physical form or characteristics (paper or electronic).⁵⁰ Therefore, agencies must implement a records maintenance program so that complete records are filed or otherwise identified and preserved, records can be readily found when needed, and permanent and temporary records are physically segregated or are segregable from each other.⁵¹

According to a 2010 U.S. Government Accountability Office (GAO) report, most agencies do not prioritize records management, as evidenced by lack of staff and budget resources, absence of up-to-date policies and procedures, lack of training, and lack of accountability.⁵² In its most recent annual assessment of records management, NARA identified similar weaknesses across the Federal Government with regard to electronic records in particular. NARA reported that 80 percent of agencies had an elevated risk for the improper management of electronic records, reflecting serious challenges handling vast amounts of email, integrating records management functionality into electronic systems, and adapting to the changing technological and regulatory environments.⁵³

In an effort to develop solutions to its own electronic records management challenges and to comply with NARA and OMB requirements, in 2013 the Department established the Electronic Records Management Working Group (ERMWG).⁵⁴ The Under Secretary for Management⁵⁵

⁴⁸ 44 U.S.C. §§ 3101, 3102.

⁴⁹ A records schedule identifies records as either temporary or permanent. All records schedules must be approved by NARA. A records schedule provides mandatory instructions for the disposition of the records (including the transfer of permanent records and disposal of temporary records) when they are no longer needed by the agency. As part of the ongoing records life cycle, disposition should occur in the normal course of agency business. 44 U.S.C. §§ 3303, 3303a.

⁵⁰ See <http://www.archives.gov/records-mgmt/publications/disposition-of-federal-records/chapter-2.html>

⁵¹ 36 C.F.R. § 1222.34.

⁵² GAO, *Information Management: The Challenges of Managing Electronic Records* (GAO-10-838T, July 17, 2010).

⁵³ NARA, *Records Management Self-Assessment 2014* (November 6, 2015).

⁵⁴ The ERMWG is chaired by the Director of the Office of Management Policy, Rightsizing and Innovation, and its members include the Chief Information Officer (CIO) and representatives from L, IRM, and A.

⁵⁵ OMB and NARA Memorandum M-12-18, *Memorandum for The Heads of Executive Departments and Agencies and Independent Agencies: Managing Government Records Directive*, requires each agency to designate a Senior Agency Official (SAO) at the Assistant Secretary level or its equivalent with "direct responsibility for ensuring the department or agency efficiently and appropriately complies with all applicable records management statutes, regulations, and NARA policy, and the requirements of this Directive. The SAO must be located within the organization so as to make

approved recommendations submitted by the ERMWG, which included updating guidance on preserving senior officials' emails, developing a pilot program for the Capstone approach to record email, and directing IRM to perform a cost-benefit analysis of upgrading SMART as opposed to obtaining other solutions for preserving the emails of senior officials.⁵⁶

In September 2015, Secretary Kerry named a former career Senior Foreign Service Officer as the Department's Transparency Coordinator. The Transparency Coordinator has been tasked with leading the Department's efforts in conjunction with the ERMWG to meet the President's Managing Government Records directive, responding to OIG's recommendations, and working with other agencies and the private sector to explore best practices and new technologies.

While these are positive steps, OIG identified multiple email and other electronic records management issues during the course of this evaluation. In its technical comments on this report, the Department noted that its budget has been declining over the past years and has not kept pace with inflation at a time when its national security mission is growing. According to the Department, it did request additional resources for records management for fiscal year 2017, but additional funding will still be needed to fully address its records management challenges.

Insufficient Oversight of the Recordkeeping Process: During the 20-year period covered by this evaluation, S/ES has had day-to-day responsibility for the Secretary of State's records management responsibilities, and it relies upon guidance and records schedules promulgated by the Bureau of Administration. The Bureau of Administration "plans, develops, implements, and evaluates programs, policies, rules, regulations, practices, and procedures on behalf of the Secretary to ensure compliance with the letter and spirit of relevant statutes, executive orders, and guidelines."⁵⁷ The Office of Information Programs and Services (IPS) is the component of the Bureau specifically tasked with issuing records guidance and overseeing records management efforts of the Department. Upon request, IPS reviews the records management practices of Department offices. The Acting Co-Director of IPS currently serves as the Agency Records Officer with program management responsibility for all records Department-wide throughout their life cycle (creation, acquisition, maintenance, use, and disposition). IPS has provided briefings, in conjunction with S/ES, to Office of the Secretary staff and has issued Department-wide notices and cables about records retention requirements, some of which included requirements to save email records, including records contained in personal emails. According to the FAM, the Agency Records Officer is "responsible for seeing that the Department and all of its component elements in the United States and abroad are in compliance with Federal records statutes and

adjustments to agency practices, personnel, and funding as may be necessary to ensure compliance and support the business needs of the department or agency." The Under Secretary for Management has served as the Department's SAO since 2012. Action Memo for the Secretary, *Designating A Senior Agency Official (SAO) for Managing Government Records* (November 27, 2012).

⁵⁶ ERMWG, *Action Memo for Under Secretary Kennedy: Preserving Electronically Senior Officials' Record Email Messages* (August 22, 2014).

⁵⁷ 5 FAM 414.3 (June 9, 2009).

regulations,”⁵⁸ yet IPS has not reviewed Office of the Secretary records retention practices during the current or past four Secretaries’ terms.

Although NARA is responsible for conducting inspections or surveys of agencies’ records and records management programs and practices,⁵⁹ it last reviewed the Office of the Secretary’s records retention practices in 1991—a quarter century ago. Beginning in 2009, NARA has relied on annual records management self-assessments and periodic reports from the Department to gauge the need to conduct formal inspections. The Department’s last two self-assessments did not highlight any deficiencies.

Print and File Requirements Not Enforced: S/ES staff have provided numerous trainings for the Office of the Secretary on records preservation responsibilities and the requirement to print and file email records. However, S/ES staff told OIG that employees in the Office of the Secretary have printed and filed such emails only sporadically. In its discussions with OIG, NARA stated that this lack of compliance exists across the government. Although the Department is aware of the failure to print and file, the FAM contains no explicit penalties for lack of compliance, and the Department has never proposed discipline against an employee for failure to comply. OIG identified one email exchange occurring shortly before Secretary Clinton joined the Department that demonstrated a reluctance to communicate the requirement to incoming staff. In the exchange, records officials within the Bureau of Administration wondered whether there was an electronic method that could be used to capture the Secretary’s emails because they were “not comfortable” advising the new administration to print and file email records.

Limited Ability To Retrieve Email Records: Even when emails are printed and filed, they are generally not inventoried or indexed and are therefore difficult to retrieve. As an illustration, almost 3,000 boxes, each filled with hundreds of pages of documents, would have to be reviewed manually, on a page-by-page basis, in order to identify and review all printed and filed emails from the Office of the Secretary since 1997. To help alleviate this problem, the Office of the Secretary could have adopted an electronic email management system in 2009 with the introduction of SMART. SMART allows users to designate specific emails sent or received through the Department’s email system as record emails; other SMART users can search for and access record emails, depending on the access controls set by the individual who originally saved the email. However, prior OIG reports have repeatedly found that Department employees enter relatively few of their emails into the SMART system and that compliance varies greatly across bureaus, in part because of perceptions by Department employees that SMART is not intuitive, is difficult to use, and has some technical problems.⁶⁰

⁵⁸ 5 FAM 414.2 (June 9, 2009).

⁵⁹ 44 U.S.C. § 2906. For an in-depth assessment of NARA’s oversight practices, see GAO, *National Archives and Records Administration: Oversight and Management Improvements Initiated, but More Action Needed* (GAO-11-15, October 2010).

⁶⁰ OIG, *Review of State Messaging and Archive Retrieval Toolset and Record Email* (ISP-I-15-15, March 2015) and OIG, *Inspection of the Bureau of Administration, Global Information Services, Office of Information Programs and Services*

In 2015, the Department began permanently retaining the emails of approximately 200 senior officials pursuant to the Capstone approach discussed previously. The Department also plans to purchase an off-the-shelf product to electronically manage its emails in keeping with OMB's and NARA's requirement that it do so by December 2016.⁶¹ This product will be adapted to Department requirements to include an interface that requires users to determine the record value and sensitivity of an email with one click and an auto-tagging feature that will allow emails to be stored according to disposition schedules. The new system will also be able to process legacy email files, such as the Personal Storage Table (.pst) files of departed officials.⁶² In addition, the Department expects that the product will improve the Department's ability to perform more comprehensive email searches.

No Inventory of Archived Electronic Files: The S/ES Office of Information Resources Management (S/ES-IRM), the unit that handles information technology for the Office of the Secretary, reported to OIG that it has maintained electronic copies of email records for selected senior officials dating back as far as Secretary Powell's tenure. These records consist of thousands of electronic files, principally saved as .pst files. During OIG's fieldwork, S/ES-IRM did not have an inventory of the .pst or other electronic files that consistently identified the former email account holder. However, in early 2016, S/ES-IRM began to create a comprehensive inventory of these files.⁶³

Unavailable or Inaccessible Electronic Files: When OIG requested specific .pst files, it encountered difficulties in obtaining and accessing those files. S/ES-IRM was unable to produce all of the .pst files OIG requested, and some of the requested files were corrupted and their recovery required considerable resources. Some .pst files were password protected, and staff did not know the passwords needed to open those files. Other files contained no data at all. Of the .pst files OIG was able to review, many were incomplete in that they did not span the particular employee's entire term of service, were mislabeled, or were missing key files such as populated sent or inbox folders. According to S/ES-IRM, as part of the inventory process currently underway, it is moving all .pst files in its possession onto servers and clearly labeling them.

Failure To Transfer Email Records to IPS: All Department offices are required to retire, or transfer, records to IPS in accordance with the Department's records disposition schedules.⁶⁴ For records

(ISP-I-12-54, September 2012). As noted previously, the Office of the Secretary did not implement SMART in part because of concerns the system would allow users to access highly sensitive records.

⁶¹ On November 30, 2015, the Department issued a Request for Information to determine the capabilities of the private sector to provide and support a system to satisfy recordkeeping requirements involving emails by December 31, 2016. Department of State Email Management, Solicitation No. SAQMMA16I0008 (November 30, 2015).

⁶² The term ".pst" refers to the format used to store copies of email messages, calendar events, and other items within Microsoft software.

⁶³ According to NARA regulations, creating .pst files is not an approved method of preserving Federal records, because .pst files do not have the required controls of an electronic records system. 36 C.F.R. § 1236.10.

⁶⁴ 5 FAM 433 (July 31, 2012).

specific to the Office of the Secretary, the relevant schedules require transferring most records to IPS at the end of the tenure of the Secretary.⁶⁵ S/ES has regularly retired paper copies of such records throughout the Secretaries' terms. However, S/ES has not consistently retired electronic email records. In April 2015, S/ES retired nine lots of electronic records containing approximately 16 gigabytes of data, consisting of emails, memoranda, travel records, and administrative documents from the tenures of former Secretaries Powell, Rice, and Clinton. However, the only email accounts included in this material were those of six of former Secretary Powell's staff and two of former Secretary Rice's staff. No email accounts from Secretary Clinton's staff were in the retired material.

In addition to retiring records in accordance with disposition schedules, offices must comply with Department policy requiring them to electronically capture the email accounts of selected senior officials upon their departure. A January 2009 memorandum from the Under Secretary for Management required Executive Directors and Management Officers to notify their system administrators of the departure of Presidential and political appointees and directed the administrators to copy the email accounts of those officials to two sets of CDs. The memorandum instructed the office to keep one of the CDs and send the other to IPS for records preservation.⁶⁶ The memorandum included an attachment identifying all officials who were subject to these requirements, including 50 officials from the offices under the purview of S/ES.⁶⁷ In August 2014, the Under Secretary sent another memorandum reiterating the requirement to electronically capture the email accounts of senior officials and broadening the list of officials subject to the requirement.⁶⁸ The Director of S/ES-IRM told OIG that S/ES complied with this requirement by creating .pst files covering the email accounts of the specified officials upon their departure. However, S/ES has never sent any CDs to IPS. In its most recent self-assessments of its records management, the Department stated that it has "established a procedure for departing officials to have their emails sent to the Department's Records Officer for preservation," but it failed to note that it has not complied with that procedure for the most senior officials in the organization.⁶⁹

Failure To Follow Department Separation Processes: As noted previously, NARA regulations require each agency to adopt procedures to ensure that departing officials and employees do

⁶⁵ The schedule for records specific to the Office of the Secretary is available at: https://foia.state.gov/_docs/RecordsDisposition/A-01.pdf

⁶⁶ Under Secretary Patrick F. Kennedy, *Memorandum for All Under Secretaries, Assistant Secretaries, Executive Directors and Post Management Officers: Preserving Electronically the Email of Senior Officials upon their Departure* (January 2009).

⁶⁷ The list of officials included the Secretary, Deputy Secretaries, Counselor, Chief of Protocol, Special Assistants to the Secretary, the Chief of Staff, and the Deputy Chief of Staff.

⁶⁸ Under Secretary Patrick F. Kennedy, *Memorandum: Senior Officials' Records Management Responsibilities* (August 28, 2014).

⁶⁹ See, e.g., Department of State, *Senior Agency Official for Records Management FY 2014 Annual Report Template* (February 5, 2015).

not remove Federal records from agency custody.⁷⁰ The Department has implemented these requirements through various FAM provisions, including one that requires every departing employee to sign a separation statement (DS-109) certifying that he or she has surrendered all documentation related to the official business of the Government.⁷¹ This function is handled for the Office of the Secretary by the Office of the S/ES Executive Director (S/ES-EX). However, S/ES-EX told OIG that, as the head of the agency, the Secretary is not asked to follow the exit process. Consequently, Secretaries Albright, Powell, Rice, and Clinton did not sign a DS-109 at the end of their tenures.

Notwithstanding the failure to adhere to separation requirements, all departing Secretaries of State from Secretary Albright on have followed the procedures governing the removal of personal papers. The FAH specifies that departing officials who wish to remove any documents must prepare an inventory of these personal papers and any non-record materials for review by Department officials.⁷² Once the reviewing official is satisfied that removal of the documents would comply with Federal law and regulations, the reviewing official completes and signs Form DS-1904 (Authorization for the Removal of Personal Papers and Non-Record Materials). As the form itself notes, this process is especially important to ensure that the “the official records of the Department” are not “diminish[ed].” S/ES officials signed DS-1904 forms after the departures of Secretaries Albright, Powell, Rice, and Clinton. OIG reviewed the completed forms for these four Secretaries; none listed email as proposed for removal. However, in contrast to the Form DS-109, the DS-1904 does not impose a specific requirement to surrender documents.

Failure To Notify NARA of Loss of Records: Federal laws and regulations require an agency head to notify NARA of any actual, impending, or threatened unlawful removal or loss of agency records.⁷³ Although numerous senior officials emailed Secretaries Powell and Clinton on their personal email accounts to conduct official business, the Department did not make a formal request to the former Secretaries for the Federal records contained within these personal accounts until October and November 2014.⁷⁴ The Department also did not promptly notify NARA about the potential loss of records.⁷⁵ NARA officials told OIG they learned of former

⁷⁰ 36 C.F.R. § 1222.24 (2009).

⁷¹ 12 FAM 564.4 (July 10, 2015); 5 FAM 414.7 (June 9, 2015). These are the most current versions of these provisions, but the requirements have existed since at least 1995.

⁷² 5 FAH-4 H-217.2 (August 13, 2008).

⁷³ 44 U.S.C. § 3106; 36 C.F.R. § 1230.14.

⁷⁴ In letters to the respective representatives of Secretaries Powell and Clinton, the Department asked that, should they “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 addition, the Department advised that they should “note that diverse Department records are subject to various disposition schedules, with most Secretary of State records retained permanently.” Therefore, the Department asked that “a record be provided to the Department if there is reason to believe that it may not otherwise be preserved in the Department recordkeeping system.”

⁷⁵ In May 2014, the Department undertook efforts to recover potential Federal records from Secretary Clinton. Thereafter, in July 2014, senior officials met with former members of Secretary Clinton’s immediate staff, who were then acting as Secretary Clinton’s representatives. At the meeting, her representative indicated that her practice of

Secretary Clinton's email practices through media accounts in March 2015. Immediately thereafter, NARA requested that the Department provide a report concerning "the potential alienation of Federal email records" created by former Secretary Clinton and actions taken to recover such records.⁷⁶

In April 2015, the Department informed NARA of the information it obtained from the former Secretaries concerning their email records.⁷⁷ NARA subsequently requested additional information about how the Department implements records management requirements with regard to senior officials.⁷⁸ NARA also requested that the Department contact the Internet service providers (ISPs) associated with the personal accounts of Secretaries Powell and Clinton to inquire if "it is still possible to retrieve the email records that may still be present on their servers." The Under Secretary for Management subsequently informed NARA that the Department sent letters to the representatives of Powell and Clinton conveying this request.⁷⁹

Well before the disclosure in April 2015, Department officials discussed in 2011 whether there was an obligation to search personal email accounts for Federal records.⁸⁰ In 2013, this issue arose again. Specifically, in early June 2013, Department staff participating in the review of potential material for production to congressional committees examining the September 2012 Benghazi attack discovered emails sent by the former Policy Planning Director via his Department email account to a personal email address associated with Secretary Clinton. In ensuing weeks, partly as a result of the staff's discovery, Department senior officials discussed

using a personal account was based on Secretary Powell's similar use, but Department staff instructed Clinton's representatives to provide the Department with any Federal records transmitted through her personal system. On August 22, 2014, Secretary Clinton's former Chief of Staff and then-representative advised Department leadership that hard copies of Secretary Clinton emails containing responsive information would be provided but that, given the volume of emails, it would take some time to produce. Subsequently, in October 2014, the Department began making formal, written requests to the representatives of Secretaries Albright, Powell, Rice and Clinton to produce any Federal records maintained in personal accounts. Secretary Clinton produced emails in hard copy form in December 2014. Thereafter, in March 2015, the Department made a similar request to four of Secretary Clinton's immediate staff. They produced email from their personal accounts during the summer of 2015.

⁷⁶ Letter from Paul M. Wester, Jr., Chief Records Officer for the U.S. Government, NARA, to Margaret P. Grafeld, Deputy Assistant Secretary for Global Information Systems, Bureau of Administration, U.S. Department of State (March 3, 2015).

⁷⁷ Grafeld Letter.

⁷⁸ Letter from Paul M. Wester, Jr., Chief Records Officer for the U.S. Government, NARA, to Margaret P. Grafeld, Deputy Assistant Secretary for Global Information Systems, Bureau of Administration, U.S. Department of State (July 2, 2015).

⁷⁹ Letter from Patrick F. Kennedy, Under Secretary of State for Management, to Laurence Brewer, Acting Chief Records Officer for the U.S. Government, NARA (November 6, 2015). Secretary Clinton responded to the Department that she has provided it with all official emails in her possession and pledged to provide any other record emails if they become available. As of May 2016, the Department has not received a response from Secretary Powell.

⁸⁰ This was prompted by a FOIA matter, in which a plaintiff inquired about a document it received showing that a staff assistant in the Office of the Secretary had received a work-related email on her personal account from someone who was not a Federal employee; the staff assistant had forwarded the email to her official account. This matter was ultimately resolved without further litigation.

the Department's obligations under the Federal Records Act in the context of personal email accounts. As discussed earlier in this report, laws and regulations did not prohibit employees from using their personal email accounts for the conduct of official Department business. However, email messages regarding official business sent to or from a personal email account fell within the scope of the Federal Records Act if their contents met the Act's definition of a record. OIG found that the Department took no action to notify NARA of a potential loss of records at any point in time.⁸¹

STAFF EMAIL USAGE AND COMPLIANCE WITH RECORDS MANAGEMENT REQUIREMENTS VARY

As part of this evaluation, OIG sought to examine whether staff in the Office of the Secretary complied with relevant email records management requirements, including those associated with the use of personal email accounts. However, OIG was unable to systematically assess the extent to which Secretaries Albright, Powell, Rice, Clinton, and Kerry and their immediate staff managed and preserved email records. In particular, OIG could not readily retrieve and analyze email records, in part because of the previously discussed weaknesses in the Department's records management processes. Although hard-copy and electronic email records dating back to Secretary Albright's tenure exist, these records have never been organized or indexed. For example, the Department could not immediately retrieve and make available for review specific email accounts identified and requested by OIG, which led to 2- to 3-month-long delays in obtaining the requested records. In addition, OIG was unable to reconstruct many events because of staff turnover and current employees' limited recollections of past events. These problems were compounded by the fact that multiple former Department employees and other individuals declined OIG requests for interviews, and OIG lacks the authority to compel anyone who is not a current Department employee to submit to interviews or to answer questions.

Moreover, OIG was unable to assess the degree to which Federal records sent through personal email accounts have been appropriately managed by Secretaries of State and their immediate staffs. Emails sent from the personal accounts of these individuals to other Department employees may or may not exist in the Department email accounts of the recipients, but OIG has limited ability to determine which accounts might contain these records unless the sender of the emails provides detailed information about the recipients. The Department currently lacks the resources and technical means to systematically review electronic files in its possession for records.

Despite these issues, OIG discovered anecdotal examples suggesting that Department staff have used personal email accounts to conduct official business, with wide variations among

⁸¹ The current Deputy Secretary for Management and Resources, who during the summer of 2013 served as Counselor to the Department, told OIG that she recalled conversations with Secretary Kerry about email usage, but the conversations focused only on Secretary Kerry's practices. In his interview with OIG, Secretary Kerry reported that he was not involved in any of the discussions regarding Secretary Clinton's emails and that he first became aware of her exclusive use of a personal email account when an aide informed him around the time the information became public.

Secretaries and their immediate staff members. For instance, OIG reviewed the Department email accounts (.pst files) of senior Department employees who served on the immediate staffs of Secretary Powell and Secretary Rice between 2001 and 2008. Within these accounts, OIG identified more than 90 Department employees who periodically used personal email accounts to conduct official business, though OIG could not quantify the frequency of this use.

OIG also reviewed an S/ES-IRM report prepared in 2010 showing that more than 9,200 emails were sent within one week from S/ES servers to 16 web-based email domains, including gmail.com, hotmail.com, and att.net.⁸² S/ES-IRM told OIG that it no longer has access to the tool used to generate this particular report. In another instance, in a June 3, 2011, email message to Secretary Clinton with the subject line "Google email hacking and woeful state of civilian technology," a former Director of Policy Planning wrote: "State's technology is so antiquated that NO ONE uses a State-issued laptop and even high officials routinely end up using their home email accounts to be able to get their work done quickly and effectively."

Notwithstanding the limitations on its ability to conduct a systematic evaluation, the information available allowed OIG to establish that email usage and compliance with statutory, regulatory, and Department requirements varied across the past five Secretaries' tenures. The practices of each Secretary and their immediate staff are discussed below.

Secretary Albright (January 23, 1997 – January 20, 2001): During Secretary Albright's tenure, desktop unclassified email and access to the Internet were not widely available to Department employees. OIG searched selected hard-copy records from her tenure and did not find any evidence to indicate that Secretary Albright used either Department or personal email accounts during that period. OIG additionally interviewed Secretary Albright and current and former Department staff, who further confirmed that she did not use email while serving as Secretary. In her interview with OIG, Secretary Albright noted that email use was still in its early stages when she became Secretary, and at the time she had no familiarity with the practice.

With regard to Secretary Albright's immediate staff, OIG did not find any emails that appeared to be to or from personal accounts and only found a few emails from staff Department accounts related to the Secretary's schedule. Staff responses on OIG questionnaires also identified minimal email usage—though two staff noted retaining emails on "Department servers."⁸³ These responses suggest staff may not have consistently complied with the preservation requirement to print and file emails containing Federal records.⁸⁴

⁸² Not all of these emails may indicate the use of personal email to conduct official business. Some of these emails could be communications with individuals outside the Department. Others could be communications by employees on personal matters, which is permissible under the Department's limited-use policy.

⁸³ OIG sent 13 questionnaires to former Secretary Albright's staff and received 8 responses, of which 2 were anonymous. None of the respondents reported having a personal email account while employed with the Department, and most did not acknowledge using a Department account. Two noted that they retained their emails on Department servers and one recalled receiving training on the topic of email preservation.

⁸⁴ 5 FAM 443.3 (October 30, 1995).

Secretary Powell (January 20, 2001 – January 26, 2005): During Secretary Powell's tenure, the Department introduced for the first time unclassified desktop email and access to the Internet on a system known as OpenNet, which remains in use to this day. Secretary Powell did not employ a Department email account, even after OpenNet's introduction. He has publicly written:

To complement the official State Department computer in my office, I installed a laptop computer on a private line. My personal email account on the laptop allowed me direct access to anyone online. I started shooting emails to my principal assistants, to individual ambassadors, and increasingly to my foreign-minister colleagues⁸⁵

OIG identified emails sent from and received by Secretary Powell's personal account in selected records associated with Secretary Powell. During his interview with OIG, Secretary Powell stated that he accessed the email account via his personal laptop computer in his office, while traveling, and at his residence, but not through a mobile device. His representative advised the Department that Secretary Powell "did not retain those emails or make printed copies."⁸⁶ Secretary Powell also stated that neither he nor his representatives took any specific measures to preserve Federal records in his email account. Secretary Powell's representative told OIG that she asked Department staff responsible for recordkeeping whether they needed to do anything to preserve the Secretary's emails prior to his departure, though she could not recall the names or titles of these staff. According to the representative, the Department staff responded that the Secretary's emails would be captured on Department servers because the Secretary had emailed other Department employees.

However, according to records management requirements and OIG's discussion with NARA, sending emails from a personal account to other employees at their Department accounts is not an appropriate method of preserving emails that constitute Federal records.⁸⁷ Guidance issued by both NARA and the Department emphasize that all employees have records management responsibilities and must make and preserve records that they send and receive.⁸⁸ Moreover, in keeping with NARA regulations,⁸⁹ the Department's policies specifically acknowledged that its email system at the time did not contain features necessary for long-term preservation of Federal records.⁹⁰ Therefore, Secretary Powell should have preserved any Federal records he

⁸⁵ Colin Powell, *It Worked for Me*, at 109 (2012).

⁸⁶ Grafeld Letter.

⁸⁷ 36 C.F.R. § 1234.24(b)(2) (August 28, 1995).

⁸⁸ 5 FAM 414.8 (September 17, 2004). The prior version was located at: 5 FAM 413.10 (October 30, 1995). *See also*, NARA, Frequently Asked Questions about Records Management in General, available at: <http://www.archives.gov/records-mgmt/faqs/general.html#responsibility> (January 20, 2001) (stating that "Federal employees are responsible for making and keeping records of their work.")

⁸⁹ 36 C.F.R. § 1234.24(d) (August 28, 1995). In 2009, this provision was moved to 36 C.F.R. § 1236.22(d) (October 2, 2009). It states, "Agencies must not use an electronic mail system to store the recordkeeping copy of electronic mail messages identified as Federal records unless that system" has certain listed attributes.

⁹⁰ As noted previously, Department guidance explained that messages must be printed and filed until "until technology allowing archival capabilities for long-term electronic storage and retrieval of E-mail records is available

created and received on his personal account by printing and filing those records with the related files in the Office of the Secretary.⁹¹

NARA agrees that the records should have been printed and filed but also told OIG that any effort to transfer such records to the Department would have mitigated the failure to preserve these records. At a minimum, Secretary Powell should have surrendered all emails sent from or received in his personal account that related to Department business. Because he did not do so at the time that he departed government service or at any time thereafter, Secretary Powell did not comply with Department policies that were implemented in accordance with the Federal Records Act. In an attempt to address this deficiency, NARA requested that the Department inquire with Secretary Powell's "internet service or email provider" to determine whether it is still possible to retrieve the email records that might remain on its servers.⁹² The Under Secretary for Management subsequently informed NARA that the Department sent a letter to Secretary Powell's representative conveying this request.⁹³ As of May 2016, the Department had not received a response from Secretary Powell or his representative.

Members of Secretary Powell's immediate staff who responded to OIG questionnaires described minimal email usage overall—two staff recalled printing and filing emails in Department recordkeeping systems.⁹⁴ While the limited number of respondents also asserted they did not use personal email accounts for official business, OIG discovered some personal email usage for official business by Secretary Powell's staff through its own review of selected records.

Secretary Rice (January 26, 2005 – January 20, 2009): Secretary Rice and her representative advised the Department and OIG that the Secretary did not use either personal or Department email accounts for official business.⁹⁵ OIG searched selected records and did not find any evidence to indicate that the Secretary used such accounts during her tenure.

OIG received limited responses on questionnaires sent to former Secretary Rice's staff. Two staff recalled printing and filing emails, and only one acknowledged the use of personal email

and installed" that will preserve messages for "periods longer than current E-mail systems routinely maintain them." 5 FAM 443.3 (October 30, 1995).

⁹¹ 5 FAM 443.3 (October 30, 1995).

⁹² Letter from Paul M. Wester, Jr., Chief Records Officer for the U.S. Government, NARA, to Margaret P. Grafeld, Deputy Assistant Secretary for Global Information Systems, Bureau of Administration, U.S. Department of State (July 2, 2015).

⁹³ Letter from Patrick F. Kennedy, Under Secretary of State for Management, to Laurence Brewer, Acting Chief Records Officer for the U.S. Government, NARA (November 6, 2015).

⁹⁴ OIG sent 18 questionnaires to former Secretary Powell's staff and received 6 responses, of which one was anonymous. Two respondents stated they created records by printing copies of emails from their Department accounts and filing them into the Department's records system. One respondent recalled receiving records retention training.

⁹⁵ Grafeld Letter.

accounts for official business.⁹⁶ OIG reviewed hard-copy and electronic records of Secretary Rice's immediate staff and discovered that other staff who did not reply to the questionnaire did use personal email accounts to conduct official business.

Secretary Clinton (January 21, 2009 – February 1, 2013): Former Secretary Clinton did not use a Department email account and has acknowledged using an email account maintained on a private server for official business. As discussed above, in December 2014, her representative produced to the Department 55,000 hard-copy pages of documents, representing approximately 30,000 emails that could potentially constitute Federal records that she sent or received from April 2009 through early 2013. Secretary Clinton's representative asserted that, because the Secretary emailed Department officials at their government email accounts, the Department already had records of the Secretary's email preserved within its recordkeeping systems.⁹⁷

As previously discussed, however, sending emails from a personal account to other employees at their Department accounts is not an appropriate method of preserving any such emails that would constitute a Federal record. Therefore, Secretary Clinton should have preserved any Federal records she created and received on her personal account by printing and filing those records with the related files in the Office of the Secretary.⁹⁸ At a minimum, Secretary Clinton should have surrendered all emails dealing with Department business before leaving government service and, because she did not do so, she did not comply with the Department's policies that were implemented in accordance with the Federal Records Act.

NARA agrees with the foregoing assessment but told OIG that Secretary Clinton's production of 55,000 pages of emails mitigated her failure to properly preserve emails that qualified as Federal records during her tenure and to surrender such records upon her departure. OIG concurs with NARA but also notes that Secretary Clinton's production was incomplete. For example, the Department and OIG both determined that the production included no email covering the first few months of Secretary Clinton's tenure—from January 21, 2009, to March 17, 2009, for received messages; and from January 21, 2009, to April 12, 2009, for sent messages. OIG discovered multiple instances in which Secretary Clinton's personal email account sent and received official business email during this period. For instance, the Department of Defense provided to OIG in September 2015 copies of 19 emails between Secretary Clinton and General David Petraeus on his official Department of Defense email account; these 19 emails were not in the Secretary's 55,000-page production. OIG also learned that the 55,000-page production did

⁹⁶ OIG sent 23 questionnaires to Secretary Rice's former staff and received 9 responses. Only one respondent reported using personal email accounts to conduct official business when "Department accounts were down or inaccessible." Two respondents said they printed emails and filed them into the Department's records systems; another said he believed IRM "backed up" all emails. One respondent stated she did not recall any specific instructions about retaining emails but assumed all emails were captured electronically.

⁹⁷ Letter from Cheryl Mills, cdmills Group, to Patrick F. Kennedy, Under Secretary of State for Management (December 5, 2014).

⁹⁸ 5 FAM 443.3 (October 30, 1995).

not contain some emails that an external contact not employed by the Department sent to Secretary Clinton regarding Department business. In an attempt to address these deficiencies, NARA requested that the Department inquire with Secretary Clinton's "internet service or email provider" to determine whether it is still possible to retrieve the email records that might remain on its servers.⁹⁹ The Department conveyed this request to Secretary Clinton's representative and on November 6, 2015, the Under Secretary for Management reported to NARA that the representative responded as follows:

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 during 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.¹⁰⁰

With regard to Secretary Clinton's immediate staff, OIG received limited responses to its questionnaires, though two of Secretary Clinton's staff acknowledged occasional use of personal email accounts for official business.¹⁰¹ However, OIG learned of extensive use of personal email accounts by four immediate staff members (none of whom responded to the questionnaire). During the summer of 2015, their representatives produced Federal records in response to a request from the Department, portions of which included material sent and received via their personal email accounts.¹⁰² The material consists of nearly 72,000 pages in hard copy and more than 7.5 gigabytes of electronic data. One of the staff submitted 9,585 emails spanning January 22, 2009, to February 24, 2013, averaging 9 emails per workday sent on a personal email account. In this material, there are instances where the four individuals sent or received emails

⁹⁹ Letter from Paul M. Wester, Jr., Chief Records Officer for the U.S. Government, NARA, to Margaret P. Grafeld, Deputy Assistant Secretary for Global Information Systems, Bureau of Administration, U.S. Department of State (July 2, 2015).

¹⁰⁰ Letter from Patrick F. Kennedy, Under Secretary of State for Management, to Laurence Brewer, Acting Chief Records Officer for the U.S. Government, NARA (November 6, 2015).

¹⁰¹ OIG sent 26 questionnaires to Secretary Clinton's staff and received 5 responses. Three respondents reported that they did not use personal email accounts to conduct official business. Another reported occasionally using personal email accounts while traveling with the Secretary and when Department accounts were not working. Another said he occasionally used his personal laptop or desktop at home to access the Department's OpenNet and that he assumed all data processed on OpenNet would be available to the Department.

¹⁰² The material was produced to the Department for the following individuals:

Title	Production Dates
Counselor and Chief of Staff	6/25/2015; 8/10/2015; 8/12/2015
Deputy Chief of Staff for Operations	7/9/2015; 8/7/2015
Deputy Chief of Staff/Director of Policy Planning	7/30/2015
Deputy Assistant Secretary, Strategic Communications	7/28/2015; 8/6/15

regarding Department business using only their personal web-based email accounts. Accordingly, these staff failed to comply with Department policies intended to implement NARA regulations, because none of these emails were preserved in Department recordkeeping systems prior to their production in 2015.¹⁰³ As noted above, NARA has concluded that these subsequent productions mitigated their failure to properly preserve emails that qualified as Federal records during their service as Department employees. However, OIG did not attempt to determine whether these productions were complete. None of these individuals are currently employed by the Department.

Secretary Kerry (February 1, 2013 – Present): Secretary Kerry uses a Department email account on OpenNet and stated that, while he has used a personal email account to conduct official business, he has done so infrequently. In his interview with OIG, Secretary Kerry stated that he used his personal email more frequently when he was transitioning from the U.S. Senate to the Office of the Secretary. However, after discussions with his aides and other Department staff, he began primarily using his Department email account to conduct official business. The Secretary stated he may occasionally use personal email for official business when responding to a sender who emailed him on his personal account. The Secretary also stated that he either copies or forwards such emails to his Department account and copies his assistant. OIG's limited review of electronic records shows some personal email account usage by Secretary Kerry. Secretary Kerry's emails are now being retained using the Capstone approach discussed previously, which complies with the Federal Records Act and email records management requirements.¹⁰⁴

OIG received responses to questionnaires from most of Secretary Kerry's immediate staff, who reported occasional use of personal email accounts for official business.¹⁰⁵ A number of staff also reported that they follow current policy on forwarding emails containing Federal records from personal accounts to Department accounts.¹⁰⁶ OIG's limited review of electronic records shows some personal email account usage by these staff.

Other staff reported that their emails are being retained using the Capstone approach, and some mentioned preserving emails through printing and filing. Several staff mentioned preserving emails by saving them in their Department email accounts. However, as previously

¹⁰³ 36 C.F.R. §1236.22(d) (October 2, 2009); 5 FAM 443.3 (October 30, 1995).

¹⁰⁴ NARA, *Guidance on a New Approach to Managing Email Records*, Bulletin No. 2013-02 (August 29, 2013), available at <https://www.archives.gov/records-mgmt/bulletins/2013/2013-02.html>.

¹⁰⁵ OIG sent 36 questionnaires to Secretary Kerry's staff and received 30 responses (several of the non-respondents had departed or were departing the Office of the Secretary), as well as a completed questionnaire from Secretary Kerry. With regard to preservation of Department emails, many reported retaining files in Microsoft Outlook and others reported that the Department was permanently retaining their email as part of the new Capstone program for senior officials. Most staff reported receiving training or other guidance on records preservation requirements through a variety of means, including formal training sessions, briefings, memos, and Department notices. Eleven staff reported using personal email accounts or other devices for official business, usually because of Internet connectivity interruptions while traveling.

¹⁰⁶ Eight stated that they forwarded or copied these emails to their Department accounts for records preservation purposes.

noted, NARA regulations state that agencies may only use an electronic mail system to store the recordkeeping copy of electronic mail messages identified as Federal records if that system contains specific features;¹⁰⁷ the current Department email system does not contain these features. Given that the Office of the Secretary does not use the SMART system, staff whose emails are not being retained under the Capstone approach should still be preserving emails through printing and filing. However, as previously noted, the Department is in the process of adopting a new email records management system that will cover the Office of the Secretary with the goal of meeting the requirement to manage all email records in an electronic format by December 31, 2016.¹⁰⁸ The Department plans that this system will eventually capture some of the email currently saved in Department email accounts and all of the email of senior officials currently being preserved.

CYBERSECURITY RISKS RESULT FROM THE USE OF NON-DEPARTMENTAL SYSTEMS AND EMAIL ACCOUNTS

In addition to complying with records management and preservation requirements, Department employees, including those in the Office of the Secretary, must comply with cybersecurity policies. Department information must be secure and protected from threats.

DS and IRM are the two bureaus within the Department with primary responsibility for ensuring the security of Department electronic information.¹⁰⁹ IRM is responsible for establishing effective information resource management planning and policies; ensuring the availability of information technology systems and operations; and approving development and administration of the Department's computer and information security programs and policies. DS is responsible for providing a safe and secure environment for the conduct of U.S. foreign policy, including personal, physical, and information security.¹¹⁰

According to DS and IRM officials, Department employees must use agency-authorized information systems to conduct normal day-to-day operations because the use of non-Departmental systems creates significant security risks. Department policies have evolved considerably over the past two decades; but since 1996, the FAM and FAH have contained numerous provisions regulating the use of such outside systems, including computers, personal devices, Internet connections, and email. (See Appendix A for a compilation of related cybersecurity laws and policies that were in effect during the tenures of each Secretary, from Secretary Albright through Secretary Kerry.) These provisions do contemplate limited use of non-Departmental systems, but the exceptions are quite narrow. Among the risks is the

¹⁰⁷ 36 C.F.R. § 1236.22 (October 2, 2009).

¹⁰⁸ OMB and NARA, *Memorandum for The Heads of Executive Departments and Agencies and Independent Agencies: Managing Government Records Directive* (OMB Memorandum M-12-18) (August 24, 2012).

¹⁰⁹ 1 FAM 271.1(4) (March 5, 2010).

¹¹⁰ 12 FAM 010 (December 21, 2004).

targeting and penetration of the personal email accounts of Department employees, which was brought to the attention of the most senior officials of the Department as early as 2011.¹¹¹ Another significant risk is the introduction of viruses and malware onto Department systems, which increases their vulnerability to intrusion.

Based on this evaluation and a previous OIG inspection, OIG identified three Department officials—Secretary Powell, Secretary Clinton, and a former U.S. Ambassador to Kenya—who exclusively used non-Departmental systems to conduct official business. As will be discussed in greater detail below, OIG acknowledges significant differences in the facts and circumstances surrounding each of these cases.

Employees Generally Must Use Department Information Systems To Conduct Official Business

The Department's current policy, implemented in 2005, is that normal day-to-day operations should be conducted on an authorized Automated Information System (AIS), which "has the proper level of security control to ... ensure confidentiality, integrity, and availability of the resident information."¹¹² The FAM defines an AIS as an assembly of hardware, software, and firmware used to electronically input, process, store, and/or output data.¹¹³ Examples include: mainframes, servers, desktop workstations, and mobile devices (such as laptops, e-readers, smartphones, and tablets).

This policy comports with FISMA, which was enacted in December 2002 and requires Federal agencies to ensure information security for the systems that support the agency's operations and assets, including information security protections for information systems used by a contractor of an agency or other organization on behalf of an agency.¹¹⁴ FISMA defines information security as protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide for the integrity, confidentiality, and availability of the information and systems.¹¹⁵ In 2006, as required by FISMA, NIST promulgated minimum security requirements that apply to all information within the Federal Government and to Federal information systems.¹¹⁶ Among these are requirements for certifying and accrediting information systems, retaining system audit records for monitoring purposes, conducting risk assessments, and ensuring the protection of communications.

¹¹¹ See, e.g., 11 STATE 65111 (June 28, 2011).

¹¹² 12 FAM 544.3 (November 4, 2005). This provision also states that "The Department's authorized telework solution(s) are designed in a manner that meet these requirements and are not considered end points outside of the Department's management control."

¹¹³ 12 FAM 091 (January 11, 2016).

¹¹⁴ 44 U.S.C. § 3554.

¹¹⁵ 44 U.S.C. § 3552(b)(3).

¹¹⁶ NIST, FIPS PUB 200: *Minimum Security Requirements for Federal Information and Information Systems* (March 2006).

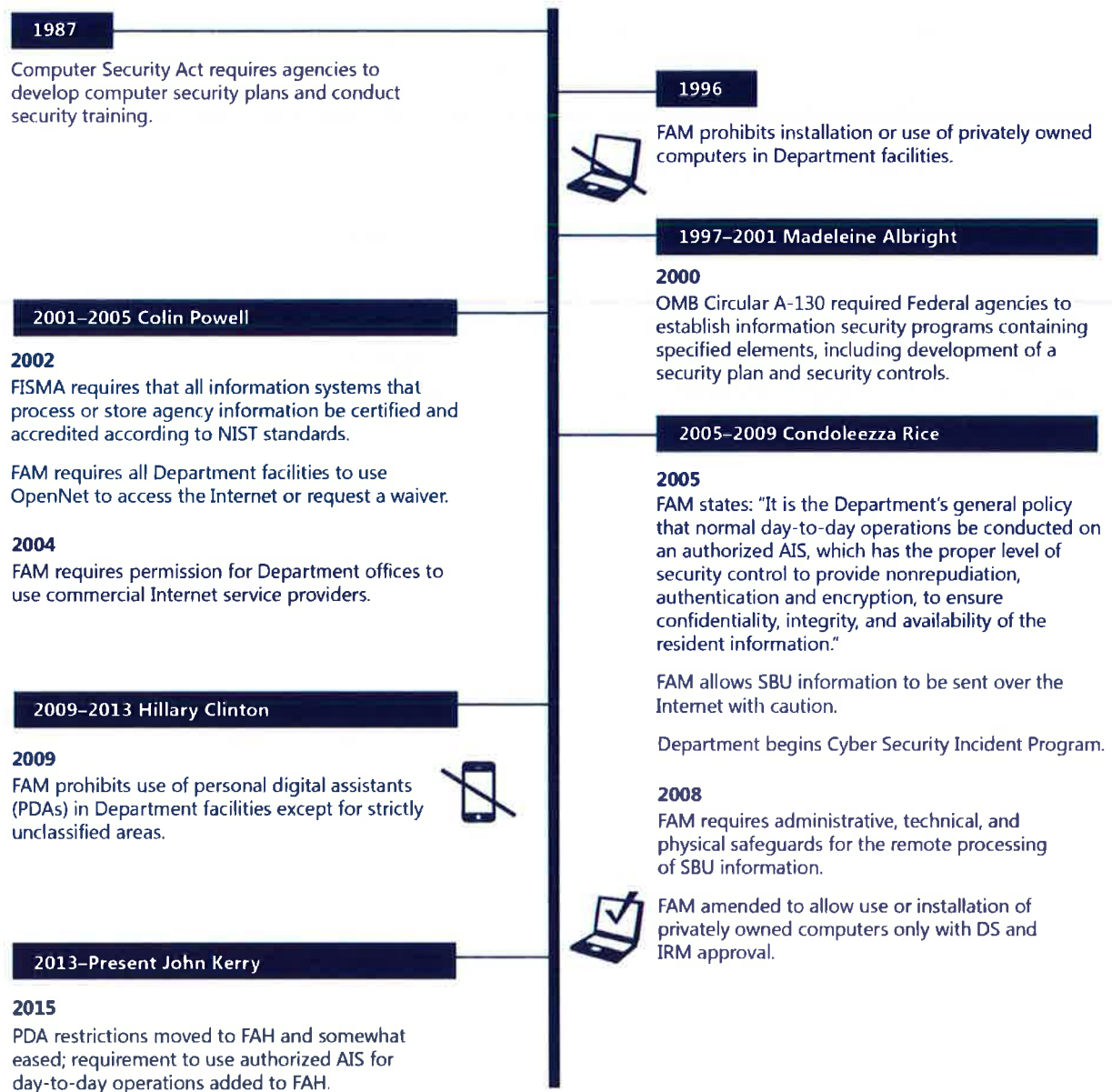
In 2007, the Department adopted additional policies to implement these requirements, including numerous provisions intended to ensure that non-Departmental information systems that process or store Department information maintain the same minimum security controls. Further, non-Departmental systems that are sponsored by the Department to process information on its behalf must be registered with the Department.¹¹⁷

Restrictions Apply to the Use of Non-Departmental Systems

The FAM and FAH contain a number of restrictions regarding the use of non-Departmental computers, mobile devices, Internet connections, and personal email to transmit Department information. These provisions have evolved since 1996, but employees must implement safeguards or request approval before using such equipment. Figure 2 shows the evolution of these provisions and related statutes and regulations.

¹¹⁷ 5 FAH-11 H-412.4(c)(4) (June 25, 2007).

Figure 2: Timeline of Selected Security Requirements and Policies



Source: OIG analysis of laws and policies.

Privately Owned Computers and Mobile Devices: In 1996, the FAM directed Department systems managers to ensure that privately owned computers were not installed or used in any Department office building.¹¹⁸ In 2008, the Department amended this provision to prohibit the use or installation of non-U.S. Government-owned computers in any Department facility without the written approval of DS and IRM, with certain exceptions.¹¹⁹

In 2009, the Department adopted policies addressing the specific requirements for use of non-Department-owned personal digital assistants (PDAs).¹²⁰ Under this policy, PDAs could only be turned on and used within Department areas that are strictly unclassified (such as the cafeteria) and could not connect with a Department network except via a Department-approved remote-access program, such as Global OpenNet.¹²¹ In 2014, the Department amended this provision to authorize Department managers in domestic locations to allow non-Department-owned PDAs within their specific work areas, provided users maintain a minimum 10-foot separation between the PDA and classified processing equipment. In 2015, the Department replaced these provisions with a new FAH provision that included the domestic 10-foot-separation rule and the ban on connecting to a Department network except via a Department-approved remote-access program.¹²²

Related to these provisions is the Department policy on “remote processing”—the processing of Department unclassified or sensitive but unclassified (SBU) information on non-Department-owned systems (such as a home computer or a tablet) or on Department-owned systems (such as a Department-issued laptop) at non-Departmental facilities (such as at an employee’s home or a hotel)—which has been in place since 2008.¹²³ Under this policy, management and employees must exercise “particular care and judgment” when remotely processing SBU information.¹²⁴ Offices that allow employees to remotely process SBU information must ensure that appropriate administrative, technical, and physical safeguards are maintained to protect the

¹¹⁸ 12 FAM 625.2-1 (April 12, 1996).

¹¹⁹ 12 FAM 625.2-1 (July 28, 2008). This provision was removed from the FAM in 2015, but a FAH provision prohibits the installation of non-Department owned information systems within Department facilities without the written authorization of DS and IRM. 12 FAH-10 H-112.14-2 (September 19, 2014). Both the FAM and FAH provisions include an exception for a non-Department entity that has an approved dedicated space within a Department facility.

¹²⁰ The FAM defined PDAs as “hand-held computers” including “standard personal digital assistants; e.g., Palm devices, Win CE devices, etc., and multi-function automated information system (AIS) devices; e.g., BlackBerry devices, PDA/cell phones, etc.” 12 FAM 683.1 (December 2, 2009).

¹²¹ 12 FAM 683.2-3 (December 2, 2009).

¹²² 12 FAH-10 H-165.4 (May 20, 2015). These devices are referred to as Non-Department Owned Mobile Devices (NDOMDs).

¹²³ 12 FAM 682 (August 4, 2008). This subchapter was later removed from the FAM and moved to the FAH at 12 FAH-10 H-170 (as amended January 11, 2016).

¹²⁴ 12 FAM 682.2-4 (August 4, 2008). This requirement is currently located at 12 FAH-10 H-173.4 (January 11, 2016). SBU information is defined in the FAM as information that is not classified for national security reasons but that warrants or requires administrative control and protection from public or other unauthorized disclosure for other reasons. Examples include personnel data, visa and asylum records, law enforcement information, privileged communications, and deliberative inter- or intra-agency communications. 12 FAM 541 (March 5, 2013).

confidentiality and integrity of records and to ensure encryption of SBU information with products certified by NIST. Employees must implement and regularly update basic home security controls, including a firewall, anti-spyware, antivirus, and file-destruction applications for all computers on the network.¹²⁵ In 2014, the Department added a provision to the FAH to require users who process SBU information on non-Department-owned storage media to encrypt it with products certified by NIST.¹²⁶

Internet Connections: Since the end of 2002, the FAM has required all Department facilities to use the Department's primary Internet connection, OpenNet, to establish Internet connectivity.¹²⁷ The Department further regulated access to the Internet by establishing rules in 2004 addressing the use of non-Departmental Internet connections in Department facilities.¹²⁸

Personal Email: Since 2002, Department employees have been prohibited from auto-forwarding their email to a personal email address "to preclude inadvertent transmission of SBU email on the Internet."¹²⁹

The FAM also reminds employees that "transmissions from the Department's OpenNet to and from non-U.S. Government Internet addresses, and other .gov or .mil addresses, unless specifically directed through an approved secure means, traverse the Internet unencrypted."¹³⁰ The FAM further states that, with regard to SBU information, the Department is expected to provide, and employees are expected to use, approved secure methods to transmit such information when available and practical. However, if such secure methods are not available, employees with a valid business need may transmit SBU information over the Internet unencrypted so long as they carefully consider that unencrypted emails can pass through foreign and domestic controlled ISPs, placing the confidentiality and integrity of the information at risk. In addition, the FAM instructs employees transmitting SBU information outside the

¹²⁵ 12 FAM 682.2-5 (August 4, 2008). Currently, these requirements, as amended, are located at 12 FAH-10 H-173.4 (January 11, 2016). The amended provision requires NIST FIPS 140-2 encryption for SBU information in addition to the use of a firewall anti-spyware, anti-virus, and file destruction applications.

¹²⁶ 12 FAH-10 H-172.1 (September 25, 2014). Currently, this requirement is located at 12 FAH-10 H-173.4 (January 11, 2016). If the employee has a wireless home network, the FAH requires use of a NIST-validated product to secure the wireless connection. 12 FAH-10 H-173.4(9) (September 25, 2014).

¹²⁷ 5 FAM 871 (December 30, 2002). The language of this provision was amended in 2004, 2009, and 2013, but the basic requirement to use OpenNet has remained consistent.

¹²⁸ 5 FAM 874.2 (May 4, 2004). Currently, these rules are at 5 FAM 872 (May 1, 2014). Department facilities must seek authorization from the bureau Executive Director or post Management Officer to use such a connection. 5 FAM 872.1 (May 1, 2014). Such systems may not be used to process SBU information, except in limited amounts under exigent circumstances. 5 FAM 872.2 (May 1, 2014).

¹²⁹ 5 FAM 751.2 (February 27, 2002). This rule was amended in 2011 to incorporate a prohibition on including a personal email address in an auto-reply message. 5 FAM 752.1(e) (November 14, 2011).

¹³⁰ 12 FAM 544.3 (November 4, 2005). From 2002 to 2005, transmission of SBU information over the Internet was completely prohibited. 5 FAM 751.2 (February 27, 2002).

Department's OpenNet network on a regular basis to the same official or personal email address to request a solution from IRM.¹³¹

In 2015, the Department amended the FAM to incorporate NARA's guidance, which advises employees that "personal accounts should only be used in exceptional circumstances."¹³² This provision also states that "Department employees are discouraged from using private email accounts (e.g., Gmail, AOL, Hotmail, etc.) for official business [except] in those very limited circumstances when it becomes necessary to do so." However, the FAM gives no further guidance about what type of circumstances would permit use of personal email.

The Department Has Issued Numerous Warnings About Cybersecurity Risks

One of the primary reasons that Department policy requires the use of Department systems is to guard against cybersecurity incidents. Threats and actual attacks against the Department have been on the rise for nearly a decade. For example, in May 2006, the Department experienced large-scale computer intrusions that targeted its headquarters and its East Asian posts.¹³³ Consequently, the Department has issued numerous announcements, cables, training requirements, and memos to highlight the various restrictions and risks associated with the use of non-Departmental systems, especially the use of personal email accounts.

As early as 2004, Department cables reminded staff that only Department-approved software should be installed on the Department's information systems because outside software may bypass firewall and anti-virus checks, creating an open channel for hackers and malicious code, thus placing Department networks at serious risk.¹³⁴ Since then, the Department has published prohibitions or warnings related to the use of instant messaging, PDAs and smartphones, thumb drives, CDs and DVDs, Internet browsers, and personally owned devices.¹³⁵ Employees are also reminded of these issues through the Department's required annual Cybersecurity Awareness course.¹³⁶ Further, in 2005 DS's Cyber Threat Analysis Division (CTAD) began issuing notices to Department computer users specifically highlighting cybersecurity threats. For example, CTAD's

¹³¹ 12 FAM 544.2 (November 4, 2005).

¹³² 5 FAM 443.7 (October 23, 2015).

¹³³ See *Cyber Insecurity: Hackers Are Penetrating Federal Systems And Critical Infrastructure: Hearing Before the House Committee on Homeland Security, Subcommittee On Emerging Threats, Cybersecurity And Science And Technology*, 110th Congress (2007) (statement of Donald Reid, Senior Coordinator for Security Infrastructure, Bureau of Diplomatic Security, U.S. Department of State), at 13-15.

¹³⁴ 04 STATE 204864 (September 22, 2004).

¹³⁵ See e.g., 05 STATE 096534 (May 2005); *Prohibition Against Use of Privately Owned Software/Hardware on Department Automated Information Systems*, Announcement No. 2006_01_074 (January 24, 2006); *Use Of Unclassified/SBU Thumb Drives*, Announcement No. 2008_09_046 (September 9, 2008); *Using PEDs Abroad*, Announcement No. 2008_09_068 (September 12, 2008); *Remote Accessing and Processing*, Announcement No. 2008_11_061 (November 14, 2008); 09 STATE 130999 (December 24, 2009); *Use of Non-Department Owned Personal Digital Assistants (PDAs) and Smartphones in Department Facilities*, Announcement No. 2010_10_150 (October 26, 2010).

¹³⁶ 5 FAM 845 (July 12, 2013).

notices from 2005 to 2011 addressed BlackBerry security vulnerabilities, generally citing mobile devices as a weak link in computer networks.¹³⁷ CTAD warned that BlackBerry devices must be configured in accordance with the Department's security guidelines.

In July 2005, IRM introduced its BlackBerry service that provided domestic users access to their OpenNet email, calendar, and contacts.¹³⁸ From the beginning, the BlackBerry servers were required to be configured in accordance with the current DS Information Technology Security Guide, which contains an extensive list of security settings that lock down the devices. These security standards continue to apply to current Department BlackBerry devices.

In March 2009, after unsuccessful efforts to supply Secretary Clinton with a secure government smartphone, DS was informed that Secretary Clinton's staff had been asking to use BlackBerry devices inside classified areas. The Assistant Secretary of DS then sent a classified memorandum to Secretary Clinton's Chief of Staff that described the vulnerabilities associated with the use of BlackBerry devices and also noted the prohibition on the use of BlackBerry devices in sensitive areas. According to a DS official, shortly after the memorandum was delivered, Secretary Clinton approached the Assistant Secretary and told him she "gets it."

The use of personal email accounts to conduct official business has been a particular concern over the past several years. For example, on March 11, 2011, the Assistant Secretary for Diplomatic Security sent a memorandum on cybersecurity threats directly to Secretary Clinton.¹³⁹ A portion of the unclassified version of this memorandum states:

Threat analysis by the DS cyber security team and related incident reports indicate a dramatic increase since January 2011 in attempts by [redacted] cyber actors to compromise the private home e-mail accounts of senior Department officials. ... Although the targets are unclassified, personal e-mail accounts, the likely objective is to compromise user accounts and thereby gain access to policy documents and personal information that could enable technical surveillance and possible blackmail. The personal e-mail of family members also is at risk.

The memorandum included as an attachment "a snapshot of affected Department personnel," noting that many of the email account owners play major roles in forming diplomatic and economic policy.¹⁴⁰ It concluded by noting, "We also urge Department users to minimize the use

¹³⁷ See, e.g., CTAD, *Cyber Security Awareness* (March 3, 2011).

¹³⁸ Department of State, *Blackberry Wireless PDA Use in the Department of State*, Announcement No. 2005_07_018, July 7, 2005. This announcement also notes: "Personal Blackberry devices are not allowed." In September 2005, overseas posts were also authorized to procure, install, and operate their own BlackBerry Enterprise Server (BES) and BlackBerry devices. 05 STATE 172062 (September 2005).

¹³⁹ OIG asked DS if it had sent memoranda warning of similar risks to other Secretaries, but it could not find any similar examples.

¹⁴⁰ Spear phishing was one of the several types of threats included in the Memorandum. It is an attack on a single user or department within an organization, such as asking employees to update their username and passwords. Once

of personal web email for business, as some compromised home systems have been reconfigured by these actors to automatically forward copies of all composed emails to an undisclosed recipient.”

Following the March 2011 memorandum, DS cybersecurity staff conducted two cybersecurity briefings of S/ES staff, the Secretary’s immediate staff, and Bureau of Public Affairs staff in April and May 2011. OIG discovered in Secretary Clinton’s retired paper files a copy of the classified presentation used during the briefing. It contains material similar to the type provided in the March 11, 2011, memorandum.

On June 28, 2011, the Department, in a cable entitled “Securing Personal E-mail Accounts” that was approved by the Assistant Secretary for Diplomatic Security and sent over Secretary Clinton’s name to all diplomatic and consular posts, encouraged Department users “to check the security settings and change passwords of their home e-mail accounts because of recent targeting of personal email accounts by online adversaries.”¹⁴¹ The cable further elaborated that “recently, Google asserted that online adversaries are targeting the personal Gmail accounts of U.S. government employees. Although the company believes it has taken appropriate steps to remediate identified activity, users should exercise caution and follow best practices in order to protect personal e-mail and prevent the compromise of government and personal information.” It then recommended best practices for Department users and their family members to follow, including “avoid conducting official Department business from your personal e-mail accounts.”¹⁴²

Three Officials Exclusively Used Non-Departmental Systems for Day-to-Day Operations

Cybersecurity risks demonstrate the need both for restrictions on the use of non-Departmental systems and for requirements to seek approval before using such systems. A senior IRM official

hackers obtain this information, they can easily access entry into secured networks. Another example of spear phishing is asking users to click on a link, which deploys spyware.

¹⁴¹ 11 STATE 65111 (June 28, 2011).

¹⁴² That portion of the cable reads in full as follows:

3. What can you and your family members do?

- (a) Follow the personal e-mail guides posted on the Awareness site to change your password, to ensure that messages are not auto-forwarding to an unintended address, and to verify that other security settings are properly configured.
- (b) Beware of e-mail messages that include links to password reset web pages. These can be easily faked.
- (c) Create strong passwords for all of your online accounts, change them often, and never use the same password for more than one account.
- (d) Avoid conducting official Department business from your personal e-mail accounts.
- (e) Do not reveal your personal e-mail address in your work “Out of Office” message.
- (f) Do not auto-forward Department e-mail to personal e-mail accounts, which is prohibited by Department policy (12 FAM 544.3).

reported to OIG that many Department employees have requested to use non-Departmental systems to conduct business; examples include requests to use outside video conferencing systems and file sharing software. According to this official, the Department typically refuses such requests. For instance, in 2012, Department staff submitted a request to IRM to use an Internet-based teleconference service. In response, IRM cited the 2005 FAM provision (12 FAM 544.3) requiring that normal day-to-day operations be conducted on an authorized AIS and further noted that the Department “expect[s] employees to use the tools provided by the Department to protect sensitive information from unauthorized access or disclosure” and only permits the use of non-Departmental systems “when absolutely necessary.” Other employees have sought to use Dropbox, a cloud-based file hosting service, but IRM has blocked access to the site on OpenNet since 2011 because of the risk of unauthorized access to Department data. The senior IRM official told OIG that the Department seldom encounters “an ‘absolutely necessary’ condition that would lead to approval for non-emergency processing/transmission of Department work outside [the Department’s] network.”

OIG identified many examples of staff using personal email accounts to conduct official business; however, OIG could only identify three cases where officials used non-Departmental systems on an exclusive basis for day-to-day operations. These include former Secretaries Powell and Clinton, as well as Jonathan Scott Gration, a former Ambassador to Kenya. Although the former Ambassador was not a member of the Office of the Secretary, the Department’s response to his actions demonstrates how such usage is normally handled when Department cybersecurity officials become aware of it. The facts and circumstances surrounding each of these cases are discussed below:

Secretary Powell: Secretary Powell has acknowledged using a personal email account from a commercial Internet provider, which he accessed on a “private line” in his Department office. He further stated that he had two computers at his desk: “a secure State Department machine ... used for secure material, and...a laptop [used] for email.”¹⁴³ Neither the Secretary nor his representative could recall whether Secretary Powell owned the laptop or whether the Department provided it to him. However, the Secretary characterized the use of the laptop as his “unclassified system,” which was not connected to OpenNet. In his interview with OIG, Secretary Powell explained that, when he arrived at the Department, the email system in place only permitted communication among Department staff. He therefore requested that information technology staff install the private line so that he could use his personal account to communicate with people outside the Department.¹⁴⁴ He described his email usage as “daily,” though OIG was unable to determine how many emails he actually sent and received during his tenure.

¹⁴³ *Meet the Press* (NBC television broadcast September 6, 2015) (interview with Colin Powell), available at <http://www.nbcnews.com/meet-the-press/meet-press-transcript-september-6-2015-n422606>.

¹⁴⁴ Secretary Powell also acknowledged using his personal account to communicate with Department employees. *Meet the Press* (NBC television broadcast September 6, 2015) (interview with Colin Powell).

Various DS and IRM staff told OIG that, before Secretary Powell arrived at the Department, employees did not have Internet connectivity on their desktop computers. The Department's Chief Information Officer (CIO) and Under Secretary for Management during Secretary Powell's tenure reported to OIG that they were aware of Secretary Powell's use of a personal email account and also noted the Secretary's goal was to provide every Department employee with similar Internet and email capabilities at their desktops. The current CIO and Assistant Secretary for Diplomatic Security, who were Department employees during Secretary Powell's tenure, also were both aware of the Secretary's use of a personal email account and recall numerous discussions with senior staff throughout the Department about how to implement the Secretary's intent to provide all employees with Internet connectivity.

However, it is not clear whether staff explicitly addressed restrictions on the use of non-Departmental systems with Secretary Powell. For example, at the beginning of Secretary Powell's tenure, the Department had an outright prohibition on both the installation of privately owned computers in Department facilities and the transmission of SBU information on the Internet.¹⁴⁵ By 2002, the Department had established the requirement to connect to the Internet only on OpenNet.¹⁴⁶ The CIO and Under Secretary for Management during Secretary's Powell's tenure reported to OIG that they believe that these issues were addressed, either by installing a firewall to protect the Secretary's Internet connection or providing the Secretary with a Department laptop. They also reported having multiple discussions with Secretary Powell about the Department's implementation of FISMA requirements. In contrast, current DS and IRM officials who worked at the Department during Secretary Powell's tenure are unsure about the exact configuration of Secretary Powell's systems and whether staff addressed applicable restrictions with the Secretary. However, they reported to OIG that the Department's technology and information security policies were very fluid during Secretary Powell's tenure and that the Department was not aware at the time of the magnitude of the security risks associated with information technology.

Secretary Clinton: By Secretary Clinton's tenure, the Department's guidance was considerably more detailed and more sophisticated. Beginning in late 2005 and continuing through 2011, the Department revised the FAM and issued various memoranda specifically discussing the obligation to use Department systems in most circumstances and identifying the risks of not doing so. Secretary Clinton's cybersecurity practices accordingly must be evaluated in light of these more comprehensive directives.

Secretary Clinton used mobile devices to conduct official business using the personal email account on her private server extensively, as illustrated by the 55,000 pages of material making up the approximately 30,000 emails she provided to the Department in December 2014. Throughout Secretary Clinton's tenure, the FAM stated that normal day-to-day operations

¹⁴⁵ 12 FAM 625.2-1 (April 12, 1996); 5 FAM 751.2 (February 27, 2002).

¹⁴⁶ 5 FAM 871 (December 30, 2002).

should be conducted on an authorized AIS,¹⁴⁷ yet OIG found no evidence that the Secretary requested or obtained guidance or approval to conduct official business via a personal email account on her private server. According to the current CIO and Assistant Secretary for Diplomatic Security, Secretary Clinton had an obligation to discuss using her personal email account to conduct official business with their offices, who in turn would have attempted to provide her with approved and secured means that met her business needs. However, according to these officials, DS and IRM did not—and would not—approve her exclusive reliance on a personal email account to conduct Department business, because of the restrictions in the FAM and the security risks in doing so.

During Secretary Clinton's tenure, the FAM also instructed employees that they were expected to use approved, secure methods to transmit SBU information and that, if they needed to transmit SBU information outside the Department's OpenNet network on a regular basis to non-Departmental addresses, they should request a solution from IRM.¹⁴⁸ However, OIG found no evidence that Secretary Clinton ever contacted IRM to request such a solution, despite the fact that emails exchanged on her personal account regularly contained information marked as SBU.

Similarly, the FAM contained provisions requiring employees who process SBU information on their own devices to ensure that appropriate administrative, technical, and physical safeguards are maintained to protect the confidentiality and integrity of records and to ensure encryption of SBU information with products certified by NIST.¹⁴⁹ With regard to encryption, Secretary Clinton's website states that "robust protections were put in place and additional upgrades and techniques employed over time as they became available, including consulting and employing third party experts."¹⁵⁰ Although this report does not address the safety or security of her system, DS and IRM reported to OIG that Secretary Clinton never demonstrated to them that her private server or mobile device met minimum information security requirements specified by FISMA and the FAM.

In addition to interviewing current and former officials in DS and IRM, OIG interviewed other senior Department officials with relevant knowledge who served under Secretary Clinton, including the Under Secretary for Management, who supervises both DS and IRM; current and former Executive Secretaries; and attorneys within the Office of the Legal Adviser. These officials all stated that they were not asked to approve or otherwise review the use of Secretary Clinton's server and that they had no knowledge of approval or review by other Department staff. These officials also stated that they were unaware of the scope or extent of Secretary Clinton's use of a personal email account, though many of them sent emails to the Secretary on this account. Secretary Clinton's Chief of Staff also testified before the House Select Committee on Benghazi that she was unaware of anyone being consulted about the Secretary's exclusive use of a

¹⁴⁷ 12 FAM 544.3 (November 4, 2005).

¹⁴⁸ 12 FAM 544.2 (November 4, 2005).

¹⁴⁹ 12 FAM 682 (August 4, 2008).

¹⁵⁰ <https://www.hillaryclinton.com/briefing/factsheets/2015/07/13/email-facts/> (date last downloaded April 20, 2016).

personal email address.¹⁵¹ OIG did find evidence that various staff and senior officials throughout the Department had discussions related to the Secretary's use of non-Departmental systems, suggesting there was some awareness of Secretary Clinton's practices. For example:

- In late-January 2009, in response to Secretary Clinton's desire to take her BlackBerry device into secure areas, her Chief of Staff discussed with senior officials in S/ES and with the Under Secretary for Management alternative solutions, such as setting up a separate stand-alone computer connected to the Internet for Secretary Clinton "to enable her to check her emails from her desk." The Under Secretary's response was "the stand-alone separate network PC is [a] great idea" and that it is "the best solution." According to the Department, no such computer was ever set up.
- In November 2010, Secretary Clinton and her Deputy Chief of Staff for Operations discussed the fact that Secretary Clinton's emails to Department employees were not being received. The Deputy Chief of Staff emailed the Secretary that "we should talk about putting you on state email or releasing your email address to the department so you are not going to spam." In response, the Secretary wrote, "Let's get separate address or device but I don't want any risk of the personal being accessible."¹⁵²
- In August 2011, the Executive Secretary, the Under Secretary for Management, and Secretary Clinton's Chief of Staff and Deputy Chief of Staff, in response to the Secretary's request, discussed via email providing her with a Department BlackBerry to replace her personal BlackBerry, which was malfunctioning, possibly because "her personal email server is down." The then-Executive Secretary informed staff of his intent to provide two devices for the Secretary to use: "one with an operating State Department email account (which would mask her identity, but which would also be subject to FOIA requests), and another which would just have phone and internet capability." In another email exchange, the Director of S/ES-IRM noted that an email account and address had already

¹⁵¹The pertinent testimony from the former Chief of Staff, who declined OIG's request for an interview, reads as follows:

- Q Was anyone consulted about Secretary Clinton exclusively using a personal email address for her work?
- A I don't recall that. If it did happen, I wasn't part of that process. But I don't believe there was a consultation around it, or at least there's not one that I'm aware of, maybe I should better answer that way based on my knowledge.
- Q So no private counsel?
- A Not that I'm aware of.
- Q Okay. The general counsel for the State Department?
- A Not that I'm aware of.
- Q Okay. Anybody from the National Archives?
- A Not that I'm aware of. But I can only speak to my knowledge, obviously.
- Q Sure. And anyone from the White House?
- A Not that I'm aware of.

¹⁵² Secretary Clinton declined OIG's request for an interview. The former Deputy Chief of Staff for Operations has not responded to OIG's request for an interview.

been set up for the Secretary¹⁵³ and also stated that "you should be aware that any email would go through the Department's infrastructure and subject to FOIA searches."¹⁵⁴ However, the Secretary's Deputy Chief of Staff rejected the proposal to use two devices, stating that it "doesn't make a whole lot of sense." OIG found no evidence that the Secretary obtained a Department address or device after this discussion.

- OIG identified two individuals who provided technical support to Secretary Clinton. The first, who was at one time an advisor to former President Clinton but was never a Department employee, registered the clintonemail.com domain name on January 13, 2009.¹⁵⁵ The second, a Schedule C political appointee who worked in IRM as a Senior Advisor from May 2009 through February 2013,¹⁵⁶ provided technical support for BlackBerry communications during the Secretary's 2008 campaign for President.¹⁵⁷ OIG reviewed emails showing communications between Department staff and both individuals concerning operational issues affecting the Secretary's email and server from 2010 through at least October 2012. For example, in December 2010, the Senior Advisor worked with S/ES-IRM and IRM staff to resolve issues affecting the ability of emails transmitted through the clintonemail.com domain used by Secretary Clinton to reach Department email addresses using the state.gov domain.¹⁵⁸

¹⁵³ According to the Department, this account was only used by Secretary Clinton's staff to maintain an Outlook calendar.

¹⁵⁴ The former Director of S/ES-IRM declined OIG's request for an interview.

¹⁵⁵ The clintonemail.com domain name was registered with Network Solutions Certificate Authority on January 13, 2009 and identifies the advisor to former President Clinton as the registrant.

¹⁵⁶ Schedule C appointments are those of a "confidential or policy-determining character" 5 C.F.R. § 6.2.

¹⁵⁷ Secretary Clinton's counsel advised OIG that the Senior Advisor "performed technology services for the Clinton family for which he was compensated" by check or wire transfer in varying amounts and various times between 2009 and 2013. In addition, the Senior Advisor's direct supervisors in IRM from 2009 to 2013 told OIG they were unaware of his technical support of the Secretary's email system. While working at the Department, the Senior Advisor reported directly to the Deputy Chief Information Officer (DCIO) for Operations, who in turn reported to the Chief Information Officer (CIO). The DCIO and CIO, who prepared and approved the Senior Advisor's annual evaluations, believed that the Senior Advisor's job functions were limited to supporting mobile computing issues across the entire Department. They told OIG that while they were aware that the Senior Advisor had provided IT support to the Clinton Presidential campaign, they did not know he was providing ongoing support to the Secretary's email system during working hours. They also told OIG that they questioned whether he could support a private client during work hours, given his capacity as a full-time government employee.

¹⁵⁸ At that time, S/ES IRM staff met with the Senior Advisor, who accessed the Secretary's email system and looked at its logs. The issue was ultimately resolved and, on December 21, 2010, S/ES-IRM staff sent senior S/ES staffers an email describing the issue and summarizing the activities undertaken to resolve it. On another occasion, the Senior Advisor met with staff within CTAD and received a briefing on cyber security risks facing the Department. A third interaction took place on October 30, 2012, during the period when Hurricane Sandy disrupted power in the New York City area. An email exchange between Deputy Chief of Staff for Operations and another member of the Secretary's staff revealed that the server located in Secretary Clinton's New York residence was down. Thereafter, the Senior Advisor met with S/ES-IRM staff to ascertain whether the Department could provide support for the server. S/ES-IRM staff reported to OIG that they told the Senior Advisor they could not provide support because it was a private server.

- Two staff in S/ES-IRM reported to OIG that, in late 2010, they each discussed their concerns about Secretary Clinton's use of a personal email account in separate meetings with the then-Director of S/ES-IRM. In one meeting, one staff member raised concerns that information sent and received on Secretary Clinton's account could contain Federal records that needed to be preserved in order to satisfy Federal recordkeeping requirements. According to the staff member, the Director stated that the Secretary's personal system had been reviewed and approved by Department legal staff and that the matter was not to be discussed any further. As previously noted, OIG found no evidence that staff in the Office of the Legal Adviser reviewed or approved Secretary Clinton's personal system. According to the other S/ES-IRM staff member who raised concerns about the server, the Director stated that the mission of S/ES-IRM is to support the Secretary and instructed the staff never to speak of the Secretary's personal email system again.
- On January 9, 2011, the non-Departmental advisor to President Clinton who provided technical support to the Clinton email system notified the Secretary's Deputy Chief of Staff for Operations that he had to shut down the server because he believed "someone was trying to hack us and while they did not get in i didnt [sic] want to let them have the chance to." Later that day, the advisor again wrote to the Deputy Chief of Staff for Operations, "We were attacked again so I shut [the server] down for a few min." On January 10, the Deputy Chief of Staff for Operations emailed the Chief of Staff and the Deputy Chief of Staff for Planning and instructed them not to email the Secretary "anything sensitive" and stated that she could "explain more in person."¹⁵⁹

Ambassador Gration: Ambassador Gration served as the U.S. Ambassador to Kenya from mid-2011 through mid-2012. OIG first publicly reported on the activities of Ambassador Gration as part of its 2012 inspection of Embassy Nairobi.¹⁶⁰ Prior to the inspection, in June 2011, DS learned that the newly posted Ambassador had drafted and distributed a revised mission policy concerning communications security that authorized him and other mission personnel to use commercial email for daily communication of official government business. That prompted senior DS management and cybersecurity staff to email the Ambassador to advise him that DS was dispatching an experienced Regional Computer Security Officer to provide expertise and

¹⁵⁹ In another incident occurring on May 13, 2011, two of Secretary Clinton's immediate staff discussed via email the Secretary's concern that someone was "hacking into her email" after she received an email with a suspicious link. Several hours later, Secretary Clinton received an email from the personal account of then-Under Secretary of State for Political Affairs that also had a link to a suspect website. The next morning, Secretary Clinton replied to the email with the following message to the Under Secretary: "Is this really from you? I was worried about opening it!" Department policy requires employees to report cybersecurity incidents to IRM security officials when any improper cyber-security practice comes to their attention. 12 FAM 592.4 (January 10, 2007). Notification is required when a user suspects compromise of, among other things, a personally owned device containing personally identifiable information. 12 FAM 682.2-6 (August 4, 2008). However, OIG found no evidence that the Secretary or her staff reported these incidents to computer security personnel or anyone else within the Department.

¹⁶⁰ ISP-I-12-38A (August 2012).

advice in establishing procedures for handling SBU information that adhered to Department standards for the processing of sensitive material. DS further noted that this visit would be “especially timely in the wake of recent headlines concerning a significant hacking effort directed against the private, web-based email accounts of dozens of senior USG officials, which has generated substantial concern from the Secretary, Deputy Secretary Steinberg, and other Department principals.” Notwithstanding the Department’s concerns, the Ambassador continued to use commercial email for official business.

DS then notified the Ambassador via cable on July 20, 2011, that the FAM did not permit him to use non-government email for day-to-day operations.¹⁶¹ The cable stated in relevant part:

The language in 12 FAM 544.3, which states that “it is the Department's general policy that normal day-to-day operations be conducted on an authorized [automated information system]” is purposely included to place employees on notice that if they are given a tool that provides an adequate level of security encryption, such as an OpenNet terminal ... or any other Department-supplied security mechanism that works in the given circumstance, they must use it. 12 FAM 544.3 goes on to say that in the absence of a Department-supplied security solution employees can send most SBU information unencrypted via the internet only when necessary, with the knowledge that the nature of the transmission lends itself to unauthorized access, however remote that chance might be. ... Given the threats that have emerged since 2005, especially in regard to phishing and spoofing of certain web-based email accounts, we cannot allow the proliferation of this practice beyond maintaining contact during emergencies. We are all working toward the same end—to protect the availability, integrity and confidentiality of Department information and systems, while recognizing that emergency situations may arise, particularly for our employees serving overseas. ... The Department is not aware of any exigent circumstances in Nairobi that would authorize a deviation from the requirement to use Department systems for official business.

However, the Ambassador continued to use unauthorized systems to conduct official business. The Department subsequently initiated disciplinary proceedings against him for his failure to follow these directions and for several other infractions, but he resigned before any disciplinary measures were imposed.

OIG could find no other instances where the Department initiated disciplinary procedures against a senior official for using non-Departmental systems for day-to-day operations.

¹⁶¹ 11 STATE 73417 (July 20, 2011).

CONCLUSION

Longstanding, systemic weaknesses related to electronic records and communications have existed within the Office of the Secretary that go well beyond the tenure of any one Secretary of State. OIG recognizes that technology and Department policy have evolved considerably since Secretary Albright's tenure began in 1997. Nevertheless, the Department generally and the Office of the Secretary in particular have been slow to recognize and to manage effectively the legal requirements and cybersecurity risks associated with electronic data communications, particularly as those risks pertain to its most senior leadership. OIG expects that its recommendations will move the Department steps closer to meaningfully addressing these risks.

RECOMMENDATIONS

To ensure compliance with Federal and Department requirements regarding records preservation and use of non-Departmental systems, OIG has issued the following recommendations to the Bureau of Administration, the Office of the Secretary, the Bureau of Information Resources Management, the Bureau of Human Resources, and the Department's Transparency Coordinator. Their complete responses can be found in Appendix B. The Department also provided technical comments that OIG incorporated as appropriate into this report.

Recommendation 1: The Bureau of Administration should

- continue to issue guidance, including periodic, regular notices, to Department employees to remind them that the use of personal email accounts to conduct official business is discouraged in most circumstances,
- clarify and give specific examples of the types of limited circumstances in which such use would be permissible, and
- instruct employees how to preserve Federal records when using personal email accounts.

Management Response: In its May 23, 2016, response, the Bureau of Administration concurred with this recommendation. It will continue to issue guidance on records management practices and policies, and will ensure that this guidance explicitly reminds employees that the use of personal emails accounts to conduct official business is discouraged.

OIG Reply: OIG considers the recommendation resolved. The recommendation can be closed when OIG receives and accepts documentation of this additional guidance.

Recommendation 2: The Bureau of Administration should amend the *Foreign Affairs Manual* to reflect the updates to Department recordkeeping systems that provide alternatives to print and file emails that constitute Federal records.

Management Response: In its May 23, 2016, response, the Bureau of Administration concurred with this recommendation. It noted that it is currently working with the Transparency Coordinator to update sections of the FAM related to the Department's recordkeeping/retention schedules, with a goal to eliminate the practice of print and file as the Department's policy for the retention of emails by December 31, 2016.

OIG Reply: OIG considers the recommendation resolved. The recommendation can be closed when OIG receives and accepts documentation of the amendment.

Recommendation 3: The Office of the Secretary, Executive Secretariat, should work with the Office of Information Programs and Services to conduct an inventory of all electronic and hard-copy files in its custody and evaluate them to determine which files should be transferred to the Office of Information Programs and Services in accordance with records disposition schedules or Department email preservation requirements.

Management Response: In its May 16, 2016, response, the Executive Secretariat concurred with this recommendation. It noted that the inventory of electronic and hard copy files has been ongoing since January 2016 and that once it is complete, the Executive Secretariat will retire all such records according to applicable records schedules.

OIG Reply: OIG considers the recommendation resolved. The recommendation can be closed when OIG receives and accepts documentation that this effort has been completed.

Recommendation 4: The Office of the Secretary, Executive Secretariat, should work with the Office of Information Programs and Services to improve policies and procedures to promote compliance by all employees within its purview, including the Secretary, with records management requirements. These policies should cover the retirement of records in accordance with records disposition schedules, preservation of email and other electronic records of departing officials, and training of employees on their records preservation responsibilities.

Management Response: In its May 16, 2016, response, the Executive Secretariat concurred with this recommendation. It noted that it is committed to coordinating closely with the Office of Information Programs and Services to provide updated guidance and training to all staff.

OIG Reply: OIG considers the recommendation resolved. The recommendation can be closed when OIG receives and accepts a copy of the policies and procedures.

Recommendation 5: The Office of the Secretary, Executive Secretariat, should work with the Office of Information Programs and Services to ensure that all departing officials within its purview, including the Secretary of State, sign a separation form (DS-109) certifying that they have surrendered all Federal records and classified or administratively controlled documents. In addition, staff should ensure that all incoming officials within its purview, including the Secretary, are thoroughly briefed on their records preservation and retention responsibilities, including records contained on personal email accounts.

Management Response: In its May 16, 2016, response, the Executive Secretariat concurred with this recommendation. It noted that it is instituting a process whereby completed DS-109 forms are placed in the employee's permanent electronic performance files to ensure they are easily accessible.

OIG Reply: OIG considers the recommendation resolved. The recommendation can be closed when OIG receives and accepts documentation of this process.

Recommendation 6: The Department's Transparency Coordinator should work with the Office of Information Programs and Services to develop a quality assurance plan to promptly identify and address Department-wide vulnerabilities in the records preservation process, including lack of oversight and the broad inaccessibility of electronic records.

Management Response: In her May 16, 2016, response, the Transparency Coordinator concurred with this recommendation. She noted that this plan will be part of her continuing efforts, in coordination with the Office of Information Programs and Services and the Executive Secretariat, to improve overall governance of the Department's information, including how it is captured, stored, shared, disposed of, and archived.

OIG Reply: OIG considers the recommendation resolved. The recommendation can be closed when OIG receives and accepts a copy of the quality assurance plan.

Recommendation 7: The Bureau of Information Resource Management should

- issue regular notices to remind Department employees of the risks associated with the use of non-Departmental systems;
- provide periodic briefings on such risks to staff at all levels; and
- evaluate the cost and feasibility of conducting regular audits of computer system usage to ascertain the degree to which Department employees are following the laws and policies concerning the use of personal email accounts.

Management Response: In its May 23, 2016, response, the Bureau of Information Resource Management concurred with this recommendation. It noted that it will continue to issue regular notices regarding the risks associated with the use of non-Departmental systems. With regard to the evaluation of the cost and feasibility of regular computer system audits, the Bureau has considered such an effort but has concluded that audits conducted on such a wide scale would not be beneficial or feasible, especially because the Department already conducts continuous monitoring to ensure the integrity of the Department's networks and systems.

OIG Reply: OIG considers the recommendation resolved. The recommendation can be closed when OIG receives and accepts documentation of additional educational efforts.

Recommendation 8: The Director General of the Foreign Service and Director of Human Resources should amend the *Foreign Affairs Manual* to provide for administrative penalties for Department employees who (1) fail to comply with recordkeeping laws and regulations or (2) fail to comply with Department policy that only authorized information systems are to be used to conduct day-to-day operations. The amendment should include explicit steps employees should take if a reasonable suspicion exists that documents are not being preserved appropriately, including a reminder that the Office of Inspector General has jurisdiction to investigate and refer to appropriate authorities suspected violations of records preservation requirements.

Management Response: In its May 23, 2016, response, the Department concurred with this recommendation. It will revise the FAM accordingly. The Department also noted that under 3 FAM 4370, it currently has authority to discipline violations of any administrative regulations that do not provide a penalty.

OIG Reply: OIG considers the recommendation resolved. The recommendation can be closed when OIG receives and accepts documentation of the revision.

APPENDIX A: RELEVANT LAWS AND POLICIES DURING THE TENURES OF THE FIVE MOST RECENT SECRETARIES OF STATE

Madeleine Albright (January 23, 1997 – January 20, 2001)

Foreign Affairs Manual (FAM) and Foreign Affairs Handbook (FAH) Requirements for Use of Non-Departmental Systems: Since 1996, the FAM directed Department of State (Department) systems managers to ensure that privately owned computers were not installed or used in any Department office building.¹

Applicable Cybersecurity Provisions and Related Guidance: In 1988, Congress enacted the Computer Security Act to require all Federal agencies to identify computer systems containing sensitive information, conduct computer security training, and develop computer security plans.² Office of Management and Budget (OMB) Circular A-130 (Appendix III) required Federal agencies to establish security programs containing specified elements, including development of a System Security Plan, assignment of responsibility for security to individuals knowledgeable in information security technology, and regular review of information system security controls. The FAM did not contain specific computer or cybersecurity provisions.

Statutory and Regulatory Requirements for Email Records Preservation: The Federal Records Act of 1950 requires the head of every Federal agency to “make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency.”³ The agency head is also required to establish and maintain an active, continuing program for the economical and efficient management of agency records that provides for:

- Effective controls over the creation and the maintenance and use of records in the conduct of current business;
- Cooperation with the Archivist in applying standards, procedures, and techniques designed to improve the management of records, promote the maintenance and security of records deemed appropriate for preservation, and facilitate the segregation and disposal of records of temporary value; and
- Compliance with Federal law and regulations.⁴

As part of this program, the agency head must establish safeguards against the removal or loss of records, including making it known to agency employees that agency records may not be

¹ 12 FAM 625.2-1 (April 12, 1996).

² Pub. L. No. 100-235 (January 8, 1988).

³ 44 U.S.C. § 3101.

⁴ 44 U.S.C. § 3102. 44 U.S.C. § 3102(3) specifically references “compliance with sections 2101-2117, 2501-2507, 2901-2909, and 3101-3107, of this title and the regulations issued under them.”

unlawfully alienated or destroyed and that penalties exist for the unlawful removal or destruction of records.⁵ The agency head must notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the agency's custody.⁶ The Federal Records Act define records broadly as

all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government ... or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them.⁷

The regulations issued by the National Archives and Records Administration (NARA) in title 36 of the Code of Federal Regulations (C.F.R.) that were in effect during Secretary Albright's tenure specified actions that must be taken by an agency in establishing a records program. These included:

- Assigning an office the responsibility for the development and implementation of agency-wide programs to identify, develop, issue, and periodically review recordkeeping requirements for records for all agency activities at all levels and locations in all media including paper, microform, audiovisual, cartographic, and electronic (including those created or received using electronic mail);
- Integrating programs for the identification, development, issuance, and periodic review of recordkeeping requirements with other records and information resources management programs of the agency;
- Issuing a directive establishing program objectives, responsibilities, and authorities for agency recordkeeping requirements;
- Establishing procedures for the participation of records management officials in developing new or revised agency programs, processes, systems, and procedures in order to ensure that adequate recordkeeping requirements are established and implemented;
- Ensuring that adequate training is provided to all agency personnel on policies, responsibilities, and techniques for the implementation of recordkeeping requirements and the distinction between records and non-record materials, regardless of media, including those materials created by individuals using computers to send or receive electronic mail;

⁵ 44 U.S.C. § 3105.

⁶ 44 U.S.C. § 3106.

⁷ 44 U.S.C. § 3301 (amended 2014). The regulations stated that the medium may be "paper, film, disk, or other physical type or form" and that the method of recording may be "manual, mechanical, photographic, electronic, or any other combination of these or other technologies." 36 C.F.R. § 1222.12(b)(2) (1990).

- Developing and implementing records schedules for all records created and received by the agency;
- Reviewing recordkeeping requirements, as part of the periodic information resources management reviews; and
- Reminding all employees annually of the agency's recordkeeping policies and of the sanctions provided for the unlawful removal or destruction of Federal records.⁸

The regulations explicitly noted that "messages created or received on electronic mail systems may meet the definition of record."⁹ Furthermore, the regulations required agencies to develop procedures to ensure that departing officials do not remove Federal records from agency custody.¹⁰ The regulations gave further guidance as to what constitutes a Federal record, specifying that records are those documents that:

- Document the persons, places, things, or matters dealt with by the agency;
- Facilitate action by agency officials and their successors in office;
- Make possible a proper scrutiny by the Congress or other duly authorized agencies of the Government;
- Protect the financial, legal, and other rights of the Government and of persons directly affected by the Government's actions;
- Document the formulation and execution of basic policies and decisions and the taking of necessary actions, including all significant decisions and commitments reached orally; or
- Document important board, committee, or staff meetings.¹¹

The regulations issued by NARA included separate provisions on electronic records management, including email.¹² The requirements for electronic records management largely matched those for general records management, but they did require integrating electronic records management with other records and information resources management and ensuring that adequate training is provided for users of electronic mail systems on recordkeeping requirements.¹³ The management of email records had to include instructions on preservation of data regarding transmission, calendar and task lists, and acknowledgements.¹⁴ Agencies were restricted from storing the recordkeeping copy of email messages solely on the electronic mail

⁸ 36 C.F.R. § 1222.20 (1995).

⁹ 36 C.F.R. § 1222.34(e) (1995). Even prior to the issuance of this provision, emails would have been considered a Federal record based on the broad definition of "record" in the Federal Records Act. 44 U.S.C. § 3301.

¹⁰ 36 C.F.R. § 1222.40 (1990). Even for non-records, the regulations permit removal only with the approval of the head of the agency or the individual authorized to act for the agency on matters pertaining to agency records. 36 C.F.R. § 1222.42.

¹¹ 36 C.F.R. § 1222.38 (1990).

¹² 36 C.F.R. part 1234 (1995).

¹³ 36 C.F.R. § 1234.10 (1995).

¹⁴ 36 C.F.R. § 1234.24(a) (1995).

system, unless the system was able to meet regulatory requirements.¹⁵ If an agency used paper files as its recordkeeping system, it was required to print email records and the related transmission and receipt data.¹⁶

The regulations also noted that the use of external communications systems to which an agency has access, but which are neither owned nor controlled by the agency, does not alter in any way the agency's obligation under the Federal Records Act. Specifically, the regulations provided that

agencies with access to external electronic mail systems shall ensure that Federal records sent or received on these systems are preserved in the appropriate recordkeeping system and that reasonable steps are taken to capture available transmission and receipt data needed by the agency for recordkeeping purposes.¹⁷

The regulations also focused on the security of electronic records, requiring an effective records security program that ensures that only authorized personnel have access to electronic records; provides for backup and recovery of records; ensures that appropriate agency personnel are trained to safeguard sensitive or classified electronic records; minimizes the risk of unauthorized alteration or erasure of electronic records; and ensures that electronic records security is included in computer systems security plans.¹⁸

FAM and FAH Requirements for Email Records Preservation: The FAM largely mirrored the statutory requirements. It created a Records Management Program headed by the Chief of the Records Management Branch within the Bureau of Administration (A).¹⁹ The FAM required that all official files must remain in the custody of the Department and must be maintained in accordance with the *Records Management Handbook*, and it prohibited Department employees from improperly removing, retiring, transferring, or destroying Department records.²⁰ The FAM noted that it is the responsibility of all Department employees and contractors to "make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the Department."²¹

The FAM emphasized that "all employees must be aware that some of the variety of the messages being exchanged on E-mail are important to the Department and must be preserved; such messages are considered Federal records under the law."²² It gave examples of emails that could constitute agency records, such as email providing key substantive comments on a draft

¹⁵ 36 C.F.R. § 1234.24(b)(2) (1995).

¹⁶ 36 C.F.R. § 1234.24(d) (1995).

¹⁷ 36 C.F.R. § 1234.24(a)(4) (1995).

¹⁸ 36 C.F.R. § 1234.28 (1995).

¹⁹ 5 FAM 413.1 (October 30, 1995).

²⁰ 5 FAM 422.1 (October 30, 1995); 5 FAM 423.1 (October 30, 1995).

²¹ 5 FAM 413.10 (October 30, 1995).

²² 5 FAM 443.1(c) (October 30, 1995).

action memorandum; email providing documentation of significant Department decisions and commitments reached orally; and email conveying information of value on important Department activities, such as data on significant programs specially compiled by posts in response to a Department solicitation.²³ The FAM gave instructions on how to preserve email records, noting that

until technology allowing archival capabilities for long-term electronic storage and retrieval of E-mail messages is available and installed, those messages warranting preservation as records (for periods longer than current E-mail systems routinely maintain them) must be printed out and filed with related records.²⁴

For departing employees, the FAM gave the administrative section of each office, bureau, or post the responsibility for reminding all employees who are about to leave the Department or the Foreign Service of the laws and regulations pertaining to the disposition of personal papers and official records; seeing that form OF-109, Separation Statement, is executed for each departing employee and is forwarded to the Office of Personnel for filing in the employee's Official Personnel Folder; and advising departing officials ranked Assistant Secretary and above, or Ambassador, to consult with the Department's Records Officer about depositing in the National Archives or a Presidential archival depository papers that they may have accumulated during their tenure and that may have historical interest.²⁵ Form OF-109 required the employee to certify that "I have surrendered to responsible officials all unclassified documents and papers relating to the official business of the Government acquired by me while in the employ of the Department."

Other Preservation Guidance: On February 3, 1997, at the beginning of Secretary Albright's tenure, the Office of the Secretary's Executive Secretary sent a memorandum to all Assistant Secretaries on "Records Responsibilities and Reviews." The memorandum referred to a Department Notice on the subject, as well as the Federal Records Act and 5 FAM 443, which covered email records. The memorandum stated that information maintained in email may constitute a record if it meets the statutory definition of a record and stated, "You need not preserve every e-mail message. If a record in electronic media or electronic mail must be preserved, print the files or messages and place the paper record in the appropriate official file; or continue to maintain electronically if feasible."

On July 28, 2000, a notice reminded all Department employees to preserve emails that qualify as records, stating that "those messages containing information that documents Departmental

²³ 5 FAM 443.2(d) (October 30, 1995).

²⁴ 5 FAM 443.3 (October 30, 1995). For emails considered records, the FAM required preserving the email message, any attachments, and transmission data such as sender, addressee, cc's, and the date and time sent. If the email system did not print this necessary data, employees were instructed to annotate the printed copies with that data.

²⁵ 5 FAM 413.9 (October 30, 1995).

policies, programs, and activities must be preserved in paper form." It instructed employees to print out such emails and file them with related paper records.

In August 2000, the Bureau of Administration published a Briefing Booklet for Departing Officials on "Senior Officials and Government Records" that included a signed letter from the Secretary stating that records "must be preserved to enhance our national archives and to provide accurate and complete records." The Secretary also noted that "we [senior officials] have a special obligation as the officials who welcomed in a new century and technological era to preserve e-mail messages as federal records, as appropriate."

A December 2000 cable to all ambassadors and administrative officers reminded departing officials to not remove any papers, whether personal or official, from the Department until such materials have been reviewed to ensure compliance with records laws and regulations.²⁶ It noted that electronic records must be preserved by printing the files or messages and placing the paper record in the appropriate official file.

Colin Powell (January 20, 2001 – January 26, 2005)

FAM and FAH Requirements for Use of Non-Departmental Systems: Beginning in December 2002, the FAM required all Department facilities to use the Department's primary Internet connection, OpenNet, to establish Internet connectivity.²⁷ OpenNet provided improved information management and heightened information security throughout the Department. If a bureau or post wanted an exception to this policy, it was required to request a waiver.²⁸

The Department established rules in May 2004 regulating the use of non-government information systems, called Dedicated Internet Networks (DINs), to access the Internet.²⁹ A DIN is a stand-alone information network, such as a local network or server, with dedicated Internet access provided by a commercial Internet service provider (ISP). DINs were not to be used to carry out Department business or to transmit sensitive but unclassified (SBU) information. All bureaus and posts were required to submit a waiver to request an exception in order to use a commercial Internet connection for a stand-alone local network or server. The request for a waiver needed to contain detailed information about the network or server, including an explanation of compliance with Department's standards and specific reasons why OpenNet did not meet the requester's official business requirements. The FAM required all waivers to be approved by the Department's Information Technology Change Control Board (IT CCB).³⁰ According to the IT CCB, it approved approximately 180 such waivers during the first year this provision was in effect.

²⁶ 00 STATE 228951.

²⁷ 5 FAM 871 (December 30, 2002). At the time, OpenNet was referred to as "OpenNet Plus."

²⁸ 5 FAM 872 (December 30, 2002).

²⁹ 5 FAM 874.2 (May 4, 2004).

³⁰ 5 FAM 874.2 (May 4, 2004).

Applicable Cybersecurity Provisions and Related Guidance: The E-Government Act, signed into law in December 2002, recognized the importance of information security to the economic and national security interests of the United States. Title III of the Act, the Federal Information Security Management Act (FISMA), gave the National Institute of Standards and Technology (NIST) responsibility to develop Federal Government information security standards and guidelines.³¹

Statutory and Regulatory Requirements for Email Records Preservation: The requirements in the Federal Records Act of 1950 and related regulations in title 36 of the C.F.R. did not change.

FAM and FAH Requirements for Email Records Preservation: The requirements in the FAM generally had not changed from Secretary Albright's tenure. However, in 2002, the Department added a section to the FAM on email usage that included a requirement that email users "determine the significance and value of information created on e-mail systems [and] determine the need to preserve those messages that qualify as records."³² In 2004, the FAM was amended to designate the Director of the Office of Information Programs and Services (IPS) as the Department's Records Officer.³³ This amendment also noted that "email sent or received as a Department official is not personal."³⁴ Finally, the amendment assigned the responsibilities related to departing officials, including ensuring the OF-109 was signed, to Management Officers, but eliminated the requirement that the OF-109 be filed in the employee's personnel folder.³⁵

Other Preservation Guidance: On August 9, 2004, the Executive Secretary sent a memorandum to all Under Secretaries and Assistant Secretaries entitled "Refresher on Records Responsibilities and Review." The memorandum stated that:

Departing officials may not remove any documentary materials, whether personal or official and whether in written or electronic form, from the Department until they have been reviewed by records and security officers to ensure compliance with records laws and regulations. ... In addition, departing officials must ensure that all record material they possess is incorporated in the Department's official files. ... Finally, the administrative section of each office and bureau in the Department will ensure that departing officials receive a mandatory briefing and that all departing officials will execute a Separation Statement (OF-109) certifying that they have not retained in their possession classified or administratively controlled documents.

³¹ E-Government Act of 2002 (Pub. L. No. 107-347), Title III, Information Security, titled Federal Information Security Management Act of 2002, 116 STAT. 2946 (December 17, 2002). NIST did not promulgate guidance on minimum security requirements until March 2006.

³² 5 FAM 751.4 (February 27, 2002).

³³ 5 FAM 414.2 (September 17, 2004).

³⁴ 5 FAM 415.1 (September 17, 2004).

³⁵ 5 FAM 414.7 (September 17, 2004).

In December 2004, NARA issued a bulletin to remind heads of Federal agencies that official records must remain in the custody of the agency and that they must notify officials and employees that there are criminal penalties for the unlawful removal or destruction of Federal records.³⁶ Employees may remove extra copies of records or other work-related non-record materials when they leave the agency with the approval of a designated agency official such as the Records Officer or legal counsel. It also noted that "officials and employees must know how to ensure that records are incorporated into files or electronic recordkeeping systems, especially records that were generated electronically on personal computers." Further, the bulletin stated that, "in many cases, officials and employees intermingle their personal and official files. In those cases, the agency may need to review and approve the removal of personal material to ensure that all agency policies are properly followed."

A January 2005 cable to all embassies, posts, and offices reminded them of their responsibilities to preserve records under the Federal Records Act and noted that responsibility for implementing and administering records policies and procedures is given to the Management Section of each Department office.³⁷

Condoleezza Rice (January 26, 2005 – January 20, 2009)

FAM and FAH Requirements for Use of Non-Departmental Systems: In November 2005, the FAM listed the connection of prohibited hardware or electronic devices to a Department Automated Information System (AIS) as a cybersecurity violation.³⁸ In 2007, the Department restated this provision to prohibit the connection of "unauthorized hardware/electronic devices to Department networks," which included non-Department-owned hardware/electronic devices.³⁹

Also in November 2005, the Department adopted the policy that normal day-to-day Internet operations are to be conducted on an authorized AIS designed with the proper level of security control to provide authentication and encryption to ensure confidentiality and integrity for transmitting Departmental SBU data and information.⁴⁰ Employees with a valid business need may transmit SBU information over the Internet unencrypted so long as they carefully consider that unencrypted emails can pass through foreign and domestic controlled ISPs, putting the confidentiality and integrity of the information at risk. The FAM further specified that employees transmitting SBU information outside the Department's OpenNet network on a regular basis to the same non-Departmental email address should obtain a secure technical solution for those Internet transmissions from the Bureau of Information Resource Management (IRM).⁴¹ The FAM

³⁶ NARA, *Protecting Federal records and other documentary materials from unauthorized removal*, Bulletin No. 2005-03 (December 22, 2004).

³⁷ 05 STATE 013345 (January 24, 2005).

³⁸ 12 FAM 592.2 (November 1, 2005).

³⁹ 12 FAM 592.2 (January 10, 2007).

⁴⁰ 12 FAM 544.3 (November 4, 2005).

⁴¹ 12 FAM 544.2 (November 4, 2005).

noted that SBU information resident on personally owned computers is generally more susceptible to cyber-attacks and/or compromise than information on government-owned computers connected to the Internet.⁴² All employees who possessed SBU information on personally owned computers must ensure adequate and appropriate security for the SBU information.⁴³

In 2008, the Department amended the FAM to define "remote processing" as the processing of Department information on non-Department-owned systems at non-Departmental facilities.⁴⁴ Offices that allow employees to remotely process SBU information must ensure that appropriate administrative, technical, and physical safeguards are maintained to protect the confidentiality and integrity of records.⁴⁵ Employees are prohibited from storing or processing SBU information on non-Department-owned computers unless it is necessary in the performance of their duties.⁴⁶ Employees must (1) ensure that SBU information is encrypted; (2) destroy SBU information on their personally owned and managed computers and removable media when the files are no longer required; and (3) when using personally owned computers, implement and regularly update basic home security controls, including a firewall, anti-spyware, antivirus, and file-destruction applications, and if those computers are networked, also ensure the same basic controls, plus NIST-certified encryption, for all computers on the network.⁴⁷

Also in 2008, the Department eased the FAM restriction regarding the use or installation of non-Federal-Government-owned computers in any Department facility; such use was now allowed with the written approval of the Bureau of Diplomatic Security (DS) and IRM with certain exceptions.⁴⁸

Applicable Cybersecurity Provisions and Related Guidance: The Department implemented the Cyber Security Incident Program (CSIP) in November 2005 to improve protection of the Department's unclassified/SBU cyber infrastructure by identifying, evaluating, and assigning responsibility for breaches of cybersecurity.⁴⁹ CSIP focused on accountability of personnel for actions leading to damage or risk to Department information systems and infrastructure, even when only unclassified material or information is involved.⁵⁰ Cybersecurity incidents are defined as acts against, or failure to protect, the Department's unclassified cyber infrastructure.⁵¹

⁴² 12 FAM 544.3 (November 4, 2005).

⁴³ 12 FAM 544.3 (November 4, 2005).

⁴⁴ 12 FAM 682.1 (August 4, 2008).

⁴⁵ 12 FAM 682.2-4 (August 4, 2008).

⁴⁶ 12 FAM 682.2-4 (August 4, 2008).

⁴⁷ 12 FAM 682.2-5 (August 4, 2008). Although the FAM chapter relating to remote access and processing was amended in 2009, 2011, 2014, and 2015, these basic requirements did not change.

⁴⁸ 12 FAM 625.2-1 (July 28, 2008).

⁴⁹ 12 FAM 591.1(a) (November 1, 2005).

⁵⁰ 12 FAM 591.1 (November 1, 2005).

⁵¹ 12 FAM 592 (January 10, 2007).

Reporting cybersecurity incidents is every employee's responsibility, and each employee must be familiar with the list of cybersecurity infractions and violations.⁵² Employees must inform their Information Systems Security Office and their Regional or Bureau Security Officer when any improper cybersecurity practice comes to their attention.⁵³ Improper security practices include personnel compromising the confidentiality of sensitive information, deliberate introduction of a malicious program code, and use of encryption to conceal an unauthorized act, such as the transfer of SBU information to an unauthorized individual.⁵⁴

NIST was tasked with responsibility to develop Federal standards and guidelines to implement FISMA. NIST responded in February 2004 with Federal Information Processing Standards (FIPS) Publication 199, *Standards for Security Categorization of Federal Information and Information Systems*, which established security categories for both information and information systems that are used in conjunction with vulnerability and threat information for assessing the risk to an organization.⁵⁵ This was followed in March 2006 by FIPS Publication 200, which specified minimum security requirements for information and information systems supporting Federal agencies. NIST's announcement of the publication of FIPS Publication 200 noted

this standard is applicable to: (i) all information within the federal government other than that information that has been determined pursuant to Executive Order 12958, as amended by Executive Order 13292, or any predecessor order, or by the Atomic Energy Act of 1954, as amended, to require protection against unauthorized disclosure and is marked to indicate its classified status; and (ii) all federal information systems other than those information systems designated as national security systems as defined in [44 U.S.C. § 3552(b)(6)].

Section 3 of FIPS 200 sets forth 17 specifications for minimum security requirements, including the following:

- The Audit and Accountability specification states: "Organizations must (i) create, protect, and retain information system audit records to the extent needed to enable the monitoring, analysis, investigation, and reporting of unlawful, unauthorized, or inappropriate information system activity; and (ii) ensure that the actions of individual information system users can be uniquely traced to those users so they can be held accountable for their actions."
- The Risk Assessment specification states: "Organizations must periodically assess the risk to organizational operations (including mission, functions, image, or reputation), organizational assets, and individuals, resulting from the operation of organizational

⁵² 12 FAM 592.4 (January 10, 2007).

⁵³ 12 FAM 592.4 (January 10, 2007).

⁵⁴ 12 FAM 592.1 and 592.2 (January 10, 2007).

⁵⁵ NIST, FIPS PUB 199: *Standards for Security Categorization of Federal Information and Information Systems* (February 2004).

information systems and the associated processing, storage, or transmission of organizational information.”

- The System and Communications Protection specification states: “Organizations must (i) monitor, control, and protect organizational communications (i.e., information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems; and (ii) employ architectural designs, software development techniques, and systems engineering principles that promote effective information security within organizational information systems.

Federal agencies were required to comply with these standards by March 2007.⁵⁶

In 2007, the Department adopted rules implementing these FISMA requirements, including the requirement that non-Departmental information systems that process or store bureau-sponsored Department information on behalf of the Department maintain a baseline of minimum security controls to protect Department information and information systems.⁵⁷ Key personnel identified to perform certification and accreditation of non-Departmental systems must not be involved with its development, implementation, or operation, or be under the sponsoring bureau’s direct management authority.⁵⁸

DS reported to the Office of Inspector General that, in 2005, the Bureau of Intelligence and Research (INR) issued guidance permitting BlackBerry devices to be used inside secure areas. However, in January 2006, the Office of the Director of National Intelligence issued a clear prohibition on such use, and the INR guidance was immediately rescinded.

Statutory and Regulatory Requirements for Email Records Preservation: The requirements in the Federal Records Act of 1950 had not changed. The records requirements in title 36 of the C.F.R. were also largely the same, except that, in 2006, NARA amended the regulations to allow agencies to store transitory email records (which have minimal or no documentary or evidential value) on an email system rather than requiring employees to print and file them or store them in a recordkeeping system, as long as the transitory records are maintained through the applicable NARA-approved retention period.⁵⁹

FAM and FAH Requirements for Email Records Preservation: The requirements in the FAM generally had not changed. In 2005, the FAM was amended to include a reminder that “every Department of State employee must create and preserve records that properly and adequately

⁵⁶ NIST, FIPS PUB 200: *Minimum Security Requirements for Federal Information and Information Systems* (March 2006).

⁵⁷ 5 FAM 1065.1-6 (February 22, 2007); 5 FAH-11 H-411.4 (June 25, 2007).

⁵⁸ 5 FAH-11 H-411.5 (June 25, 2007).

⁵⁹ 71 Fed. Reg. 8807 (February 21, 2006) (amending 36 C.F.R. § 1234.24). NARA also amended 36 C.F.R. § 1234.32 to provide a NARA-approved disposition authority for transitory emails.

document the organization, functions, policies, decisions, procedures, and essential transactions of the Department.”⁶⁰

Other Preservation Guidance: A February 2005 cable drafted by the Bureau of Administration and sent over the Secretary’s name to all embassies and posts and an announcement to all employees reminded departing officials not to remove any papers until they have been reviewed to ensure compliance with records laws and regulations.⁶¹

In December 2005, NARA issued a bulletin that reminded agencies that all electronic records created and received by agencies are subject to the same existing statutory and regulatory records management requirements as records in other formats and on other media.⁶²

A February 2007 cable drafted by the Bureau of Administration and sent over the Secretary’s name to all embassies and posts and an announcement to all employees were distributed to remind employees that, until the new State Messaging and Archive Retrieval Toolset (SMART) is implemented, email, Short Message Service messages, or instant messages that qualify as records must be printed and filed with related paper records, including any attachments and transmission data.⁶³

In April, June, and October 2008, announcements to all employees again reminded departing employees not to remove any papers until they had been reviewed. They also stated that “e-mail messages must generally be printed out and filed with related paper records.”⁶⁴

On January 15, 2009, the Under Secretary for Management issued a memorandum to all Under Secretaries, Assistant Secretaries, Executive Directors, and Post Management Officers on “Preserving Electronically the Email of Senior Officials upon their Departure.” The memorandum required bureaus to copy the email accounts of senior departing officials onto CDs and deliver those CDs to IPS. The requirement was applicable to political appointees, not career staff, and was put in place to supplement the traditional print and file policy for record email.

Hillary Clinton (January 21, 2009 – February 1, 2013)

⁶⁰ 5 FAM 422.3 (October 11, 2005).

⁶¹ 05 STATE 018818; Department of State, *Procedures for the Removal of Personal Papers and Non-Record Material*, Announcement No. 2005_02_017, February 3, 2005.

⁶² NARA, *NARA Guidance for Implementing Section 207(e) of the E-Government Act of 2002*, Bulletin No. 2006-02 (December 15, 2005).

⁶³ 07 STATE 024044; Department of State, *Records Management Procedures*, Announcement No. 2007_02_147, February 28, 2007.

⁶⁴ Department of State, *Departing Officials: Procedures for the Removal of Personal Papers and Non-Record Material*, Announcement No. 2008_04_089, April 17, 2008; Department of State, *Reminder – Departing Officials: Procedures for the Removal of Personal Papers and Non-Record Material*, Announcement No. 2008_06_095, June 16, 2008; Department of State, *Reminder – Departing Officials: Procedures for the Removal of Personal Papers and Non-Record Material*, Announcement No. 2008_10_087, October, 16, 2008.

FAM and FAH Requirements for Use of Non-Departmental Systems: A December 2009 FAM provision states that non-Department-owned personal digital assistants (PDAs) may only be turned on and used within Department areas that are strictly unclassified (such as the cafeteria) and may not connect with a Department network except via a Department-approved remote-access program.⁶⁵

Applicable Cybersecurity Provisions and Related Guidance: To meet the requirements of FISMA, the Department implemented a mandatory annual requirement for all Department computer users to take Cybersecurity Awareness training.⁶⁶

Beginning in 2009, the Cyber Threat Analysis Division (CTAD) in DS issued regular notices to Department computer users highlighting cybersecurity threats. CTAD notices addressed BlackBerry security vulnerabilities, citing this device as a weak link in a computer network.⁶⁷ CTAD warned that BlackBerry devices must be configured in accordance with Department security guidelines.

CTAD's concerns also included cybersecurity risks faced during international travel. According to an article posted by CTAD, digital threats begin immediately after landing in a foreign country. A primary threat is traced to the traveler's mobile device (BlackBerry or other smart device) which is necessarily connected to the local cellular tower. This connection gives foreign entities the opportunity to intercept voice and email transmissions immediately after the traveler arrives overseas.⁶⁸

The E-Government Act and NIST FIPS PUB 200 were unchanged.

Statutory and Regulatory Requirements for Email Records Preservation: The requirements in the Federal Records Act of 1950 had not changed. In October 2009, NARA published a final rule that revised and reorganized its records management regulations.⁶⁹ The existing requirements were largely retained, but renumbered.⁷⁰ New responsibilities were added to agencies' records program duties, including assigning records management responsibilities in each program/mission to ensure incorporation of recordkeeping requirements into agency

⁶⁵ 12 FAM 683.2-3 (December 2, 2009).

⁶⁶ 13 FAM 331 (December 22, 2010).

⁶⁷ CTAD, *Security Checklist* (December 15, 2009); CTAD, *Cyber Security Awareness* (March 3, 2011).

⁶⁸ *How to manage cybersecurity risks of international travel* (September 15, 2010) by (ISC)2 Government Advisory Board Executive Writers Bureau (posted by CTAD on January 26, 2011).

⁶⁹ 74 Fed. Reg. 51004 (Oct 2, 2009).

⁷⁰ For example, the requirements of an agency records program were moved from 36 C.F.R. § 1222.20 to 36 C.F.R. §§ 1220.30, 1220.32, and 1220.34. Requirements regarding departing officials were moved from 36 C.F.R. §§ 1222.40, 1222.42 to 36 C.F.R. §§ 1222.18, 1222.24(a)(6).

programs.⁷¹ The new section on managing email records required preservation of email attachments that are an integral part of the record.⁷² It also stated:

Agencies that allow employees to send and receive official electronic mail messages using a system not operated by the agency must ensure that Federal records sent or received on such systems are preserved in the appropriate agency recordkeeping system.⁷³

FAM and FAH Requirements for Email Records Preservation: The requirements in the FAM and FAH generally had not changed.

Other Preservation Guidance: In June 2009, the Department sent an announcement regarding preservation of email messages.⁷⁴ It reminded employees of the requirement to preserve email records, citing the FAM and C.F.R. provisions, and noted that, until SMART becomes available, employees must print and file emails that are Federal records.

In November 2009, the Department sent a cable to all embassies and posts and an announcement to all employees reminding them that all Department employees have records management responsibilities.⁷⁵ It noted that Federal records can be found “in any media including e-mail, instant messages, social media, etc.”

On November 28, 2011, President Obama issued a memorandum to the heads of executive departments and agencies requiring them to submit a report to the Archivist and the Director of OMB that

(i) describes the agency’s current plans for improving or maintaining its records management program, particularly with respect to managing electronic records, including email and social media, deploying cloud based services or storage solutions, and meeting other records challenges; (ii) identifies any provisions, or omissions, in relevant statutes, regulations, or official NARA guidance that currently pose an obstacle to the agency’s adoption of sound, cost effective records management policies and practices; and (iii) identifies policies or programs that, if included in the Records Management Directive required by section 3 of this memorandum or adopted or implemented by NARA, would assist the agency’s efforts to improve records management.⁷⁶

⁷¹ 36 C.F.R. § 1220.34 (2010).

⁷² 36 C.F.R. § 1236.22(a)(2) (2010).

⁷³ 36 C.F.R. § 1236.22(b) (2010).

⁷⁴ Department of State, *Preserving Electronic Message (E-mail) Records*, Announcement No. 2009_06_090, June 17, 2009.

⁷⁵ 09 STATE 120561; Department of State, *Records Management Responsibilities*, Announcement No. 2009_11_125, November 23, 2009.

⁷⁶ *Presidential Memorandum – Managing Government Records* (November 28, 2011).

In August 2012, OMB and NARA issued a memorandum to the heads of executive departments, agencies, and independent agencies in part directing agencies to eliminate paper and use electronic recordkeeping. Per this memorandum, agencies will be required to manage all email records in an electronic format by December 31, 2016.⁷⁷

John Kerry (February 1, 2013 – Present)

FAM and FAH Requirements for Use of Non-Departmental Systems: On May 1, 2014, the Department amended the definition of a DIN to require the DIN to be on a Department-owned and operated discrete non-sensitive unclassified local area network that is not connected to any other Department system.⁷⁸ In addition, the domestic approving authority for a DIN changed from the Department's IT CCB to the relevant bureau's Executive Director or equivalent.⁷⁹

A September 2014 FAH provision stated that supervisors must exercise "particular care and judgment" in allowing users to remotely process SBU information and must advise users that all non-Department-owned storage media containing Department SBU information must be encrypted with products certified by NIST.⁸⁰ Employees were prohibited from remotely processing classified or SBU/NOFORN (not releasable to foreign nationals) information.⁸¹ Employees were also required to (1) exercise "particular care and judgment" in remotely processing SBU information; (2) destroy SBU files saved on personally owned and managed information systems and removable media when the files are no longer required; and (3) implement and regularly update basic home security controls, including a firewall, anti-spyware, antivirus, and file-destruction applications. If an employee used a networked personally owned information system, he or she had to ensure that all information systems on the network implemented these security requirements.

The FAH further prohibits the installation of non-Departmental information systems within Department facilities without the written authorization of DS and IRM.⁸² This provision replaced an identical FAM provision issued in 2008.

In 2015, a new FAH provision was added regarding non-Department-owned mobile devices. The FAH provision included a rule requiring a 10-foot separation between a PDA and classified processing equipment, a ban on connecting to a Department network except via a Department-

⁷⁷ *Memorandum for the Heads of Executive Departments and Agencies and Independent Agencies: Managing Government Records Directive*, M-12-18 (August 24, 2012).

⁷⁸ 5 FAM 872 (May 1, 2014).

⁷⁹ 5 FAM 872.1 (May 1, 2014).

⁸⁰ 12 FAH-10 H-172.1 (September 25, 2014). These provisions are currently located at 12 FAH-10 H-173.1 (January 11, 2016).

⁸¹ 12 FAH-10 H-172.4 (September 25, 2014). These provisions are currently located at 12 FAH-10 H-173.4 (January 11, 2016).

⁸² 12 FAH-10 H-112.14-2 (September 19, 2014).

approved remote-access program, and a requirement to conduct normal day-to-day Department operations on a Department information system because it has the proper security controls to protect Department information.⁸³

Applicable Cybersecurity Provisions and Related Guidance: The Federal Information Security Modernization Act of 2014, enacted in December 2014, updated FISMA by clarifying the roles of OMB and the Department of Homeland Security, improving security by moving away from paperwork requirements, and making improvements in the way that Federal data breaches are managed and reported.⁸⁴ Rules and guidance governing cybersecurity threats have not changed.

Statutory and Regulatory Requirements for Email Records Preservation: In 2014, Congress enacted the Presidential and Federal Records Act Amendments of 2014, which amended several sections of the Federal Records Act.⁸⁵ It simplified the definition of record to:

all recorded information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the United States Government or because of the informational value of data in them...⁸⁶

The Act noted that the definition of "recorded information" includes "information created, manipulated, communicated, or stored in digital or electronic form." The Act also added a provision that prohibited agency employees from creating or sending a record from a non-official electronic messaging account unless they copy their official electronic messaging account in the original creation or transmission of the record or forward a complete copy of the record to their official electronic messaging account within 20 days.⁸⁷

The requirements in title 36 of the C.F.R. had not changed.

FAM and FAH Requirements for Email Records Preservation: The requirements in the FAM generally had not changed. However, in October 2014, the Department issued an interim directive superseding some of the FAM requirements.⁸⁸ The directive noted that employees may delete personal emails, but that "the only e-mails that are personal or non-record are those that

⁸³ 12 FAH-10 H-165.4 (May 20, 2015).

⁸⁴ Pub. L. No. 113-283 (December 18, 2014).

⁸⁵ Pub. L. No. 113-187 (November 26, 2014).

⁸⁶ 44 U.S.C. § 3301(a).

⁸⁷ 44 U.S.C. § 2911(a).

⁸⁸ Department of State, *A Message from Under Secretary for Management Patrick F. Kennedy regarding State Department Records Responsibilities and Policy*, Announcement No. 2014_10_115, October 17, 2014.

do not relate to or affect the transaction of Government business.” The directive also noted that departing employees may only take personal papers and non-record materials, subject to review by records officials. It reminded employees that “all federal records generated by employees, including senior officials, belong to the Department of State.” Finally, the directive stated that:

employees generally should not use private e-mail accounts (e.g., Gmail, AOL, Yahoo, etc.) for official business. However, in those very limited circumstances when it becomes necessary to do so, the email messages covering official business sent from or received in a personal account must be captured and preserved in one of the Department’s official electronic records systems. The best way for employees to ensure this is to forward e-mail messages from a private account to their respective State account. Private email accounts should not be used for classified information.

In October 2015, the Department updated the FAM to incorporate these requirements.⁸⁹

The responsibilities of Management Officers related to departing employees have not changed since Secretary Powell’s tenure; however, in 2015, the Department changed the name of the separation form from OF-109 to DS-109. The pertinent language in the form did not change.⁹⁰

Other Preservation Guidance: In February 2013, the Department sent an announcement to all employees reminding senior officials that they may only take personal papers and non-record materials following a review by a records official to ensure compliance with Federal records laws and regulations.⁹¹

In August 2013, NARA published a bulletin authorizing agencies to use a “Capstone” approach to managing email records, in lieu of print and file.⁹² The Capstone approach allows for the automatic capture of records that should be preserved as permanent from the accounts of officials at or near the top of an agency or an organizational subcomponent. In September 2013, NARA published a bulletin that stated that, “while agency employees should not generally use personal email accounts to conduct official agency business, there may be times when agencies authorize the use of personal email accounts.” In these cases, “agency employees must ensure that all Federal records sent or received on personal email systems are captured and managed in

⁸⁹ 5 FAM 443.7 (October 23, 2015).

⁹⁰ 5 FAM 414.7 (June 19, 2015).

⁹¹ Department of State, *Departing Senior Officials: Government Records and Personal Papers*, Announcement No. 2013_02_122, February 26, 2013.

⁹² NARA, *Guidance on a New Approach to Managing Email Records*, Bulletin No. 2013-02 (August 29, 2013). In 2014, NARA and OMB issued guidance on managing emails to be used in conjunction with NARA’s Capstone guidance. *Memorandum for the Heads of Executive Departments and Agencies and Independent Agencies: Guidance on Managing Email*, M-14-16 (September 15, 2014).

accordance with agency recordkeeping practices.”⁹³ In 2015, NARA issued guidance on managing other forms of electronic messaging, including social media and texts.⁹⁴

On August 28, 2014, the Under Secretary for Management sent a memorandum to the Office of the Secretary, all Under Secretaries and Assistant Secretaries, and a number of other offices to remind them of their responsibility for creating, managing, and preserving records “regardless of physical format or media.” It noted that “records may exist in many formats, including Instant Messages (IM) and records on mobile devices like BlackBerrys, mobile phones, and iPads.” It also included specific requirements relating to emails, including:

- At no time during designated senior officials’ tenure will their e-mail accounts be cleared, deleted, or wiped for any reason.
- While senior officials may delete personal e-mails, they should be aware that the definition of a personal e-mail is very narrow. The only e-mails that are personal are those that do not relate to or affect the transaction of Government business.
- As a general matter, to ensure a complete record of their activities, senior officials should not use their private e-mail accounts (e.g., Gmail) for official business. If a senior official uses his or her private email account for the conduct of official business, she or he must ensure that records pertaining to official business that are sent from or received on such e-mail account are captured and maintained. The best way to ensure this is to forward incoming emails received on a private account to the senior official’s State account and copy outgoing messages to their State account.⁹⁵

⁹³ NARA, *Guidance for agency employees on the management of Federal records, including email accounts, and the protection of Federal records from unauthorized removal*, Bulletin No. 2013-03 (September 9, 2013).

⁹⁴ NARA, *Guidance on Managing Electronic Messages*, Bulletin No. 2015-02 (July 29, 2015).

⁹⁵ The Under Secretary sent this same message to all Chiefs of Mission in September 2014. 14 STATE 111506 (September 15, 2014).

APPENDIX B: MANAGEMENT RESPONSES

UNCLASSIFIED

TO: Inspector General – Steve Linick

FROM: Transparency Coordinator - Janice L. Jacobs 

SUBJECT: OIG Draft Report – “Office of the Secretary: Evaluation of Email Records Management and Cybersecurity Requirements (ESP-16-03): Responses to Recommendations

In March 2015, Secretary Kerry asked the Office of the Inspector General to review the Department’s efforts to preserve a full and complete record of American foreign policy, and our procedures for making that record available to the American public. We welcome the opportunity to respond to your report, *Office of the Secretary: Evaluation of Email Records Management and Cybersecurity Requirements*, the fourth installment of your review. As your reports recognize, through our work with your office, as well as the Department’s efforts to meet Presidential and Department directives, we have made great progress towards a better preserved and more accessible public record. As demonstrated in the enclosed responses and comments to your specific recommendations, the Department is committed to continuing to improve. However, I also want to acknowledge and highlight how far we have already come.

For decades, the government has been working to adapt longstanding recordkeeping principles and rules to the email-dominated modern era. The Federal Records Act and the Freedom of Information Act are established pillars of transparent government, but email and other communications technologies create difficult challenges for implementation. As your report describes, over the years the Department has been good at drafting principles on the importance of preserving email; however, only recently have we begun to match results with our aspirations. The National Archives and Records Administration (NARA) has acknowledged that the entire federal government—not just the State Department—continues to grapple with these challenges. In fact, NARA has issued some of its most relevant guidance regarding these matters in the last three years.

Today, I can attest to the Department’s goal of leading on these issues in the future. Earlier this year, Secretary Kerry issued a Department-wide notice on the critical importance of the Freedom of Information Act, demonstrating a

commitment to transparency at the most senior level. In September 2015, Secretary Kerry announced my appointment as the Department's Transparency Coordinator to oversee the Department's efforts on these matters. At the time, the Department was already engaged in a process to meet the President's *Managing Government Records* directive, including through the robust work of our Electronic Records Management Working Group. We are on track to meet the benchmarks of the President's directive for 2016; for example, your report notes that the Department is in the process of procuring new technology to manage emails electronically.

In addition, in 2014 the Department issued guidance on the use of personal emails—in effect anticipating later changes to the Federal Records Act—and initiated the Department's implementation of the Capstone program in February 2015 to archive automatically senior officials' emails. Over 200 officials are already covered by Capstone, with more on the way. We also have already closed a number of the recommendations in your first three reports.

Finally, the Executive Secretariat, Bureau of Administration, and other relevant bureaus have established a strong working relationship to improve records management. We are already cataloguing our current holdings of electronic archives, improving the way we search email records, and establishing procedures for archiving records going forward.

As a result of these and other efforts, today the Department is much differently situated than during historical periods described in your report. It is clear that the Department could have done better at preserving emails of Secretaries of State and their senior staff going back several administrations. However, by early 2015, the Department had already taken important steps to address these issues. As noted above, our Electronic Records Management Working Group was already established. In addition, the Department had already received Secretary Clinton's emails and undertook to release over 30,000 of them to the public. The National Archives and Records Administration concluded that our efforts with respect to Secretary Clinton and her senior staff mitigated past problems, as has a federal district court in a suit brought under the Federal Records Act. As you note in the report, you concur with this conclusion.

The way we conduct diplomacy has evolved significantly in recent years from a time when official cables were one of the primary ways we communicated. Modern technology has unquestionably enhanced our mission; however, there is still work to do to ensure that we preserve a record of our work. We look forward

to working with your office in the future on these issues, and remain committed to building on what we have already accomplished.

May 23, 2016

UNCLASSIFIED

TO: Inspector General – Steve Linick

FROM: M – Patrick Kennedy

SUBJECT: Draft report – “Office of the Secretary: Evaluation of Email Records Management and Cybersecurity Requirements” (ESP-16-03 dated May 2016)

Thank you for the opportunity to comment on subject draft report. Over the past year, the Department has taken steps to improve its records management practices and we believe we have made progress. However, more progress can be made, and we are committed to reaching the December 2016 goal set by NARA for email retention and continue advancing sound records management.

Responses to recommendations from bureaus within the M family follow below.

Recommendation 1: The Bureau of Administration should

- issue guidance, including periodic, regular notices, to Department employees to remind them that the use of personal email accounts to conduct official business is discouraged in most circumstances,
- clarify and give specific examples of the types of limited circumstances in which such use would be permissible, and
- instruct employees how to preserve Federal records when using personal email accounts.

Department Response: The Bureau of Administration concurs with this recommendation and will continue to issue guidance on records management practices and policies, and will ensure that this guidance explicitly reminds employees that the use of personal emails accounts to conduct official business is discouraged. Similar to previous records management guidance, such guidance will be provided to employees in writing (via Department Notices and ALDACs) and in appropriate briefings (i.e. training courses, meetings, etc.) to remind employees of their responsibility for preserving documentation of official activities, including emails. The Department will consider additional means by which to inform employees of records management requirements and best practices.

Recommendation 2: The Bureau of Administration should amend the *Foreign Affairs Manual* to reflect the updates to Department recordkeeping systems that provide alternatives to print and file.

Department Response: We concur with this recommendation, but please edit to read “alternatives to print and file emails that are records.”

The Bureau of Administration is currently working with the Office of the Transparency Coordinator to update 5 FAM and chapter subparts related to Department’s recordkeeping/retention schedules. The goal to eliminate the practice of print and file as the Department’s policy and practice for the retention of emails by December 31, 2016, which is also the deadline by which the Department is supposed to implement a solution to manage all emails. All other electronic documents should follow this electronic retention practice by the end of 2019.

Recommendation 7: The Bureau of Information Resource Management (IRM) should

- issue regular notices to remind Department employees of the risks associated with the use of non-Departmental systems;
- provide periodic briefings on such risks to staff at all levels; and
- evaluate the cost and feasibility of conducting regular audits of computer system usage to ascertain the degree to which Department employees are following the laws and policies concerning the use of personal email accounts.

Department Response: The Department concurs with the first two bullet points of this recommendation. IRM will continue to issue regular notices regarding the risks associated with the use of non-Departmental systems.

Regarding the third bullet, audits conducted on such a wide scale would not be beneficial or feasible. Limited use of personal email is acceptable under current policy and allowable under law. The Department already conducts continuous monitoring to ensure the integrity of the Department networks and systems and in fact was a government leader in this regard. State’s Continuous Diagnostics and Monitoring which is also known as iPost has been adopted and modified by DHS into the new government-wide Continuous Diagnostics and Mitigation program (CDM). Under 5 FAM 724, the Department can audit an employee’s network activity or workstation

use, which includes but is not limited to electronic communication, Internet access, local disk files, and server files when there is suspicion that improper use of government equipment has occurred. In addition, Information Systems Security Officers (ISSOs) worldwide are required to review systems and security logs on a regular basis.

Regarding the first bullet point, the Bureau of Information Resource Management continues to issue notices and provide briefings on risks associated with the use of non-Departmental systems. For example:

- Mandatory PS 800 Cyber Security Awareness Training course
- Informational links
 - <https://intranet.ds.state.sbu/DS/SI/CS/Awareness1/Content/Email.aspx> for email, or
 - [one level higher](#) for other types of awareness information
- Department Notices (recent)
 - 2016_03_128 Global Cyber Foreign Policy Training Workshop on April 25-29, 2016
 - 2016_02_035 Revised 12 FAM 620 and New 12 FAH-10 (Unclassified Cyber Security Policies) are published
 - 2015_11_063 October was National Cyber Security Awareness Month
- IT Customer Service Bulletins (e.g., 7/30/15) and also Information Announcements on <http://irm.m.state.sbu/sites/ops/CSO/ITSC/default.aspx>
- DS Cybersecurity Awareness In Case You Missed It
- Cyber Security Awareness month – October
- Tips of the Day
 - Tips of the Day and StateNet advertisement on *Protecting SBU Outside the Department* and *Protecting Personal Email Accounts*
- Fact Sheet on [Protecting Personal Email Accounts](#)
- Fact Sheet on [How to Handle Suspicious Email](#) (including personal email)
- Fact Sheet on [Email Safety](#)
- [Personal Email Security Best Practices](#) guide
- [How to Report Suspicious Messages/Activity on Webmail Accounts](#) guide
- Notes blast emails on [Personal Email Addresses](#), [Personal Email Reminder](#), [How to Handle Suspicious Email](#), [Sending SBU Over the](#)

[Internet, Cloud Computing, Cloud Security, Protecting OpenNet When Accessing Personal Email Accounts](#)

- [Awareness Bulletin on Personal Email Accounts and Out of Office Messages](#)
- [Personal Email Guides](#) (Gmail, Hotmail, Yahoo, Outlook)
- Information Systems Security Officer (ISSO) Role-Based Training – mandatory for ISSOs
- A-100 Foreign Service Generalist class – general overview
- IRM Tradecraft
 - YW319 - IRM Tradecraft for the Information Technology Manager
 - YW387 - Information Resources Management Tradecraft
- Diplomatic Security Training Center (DSTC) summary:
 - For FY 2015 DSTC conducted 80 course sessions in different cybersecurity areas (including those for ISSOs)
 - For FY-2016, DSTC has scheduled 81 different cybersecurity courses
- Ambassador/PO and DCM seminars – overview

We will review whether the material in these notices and courses needs to be updated or expanded.

Recommendation 8: The Director General of the Foreign Service and Director of Human Resources should amend the *Foreign Affairs Manual* to provide for administrative penalties for Department employees who (1) fail to comply with recordkeeping laws and regulations or (2) fail to comply with the requirement that only authorized information systems are to be used to conduct day-to-day operations. The amendment should include explicit steps employees should take if a reasonable suspicion exists that documents are not being preserved appropriately, including a reminder that the Office of Inspector General has jurisdiction to investigate and refer to appropriate authorities suspected violations of records preservation requirements.

Department Response: The Department concurs with this recommendation and will implement it by revising, following any appropriate consultation with the unions, the lists of disciplinary offenses contained at 3 FAM 4377 and 4542 to include explicitly violations of laws, regulations and directives regarding records management, including preservation. (At present, such offenses would fall into general catch-all provisions contained in each list.)

With respect to the second sentence of Recommendation 8, as part of its continuing issuance of records guidance, the Bureau of Administration, in coordination with the Bureau of Human Resources, will include guidance on how and where to raise records management concerns. Such guidance will remind employees of the jurisdiction of the Office of Inspector General.

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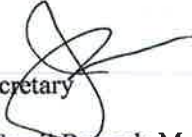
United States Department of State

Washington, D.C. 20520

May 16, 2016

UNCLASSIFIED

TO: Steve Linick, Inspector General

FROM: Joseph E. Macmanus, Executive Secretary 

SUBJECT: Response to Draft OIG Review of Email Records Management and Cybersecurity Requirements Involving the Office of the Secretary

The Executive Secretariat thanks the OIG for the opportunity to respond to this review. The Secretariat values the OIG's study of electronic records management – a Department-wide challenge that we will continue to address. The Secretariat has the following specific responses to the recommendations contained in the report.

Recommendation 3: The Office of the Secretary, Executive Secretariat, should work with the Office of Information Programs and Services to conduct an inventory of all electronic and hard-copy files in its custody and evaluate them to determine which files should be transferred to the Office of Information Programs and Services in accordance with records disposition schedules or Department email preservation requirements.

Department Response: The Executive Secretariat agrees with this recommendation and notes that the inventory of electronic and hard copy files has been ongoing since January 2016. The Executive Secretariat agrees this is an important and necessary project.

Recommendation 4: The Office of the Secretary, Executive Secretariat, should work with the Office of Information Programs and Services to adopt policies and procedures to ensure compliance by all employees within its purview, including the Secretary, with records management requirements. These policies should cover the retirement of records in accordance with records disposition schedules, preservation of email and other electronic records of departing officials, and training of employees in their records preservation responsibilities.

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Department Response: The Executive Secretariat strongly agrees with the OIG recommendation that it should work closely with the Office of Information Programs and Services to fully implement policies and procedures to improve compliance with records management responsibilities, including the retirement of records in accordance with records disposition schedules, preservation of email and other electronic records of departing officials, and training of employees on their records preservation responsibilities. The Executive Secretariat staff is committed to coordinating closely with the Office of Information Programs and Services to provide updated guidance and training to all staff.


Recommendation 5: The Office of the Secretary, Executive Secretariat, should work with the Office of Information Programs and Services to ensure that all departing officials within its purview, including the Secretary of State, sign a separation form (DS-109) certifying that they have surrendered all Federal records and classified or administratively controlled documents. In addition, staff should ensure that all incoming officials within its purview, including the Secretary, clearly understand their records preservation and retention responsibilities, including records contained on personal email accounts.

Department Response: The Executive Secretariat agrees with the OIG recommendation that it should ensure all departing officials within its purview, including the Secretary of State, sign a separation agreement form (DS-109), and that all incoming staff clearly understand their records preservation and retention responsibilities. The Executive Secretariat is instituting a process whereby employees' completed DS-109 forms are placed in their permanent electronic performance files (eOPF) to ensure they easily accessible.

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TO: Inspector General – Steve Linick

FROM: Transparency Coordinator – Janice L. Jacobs 

SUBJECT: Draft report – “Office of the Secretary: Evaluation of Email Records Management and Cybersecurity Requirements” (ESP-16-03 dated May 2016)

Thank you for the opportunity to comment on subject draft report, which includes the following recommendation:

“The Department’s Transparency Coordinator should work with the Office of Information Programs and Services to develop a quality assurance plan to promptly identify and address Department-wide vulnerabilities in the records preservation process, including lack of oversight and the broad inaccessibility of electronic records.”

I concur and am happy to comply with your recommendation as part of my continuing efforts, in coordination with the Office of Information Programs and Services (A/GIS/IPS) and the Executive Secretariat (S/ES), to improve overall governance of the Department’s information – how it is captured, stored, shared, disposed of, and archived as appropriate. Your findings will help inform these efforts. The report’s focus on email records is particularly relevant given that all federal agencies have been directed by the White House and the National Archives and Records Administration (NARA) to manage all email records in an electronic format by December 31 of this year. Department progress towards this goal is well underway with measures either already in place or on the horizon. The Capstone program mentioned in your report, whereby the emails of designated senior officials are all captured and retained permanently, is one such step already taken by the Department.

By December 2019, all permanent electronic records in federal agencies must be managed electronically to the fullest extent possible. This will be a huge undertaking requiring a governance structure for all forms of information created or received by the Department. The Department is committed to getting this right to help assure a 21st century enterprise-wide information management system that advances the Department's goals of increased efficiency, transparency and accountability. We will not succeed without sufficient metrics, quality controls, and general oversight of the system we create. This is why the quality assurance plan you've recommended is so important.

As I move forward, I remain mindful of Secretary Kerry's strong commitment to improving the Department's records management and transparency systems in order to preserve the record of U.S. foreign policy and to share that story with the wider public.

ABBREVIATIONS

A	Bureau of Administration
AIS	Automated Information System
C.F.R.	Code of Federal Regulations
CIO	Chief Information Officer
CSIP	Cyber Security Incident Program
CTAD	Cyber Threat Analysis Division
D-MR	Deputy Secretary for Management and Resources
DCIO	Deputy Chief Information Officer
Department	Department of State
DIN	Dedicated Internet Network
DS	Bureau of Diplomatic Security
ERMWG	Electronic Records Management Working Group
FAH	<i>Foreign Affairs Handbook</i>
FAM	<i>Foreign Affairs Manual</i>
FIPS	Federal Information Processing Standards
FISMA	Federal Information Security Management Act
FOIA	Freedom of Information Act
GAO	Government Accountability Office
INR	Bureau of Intelligence and Research
IPS	Office of Information Programs and Services
IRM	Bureau of Information Resource Management
ISP	Internet service provider

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IT CCB	Information Technology Change Control Board
L	Office of the Legal Adviser
M	Under Secretary for Management
NARA	National Archives and Records Administration
NIST	National Institute of Standards and Technology
NOFORN	not releasable to foreign nationals
OIG	Office of Inspector General
OMB	Office of Management and Budget
PDA	personal digital assistant
.pst	Personal Storage Table (Microsoft Outlook file format)
S	Office of the Secretary
S/ES	Office of the Secretary, Executive Secretariat
S/ES-EX	Office of the Executive Director, S/ES
S/ES-IRM	Office of Information Resources Management, S/ES
SAO	Senior Agency Official
SBU	sensitive but unclassified
SMART	State Messaging and Archive Retrieval Toolset

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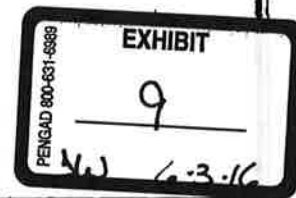
1996 SECRETARIAL TRANSITION BACKGROUND MATERIALS

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NOVEMBER 1996



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Introduction and Overview

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Executive Office (S/S-EX)

Although organizationally a component of the Executive Secretariat, S/S-EX has operational responsibilities that extend well beyond providing administrative support to the Executive Secretariat (S/S). It is the Executive Office for all of the autonomous and semi-autonomous offices, staffs, special units, etc., which make up the S area, as well as the Bureau of Public Affairs (PA); Bureau of Legislative Affairs (H); Office of the Under Secretary for Management (M); and the Office of Management Planning (M/P).

S/S-EX's responsibilities are similar to those of executive offices for the "Functional Bureaus" - handling the traditional range of administrative and logistical matters, however, the daily routine in S/S-EX includes numerous and varied other activities peculiar to the "7th floor" and its inhabitants, which add special problems and, more often than not, the element of urgency to the work.

S/S-EX is made up of three basic operational units (budget and fiscal, personnel, and general services), plus one special program, the Secretary's travel arrangements. Brief statements for each unit follows.

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Budget and Fiscal

The Budget section performs the customary functions in connection with the formulation and submission of the Congressional budget and the financial plan for the S area offices. This unit is responsible for the administration of all budgetary and funding issues for the S areas, and M, PA and H. A travel unit for the S area operates under the supervision of the Budget Officer. This unit issues travel orders, administers the American Express government charge card program for travelers, authorizes travel advances and calculates per diem and mileage rates, assists in obtaining tickets, visas and passports, and reviews travel reimbursement vouchers for all S area travelers.

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Personnel Services

Personnel administration accounts for a large part of the S/S-EX endeavor, due to the constant personnel shifts, and the mix of employees, i.e., Foreign Service (FS), Civil Service (GS, both career and non-career), Schedule A, B, and C appointees, consultants, experts, temporary and part-time employees and details from other agencies. More than 595 employees are serviced by the Personnel staff in a typical year covering the full range of personnel issues. Responsibilities also include management of personnel resources/FTE, Civil Service and Foreign Service staffing, employee relations and the administration of awards and benefits programs.

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General Services

The General Services unit is a logistics clearing house which both independently and through the General Services Administration (GSA), and the Bureau of Administration's Procurement Officer (A/OPR), supports all of the S area including PA, H, and M, with procurement of supplies, services and equipment; building alterations; telephone services; office space and renovations; contracting authority, property control, and transportation logistics for Secretary and Deputy Secretary travel.

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Executive Travel

S/S-EX makes all transportation and related arrangements for the Secretary's overseas and domestic trips. The Executive Director obtains the use of the aircraft from the Air Force, works out the appropriate routing with the crew, compiles the passenger list in conjunction with the Deputy Executive Secretary responsible for the trip, and ensures that visited overseas posts receive proper instructions on all administrative and logistical requirements for the Secretary and the traveling party, including accommodations, funding, ground transportation, baggage arrangements, etc. On overseas and domestic trips the Executive Director or Deputy Director travels aboard the Secretary's aircraft and coordinates administrative arrangements for the Secretary and official party, supporting staffs, security, communications, and the traveling press.

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Secretarial Travel

Past secretaries have found it necessary to travel overseas frequently in furtherance of the President's foreign policy. Such trips have invariably been formally designated Presidential missions and DOD/USAF Special Air Missions aircraft (707 type) from the 89th AW at Andrews AFB are provided at no cost to State, other than meal costs.

Depending on the operating style of individual Secretaries, a large staff, relative to other cabinet officers, has accompanied the Secretary. Tab A displays the profile of recent trips.

The S/S staff is headed by a Deputy Executive Secretary responsible for all aspects of the trip activities, e.g., schedule, briefing papers, meeting participation, etc., and an officer and secretarial team, who process and control the flow of information and decision documents.

Logistical arrangements, e.g., hotel set up, airplane baggage, equipment, and funding control is handled by the Executive Director (S/S-EX). Computer support is provided by an IRM Specialist who often doubles as a secretary in support of the S staff.

Substantive expertise is provided by the Assistant Secretary for the region and one staffer of his/her choice.

The press contingent normally consists of ten journalists. The heavy requirements of public diplomacy and the need to inform the American public have resulted in five PA staff (Spokesman, Press Assistant and Press Officer, plus two speechwriters) usually being assigned to travel with the Secretary.

On arrival the party is bolstered by an advance line team (one officer plus a secretarial assistant) who travel to post several days in advance to coordinate schedule and logistical set up, hotels, etc. A two-officer advance

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security team performs the security liaison with post and host country authorities.

Communications support, telephone, and message traffic is provided to the party on a 24-hour basis by a seven-person team which sets up prior to the Secretary's arrival. A cross-training initiative by the office responsible for communications support (IM/VIP) is reducing this number by one now and we expect to reduce by another next calendar year.

Additional staff support, Secretary's site control officers, etc., are provided by the posts visited.

DOD/JSC have participated in most of the Secretary's overseas trips, assigning a LTG (currently General Myers, USAF) from the Joint Staff, who is accompanied by a Colonel when space is available. The NSC area officer normally travels as part of the Secretary's party. From time to time other Cabinet Agency high-level representatives request seats on the Secretary's plane and they are accommodated if substance requires it, and space is available.

Hotels

Past secretaries have invariably declined invitations to stay at U.S. Ambassadorial residences or government guest houses in order to reside close to their staffs and the office cluster we set up at each overnight stop. We set up offices for:

S Staff: i.e., the Executive Assistant, Special Assistant, secretary and other senior members of the S staff who might accompany him.

S/S: Staffed 24 hours by a Line Officer and secretarial assistant, it serves as the nerve center of the traveling party. All cables, press clips, etc., are distributed there under the supervision of the Deputy Executive Secretary. It is the central control point for managing/coordinating all trip activities, schedules, motorcades, etc.

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An Embassy Liaison Office adjoins S/S from which Embassy staff provides secretarial and other support to S/S.

DS Command Post: Serves as the communication control point and office for all aspects of the Secretary's security. The security radio net is monitored from this office.

Bureau Office: Houses the traveling regional Assistant Secretary and other senior officers, other agencies, and those who need to use the computers or secure phones installed there.

Communications: Uses two rooms to house communications, radio and telephone equipment.

The above offices are all installed on the same floor as the Secretary's suite. Senior staff are housed between the office area and the Secretary. An additional bilateral meeting room is sometimes added as dictated by the schedule. All offices and sleeping rooms, which double as offices, are set up in the same manner at each stop to facilitate uninterrupted work flow as we travel from city to city. Our organic telephone setup varies little and this permits rapid familiarization.

The hotel floor or portion of the floor described above is secured by Marine Security Guards so that classified information is protected by appropriate access controls.

The Airplane

Our usual aircraft is a 707, designated a C-137 by the Air Force, which carries 43 passengers (see attached diagram) with the Secretary alone in the DV cabin. The senior staff cabin and the staff area are in fact airborne offices. The staff area is equipped with computers, a printer, and a copier machine, which allow work to continue throughout the flights. The Deputy Executive Secretary and his plane team staff principals and the S Executive Assistant in-flight as on the ground. There are direct communication links to the aircraft from the Department's Operations Center which allow for telephone (including

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secure calls), fax, and data transmission to and from the aircraft, and traffic is routinely sent to the aircraft for action. In-flight meals are served from menus prepared by S/S-EX.

Space is at a premium since a large amount of equipment is carried both in the cargo hold, and topside in the cabin, e.g., valises containing files and supplies, etc.

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Typical Plane Manifest (1993-96)

THE SECRETARY

S Staff (4)

Chief of Staff

Executive Assistant

Personal Assistant/Secretary

Secretary

S/S (3)

Deputy Executive Secretary

Line Officer

Line Assistant

S/S-EX (2)

Executive Director

Computer Specialist

Public Affairs (5)

Department Spokesman

Press Officer

Press Assistant

Speechwriter (2)

Security (7)

Chief of Secretary's Detail

Security agents (6)

Regional Bureau (2)

Assistant Secretary

Bureau Staffer

Other Agencies:

DOD/JCS (2)

General Officer

Colonel Staffer

NSC (1)

Press (10)

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Personnel

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Transition Hiring Procedures

During the transition period, persons designated as members of the Transition Team are given temporary Schedule C appointments under the Office of Personnel Management's "Transitional Hiring Authority", which is in effect for one year after the designation (appointment) of a new agency head.

Candidates who are appointed to the Transition Team will be assigned to the S Transitional Organization Code - S/TT. Appointments under this authority are good for an initial 120 day period renewable for an additional 120 days.

During this period final security clearances are being conducted and once completed, candidates are converted into full-time Schedule C positions.

Candidates named to Principal positions which require Senate confirmation are usually appointed as Consultants (paid or unpaid, depending on the candidate's desires), at the GS-15 step-ten level. Once confirmation is completed they are then converted into the Executive Schedule (EX) or Senior Executive Service (SES) position.

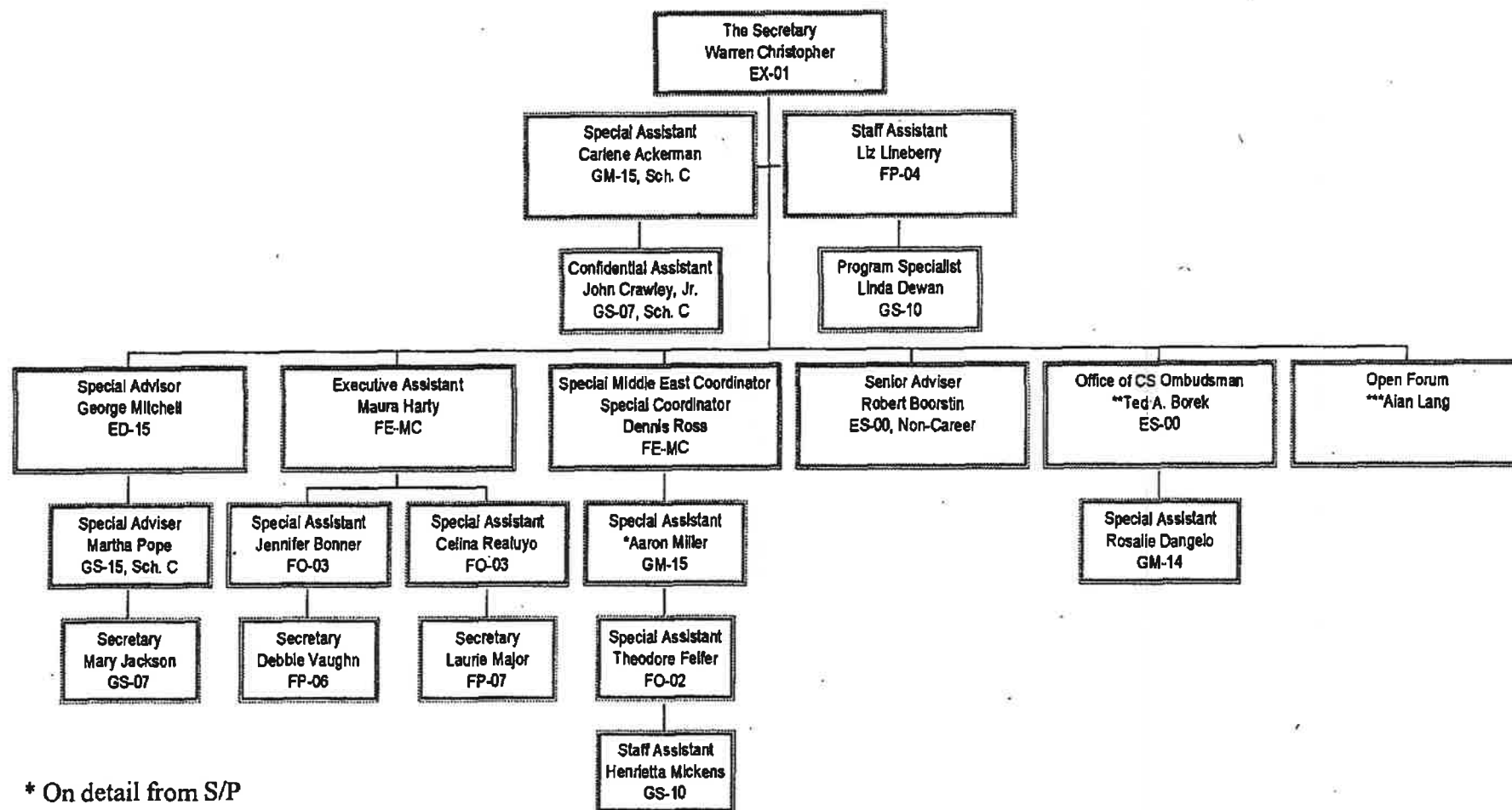
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Staffing and Organizational Charts

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Office of the Secretary of State (S)



* On detail from S/P

** Loaned from L, reports directly to the Secretary

***On loan from AID

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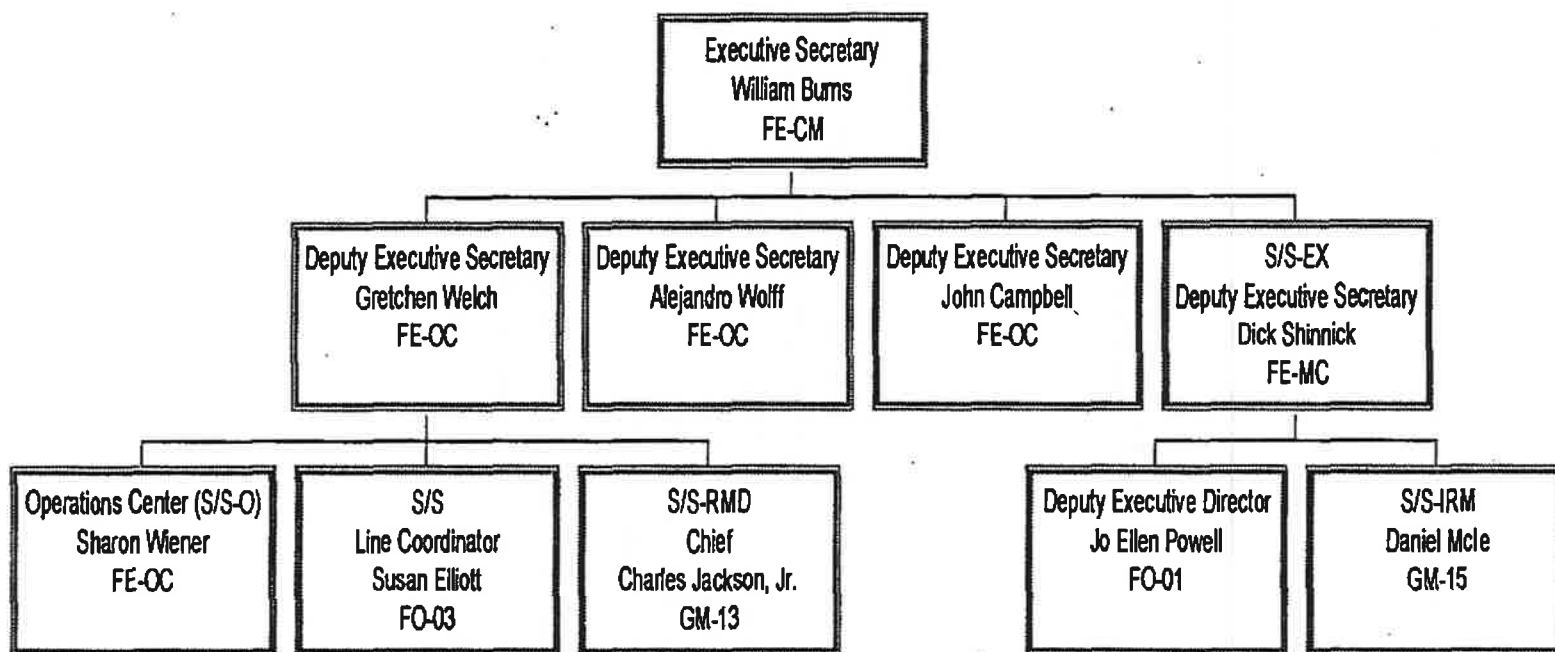
EXECUTIVE SECRETARIAT (S/S)

The Special Assistant to the Secretary and Executive Secretary of the Department ensures the prompt, efficient, and orderly staffing of policy problems requiring the attention of the Secretary, Deputy Secretary and Under Secretaries in the coordination of material presented to them and the implementation of decisions made by them. Serves as the official channel for the transmission of information and recommendations from the Department to the White House and other Government departments and agencies. Serves as the official channel for the receipt from the White House of instructions and responses to recommendations, assigning action on them and following up to ensure implementation. Coordinate the Department's role in the National Security Council (NSC) system. Provides guidance and support to bureaus on the functions of the interagency system.

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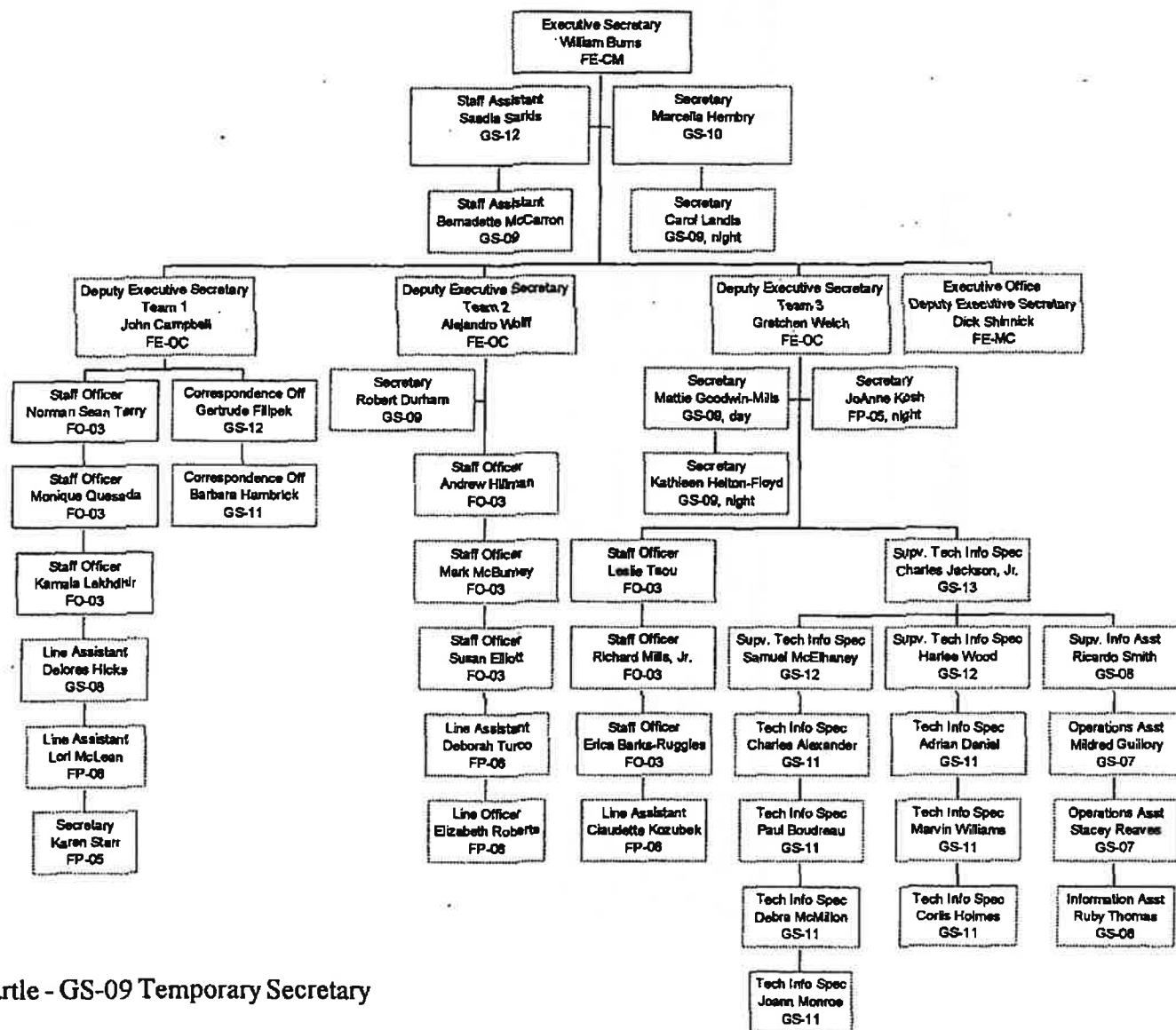
The Executive Secretariat (S/S)



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Office of the Executive Secretary (S/S)



**Robin Hartle - GS-09 Temporary Secretary

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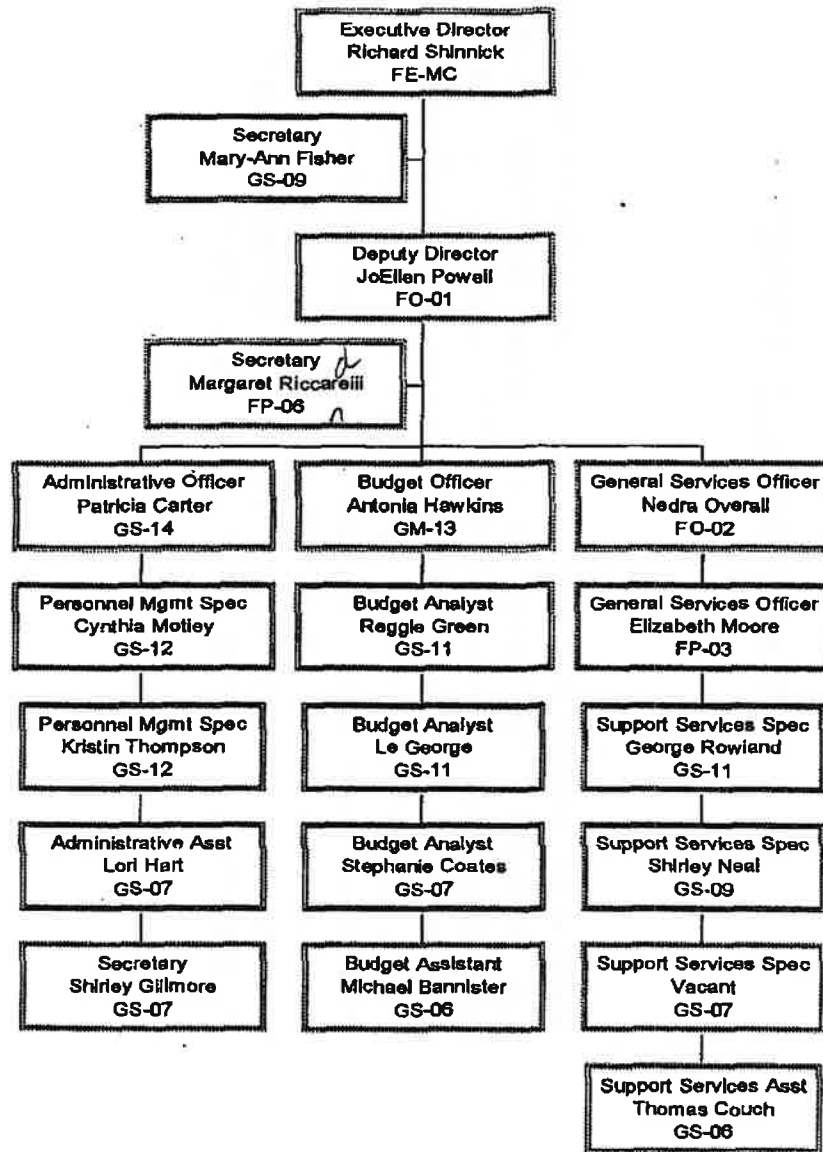
EXECUTIVE OFFICE (S/S-EX)

Provides management support and a complete range of administrative services for the Secretary, Deputy Secretary, Under Secretaries, and their staff offices which comprise the S area - the Bureau of Public Affairs (PA); the Bureau of Legislative Affairs (H); the Office of the Under Secretary for Management (M); and the Office of Management Planning (M/P). Provides logistical support for official travel by the Secretary and other Department principals.

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Executive Office (S/S-EX)



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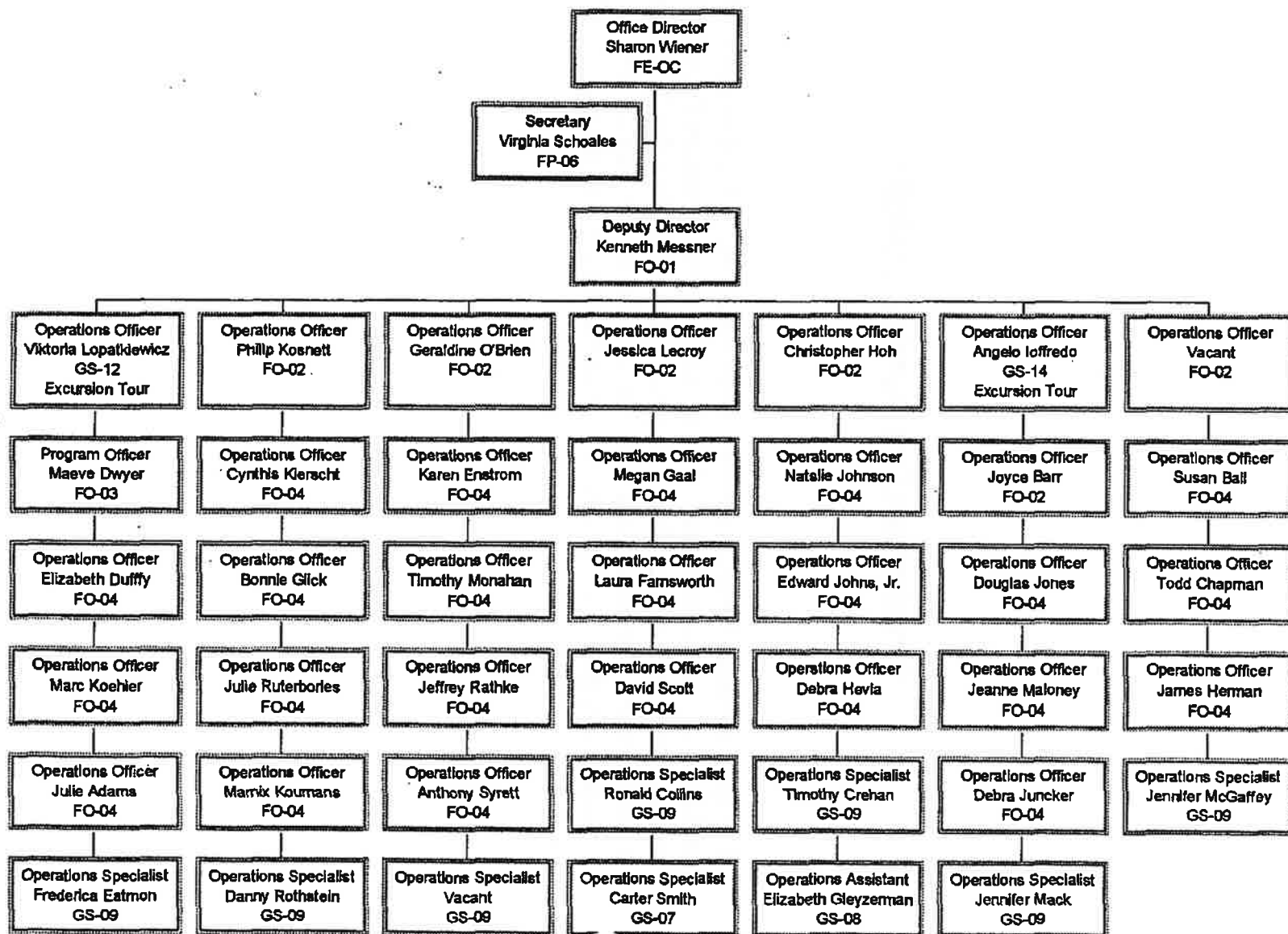
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OPERATIONS CENTER (S/S-O)

Serves as the Department of State's around-the-clock alerting, briefing and crisis management office. Functions as the Department's point of contact for the interagency exchange of crisis-related information. Screens and distributes cables and other documents for the Secretary and principal officers and is responsible for the preparation of daily summary reports. Coordinates planning and implementation of plans within the Department and the executive branch for the protection and evacuation of U.S. citizens abroad in emergencies. Serves as primary point of contact and support office for the Secretary of State and the Secretary's party when traveling.

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Operations Center (S/S-O)



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Special Middle East Coordinator (S/SMEC)

The Special Middle East Coordinator is the United States Coordinator of the Middle East peace negotiations. The Coordinator represents the Department at meetings concerning the Arab-Israeli peace negotiation when the Department is not otherwise represented at a higher level. The Special Middle East Coordinator is the principal point of contact for dealing with the parties and in working with the Secretary on the negotiations.

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Ombudsman for Civil Service Employees (S/CSO)

The Ombudsman advises the Secretary of State and senior Department management on Civil Service issues, so as to ensure the ability of Civil Service employees to contribute to the achievement of the Department's foreign affairs responsibilities, and represents the career interests of Civil Service employees.

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OPEN FORUM (S/OF)

The Open Forum (S/OF), headed by an elected Chairperson who serves directly under the Secretary of State, brings new or alternative policy recommendations to the Secretary and other principals from American employees, at all levels, of the Department of State, ACDA, USAID, and USIA. The Open Forum provides opportunities for any employee to express professional views (including dissenting views) candidly, free of bureaucratic constraints, and under safeguards against pressures or penalties.

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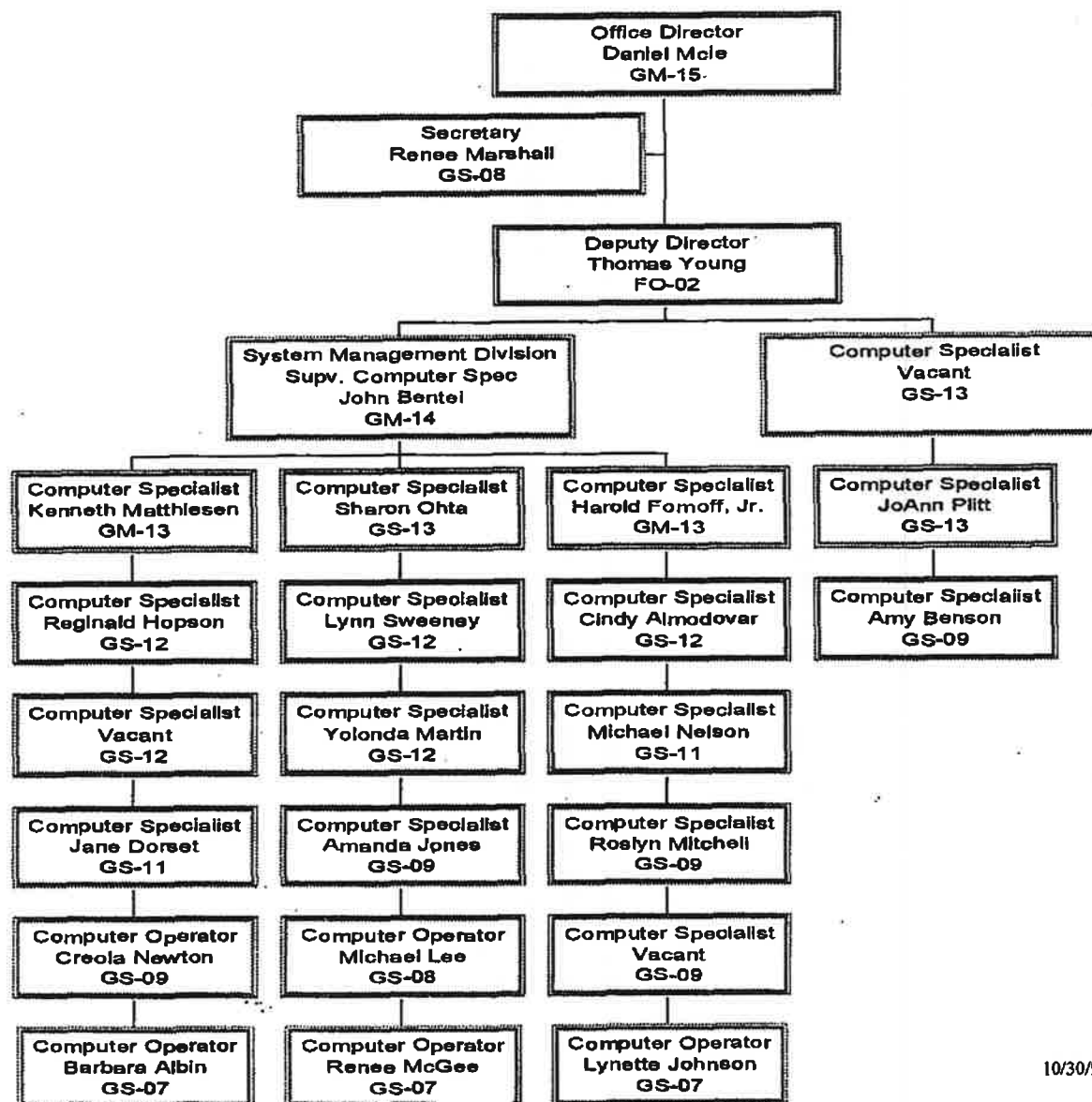
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Information Resources Management (S/S-IRM)

Develops, implements, and operates all information management and record management systems for the Secretary, the Deputy Secretary, the Under Secretaries, the Counselor, the Executive Secretariat, and other specific offices.

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UNCLASSIFIED U.S. Department of State Case No. F-2006-00896 Doc No. C18598843 Date: 07/11/2013

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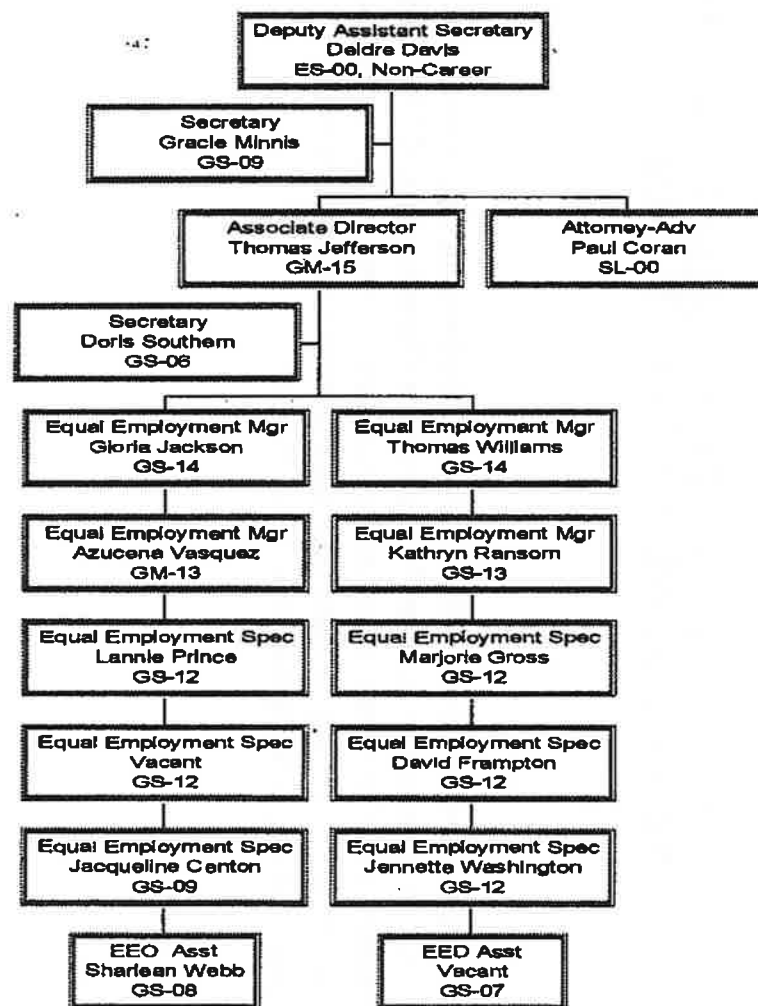
**DEPUTY ASSISTANT SECRETARY FOR EQUAL EMPLOYMENT
OPPORTUNITY AND CIVIL RIGHTS (S/EEOCR)**

Directs the activities of the Office of Equal Employment Opportunity and Civil Rights, which monitors the Equal Employment Opportunity and Civil Rights Programs of the Department and its Foreign Service posts. Serves as principal adviser to the Secretary of State and other principal officials on equal employment opportunity and civil rights matters.

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Deputy Assistant Secretary for Equal Employment Opportunity and Civil Rights (S/EEOCR)



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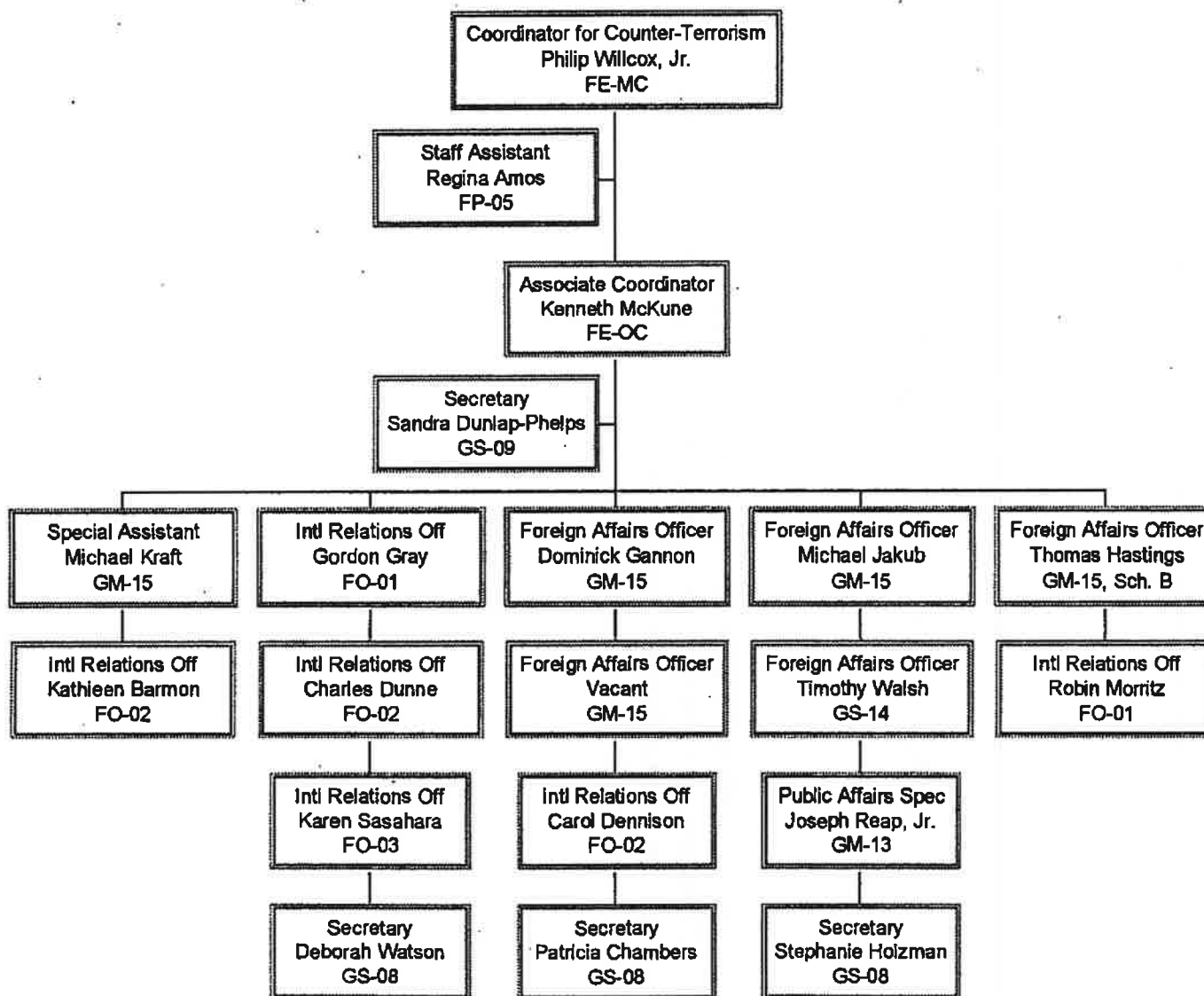
COORDINATOR FOR COUNTER-TERRORISM (S/CT)

The Coordinator for Counter-Terrorism exercises policy oversight for all State Department counter-terrorism programs, including training, and works closely with the regional bureaus and the Bureau of Diplomatic Security. The office is also responsible for coordinating other interagency counter-terrorism activities.

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Office of Counter-Terrorism (S/CT)



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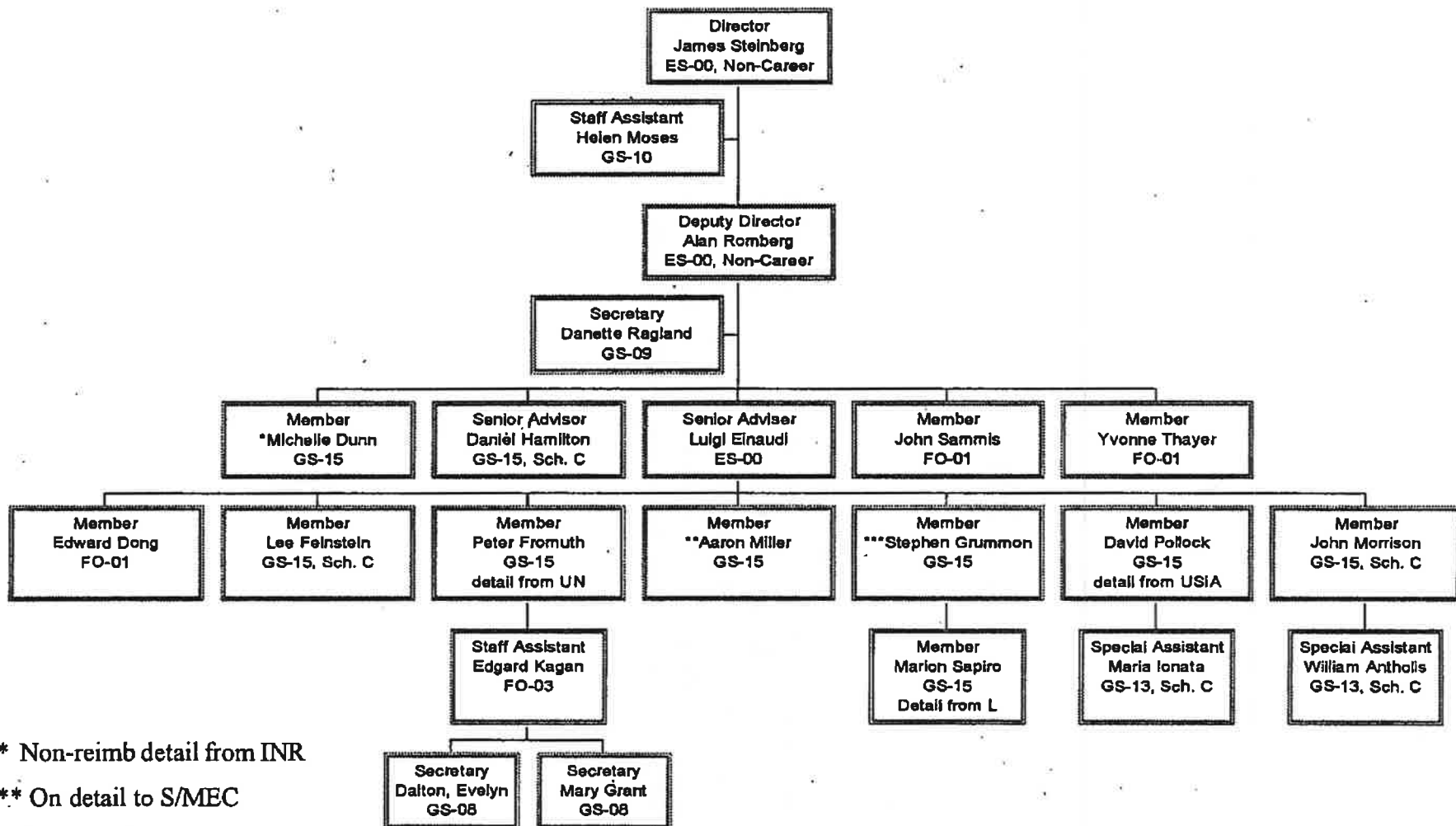
POLICY PLANNING STAFF (S/P)

The Director of the Policy Planning Staff, with rank administratively equivalent to an assistant secretary, and the members serve as a basic staff for the Secretary and other principals, providing substantive staff analysis, review, and advice, including recommendations for alternative courses of action, on major ongoing and prospective policy issues, the interrelationship between issues, and the strategic or longer term consequences of actions.

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Policy Planning Staff (S/P)



* Non-reimb detail from INR

** On detail to S/MEC

*** On detail to NSC

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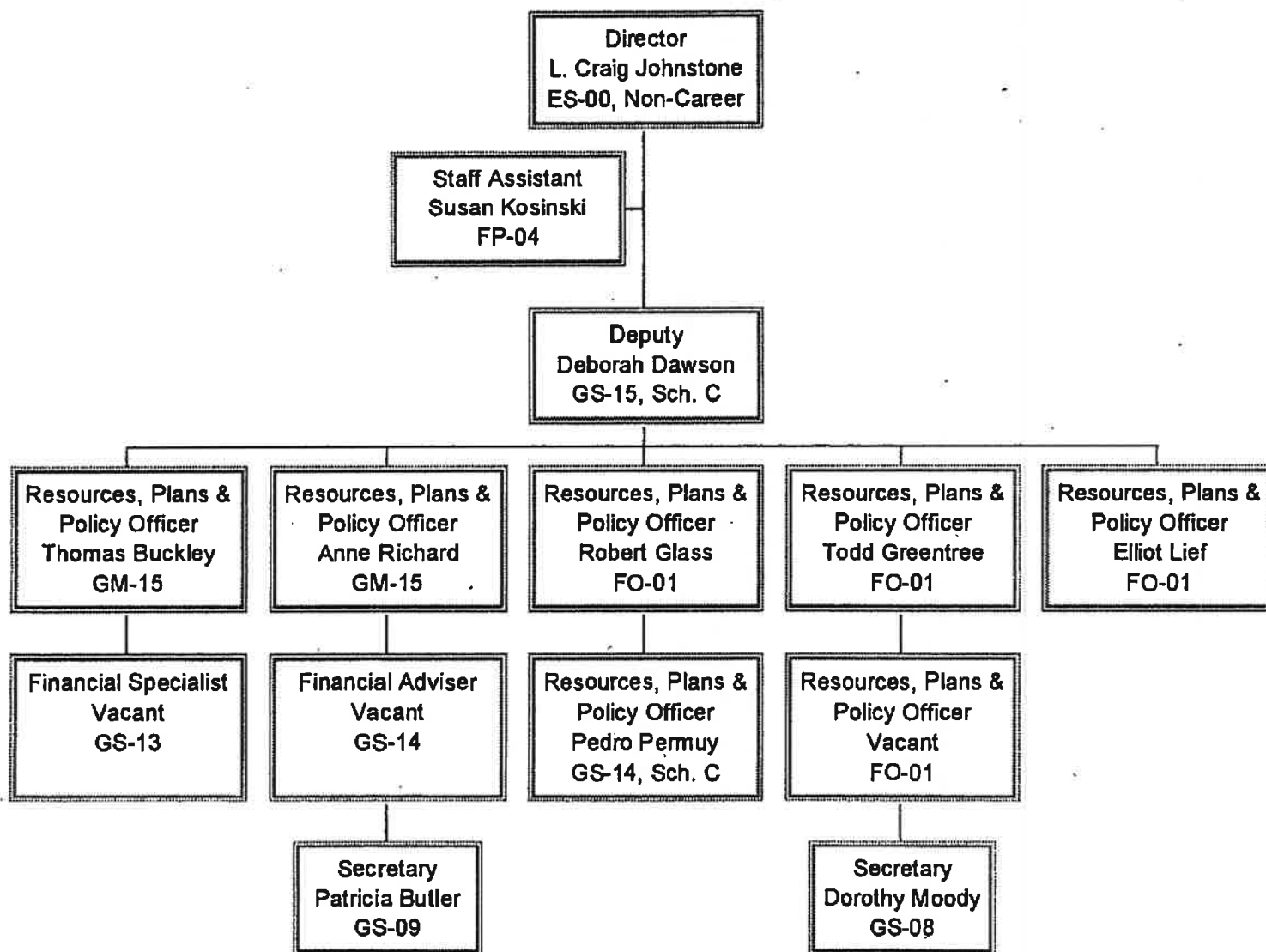
OFFICE OF RESOURCES PLANS, AND POLICY (S/RPP)

The Office of Resources, Plans, and Policy acts as a resource for the Secretary, the Deputy Secretary, the Under Secretaries, and other International Affairs agency heads to assist in developing policies, plans and programs to achieve foreign policy goals.

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Office of Resources, Plans and Policy (S/RPP)



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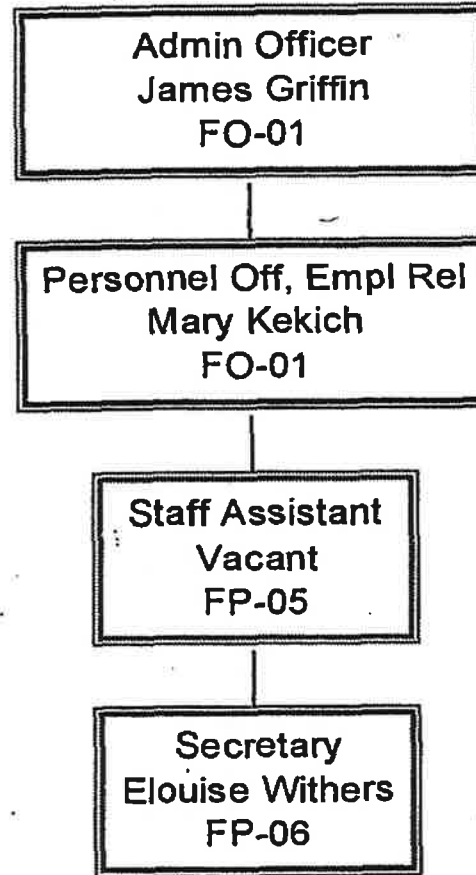
FOREIGN SERVICE GRIEVANCE BOARD (S/FSG)

The Foreign Service Grievance Board (S/FSG) is an autonomous statutory body of not less than five independent U.S. citizens, headed by a chairperson, appointed by the Secretary. The Board adjudicates grievances of Foreign Service employees whose grievances were not resolved to their satisfaction by the foreign affairs agencies. It is empowered to make binding decisions and orders or, in specified areas, formal recommendations to the head of agency, subject to judicial review.

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Foreign Service Grievance Board (S/FSG)



S/FSG is supported by 21 Members who work intermittently

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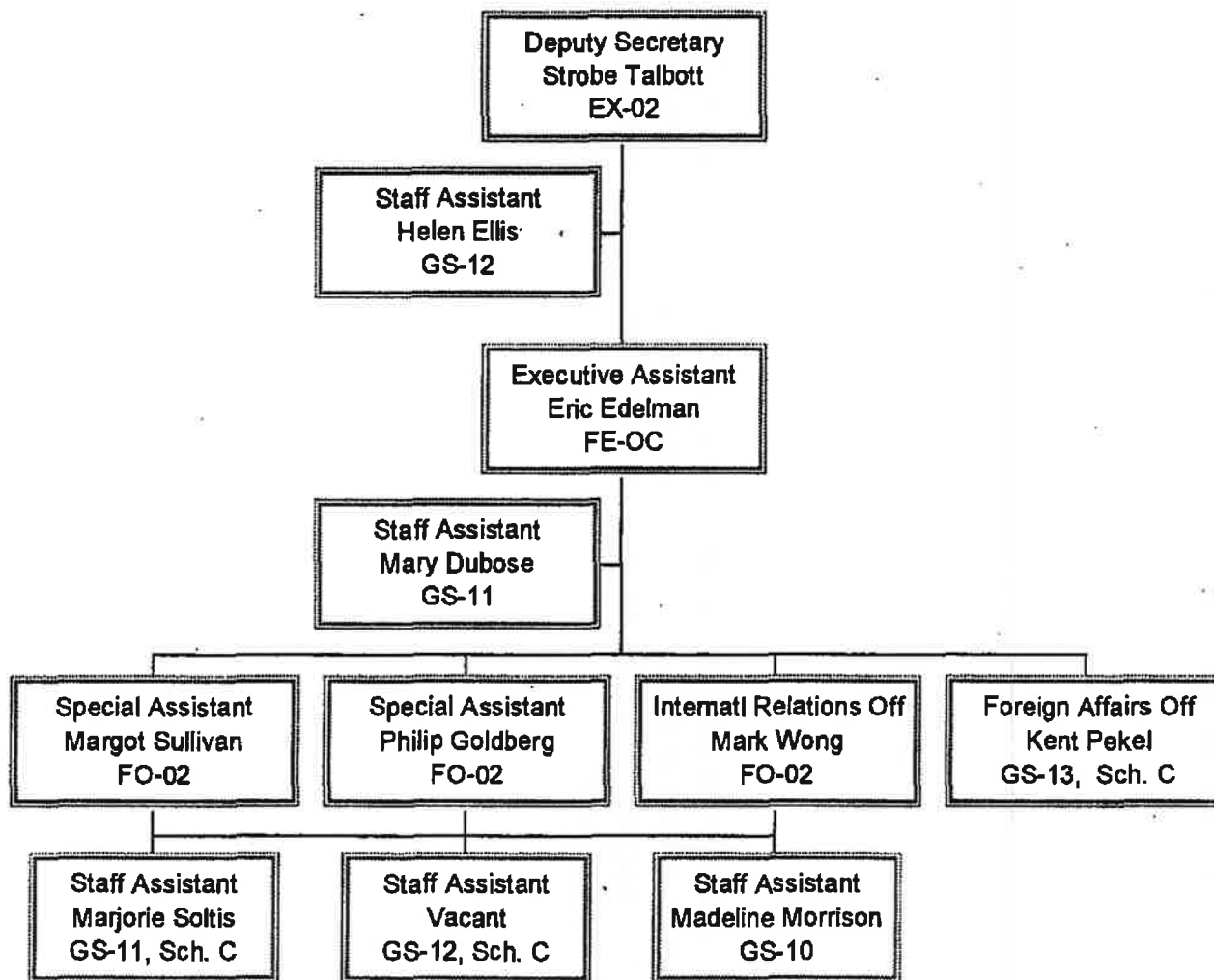
DEPUTY SECRETARY OF STATE (D)

Serves as the Principal Deputy and alter ego to the Secretary, and as Acting Secretary of State in the Secretary's absence. Serves as principal adviser to the Secretary and assists the Secretary in the formulation and conduct of all U.S. foreign policy.

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Office of the Deputy Secretary (D)



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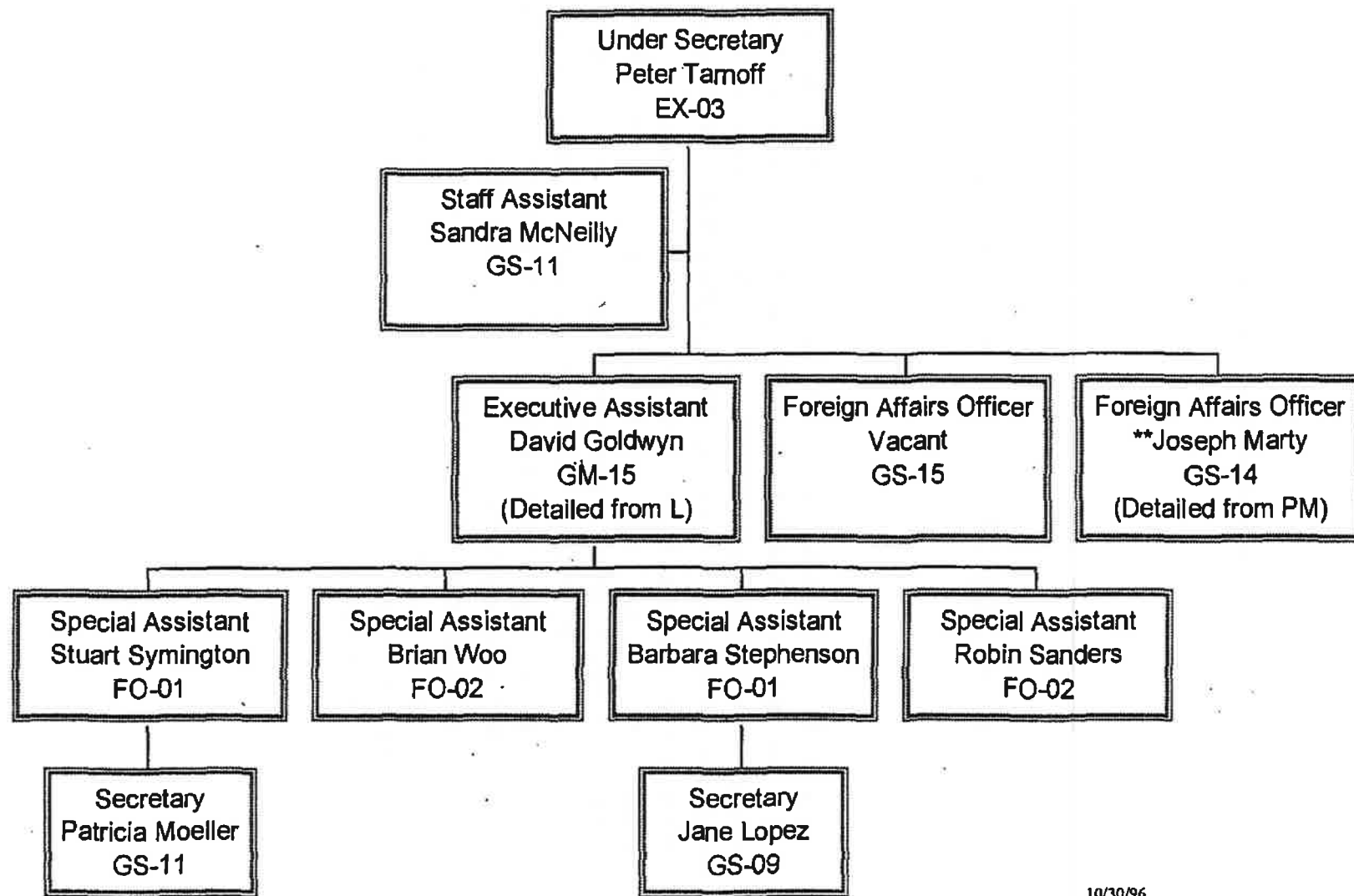
UNDER SECRETARY FOR POLITICAL AFFAIRS (P)

Assists the Secretary and the Deputy Secretary in the formulation and conduct of U.S. foreign policy. Assists the Secretary and the Deputy Secretary in carrying out the former's authority and responsibility for the overall direction, coordination, and supervision of inter-departmental activities of the U.S. Government abroad. Assists the Deputy Secretary in providing recommendations to the Secretary on all principal personnel appointments. Assists the Deputy Secretary in giving overall direction to the substantive functioning of the Department. Assists the Secretary and Deputy Secretary in giving foreign policy guidance to other departments and agencies. Assists the Secretary and the Deputy Secretary in ensuring that the Department's relations with other departments and agencies of the U.S. Government are effectively coordinated, including giving general direction within the Department to political-military and intelligence matters and to relations with other departments and agencies on such matters.

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Under Secretary for Political Affairs (P)



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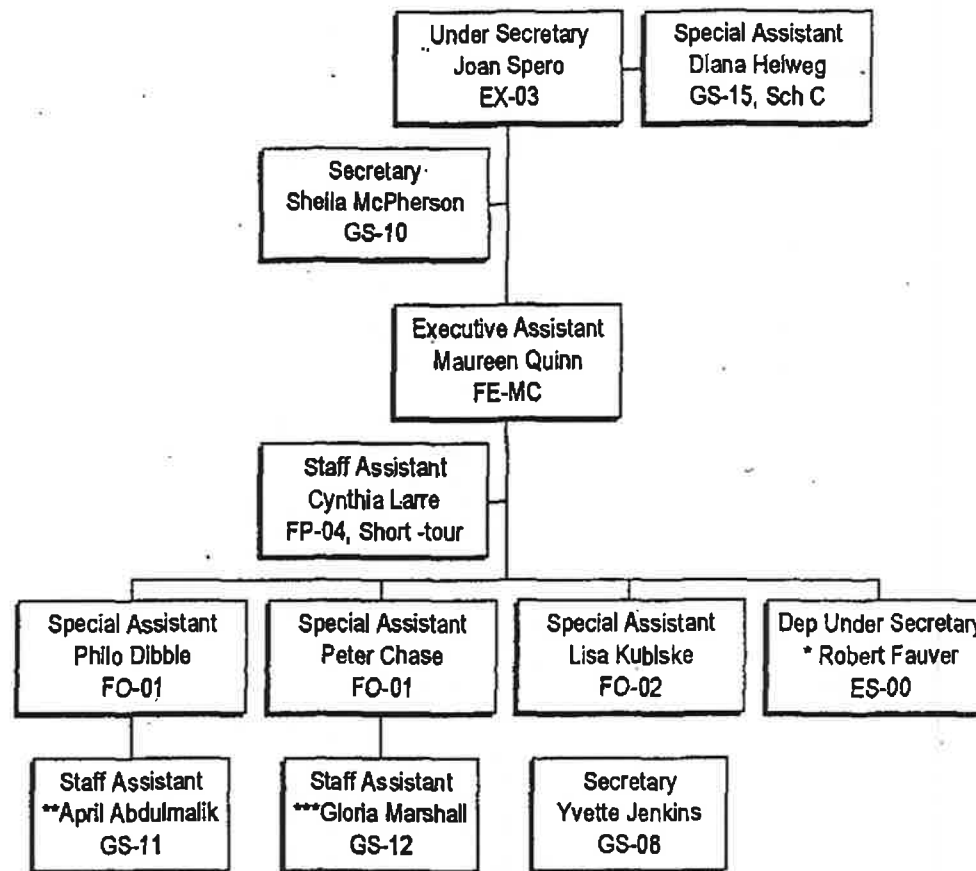
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**UNDER SECRETARY FOR ECONOMIC, BUSINESS, AND
AGRICULTURAL AFFAIRS (E)**

Serves as the principal adviser to the Secretary and Deputy Secretary on matters of foreign economic and commercial policy. Directs formulation of and/or coordinates Department policies and positions on economic, commercial, and agricultural issues. Supervises the execution of such policy within the Department of State and represents the Department on such matters with other agencies of the U.S. Government. In pursuing these functions, coordinates, as appropriate, with the Under Secretary for Global Affairs on matters within the areas of responsibilities of those officers.

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Under Secretary for Economic, Business and Agricultural Affairs (E)



* On detail to the NIC

** On detail to the NSC

*Excursion Tour to Kuala Lumpur

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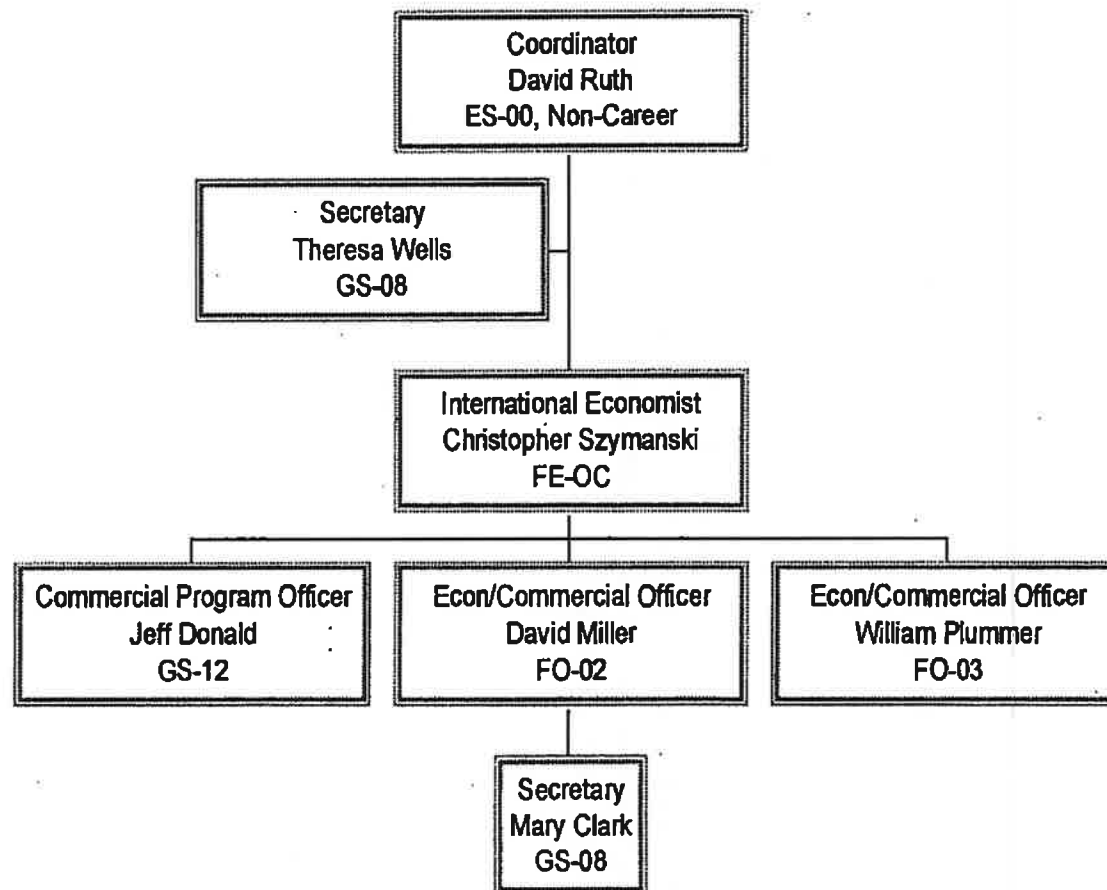
COORDINATOR FOR BUSINESS AFFAIRS (E/CBA)

Serves as the focal point for the Department's outreach to the U.S. business community; has primary responsibility in the Department for developing, analyzing, and coordinating efforts to vigorously support and facilitate U.S. business interests abroad.

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Office of Commercial and Business Affairs (E/CBA)



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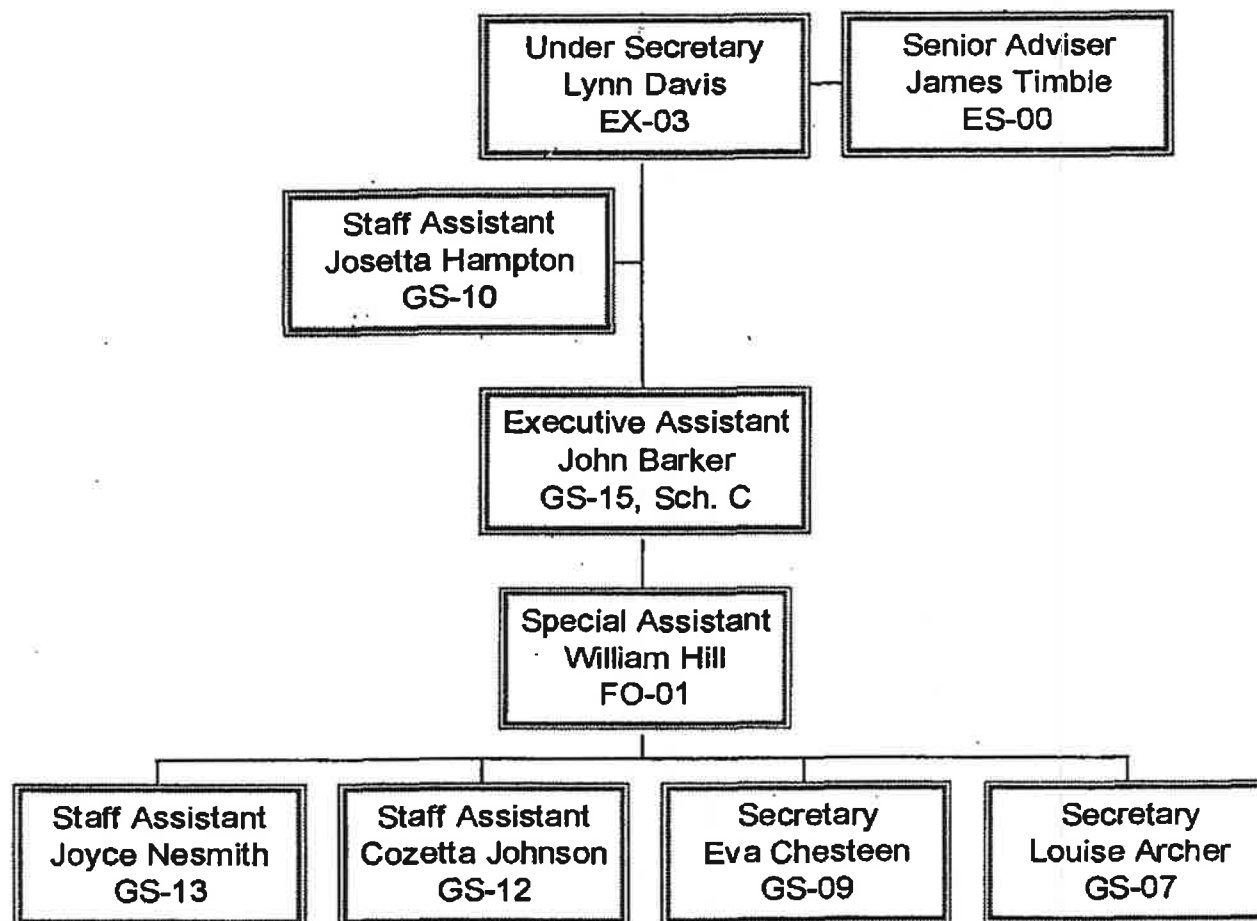
**UNDER SECRETARY FOR ARMS CONTROL AND
INTERNATIONAL SECURITY AFFAIRS (T)**

Directs and coordinates arms control policy for the Department. Directs the negotiation and implementation of arms control agreements with foreign countries and oversees related diplomatic efforts.

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Under Secretary for Arms Control and International Security Affairs (T)



Temp Consultant: William Schneider, Jr.

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UNDER SECRETARY FOR MANAGEMENT (M)

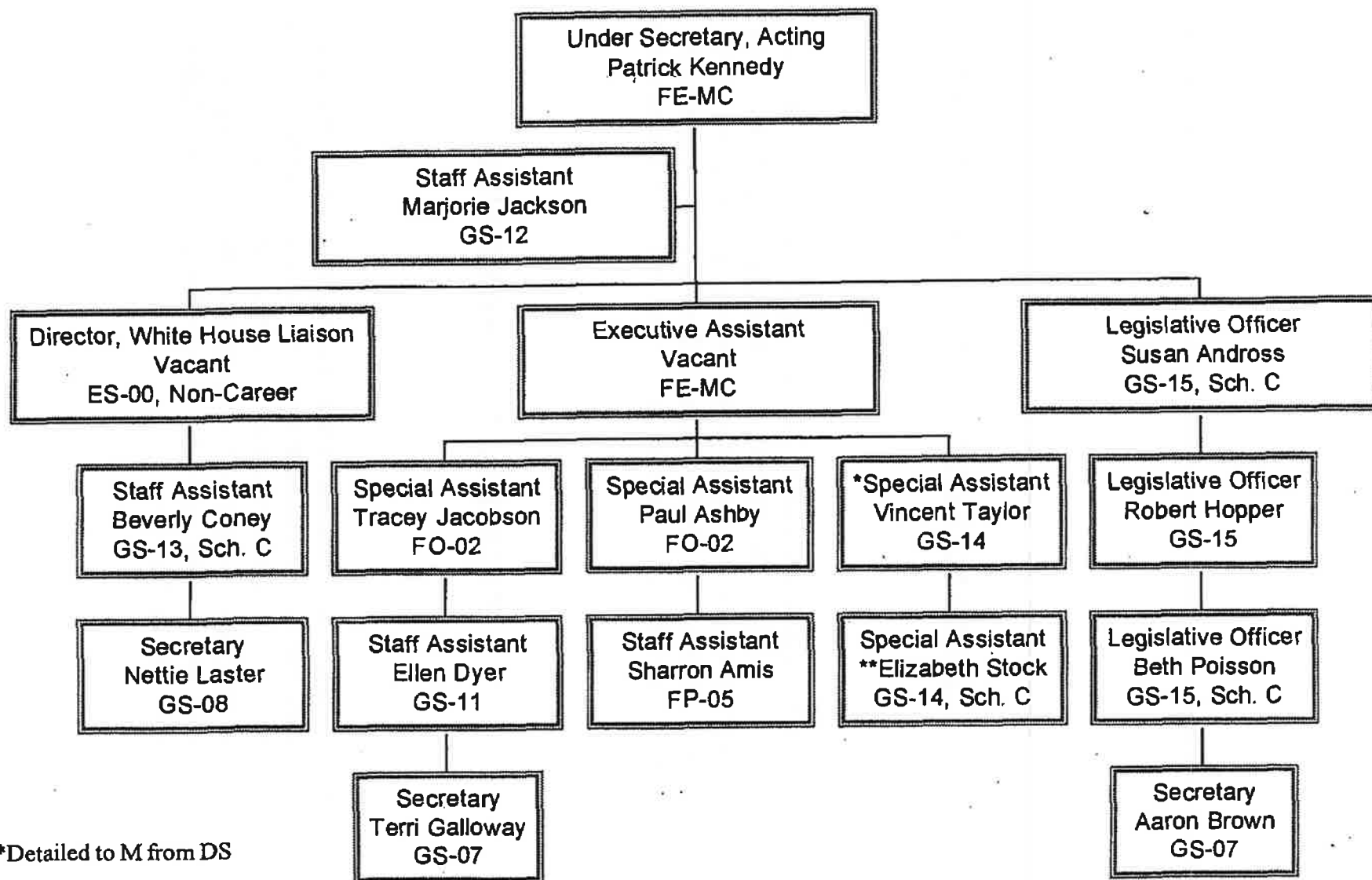
Serves as the principal adviser to the Secretary of State on all matters involving the allocation of State Department resources in support of the President's foreign policy objectives. Develops and executes management policies, including control of positions, funds, and other worldwide Department resources required to implement the foreign policies of the United States.

WHITE HOUSE LIAISON (M/WHL)

Advises, assists, and facilitates all non-career appointments within the Department, including Presidential Appointees requiring Senate confirmation (PAS), Senior Executive Service (SES), and Schedule C. Formulates, communicates, and coordinates between the Department and the White House the selection and appointment of all boards, commissions, Presidential Delegations, and conferences.

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Under Secretary for Management (M)



*Detailed to M from DS

**Detailed to Vice President's

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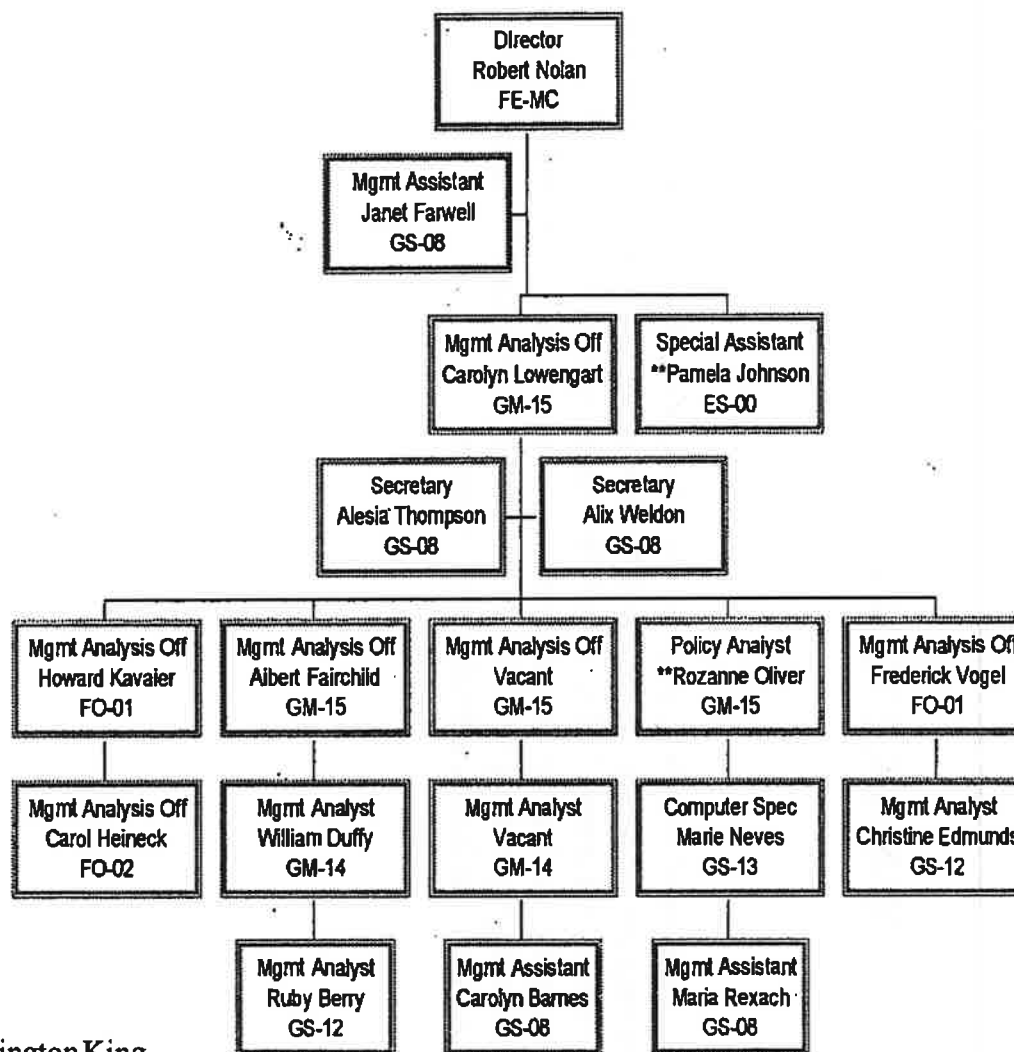
MANAGEMENT POLICY AND PLANNING (M/P)

Provides dedicated policy, planning, and analytical support to the Under Secretary for Management (M) on the whole range of management issues in the three broad areas of M responsibility (human resources, financial management and operations, and support services), and supports Department-wide strategic planning activities as well as the implementation of initiatives arising from the National Performance Review.

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Office of Management Policy (M/P)



Temporary Consultant - Barrington King

** Detailed to USUN

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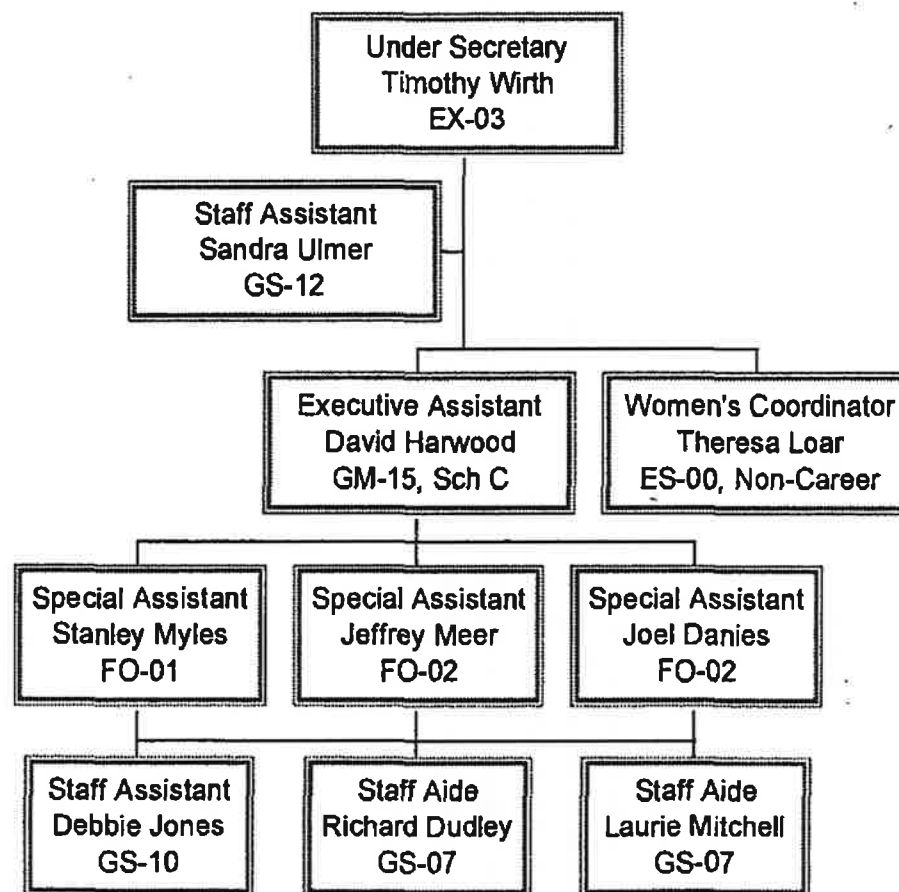
UNDER SECRETARY FOR GLOBAL (G)

For designated areas of responsibility, directs the negotiation and implementation of agreements with foreign countries and oversees related diplomatic efforts. Assists the Secretary in representing the United States at international meetings, in performing other representational assignments, and in presenting the Department's position before Congressional committees.

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Under Secretary for Global Affairs (G)



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BUREAU OF LEGISLATIVE AFFAIRS (H)

Reports directly to the Secretary of State. Under the overall direction of the Secretary of State, directs and manages the Bureau of Legislative Affairs. Supervises and coordinates all legislative and non-legislative relationships between the Department and Congress; and supervises and coordinates all legislative relationships between the Department and the Office of Management and Budget, and between the Department and other Executive Branch agencies. Directs the presentation of the Department's legislative program, including the development, preparation and submission of legislation to Congress.

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Assistant Secretary
Barbara Larkin
EX-04

Staff Assistant
Christine Sauer
GS-10, Temp eqpt

Deputy Assistant Sec
David Ghetta
ES-00, Non-Career

Deputy Assistant Sec
Michael Klosson
FE-MC

Deputy Assistant Sec
Margaret Donovan
ES-00, Non-Career

Deputy Assistant Sec
Valerie Mims
ES-00, Non-Career

Leg. Mgmt Off
Carl Reaffner
GS-15

Leg. Mgmt Off
William Davis
GS-15

Leg. Mgmt Off
Maria Velaz
GS-15, Sch. C

Leg. Mgmt Off
Wayne Wolfe
GS-15

Leg. Mgmt Off
Howard Wilgren
GS-15, Sch. C

Sr. Leg. Policy Mgr
Susan Kaleshko
GS-15

Sr. Policy Advisor
Peter Yoo
GS-15, Sch. C

Sr. Leg. Policy Mgr
Terri Lodge
GS-15

Leg. Mgmt Off
Randall Looceq
FO-01

Leg. Mgmt Off
Leslie Bassett
FO-01

Leg. Mgmt Off
Janet Mann
FO-01

Leg. Mgmt Off
David Whitson
FO-01

Leg. Mgmt Off
Vacant
GS-15, Sch. C

Leg. Mgmt Off
Keith McCormick
FO-01

Leg. Operations Off
Ronald Deutch
FO-01

Leg. Mgmt Off
Bernadette Allen
FO-02

Leg. Analyst
James Lande
GS-13

Leg. Analyst
Julia Norton
GS-13, Sch. C

Correspondence Off
Paul Redenbacher
GS-12

Correspondence Off
Craig Hultman
GS-12, Sch. C

Leg. Mgmt Off
Vacant
GS-12, Sch. C

Program Officer
Theresa Pahn
GS-12

Leg. Mgmt Off
John Guerra
FO-03

Leg. Mgmt Off
Lynny Taylor
FO-03

Special Asst
Jill Lundy
FO-03

Special Asst
Peter Hinz
FO-03

Leg. Mgmt Off
Vacant
FO-03

Leg. Analyst
Kaye Lilligsh
GS-11

Program Officer
Patricia Diggs
GS-11

Leg. Analyst
Vanessa Harrison
GS-09

Congressional Rel. Spec
Loretta Oliver
GS-09

Congressional Rel. Spec
Katherine Reed
GS-09

Correspondence Off
Kamela Weather
GS-09

Correspondence Off
Vacant
GS-09

Staff Asst
Vacant
GS-09, Sch. C

Secretary
Susan Thompson
GS-08

Secretary
Vacant
PP-04

Secretary
Marletha Nelson
GS-08

Secretary
Patricia Fair
GS-08

Secretary
Lianne Robinson
GS-08

Program Asst
GS-08
Orville Andrews

Travel Asst
John Carter
GS-07

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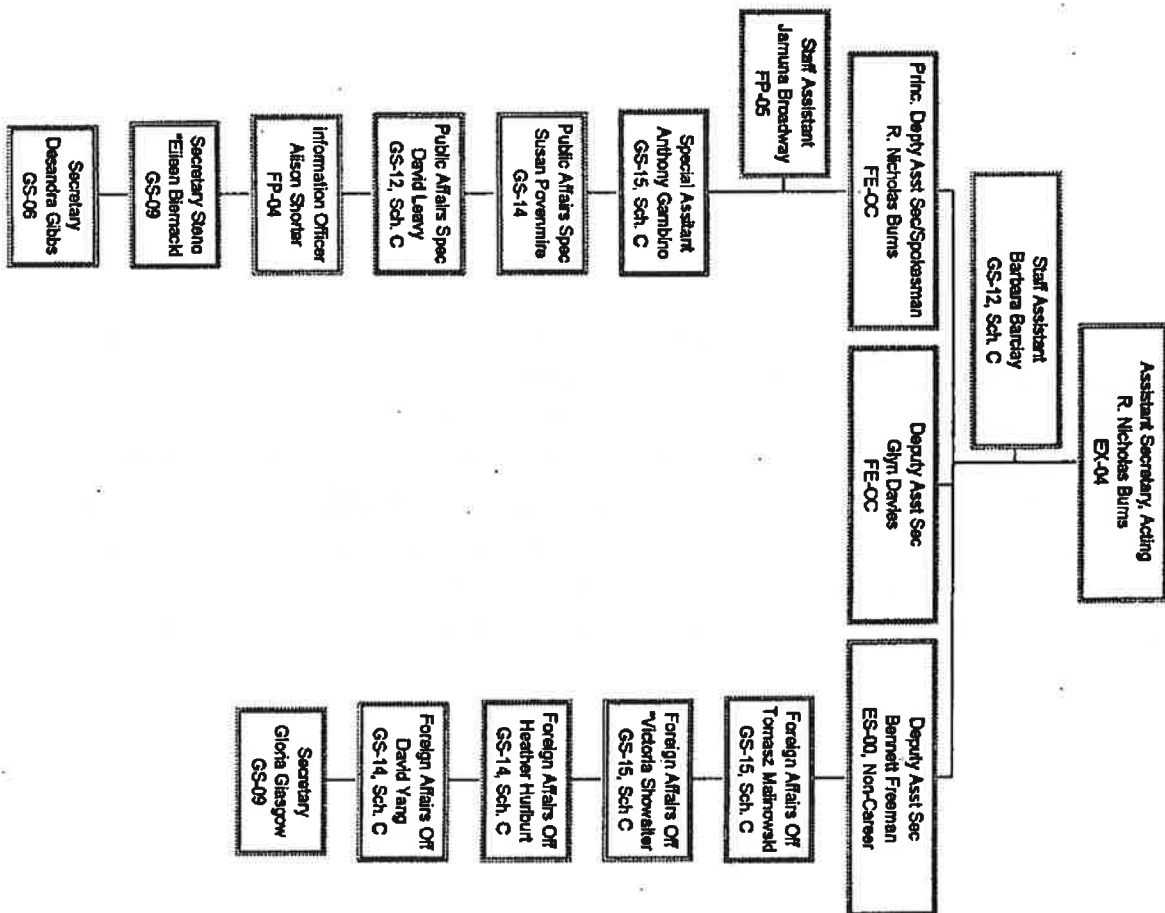
BUREAU OF PUBLIC AFFAIRS (PA)

Directs public affairs activities in the Department. Serves as principal adviser to the Secretary, other senior Department officials, and other U.S. Government agencies on all public affairs, media relations, and information aspects of the Department's responsibilities to the U.S. public. Develops public affairs strategies. Coordinates interagency public affairs strategies with regional and functional bureaus on behalf of the Department. Maintains liaison between the Department, major nongovernmental organizations concerned with foreign affairs, and State and local government officials.

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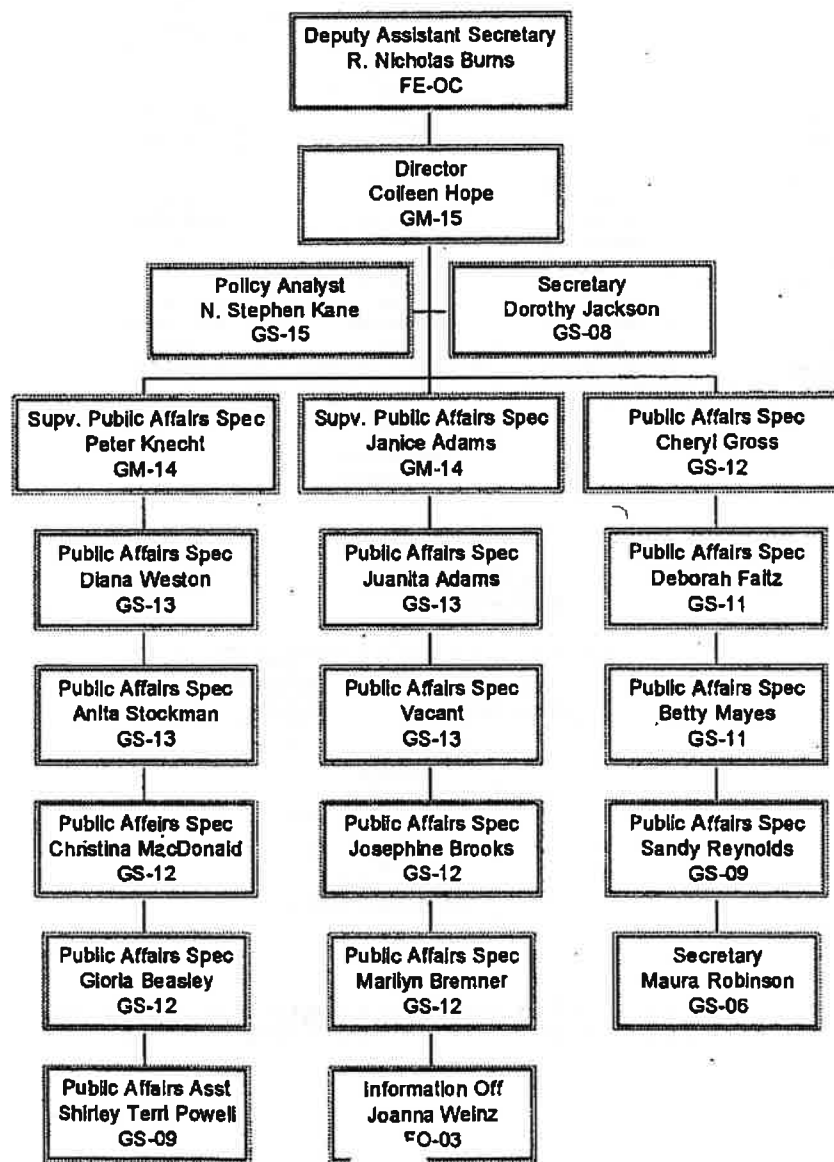
Bureau of Public Affairs



* On Detail to NSC
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Office of Public Communication (PA/PC)

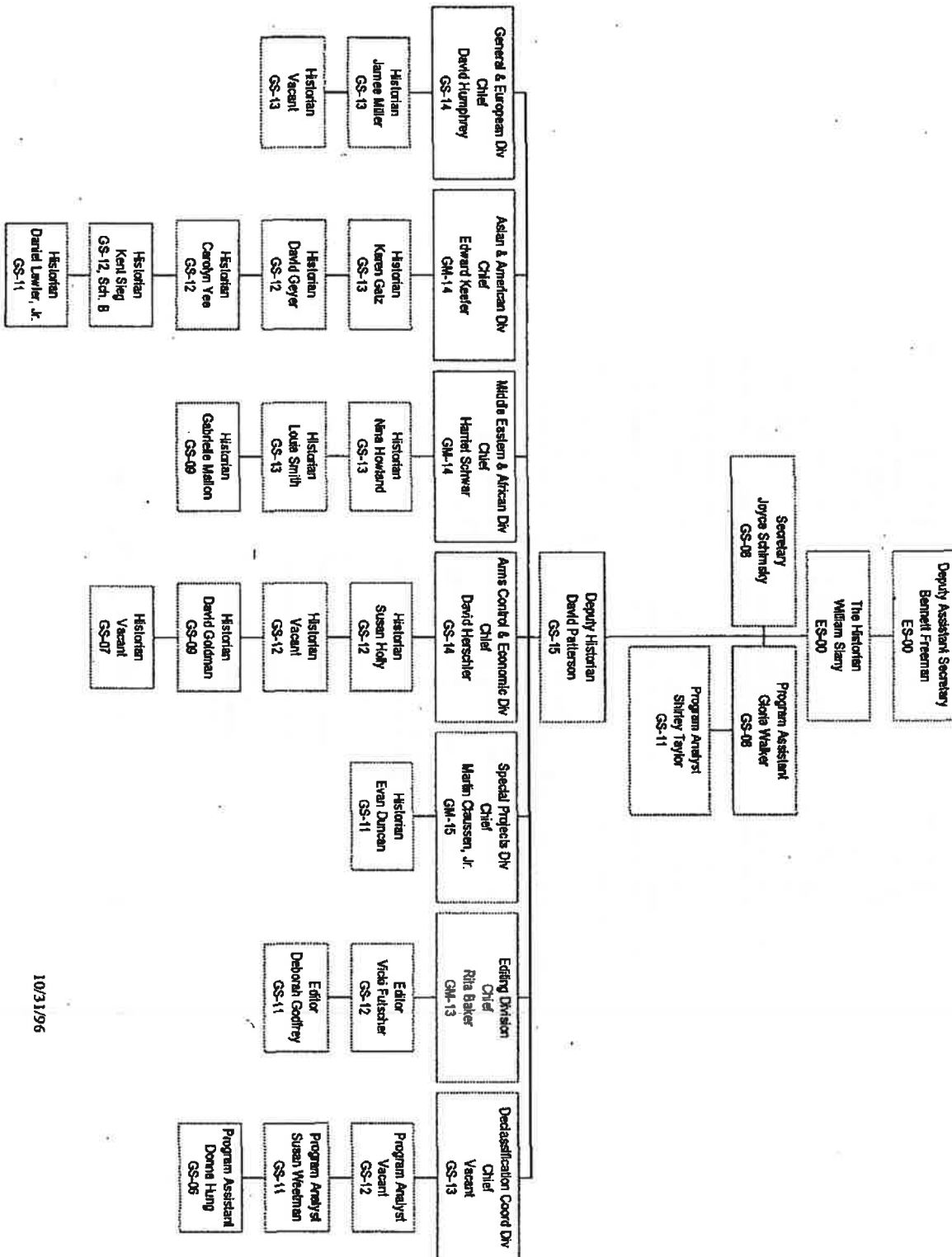


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Office of the Historian (PA/HO)

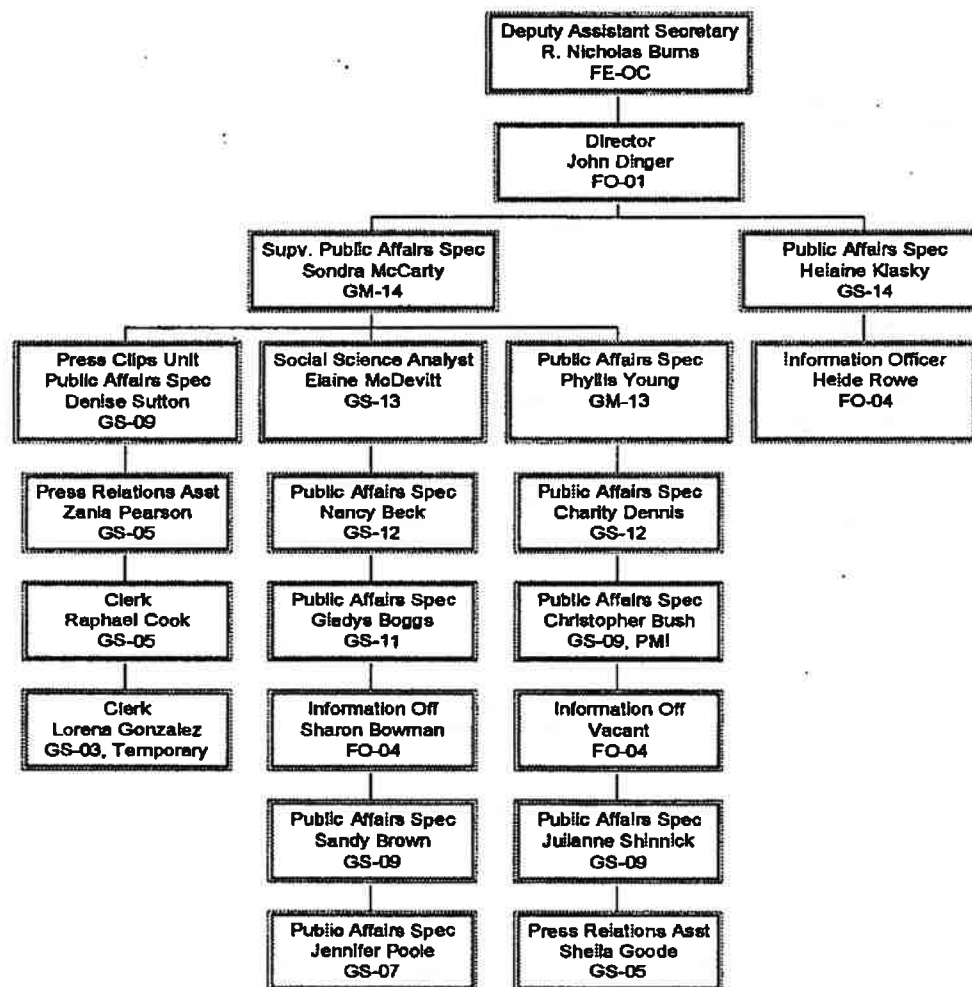


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Office of Press Relations (PA/PRESS)

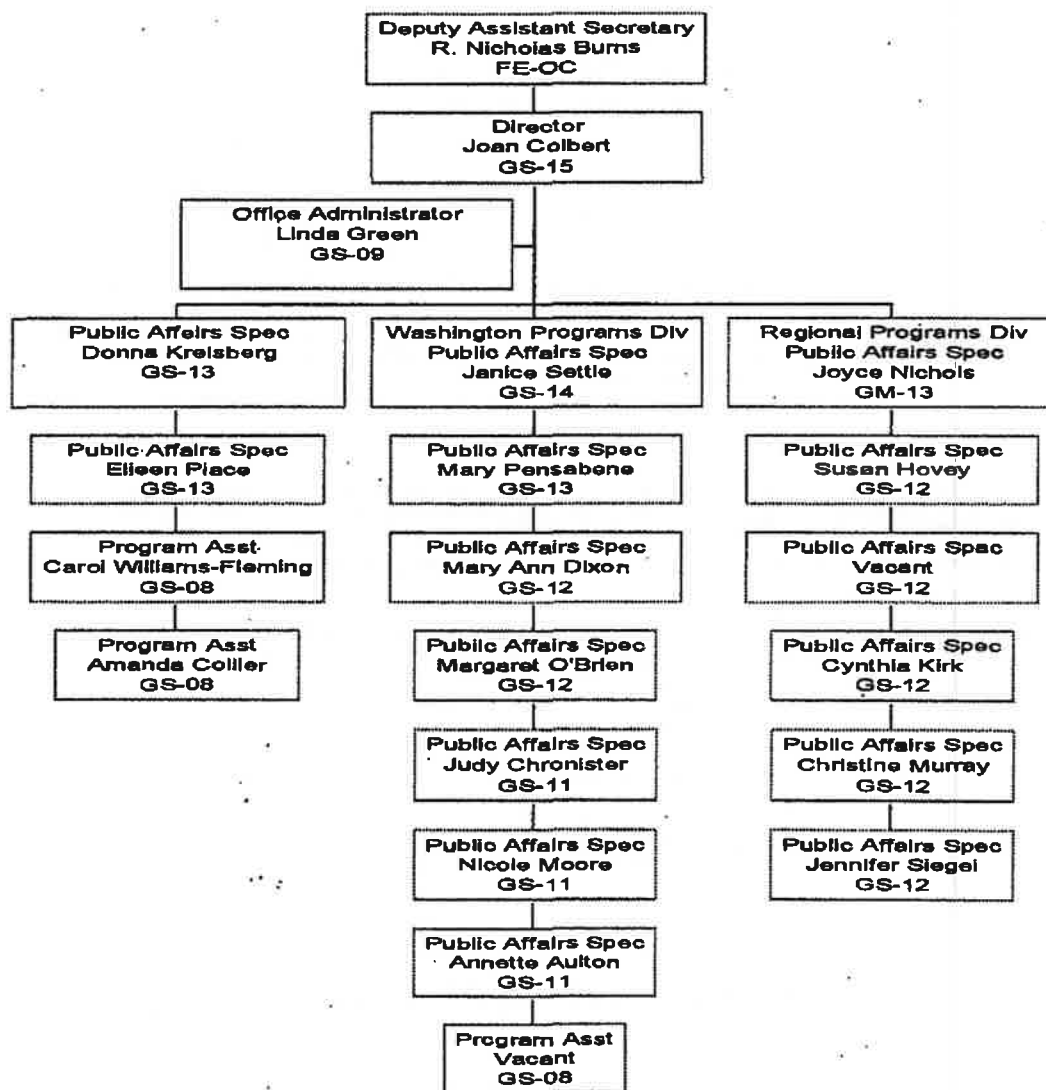


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Office of Public and Intergovernmental Liaison (PA/PIL)



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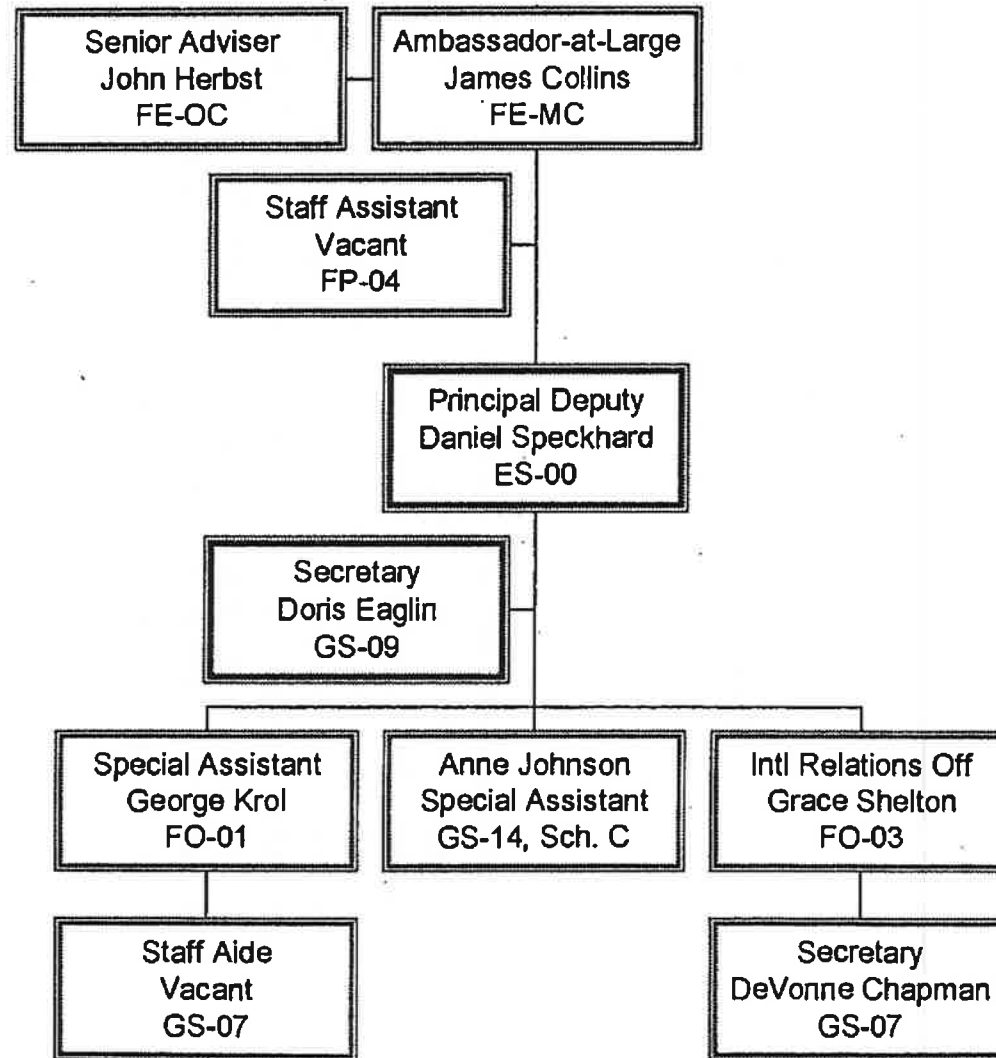
OFFICE OF THE SPECIAL ADVISER
TO THE SECRETARY
FOR THE NEW INDEPENDENT STATES
(S/NIS)

The Ambassador-at-Large and Special Adviser to the Secretary for the New Independent States serves as the principal adviser to the Secretary on issues pertaining to the Independent States. The Special Adviser has principal responsibility in the Department for formulating and implementing proposals relating to NIS policy and has oversight responsibility for the Office of the Independent State and Commonwealth Affairs (ISCA) and the Regional Affairs Office (S/NIS/RA). Coordinates NIS policy both within the Department and with other U.S. Government entities, and chairs Interagency Policy Steering Group on Russia, Ukraine and the Eurasian States.

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Office of the Special Adviser to the Secretary for the New Independent States (S/NIS)



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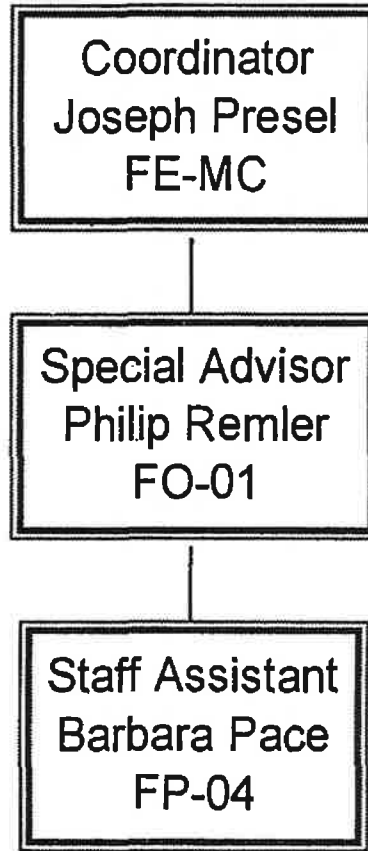
Office of the Coordinator for the New Independent States
Regional Affairs (S/NIS/RA)

Reporting to the Ambassador-at-Large for S/NIS, the Coordinator serves as the Special Negotiator for Nagorno-Karabakh, with responsibility for coordinating within the U.S. government, among U.S. Embassies in the NIS, and with other foreign governments and international organizations, diplomatic efforts to resolve long-standing conflicts. The Special Negotiator is charged with devising and implementing an overall strategy for peacekeeping, peacemaking and preventive diplomacy to resolve the conflict.

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Office of the Coordinator for the New Independent States Regional Affairs (S/NIS/RA)



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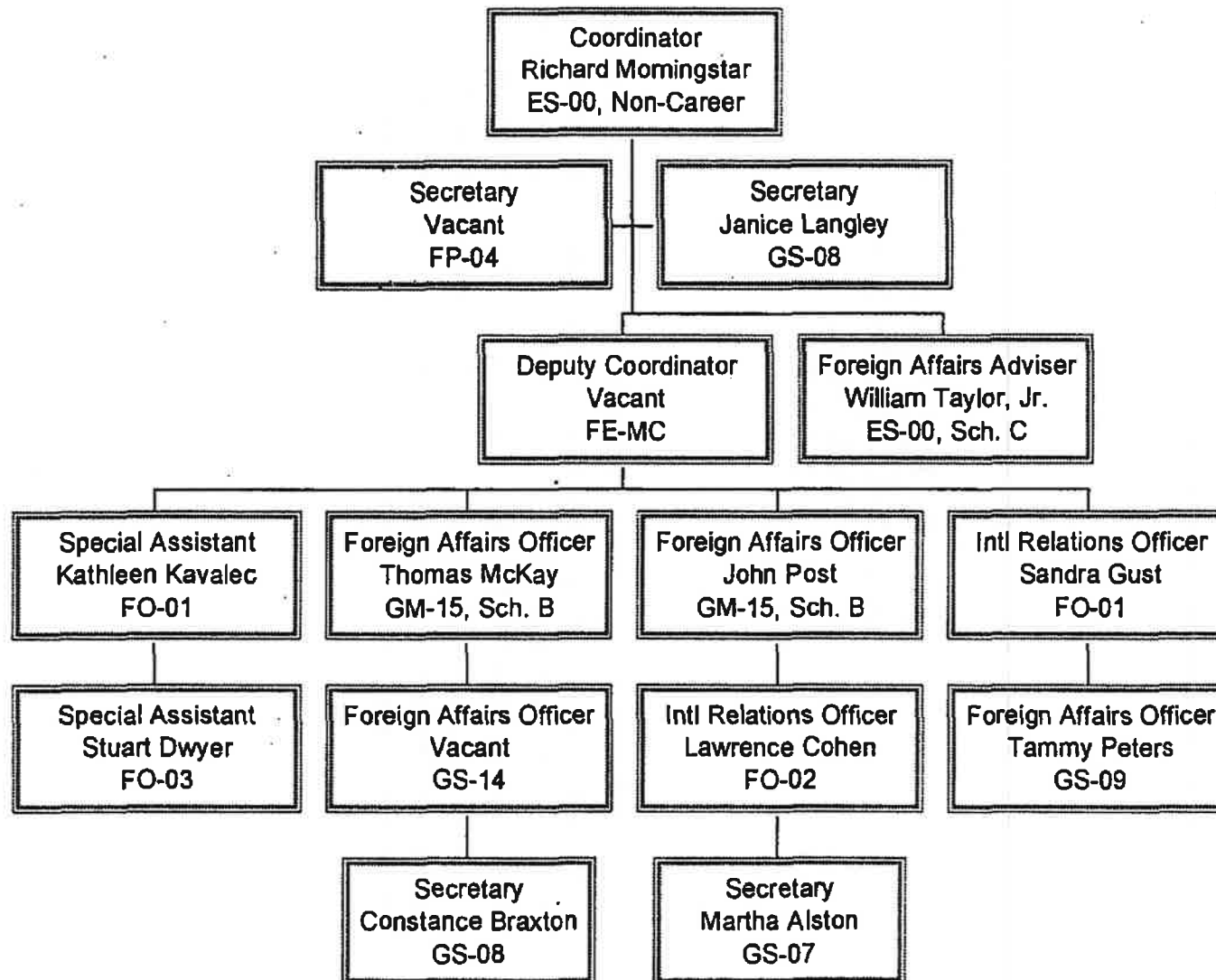
OFFICE OF THE COORDINATOR
NEW INDEPENDENT STATES
ASSISTANCE
(S/NIS/C)

The Coordinator is designated by the President to administer the assistance program for the New Independent States in accordance with Section 102 of the Freedom Act. The Coordinator is also designated as Chair of the Interagency Assistance Coordination Group. As such the Coordinator presides over the allocation of U.S. assistance resources and the interagency process for design and implementation of all policies and programs dealing with bilateral assistance for the New Independent States of the former Soviet Union.

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Coordinator of U.S. Assistance to the New Independent States (S/NISC)



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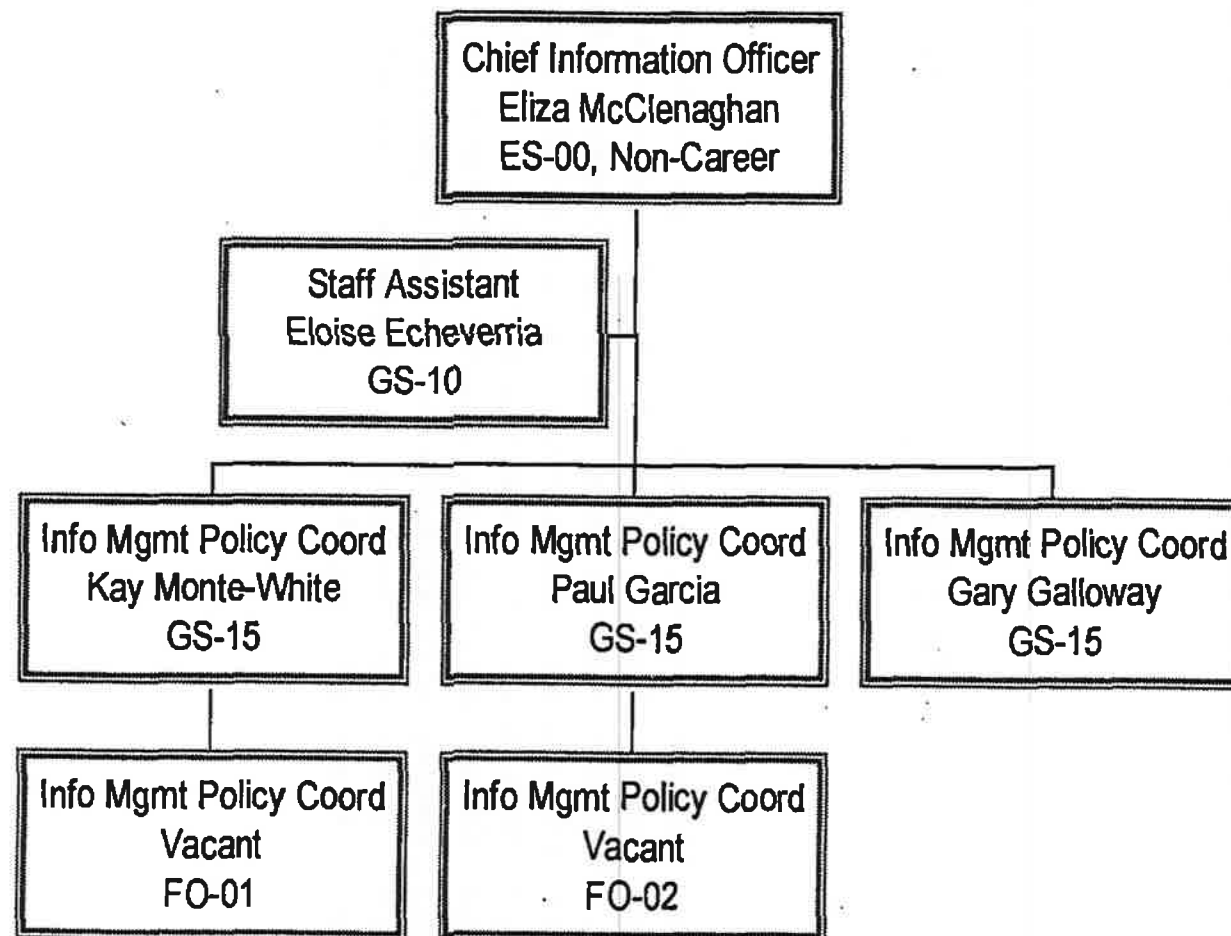
OFFICE OF THE CHIEF INFORMATION OFFICER
(M/CIO)

The Chief Information Office (CIO) is responsible for providing advice and other assistance to the Secretary of State, the Under Secretary for Management and other Senior Department personnel to ensure that information technology is acquired, and information resources managed, in a manner that complies with the Paperwork Reduction Act and other legislative mandates. The Chief Information Officer exercises functional authority on behalf of the Under Secretary in carrying out the responsibilities of the State Department under the Paperwork Reduction Act. This position is mandated by the Information Technology Management Reform Act.

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Office of the Chief Information Officer (M/CIO)



Temporary Consultant - Arthur Freeman

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Budget & Fiscal

Travel Policy - It is the policy of the Government that only travel that is necessary to accomplish the purposes of the Government effectively and economically is authorized. An employee traveling on official business is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business. Excess costs, circuitous routes, delays, or luxury accommodations and services unnecessary or unjustified in the performance of official business will not be reimbursed. Employees will be responsible for excess costs and any additional expenses incurred for personal preference or convenience.

Common Carrier - Travel by common carrier (air, rail, or bus) generally is the most efficient use of resources and the most expeditious means of travel. Other methods of transportation may be authorized only when the use of common carrier transportation would seriously interfere with the performance of official business or impose an undue hardship on the traveler, or when the total cost by common carrier would exceed the cost by some other method of transportation.

Contract Air Services - The General Services Administration (GSA) negotiates special contract fares yearly for Government employees. This program results in cost savings and all personnel governed by the GSA Federal Travel Regulations are required to use contract service. The use of discount fares offered by contract air carriers is considered advantageous to the Government and is mandatory for authorized air travel between those city-pairs. The American Express Office will advise travelers when the mandatory use of domestic and international city-pair fares is required. American Express will issue tickets only for authorized routings using contract fares unless otherwise specified on the travel authorization.

Non-contract Air Service - The use of non-contract air service may be authorized only when :

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Space on scheduled flights is not available;

Use of contract service would require the traveler to incur unnecessary overnight lodging costs;

A non-contract carrier offers a lower fare, the use of which will result in a lower total trip cost, to include the combined costs of transportation, lodging, meals and related expenses.

Advance justification and approval for the use of non-contract air service must be shown on the travel authorization before the actual travel begins.

In the absence of specific authorization or approval stated on the travel authorization, the traveler will be responsible for any difference in cost that may result from the traveler's unauthorized use of non-contract service.

Class of Service - It is the policy of the Government that less-than premium-class accommodations shall be used for all modes of passenger transportation. Employees who use commercial air travel shall use coach-class or equivalent accommodations. Premium-class air accommodations (such as business class) may be used only as follows:

When regularly scheduled flights provide only premium-class accommodations and the employee certifies this circumstance on the travel voucher;

When space is not available in coach-class on any scheduled flight in time to accomplish the purpose of the official travel;

When the traveler has a medically certified disability for which a competent medical authority recommends premium class travel;

When travel is in excess of 14 hours and a rest stop cannot, because of urgency of the mission, be taken;

When security considerations or exceptional circumstances make the use essential to the successful performance of the Agency's mission.

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The S/S-EX Executive Director has the authority to approve business-class travel in excess of 14 hours. Other requests must be approved by the Under Secretary for Management. Travel by business class is not an entitlement and must be justified before approved.

Rest Stops - When travel is direct between authorized origin and destination points which are separated by several time zones and either the origin or destination point is outside CONUS, a rest period not in excess of 24 hours may be authorized or approved when air travel between the two points is by less than-premium-class accommodations and the scheduled flight time, including stopovers, exceed 14 hours by a direct or usually traveled route.

Invitation Travel Orders

Non-Government Employees - Travel expenses of private individuals "invited" to confer or advise on government business can be approved as long as the reimbursement of travel expenses is justified as a necessary expense (i.e. it serves some purpose useful or beneficial to the Government). The invitee must legitimately provide a direct service to the Government, such as making a presentation or advising in an area of expertise.

Government Employees - Invitational travel may be accepted from a non-federal source when it has been determined that:

- (1) the travel relates to the employee's official duties under an official travel authorization issued to the employees,
- (2) attendance at the meeting or similar function relates to the official duties of the employee which represents a priority use of the traveling employee's time; and,
- (3) payment is from a non-federal source that is not disqualified on conflict of interest grounds.

Travelers must get approval from S/S-EX Executive Director for invitational travel.

When accepting invitational travel from a non-federal source the following

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factors should be used as a guide to determine any conflict of interest:

- the identity of the non-federal source,
- the purpose of the meeting or similar function,
- the identity of other expected participants,
- the nature and sensitivity of any matter pending at the Department affecting the interests of the non-federal source,
- the significance of the employee's role in any such matter and,
- the monetary value and character of the travel benefits offered by the non-federal source.

Government American Express Charge Card - Employees who travel more than once a year are required to have a Government American Express Card. Applications are available in S/S-EX.

The Fly America Act, 49 U.S.C. App. 1517, as implemented by the Comptroller General's guidelines, Decision B-138942, March 31, 1981, requires Federal employees and other performing United States Government financed air travel to travel by U.S. flag air carriers.

Travel Requests - A memorandum requesting official travel is addressed to the S/S-EX, Executive Director from the head of each office. These requests will be retained for future audits and will serve as personal certification that the travel was mandatory and the purpose of the trip could not be accomplished by any other means.

Each memorandum requesting travel must indicate, as applicable, the following:

- a. The purpose of the travel - please be specific; "consultation with foreign official embassies, etc." will not suffice for audit purposes.
- b. The itinerary with dates of arrival and departure for each stop.
- c. Cost of hotel accommodations.
- d. Cost and class of air ticket.
- e. Special authorizations: telephone calls, car rental, taxi, etc. Special authorizations must be justified as being necessary and advantageous to the Government.

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If travel involves a speaking engagement, the travel request must be approved by the Bureau of Public Affairs before sending it to S/S-EX.

Travel request must be submitted to S/S-EX a minimum of 24 hours in advance of expected travel.

Travel Vouchers - Within five working days of completion of travel, travelers are required to submit an expense report for the travel performed. Vouchers must be approved by the Budget Officer in S/S-EX. Voucher assistance is available in S/S-EX.

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General Services Office

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General Services Office

Telephones - Government procured telecommunications services, including office telephones and fax machines, cellular telephones, calling cards, and modem lines are to be used only for official business. (S/S Administrative Policy 96/06) Personal telephone calling cards should be used for all non official calls outside of the local calling area. Please note that some calls made from Washington DC to area codes 301 and 703 are outside the local calling area.

S/S-EX receives and distributes telephone bills for long distance, calling card, and cellular telephone bills. Employees are required to annotate and certify that calls billed are official. Payments for all unofficial calls should be made via check payable to the Department of State within 10 working days of the receipt of the bill.

Telephone service in the Main State Building offers a variety of features such as; call forwarding, abbreviated dialing, conferencing and voice mail known as Audix. Telephones with the Audix feature must have a dial 0 option that will connect the caller to an individual. Assistance in the use of these features is available through GSO or in the State Department Telephone Book.

Service changes, additional telephone lines and instrument changes are requested in writing through GSO. Telephone numbers are not relocated for internal office moves since a particular number is not the personal property of an individual sitting at given desk. (For example, an employee changing desks from one work space to another within the same suite.) In these cases, a forwarding message is left on the old number notifying incoming callers of the number change.

Service Problems - In the event that you experience problems during business hours call the AT&T Telephone Operations Center (x79922.) Problems with secure telephone devices, STU IIIs, should be reported to the S Bureau COMSEC custodian at x71532.

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Please report unresolved telephone problems to GSO.

Telephone Books - State Department and local telephone books can be requested through GSO. Please note that all local directories are not stocked, but will be ordered upon request. The State Department telephone directory is available on-line. The printed version has a wealth of information including how to use the various features of the telephone, shuttle schedules, and the publication Key Officers of Foreign Services Posts in its entirety.

Telephone Credit Cards - Telephone credit cards are provided to principals and members of their staff that travel. Two cards are used; MCI for international calls and AT&T for domestic calls. All calls made using these cards must be verified as official upon receipt of bills.

Other Communications Devices - Cellular telephones and pagers are issued to principals and key staff by GSO. Individuals issued these items are held personally liable in the event of loss, theft or damage. These items are not transferable and must be returned to GSO upon departure from the S Bureau to release the user from personal liability. Replacement batteries are available in the GSO Section in Room 7517.

Working at Home - Government regulations strictly prohibit the installation of telephone lines in private residences. This includes lines to support STU III devices installed for home use. The one exception is the Secretary's direct line to the Operations Center.

Fax - Security regulations prohibit the installation of secure fax equipment in private residences since it is not possible to meet physical security and document control requirements.

Classified Telephones/ STU III - A limited number of key personnel are issued STU III devices for home use. Communications only to the secret level are available on instruments used in private residence. There is no longer a requirement to have a field safe to secure the STU key, but the key must be stored separately from the instrument. An inventory of all STU III devices is required every six months by the COMSEC custodian. Home users are

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required to bring the instrument in to the Department or make other arrangements with the COMSEC custodian for verification of the instrument.

Security - The Principal Security Officer for the S Bureau is the Supervisory GSO. Each office in the S area has a Unit Security Officer that answers day to day questions regarding handling and storage of classified material in coordination with DS and the Principal Security Officer. Requests for security clearances should be directed through S/S-EX Personnel Unit. Requests for card reader access, combination and lock changes and other security matters should be directed to GSO.

Classified Documents - Classified material must not be removed from official premises except when necessary in the conduct of official meetings, conferences or consultations, and must be returned to safe storage facilities immediately upon the conclusion of the meeting, conference or consultation. (5 FAM 973) RESIDENCES ARE NOT CONSIDERED OFFICIAL PREMISES. Classified materials may not be removed for reasons of personal convenience or be kept in overnight in personal custody.

The Office

Redecorating - There is a statutory limitation of \$5,000 on spending for the furnishing and redecorating of offices of Presidential appointees (Section 618 of P.L. 102-393, dated October 6, 1992). This provision provides that "no funds may be obligated or expended in excess of \$5,000 to furnish or redecorate the office of (Presidential appointees) or to purchase furniture or make improvements of such office unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations of the House and the Senate."

Redecoration includes the purchase, refinishing and reupholstery of furniture, draperies, carpets, painting and space reconfiguration. The \$5,000 limit applies for the full term of the appointee and includes the entire suite of offices assigned to the individual as well as any other space that is primarily used or directly controlled by the appointee.

Art Bank - The Art Bank is a special program of the Bureau of Administration.

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It offers a collection of lithographs, pastels, watercolors and prints on loan to the Bureaus to decorate Principals' offices. There is a preset allotment of art works for each office. New art works can be selected by arranging an appointment with the Art Bank, x71452. The Art Bank will remove and hang all works that are part of their collection.

The Art Bank does not hang personal art. Many areas of the S Bureau have rare wood paneling and special wall finishes. Individuals desiring to hang personal items on the walls should contact GSO for assistance.

Furnishings, Supplies and Equipment - All furnishings, equipment and supplies are requested through GSO via E-mail or in writing. Toner for printers can be requested from S/S-IRM by sending an E-mail to POEMS or calling the Help Desk at x78700. GSO provides toner for fax machines and copiers as well as stationary (Secretary, Deputy Secretary, action and briefing memoranda) for all offices. We also stock a small quantity of basic office supplies which can be loaned to offices for emergencies.

Each office is expected to maintain sufficient office supplies for daily use, paper, pens, tape, etc. These items are ordered from the GSA catalog via GSO. S/S-EX will obligate the funds and place the order with GSA. The supplies are delivered directly to the requesting office in 2-5 days. If an item is out of stock it will need to be reordered since GSA does not back order.

GSO is the purchasing agent for the S area offices. In that capacity S/S-EX is the only office that has the authority to spend/obligate funds. Individuals making purchases or agreements for services outside of S/S-EX, or without the appropriate authority, can be held financially responsible for the transaction. All purchases are subject to the availability of funding.

All requests for computer equipment, software, Internet access must be coordinated with S/S-IRM. To comply with U.S. copyright laws we **must** purchase the appropriate number of copies of software for all of our equipment. We do not use copies of software that have been purchased for an individual's home use. In addition, due to the potential to infect our networks with viruses and our security requirements on some systems, software is

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installed in laptops and desktop computers only by S/S-IRM.

Official Letterhead & Note Cards - Letterhead and note cards can be provided for offices of Undersecretaries or their equivalents. The letterhead can be printed with the formal office title and/or the position of the principal officer. The stationery may not be personalized with the principals name. In-house printing of letterhead takes 4-5 business days. If an outside source must be used due the special requirements of the job or the printshop work load, delivery of a stationery order can take up to 6 weeks.

Business Cards or Calling Cards - Business cards are considered a personal item rather than an official item and cannot be purchased at government expense.

Framing of Photos & Personal Items - Awards, commissions, training certificates and photographs, including those appointing an individual to office, cannot be framed at government expense. These items are classified as personal and Federal statutes do not allow the use of appropriated funds for this purpose, since the items are destined to remain in the personal possession of the individual.

Cable Television TV & VCRs - All requests for cable television must be directed to GSO. The request should include a justification for the installation. Upon approval by FMSS, the requesting office is required to pay for the annual service fee and the installation charges.

Express Mail - Express mail service is available for the shipment of official documents and small packages that would not be able reach their intended destination in a timely manner by any other cost effective means. It is not intended to replace the use of regular mail or to send a document to an office several blocks away. S Bureau currently has accounts with two carriers, DHL and Federal Express.

DHL is used for international shipping of small packages and documents ONLY. To arrange for package pick up call 1 (800) 225-5345.

Federal Express is used for domestic small packages or documents. Although

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they have international service, they are not to be used to send packages overseas. To arrange for pickup call 1 (800) 463-3339. There is also a pick up point at the 21st Street entrance of Main State.

The requesting office must obtain the air bills with the S specific accounting information from GSO in Room 7519. The requester is asked to sign for each air bill at the time they are issued. Packing envelopes for both DHL and Federal Express are also available in GSO.

Maintenance/Equipment Repairs - For heating, cooling, water leaks, light bulb changes, plumbing problems and other minor maintenance problems, call Facility Management and Support Services (FMSS) x75610.

For problems with cleaning and pest control call Calvin Dubose in FMSS, x72788

Copier repairs during business hours

Canon Service Desk	(703) 807-3250
Xerox Service Desk	(800) 822-2979

Please provide the repair service with the serial number of the copier that needs to be repaired, office room number, contact person and telephone number. A response from a service technician can be expected in 3-4 hours. The service technician will call the office to announce the anticipated arrival time. Calls made at the end of the business day are serviced the next day. After hours service is not available. If additional assistance is required to resolve a copier problem call or Email GSO.

Computers - IRM Help Desk - x78700

Typewriters, safes and all other equipment - Contact GSO.

Construction - All requests for modification of space, moving walls, changing lighting, addition of electrical outlets, doors etc., should be sent to GSO. GSO will prepare a scope of work for the project for submission to the appropriate offices for approval and will coordinate the execution of the project. Offices of

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Presidential appointees are subject to the \$5,000 redecoration limit depending upon the nature of the project.

Parking - Parking is managed by the Office of Facilities Management and Support Services, General Services Division (FMSS/GS). FMSS/GS allots each bureau a specific number of parking permits to manage the limited number of parking spaces at Main State and other Department locations. S/S-EX allocates permits to the individual offices and bureaus under the S umbrella. The individual offices and bureaus determine which of their employees are to receive parking privileges during the Parking Open Season each year in August. Temporary permits can be requested to address short term parking needs. All requests for parking permits and changes in parking permits must be made through S/S-EX.

The current fee for parking in the Main State Garage is \$18.00 per month. As required by the Energy Policy Act of 1992 (P.L. 102-486), individuals that have reserved parking passes are considered to have employer subsidized parking and must pay income taxes on the value above \$165 per month. The IRS requires that this excess amount be included in the employee's gross income.

Parking is a privilege, not a right and all permit holders are subject to the parking regulations. FMSS monitors the use of permits. Failure to comply with the parking regulations or misuse a pass can result in the loss of parking for the individual or reduction in the Bureau parking pass allocation. S/S-EX does not issue citations for infractions and therefore cannot pardon violators.

Use of Motorpool Vehicles - The Motorpool does not provide dedicated cars and drivers to Department of State employees. All Under Secretaries, Assistant Secretaries, Deputy Assistant Secretaries and their equivalents may request a car and driver, by reservation, with Motorpool x71672. Priority ranking for available vehicles is Under Secretaries, Assistant secretaries, and finally Deputy Assistant Secretaries.

Motorpool services are charged to the individual's office allotment. The current rate for use of a Motorpool driver and sedan is \$27 per hour for regular service and \$36 per hour for overtime service. Self-drive vehicles can be

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requested at a rate of \$21 per hour. Given the cost of these services, staff members are encouraged to use taxis. Taxi fares are reimbursable by submission of a receipt for the service and a completed taxi voucher approved by the employee's supervisor. (S/S Administrative Policy 96/02)

6 FAM 1931.2 prohibits the use of government leased vehicles for other than official purposes. This specifically excludes the transportation of officers or employees between their place of residence and place of employment or any other place of business.

Shuttle bus service is provided on a regular basis to the National Foreign Affairs Training Center and to State office buildings in Rosslyn. Shuttle service is also available to Dunn Loring, Clarendon, the Passport Office and Newington, but on an infrequent basis. The bus schedules are posted by the D Street exit where the shuttle buses stop and are listed in the State Department Telephone Book.

Meeting Rooms

Principal's Conference Room (adjacent to Room 7516) offers table seating for up to 19 persons and a maximum capacity of 42 persons using the theater style seating at the back of the room. A full complement of audiovisual equipment is available (table microphones, overhead projector, TV and VCR) as well as a podium. Meetings can be held to the Top Secret level. Contact S/S-0/CMS x77234 to reserve.

Treaty Room (7th floor between the main elevators) is generally used for official ceremonies, swearing in of ambassadors, and receptions of up to 150 persons. Podiums and audio equipment for use in the Treaty Room can be requested from Technical Services x71634. Contact S/S-EX for reservations, x75638.

8th floor Reception Rooms, auditoriums, conference and meeting rooms - Contact the conference coordinator, Penny Price, x71729. These spaces are managed by FMSS/GS/BU. Requests can be faxed to the conference coordinator at x70718 with a copy to GSO. GSO will provide authorization to the conference coordinator for labor charges associated with the event such as

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providing tables, chairs, stage set up and water service.

Meetings and Food - Food, including coffee service, cannot be provided at government expense for meetings or conferences that are not official representational functions. Official representational funds are provided to assist officers in carrying out their official representational responsibilities. These funds are intended to be used for the entertainment of foreign guests. However, funds may be used to entertain American academicians, business, media, Congressional members/staffers, political leaders or private citizens so long as the clear purpose is to further U.S. foreign policy. Questions and requests for funds should be referred to the Office of the Chief Financial Officer, Donna Bordley, x75031.

Official Photos/ Printing Requests /Conference Services - Technical Services will make official photos of the Secretary, Deputy Secretary, Under Secretaries and equivalents and provide a limited number of prints and negatives. Additional photos are made by outside vendors through GSO. An office requesting additional official photos should provide GSO with the negatives and written request as to the size and number of prints and the desired delivery date.

Department photographers can be requested for official events such as retirements award ceremonies etc., at cost to the requesting office. Call GSO to make the arrangements.

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Information Resources Management

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Office of Information Resources Management

Information Technology (IT), an important adjunct to any organization has become increasingly critical to the Department's role in the implementation of foreign policy. Long recognizing the importance of IT, the Executive Secretariat (S/S) created an organization dedicated to the computer support of the "seventh floor" principals, staff and other offices under the administrative umbrella of S/S.

The office of Information Resources Management (S/S-IRM) was created in the late 1980's by then Executive Secretary, Melvyn Levitsky. S/S-IRM provides a full range of computer support including:

- Administration
- Operations
- Help Desk
- Software Development
- Hardware Service

Systems Support - Networked computers are used on either of two networks: a Sensitive But Unclassified (SBU) network called Open/Net and a Classified network called the Principal Officers' Electronic Mail System or POEMS. Access to either network is controlled. Request for Access Forms are available by calling the Help Desk (x 78700) which operates on a 7x24 hour basis.

Unclassified System - The Sensitive But Unclassified network or Open/Net provides an e-mail connection to the majority of Department of State employees who are on the SBU network including domestic and overseas employees. In addition, e-mail (without attachments) can be sent to and received from Internet addressees through a "firewall" between the Department and the outside world. Other Internet functions such as Web access and FTP are not allowed. Web access can be achieved through the use of a stand-alone PC with a modem.

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Classified System - The Classified network or POEMS provides a connection to the Department's network of classified computers. Applications available include the Microsoft Office suite of software (Word, Powerpoint and Excel), Microsoft Exchange for e-mail and other applications meeting an office's specific needs.

Telegram delivery to the desktop is provided through a "folder" in Microsoft Exchange. Newstickers are also delivered electronically to an Exchange "folder."

Surfing - Requirements for access to outside information services such as Lexis/Nexis, CompuServe and the Internet will be met through the use of a stand-alone PC and modem.

Problems with applications, PCs and printers should be reported to the Help Desk by either e-mailing POEMS or calling x 78700. Again, the Help Desk is staffed on a 7x24 hour basis, 365 days a year.

Historical Records - While many of the e-mail messages exchanged within the Department are of only temporary interest or value, some contain information that must be preserved for historical record. Current Department policy requires that e-mail messages considered to be official records be printed and retained on file by the user. This policy is necessary for at least two reasons:

- 1) limited storage capabilities preclude our retaining more than a few months of e-mail messages on disk or tape, and
- 2) no technical capability exists to search electronically for and retrieve e-mail messages in response to congressional, White House, public, or other requests for information.

E-mail messages are official records when they:

“... are made or received by an agency under Federal law or in connection with public business; and,

... are preserved or are appropriate for preservation as evidence of the

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organization, functions, policies, decisions, procedures, operations, or other activities of the Government, or because of the informational value of the data within them.”

Logging-on - The POEMS staff will provide additional information about Electronic Mail Records when you receive your system logon.

On-site support will be provided by Lynn Sweeney or Yolonda Martin. One of them will be available in the transition area to provide immediate assistance.

IRM Staff - If you have any new requirements or questions about POEMS or any facet of computer support, please call:

Dan McIe	x7-2977
Tom Young	x7-2977
John Bentel	x7-8104

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**Administrative Procedures
(Greentops)**

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S/S Administrative Procedures

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No. 96/01 - S/S ADMINISTRATIVE PROCEDURES**SUBJECT: LAPTOP COMPUTERS AND PERIPHERALS -
INDIVIDUAL RESPONSIBILITIES**

As with all government property, custodians must be held responsible and accountable for exercising all reasonable efforts to protect computer equipment issued to them against theft, loss, damage, and abuse. This is particularly important given the pressure on our budget. We simply cannot afford to replace lost or damaged equipment. Where negligence is demonstrated in the damage or loss of the issued equipment, repair or replacement charges must be assessed to the custodian. Several S family members have paid for loss and damage to pagers and cellular telephones.

Recently, an IBM ThinkPad computer was damaged beyond economical repair. Apparently, it was dropped onto a hard surface breaking the case and destroying the display of the \$4,500 machine. Other laptop computers have been left behind by travelers, have been physically damaged, or have had food and drink spilled in them. At least one credit-card style modem has been ruined due to apparent rough treatment. There have been several reports of officers not using the provided protective carrying cases for their laptops, instead carrying them in their personal luggage, thereby risking damage to the equipment.

These damages and risks have occurred because individuals assigned laptop computers and peripheral devices (printers, modems, etc.) are not exercising reasonable and adequate care in the treatment and protection of the equipment. Please be aware of the value of these items since their high cost could cause financial hardship to individuals found to have lost or damaged them.

If you have any questions about the care or use of laptop computers or peripheral equipment, please contact Lynn Sweeney (Ext. 7-8183) or June Kim (Ext. 6-4915) in S/S-IRM for assistance.

Richard J. Shinnick
Date: 1/20/96

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No.96/02-S/S ADMINISTRATIVE PROCEDURES

SUBJECT: REIMBURSEMENT FOR TAXI EXPENSES
BETWEEN OFFICE AND HOME

Under certain limited circumstances, employees may be reimbursed for the cost of taxicab travel between office and home. The attached policy details the circumstances under which reimbursement is permitted. Please note that receipts are required for reimbursement, and that transport from home to office can only be provided in extraordinary circumstances.

To help employees get prompt reimbursement, (effective immediately), S/S-EX provides same-day processing of taxi vouchers. If the voucher is submitted by 9:30 a.m., the voucher will be approved and ready for processing at 11:30 a.m.

The reimbursement process works as follows:

When a taxi voucher is submitted, S/S-EX approves the reimbursement and places fiscal data on the voucher. The voucher is ready to be taken to room 1258. The money will be provided on the spot.

To remind, we continue to encourage individuals to use taxis in lieu of Motor Pool transport at any time, and we hope our procedure serves our customers well.

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Under the provisions of 6 FAM 1933.1, and subject to the guidelines below, S/S-EX can reimburse employees for certain taxicab expenses associated with travel between office and home.

I. Office to Home: Reimbursement can be approved for taxi travel from office to home performed after normal work hours when public transportation is unavailable, or when walking to the nearest bus or Metro stop during hours of darkness, after the rush hour, would be a risk to personal safety. The following restrictions apply:

A. Claims for office-to-home taxicab expenses can be approved and reimbursement made when all of the following conditions exist:

1. The expense resulted from officially ordered unscheduled overtime.
2. The employee was dependent on public transportation.
3. The travel was during hours of darkness when public transportation was not available, or a risk to personal safety was involved.
4. A statement certifying to items 1, 2, and 3, above is typed on the face of the voucher form (SF-1164).
5. The voucher has been approved by the Office Director or a person designated in writing by the Office Director.
6. Original receipt for the taxi fare is attached to voucher.

B. In accordance with Comptroller General rulings, reimbursement of office-to-home taxi fares cannot be approved if:


1. The expense was incurred merely because public transportation was inconvenient.
2. The travel was incident to regularly scheduled overtime.
3. The travel was incident to after-hours work performed on a voluntary basis (i.e., not officially ordered).

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II. Home to Office: Reimbursement for taxi travel from home to office is made only in rare instances and only when fully justified by all the circumstances. In no event can reimbursement of home-to-office taxi fares be approved for an employee who owns an automobile.

III. POV Expenses: Regardless of the requirement to report for officially ordered overtime duty, an employee may not be reimbursed for "mileage" for using a privately owned automobile nor for parking fees paid to park a privately owned automobile.



Richard Shinnick
Date: 4/12/96

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No.96/03 - S/S ADMINISTRATIVE PROCEDURES

SUBJECT: TRAVEL REQUESTS AND VOUCHER CLAIMS

In accordance with our internal control management policies, the following management controls have been established:

Memorandum requesting travel is addressed to the Executive Director from the head of each office. Each request indicates as applicable, the following:

- a. The purpose of the travel
- b. Itinerary
- c. Dates of travel
- d. Cost of accommodations and airfare
- e. Number of employees from office attending the same conference or making the same trip
- f. Any special authorizations such as long distance telephone calls, car rental, taxi, etc.

If travel involves a speaking engagement, the travel request must be approved by the Office of Public Affairs before sending it to S/S-EX.

The Deputy Executive Director approves the travel request. The Budget Officer approves funds available.

The Travel Assistant calculates per diem, entitlements and miscellaneous expenses in accordance with the FAMs and the Standardized travel regulations.

The Travel Assistant enters the travel data into CFMS. CFMS has two levels of authority, Pass 1 and Pass 2. Pass 1 allows data to be entered only. Pass 2 allows the data to be approved and processed. The Travel Assistant is authorized Pass 2 authority in processing travel data. Once the data has been approved, processed and printed, the Deputy Executive Director (or Executive Director) signs as approving official and the Budget Officer signs funds available. The traveler is given an original and one copy of the travel authorization.

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Upon completion of travel, the traveler is required to submit a voucher claim for reimbursement of expenses within five work days of completion of travel. Voucher claims must include all supporting documentation, including air tickets and hotel receipts, as applicable.

The Budget Officer signs as approving officer on the travel voucher claim form. As approving officer he/she has determined that (1) Reimbursement is claimed for official travel only and (2) All special authorizations are advantageous and in the interest of the Government. This approval will be completed within two work days of submission by the traveler.


Richard Shinnick

Date: 6/11/96

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No. 96/04 - S/S ADMINISTRATIVE PROCEDURES

SUBJECT: EEO AND DIVERSITY TRAINING

The Secretary regards the advancement of equal opportunity and civil rights goals in and outside the workplace as critical to the Department's mission. He personally, along with others in the S bureau family, has taken a number of steps recently toward implementation of the Department's response to the issues raised by the Palmer and Thomas suits. As you may be aware, U.S. District Judge Aubrey Robinson granted final approval to the Global Consent Decree in the Palmer suit on February 12 of this year; and on March 22, U.S. District Judge Stanley Sporkin granted preliminary approval to the consent decree in the Thomas suit. We all need to be aware of important initiatives being undertaken here in the Department as a result of those consent decrees.

The consent decrees require that the Department shall establish a Council for Equality in the Workplace, to be chaired by the Under Secretary for Management, which will act as an executive coordinating committee for the purpose of advancing the Department's equal employment opportunity and civil rights goals; Under Secretary Moose has appointed Executive Secretary Bill Burns as a member of that council, to assist in carrying out its mandate to consult with Assistant Secretaries, invite comments from individual employees, and analyze Department data to identify real or perceived barriers to advancement based on gender and race, and make recommendations for corrective action if required.

The consent decrees also require that all supervisors of FSOs shall participate in diversity awareness training. The deadline for supervisors who are in Washington is August 11, 1997. The Secretary visited one NFATC training course, "EEO/Diversity Awareness for Managers and Supervisors" on Monday, June 10, to emphasize to course participants his personal interest in and commitment to EEO. He came away very impressed with NFATC's responsiveness to the Department's requirements in this regard.

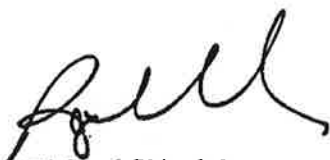
S/S-EX is in the process of upgrading the computer systems in the Office of Equal Employment Opportunity and Civil Rights (S/EEOCR) to enable that office to maintain optimum efficiency and responsiveness in support of the Department's EEO agenda. PER has also issued new guidelines to bureau executive directors and awards officers for implementing consent decree provisions for Department awards. Our S family awards committees are meeting to discuss those guidelines and ensure that they are in full compliance with them.

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More remains to be done, however, and your full support is needed to ensure 100% compliance with the letter and -- equally important -- the spirit of the consent decree requirements. To date, only a handful of our bureau supervisors of FSO employees have registered for one of NFATC's several offerings of the EEO/Diversity course.

Supervisors of FSO employees should not delay their enrollment in this course, and by their active participation in fulfilling the consent decrees' requirements, set the standard in the S bureau for the Department as a whole. To further these important initiatives, S/S-EX Deputy Executive Director Jo Ellen Powell will track all aspects of the Bureau's compliance with EEO/Diversity requirements. She is located in Room 7511A, telephone number 647-5467. Thank you all for your support and cooperation.



Richard Shinnick
Executive Director

June 21, 1996

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No. 96/05 - S/S ADMINISTRATIVE PROCEDURES**SUBJECT: COOLING AND HEATING PROBLEMS**

Many bureau clients have expressed concern about the continuing temperature extremes in S Area offices. Below, please find a brief synopsis of the issues that affect the climate control in our offices.

Most of the heating and cooling equipment was installed when the building was constructed about 40 years ago. Parts are scarce and often the building has to improvise. The building was originally designed for 5,000 personnel although 8,000 are currently housed. Increased personnel density increases the heat generated in the building. Air flow patterns have been disrupted by the installation and demolition of walls to accommodate additional staff. To further complicate the situation, heat-generating equipment such as laser printers and copy machines did not exist when the building was constructed.

People have different levels of tolerance to temperature changes and adjust at different rates. The maintenance contractors constantly adjust and re-adjust the system to meet individual, immediate needs at the cost of overall system integrity.

No building, no matter how new or advanced, can adequately adjust to dramatic changes in outdoor temperatures. For example, during the winter we experienced a 40-degree drop in temperature in less than 12 hours. That day most of the complaints of hot offices came in the morning before the temperature dropped when the outdoor air temperature was 62 degrees.

A/OPR/FMSS is doing everything possible to address the temperature problems. They have initiated several corrective maintenance projects such as the installation of new minimum air vents in an effort to reduce the temperature variations. In addition FMSS is checking all S area environmental units to ensure they have the correct setting. FMSS has 16 persons assigned to manage these systems and have designated the S area offices as priority whenever they are called upon. As always, S/S-EX will immediately respond to address any temperature problems for our clients, either by e-mail (sent to "GSO") or telephone (7-5475 or 7-9221).



Richard Shinnick
Date: July 30, 1996

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No. 96/06 - S/S ADMINISTRATIVE PROCEDURES**SUBJECT: Use of Government Telephones**

Government-procured telecommunications services, including office phones and fax machines; cellular phones, calling cards, and modem lines, are to be used only for official business. This restriction also applies overseas to landline and cellular phone services, including the Mitel system which supports the Secretary's travel, provided at Government expense at hotels and embassies. *In other words, non-official calls are not permitted.*

Local Calls

Per 5 FAM 513.1, Government-procured local telephone services are to be used for official business only. However, other calls determined to be necessary in the interest of the Government, including emergency personal calls, may be authorized. Examples of calls that may be considered necessary in the interest of the Government are:

- (1) Brief calls to a spouse or child-care provider;
- (2) Brief calls to the employee's family physician or dentist; and
- (3) Brief calls to businesses that can only be reached during working hours, such as a local government agency, bank, automobile service station, or insurance company.

These exceptions apply only to local landline calls. When a cellular phone is used for the above stated reasons, the employee is required to reimburse the government for the call.

Long Distance Calls

Non-official long distance calls are prohibited. Personal calling cards should be used for all non-official calls to locations outside the local calling area. Please keep in mind that not all calls made from Washington, DC to the 301 and 703 area codes are local. Local telephone directories contain detailed information on the exact exchanges located within the local calling area.

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An employee who does not have a personal long distance calling card and is faced with a personal emergency may make a long distance call with the prior permission of the employee's supervisor. The employee must reimburse the Department for the call. Department-issued long distance calling cards should never be used for personal calls.

Phone Bills

S/S-EX regularly distributes long distance, calling card, and cellular phone bills to all bureau offices, which in turn distribute the bills to employees. Employees are reminded to check their bills carefully, to annotate each call as official or personal and to reimburse the Government for all non-official calls. Payment for personal calls should be made by check to the Department of State and should be delivered to S/S-EX, Miles Tracy, within 10 working days of receipt of the bill. For employees who regularly travel with the Secretary, S/S-EX will soon be receiving and distributing detailed reports from IM/VIP for calls made on the Mitel phone system installed at overnight stops, to ensure that all of these calls are official.

If you have any questions or concerns about your bills, please contact Miles Tracy in S/S-EX on extension 7-6883.



Richard J. Shinnick
Executive Director

Date: July 16, 1996

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No. 96-07 - S/S Administrative Procedures**SUBJECT: Who's Who in S/S-EX**

Please find attached a list of S/S-EX personnel and their principal duties and responsibilities. We hope that this reference document will be a useful management tool for you, by directing you to the appropriate S/S-EX staff member to respond to your requests.

Richard J. Shinnick, Executive Director (7-7457)

- overall section management*
- trip coordinator for the Secretary*

Charles Hughes, Deputy Executive Director (7-5467)

- special projects*

Jo Ellen Powell, Deputy Executive Director (7-5467)

- daily supervision of section*
- S/S awards committee chairman*

Mary Ann Fisher, Staff Assistant (7-7457)

- staff assistant to the Executive Director*
- preparation of plane requests, manifests, guest and staff memoranda*

Margaret Riccardelli, Secretary (7-5467) (ETA 7/29/96)

- secretary to Deputy Executive Director*

BUDGET AND TRAVEL SECTIONToni Hawkins, Budget Officer (7-5495)

- section supervision*
- oversight of all budget and funding issues*

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- *Secretary and Deputy Secretary representation funds*
- *overtime allocations*
- *travel allocations*
- *certifier of funds availability*
- *preparation of financial reports*
- *preparation of financial data*
- *OBM submissions*
- *approving official for travel vouchers*

Reginald Green, Budget Analyst (7-9794)

- *budget and funding issues for S and PA*
- *taxi and petty cash reimbursements*
- *bills and invoices; vendor payments*
- *Travel vouchers*
- *gift account - Speaker's account*

Le George, Budget Analyst (7-5472)

- *budget and funding issues for D, P, E, T, G, M, S/NIS, S/NIS/C, S/RPP, SMEC.*
- *taxi and petty cash reimbursements*
- *bills and invoices; vendor payments*
- *funding for transfer of labor charges*
- *payments for domestic hotel bills - Secretary travel*

Stephanie Coates, Budget Analyst (7-5468)

- *budget and funding issues for H*
- *coordinator, Travel Management Program implementation*
- *taxi and petty cash reimbursement*
- *bills and invoices; vendor payments*
- *American Express Government Charge Card program*
- *fund cites for transfer of labor charges*
- *requests vendor codes for CFMS*
- *bills Press for travel via MAC*
- *assists travel officer*

Curtis Taylor, Travel Officer (7-5696)

- *issuance of travel authorizations*
- *preparation of travel vouchers*
- *per diem and mileage calculations*
- *passport requests*
- *requests for photos*

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- *airline tickets*
- *travel regulations and entitlements*
- *fare quotations*

GENERAL SERVICES SECTION

Tom Burke, GSO (7-9221)

- *section supervision*
- *contracting officer*
- *large acquisitions*
- *credit card purchase authorizing officer*
- *vendor liaison*
- *security officer*
- *OIG liaison*
- *internal controls manager*
- *D travel coordination*

Nedra Overall, GSO (7-5475)

- *alternate contracting officer*
- *professional services contracts*
- *vendor liaison*
- *trip coordination assistance*
- *minor construction, building repair requests, electrical work, renovation projects*

(NB: heating adjustments, air conditioning and routine lighting problems should be reported directly to ext. 7-5610; cleaning and pest control items should be reported to ext. 7-2788)

George Rowland, General Services Asst (Property) (7-8842)

- *property control manager: distribution and movement of non-expendable property, (e.g. furniture and equipment, cellular phones, pagers) and expendable supplies*
- *labor/manpower requests*
- *furniture repairs, carpet cleaning requests*
- *typewriter repairs*
- *specialized stationery items (letterhead, briefing or action memorandum forms)*
- *supplies/equipment for S & D travel*

Shirley Neal, General Services Asst (Procurement) (7-5621)

- *requisitions for purchase orders*
- *publications/subscription requests*
- *equipment repairs*

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- *vendor liaison*
- *safe and lock repairs*
- *copier repairs*
- *credit card purchases*
- *Department Notices Requisitioning*
- *general GSA information and supply requests*
- *audio-visual equipment requests*

Miles Tracy, Administrative Specialist (Telephones) (7-6883)

- *installation, moving, modifications of telephones*
- *billing for official phones, including cellular phones*
- *long-distance official telephone credit cards*
- *STUs/COMSEC Custodian*

(NB: *simple telephone repair requests should be made directly to 7-9922*)

Jay Clark, Clerk (7-7665)

- *parking passes*

PERSONNEL SECTION

Pat Carter, Personnel Officer (7-5638)

- *supervisory personnel officer*
- *employee relations*
- *Foreign Service assignments*
- *resources/FTE*
- *Senior Foreign Service, Senior Executive Service*
- *staffing and placement*

Kristen Thompson, Personnel Management Specialist (7-5260)

- *GS/FS performance evaluations*
- *intern program*
- *Civil Service merit promotion program*
- *position classification*
- *recruitment, staffing & placement*

Cynthia Motley, Administrative Officer (7-5638)

- *awards program administration*
- *insurance*
- *retirements*

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- Thrift Savings Plan*
- training*
- recruitment, staffing & placement*

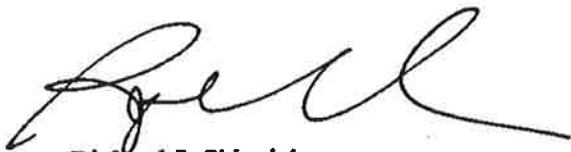
Lori Hart, Administrative Assistant (7-5478)

- consultants*
- differentials*
- employment verification*
- entrance-on-duty*
- payroll issues*
- special clearances*
- time and attendance*
- transfer of labor*
- within-grade increases*

Shirley Gilmore, Secretary/Receptionist (7-5638)

- Treaty Room reservations*
- processing training requests/confirmations*
- campaigns - CFC, bonds, blood drives, etc.*
- PER files and manuals*
- personnel locator; telephone directory changes*

(NB: Reservations for the Principal Officers' Conference Room should be made through S/S-O-CMS, ext. 7-2374)



Richard J. Shinnick
Executive Director

July 30, 1996

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No. 96-08 - S/S ADMINISTRATIVE PROCEDURES

SUBJECT: DESIGNATION OF AUTHORITY
S, PA, & H BUREAUS

<u>DESIGNATION</u>	<u>FAM REF.</u>	<u>POSITION DESIGNATION</u>	<u>DESIGNEE</u>
<u>General</u>			
Internal Controls Coordinator (S)	89 State 323132	Supervisory GSO	Nedra Overall
Internal Controls Coordinator (PA)		Executive Assistant	Susan Povenmire
Internal Controls Coordinator (H)		Director, Legislative Operations	Ronald Deutch
Claims Coordinator	6FAM 312	Supervisory GSO	Nedra Overall
Duty Officer (S)	2FAM 111.2	Roster prepared by S/S-EX/PER	
Duty Officer (PA)		Roster prepared by PA	
Duty Officer (H)		Roster prepared by H	
Ethical Conduct/ Conflict of Interest	3FAM 620	Executive Director	Richard Shinnick
Freedom of Information Act Officer	5FAM 482	Chief, Records Mgmt Div.	Charles Jackson

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**Grievance Resolution
Officer**

3FAM 660

Executive Director

Richard Shinnick

Budget & Fiscal

Approving Officer 4FAH 3H-414

Supervisory Budget Officer
AlternateAntonia Hawkins
Reginald Green

Funds Control Officer 4FAM 131.3

Supervisory Budget Officer

Antonia Hawkins

Communications, Systems and Security

Comsec Custodian 5FAM 982.3

Communications Officer

Bill Estell

Information Systems
Security Officer

5FAM 991.2

Systems Manager

Tom Young

Bureau Security
Officer

5FAM 992.1

Supervisory GSO

Nedra Overall

General ServicesAccountable Property
Officer

6FAM 222.2

Executive Director
AlternateRichard Shinnick
Jo Ellen PowellAuthorizing & Approving
Officer (Travel) 6FAM 121Deputy Executive Director
AlternateJo Ellen Powell
Richard ShinnickAuthorizing & Approving
Officer (Representation) (S) 6FAM 127Executive Director
AlternateRichard Shinnick
Jo Ellen PowellAuthorizing & Approving
Officer (Representation) (PA)

PDAS

R. Nicholas Burns

Authorizing & Approving
Officer (Representation) (H)Director, Legislative Operations
AlternateRonald Deutch
Peter Hinz

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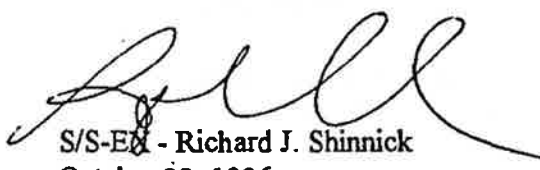
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Contracting Officer	6FAM 221.1	GSO	Nedra Overall
Bureau Safety & Health Officer	6FAM 613.3b	GSO	Nedra Overall
Property Disposal Officer	6FAM 222.1	Supervisory GSO	Nedra Overall
Property Management Officer	6FAM 222.3	GSO	Elizabeth Moore
Receiving Officer	6FAM 225.3	GSO	George Rowland
S/S-IRM Receiving Officer	6FAM 225.3	Systems Officer	Sharon Ohta
Single Real Property Manager	6FAM 700	Deputy Executive Director	Jo Ellen Powell

Personnel

Awards Committee (S, PA)	3FAM 643.1	Adviser: Personnel Officer	Cynthia Motley
Awards Committee (H)		Awards Officer	Ronald Deutch
Employee Evaluation Reports	3FAM 524	Personnel Officer	Pat Carter
EEO Counselors	3FAM 131.4b		S/S Monique Quesada S/P - Danette Ragland T - Louise Archer H - Marketta Nelson PA - Gloria Glasgow



S/S-EE - Richard J. Shinnick
October 28, 1996

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No. 96-009 S/S-EX - Administrative Procedure
Subject: Records Management

Following the transfer of records management functions for Department Principals from S/S-RMD to A/IM, S/S-EX has been working with A/IM staff to improve our practices and adherence to Federal law and Department regulations governing records management. Recent changes in procedures for retiring records in the Principals' offices requires an update of appropriate information. There are three significant issues; each is summarized below.

- **Annual Retirement of Records**

All offices are required to retire records on an annual basis in accordance with approved disposition schedules. The Records Management Branch can provide guidance on which records should be retired and those eligible for destruction.

Outlined below are procedures for retiring **Front Office** records:

1. Purge your files of duplicate material.
2. Document the destruction of Top Secret material (per 12 FAM-500).
3. Call the Department's Records Service Center (A/IM/IS/OIS/RSC) on (703) 274-0030 to have records retirement boxes delivered to your office. Two boxes are needed for each file drawer.
4. RSC will pick up the boxes between 10 am - 12 noon, Monday, Wednesday and Friday. Call RSC to arrange a pick-up time. Boxes should not be left unsecure in your office.
5. A/IM/IS/FPC will prepare the Retirement of Records Form (DS-693-B.) If you want to prepare your own form, contact the POEMS Help Desk on x78700, and IRM will install the software on your PC.
6. The completed DS-693-B form with the Lot and Box Numbers indicated will be returned to you. It should become a permanent part of your active files under AINF - Records Management.

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The Department's Records Management staff is available to assist you and can be contacted at the following numbers:

S - John Cruce x77123	E - Marria Braden x76011
S/COS - John Cruce x77123	M - Marria Braden x76011
D - Betty Bates x76018	G - Betty Bates x76018
P - John Cruce x7123	S/S - Audree Holton x77462
T - Pat Magin x76021	

The procedures for retiring all other offices' records are:

1. Purge your files of duplicate material.
2. Document the destruction of Top Secret material (per 12 FAM-500).
3. Prepare a Retirement of Records Form (DS-693-B.) You may call the POEMS Help Desk (x78700) to have the form installed on your PC.
4. Call the Department's Records Service Center (A/IM/IS/OIS/RSC) on (703) 274-0080 to have records retirement boxes delivered to your office. Two boxes are needed for each file drawer.
5. RSC will pick up the boxes between 10 am - 12 noon, Monday, Wednesday and Friday. Call RSC to arrange a pick-up time. Boxes should not be left unsecure in your office.
6. The completed DS-693-B form, with the Lot and Box Numbers indicated, will be returned to you. It should become a permanent part of your active files under AINF - Records Management.

The Department's Records Management staff is available to assist you and can be contacted at the following numbers:

H - Pat Magin x76021	S/OF - John Cruce x77123
PA - Betty Bates x76018	S/FSGB - Audree Holton x77462
S/P - John Cruce x77123	S/EEOCR - Ron Hampton x74698
S/IR - Ron Hampton x74698	S/MEC - Pat Magin x76021
S/CT - Audree Holton x77462	S/NIS - Ron Hampton x74698
S/CSO - Audree Holton x77462	E/CBA - Marria Braden x76011

• **Preservation of Electronic Documents and E-mail**

Officials need to preserve electronic documents that add to a proper understanding of the formulation or execution of Department action or policy. This includes substantive changes to drafts on policies and decisions. E-mail messages are official records when they are created or received in the transaction of public business and must be retained as evidence of official policies, actions, decisions, or transactions. Relevant E-mail records must be printed and filed with related paper records for long term, permanent retention or retained on-line for short-term retention and eventual deletion.

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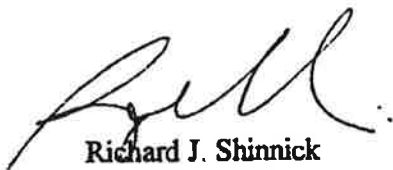
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• **Personal Papers — What Officials Can and Cannot Take**

No records of the Department may be removed by any departing official. Personal papers are documentary materials that are not used in the transaction of agency business. Personal papers may refer to or comment on agency business, but once used for the conduct of that business, they are no longer personal papers. With Department review and approval, officials may take duplicates of records, working papers, and non-record materials (especially materials they drafted, reviewed or acted upon) as long as the information is unclassified and otherwise not sensitive.

All offices need to be aware of these guidelines to carry out their records responsibilities. For additional information or questions, contact Ken Rossman, Records Officer for the Department, on 647-6020.



Richard J. Shinnick
S/S-EX
October 25, 1996

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No. 96/10 - S/S ADMINISTRATIVE PROCEDURES
SUBJECT: REPORTING LOST OR STOLEN GOVERNMENT PROPERTY
OFFICE ADMINISTRATIVE EQUIPMENT
Property Custodial Officer Assignment

This notice announces the requirement for offices within the "S" bureau to identify an individual to be assigned the additional duties of property custodial officer, for office administrative equipment, which is normally defined as "common-use furniture, furnishings, and equipment". Designation of an individual for these purposes will enhance the bureaus management and internal controls for property accountability.

In an office environment accountability for equipment, furniture and furnishings which occupy a "common-user" area is normally the responsibility of the bureau property custodial officer. However, in view of the extended office locations receiving support from the S/S-EX/GSO, and to ensure that department property in common-user areas remains accountable, each "S" office must now identify an individual per office or per suite, to be assigned additional duties as that offices custodial property officer. The name of this individual must be provided to S/S-EX/GSO no later than Friday, November 8, 1996. The names will be incorporated into the bureaus' property management accountability procedures and the individual will then be requested to sign for the common-user equipment and furnishings within their area of responsibility.

The office property custodian will then become responsible for accounting for all administrative equipment within that office of a value over \$500.00 and not assigned to a specific individual. Items such as faxes, copiers, typewriters, standalone PC's, desks, chairs, and refrigerators are considered administrative equipment.

This individual will be responsible for:

The custody, care and safekeeping of the items.

Annual reconciliation of physical inventories.

The preparation of memorandum should the item become lost/damaged.

Identify unneeded property for redistribution.

Authorize property passes for equipment taken outside the building.

Richard J. Shinnick
S/S-EX
October 24, 1996

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No. 96-011 - S/S ADMINISTRATIVE PROCEDURES
SUBJECT: TRAVEL MANAGER PLUS PROGRAM

Effective October 7, 1996, S/S-EX, in coordination with FMP, implemented Travel Manager Plus, a software package designed to process TDY travel authorizations and calculate travel vouchers electronically for bureau travelers. Travel Manager Plus is a Windows-based, off-the-shelf software package that features on-line per diem rates (updated monthly), on-line Federal Travel Regulations, and automatic calculation of per diem and miscellaneous expenses. The software has been modified to include the Federal Travel waivers relating to the three-quarter M&IE reimbursement on the first and last days of travel, and the recording of arrival and departure times. Travel Manager Plus will enhance our ability to produce travel authorizations in a timely manner and enable us to process travel vouchers electronically through the Department's central financial management system, rather than through the National Finance Center in New Orleans. This will shorten turnaround time for travelers to receive reimbursement for expenses. In conjunction with voucher processing through CFMS, the Department is exploring an initiative to reimburse travelers via electronic funds transfer directly to a personal bank account, which would further reduce processing time.

The coordinator for Travel Manager Plus implementation will be Stephanie Coates in S/S-EX. She will work closely with you and your staffs to ensure a smooth transition to the new system and to answer any questions which may arise.

In conjunction with Travel Manager Plus, S/S-EX will implement FMP's revised Simplified Travel Program policy for temporary duty (TDY) travel by Department of State employees, which clarifies the Simplified Travel Program announced by Department Notice on December 28, 1995. In summary, the revised policy:

- restores the pro-rated reduction schedule contained in the Federal Travel Regulations for the M&IE portion of per diem, for meals furnished to the traveler by the Federal Government, in place of a minimum reduction of 50% of M&IE for any meal(s) furnished by the USG;

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- provides clear examples of what constitutes a meal furnished by the Federal Government (e.g. meals contracted for directly by the Government, or meals paid for from representation funds);
- reduces the requirement for receipts to substantiate miscellaneous expenses; and
- simplifies per diem computation and reimbursement, and relieves the traveler of the requirement to report the times of departures and arrivals on the voucher, except when travel is less than 24 hours.

Copies of the Department Notice announcing the revised Simplified Travel Program are available in S/S-EX.

To help ensure that all Bureau travelers for SecState trips are in compliance with the regulations and Department policy, S/S-EX henceforth will advise travelers *in advance* if any meal(s) are contracted for by the USG and will advise travelers at the completion of the trip if any meals were paid for from representation funds to ensure the correct calculation of the M&IE reimbursement for individual travelers. S/S-EX will continue to provide the per diem work sheet at the conclusion of each SecState trip to provide the traveler with per diem information for each stop as well as arrival and departure times of the Secretary's aircraft.

Travel Manager and the revised Simplified Travel Program will help S/S-EX to provide better and more pro-active service to its clients in dealing with the voluminous regulations which govern travel.



Richard J. Shinnick
S/S-EX
October 28, 1996

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No. 96-12 - S/S Administrative Procedures
SUBJECT: Who's Who in S/S-EX (Update)

Please find attached a list of S/S-EX personnel and their principal duties and responsibilities. We hope that this reference document will be a useful management tool for you, by directing you to the appropriate S/S-EX staff member to respond to your requests.

Richard J. Shinnick, Executive Director (7-7457)

- overall section management*
- trip coordinator for the Secretary*

JoEllen Powell, Deputy Executive (7-5467)

- daily supervision of section*
- S/S awards committee chairman*

Mary Ann Fisher, Staff Assistant (7-7457)

- staff assistant to the Executive Director*
- preparation of plane requests, manifests, guest and staff memoranda*

Margaret Riccardelli, Secretary (7-5467)

- secretary to Deputy Executive Director*

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BUDGET AND TRAVEL SECTION

Toni Hawkins, Budget Officer (7-5495)

- *section supervision*
- *oversight of all budget and funding issues*
- *Secretary and Deputy Secretary representation funds*
- *overtime allocations*
- *travel allocations*
- *certifier of funds availability*
- *preparation of financial reports*
- *preparation of financial data*
- *OMB submissions*
- *approving official for travel vouchers*

Reginald Green, Budget Analyst (7-9794)

- *budget and funding issues for S and PA*
- *taxi and petty cash reimbursements*
- *bills and invoices; vendor payments*
- *Travel vouchers*
- *gift account - Speaker's account*

Le George, Budget Analyst (7-5472)

- *budget and funding issues for D, P, E, T, G, M, S/NIS, S/NIS/C, SRPP, SMEC.*
- *taxi and petty cash reimbursements*
- *bills and invoices; vendor payments*
- *funding for transfer of labor charges*
- *payments for domestic hotel bills - Secretary travel*

Stephanie Coates, Budget Analyst (7-5696)

- *budget and funding issues for H*
- *coordinator, Travel Management Program implementation*
- *taxi and petty cash reimbursement*
- *bills and invoices; vendor payments*
- *American Express Government Charge Card program*
- *fund cites for transfer of labor charges*
- *requests vendor codes for CFMS*
- *bills Press for travel via MAC*
- *assists travel officer*

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Vacant, Budget Assistant

- issuance of travel authorizations*
- preparation of travel vouchers*
- per diem and mileage calculations*
- passport requests*
- requests for photos*
- airline tickets*
- travel regulations and entitlements*
- fare quotations*

GENERAL SERVICES SECTION

Nedra Overall, GSO (7-5475)

- section supervision*
- contracting officer*
- large acquisitions*
- credit card purchase authorizing officer*
- vendor liaison*
- security officer*
- OIG liaison*
- internal controls manager*
- D travel coordination*

Elizabeth Moore, GSO (7-9221)

- alternate contracting officer*
- professional services contracts*
- vendor liaison*
- trip coordination assistance*
- minor construction, building repair requests, electrical work, renovation projects*

(NB: heating adjustments, air conditioning and routine lighting problems should be reported directly to ext. 7-5610; cleaning and pest control items should be reported to ext. 7-2788)

George Rowland, General Services Asst (Property) (7-8842)

- property control manager: distribution and movement of non-expendable property, (e.g. furniture and equipment, cellular phones, pagers) and expendable supplies*
- labor/manpower requests*
- furniture repairs, carpet cleaning requests*

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- typewriter repairs*
- specialized stationery items (letterhead, briefing or action memorandum forms)*
- supplies/equipment for S & D travel*

Shirley Neal, General Services Asst (Procurement) (7-5621)

- requisitions for purchase orders*
- publications/subscription requests*
- equipment repairs*
- vendor liaison*
- safe and lock repairs*
- copier repairs*
- credit card purchases*
- Department Notices Requisitioning*
- general GSA information and supply requests*
- audio-visual equipment requests*

Tom Couch, GSO (Procurement Assistant) (7-6766)

- equipment repairs*
- safe and lock repairs*
- copier repairs*
- credit card purchases*
- parking passes*

Vacant, GSO (Administrative Specialist - Telephones) (7-6883)

- installation, moving, modifications of telephones*
- billing for official phones, including cellular phones*
- long-distance official telephone credit cards*

(NB: simple telephone repair requests should be made directly to 7-9922)

PERSONNEL SECTION

Pat Carter, Personnel Officer (7-5638)

- supervisory personnel officer*
- employee relations*
- Foreign Service assignments*
- resources/FTE*
- Senior Foreign Service, Senior Executive Service*
- staffing and placement*

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Kristen Thompson, Personnel Management Specialist (7-5260)

- *GS/FS performance evaluations*
- *intern program*
- *Civil Service merit promotion program*
- *position classification*
- *recruitment, staffing & placement*

Cynthia Motley, Administrative Officer (7-5638)

- *awards program administration*
- *insurance*
- *retirements*
- *Thrift Savings Plan*
- *training*
- *recruitment, staffing & placement*

Lori Hart, Administrative Assistant (7-5478)

- *consultants*
- *differentials*
- *employment verification*
- *entrance-on-duty*
- *payroll issues*
- *special clearances*
- *time and attendance*
- *transfer of labor*
- *within-grade increases*

Shirley Gilmore, Secretary/Receptionist (7-5638)

- *Treaty Room reservations*
- *processing training requests/confirmations*
- *campaigns - CFC, bonds, blood drives, etc.*
- *PER files and manuals*
- *personnel locator; telephone directory changes*

(NB: Reservations for the Principal Officers' Conference Room should be made through S/S-O-CMS, ext. 7-2374)


Richard J. Shinnick
Executive Director

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No. 96-009 S/S-EX - Administrative Procedure
Subject: Records Management

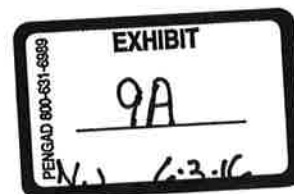
Following the transfer of records management functions for Department Principals from S/S-RMD to A/IM, S/S-EX has been working with A/IM staff to improve our practices and adherence to Federal law and Department regulations governing records management. Recent changes in procedures for retiring records in the Principals' offices requires an update of appropriate information. There are three significant issues; each is summarized below.

- **Annual Retirement of Records**

All offices are required to retire records on an annual basis in accordance with approved disposition schedules. The Records Management Branch can provide guidance on which records should be retired and those eligible for destruction.

Outlined below are procedures for retiring **Front Office** records:

1. Purge your files of duplicate material.
2. Document the destruction of Top Secret material (per 12 FAM-500).
3. Call the Department's Records Service Center (A/IM/IS/OIS/RSC) on (703) 274-0030 to have records retirement boxes delivered to your office. Two boxes are needed for each file drawer.
4. RSC will pick up the boxes between 10 am - 12 noon, Monday, Wednesday and Friday. Call RSC to arrange a pick-up time. Boxes should not be left unsecure in your office.
5. A/IM/IS/FPC will prepare the Retirement of Records Form (DS-693-B.) If you want to prepare your own form, contact the POEMS Help Desk on x78700, and IRM will install the software on your PC.
6. The completed DS-693-B form with the Lot and Box Numbers indicated will be returned to you. It should become a permanent part of your active files under AINF - Records Management.



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Contracting Officer	6FAM 221.1	GSO	Nedra Overall
Bureau Safety & Health Officer	6FAM 613.3b	GSO	Nedra Overall
Property Disposal Officer	6FAM 222.1	Supervisory GSO	Nedra Overall
Property Management Officer	6FAM 222.3	GSO	Elizabeth Moore
Receiving Officer	6FAM 225.3	GSO	George Rowland
S/S-IRM Receiving Officer	6FAM 225.3	Systems Officer	Sharon Ohta
Single Real Property Manager	6FAM 700	Deputy Executive Director	Jo Ellen Powell

Personnel

Awards Committee (S, PA)	3FAM 643.1	Adviser: Personnel Officer	Cynthia Motley
Awards Committee (H)		Awards Officer	Ronald Deutch
Employee Evaluation Reports	3FAM 524	Personnel Officer	Pat Carter
EEO Counselors	3FAM 131.4b		S/S Monique Quesada S/P - Danette Ragland T - Louise Archer H - Marketta Nelson PA - Gloria Glasgow


S/S-EM - Richard J. Shinnick
October 28, 1996

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The Department's Records Management staff is available to assist you and can be contacted at the following numbers:

S - John Cruce x77123	E - Marria Braden x76011
S/COS - John Cruce x77123	M - Marria Braden x76011
D - Betty Bates x76018	G - Betty Bates x76018
P - John Cruce x7123	S/S - Audree Holton x77462
T - Pat Magin x76021	

The procedures for retiring all other offices' records are:

1. Purge your files of duplicate material.
2. Document the destruction of Top Secret material (per 12 FAM-500).
3. Prepare a Retirement of Records Form (DS-693-B.) You may call the POEMS Help Desk (x78700) to have the form installed on your PC.
4. Call the Department's Records Service Center (A/TM/IS/OIS/RSC) on (703) 274-0080 to have records retirement boxes delivered to your office. Two boxes are needed for each file drawer.
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6. The completed DS-693-B form, with the Lot and Box Numbers indicated, will be returned to you. It should become a permanent part of your active files under AINF - Records Management.

The Department's Records Management staff is available to assist you and can be contacted at the following numbers:

H - Pat Magin x76021	S/OF - John Cruce x77123
PA - Betty Bates x76018	S/FSGB - Audree Holton x77462
S/P - John Cruce x77123	S/EEOCR - Ron Hampton x74698
S/IR - Ron Hampton x74698	S/MEC - Pat Magin x76021
S/CT - Audree Holton x77462	S/NIS - Ron Hampton x74698
S/CSO - Audree Holton x77462	E/CBA - Marria Braden x76011

• **Preservation of Electronic Documents and E-mail**

Officials need to preserve electronic documents that add to a proper understanding of the formulation or execution of Department action or policy. This includes substantive changes to drafts on policies and decisions. E-mail messages are official records when they are created or received in the transaction of public business and must be retained as evidence of official policies, actions, decisions, or transactions. Relevant E-mail records must be printed and filed with related paper records for long term, permanent retention or retained on-line for short-term retention and eventual deletion.

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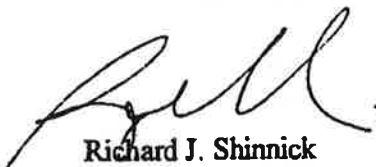
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Richard J. Shinnick
S/S-EX
October 25, 1996

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